

Commissioner's Guideline: What is a 'new home'?

CG-HI-011

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Purpose

1. This Guideline explains whether a building qualifies as a 'new home' for the purposes of the first home owner grant (FHOG), and the stamp duty Territory home owner discount (THOD), collectively, 'the home owner assistance schemes'.

The home owner assistances schemes

2. The purpose of the home owner assistance 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 new home.

What is a 'new home'?

3. The home owner assistance schemes define a 'home' as a building (affixed to land) which is:
 - a. able to be lawfully used as a place of residence; and
 - b. in the opinion of the Commissioner of Territory Revenue, suitable for use as a place of residence.¹
4. Further information is provided in Commissioner's Guideline [CG-HI-006: Meaning of a 'home'](#). Commissioner's Guideline [CG-HI-001: Stamp Duty Home Owner Assistance Schemes](#) and the respective home owner assistance scheme application forms also provide more information on the eligibility criteria for the home owner assistance schemes.
5. A 'new home' is defined as a home that has not been previously occupied or sold as a place of residence, including as residential accommodation (regardless of the duration of the occupation).² Of note, a building occupied as residential accommodation includes a hotel, serviced apartments and workers accommodation.
6. Generally, a new home will be a house, duplex, unit or townhouse that is newly built and has not, since being built, been sold or occupied as a place of residence. This may include

¹ Section 4 of the First Home Owner Grant Act 2000 and section 88(1) ('home') of the Stamp Duty Act 1978.

² Section 4A of the First Home Owner Grant Act 2000 and section 90AA of the Stamp Duty Act 1978, where the term 'qualifying home' mirrors the definition of 'new home'.

house and land packages, homes purchased 'off-the-plan' and the construction of a new home by the applicant or a builder engaged by the applicant.

7. Where a home has previously been sold but not occupied since its construction, the Commissioner may, in limited circumstances, declare the home to be a new home. These circumstances are discussed in further detail below.
8. In very limited circumstances, a 'substantially renovated' home may also be considered a new home for the purpose of the home owner assistance schemes. Substantial renovations are uncommon and involve the replacement of most or all of a building by an entity registered for GST. The meaning of 'substantially renovated' is discussed in further detail below.

Commissioner's discretion to declare a home to be 'new'

9. For the purposes of the home owner assistance schemes a home will no longer be considered new when it is either sold or occupied, whichever occurs first. However, in limited circumstances, a home may be declared to be a new home despite a prior sale, if the home has not been lived in since its construction.
10. This discretion provides flexibility in circumstances where a home has the necessary character and appearance of a new home, but cannot technically be considered a new home due to the fact it has been previously sold.
11. For example, a newly built home may be first sold by a developer to an investor and then on sold to an owner occupier. In these circumstances, the owner occupier may apply to have the home declared to be a new home despite the first sale to the investor.
12. The discretion will not be exercised where the home has previously been occupied as a place of residence or in circumstances where declaring the home to be a new home would undermine the integrity of the home owner assistance schemes.
13. In addition to the requirement that the home has not been occupied, some of the factors that may be considered in determining whether it is appropriate to declare a home to be a new home include:
 - a. whether the home has retained its character and appearance as a 'new home' since it was first sold;
 - b. the length of time that has passed since the first sale, the second sale, and the completion of construction, of the home; and
 - c. the circumstances surrounding the transaction, including whether the owner-occupier genuinely believed the home to be a new home.
14. Applicants seeking a declaration must make a written submission to the Territory Revenue Office setting out all of the circumstances of the relevant transaction. This submission should address the factors listed above and be accompanied by a completed form [F-HI-012](#) Vendor (Individual) Declaration of New Home or [F-HI-013](#) Vendor (Company) Declaration of New Home.

Example where a previously sold home may be considered a 'new home'.

15. Alan, a property investor, contracts to purchase a unit off the plan in a new development project advertised by a builder. Construction begins and is expected to take several years to complete. During construction, there is growth in the housing market and the value of Alan's (incomplete) unit rises. To take advantage of improved market conditions, Alan enters into a contract to sell the unit to Ben.

16. Construction is completed and titles are first registered to the developer and then transferred to Alan, who completes the on sale of the unit to Ben. Ben occupies the unit as his principal place of residence. However, because the sale to Ben is the second sale of the home, the home is not automatically classified as a 'new home'.
17. In these circumstances, Ben may apply to the Commissioner to have the home declared to be a new home despite the first sale to Alan. As Alan never occupied or tenanted the home, and because the home is newly built, the Commissioner would generally declare the home to be a new home.

'Occupied as a place of residence'

18. A home ceases to be a new home when it is first occupied as a place of residence. Unlike the first sale of a home, the Commissioner does not have a discretion to declare a home to be a new home once it has been occupied.
19. For the purposes of the home owner assistance schemes, a home will have been previously occupied as a place of residence if a person has lived in the home prior to the commencement of the eligible transaction, or the first execution of the conveyance.
20. A person does not have to make the home their principal place of residence to have occupied the home. Also, a home can be occupied by a person notwithstanding that the person may also have another home elsewhere, or even if the term of the occupation was only for a short period of time.
21. An occupant need not be a former owner of the home and could be a tenant, regardless of whether a formal written lease is in place or not. An occupant could also be a guest (or series of guests), occupying the home under a family or temporary arrangement or using the place as holiday accommodation. A building which has been used as any form of residential accommodation is not 'new' for home owner assistance scheme purposes.
22. However, a person who merely visits a home for non residential purposes will not generally be considered to have occupied that home. For example, a painter, electrician or plumber who merely visits a home to perform work will not be taken to have occupied that home, even if it takes several weeks to perform that work.
23. Likewise, a display home will generally not have been occupied as a place of residence, because a display home is typically used for commercial, rather than residential, purposes.

