Foreign Investment Proposals

This chapter provides statistical information on the proposals submitted in 1997-98 for examination under Australia's foreign investment policy and comments on some of the more significant cases. There is also a section covering the Board's monitoring and compliance activities in respect of residential real estate.

Limitations of the Board's Data

The Board urges particular caution in the use of FIRB statistics, including making comparisons with earlier years.

The Board's statistics on foreign investment proposals relate to the administration of foreign investment policy and are therefore substantively different from the Australian Bureau of Statistics' (ABS) statistics of foreign investment in Australia. ABS statistics, which are set out in Chapter 3 of this Report, seek to measure actual investment transactions between residents of Australia and non-residents.

The term 'proposed investment' is used widely throughout this Report. Total proposed investment is the aggregation of:

- the proposed cost of acquisition (shares, real estate or other assets);
- the proposed cost of development following acquisition; and
- in the case of a new business, the proposed cost of both establishment and development.

The FIRB statistics are not a reliable indicator of **trends** in foreign investment inflows because:

- they are inherently 'lumpy' (ie, the tendency for a few large investments to skew any one year's figures).

- they relate to proposals approved, which may not be implemented, or which could be implemented over a number of years.
- the statistics are not necessarily comparable over time. In particular, the major liberalisations of foreign investment policy that have occurred since the mid-1980s limit comparability over time.

In addition, the statistics are not a comprehensive measure of all foreign investment inflow in any year, nor do they purport to measure changes in levels of foreign ownership of particular industries.

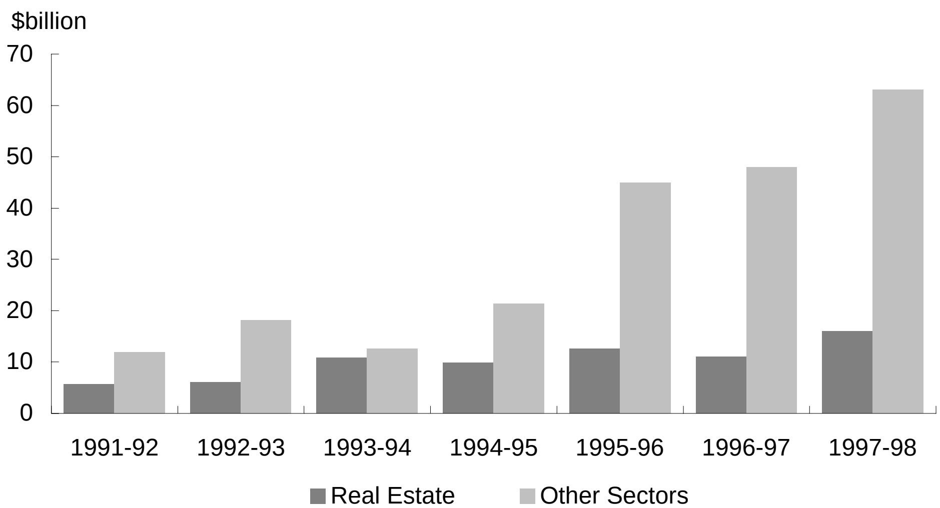
- The data are restricted to investments which fall within the scope of the *Foreign Acquisitions and Takeovers Act 1975* (the Act) and the Government's foreign investment policy, including its application to foreign investment proposals for the purchase of publicly owned assets. They do not cover foreign portfolio investments, direct foreign investments below the notification thresholds, new businesses below the notification thresholds, expansions of existing foreign-owned businesses in Australia, both in existing areas and into related areas, and sales by foreign investors to Australian residents. The notification/examination thresholds for the various sectors are specified in the policy summary at **Appendix A**.
- The figures provide no indication of the source of the funds for the investment. Some of the proposed funds to be invested would be contributed by Australians where they are in partnership with foreign interests. The extent to which approved investment proposals will directly result in foreign capital inflows depends, not only upon whether the proposals are implemented, but also upon the proportion financed from foreign sources. In many cases, this proportion will be quite low. For example the acquisition by a foreign interest of a business operating in Australia, may involve no inflow of capital to Australia where the purchase is financed from existing Australian operations.
- The figures do not necessarily reflect changes in foreign ownership levels as, in some cases, both the vendor and purchaser are defined as a 'foreign interest'.
- The data also include proposed investments made by foreign funds managers where the beneficiaries are Australian.

