

Guide to lodging an application for ex gratia relief from additional foreign acquirer duty

Use this form to lodge an application for ex gratia relief from additional foreign acquirer duty (AFAD) for relevant transactions for significant development.

Before you begin, make sure that you understand the application process and that lodging this application is appropriate in the entity's circumstances. Read the:

- public ruling on ex gratia relief from AFAD (DA000.15)
- online information about the application process and timeframes for ex gratia relief from AFAD, available at qro.qld.gov.au.

This form should be used to apply for:

- an indication of whether ex gratia relief will be granted for the entity's transaction, once the entity has a draft, unexecuted document for the transaction (in principle pre-approval)
- ex gratia approval (including final approval where the entity has previously obtained in principle pre-approval) when the entity's transaction occurs.

If a foreign entity has been granted ex gratia relief for a relevant transaction (on full consideration of the conditions being undertaken on the merits of relief and the nature of the entity's operations), the administrative process for determining ex gratia relief for subsequent relevant transactions undertaken by the entity may be streamlined.

Preparing your application

The table below shows you what documents to provide with your application, and which parts of the form to complete for the type of approval requested.

	In principle pre-approval	Ex gratia approval (with in principle pre-approval)	Ex gratia approval (without in principle pre-approval)
Documents required	<ul style="list-style-type: none"> • Draft transaction documents • Completed application form • Supporting documents or information as required by application 	<ul style="list-style-type: none"> • Signed transaction documents, approved forms and other documents required for assessment of duty on the transaction • Completed application form • Supporting documents or information as required by application 	<ul style="list-style-type: none"> • Signed transaction documents, approved forms and other documents required for assessment of duty on the transaction • Completed application form • Supporting documents or information as required by application
Sections of form to be completed			
Part A – Applicant details	Yes	No, unless details need to be updated	Yes
Part B – Property details	Yes	No, unless details need to be updated	Yes
Part C – Previous approval details	Yes, if ex gratia relief for a previous transaction was granted	Yes	Yes, if ex gratia relief for a previous transaction was granted

	In principle pre-approval	Ex gratia approval (with in principle pre-approval)	Ex gratia approval (without in principle pre-approval)
Part D – Conditions for ex gratia relief	Yes Responses to all conditions are required. Where conditions are not satisfied because relevant facts are not yet known, provide an intention statement about how the condition will be satisfied.	Yes Confirm or update all previous factual statements. Where intention statements previously given, provide facts and supporting documentation required for the relevant condition.	Yes
Statutory Declaration	Yes	Yes	Yes

If there is insufficient space in the form, attach additional pages.

Lodging your application

Keep a copy of your completed application for your records.

You can lodge your application by:

- email: AFAD@treasury.qld.gov.au
- post: Principal Investigator, Compliance Large Corporate
Duties & Grants Division
Queensland Revenue Office
GPO Box 955
Brisbane Qld 4001

Queensland Revenue Office is collecting the information on this form for the purposes of administering state revenue. This is authorised by the *Duties Act 2001*. Your personal information will not be disclosed without your consent, except in circumstances outlined in the *Taxation Administration Act 2001* or as otherwise authorised by law.

Queensland Revenue Office
GPO Box 955
Brisbane Qld 4001
Email: AFAD@treasury.qld.gov.au
Ph: 1300 300 734

Visit qro.qld.gov.au for information about duties and other state taxes.

Application for ex gratia relief from additional foreign acquirer duty

Use this form to lodge an application for ex gratia relief from additional foreign acquirer duty (AFAD) for relevant transactions for significant development.

Before you begin, read the 'Guide to lodging an application for ex gratia relief from additional foreign acquirer duty', which explains how to complete the form.

Part A—Applicant details

1. Entity details

Name of applicant	<input type="text"/>
Client number	<input type="text"/>
Entity type	<input type="text"/>
ABN	<input type="text"/>
ARBN	<input type="text"/>
ASX listing code <small>(If listed on another stock exchange, record the name of the exchange and its listing code for the entity.)</small>	<input type="text"/>

2. Contact details

Correspondence address	<input type="text"/>	
C/o	<input type="text"/>	
Unit/Flat/Building	<input type="text"/>	
House no./Street address/PO Box	<input type="text"/>	
Suburb	<input type="text"/>	
State	Postcode	<input type="text"/>
Email address	<input type="text"/>	
Contact person's name	<input type="text"/>	
Contact person's telephone number	<input type="text"/>	

Part B—Property details

Provide details of the AFAD residential land that is the subject of the relevant transaction (including proposed development). Details should include the address and the lot and plan numbers for each lot.

Attach either:

- the signed documents for the relevant transaction (e.g. the signed purchase agreement)
- the draft documents for the proposed relevant transaction (e.g. the draft purchase agreement).

