



TREASURER OF NEW SOUTH WALES  
AUSTRALIA

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**REPORT**  
**ON**  
**THE REVIEW OF THE**  
**FIRST HOME OWNER GRANT ACT 2000**

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## STATEMENT BY THE TREASURER

The New South Wales Government provides the most generous package of first home benefits in Australia, giving thousands of first homebuyers the opportunity to realise the dream of home ownership.

The total benefit to first home buyers in NSW since July 2000 from grants and stamp duty savings is now over \$3 billion.

The attached report details the results of a review of the *First Home Owner Grant Act 2000* undertaken by the Office of State Revenue. The review is required by section 54 of the Act. The principal objectives of the Act at the time of introduction were:

- to encourage and assist home ownership, and
- to offset the effect of the Goods and Services Tax on the acquisition of a first home.

All submissions to the review supported retention of the grant, and generally confirmed the validity of the Act's objectives and the effectiveness of the Act in achieving those objectives.

Since introduction of the grant in June 2000 until March 2006, a total of \$1,832 million in grants has been paid on 246,651 applications under the provisions of the New South Wales Act.

In addition, first home buyers have received \$1,200 million in stamp duty and mortgage duty concessions under the First Home Plus scheme.

The New South Wales Government expanded the First Home Plus scheme in April 2004, enabling First Home Buyers full transfer duty and mortgage duty exemptions for dwelling valued up to \$500,000 and partial exemptions for dwellings valued up to \$600,000. Purchasers of land receive a full stamp duty exemption for land valued up to \$300,000 and partial exemptions up to \$450,000.

Over 90 per cent of first home buyers in NSW do not pay any stamp duty on the purchase of their property.

The two schemes combined mean that first homebuyers in New South Wales may receive concessions of up to \$26,731.

A first home buyer purchasing a \$500,000 dwelling in NSW would pay **no** transfer duty in NSW, but would pay stamp duty of \$20,660 in Victoria, \$20,700 in Western Australia, \$21,330 in South Australia, and \$20,500 in the ACT.

The Government will retain and maintain the Act to ensure that its terms remain appropriate for achieving the objective of encouraging and assisting home ownership, both as part of the national first home owners scheme, and as part of the New South Wales Government's first home benefits package.

Michael Costa  
Treasurer

# 1 INTRODUCTION

The *First Home Owner Grant Act 2000* is "an Act to encourage and assist home ownership, and to offset the effect of the Goods and Services Tax on the acquisition of a first home, by establishing a scheme for the payment of grants to first home owners".

## 1.1 Purpose of the review

A review of the Act has been conducted in accordance with section 54 of the Act, which states that the Minister is to review the Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

## 1.2 Process of the review

The review was conducted by the Office of State Revenue, New South Wales Treasury (OSR), on behalf of the Treasurer.

As part of the review, OSR invited submissions from the following key stakeholders:

- The Law Society of New South Wales
- The Taxation Institute of Australia
- CPA Australia/Institute of Chartered Accountants in Australia
- Real Estate Institute of New South Wales
- Housing Industry Association
- Small Business Combined Association of NSW
- Property Council of Australia
- Urban Development Institute of Australia
- financial institutions that process grant applications in New South Wales on behalf of OSR
- revenue offices of other jurisdictions.

Advertisements were placed in *The Australian Financial Review*, *The Sydney Morning Herald* and the *Daily Telegraph* on 4 November 2005 calling for submissions to the review. The review and call for submissions were also advertised on the OSR website at [www.osr.nsw.gov.au](http://www.osr.nsw.gov.au). The closing date for submissions was 16 December 2005.

A total of 10 submissions were received from representative organisations (see Appendix 1). A number of submissions were also received from the general public, mostly relating to the application of the Act to specific circumstances.