Applications Decided in 1997-98[1]

Chart 2.1 depicts the number of applications decided and **Chart 2.2** shows the value of proposed investment associated with applications decided, for the real estate sector and other sectors, over the past seven years.

Chart 2.1: Applications Decided — Number

Chart 2.2: Applications Decided — Proposed Investment



1 The ensuing discussion relates only to proposals upon which a decision was taken. Those applications that were found not to be cases or were withdrawn are not included, except for Table 2.1.

The number of applications decided during 1997-98 was around 4 per cent higher than in 1996-97 but 12 per cent below the peak of 1993-94. That peak reflected the significant number of applications in the real estate sector by People's Republic of China nationals temporarily resident in Australia, who have since become eligible for, or obtained, permanent residence status.

The value of proposed foreign investment associated with applications decided in 1997-98 was over a third higher than the level in 1996-97. A breakdown on the outcome for applications submitted over the last four years is provided in **Table 2.1.**

Table 2.1: Applications Considered (Number and Proposed Investment) 1994-95 to 1997-98

	1994-95		1995-96		1996-97		1997-98	
Action	No.	$b	No.	$b	No.	$b	No.	$b
Approved Unconditionally	1,435	20.2	1,511	43.5	1,486	41.9	1694	54.3
Approved with Conditions	2,901	10.2	2,494	13.8	2,610	16.7	2567	25.2
Total Approved	4,336	30.3	4,005	57.3	4,096	58.6	4,261	79.5
Rejected	72	0.8	85	0.3	105	0.4	114	0.1
Total Decided	4,408	31.2	4,090	57.6	4,201	59.0	4375	79.7
Withdrawn	405	-	446	-	343	-	390	-
Total Considered	4,813		4,536		4,544		4,765	

There were 114 rejected proposals in 1997-98, or 2.6 per cent of all decided proposals. Of these, one was in the tourism sector and the remainder in the real estate sector.

Foreign investors are encouraged to discuss potential or actual proposals with the FIRB to ensure they are consistent with policy. As a result, proposals clearly inconsistent with policy may not proceed to a decision, ie they are not lodged or if lodged are withdrawn. Alternatively the proponent may modify a proposal to ensure it conforms to policy. The data for withdrawn cases reflect proposals that do not proceed for commercial or personal reasons, as well as those cases that are withdrawn by the parties instead of proceeding to a formal rejection. The low rejection rate reflects the consultative approach taken in the administration of foreign investment policy, particularly in respect of real estate proposals.

The great bulk of conditional approvals were in the real estate sector. Only 86 proposals outside the real estate sector were approved subject to conditions. Three main kinds of conditions were applied in the non-real estate sectors: to protect the environment; to protect the tax base by ensuring that agencies of foreign governments do not claim sovereign immunity in relation to Australian taxes or charges; and to restrict levels of equity. For real estate, 2,481 proposals were approved with conditions relating to the period during which development should commence**,** the need for temporary residents to sell established properties when they cease to reside in Australia, or the imposition of reporting requirements on 'off the plan' sales.

Approvals by Sector

Summary

Table 2.2 provides details for 1997-98 of approved proposals for each sector and the associated proposed investment on acquisitions and new businesses. The bulk of the total proposed investment is attributable to the proposed cost of acquisitions. The skewing of the foreign investment data towards acquisition costs is a consequence of the notification requirements, as the expansion of existing businesses generally does not require foreign investment approval. Bearing in mind the limitations of the Board's data noted at the beginning of this chapter, the following general points can be made.

- The manufacturing sector attracted the highest level of proposed investment, with approvals aggregating $23.5 billion.
- Other major sectors were services — excluding tourism ($19.5 billion), real estate ($16.3 billion[2]) and mineral exploration and development ($8.6 billion).
- The $20.9 billion increase in approvals compared with 1996-97 was characterised by significant increases in proposed investment across all industry sectors with the exception of the Agriculture, Forestry & Fishing sector which experienced broadly similar levels of proposed investment compared to the previous year.

---

2 Total expected investment in the real estate sector may be overstated as it includes expenditure for annual programs and 'off the plan' approvals granted to real estate developers. Based on past experience, a significant proportion (possibly up to half) of these advance approvals are not utilised. In addition, no account is taken of real estate that is developed under an annual program by a foreign developer which is subsequently sold to Australian interests.

