

# CG-HI-006: Meaning of a 'home'

## Commissioner's Guideline

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## Purpose

1. This guideline explains whether a building qualifies as a 'home' for the purposes of the first home owner grant (FHOG), House and land package exemption (HLPE), Territory home owner discount (THOD) and senior, pensioner and carer concession (SPCC), which are known collectively as the 'home owner assistance schemes'.

## Home owner assistance schemes

2. The home owner assistance schemes are intended to encourage home ownership by providing assistance in the form of a grant for the purchase or construction of a home or reducing the stamp duty payable on the purchase of land on which there is or will be a home.

## Meaning of 'home'

3. For the purpose of the home owner assistance schemes a 'home' is defined as a building that is affixed to land that must be:
  - a. able to be lawfully used as a place of residence
  - b. in the opinion of the Commissioner of Territory Revenue, suitable for use as a place of residence.<sup>1</sup>
4. This definition does not include structures that are not permanently affixed to the land such as freestanding demountables or vehicles such as caravans.
5. In determining whether a building is suitable for use as a 'place of residence', the term is given its ordinary meaning having regard to the purpose of the relevant home owner assistance scheme. This means a building that is in a structural condition suitable for residential occupation and has the usual utilities and facilities expected of a person's usual place of abode. For specific requirements, see [Evidence required](#).

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<sup>1</sup> Section 4 of the *First Home Owner Grant Act 2000* and sections 88(1) ('home') of the *Stamp Duty Act 1978* (SDA).

## Buildings in a building control area

6. The *Building Act 1993* governs the technical standards for buildings and regulation of building matters, including the grant of building and occupancy permits and other approvals, but only in relation to buildings in certain proclaimed areas ('building control areas').<sup>2</sup>
7. There are two classifications (or tiers) within these building control areas. Tier 1 covers Darwin (Greater Area), Alice Springs and Lake Bennett. Tier 2 covers all other areas distant from Darwin and Alice Springs. Building certification requirements vary depending on which tier the property is located within. Use the search function on the Northern Territory Building Advisory Services website, [www.ntlis.nt.gov.au/building-control](http://www.ntlis.nt.gov.au/building-control) to determine if a building is located within a Building Control Area and the classification of that area.
8. Except for a class 1(a) detached house in a tier 2 area, a building cannot lawfully be occupied for its intended use unless an occupancy permit has been issued confirming that it has been constructed to appropriate standards for that use. For a class 1(a) detached house in a tier 2 area, the equivalent authority is a builder's declaration confirming the building work has been carried out in accordance with the building permit.<sup>3</sup> A certificate of substantial compliance granted by a building certifier or a certificate of existence granted by the Director of Building Control also certifies a building as suitable for occupation.
9. Where a building has been approved for residential use in the manner described at paragraph 8, or has an equivalent approval under a previous scheme, it will be presumed to be a 'home' for the purpose of the home owner assistance schemes unless there are other circumstances that prevent its lawful occupation. This might include the building having been condemned or being subject to a work order. In these circumstances, the building is not a 'home' for the purpose of the home owner assistance schemes unless the defect is rectified (see [Buildings that become homes](#)).
10. Building Advisory Services regulates the *Building Act 1993* and is the custodian of building and occupancy permits, certificates and builders' declarations. Details are also generally recorded on the title to the property. To check whether a building has the requisite approvals for residential use, visit the Building Advisory Services website, <http://lands.nt.gov.au/building/about-us> or email [bas@nt.gov.au](mailto:bas@nt.gov.au).

## Buildings outside building control areas

11. A building outside building control areas may lawfully be used as a place of residence unless there is a law that prohibits residential occupation of the building or the land on which the building is affixed. However, the Territory Revenue Office (TRO) must still be satisfied that the building is suitable for use as a place of residence. In making such a determination, TRO will consider whether these minimum requirements have been met; that the building:
  - a. has the requisite structural integrity – it has walls, roof, doors and windows that are in a sound condition
  - b. contains essential facilities in reasonable working order necessary for permanent residential occupation – it has a toilet, bath or shower, sinks or laundry and kitchen including facilities suitable for preparing and cooking food
  - c. has or is connected in a permanent, proper and safe manner to essential utilities – such as mains or self-generated electricity or gas, permanent water supply from the mains, a catchment, tank, bore or similar and sewerage or reasonable waste disposal facilities.

