

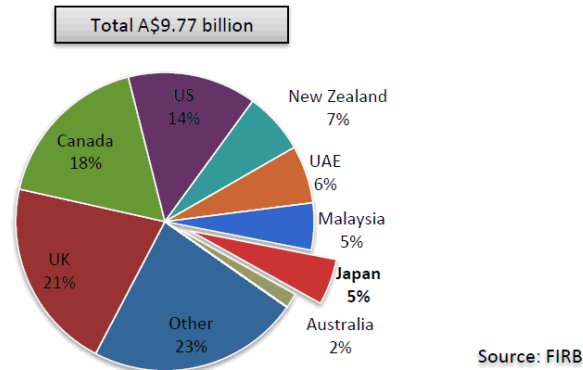
Foreign Investment in Australia – Agriculture, Forestry and Fishing

Australia & Japan’s Agricultural Trade and Investment Relationship

Japan is Australia’s most valuable export market for agriculture, fisheries and forestry products. Japan is also a major investor in Australian agriculture, fisheries, forestry and food, including in dairy, livestock and beverages.

Over the ten years to 2009-10, Japan was Australia’s seventh largest proponent of foreign investments in Australian agriculture, fisheries and forestry that were subject to the approval process of the Foreign Investment Review Board (FIRB), with investments over the period of A\$489 million. Most of Japan’s investments in Australian agriculture over the ten years to 2009-10 occurred in 2009-09 (\$238m) and 2009-10 (\$150m).

Figure 1 Foreign investment proposals subject to FIRB review in Australian agriculture, fisheries and forestry, by country, 2000-01 – 2009-10



As a result, Australia’s agricultural, fisheries and forestry relationship with Japan is very important to the Australian government.

Industry	Japanese company
Beef	Nippon maintains investment in at least 6% of red meat production
Dairy	Lion maintains investment in almost half of Australia’s meat production
Grains	Sumitomo have invested largely in Australian grain
Cotton	Cubbie Station, a large cotton farm in QLD, was sold in August to a clothing and textiles consortium controlled by Japan and China.

Table 1: Examples of current Japanese investment in Australian agriculture

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Why Invest in Australia?

With its large, competitive agricultural, fisheries and forestry sectors, Australia is an attractive foreign investment proposition for many countries, including Japan.

Australia has many competitive advantages. For example:

- Over 60% of its agricultural produce is exported;
- Its government is stable, transparent and actively supports the agricultural sector and foreign investment in Australian agriculture;
- Its legal and financial systems are strong, transparent and well regulated;
- Its agricultural economy is robust, innovative and production driven.

Foreign Investment Review Board

The Foreign Investment Review Board (the FIRB) examines proposals by foreign persons to invest in Australia and makes recommendations for approvals to the Treasurer subject to the *Foreign Acquisitions and Takeovers Act 1975* and Australia's foreign investment policy.

Quick Stats

- In 2010-11, 10,293 proposals received foreign investment approval, compared with 4,401 in 2009-10
- In 2010-11, 43 proposals were rejected, compared with three in 2009-10. 42 of these rejections related to real estate purchases, and one related to a business proposal. In 2009-10, all three rejections related to real estate.
- In 2010-11, 17 approvals were made in relation to agriculture, forestry and fishing proposals, the same number as 2009-10.
- Proposed investment in the agriculture, forestry and fishing sector in 2010-11 was \$1.4 billion, compared to \$2.3 billion on 2009-10.

Table 2: FIRB stats 2009-2011

When are applications not approved?

Generally, an application is not approved if it is contrary to national interest. National interest principles include the affect of investments on national security, competition, the economy, the community and other government policies.

The FIRB aims to ensure that investments do not adversely affect the sustainability of Australia's national agricultural resources, including their economic, social and environmental contribution to Australia.

The most common reasons for rejections of FIRB applications are:

- Planned development expenditure is not significant compared with the acquisition price of the property
- The proposed timetable for development is unsatisfactory
- The foreign purchaser fails to establish that it has the technical and financial capacity to undertake the proposed development

Can a rejected application be appealed?

If your application is unsuccessful, an appeal can be made directly to the FIRB secretariat.