Table 2.2: Approvals by Industry Sector 1997-98 ($billion)

Industry Sector[(a)]	Number of Approvals[(b)]	Acquisition Cost	Proposed Investment on Development	Total Proposed Investment
Agriculture, Forestry & Fishing				
less than $50m	30	0.3	..	0.3
$50m and over	1	0.1	-	0.1
Total	31	0.3	..	0.4
Finance & Insurance				
less than $50m	32	0.3	0.1	0.4
$50m and over	18	4.0	0.4	4.4
Total	50	4.3	0.6	4.8
Manufacturing				
less than $50m	124	1.8	0.1	1.8
$50m and over	46	19.1	2.5	21.6
Total	170	20.9	2.6	23.5
Mineral Exploration & Development				
less than $50m	110	1.1	0.2	1.3
$50m and over	28	5.5	1.9	7.3
Total	138	6.6	2.0	8.6
Resource Processing				
less than $50m	3	..	..	..
$50m and over	3	0.2	2.6	2.9
Total	6	0.2	2.7	2.9
Services(Excl Tourism)				
less than $50m	289	3.3	0.3	3.6
$50m and over	46	14.6	1.3	15.9
Total	335	17.9	1.6	19.5
Tourism				
less than $50m	69	0.7	0.1	0.8
$50m and over	19	2.6	0.2	2.8
Total	88	3.3	0.3	3.6
Real Estate				
less than $50m	3,251	5.9	1.3	7.2
$50m and over	63	5.0	4.1	9.1
Total	3,314	10.9	5.4	16.3
Total				
less than $50m	3,908	13.3	2.1	15.4
$50m and over	224	51.1	13.0	64.1
TOTAL	4,132	64.4	15.1	79.5

Note: Totals may not add due to rounding.

(a) Data have been compiled by reference to the Australian and New Zealand Standard Industrial Classification published by the ABS, except proposals involving newspaper printing and publishing which have been allocated to service industries (the ABS classifies these under manufacturing). Acquisitions of diversified company groups are classified according to the industry of the major activity of the group. Acquisitions of real estate to be used for purposes incidental to the main business activity of the purchaser are classified according to that activity.

(b) Excludes 129 proposals involving financing arrangements and corporate restructures.

(c) **'..'** indicates an investment figure of less than $50 million.

(d) **'-'** indicates an investment figure of zero.

Agriculture, Forestry & Fishing

The number of proposals to invest in the Agriculture, Forestry and Fishing sector increased from 23 in 1996-97 to 31 in 1997-98. However, total proposed investment decreased from $410 million in 1996-97 to $379 million in 1997-98. The acquisition by Agreserves Australia Limited, a company associated with the Church of Jesus Christ of Latter-Day Saints in Australia, of three rural properties in the Murrumbidgee and Lachlan Valleys of New South Wales (total value $61 million) was the only proposed investment of more than $50 million. Other significant proposals throughout the year included the acquisition by the US owned Liverpool Limited Partnership of an interest in the Rural Property Trust, and the acquisition by US interests of three rural properties in New South Wales (total value of $31 million).

The statistics on aggregate acquisitions of rural properties need to be interpreted with caution. Acquisitions of rural properties valued at less than $3 million where a proponent proposes to continue to operate the property as a rural business are exempt under the Act. Similarly, acquisitions of ‘hobby farms’ are treated as acquisitions of residential real estate and are not included in the statistics for rural property.

Finance & Insurance

Total proposed investment in the finance and insurance sector increased from $2.1 billion in 1996-97 to $4.8 billion in 1997-98. There were 50 proposals (up from 35 in 1996-97) approved, comprising 11 new business proposals and 39 acquisitions. Of these, 18 proposals involved proposed investment of $50 million or more, 11 of which involved expected investment in excess of $100 million.

The most significant proposals resulted from a number of offshore mergers of international financial corporations, including the Travelers Group Inc/Citibank merger, the Commercial Union Plc/General Accident Plc merger and the merger of the Zurich Insurance Company and the financial services business of BAT Industries Plc.

Manufacturing

Proposed investment associated with the manufacturing sector increased from $21.2 billion in 1996-97 to $23.5 billion in 1997-98. The 46 proposals involving investment of $50 million or more accounted for around 92 per cent of proposed expenditure.