Is the land in a priority development area declared by the Minister for Economic Development Queensland under the *Economic Development Act 2012*, or part of a declared coordinated project declared by the Coordinator General under the *State Development and Public Works Organisation Act 1971*? If so, provide details.

Part C—Previous approval details

Identify if the entity has had any previous approval or in principle pre-approval for ex gratia relief from AFAD. Provide the following information:

Property details of the transaction	<div style="border: 1px solid black; width: 100%; height: 25px;"></div>
Approval date	<div style="border: 1px solid black; width: 100%; text-align: center;">/ /</div>
QRO case number (if known)	<div style="border: 1px solid black; width: 100%; height: 25px;"></div>

Part D—Conditions for ex gratia relief

3. Australian-based requirement

State how the entity undertaking the relevant transaction satisfies (or will satisfy) the condition of being Australian-based. Relevant factors may include:

- head office or principal place of business is in Australia
- significant management staff and office presence in Australia
- employment of Australian citizens or permanent residents
- business carried on in Australia
- considerable level of Australian participation in the entity that conducts activities in Australia
- contracts for services and materials primarily with Australian building contractors and suppliers.

Attach supporting documents, such as:

- | | |
|--|--|
| <input type="checkbox"/> current ASIC extract | <input type="checkbox"/> payroll data |
| <input type="checkbox"/> minutes of meetings | <input type="checkbox"/> contracts for services and materials |
| <input type="checkbox"/> prospectus or project documents | <input type="checkbox"/> quotes or invoices for Australian building and service suppliers. |
| <input type="checkbox"/> corporate memoranda | |
| <input type="checkbox"/> other (please specify) | <input type="text"/> |

4. *Foreign Investment Review Board (FIRB) requirements*

Detail how the entity complies with any FIRB requirements in relation to the acquisition of the land, including:

- whether a FIRB application has been made
- whether approval has been granted
- details of all conditions that have been imposed
- whether any of the conditions have been met
- for any conditions that will be satisfied, how and when the conditions are intended to be met.

Attach supporting documents, including

- FIRB approval (if available)
- FIRB application.

5. *Regulatory requirements*

State how the entity complies with regulatory requirements, including:

- *Corporations Act 2001* (Cwlth) or equivalent legislation
 - complying with ASIC requirements and ASX Listing Rules (or equivalent requirements)
 - the entity has no history of serious breaches against the regulatory laws (such as workplace health and safety)
- Queensland taxation laws
 - the entity has declared if it has any outstanding liabilities.

The entity can make any voluntary disclosures of liability as part of this statement.

6. Significant development requirements

Complete either A or B below.

A. Significant development status

Either the transaction lot test or regional significance test must be satisfied.

- (a) **Transaction lot test**—development or re-development of 50 or more residential lots on the land that is the subject of the relevant transaction

Describe how the entity will satisfy this requirement, including:

- the number of residential lots that are expected to be produced on the land
- the expected completion date for the project.

Attach supporting documents, including the executed or draft development/redevelopment plan for the land.

- (b) **Regional significance test**—development or redevelopment of the land that is the subject of the relevant transaction will make a significant contribution to the region

Describe how the entity will satisfy this requirement; for example:

- the region that will benefit from the development or redevelopment
- the nature of the development or redevelopment
- the contribution the development will make to housing stock and infrastructure in the context of population size, demographics and activity in the region
- the economic and social impacts of the development for that region
- whether, in the absence of this development by the entity, such outcomes for the region would otherwise be likely (e.g. the number of other developers, builders or owner-builders in the same market).

Attach supporting documents such as:

- the executed or draft development/redevelopment plan for the land
- any development approvals
- other documents (e.g. regional or economic plans that may identify such developments as a significant focus for the region).

B. Significant developer status

The entity will undertake developments or redevelopments that will result in 50 or more residential lots in the relevant year. ‘Relevant year’ is a 12-month period that includes the date of the relevant transaction. Averaging up to 5 years is allowed.

Describe how the entity will satisfy this requirement, including:

- the developments or redevelopments undertaken or to be undertaken in the relevant year
- the date each development or redevelopment is planned to commence and complete in the relevant year
- if the entity proposes to rely on previous or proposed developments or redevelopments to establish significant developer status using annual averaging (up to 5 years). If so, list details of these projects, namely the number of residential lots produced from each project, and when the developments or redevelopments commenced and completed, or are likely to commence and be completed
- if developments by the parent entity, or by any entity that is 100% owned by the same parent entity, is being taken into account to satisfy significant developer status. If so, provide details of the relevant entity and evidence showing ownership structure.