## 2 BACKGROUND TO THE INTRODUCTION OF THE ACT

### 2.1 The First Home Owners Scheme

The *First Home Owner Grant Act 2000* was enacted pursuant to the *Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations* of 1999. The Agreement dealt with the consequences of the Australian Government's *A New Tax System*, including the introduction of the goods and services tax (GST). All States and Territories agreed to implement the First Home Owners Scheme in accordance with principles outlined in Appendix D of the Intergovernmental Agreement (see Appendix 2).

The Act commenced on 1 July 2000. As required under the Intergovernmental Agreement, the Act contains eligibility criteria consistent with the principles of the scheme, administrative review and appeal mechanisms, and provisions to prevent abuse of the scheme.

### 2.2 Objectives of the Act

The objectives of the Act are:

- to encourage and assist home ownership, and
- to offset the effect of the Goods and Services Tax on the acquisition of a first home.

To achieve these objectives, the scheme provides a grant of \$7,000 to eligible applicants.

### 2.3 Other jurisdictions

Each State and Territory has a *First Home Owner Grant Act 2000*.

Although based on a draft Bill developed by the South Australian Parliamentary Counsel, each conforms to the drafting standards of the separate jurisdictions. Each has similar, but different, administrative provisions. Despite differences in drafting, the eligibility criteria are essentially identical across Australia.

The State and Territory revenue offices seek to maintain consistency in the operation of the scheme. To that end, amendments to the various State and Territory Acts that have an impact on eligibility and common aspects of administration are undertaken through regular liaison processes.

The Acts authorise exchange of information for the purpose of administering the scheme, including to identify eligible home owners.

## 2.4 Subsequent developments

The New South Wales Act has been amended on 7 occasions since introduction.

The major amendments were those necessary to implement a temporary increase in the grant to \$14,000 (subsequently \$10,000) for applications between 8 March 2001 and 1 July 2002 relating to new homes. These amendments were undertaken by all States and Territories in accordance with guidelines provided by the Commonwealth Government.

Other amendments include:

- allowing applications in relation to multiple occupancy land;
- requiring applicants to be at least 18 years of age; and
- allowing recovery of the grant from third parties.

The remaining amendments were made for the purpose of clarifying the provisions of the Act.

## 3 STRUCTURE AND OPERATION OF THE ACT

### 3.1 Summary of provisions of the *First Home Owner Grant Act 2000*

#### Part 1 - Preliminary

This part states the name of the Act and the commencement date, and contains definitional provisions.

#### Part 2 - First Home Owner Grant

This part has 6 Divisions, which identify:

- entitlement to the grant,
- eligibility criteria for applicants,
- eligible transactions,
- application for the grant,
- decisions on application, and
- objections and reviews.

#### Part 3 - Administration

This part makes provision for administration, investigations and offences.

#### Part 4 - Miscellaneous

This part contains, among other things, provisions for recovery of the grant and proceedings for offences.

### 3.2 Administration of the Act

The Minister responsible for the Act is the Treasurer.

The sole statutory function of the Treasurer is to review the Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

The remaining statutory functions (other than the functions of the Administrative Decisions Tribunal on review) are vested in the Chief Commissioner of State Revenue and other authorised officers employed at the Office of State Revenue. In particular, the Chief Commissioner is responsible to the Treasurer for the administration of the first home owner grant scheme (section 30).

Since introduction of the grant from 1 June 2000 until 31 December 2005, a total of \$1,767,285,739 in grants has been paid on 237,361 applications under the provisions of the New South Wales Act.

Decisions of the Chief Commissioner under the Act have been subject to reviews by the Administrative Decisions Tribunal (ADT) on more than 50 occasions. These were primarily cases where the applicant was required to repay the grant for failing to satisfy one of the eligibility criteria, the residence requirement. These cases occur when applicants who have been paid the grant at the time of purchase fail to occupy the home as their principal place of residence. The relevant provisions of the Act have twice been amended to simplify and clarify the residence requirement.

### 3.3 The national scheme

The Intergovernmental Agreement required the establishment of a uniform scheme across the States and Territories. Administration of the scheme includes a national FHOG application processing system, which contains a database of all grant applications in every State and Territory. Approved financial institutions have access to the system for the purpose of entering applications on behalf of customers, but do not have access to the full database.

