

Guide to new definition of owner in relation to Crown land

The following table is a guide to the new definition of owner in relation to Crown land in regulation 10(2) of the Building Regulations 2012. The definition prescribes which persons must be named on and sign applications and certain approvals under the *Building Act 2011* (the Act) as the owner in relation to Crown land. For instance, applications for building, demolition or occupancy permits or building approval certificates, as well as the provision of consent for certain work affecting Crown land. In most scenarios, the Minister for Lands (via the Department of Lands [DoL]) is no longer required to authorise BA applications.

The first column reproduces each new provision in paragraphs (a) – (e) in regulation 10(2).

The second column contains explanatory notes on each provision.

The third column provides examples of scenarios relevant to each category or provision of the definition.

The fourth column sets out the body which was previously required to be named on, sign and approve an application under the Act.

The fifth column sets out the body which is now required to be named on, sign and approve an application under the Act.

These new provisions should make clearer what body is now prescribed as owner in relation to the Crown. However, if there are situations where a body is unsure about who should be named on, sign and authorise a particular application, the matter should be referred to DoL for clarification.

New provision	Notes	Examples	Previous approval	Current approval
10(2)(a) in relation to a managed reserve — the management body of the reserve;	<p>Reflects the provisions in section 76(2)(a) of the Act, except that the requirement for the Minister for Lands' approval is not included.</p> <p>Previously, a building permit in respect of land leased by a management body would require the authorisation (signatures) of both the management body <u>and</u> the Minister for Lands (via Department of Lands (DoL)). Under</p>	<p>A Crown reserve under the care, control and management of the local government authority (LGA) is reserved for the purpose of "recreation". The LGA intends to build a sporting facility or public toilet on the reserve. The development must:</p> <ul style="list-style-type: none"> • be ancillary to the reserve's stated purpose (i.e. 	Management body (the LGA) and the Minister for Lands (via DoL).	Management body only (LGA for the purposes of the example cited).

	<p>the amendments to the Building Regulations, only the management body's signature is required. The reason for this is because the management body has ultimate knowledge of structures that will be constructed on the reserve it manages, and to require DoL's authorisation in every instance would cause unnecessary delays to the process.</p>	<p>"recreation");</p> <ul style="list-style-type: none"> • support the continuing use of the reserve • be for community/public benefit. 		
<p>10(2)(b) in relation to a road — whichever of the following persons who, under a written law, has the care, control and management of the road —</p> <ul style="list-style-type: none"> (i) the local government in whose district the road is situated; (ii) the Commissioner of Main Roads; (iii) the Minister as defined in the <i>Public Works Act 1902</i> section 2. 	<p>Reflects the provisions in section 76(2)(c) of the Act, except that the requirement for the Minister for Lands' approval is not included.</p>	<p>A public educational institute (e.g. TAFE) intends to build a ramp and stairs which encroach into a road reserve. The structures do not impede public access to the road; they meet building standards and benefit the public at large.</p>	<p>Management authority with care, control, management of the road, and the Minister for Lands (via DoL).</p>	<p>Management authority with care, control, management of the road only.</p>
<p>10(2)(c) in relation to Crown land that is vested in a person or body under a written law other than the <i>Land Administration Act 1997</i> — that person or body;</p>	<p>Reflects the provisions in section 76(2)(d) of the Act, except that the requirement for the Minister for Lands' approval is not included.</p> <p>The same principles apply as they</p>	<ul style="list-style-type: none"> • A school needs to build new classrooms. • A Port Authority needs to make additions to its administration buildings. 	<p>Vesting authority and Minister for Lands (via Department of Lands).</p>	<p>Vesting authority only.</p>

	<p>do for (a). A body which has Crown land vested must manage the land in a manner for which the land has been vested under that body's enabling legislation (e.g. the <i>School Education Act 1999</i>, or the <i>Marine and Harbours Act 1981</i> etc). Therefore, any proposed development must be consistent with the purpose (similar to the principles in (a)). There is no need for DoL to be involved in this assessment as the vesting authority should have full knowledge of its land use.</p>			
<p>10(2)(d) in relation to Crown land that is subject to a lease, other than land referred to in paragraph (a), (b) or (c) — the Minister for Lands and the lessee;</p>	<p>Reflects the provisions in section 76(2)(b) of the Act. The main difference to the previous definition of owner in relation to Crown land is that while the previous definition captured <u>all</u> Crown land that is subject to a lease, paragraph (d) of the new definition only relates to leases of Crown land which are <u>not</u> captured by those in paragraphs (a), (b) or (c).</p>	<ul style="list-style-type: none"> • A telecommunications provider leases Crown land. The provider wants to construct a facility on Crown land. • A restaurant with a commercial lease on Crown land wants to make alterations to an existing building. • An aged care facility provider with a lease on Crown land wants to construct a new building. 	<p>Lessee and Minister for Lands (via DoL) in all cases.</p>	<p>Lessee and Minister for Lands (via DoL) in all cases.</p>

<p>10(2)(e) in relation to any other Crown land — the Minister for Lands.</p>	<p>Reflects the provisions in section 76(2)(e) of the Act.</p> <p>This category covers unallocated Crown land (UCL) or unmanaged reserves (UMR).</p>	<p>N/A. Buildings or structures are not normally built on UCL or UMR land.</p>	<p>Minister for Lands (via DoL).</p>	<p>Minister for Lands (via DoL).</p>
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