

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979
DETERMINATION OF DEVELOPMENT APPLICATION NO. 403-8-2003
(FILE NO. S03/02858/01)

**STRATA SUBDIVISION OF THE BUILDING INTO 72 LOTS AND COMMON
PROPERTY**

I, the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration), pursuant to Section 80 (1) (a) of the *Environmental Planning & Assessment Act, 1979*, and clause 10 of State Environmental Planning Policy No.56, determine the development application referred to in the attached Schedule 1, by granting consent to the application subject to the conditions of consent in the attached Schedule 2.

The reasons for the imposition of conditions are to:

- (1) ensure adequate access and service arrangements to each lot;
- (2) to ensure the proper functioning of the subdivision.

Diane Beamer MP
Minister for Juvenile Justice
Minister for Western Sydney
Minister Assisting the Minister for Infrastructure and Planning
(Planning Administration)

Sydney,

2003

SCHEDULE 1**PART A—TABLE**

Application made by:	Barclay Mowlem 20 Bridge Street Pymble NSW 2073
Application made to:	Minister for Infrastructure and Planning
Development Application:	403-8-2003
On land comprising:	Lot 2 DP 270320 25 Bennelong Road Homebush NSW
For the carrying out of:	Development described in Condition 1, Schedule 2
Estimated Cost of Works	NA
Type of development:	State Significant Development
S.119 Public inquiry held:	No
Approval Body / Bodies:	Not Integrated
Determination:	Consent is granted subject to the conditions in the attached Schedule 2.
Date of commencement of consent:	This development consent commences on the date identified in the accompanying Determination.
Date consent is liable to lapse	This consent will lapse 5 years from the date of commencement of consent, unless: <ul style="list-style-type: none"> ▪ a shorter period of time is specified by the Regulations or a condition in Schedule 2, or ▪ the development has substantially commenced.

PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 403-8-2003***Responsibility for other approvals / agreements***

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The applicant has the right to appeal to the Land and Environment Court under Section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only valid:

- (1) for a development application, within 12 months after the date on which the applicant received this notice, or

Appeals—Third Party

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

Legal notices

Any advice or notice to the consent authority shall be served on the Director-General.

PART C—DEFINITIONS

In this consent,

Act means the *Environmental Planning and Assessment Act, 1979* (as amended).

Applicant means Barclay Mowlem Constructions Limited or any party acting upon this consent.

Approval Body has the same meaning as within Division 5 of Part 4 of the Act,

BCA means the Building Code of Australia.

Certifying Authority has the same meaning as Part 4A of the Act.

Council means Auburn Council

DA No. 403-8-2003 means the development application and supporting documentation submitted by the applicant on 22 August 2003.

Department means the Department of Infrastructure, Planning and Natural Resources or its successors.

Director means the Director of the Urban Assessments (or its successors) within the Department.

Minister means the Minister for Assisting Infrastructure and Planning.

PCA means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

Regulations mean the *Environmental Planning and Assessment Regulations, 2000* (as amended).

Subject Site has the same meaning as the land identified in Part A of this schedule.

SCHEDULE 2**CONDITIONS OF CONSENT****DEVELOPMENT APPLICATION NO. 403-8-2003****1. Development Description**

Development consent is granted only to carrying out the development described in detail below:

- (1) Strata subdivision of the building in proposed stratum lot 101 to create 72 lots and common property.

2. Development in Accordance with Plans

The development shall be generally in accordance with development application number 401-8-2003 submitted by the applicant on 22 August, 2003 and in accordance with the supporting documentation submitted with that application prepared by Barclay Mowlem Construction Limited, including but not limited to, the following:

Plan Reference	Revision	Name of Plan	Date
1345sp-PO-d	D	Subdivision of Lot 101 DP	05/08/03
1345sp-PO-d	D	Location Plan	05/08/03
1345sp-PO-d	D	Level 1	05/08/03
1345sp-PO-d	D	Level 2	05/08/03
1345sp-PO-d	D	Level 3	05/08/03
1345sp-PO-d	D	Level 4	05/08/03
1345sp-PO-d	D	Level 4.5	05/08/03
1345sp-PO-d	D	Level 5	05/08/03
1345sp-PO-d	D	Level 6	05/08/03
1345sp-PO-d	D	Level 7	05/08/03
1345sp-PO-d	D	Level 8	05/08/03

3. Prescribed Conditions

The Applicant shall comply with the prescribed conditions of development consent under clause 98 of the Regulation.

