



## ADMINISTRATIVE DIRECTION

# Regional Home Building Boost Grant

### BACKGROUND

On 16 June 2020, the Queensland Government announced the Regional Home Building Boost Grant (the grant), which provides a one-off \$5,000 grant to eligible applicants who purchase a new home or commence building a new home in regional Queensland between 4 June 2020 and 31 December 2020 (both dates inclusive).

On 6 July 2020, the then Treasurer and Minister for Infrastructure and Planning approved an administrative direction to establish the basis for the administration of the grant by the Commissioner of State Revenue (Commissioner) or his delegates. It sets out what transactions are eligible, eligibility criteria for applicants, how to apply for the grant, payment of the grant, and obligations for applicants.

On 16 December 2020, the Treasurer and Minister for Investment approved amendments to the administrative direction to extend availability of the grant to eligible applicants who purchase a new home or commence building a new home in regional Queensland between 1 January 2021 and 31 March 2021 (both dates inclusive). Applicants for the grant must agree to the terms and obligations set out in this administrative direction.

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#### Eligible transactions

1. Each of the following transactions are **eligible transactions** for payment of the grant:
  - a. a contract for the freehold purchase of a new home in regional Queensland, if the commencement date is between 4 June 2020 and 31 March 2021 (both dates inclusive);
  - b. a comprehensive home building contract made by the freehold owner of land in regional Queensland, or a person who will on completion of the contract be the freehold owner of land in regional Queensland, to have a new home built on the land, if the commencement date is between 4 June 2020 and 31 March 2021 (both dates inclusive);
  - c. the building of a new home in regional Queensland by an owner builder, if the commencement date is between 4 June 2020 and 31 March 2021 (both dates inclusive).
2. However, a transaction is not an eligible transaction if:
  - a. the consideration for the transaction is \$750,000 or more; or
  - b. the unencumbered value of the new home and the unencumbered value of the applicant's freehold interest in the land on which the new home is built or to be built, at the commencement date for the transaction, is \$750,000 or more.
3. Additionally, a transaction that is a contract is not an eligible transaction if the Commissioner is satisfied the contract forms part of a scheme to circumvent limitations on, or requirements affecting, eligibility or entitlement to the grant for an eligible transaction. Unless satisfied to the contrary, the Commissioner must presume the existence of a scheme if the contract replaces a contract made before 4 June 2020, and the contract is:
  - a. to purchase the same or substantially similar home; or
  - b. a comprehensive home building contract to build the same or substantially similar home.

*Definitions for eligible transactions*

4. **Commencement date** means:
  - a. for a contract for the purchase of a new home or to have a home built – the date when the contract is made; or
  - b. for the building of a home by an owner builder:
    - i. the date when laying the foundations for the home starts; or
    - ii. another date the Commissioner considers appropriate in the circumstances of the case.
5. **Completed** or **completion** means:
  - a. for a contract for the purchase of a new home – when the purchaser’s title is registered.
  - b. for a contract to have a home built – when the building is ready for occupation as a home and a final inspection certificate under the *Building Act 1975* has been issued for the building; or
  - c. for the building of a home by an owner builder – when the building is ready for occupation as a home and a final inspection certificate under the *Building Act 1975* has been issued for the building.
6. A **comprehensive home building contract** means a contract under which a builder undertakes to build a home from the start of building work to the point where the home is ready for occupation and, if for any reason, the work to be carried out under the contract is not completed, includes any further contract under which the work is to be completed.
7. **Consideration** means:
  - a. for a contract for the purchase of a new home – the consideration for the purchase; or
  - b. for a contract to have a home built – the total consideration payable for the building work; or
  - c. for the building of a home by an owner builder – the actual costs to the owner of carrying out the work, excluding any allowance for the owner builder’s own labour.
8. **Freehold** means an estate in fee simple in land.
9. A **home** is a building, fixed to land, that:
  - a. may lawfully be used as a place of residence; and
  - b. is a suitable building for use as a place of residence.
10. A **new home** is a home that:
  - a. has not been previously occupied or sold as a place of residence; or
  - b. is a substantially renovated home, which is a home that:
    - i. is the subject of a contract for the purchase of the home; and
    - ii. the sale of the home under the contract is, under the *A New Tax System (Goods and Services Tax) Act 1999* (Cwth), a taxable supply as a sale of new residential premises as defined under section 40-75(1)(b) of that Act; and
    - iii. the home, as renovated, has not been previously occupied or sold as a place of residence.
11. **Owner builder** means a freehold owner of land who builds a home, or has a home built, on the land without entering into a comprehensive home building contract.
12. **Regional Queensland** means the following areas of the State as identified under statistical area level 4 in the document Australian Statistical Geography Standard, published by the Australian Bureau of Statistics:
  - a. Cairns;
  - b. Central Queensland;
  - c. Darling Downs Maranoa;
  - d. Mackay – Isaac – Whitsunday;
  - e. Queensland – Outback;
  - f. Toowoomba;
  - g. Townsville;
  - h. Wide Bay.