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<sup>2</sup> Section 4 ('Building Area'), section 6(2) and Parts 4 to 13 of the *Building Act 1993*.

<sup>3</sup> Section 69 of the *Building Act 1993*.

- d. has reasonable living and sleeping areas.

## Evidence required

12. The building will be presumed to be a 'home' for the purpose of the home owner assistance schemes where it is clear from the application form, supporting evidence and information available to TRO that a building meets the standards in the previous two sections; this is subject to the qualifications at paragraph 14.
13. However, where it is not clear that the building is a home (for example, where the title to land indicates that the only approved improvement on the land is a shed), the applicant must provide evidence in support of their application.
14. For a building:
  - a. in a building control area, the evidence may include a copy of the building permit (where payment is made in anticipation of construction of a home), occupancy permit (or an equivalent certificate or approval under a previous scheme), a section 69 builder's declaration or advice from Building Advisory Services confirming that the building may be used for residential purposes.
  - b. outside of a building control area, the evidence may include a:
    - i. written statement from the builder or a registered building certifier certifying that the building satisfies, or will satisfy, the standards described at paragraph 11.
    - ii. copy of any plans and specifications relating to the building and photographic evidence that the building satisfies the minimum requirements described at paragraph 11 in relation to structural integrity, essential facilities and utilities.

## Information for House and land package exemption applicants

15. In addition to the above, the HLPE only applies in relation to detached, new homes.<sup>4</sup>

## Meaning of 'new home'

16. For the purposes of the FHOG and HLPE, a 'new home' is a home that has not been previously occupied or sold as a place of residence.<sup>5</sup> Where a home does not meet this definition, it may still be treated as a new home under the FHOG in limited circumstances. For further information, refer to Commissioner's Guideline CG-HI-011: *What is a 'new home'?*

## Payments in anticipation of completion of construction

17. Under the home owner assistance schemes, the grant (in the case of the FHOG) or stamp duty reduction (in the case of the HLPE, THOD or SPCC) may be approved in anticipation of a home being built on land. In these circumstances the home must be completed to the standards described at paragraph 11 to remain eligible for the relevant grant or stamp duty reduction.

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<sup>4</sup> Section 90D(2)(e) of the SDA.

<sup>5</sup> Section 18(5) of the *First Home Owner Grant Act 2000*; section 90C(1) of the SDA.

## Buildings that become homes

18. A building on land may not qualify as a home in some cases because:
- there are circumstances that prevent it being lawfully occupied as a place of residence (for example, it may have been condemned or subject to a work order)
  - it is not suitable for use as a place of residence (for example, it does not have the facilities or utilities expected in a home as it was previously used for a different purpose such as a commercial building or shed).
19. Where improvements, repairs or renovations are made to the building such that it meets the standards of a home as described at paragraph 11 (with any required certificates and approvals obtained), it will count as:
- the building of a home by an owner builder for the purposes of the FHO
  - a home being built on the land for the purposes of the THOD or SPCC.
20. For the purposes of the HLPE, a new home does not include the substantial renovation of a previously occupied home. Therefore, such homes will not qualify for the exemption. For further information, refer to Commissioner's Guideline CG-HI-011: *What is a 'new home'?*

## Legislation

21. Refer to the *First Home Owner Grant Act 2000* and the *Stamp Duty Act 1978* for the legislative basis for the home owner assistance schemes.

## Commissioner's guidelines

22. Commissioner's Guideline CG-GEN-001: *Revenue Circulars, Commissioner's Guidelines and Payroll Tax Rulings: explanation and status*, which sets out information on the revenue publication system, is incorporated into and to be read as one with this guideline. All circulars and guidelines are available on the TRO website.

## Date of effect

23. This version of the guideline takes effect from 1 July 2022.



Sarah Rummery

**COMMISSIONER OF TERRITORY REVENUE**

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