4. Development Approvals

Full Compliance must be given to the conditions of the following Development Approvals that relate to the subject site:

- DA 286-10-2001 dated 28 June 2002;
- Section 96(1A) Modification No.111-12-2002 dated 24 March 2003.

5. Access Easements

Documentary easements for access must be created over the appropriate lots in the subdivision to provide for public access and access to lifts, lobbies, fire stairs, service areas, loading areas, car parking areas and public accessways, and created pursuant to Section 88B of the *Conveyancing Act 1919*.

6. Services Easements

Documentary easements for services, drainage, support and shelter, use of plant, equipment, loading areas and service rooms, repairs, maintenance or any other encumbrances and indemnities required for joint or reciprocal use of part or all of the proposed lots as a consequence of the subdivision, must be created over the appropriate lots in the subdivision pursuant to Section 88B of the *Conveyancing Act 1919*.

7. Registration of Easements

Prior to the issue of an Occupation Certificate, the applicant shall provide to the PCA evidence that all easements required by this consent, approvals, and other consents have been or will be registered on the certificates of title.

8. Section 37 Application

A separate application must be made to the consent authority or an accredited certifier to approve the final plan of subdivision in accordance with Section 37 of the Strata Schemes (Freehold Development) Act 1973.

ADVISORY NOTES

AN1 *Sydney Water*

An application shall be made to Sydney Water for a Certificate under Part 6, Division 9, Section 73 of the *Water Board (Corporatisation) Act, 1994* (Compliance Certificate). Evidence that a Compliance Certificate has been applied for (i.e. Notice of Requirements) shall be produced to the satisfaction of the PCA prior to the issue of a Construction Certificate. The Section 73 Certificate shall be submitted to the PCA prior to the occupation of the development or release of the linen plan.

AN2 *Compliance Certificate, Water Supply Authority Act, 2000*

Prior to issuing a subdivision certificate, a Compliance Certificate shall be provided to the consent authority showing that the development has met with the detailed requirements of the relevant water supply authority for the region that the subject site is located within.

The developer shall obtain the Compliance Certificate from the relevant local water supply authority and produce this to the satisfaction of:

- (1) the certifying authority before release of the Construction Certificate,
- (2) the consent authority before the release of the subdivision certificate, and
- (3) the principal certifying authority prior to occupation.

AN3 *Requirements of Public Authorities for Connection to Services*

The applicant shall comply with the requirements of any public authorities (e.g. Energy Australia, Sydney Water, Telstra Australia, AGL, etc) in regard to the connection to, relocation and/or adjustment of the services affected by the construction of the proposed structure. Any costs in the relocation, adjustment or support of services shall be the responsibility of the applicant. Details of compliance with the requirements of any relevant public authorities are to be submitted to the satisfaction of the PCA prior to the issue of the Construction Certificate.

AN4 *Other Details Required prior to Issue of Subdivision Certificate*

The applicant shall submit to the satisfaction of the consent authority, the following information, prior to the issue of the Subdivision Certificate:

- (1) Documentary evidence of the payment of the open space/ community facility/ transport and access contribution(s),
- (2) An Occupation Certificate, and
- (3) Documentary evidence that the property has been developed in accordance with plans approved by Development Application No.403-8-2003 and of compliance (or a Compliance Certificate) with the conditions of that consent.

AN5 *Application under Section 37 of Strata Titles (Freehold Development) Act, 1973*

Section 37 of the *Strata Titles (Freehold Development) Act, 1973* requires an application to be submitted to the consent authority for approval prior to the issue of the certified strata plan of subdivision.