Payments and correspondence are processed separately by revenue offices in each jurisdiction. Each revenue office is also separately responsible for ensuring compliance with the scheme, and for providing review processes (such as reviews by the ADT).

The revenue offices have established a National First Home Owner Grant Committee, whose responsibilities include:

- managing the FHOG System and associated business processes to maintain national consistency,
- managing arrangements with FHOG Administrators (the financial institutions that process grant applications on behalf of the revenue offices), and
- monitoring the effectiveness of the legislation and administrative practices, and making appropriate recommendations for legislative or administrative changes.

## 4 ASSESSMENT OF THE ACT

### 4.1 Comments on the objectives of the Act

#### 4.1.1 Encourage and assist home ownership

Those submissions that contained reference to the objective of encouraging and assisting home ownership were unanimous in stating that the objective remains valid. Encouraging home ownership and assisting home affordability for first home buyers were mentioned as key policy objectives in a number of submissions.

Many submissions emphasised that this objective was even more relevant now due to the effect of increased costs and charges on housing affordability, and the shortage of available land for new housing.

*The objective of encouraging and assisting home ownership remains valid.*

#### 4.1.2 Offset the effects of the GST

Most submissions did not refer to the objective of offsetting the effect of the GST. To the extent that it was mentioned, this objective was also supported, with one exception.

While agreeing that offsetting the effects of the GST was a valid objective in relation to new homes, the Housing Industry Association (HIA) submitted that it was not a valid objective in relation to established homes. This submission was based on the premise that established homes are not subject to GST.

*The purpose of the Commonwealth Government establishing the First Home Owners Scheme was to provide assistance to offset the impact of the GST. This objective was announced by the Government in its publication "Tax Reform - not a new tax a new tax system". This objective was reiterated by the Commonwealth in its response to the Productivity Commission's Inquiry into First Home Ownership, where the Commonwealth also reiterated its commitment to the Scheme "in its current form". [see Commonwealth Treasurer's press release (no.051) of 23 June 2004].*

*The objective of offsetting the effects of the GST remains valid.*

#### 4.1.3 Other objectives

The HIA submission noted that, although not a stated objective of the Act, the introduction of the grant scheme had the effect of stimulating the economy. The submission contains statements about the current levels of building approvals, construction and new home sales; the level of housing affordability; the state of the New South Wales economy; and the effect on the economy of additional investment in housing construction. The submission states that stimulation of the New South Wales economy through the housing sector ought to be an objective of the grant scheme.

The HIA submission also notes that removing the scheme would have adverse effects on the New South Wales economy.

*It is noted that in 2001, the Commonwealth Government temporarily increased the grant for new homes as a short term stimulus to the housing sector.*

*It is acknowledged that any change to the amount of the grant would have an effect on the New South Wales housing sector and on the State economy. However, the use of the grant as an economic stimulus is outside the stated objectives of the Act, and therefore outside the scope of this review.*

## 4.2 Comments on the effectiveness of the Act

### 4.2.1 Encourage and assist home ownership

The Property Council of Australia (PCA) submission states that the grant "plays an important role in encouraging and facilitating home ownership in NSW" and "has been a significant contributor to increasing home ownership and should be maintained".

The Urban Development Institute of Australia "is highly supportive of the First Home Owners Grant and encourages the government to maintain its assistance to this particularly vulnerable sector of the market".

The Master Builders Association of New South Wales (MBA) submitted that the grant remains valid and appropriate, and that "at a minimum, the \$7,000 grant should remain".

The Real Estate Institute of New South Wales submission refers to declining home ownership and home loan affordability and suggests that "the terms of the Act should be updated pursuant to this review and on a more regular basis in the future, to counter the erosion of first home owner benefits attributable to asset price inflation".

The HIA submitted that the scheme "remains a valid tool to encourage and assist home ownership", but the grant needs to be increased and indexed to keep pace with average home prices.