Claims made against approved FIRB applications

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Objections to an approved FIRB application may be made by local council, native land owners, and various other affected parties. Such claims may be appealed through the Administrative Appeals Tribunal, the Agriculture Land Commission (ALC), the Environment Appeals Board, or the Land and Environment Court.

The Australian Foreign Investment Application Process

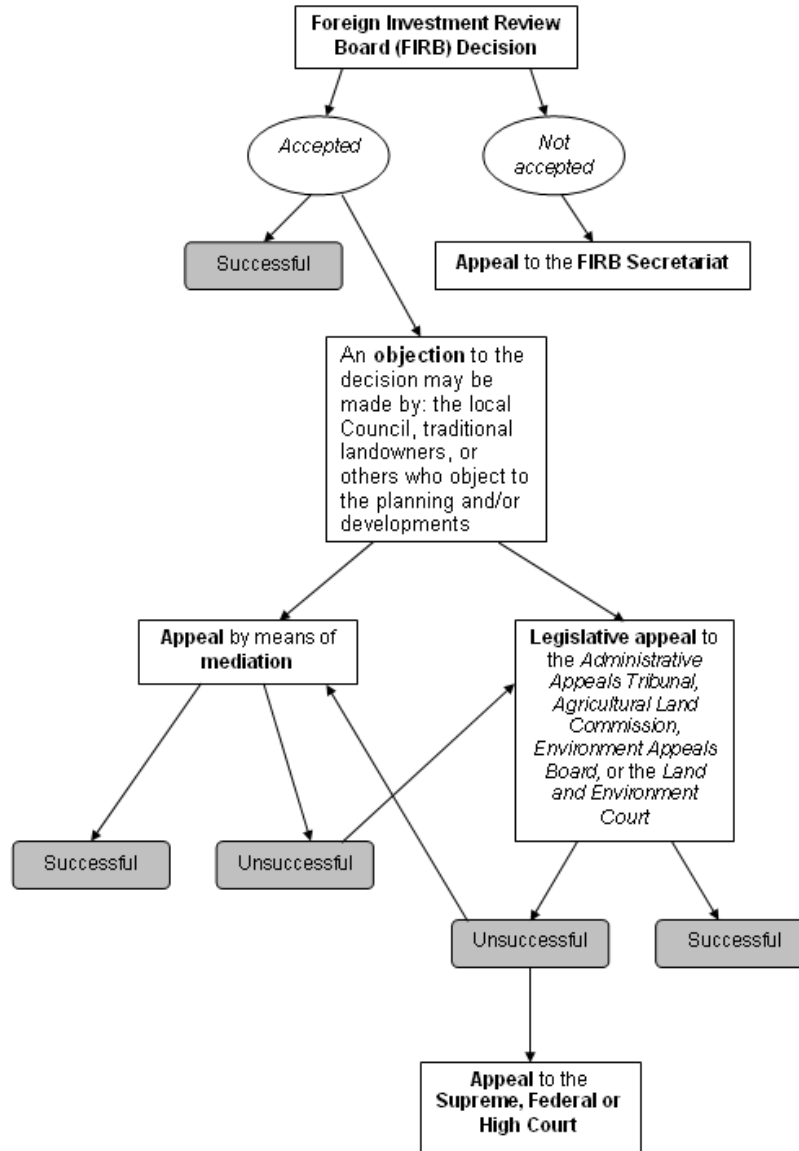


Figure 2: FIRB Application Process

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How we can help

While the process of making an application for foreign investment may seem complex, our foreign investment specialist lawyers have in-depth knowledge of the FIRB process and are more than happy to assist you.

We can provide advice on your foreign investment proposals and handle FIRB applications on your behalf. We can also assist you in an appeal to the FIRB secretariat or against an objection. Our appeals are often based on new information being put forward, illustrating that the application is not contrary to national interest, any information that changes the nature of the original proposal, or where the originating parties' circumstances have changed.

We understand the law and what drives decision making within the FIRB, and can use this knowledge to your advantage. Working on a case-by-case approach allows us to work closely with you, the applicant, in order to achieve the best outcome possible.

For further enquiries, please contact us on 02 9221 7555, or email us at legal.one@advantagepartnership.net

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