As was the case in the previous year the level of proposed investment included a number of large acquisitions in the food and beverage sector. In particular, Kirin Brewery Co Limited acquired shares to the value of $1.2 billion in Lion Nathan Limited and Coca-Cola Holdings (Overseas) Limited acquired shares in Coca-Cola Amatil Limited for an estimated value of $1 billion. Manufacturing of non-metallic mineral products was another sector that experienced significant activity. Owens Illinois (Australia) Pty Limited, acquired BTR Nylex Limited for an estimated $2.6 billion and CVC Capital Partners Limited and DLJMB Overseas Partners II C.V. (on behalf of various funds and investors) acquired all the shares in ACI Australia Limited for a total cost of over $1 billion (including assumption of various intergroup loans).

Total proposed investment associated with approvals for power companies was $3.4 billion for 1997-98. While this was a large component of proposed manufacturing investment it was considerably smaller than the $10.5 billion proposed for investment in power companies in 1996-97.

Mineral Exploration & Development

There was a moderate increase in the number of approved investment proposals in the minerals sector in 1997-98 (138 compared with 130 in 1996-97). Total proposed investment, however, increased substantially from $4.8 billion to $8.6 billion. This dramatic increase in the value of proposed investment can be attributed to a number of large proposals (over $1 billion in value) and a number of moderately large proposals (over $100 million in value). The largest proposals were in the base metals and gold industry sectors. The leading source countries were the USA and South Africa. The increase in the total number of proposals was reflected in all industry sectors, with the exception of oil and gas, with the largest rise (in terms of expenditure) in the base metals sector.

The number of approvals and total proposed investment on an industry basis, for the past two years are shown below in **Table 2.3**. The largest proposal in the gold industry in 1997-98 involved the acquisition by Homestake Mining Company, a US publicly listed gold mining company, of Plutonic Resources Limited by way of a scheme of arrangement (value of $986 million). There were two proposals in the 1997-98 year to establish new gold mines. One being the re-establishment of the Beaconsfield gold mine in Tasmania by Allstate Exploration NL, as manager of the Beaconsfield Mine Joint Venture (valued at $111 million). However, the other proposal did not proceed.

The level of total proposed investment in the oil and gas sector in 1997-98 increased from $1.1 billion in 1996-97 to $1.8 billion. This increase was more than accounted for by one large proposal involving the establishment of the new Laminaria and Corallina oil fields in the Timor Sea by Woodside Oil Limited at an estimated cost of $1.35 billion. Another significant proposal during 1997-98 involved the acquisition by Mitsui & Co., Ltd and Mitsui Oil Exploration Co., Ltd and Japan National Oil Corporation of an interest in a Timor Sea exploration permit ($96 million is expected to be spent over the next three years on exploration activities).

Whilst there was a substantial increase in total proposed investment in the coal industry, one major proposal did not proceed. One significant proposal in 1997-98 that did proceed was the US owned Lehman Brothers Holdings Inc's takeover of Peabody Investments Australia (valued at $600 million). In addition there were two proposals during the year to establish new coal mines: a $45 million joint venture to establish a new mine at Coppabella in Queensland, and a $11 million joint venture to establish a new mine at Glennies Creek in the Hunter Valley of New South Wales.

In 1997-98, there was a dramatic increase in total proposed investment in the base metals sector. The greatest contributor to proposed investment in this sector was the acquisition by Billiton plc of a 53 per cent interest in QNI Limited (valued at $1.1 billion).

Table 2.3: Minerals Sector Approvals by Number and Total Proposed Investment: 1996-97 and 1997-98

	Acquisitions				New Businesses			
Industry	No of approvals		$ million		No of approvals		$ million	
	1996-97	1997-98	1996-97	1997-98	1996-97	1997-98	1996-97	1997-98
Gold	51	53	2,146	2,423	-	2	-	173
Oil and gas	22	18	1,040	334	2	2	65	1,425
Coal	23	26	488	1,899	1	3	350	67
Base metals	8	10	146	1,297	2	-	30	-
Other	18	23	400	787	3	1	101	200
Total	122	130	4,220	6,740	8	8	546	1,865

Resource Processing

There were 6 approvals in the resource processing sector during 1997-98, with a total proposed investment of $2.9 billion. This compared with 14 approvals with a value of $2.6 billion for the previous year. The largest of the approved proposals, at an estimated value of $2.5 billion, was the Phillips Petroleum Company proposal for the development and construction of a hydro-carbon processing facility at Wickham Point near Darwin.

