

12 March 1997

LACO Circular Memorandum No. 23

Early consent to pre-sell non-residential premises

Occasionally, developers submit applications for consent to pre-sell certain portions of non-residential developments or premises in mixed developments to a specific named purchaser before all the standard requirements for granting pre-sale consent are met. For example, the development has not yet reached the required extent of investment, the necessary documents as to evidence of financial ability to complete the development have not yet been submitted or the form of Deed of Mutual Covenant has not yet been approved.

2. For the purpose of facilitating developers to take advantage of commercial approaches from eg. large scale purchasers or those who have special design or structural needs, consent can be given, subject to conditions in para. 3. As these purchasers are usually incorporated bodies and must be separately legally and professionally represented, they do not need the full protection afforded by the Consent Scheme.

3. Consent for such cases will only be issued subject to the following conditions: -
- (a) this type of consent is for pre-sale of specified non-residential portions of developments;
 - (b) the identity of the purchaser and the description of the affected premises will be clearly specified in the consent letter;
 - (c) since the purpose of this type of consent is to allow a sale to an identified purchaser of a designated portion of the development, the purchaser will be prohibited from subselling any part of the designated portion to any other unidentified purchasers or entering into agreements so to do before completion of the assignment;
 - (d) although the purchasers must be professionally advised and separately legally represented, the form of Agreement for Sale and Purchase to be entered into should be as near as possible to the Standard Consent Scheme form amended only so far as necessary to suit the particular case; and

- (e) the purchaser will not be entitled to take part in any consultation on undivided shares or other provisions of the Deed of Mutual Covenant or Management Agreement for the lot in the process of its approval by this Office.

4. Solicitors should note that the terms of the special consent letter will be strictly interpreted and any attempt to avoid the terms or the spirit of this concession will be seriously regarded by Government.

(T. E. Berry)
Principal Solicitor
for Director of Lands

c.c. All Solicitors

b.c.c. LACO 3/316/82 VI
LACO 7/316/61