

COMMISSIONER'S GUIDELINE

CG-HI-006:

Meaning of a 'home'

Guideline History

Version	Issued	Dates of effect	
		From:	To:
1	9 March 2006	9 March 2006	31 December 2007
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3	18 June 2010	18 June 2010	Current

Purpose

This Guideline explains whether a building qualifies as a 'home' for the purposes of the first home owner grant (FHOG), and the stamp duty first home owner concession (FHOC); senior, pensioner and carer concession (SPCC); and principal place of residence rebate (PPRR), collectively, 'the home incentive schemes'.

The home incentives schemes

The purpose of the home incentive schemes is to encourage home ownership by providing assistance in the form of a grant for the purchase or construction of a home, or a reduction of the stamp duty payable on the purchase of land on which there is or will be a home.

Meaning of 'home'

For the purpose of the home incentive schemes a 'home' is defined as a building that is affixed to land that must be:

- 1) able to be lawfully used as a place of residence; and
- 2) in the opinion of the Commissioner of Territory Revenue, suitable for use as a place of residence.¹

This definition does not include structures that are not permanently affixed to the land such as freestanding demountables or vehicles such as caravans.

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 incentive 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 below.

¹ Section 4 of the *First Home Owner Grant Act* and sections 88(1) ('home') of the *Stamp Duty Act*.
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Buildings in a Building Control Area

The *Building Act* governs the technical standards for buildings, the 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').²

There are currently two classifications (or Tiers) within these Building Control Areas. Tier 1 covers Darwin (Greater Area), Alice Springs and Lake Bennett and Tier 2 covers all other areas distant from Darwin and Alice Springs. The building certification requirements vary depending on which Tier the property is located within. A search function with a link to the building certification requirements is available on the Northern Territory Lands Group website at <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.

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 (1a) detached house in a Tier 2 area, the equivalent authority is a section 69 builders declaration confirming that the building work has been carried out in accordance with the building permit.

Where a building has been approved for **residential use** in the manner described above or has an equivalent approval under a previous scheme, it will be presumed to be a 'home' for the purpose of the home incentive 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 incentive schemes unless the defect is rectified (see 'Buildings that become homes' below).

Building Advisory Services (BAS), a division of the Department of Lands and Planning, regulates the *Building Act* and is the custodian of building and occupancy permits and builder's declarations. Details of the permits and declarations are also generally recorded on the title to the property. If there is any doubt as to whether a building has the requisite approvals for residential use, contact [BAS](#).

Buildings outside of the Building Control Areas

A building outside of the Building Control Areas may lawfully be used as a place of residence unless there is a law that prohibits residential occupation of that building or the land on which the building is affixed. However, 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 the following minimum requirements have been met.

- 1) The building has the requisite structural integrity. That is, it has walls, roof, doors and windows that are in a sound condition.

² Section 4 ('Building Area'), section 6(2) and Parts 4 to 13 of the *Building Act*.
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- 2) The building contains essential facilities, in reasonable working order, necessary for permanent residential occupation. These include a toilet, bath or shower, sinks/laundry and kitchen including facilities for preparing and cooking food.
- 3) The building has or is connected in a permanent, proper and safe manner to essential utilities such as mains or self generated electricity and/or gas, permanent water supply from the mains, a catchment, tank, bore or similar and sewerage or reasonable waste disposal facilities.
- 4) The building has reasonable living and sleeping areas.

Evidence required

Where it is clear from the application, supporting evidence and information available to TRO that a building meets the above standards, the building, subject to the qualifications in the next section, will be presumed to be a 'home' for the purpose of the home incentive schemes.

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.

For a building:

- 1) 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 BAS confirming that the building may be used for residential purposes.
- 2) outside of a Building Control Area, the evidence may include:
 - a. a written statement from the builder or a registered building certifier certifying that the building satisfies, or will satisfy, the standards described above; or
 - b. a copy of any plans and specifications relating to the building and photographic evidence that the building satisfies the minimum requirements described above in relation to structural integrity, essential facilities and utilities.

Payments in anticipation of completion of construction of a home

Under the home incentive schemes, the grant and reduction of the stamp duty may be approved in anticipation of a home being built on land. In these circumstances, to remain eligible for reduction of stamp duty, the home must be completed to the standards described above.

Buildings that become homes

In some cases a building on land may not qualify as a home because:

- 1) 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); or
- 2) 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).

Where improvements, repairs or renovations are made to the building such that it meets the standards of a home as described above (with any required certificates and approvals obtained), it will qualify for the home incentive schemes as:

- 1) the building of a home by an owner builder for the purposes of the FHOG;³ and
- 2) a home being built on the land for the purposes of the FHOC, SPCC or PPRR.

Commissioner's Guideline [CG-GEN-001](#), which sets out information on the revenue publication system, is incorporated into and is to be read as one with this Guideline. All Circulars and Guidelines are available from TRO's website.

Date of effect

This Guideline takes effect from the date of issue.



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