Service Industries (excluding tourism)

During 1997-98, there were 335 proposals approved for investment in the service industries sector (excluding tourism), comprising 20 proposals to establish new businesses and 315 proposed acquisitions of interests in existing businesses. The total expected investment for the establishment of new businesses and acquisitions was $1.4 billion and $18.1 billion, respectively. The major source investors for this sector came from the United States and the United Kingdom.

There were 46 proposals involving expected investment of $50 million or more. Twenty-eight of those involved proposed investment of over $100 million, four of which were more than $1 billion. Major proposals involved:

- the Government’s sale of various regional airports;
- the acquisition of existing, or the development of new, energy transmission networks;
- the establishment of a number of new mobile telephony businesses; and
- Cable & Wireless Plc’s acquisition of Bell South’s interest in Optus.

Tourism

There was a significant increase, from $2.3 billion in 1996-97 to $3.6 billion in 1997-98, in proposed investment in the tourism sector. Of the 89 proposals examined during 1997-98, one was rejected. Of the 88 approved proposals, nineteen involved proposed investment of $50 million or more, ten of which involved proposed investment in excess of $100 million.

The significant proposals included proposals involving the Sydney Harbour Casino and acquisitions by the BT Hotels Trust and Tourism Asset Holdings Limited of interests in various hotels and resorts.

The rejected proposal involved the proposed acquisition by HSH Hotels (Australia) Ltd of the Powerhouse Boutique Hotel in Brisbane. This proposal was rejected by the Government due to the failure of an associated company of HSH to comply with the development conditions applying to its acquisition of a development site in Perth. Although HSH had sought an extension to the development conditions, it was not on terms that were acceptable to the Government.

Urban Real Estate

Urban land is broadly defined under the Act to be all land that is not used wholly and exclusively for carrying on a business of primary production. Reflecting concerns over foreign ownership of urban land, the policy in relation to this sector is restrictive. As a result, all proposals relating to urban real estate need to be submitted for examination, unless explicitly exempted by regulation (see **Appendix A**).

In the case of residential real estate, approval is only granted where it is clear that it would not be contrary to the national interest, such as in cases where there is an increase in the housing stock, the acquisition of vacant land for development and 'off the plan' sales to foreign interests. Accordingly, the policy limits the acquisition of developed residential real estate to foreign owned companies operating in Australia seeking accommodation for their senior executives resident in Australia, and foreign nationals holding temporary resident visas valid for a stay in excess of twelve months. In the latter case, approval is subject to the property being sold when the purchaser ceases to reside in Australia. Additionally, the dwelling must be the foreign person's principal place of residence in Australia and not used for rent or lease.

Acquisitions of developed commercial property and vacant commercial properties for development are generally approved unless they raise issues that are contrary to the national interest.

Table 2.4 gives a breakdown of approved investments in urban real estate. The number of approvals remained much the same as in 1996-97. However, there was a 43 per cent increase in the total proposed investment associated with proposals. A significant part of this increase can be attributed to a near doubling in proposed development expenditure from $2.8 billion in 1996-97 to $5.4 billion in 1997-98.

Table 2.4: Investment in Urban Real Estate by Type and Number of Proposals Approved in 1997-98 ($billion)

	Number of Approvals	Consideration	Proposed Development Expenditure	Total Proposed Investment
For Development				
Residential				
ordinary approvals	978	0.5	1.4	1.9
off-the-plan				
individual	438	0.1	-	0.1
developer	420	4.5	-	4.5
annual programs	3	0.2	-	0.2
Total Residential	1,839	5.4	1.4	6.8
Commercial				
ordinary Approvals	93	0.6	3.9	4.5
annual programs	4	..	-	..
Total for Development	*1,936*	*6.0*	*5.3*	*11.3*
Developed				
Residential	1,226	0.4	-	0.4
Commercial	152	4.5	..	4.5
Total Developed	*1378*	*4.9*	*..*	*4.9*
TOTAL	3,314	10.9	5.4	16.3

Note: Totals may not add due to rounding.
(a) **'..'** indicates an investment figure of less than $50 million.

Real Estate for Development

During 1997-98, there were 1,839 proposals approved for the acquisition of residential real estate for development **(**including eligible redevelopment**)**, a decrease from the 2,224 proposals approved in 1996-97 and 2,421 in 1995-96.