*It was agreed in all submissions that the terms of the Act are effective in achieving this objective. The only suggestion made is that the grant would be more effective if increased above the current amount of \$7,000. The grant level of \$7000 was set in the Intergovernmental Agreement. There is no provision in the agreement to index or adjust the amount over time.*

*It should also be noted that the first home owner grant is only part of the New South Wales Government's package of first home assistance, with First Home Plus also providing substantial benefits to achieve the same objective. First Home Plus has provided stamp duty exemptions or concessions in excess of \$998 million during the same period the grant scheme has been in operation.*

*In particular, the Government increased the scope of First Home Plus in April 2004 to remove stamp duty completely for about 90 per cent of all first home buyers in New South Wales, with the cost of the scheme rising from \$133 million in 2003-04 to \$373 million in 2004-05.*

#### 4.2.2 Offset the effects of the GST

The HIA submission notes that the grant only partially offsets the effect of the GST, in that the grant represents only 1.3 per cent of the average cost of a new home in Sydney, but the GST represents 6 per cent.

The HIA also submits that the 78 per cent of grants paid on established homes are not effective in achieving this objective, as GST is not payable on established homes. The submissions suggests that these funds would be better spent on helping to fund the purchase of new homes by increasing the amount of the grant.

The MBA also mounts a case to increase the grant for new houses, but not at the expense of the grant for established homes, on the basis that the grant was introduced as compensation for the GST-induced increase in the price of new homes and consequent increase in the value of established homes. The MBA suggests an increase to \$15,000 in the amount of the grant for new homes, and subsequent indexation of the grant for new and established homes.

*As noted above, the purpose of the Commonwealth Government establishing the First Home Owners Scheme was to provide assistance to offset the effect of the GST. The grant was set at \$7,000 and was never designed to fully offset or compensate for the effect of the GST.*

*It is further noted that suggestions were made at the time of introduction of the GST that the grant should be limited to new housing, but the decision was made by the Commonwealth Government to pay the grant on all housing. This reflects the fact that increased prices for new housing have a flow-on effect to the price of established housing.*

#### 4.2.3 Other comments

The need for consistency with the First Home Owner Grant Acts of other jurisdictions was emphasised in the submissions of the revenue offices of Western Australia and Tasmania.

*The national nature of the legislation for, and administration of, the first home owner grant scheme is recognised. It should also be recognised that administration by each revenue office will result in differences in legislation, but this is not contrary to the objectives of the Act if the differences do not affect eligibility for the grant.*

*It is agreed that eligibility for the grant should not vary depending on the location within Australia of the home being acquired. Inter-jurisdictional consistency of the legislation should be maintained and enhanced wherever possible.*

The Commonwealth Government submission emphasised that the Intergovernmental Agreement stipulated that assistance will not be means tested. On the same subject, the PCA notes that the main areas benefiting from the grant are in western Sydney and regional areas, and suggests that "despite not being means tested, the \$7,000 grant appears to be assisting lower income earners the most".

*Consistent with the Intergovernmental Agreement, eligibility for the grant will not be means tested.*

The Institute of Chartered Accountants in Australia reiterated a submission made in their "Indirect Taxes Policy Paper", that principal place of residence tests should be standardised in various Commonwealth and State Acts. The paper notes that the residence requirement for the first home owner grant contains different tests to those used to determine a principal place of residence for capital gains tax and land taxes.

*Regardless of the merits of adopting a standardised principal place of residence test in various taxing Acts, the residence requirement for the grant should remain consistent as between the First Home Owner Grant Acts of the States and Territories.*

A number of issues were raised concerning eligibility for the grant in specific circumstances. These submissions suggested various changes to the eligibility criteria for the grant to address those specific circumstances.

*It is noted that the Chief Commissioner has discretionary power to vary or waive certain elements of the eligibility criteria. Apart from that, the eligibility criteria for the grant must remain nationally consistent.*

*These issues do not relate to the validity of the objectives of the Act, nor to its appropriateness for securing those objectives. A review of these issues will be considered by OSR with recommendations to the Government where appropriate.*

## 5 CONCLUSIONS

All submissions to the review supported retention of the grant.

