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19 March 2015

BY EMAIL: foreigninvestmentconsultation@treasury.gov.au

The Manager
International Investment and Trade Unit
Foreign Investment and Trade Policy Division
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Sir/Madam

FIRB AND INVESTMENT INTO THE TOURISM INDUSTRY

The material now supplied is a submission to the Consultation Paper.

The submission is lodged by me personally as well as in my separate roles as board members of:

- Gold Coast Tourism – which is the regional tourism body for the Gold Coast as recognised by the Gold Coast City Council, Queensland Government and Tourism Australia; and
- Australian Resident Accommodation Managers Association (ARAMA Qld Inc.) which is an organisation representing onsite building managers handling accommodation in Queensland, where I am a member of the Gold Coast branch committee.

I have a keen interest in investment into tourism, the development of real estate for both tourism and residential needs as well as the introduction of foreign capital into Australia for use in the best interests of Australia.

I have been practicing law on the Gold Coast for in excess of 45 years.

It is submitted that the rules and guidelines for investment of foreign capital into “second hand residential real estate” in Australia are flawed when applied to the area of tourism infrastructure in the form of serviced apartments.

The reason for this is that the simplistic description and blanket coverage of urban real estate in the policy denies the investment in those parts of urban real estate which are residential in form but are in fact essential tourism infrastructure in the form of serviced managed apartments.

There is a massive component of commercial investment needed by the tourism industry and, only to a certain degree, supplied, in the form of ownership of serviced apartments.

Serviced apartments generally take the form of residential accommodation in multi-unit building developments, separately titled and owned, with onsite managers who conduct the letting out of the serviced apartments to tourists for and on behalf of their individual owners.

Whilst the guidelines recognise the need for foreign capital investment into properties in integrated resorts, they do not recognise the need for foreign capital to be invested into the ownership of serviced apartments (both new and second hand) through the use of foreign ownership. Such investment is an essential part of our tourism industry where serviced apartments form an integral part of the infrastructure needed.

Foreign capital is welcomed into Australia to be invested in office buildings, shops, factories and other commercial real estate components, where a return to the foreign owner is generated from industry. The same principles should now be applied to serviced apartments, which can be categorised in the same manner as the real estate utilised for other commercial purposes, as described previously.

Particularly in Queensland, this type of real estate investment in a residential property can be recognised and described by its unique feature of having on site serviced apartment management, conducting the operation of the letting out of the apartments within the tourism industry. This unique feature is known as "Management Rights" which particularly operate in Queensland and to a lesser degree in other states of Australia.

Currently this section is deprived of foreign capital because of the restrictions placed on the purchase by foreigners of residential property once it is second hand i.e. owned by another party other than the developer.

It is submitted that an exemption for this category of real estate (so utilised for the tourism industry), can be easily determined and included in the FIRB rules for ownership of residential real estate. The exemption should be allowed without the need for a specific per property approval because the rules, applying to the exemption, can require a foreign owner to sell the real estate if its nature of use changes by being removed from the letting pool (that is a similar obligation as is applied to corporations owning property for use by their staff whilst the property is needed for that purpose by an enterprise and thereafter must be sold).

The exemption can be for "serviced apartments" and the definition of serviced apartments can be sufficient to recognise the need for either onsite or offsite management, for the principal purpose of letting to tourists or for occupation by the foreign owner or its family or invitees, whilst staying in Australia.

It is a fact that tourism development on the Gold Coast relies heavily on the very extensive number of serviced apartments which have been produced to cater to the tourist industry. Approximately 60,000 bedrooms are currently supplied to the tourist industry on the Gold Coast alone from this component. Development of further serviced apartments will assist in expanding the Australian tourism industry for the benefit of all Australians. There is a ready market for the introduction of foreign capital to this type of real estate, to assist the industry.

An analogous situation is adopted by another area of Federal Government activity. ASIC, in its desire to control the investment of money producing a return for investors, has recognised Serviced Apartments in its area of control of Managed Investments under the Corporations Act (Policy Statement 110). With this level of recognition, it is essential that the Federal

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Government also recognises the need for foreign investment as a benefit to the tourism industry in utilising serviced apartments.

I strongly submit that the inclusion of this exemption be undertaken immediately.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'John Punch OAM', with a long horizontal flourish extending to the right.

JOHN PUNCH OAM

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