Proposals in the 'off the plan' and annual program categories have zero proposed development expenditure recorded against them. In the case of 'individual off the plan' the consideration relates to the proposed amount payable by foreign interests for newly completed dwellings. Information on development expenditure in relation to annual programs is collected on an ex-post basis, with developers required to report annually on actual acquisitions, development expenditures and details of any properties that are sold following development.

Ordinary approvals comprise the purchase of broadacres for residential subdivision and vacant building blocks for single dwelling construction and for integrated residential developments (such as townhouse and high rise units). Some 978 proposals (1,323 in 1996-97) by foreign interests to acquire residential real estate for development were approved, with a total proposed investment of $1.9 billion ($2.2 billion in 1996-97). All such approvals have a condition that continuous development must commence on the land/site within 12 months of approval having been granted. In addition, the parties are required to report on the completion of development to demonstrate compliance with the development condition. The Government views seriously any breaches of these development conditions (see later section on Compliance).

In 1997-98, there were 438 proposals approved under the **'off the plan arrangements'**, involving proposed investment of around $100 million for individuals to acquire residential property 'off the plan'. In addition, there were 420 applications approved (valued at $4.5 billion) from real estate developers seeking 'advance approval' to sell property 'off the plan' to foreign persons. While the number of 'off the plan' approvals for developers was some 4 per cent down on the previous year their value increased by $1 billion. One of the largest proposals based on investment size was for 'off the plan' sales at the Glades Resort in Mudgeeraba, Queensland to Dong Ah Australia Pty Limited.

The Board's figures overstate the likely extent of foreign purchases as few of the developers with 'off the plan' approvals will actually sell a full 50 per cent of their developments to foreign purchasers. (There is necessarily a significant lag between the granting of approvals and receipt of reports due to construction time and completion of sales.)

The **annual program** arrangements are designed to avoid the need for established real estate developers to notify individual acquisitions of property. Such developers may be granted annual approvals to buy land up to specified limits on condition that they report to the Board at the end of the year on their acquisitions and the developments undertaken. The granting of an annual program for acquisitions of land for development does not relieve the developer of responsibility for complying with the general requirements of foreign investment policy. For example, additional investment in relation to acquisitions of existing businesses, or for the establishment of new businesses with total investment of $10 million or more would require an additional application, separately submitted to the FIRB for examination. In 1997-98, applications were approved for three annual programs. These arrangements involved residential real estate for development totalling broadly around $200 million in proposed acquisition costs.

Approval was given to 97 proposals to purchase land for **commercial development** involving total proposed investment of $4.5 billion. This was a significant increase on 1996-97 when approval was given to 63 proposals with a total estimated value of $1.8 billion.

There was an increase from 44 rejections in 1996-97 to 50 rejections in 1997-98 in relation to the proposed acquisition of residential real estate for development (including 'off the plan' dwellings), with proposed development expenditure valued at $54.2 million. Of these, 22 involved vacant land for development and 17 involved the redevelopment of developed real estate. Seven proposals were rejected as they did not meet the 'off the plan' criteria. Usually there were one or more of the following reasons for these rejections:

- the planned development expenditures were not considered significant in relation to the acquisition price for the property (there is a normal expectation that proposed development expenditure should be equivalent to at least 50 per cent of the acquisition price);
- the proposal did not add to the housing stock;

- the proposed timetables for development were unsatisfactory;
- the property proposed to be acquired for the purpose of demolition and redevelopment was not considered to be at the end of its economic life, for example it was rented out as a residence;
- the prospective foreign purchasers had not established, to the Government's satisfaction, that they had the technical and financial capacity, nor the necessary planning approvals, to undertake the proposed development within an acceptable timeframe; and/or
- the applicant had breached conditions associated with a previously approved application.

Acquisitions of Developed Real Estate

Generally, foreign investment policy enables the purchase of developed commercial real estate by foreign persons. Conversely, it restricts the purchase by foreign persons of developed residential real estate. However, certain categories of foreigners are able to purchase developed residential real estate under particular conditions. These include foreign persons who hold a temporary resident visa and who are able to stay in Australia for a period longer than twelve months. Such persons are generally resident foreign workers or foreign students. For foreign students an additional restriction is that the developed real estate must generally be valued below $300,000. For temporary residents, foreign investment approval is conditional on the dwelling purchased being the person's principal residence, not being rented or leased and being sold to an Australian or other eligible person when the party finally returns to their homeland.