Substantially renovated homes

24. A home is a substantially renovated home if:
 - a. the sale is a taxable supply of new residential premises within the meaning of the section 40-75(1)(b) of the A New Tax System (Goods and Services Tax) Act 1999 of the Commonwealth; and
 - b. it is the first sale of the home since its substantial renovation; and
 - c. the home has not been previously occupied since that renovation, including by the builder, a tenant or other occupant.
25. Importantly, the sale of a substantially renovated home will only constitute a taxable supply of a new residential premises when it is sold in the course or furtherance of an enterprise by an entity registered for GST purposes (for example, a builder or developer).
26. 'Substantial renovations' of a building are generally defined as renovations that affect the building as a whole and in which all, or substantially all, of a building is removed or

replaced. The renovations may, but will not necessarily, involve structural alterations such as the removal or replacement of foundations, external walls, interior supporting walls, floors, roof or staircases.

27. Where only non-structural renovations are undertaken, they must be significant enough to make the building as a whole 'as new'.
28. Renovations that affect only part of a building, or impact on individual rooms only, will not constitute substantial renovations. Similarly, renovations that are largely cosmetic in nature will not be considered substantial renovations regardless of whether it affects the whole of the building.

Examples where a home may be considered a 'new home'.

29. Joe is a builder who purchases houses and renovates them for sale. Joe has purchased a 4 bedroom brick house that has suffered significant fire and water damage. Joe replaces the electrical wiring, plumbing, windows and flooring throughout the house. He installs a new kitchen and bathroom, creates an ensuite to the master bedroom, and replaces existing plaster on the interior walls and ceiling with gyprock.
 - a. Although there have been no structural changes to the house, the renovations may collectively amount to substantial renovations. If Joe subsequently sells the house as a taxable supply of new residential premises, and it has not been occupied since its substantial renovation, it would be a new home for the purpose of the home owner assistance schemes.
30. Mary is a developer who purchases an old motel with the intent to turn it into a residential unit complex. Mary removes internal walls between rooms to create two and three bedroom units, replaces all bathrooms and internal fixtures and refurbishes the internal living areas. She also renders the external brickwork and installs balconies on the units with entry via sliding doors.
 - a. Mary then arranges for the units to be strata titled for individual sale. If the units are sold as a taxable supply of new residential premises, and they have not been occupied since their renovation, they would be considered new homes for the purpose of the home owner assistance schemes.

Examples where a home will not be considered a 'new home'.

31. Sam is a builder who has bought a house with the intention of renovating it for re-sale. Sam engages various sub-contractors to repaint the interior of the house, sand and re-polish the floors and install a new kitchen and bathroom. Although these changes affect most rooms in the house, the work is largely cosmetic and would not constitute substantial renovations.
 - a. Regardless of whether Sam is registered for GST, the sale of this house would not be a taxable supply of new residential premises and therefore the house would not be a new home for the purpose of the home owner assistance schemes.
32. Sarah is an office worker who likes to occasionally buy houses, renovate them, and sell them for a profit. Sarah is not registered for GST.
 - a. Sarah has bought a dilapidated five bedroom house and, over a period of months, replaced all electrical wiring, plumbing, fixtures and flooring. Sarah has also removed interior structural walls to make three large bedrooms, replastered all remaining walls and installed a new kitchen and bathroom.

- b. Regardless of whether the alterations made by Sarah constitute substantial renovations, as she is not registered for GST she is unable to sell the property on completion as a taxable supply of new residential premises. As such, the house is not a new home for the purpose of the home owner assistance schemes.
33. Further information on when the sale of a home constitutes a taxable supply of new residential premises can be found in Goods and Services Tax Ruling [GSTR 2003/3](#): Goods and services tax: when is a sale of real property a sale of new residential premises?

Can a demountable or relocated house be a 'new home'?

34. A demountable, transportable or other building can be a new home for the purpose of the home owner assistance schemes provided it meets the criteria above. If it has been previously lived in or sold as a place of residence, it is not a new home, regardless of whether it has been or will be moved to a new location.

Evidence required

35. An application for a home owner assistance scheme benefit on the purchase of a new home (including an off-the-plan home) must be accompanied by a statutory declaration completed by the Vendor (Seller) confirming that the home satisfies the relevant requirements. The following forms must be used for this purpose.
- a. If the Vendor is a company – [F-HI-013](#): Vendor (Company) Declaration of New Home; or
 - b. If the Vendor is an individual or individuals – [F-HI-012](#): Vendor (Individual) Declaration of New Home.
36. Failure to provide a properly completed declaration with your application will cause delays in processing the application and may result in your application being rejected.
37. Refer to the application form and guide for the respective scheme, [F-HI-001](#) First Home Owner Grant or [F-HI-003](#) Stamp Duty Principal Place of Residence Rebate, for additional information you need to provide with your application.

Commissioner's Guidelines

38. 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 the TRO website.

Date of effect

39. This version of the Guideline takes effect from 7 May 2019.



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COMMISSIONER OF TERRITORY REVENUE

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