The submissions support the objective of the Act of encouraging and assisting home ownership.

There was little mention in submissions about the objective of the Act of offsetting the effect of the goods and services tax despite the fact this was the main motivator for the Commonwealth in establishing the scheme.

The only concerns raised in submissions about the effectiveness of the Act were in relation to the amount of the grant, and whether the grant should be limited to new homes.

The Intergovernmental Agreement sets out that "eligible applicants will be entitled to \$7,000 assistance". In addition, the New South Wales Government also provides assistance under the First Home Plus Scheme.

Limiting the grant to new homes would severely limit the effectiveness of the grant scheme to assist home ownership and would be inconsistent with the Intergovernmental Agreement.

The Intergovernmental Agreement requires that the First Home Owners Scheme be uniform across the states. Any changes to the Act need to be considered in the context of the national scheme.

**The main objective of the Act, being to encourage and assist home ownership, remains valid and relevant.**

**The terms of the Act are appropriate for securing that objective.**

**Office of State Revenue, New South Wales Treasury**

**April 2006**

## APPENDIX 1- Submissions received

Submissions were received from the following organisations:

1. Australian Government Treasury  
Ms Aparna Reddy, Policy Analyst
2. Housing Industry Association Limited  
Mr Wayne Gersbach, Executive Director-NSW
3. Institute of Chartered Accountants in Australia  
Ms Maria Benardis, Tax Specialist
4. Master Builders Association of NSW  
Mr Peter Meredith, Director – Housing
5. Office of State Revenue Queensland  
Mr Kyle Byrne, A/Manager Policy and Legislation
6. Office of State Revenue Western Australia  
Mr Bill Sullivan, Commissioner of State Revenue
7. Property Council of Australia  
Mr Ken Morrison, NSW Executive Director
8. Real Estate Institute of New South Wales  
Mr Geoff Hunter, Chief Executive Officer  
Mr Tim McKibbin, Legal Counsel
9. State Revenue Office Tasmania  
Mr Peter Coe, Commissioner of State Revenue
10. Urban Development Institute of Australia  
Dr David Poole, Executive Director

## APPENDIX 2- Extract from the Intergovernmental Agreement

### APPENDIX D

#### FIRST HOME OWNERS SCHEME

##### Principles

D1. The states and territories will make legislative provision for the First Home Owners Scheme (FHOS) from 1 July 2000 which will incorporate programme criteria consistent with the following principles:

- (i) Eligible applicants will be entitled to \$7,000 assistance (per application) on eligible homes under the FHOS.
- (ii) Assistance will be available directly as a one off payment. If the recipient expressly consents, it may be available as an offset against statutory levies and charges or some combination of these.
- (iii) Eligible applicants must be natural persons who are Australian citizens or permanent residents who are buying or building their first home in Australia. An applicant's spouse (or de facto) must be included on the application.
- (iv) To qualify for assistance, neither the applicant or the applicant's spouse (or de facto) must have previously owned a home, either jointly, separately or with some other person.
- (v) Entering into a binding contract or commencement of building in the case of owner builders, must have occurred on or after 1 July 2000.
- (vi) An eligible home will be a new or established house, home unit, flat or other type of self contained fixed dwelling that meets local planning standards. Fixed dwellings will include demountable dwellings where these meet local planning standards.
- (vii) An eligible home must be intended to be a principal place of residence and occupied within a reasonable period. The home must be located in the state or territory in which the application is made. Applicants who have entered into a financing mechanism which involves a shared equity arrangement will be eligible.
- (viii) Assistance will not be means tested.
- (ix) The relevant state and territory legislation will contain adequate administrative review and appeal mechanisms, along with provision to prevent abuse of the FHOS. The states and territories will cooperate in the exchange of information to identify eligible first home owners.