Additionally, foreign companies with significant established business operations in Australia may buy established residences for their senior executives who must be resident in Australia (generally subject to a limit of two houses per company). Such properties must be sold to an eligible purchaser when they are no longer needed for the purpose for which they were purchased.

The policy on foreign purchase of developed residential real estate is otherwise restrictive to help reduce the possibility of excess demand building up in the existing housing market while aiming to encourage investment in the supply of new dwellings. The cumulative effect should be to maintain greater stability of house prices and the affordability of housing for the benefit of Australian residents.

Of the 1,226 approvals *for developed residential real estate*, approximately 65 per cent related to temporary residents or companies buying for senior executives and a further 28 per cent related to Australian citizens acquiring properties with their foreign spouse. The remainder related to reorganisations and ‘swaps’ where foreign interests already owned developed property of comparable value.

Reflecting the comparatively restrictive nature of the policy, there were 63 rejections in 1997-98 (52 in 1996-97) of proposed acquisitions of developed residential property. The total proposed acquisition costs involved in these proposals was $20 million. These proposals were rejected because the prospective buyers did not fall into one of the eligible categories and, in some cases, involved the prior unapproved acquisition of property which resulted in the purchaser being required to sell the property.

In 1997-98 there were 152 approvals to purchase interests in *developed commercial property* (eg, shopping centres, offices, warehouses, etc) involving total proposed investment of $4.5 billion. This was a significant increase on the 136 approvals valued at $3.3 billion in 1996-97. Acquisitions of developed commercial property valued at less than $5 million are exempt from the need to obtain prior approval.

Real Estate by State

Table 2.5 provides details of approved investment in all categories of urban real estate for each State and Territory. New South Wales was the main location for proposed foreign investment in residential real estate, with 47 per cent of the total in 1997-98. Victoria was second with 26 per cent; a significant increase on the 11 per cent recorded in 1996-97. However, Queensland came second to New South Wales in total approvals to invest in urban real estate across all categories.

Table 2.5: Total Proposed Investment in Urban Real Estate by Category of Real Estate and Location of Investment, Approved in 1997-98 ($million)

	For Development		Developed		
Location	Residential	Commercial	Residential	Commercial	Total
New South Wales	3,152	1,056	225	1,674	6,106
Victoria	1,826	130	74	396	2,426
Queensland	1,125	3,180	64	579	4,947
Western Australia	324	87	63	75	549
Other (a)	340	92	14	1,780	2,228
Total	6,767	4,545	440	4,504	16,256
Number of Proposals	1,839	97	1226	152	3,314

(a) 'Other' includes acquisitions of companies/trusts with real estate holdings in more than one State or Territory and proposals in the ACT, NT, Tasmania and South Australia.

Residential Real Estate Compliance

Under policy, the purchase of developed residential real estate by foreign interests purely for the earning of rental income, for speculative purposes or where it may involve land banking is not permitted. There is also the concern that, where foreign interests acquire residential real estate for development, any stated development is carried out within a reasonable time (ie, usually a requirement to commence continuous construction within 12 months).

The policy is directed at maintaining greater stability of house prices and the affordability of housing for the benefit of Australian residents (see **Appendix A**). Any failure by foreign interests to pursue stated development plans is considered to be a breach of policy. A foreign interest found to be in breach of the residential real estate policy may be ordered to sell the subject property and this may result in a significant capital loss for the purchaser and/or penalties by way of a prosecution for an offence under Section 26A of the Act. Section 26A provides for financial penalties or imprisonment on conviction.

❖ During 1997-98 there were 14 divestiture orders.

There are a number of processes that assist in ensuring compliance with the residential real estate policy.

❖ Information on Australia's foreign investment policy is disseminated directly by the Board through publications and in response to enquiries. In addition, information is provided by other government departments, such as by the Department of Immigration to applicants seeking temporary resident visas.

- In purchasing property, foreign persons may deal with a number of professionals and organisations, such as solicitors, financial institutions and real estate agents, who have an interest in ensuring that foreign purchasers have information on the need to comply with foreign investment policy.
- There is a reporting requirement placed on approvals to improve compliance with conditions imposed, for example on real estate for development.
- Assessment of new proposals includes examination of past compliance.
- All allegations of possible non-compliance are fully investigated.
- Sample checks on compliance are made by the Board’s Executive.

The Treasurer has the power under Section 36 to serve a notice in writing requiring a person capable of giving information or producing documents relevant to the exercise of the Act to supply the information within a specified time.