13. The **unencumbered value** of property (i.e. a home, land or freehold interest in land) is the value of the property determined without regard to:
- a. any encumbrance to which the property is subject, whether contingently or otherwise; or
  - b. any arrangement:
    - i. the parties to which are not dealing with each other at arm's length; and
    - ii. that results in the reduction of the value of the property; or
  - c. any arrangement for which a significant purpose of any party to the arrangement was, in the Commissioner's opinion, the reduction of the value of the property.

Also, the **unencumbered value** of property held by a person on trust as guardian for another person who is under a legal disability must be determined without regard to the liabilities of the trust, including the liability to indemnify the trustee.<sup>1</sup>

#### **Eligibility criteria for applicants**

14. An applicant for a grant must satisfy all of the following criteria set out below.

##### *Criterion 1 – Applicant to be natural person and at least 18 years of age*

15. An applicant must be a natural person and be at least 18 years of age at the commencement date for the eligible transaction. However, the Commissioner may allow a person under 18 years of age to apply for the grant if the Commissioner is satisfied:
- a. the applicant will comply with the eligibility criterion relating to residence requirements as applying to the applicant under paragraphs 18 to 21 below; and
  - b. the application does not form part of a scheme to circumvent limitations on, or requirements affecting, eligibility for or entitlement to a grant.

##### *Criterion 2 – Applicant to be Australian citizen or permanent resident*

16. An applicant must be an Australian citizen or permanent resident. However, if an application is made by joint applicants and one of the applicants is an Australian citizen or permanent resident, it is not necessary for the other or others to be Australian citizens or permanent residents.

##### *Criterion 3 – Applicant or applicant's spouse must not have received an earlier grant*

17. An applicant is ineligible if the applicant or the applicant's spouse (whether or not the spouse is a party to the application) has been a party to an earlier application under this administrative direction and the grant was paid on application. However, an applicant is not ineligible if the earlier grant was later paid back only because the eligible transaction did not complete.<sup>2</sup>

##### *Criterion 4 – Residence requirements*

18. An applicant must occupy the home to which the application relates as the applicant's principal place of residence for a continuous period of 6 months. However, if the Commissioner is satisfied there are good reasons to do so, the Commissioner may:
- a. approve a shorter period for the residence requirement; or
  - b. exempt the applicant from the requirement to comply with the residence requirement.
19. The period of occupation required under paragraph 18, or the shorter period approved by the Commissioner, must start within one year after completion of the eligible transaction or a longer period approved by the Commissioner.
20. The Commissioner may exempt an applicant from the residence requirement if:
- a. the applicant is one of two or more joint applicants for a grant; and
  - b. at least one of the applicants complies with the residence requirement; and
  - c. the Commissioner is satisfied there are good reasons to exempt the applicant from the residence requirement.

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<sup>1</sup> See paragraphs 28 to 30 for special provisions relating to persons under a legal disability.

<sup>2</sup> See paragraph 5 as to when an eligible transaction is 'completed'.

21. The Commissioner may give an approval or exemption under paragraphs 18 to 20 at any time, even if the period to which the approval or exemption relates has ended.

#### *Definitions for eligibility criteria*

22. **Permanent resident** means:

- a. the holder of a permanent visa as defined by the *Migration Act 1958* (Cwlth), section 30(1); or
- b. a New Zealand citizen who is the holder of a special category visa as defined by the *Migration Act 1958* (Cwlth), section 32.

23. A **spouse** is a person who is:

- a. married; or
- b. a de facto partner<sup>3</sup>; or
- c. a civil partner<sup>4</sup>.

The Commissioner must not regard a person as an applicant's spouse if the Commissioner is satisfied, when deciding an application for the grant, that an applicant:

- a. is married but is living apart from the person to whom the applicant is married, and they have no intention of again living together as a couple; or
- b. is in a registered relationship but is living apart from the person with whom the applicant is in a civil partnership, and they have no intention of again living together as a couple.

The Commissioner must regard a person as an applicant's spouse if the Commissioner is satisfied, when deciding an application for the grant, that an applicant:

- a. is living apart from the person who, under this paragraph, would otherwise be the applicant's de facto partner; and
- b. they intend to again live together as a couple on a genuine domestic basis within the meaning of the *Acts Interpretation Act 1954*, section 32DA.

#### **Application for a grant**

24. An application for the grant must be made to the Commissioner.

25. An application for the grant must be made in the way approved by the Commissioner and supported by the information required by the Commissioner.

26. The application may only be made within a period (the **application period**):

- a. starting on the commencement date of the eligible transaction to which the application relates; and
- b. ending within 6 months after the completion of the eligible transaction to which the application relates.

