



**PRESENTATION TO A DELEGATION FROM WUCHUAN CITY PEOPLE'S GOVERNMENT OF
GUANGDONG PROVINCE , THE PRC.**

**Presented by Mr Jon McCarthy, founding partner of McCarthy Durie Lawyers of Brisbane, Cleveland
and Capalaba, Queensland.**

24-11-2015

May I offer a warm welcome to our distinguished guests from China. We are indeed privileged to have you visit our country and hope you have an enjoyable and informative stay.

我在这非常热烈的欢迎我们中国贵客的访问。我们非常荣幸有你们的来访，希望您有一个愉快和翔实的旅程。

Let me introduce myself, I am Jon McCarthy the founding director of the law practice known as McCarthy Durie Lawyers. We have 55 people in 3 offices in Brisbane City and Redland City. The practice was established in 1978 and deals in nearly all areas of law but in particular in business and property law.

让我自我介绍一下，我是乔恩·麦卡锡。是麦卡锡杜里律师的创始董事。我们有 55 员工工作在在布里斯班市及雷德兰市的 3 个分公司。公司成立于 1978 年，公司业务涉遍布几乎每一个领域，特别是在商业法和物权法。

Shortly I will explain how you can use a lawyer to help you if you decide to buy property or do business in Australia but firstly I would like to explain the basic rules for foreign enterprises and governments who wish to buy businesses or property in Australia.

我将解释一下如何使用一个律师来帮助你，如果你决定购买物业或在澳大利亚开展业务，但首先我想解释一下外商在澳洲投资的一些基本规则。

The Australian Government has established the Foreign Investment Review Board, which makes the rules relating to foreign investment.

澳大利亚政府已成立了外国投资审查委员会对外国投资进行审查。

There is a good website which has the policies in the Chinese language. I have given you a Chinese language copy of the policy in the folder. www.firb.gov.au

有一个很好的网站，该网站提供了中文翻译。在提供的文件夹中已经提供了一份中文翻译。

<www.firb.gov.au>

In the last few years persons and governments from outside Australia have purchased a lot of businesses and property in Australia which has resulted in the rules which govern foreign investment being reviewed and changed. Those changes are being published next month. They will be on the website.

过去几年国外的投资者及政府已经在澳洲购买了大量的企业及产业。这些外国投资也使得澳洲政府开始对外商投资进行审查。一些新的政策将会在在下一个月公布。我们可以网上查询。

The rules are intended to ensure that if a foreign individual or government invests in Australia that there are benefits to the Australian economy and also seeks to limit any adverse effects to the Australian Economy that might result.

这些规则旨在确保外国个人或政府在澳投资有利于澳洲经济，并寻求限制任何对澳洲经济不利的影响。

The reduction in the value of the Australian dollar in the last 12 months makes Australian business and property cheaper than it was 2 years ago and it is therefore an even more attractive investment than it was then.

澳元兑美元在过去 12 个月的汇率的下降，使得澳洲更具有投资吸引力。

Many foreign nationals wish to buy a house in Australia. The rules prohibit the purchase of an established house. An established house means one that has been lived in before.

很多外国人想在澳大利亚买房。澳大利亚的法规则禁止外国投资者购买二手房。

The rules permit the purchase of a new house or apartment or the purchase of land upon which it is intended to build a new house or apartment. The government is about to bring in rules which will require persons who are buying new houses to pay an application fee. The amount of that fee depends on the purchase price of the house.

该规则允许购买新房或用来盖房的土地。政府即将引入的规则还将要求购入新房的外国投资者缴纳一定的申请购置费，该费的数额取决于房屋的购买价格。

There is an exemption regarding the purchase of an established house for individuals who are entitled to temporary residence in Australia or require accommodation because of employment in Australia for a significant period of time.

也有一个例外，就是只要能证明需要在澳洲工作一段时间的投资者也可以购买二手房。

The rules relating to the purchase of business property and businesses are less restrictive and the FIRB only regulates large purchases.

外国投资审查委员会对中小投资业不是如此严格，其主要针对大规模投资。

It needs to be noted that all foreign government investments in Australia must get approval from the FIRB.