Attach supporting documents such as:

- the executed or draft development/redevelopment plans for the land and the period being relied on to satisfy significant developer status
- other (e.g. feasibility studies conducted for all the proposed projects for development that are being undertaken in the relevant year, or that form part of the annual 50 residential lots averaged over 5 years, including the date of the relevant transaction).

7. Use of Australian goods, services and personnel requirement

Confirm that the entity does or will primarily employ or contract for services, materials of Australian building contractors, and suppliers to engage in the development of land under the relevant transaction.

Detail how the entity will satisfy this requirement, including the basis on which it is believed that for the development for the relevant transaction:

- the entity will pay Australian contractors and suppliers more than 50% of the total amount paid for goods and services
or
- more than 50% of the entity's employees, in both total wage value and number, will be Australian.

Attach supporting documents such as:

- employment contracts
- supplier contracts
- quotes or invoices for goods and services from Australian suppliers
- tender proposals, bid documents or prospectus which shows an intention to use Australian goods, services and personnel for the relevant transaction.

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Queensland Revenue Office
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Brisbane Qld 4001
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Visit qro.qld.gov.au for information about duties and other state taxes.

Form 1

Oaths Act 1867 (sections 13C, 13E, 14)

Version 2: approved for use from 30 April 2022

Statutory Declaration (Queensland)

This form allows you to make a statutory declaration under the *Oaths Act 1867* in Queensland. A statutory declaration is a written statement that is declared to be true in the presence of an authorised witness.

Making a false statement in a statutory declaration is a criminal offence. If your statutory declaration is based on information or belief, you should state the sources of your information or the grounds for your belief. You can also attach documents to your statutory declaration to support your statement.

At the back of this form, you will find an explanatory guide about who can witness your statutory declaration. In some cases, you may need a special witness to witness your statutory declaration.

You can print this document and sign it on paper before any authorised witness. You can only electronically sign this document if it is witnessed by a special witness or other authorised person. You can **only have this document witnessed over audio visual link (e.g. videoconference) if it is witnessed by a special witness.**

Queensland Revenue Office is collecting the information on this for the purposes of administering state revenue. This is authorised by the *Duties Act 2001*. Your personal information will not be disclosed without your consent, except in the circumstances outlined in the *Taxation Administration Act 2001* or as otherwise authorised by law.

Forms and explanatory guides are available at www.publications.qld.gov.au.



Queensland
Government

Form 1
QUEENSLAND

Oaths Act 1867

STATUTORY DECLARATION
Additional foreign acquirer duty

I, _____, of
(Full name)

_____, do
(Address)

solemnly and sincerely declare that I am authorised to make this statutory declaration on behalf of

_____, as:
(Name of entity and ACN/ABN/ARBN)

chairperson

director

secretary

trustee

other (please specify) _____.

I declare that:

- the information supplied in the application for ex gratia relief (Form D4.1) is true and correct
- I acknowledge that if approval for ex gratia relief is granted in respect of a transaction, the entity to the transaction must notify the Commissioner of State Revenue in writing within 28 days of the following
 - any of the conditions under Public Ruling *DA000.15—Additional foreign acquirer duty—ex gratia relief for significant development* no longer being satisfied
 - a material change in the circumstances that existed when the approval was given
- I acknowledge that the ex gratia payment must be returned to the Queensland Government if the conditions for ex gratia relief are not met after it is granted.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1867*.

I declare that the contents of this statutory declaration are true and correct. Where the contents of this declaration are based on information and belief, the contents are true to the best of my knowledge.

I understand that it is a criminal offence to provide a false matter in a declaration, for example, the offence of perjury under the Criminal Code, section 123.

Declared at _____ on _____
(Place where declarant is located) (Date)

(Signature of declarant)

Add this panel if a substitute signatory signs – DELETE IF NOT APPLICABLE

Signed for and at the direction of the declarant by _____ (Full name of substitute signatory)	_____ (Signature of substitute signatory) _____ (Date)
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In the presence of:

(Full name of witness)

(Signature of witness)

(Type of witness)¹

(Date)

(Witness's place of employment)^{*2}
*delete if not applicable



WITNESS to complete—Tick as applicable

I am a special witness under the *Oaths Act 1867*.
(see section 12 of the *Oaths Act 1867*)

This statutory declaration was made, signed and witnessed under part 6A of the *Oaths Act 1867*.³

I understand the requirements for witnessing a document by audio visual link and have complied with those requirements.

**** IMPORTANT NOTE ****

**COMPLETE THE NEXT PAGE TITLED 'HOW THIS DOCUMENT WAS MADE'.
ATTACH THIS PAGE TO YOUR STATUTORY DECLARATION.**

The footnotes are to assist in the completion of the form and can be deleted once complete.