27. All interested persons must be applicants. An **interested person** is a person who is, or will be, on completion of the eligible transaction to which the application relates, an owner of a freehold interest in the land.

#### *Special provisions for persons under a legal disability*

28. An application for a grant may be made on behalf of a person under a legal disability. For deciding eligibility for a grant, the person under the legal disability must be regarded as the applicant.

29. For deciding whether an eligible transaction has been entered, a person under a legal disability is taken to be the freehold owner of the land, if the land is held on trust by the person's guardian, for the person's benefit.

30. A **guardian**, of a person under a legal disability, includes a trustee who holds property on trust for the person under an instrument of trust or by order or direction of a court or tribunal.

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<sup>3</sup> The definition of 'de facto partner' under section 32DA of the *Acts Interpretation Act 1954* is adopted for the purposes of this administrative direction, but is modified to require the 2 persons to have lived together as a couple on a genuine domestic basis for at least 2 years.

<sup>4</sup> The definition of 'civil partner' under schedule 1 of the *Acts Interpretation Act 1954* is adopted for the purposes of this administrative direction.

### **Payment of a grant upon application**

31. A grant is payable on an application under this administrative direction if:
- a. the applicant or, if there are 2 or more applicants, each of the applicants complies with the eligibility criteria; and
  - b. the transaction for which the grant is sought:
    - i. is an eligible transaction; and
    - ii. has been completed.
32. If the Commissioner is satisfied a grant is payable on application, the Commissioner must authorise the payment of the grant to the applicant or, if there are 2 or more applicants, to a specified applicant.
33. The amount of a grant is the lesser of the following:
- a. the consideration for the eligible transaction less the amount of a first home owner grant paid to the applicant under the *First Home Owner Grant and Other Home Owner Grants Act 2000* in relation to the eligible transaction;
  - b. \$5,000.
34. A grant must be paid by electronic funds transfer, cheque or in any other way the Commissioner considers appropriate.

### *Payment in anticipation of compliance with residence requirement and obligations for applicants*

35. The Commissioner may authorise payment of a grant in anticipation of compliance with the residence requirements<sup>5</sup> if the Commissioner is satisfied each applicant intends to comply with the residence requirements.
36. If a grant is paid in anticipation of compliance with the residence requirements, the payment is made on the condition that, if the residence requirements are not complied with, the applicants must within 14 days after the relevant date:
- a. give written notice of that fact to the Commissioner; and
  - b. repay the amount of the grant.
37. For paragraph 36, the **relevant date** is the earlier of the following:
- a. the end of the period allowed for compliance with the residence requirement;
  - b. the date on which it first becomes apparent that the residence requirement will not be complied with during the period allowed for compliance.
38. For a joint application, each applicant is individually liable to comply with the requirements under paragraph 36 but compliance by any one or more of them must be regarded as compliance by both or all.

### *Conditions generally*

39. The Commissioner may authorise payment of a grant on the reasonable conditions the Commissioner considers appropriate.
40. A condition imposed by the Commissioner under paragraph 39 or any other provision of this administrative direction may require a person on whose application the grant is paid:
- a. to give notice of non-compliance with the condition within a period stated in the condition; and
  - b. to repay the grant within a period stated in the condition.
41. For a joint application, each applicant is individually liable to comply with a requirement under paragraph 40 but compliance by any 1 or more of them must be regarded as compliance by both or all.

### *Death of applicant*

42. An application for the grant does not lapse because an applicant dies before the application is decided.
43. If an applicant dies before the application is decided, the following apply:
- a. if the deceased was 1 of 2 or more applicants and 1 or more applicants survive – the application must be dealt with as if the surviving applicants were the sole applicants; or

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<sup>5</sup> See paragraphs 18 to 21.

- b. if a. does not apply – a grant, if payable on application, must be paid to the deceased's personal representative.
44. A deceased applicant will be taken to comply with the residence requirements under paragraphs 18 to 21 if:
- a. the deceased applicant had not, when the applicant died, complied with the residence requirements as applying to the applicant immediately before the applicant's death; and
  - b. the Commissioner is satisfied the applicant intended to comply with the residence requirements.

*Notice of decision*

45. If the Commissioner decides an application, or decides to vary or reverse an earlier decision on an application, the Commissioner must give the applicant written notice of the decision.
46. If the decision is to refuse an application, or to vary or reverse an earlier decision on an application, the notice must state the reasons for the decision.

*Repayment of the grant by applicants*

47. In addition to the requirement to repay a grant for failure to comply with the residence requirements, the Commissioner may, by written notice, require an applicant to repay an amount paid on application if the amount was paid in error or if the applicant is later found not to have satisfied the eligibility criteria. The notice must state the reasons for decision.

**Administration of the grant**

48. The Commissioner may delegate the Commissioner's powers under this administrative direction to an appropriately qualified officer or employee of Queensland Treasury.