我们需要注意的是，所有的外国政府投资都需要经过澳洲外国投资审查委员会的批准。

I encourage you to visit the FIRB website for the Chinese language translations of the FIRB policy.

我还是希望大家能登陆外国投资委员会网址，看一下相关政策的中文翻译。

I thought it might be useful to highlight the differences in business customs between Australians and Chinese businessmen. I have travelled to China on a number of occasions and have thoroughly enjoyed its modern cities and beautiful countryside. I found the Chinese people warm and friendly and very generous.

我想在此应该先谈一下澳洲跟中国一些商务往来习惯的不同之处。我有幸到访过中国很多城市，并且对中国现代的城市及美丽的乡村都有非常深刻的映象。我发觉中国朋友都非常热情好客，而且非常豪爽。

When Chinese people are dealing with Australians, they must realise that Australians are not as formal and because of their informality could seem to be offensive or rude. The polite conversation between associates which precedes a business transaction in China is a very attractive custom. Australian business people often ignore the importance of establishing a respectful relationship before starting to talk business. It is important to realise the different customs in relation to business should not be misunderstood and have to be accepted as part of doing business in another country. 在与澳洲朋友打交道的时候，我们可能会发现澳洲人不够正式，在某些情况下甚至会觉得有些冒犯。因为在中国的商务往来往往非常注重礼节与礼仪。在澳洲，商务往来往往不拘泥于礼节。所以我想在此说明一下在以后澳洲商务往来中不要因为一些不同的习惯而引起不必要的误会。

Like China, Australia has many laws which must be complied with in order to do business. The laws apply to individuals and companies. We have three levels of government which make the laws which we have to comply with.

就像中国一样，澳洲有许多法律需要外国投资者遵守。在澳洲我们有三重政府可以立法，即联邦政府，州政府及市政府。

Most business have to comply with the rules established by the local government ; for example, the Brisbane City Council or the Redlands City Council ; and also laws established by the relevant state government; for example, the Queensland Government.

所有的商业行为都必须遵守澳洲的法律。

At a higher level the federal government based in Canberra administers laws which cover all of Australia and as I mentioned before especially foreign investment in Australia.

联邦政府的法律高于一切其他的法律。特别是对于对外国投资的规定上，主要受联邦法的限制。

I am sure that many of you are very familiar with company structures but it might be worth while to look at a company structure as it exists in Australia so you can compare it with the structure in China.

我想在做的各位已经非常熟悉公司结构，但我还是认为我们值得去了解一下澳洲公司结构与中国公司结构的不同之处。

A company is a separate legal entity to the persons who own it. The persons who own it are called shareholders. The shareholders elect a board of directors who are the people who run the company. 公司所有人独立于公司。公司所有人只是股东。股东可选举董事会来管理公司。

Private companies can be very small with just one shareholder and one director or they can be quite large with 40 shareholders and a large number of directors. The shares in a private company are not traded on any stock exchange but are traded between individuals by agreement

非上市公司可以小到只有一名股东及一名执行董事，也可以非常大，大到 40 名董事和很多执行董事。非上市公司的股票不能在股市买卖。

Public companies have their shares listed on the stock exchange and the shares can be traded freely between individuals on a daily basis. To become a public company there is a very high level of regulation to protect shareholders who may buy their shares.

上市公司股票可在股票交易所进行交易。想成为一个上市公司，有很多非常高的要求需要我们去遵守。

A foreign company must have one Australian resident director to comply with our company law. A resident director can usually be obtained through an accounting or legal firm a who will charge a fee for that service

在澳洲上市公司里必须有至少一名澳洲董事。这名澳洲董事可以从会计和律师事务所里聘请。

A company in Australia can do just about everything that an individual can do; it can buy property employ staff, borrow money, enter into Contracts and deal with governments.

公司可与个人一样，在澳洲购买资产，借钱，招聘员工等。

After all expenses are paid, the company can then distribute profits to shareholders by way of a dividend. In Australia, the company tax rate is now 30% . When tax has been paid on profits the

shareholders receive a credit for the tax paid by the company so that they only pay additional tax on the dividend received if their personal tax rate exceeds 30%. This is called *dividend franking*.

