



Building permit applications –prospective owners

Regulation 10(1) of the *Building Regulations 2012* prescribes certain interests in land for the purposes of defining owner in relation to freehold land. Regulation 10(1)(b) prescribes an interest as purchaser under a contract to purchase an estate in fee simple in the land. This enables prospective owners who have signed a contract to purchase the land, but may not yet be named on the certificate of title, to be taken to be the owners. This enables prospective purchasers to:

- be named on the building permit application and sign as the owner of the land on which the building or incidental structure is, or is proposed to be, located under section 16(b) of the *Building Act 2011*;
- be given a building permit document under section 28(1)(b) of the *Building Act 2011*

The Building Commission has received reports that some permit authorities are refusing to accept applications because the permit authority believes that the application can only be signed by a person whose name is registered as a proprietor of the land, such as a developer with whom a prospective purchaser has signed a contract. Some permit authorities are also refusing to accept applications unless the prospective owner has signed an **unconditional** offer and acceptance contract to purchase the land.

Permit authorities cannot refuse to accept an application, even if it appears the application does not comply with the requirements of section 16. The proper process is to accept the application, then deal with missing information through the processes in section 18.

If an application is made by or on behalf of a prospective owner who has the interest prescribed in regulation 10(1)(b) then it should be processed in the normal way. Conditions on the contract do not affect this.

Although not mandatory, it is appropriate for permit authorities to grant the building permit subject to the condition that the permit does not have effect until the sale is settled.

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