



Office of State Revenue  
NSW TREASURY

ABN: 77 456 270 638

# First Home Owner Grant Revenue Ruling FHOG1

## Recognition of non-conforming interests

### Preamble

1. The First Home Owner Grant Act 2000 ("the Act") recognises a person as a home owner if the person has a "relevant interest" as defined in subsection 5 (2). Subsection 5 (4) allows the Chief Commissioner to recognise a "non conforming interest" as a relevant interest. A non-conforming interest need not be recognised at law or in equity as an interest in land.
2. This ruling deems a person to have an interest in land in certain circumstances, and recognises these "interests" as non-conforming interests.

### Ruling

#### **Building a home on land owned by another person**

3. In some circumstances, a landowner will permit his or her land to be used by another person to build a home. This is more likely to occur on rural or semi-rural properties, usually where the land owner and home builder are related.

4. A person is taken to have an interest in land if the person has entered a comprehensive home building contract in relation to, or is building or has built a home on, land owned by another person who has given permission to occupy the home when completed.

5. This deemed interest in land is recognised as a non-conforming interest for the purposes of subsection 5 (4) of the Act.

#### **Building a self-contained dwelling annexed to a home**

6. Local planning and development restrictions often prevent the construction of a second dwelling on a parcel of land, but permit additions to the existing dwelling. This could include a self-contained "granny flat". It is recognised that there are some instances where the building of a "granny flat" would be paid for by the person intending to occupy it, and that this could constitute the building of a first home. However, the Chief Commissioner must be satisfied that the granny flat is not merely an extension of the existing home by the owner.

7. For the purposes of section 4 of the Act, a self-contained dwelling (being a dwelling that in addition to a bedroom/living area and a bathroom includes a toilet and kitchen facilities) annexed to a home is recognised as a separate home.

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8. A person is taken to have an interest in land if the person is building or has built a self-contained dwelling annexed to an existing home on land owned by another person who has given permission to occupy the dwelling when completed.

9. This deemed interest in land is recognised as a non-conforming interest for the purposes of subsection 5 (4) of the Act if the Chief Commissioner is satisfied that the applicant has provided or will provide the full consideration for the building works.

10. If a grant is paid to a person who acquires a non-conforming interest of this type, the payment is conditional on the applicant continuing to reside in the dwelling for a period of at least 12 months after construction of the dwelling.

**Purchasing a moveable home for use on land owned by another person**

11. The purchase of a movable building to be used on land owned by the purchaser is an eligible transaction under the Act. However, movable homes are often used on leased land, and the purchase of a movable home could constitute the purchase of a first home.

12. The Local Government Act 1993 refers to a "manufactured home", which includes a self-contained movable dwelling, but does not include a caravan or other registrable vehicle under the Road Transport (Vehicle Registration) Act 1997.

13. The interest of a person under any agreement under which the person has the right to occupy land used, or intended to be used, as the site of a manufactured home within the meaning of the Local Government Act 1993 is recognised as a non-conforming interest for the purposes of subsection 5 (4) of the First Home Owner Grant Act 2000 if the lessee has purchased the manufactured home and intends to use it as a place of residence on the land.

Peter Achterstraat  
Chief Commissioner of State Revenue  
4 December 2000