在所有费用支出过后，公司就可以为股东派发股息。澳洲目前的公司税率为 30%。当缴纳公司税以后，股东们可以获得红利抵免。当股东获得股息以后如果其个人所得税超过 30%，股东只需要缴纳超过 30%那部分税。其它部分已经被公司缴纳的税抵免。

I hope that information is useful to you but it is not necessary for you to know all these things in great detail.

我希望以上信息对在做的各位有用。

The role of a lawyer in Australia is to assist people who wish to do business or buy property and place them in a position of full knowledge of the laws and regulations.

在澳洲律师的职责是帮助人们从事商业购买资产与帮助他们了解澳洲的所有法律法规。

The legal profession is a highly regulated profession and we often handle client's money through a *trust account* which is audited on a 6 monthly basis.

在澳洲，我们往往把客户的资产放在信托账户中，该账户每 6 个月会审计一次。

Lawyers are independent of all other parties and act only for their client. They assist in dealing with local laws but they also provide local knowledge which is very important to investment decisions.

律师独立于任何团体和机构，我们通过帮助客户应对当地的法律和了解当地情况来帮助投资者做出重要的投资决策。

A lawyer can provide advice on the best business structure, financing and other methods to achieve your desired outcome.

律师可以为客户提供最好的建议，建议他们如何设计商业结构，进行融资及一些其他获得商业成功的方法。

We are regularly involved in negotiating and preparing Contracts, undertaking the due diligence investigation and completion of transactions for businesses and property.

我们已经参与了很多商业谈判，合同拟定，尽职调查等，并且帮客户完成了多庄商业投资。

On behalf of clients, we liaise with all other consultants including, engineers, accountants, town planners and government.

我们代表客户帮客户与其他相关部门及人员打交道，包括工程师，规划师，政府及会计师。

It is important to know how to use a lawyer properly.

所以如何利用好律师就非常重要了。

You must fully explain what your project is and what you are trying to achieve and that permits us to give you advice on how to achieve those goals. Everything you tell a lawyer is secret.

在为客户服务之前，客户需要非常详细的告知我们你们的项目，你们的计划及打算。这可以让我们更好的给予专业建议。客户给我们提供的一切信息都是商业机密。

A lawyer has to make sure that you understand the advice that we give you so that you can make a clear, informed decision.

律师必须让自己的客户清楚的了解和认可律师给予的建议，这样可以更好地做出决策。

We can engage other consultants as needed to give you the best advice.

我们也可以提供一些其他的咨询及建议。

It is very important to keep your lawyer fully informed of your business plans and any changes you make to your project so that we can continue to provide relevant advice.

非常重要的一点我想说就是让你的律师完全了解你的商业计划和计划上的一些变化，这样我们才能提供更专业更贴切的咨询和建议。

Finally, you should understand that lawyers are engaged solely to look after your interests and can not personally profit from your business dealings other than by the fees which we charge you.

最后，我们需要明白律师必须为客户的利益而服务。我们不可以从项目收益中提成，只能收取事前规定好的律师费。

A lawyer must give you a full statement of how they will charge you before work is commenced. In most cases lawyers charge according to the hours required. For example lawyers in my firm charge from between \$350.00 to \$550.00 per hour but in some specialty areas in some law firms it can be twice that much.

律师在为客户工作之前必须为客户详细说明收费标准。在大多数程度上，律师都是按小时收费。在大多数情况下，我们收费是 350~550 一小时，在一些特别复杂的案子中这个收费可能更高。

Lawyers are not entitled to receive commissions or other payments from other businesses to which they refer you when acting for you in Australia. A lawyer is not permitted to benefit from his position other than by the fee that is charged.

律师也不能收任何推荐费。除了律师费以外律师不允许再从其他方面获取利益。

I hope this information helps you in understanding the Australian business environment and we assure you that lawyers are here to be *Partners in Your Success* to foster a long term mutually beneficial relationship.

我希望这些信息可以帮助您了解澳大利亚的商业环境，我可以向你们承诺，律师会成为你们在澳洲投资过程中的一个重要伙伴，也是投资成功的一个保障。

Jon McCarthy

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