Approvals by Country of Investor

Data on proposed investment associated with approvals in 1997-98 are shown by country, disaggregated by States in **Table 2.6** and by industry sector in **Table 2.7**.

The United States was the most important single source of proposed foreign investment in Australia during 1997-98. Other major sources included the United Kingdom, Malaysia and South Africa.

- Approved proposed investment from the United States of $36 billion was double that of last year and represented around 45 per cent of total approved investment. This proposed investment was concentrated in the manufacturing and services sectors.
- Approved proposed investment from the UK also increased substantially from $5.5 billion in 1996-97 to $8.4 billion in 1997-98.

- Japanese investment proposals approved totalled $2.2 billion in 1997-98 up from $1.3 billion in 1996-97.
- Singapore, Hong Kong and Malaysian proposed investment in real estate of $4.3 billion was approved in 1997-98 (unchanged from 1996-97).
- South Africa emerged as a major foreign investor in 1997-98 with approved investment proposals of $3.4 billion, a significant increase on the $0.4 billion approved in 1996-97.

Table 2.6: Proposed Investments by Country by State 1997-98 ($billion)

	USA	UK	Malaysia	South Africa	Canada	France	Other/ Aust (a)	Total
NSW	5.1	0.9	0.4	0.4	0.1	0.5	6.2	13.6
Victoria	3.8	0.7	2.1	0.6	-	0.5	3.6	11.3
WA	4.4	0.3	0.6	0.2	0.2	-	3.8	9.7
Queensland	1.2	0.7	0.2	1.2	0.3	0.1	3.3	6.9
Other (b)	21.8	5.8	0.2	1.0	2.2	1.4	5.8	37.9
Total	36.3	8.4	3.5	3.4	2.8	2.5	22.7	79.5

Totals may not add due to rounding
(a) Includes proposed investment from Australian controlled companies.
(b) Includes investment in the ACT, NT, Tasmania and South Australia, off-shore takeovers and proposals where the investment is proposed to be undertaken in more than one State or Territory.

Table 2.7: Total Proposed Investment Associated with Approved Proposals, by Country of Investors and Industry Sector 1997-98 ($ million)

	Number of Proposals (c)	Agriculture Forestry & Fishing	Finance & Insurance	Manufacturing	Mineral Exploration & Development	Real Estate	Resource Processing	Services (excluding Tourism)	Tourism	Total
USA	524	158	1,985	13,036	2,697	2,108	2,538	12,320	1,505	36,347
UK	766	23	1,453	2,863	690	463	34	2,578	248	8,351
Malaysia	209	4	96	98	224	2,542	224	79	240	3,507
South Africa	149	-	75	201	1,448	70	-	1,558	3	3,356
Canada	116	-	191	2,009	536	28	-	58	-	2,821
France	86	5	25	196	-	1,166	-	458	640	2,491
Japan	189	-	61	1,276	427	245	-	223	-	2,232
Singapore	444	-	-	37	10	1,282	-	37	412	1,778
Germany	172	-	7	245	153	272	6	618	262	1,563
Taiwan	75	51	-	1,430	-	32	-	-	-	1,513
Netherlands	65	-	198	520	357	17	-	75	-	1,168
Switzerland	71	13	530	96	297	128	-	83	-	1,149
New Zealand	66	18	-	588	130	243	-	70	13	1,062
Hong Kong	115	4	6	10	9	466	-	413	27	936
Not Allocated(a)	422	-	-	-	-	4,530	-	-	-	4,530
World Other	885	41	15	564	133	981	-	418	245	2396
Sub -total	4,354	318	4,641	23,171	7,112	14,572	2,801	18,988	3,597	75,200
Australia (b)	370	61	184	296	1,493	1,684	101	516	2	4,338
Total	4,724	379	4,825	23,467	8,605	16,256	2,902	19,505	3,599	79,538

Totals may not add due to rounding.
(a) 'Off-the-plan' approvals to real estate developers have been recorded as not allocated to country because the country of investors is not known in advance.
(b) The investment identified as originating from Australia represents the contribution by Australian-controlled companies and Australian residents to the total investment associated with foreign investment proposals in which they are in partnership with foreign interests, but does not generally include the contribution attributable to minority Australian shareholders in companies with majority or controlling foreign shareholders.
(c) These figures indicate the total number of proposals in which investors from the particular country have an interest. Proposals involving investment from more than one country count as one proposal for each of the countries concerned.