1. Insert the witness' capacity that makes them eligible to witness the statutory declaration, including as a special witness under section 16C or part 6A of the *Oaths Act 1867*; for example, Australian legal practitioner, lawyer, justice of the peace, commissioner for declarations, notary public, a justice of the peace or commissioner for declarations approved by the Chief Executive under section 12(2) of the *Oaths Act 1867*, government legal officer.
2. For example, the name of the law practice for the Australian legal practitioner, the name of the government department of the government legal officer, the name of the law practice for a justice of the peace who witnesses documents for a law practice
3. Tick this box if the statutory declaration was made over audio visual link.

HOW THIS DOCUMENT WAS MADE

The declarant and the witness must complete this page by ticking the appropriate boxes below. Attach this page to your statutory declaration.

The signatory or substitute signatory must complete this section.

SIGNATORY OR SUBSTITUTE SIGNATORY to complete	
Who signed this declaration?	
<input type="checkbox"/>	The signatory
<input type="checkbox"/>	A substitute signatory
How did the signatory or substitute signatory sign?	
<input type="checkbox"/>	On paper
<input type="checkbox"/>	Electronically
How was this declaration witnessed?	
<input type="checkbox"/>	In person
<input type="checkbox"/>	Over audio visual link

The witness must complete this section.

WITNESS to complete	
How did you (the witness) sign this document?	
<input type="checkbox"/>	On paper
<input type="checkbox"/>	Electronically
What document did you (the witness) sign?	
<input type="checkbox"/>	The same physical (paper) document that was signed in the presence of the signatory or substitute signatory
<input type="checkbox"/>	A copy of the document that was signed by the signatory/substitute signatory (e.g a scanned copy of a paper signed document, a photocopy or printout)
<input type="checkbox"/>	A counterpart of the document (a copy of the document without the signature of the signatory or substitute signatory)
What form of document did you (the witness) sign?	
<input type="checkbox"/>	Paper
<input type="checkbox"/>	Electronic (tick this if you electronically signed the document or if you physically signed a copy of the document signed by the signatory or substitute signatory and then sent a scanned copy of that document to the signatory or other person)
How was the substitute signatory directed to sign (if applicable)?	
<input type="checkbox"/>	In person by the signatory
<input type="checkbox"/>	Over audio visual link by the signatory

WHO CAN WITNESS A STATUTORY DECLARATION IN QUEENSLAND

A statutory declaration under the Oaths Act 1867 in Queensland must be signed in the presence of an eligible witness. Who can witness a statutory declaration depends on how the document is signed (whether on paper or electronically), and whether the witness is present in person or by audio visual link.

Signing in the physical presence of witness

If the statutory declaration is to be signed on paper and in person, the witness can be:

- a justice of the peace (JP)
- a commissioner for declarations (Cdec)
- a notary public
- a lawyer
- a licensed conveyancer in another state or territory
- any person who is authorised by law to administer an oath in another state or territory
- another person prescribed by regulation.

Signing electronically or witnessing over audio visual link

The witness must be a **special witness** if the statutory declaration is to be:

- signed electronically (whether witnessed in person or by audio visual link)
- or
- witnessed over audio visual link (whether signed on paper or electronically).

A **special witness** is:

- an Australian legal practitioner
- a government legal officer who is an Australian lawyer and who witnesses documents in the course of the government work engaged in by the officer
- an **approved** JP
- an **approved** Cdec
- a JP or Cdec who is employed by the law practice and who witnesses documents in the course of that employment—if the document was prepared by a law practice
- a notary public
- a JP or Cdec who is an employee of the Public Trustee of Queensland—if the document was prepared by the Public Trustee
- another person prescribed by regulation.

WHO CAN SIGN A STATUTORY DECLARATION AS A SUBSTITUTE SIGNATORY

A substitute signatory is a person directed by the signatory to sign the statutory declaration on their behalf. The person who witnesses the statutory declaration must also observe the signatory giving the direction to the substitute signatory—this may occur in person or by audio visual link.

Who can't be a substitute signatory

- A person who is another party to the proceeding, or a relation of a person who is another party to the proceeding—if the statutory declaration is to be used in a court or tribunal proceeding
- The person who witnesses the statutory declaration
- A person excluded under any other law from signing the document as a substitute signatory

Who can be a substitute signatory

- Any adult with capacity can be a substitute signatory, except for those persons excluded above,
- However, if the signatory directs the substitute signatory over audio visual link to sign the document (i.e. they are not physically in each other's presence when the direction is given), then the substitute signatory must be:
 - any Australian legal practitioner
 - a government legal officer who is an Australian lawyer and who witnesses documents in the course of the government work engaged in by the officer
 - an employee of the Public Trustee of Queensland.

Note that whenever audio visual links are used to make a document (regardless of whether the witness or substitute signatory are present by audio visual link), the document must be witnessed by a **special witness** (refer above).