

30 March, 2021

Mary O’Kane  
Chair  
Office of the Independent Planning Commission NSW  
Level 3, 201 Elizabeth Street  
SYDNEY NSW 2000

Dear Ms O’Kane

## **Heritage and the MLC Building - North Sydney**

I write this letter, further to our submission of 17 March 2020, to express the opposition of the Urban Taskforce to the proposed State Heritage listing of the MLC Building located on Miller Street, North Sydney.

I would like to thank the IPC for agreeing to take public submissions on this matter of public importance.

As previously advised, North Sydney Council has a strong history of protection of heritage assets. Council has not seen fit to propose this building for listing on the State Heritage register since its listing on the Local register in 1989. Further, the condition of the building has materially deteriorated since that time as detailed by Investa, the current owner, in their submission to the Heritage Council. The Heritage Council appears to have perfunctorily dismissed the owner’s submission, without reference to any QS report, and their recommendations do not address many of the issues legitimately raised in opposition to this building’s listing.

### **This decision will set a dangerous precedent**

The late intervention for Heritage listing (the MLC Building was built in 1957) renders the purchase of a site in Sydney for development, unencumbered as it was for decades by any heritage protection, akin to an exercise of Russian Roulette. Urban Taskforce submits that there is no practical reason why this application has come so late in the process. To support the Heritage listing as proposed would set a dangerous precedent for private building purchasers – adding to the risk of redevelopment and thus, adding to the costs.

Urban Taskforce draws particular attention to the Heritage Council’s explicit consideration of whether to list the MLC Building on the State Heritage Register in 2013 as part of the Thematic Listing Program for that year. **The Heritage Council decided, as recently as 2013, not to pursue listing the MLC Building** as being of State heritage significance. Urban Taskforce is advised that the current owner has since relied upon that decision and has embarked on a lengthy and costly process with respect to the redevelopment of the site. Allowing for a last-minute heritage listing effectively means that no investor can rely of the prior work of the Heritage Council. This represents a genuine sovereign risk and must be strenuously avoided.

To iterate, accepting the proposed last-minute re-litigation of the 2013 decision of the Heritage Council would create a significant precedent causing uncertainty regarding the application of the Heritage Act for the community, investors and property owners across NSW.

There is a long history of government leaders’ encouraging investment in this very building for the purpose of its redevelopment. Government has actively sought, at every stage of the assessment process, to encourage the current owner to proceed with investment decisions. (see Attachment 1) To “pull the rug out from under the feet of the owners” now would represent a dangerous precedent which is not supported by the Urban Taskforce. Further, this last-minute push for heritage listing flies in the face of the NSW Government’s decision to fast-track the approval for the Metro Station development associated with Victoria Cross Metro station – adjacent to this very site.

A number of submissions to the Heritage Council, made by architects, reference work undertaken in 2002 on the adaptive re-use of the MLC building designed by BVN. Many submissions use the same or similar wording in what appears to be an organised campaign.

### **The cost of refurbishment and preservation**

The current owner commissioned quantity surveyor, WT Partnership, to prepare a comprehensive and detailed analysis of the costs associated with a full refurbishment of this building. *The bottom line of this analysis was that the costs of a full D&C refurbishment would be circa \$213 million.* This analysis was not seriously challenged by the Heritage Council. Instead, it was simply ignored and discarded.

The facts in this case speak for themselves. The building has very limited floor to ceiling clearances (2.5m); requires demolition, redesign and reconstruction to overcome its current highly flood prone status; and the design of the internal floorplates are highly disconnected in nature and render them unattractive to commercial tenants. It must be kept in mind that this is a privately owned commercial building, purchased without State Heritage listing at considerable cost to the current owner.

The current owner clearly establishes that the rental return that will be able to be received following the necessary conservation works would not be at a level capable of servicing the funding costs. A decision to list this building will therefore effectively sterilise this asset to the detriment of the redevelopment of the North Sydney CBD and the local community.

A Heritage listing at this late stage would result in undue financial hardship for the owner.

### **Different rules for Council Buildings? – There is a need for consistency**

The Heritage Council's work disregards broader planning and economic considerations from the Premier's Priorities, through to the Greater Sydney Commission suite of strategic plans, to the local DCP. This is despite the Heritage Act obligating consideration of whether a listing would render the building incapable of reasonable or economic use. The owner has comprehensively demonstrated a listing would render it incapable of reasonable or economic use, and further a listing is entirely inconsistent with the State and Local government investment to revitalise the North Sydney CBD beset by decades of poor planning.

Urban Taskforce has previously noted the decision of the Heritage Council to allow Ryde Council to completely knock down and redevelop the Ryde Civic Centre.

In contrast to the Ryde Civic Centre, the MLC building is not prominent in its location. It has no special architectural features – a point highlighted by the Heritage Council itself where it identifies its rapid lift capacity as one of its key features. The MLC building has no cultural significance, nor has it been the centre of any civic contribution. Its retention is not supported by the community (note that most of the submissions come from a late flurry among architects) or by the Mayor of North Sydney Council.

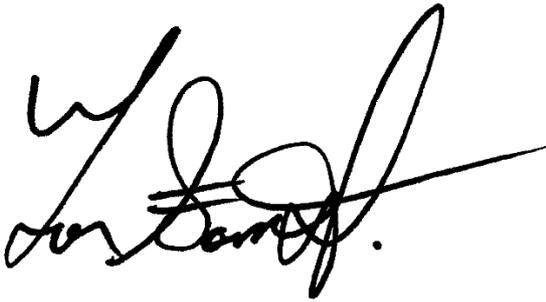
### **Conclusion**

The Heritage Council's own assessment of Modernist Buildings in 2013 did not find this building to be of State Heritage significance.

The MLC building does not fit in well with the context of the setting as North Sydney is a high-rise CBD – a point highlighted by Council. Further, no refurbishment would rectify the fact that the building is flood prone, rendering it incapable of reasonable use under the terms of the Heritage Act. The cost of refurbishment identified by QS WT Partnership as being circa \$213 million is an unreasonable burden on the owner.

Urban Taskforce urges the IPC to recommend to the Minister for Heritage that the MLC Building at North Sydney should **not** be afforded State Heritage listing.

Yours sincerely



Tom Forrest  
Chief Executive Officer

## Attachment 1

### Government / Ministerial statements which encouraged investment

#### *Mayor Jilly Gibson*

##### **The Daily Telegraph**

**26.11.2020 – Blockbuster bid in NIMBY jam**

<https://www.dailytelegraph.com.au/news/nsw/heritage-petition-for-north-sydney-mlc-building-blocks-development-plan/news-story/3fd54b8c104edbd81439ceb083a97edb>

- “there aren’t many councillors who feel the building is worthy of preservation”.
- “A new building on that site would fit better with the direction we want to take the CBD,”

##### **Mosman Daily**

**11/09/2020 – MLC North Sydney: New twist in campaign to grant 1950’s office block heritage protection**

<https://www.dailytelegraph.com.au/newslocal/mosman-daily/mlc-north-sydney-new-twist-in-campaign-to-grant-1950s-office-block-heritage-protection/news-story/42d7d920738ac22af54dbfbc3550ed48>

- “didn’t run into one person who said ‘I love the building, we must fight to preserve it’.”

#### *NSW Planning Minister Hon Rob Stokes*

##### **08.07.2020 – New Vision for North Sydney CBD to become a reality**

<https://www.planning.nsw.gov.au/News/2020/New-vision-for-North-Sydney-CBD-to-become-reality>

- “The integrated station development at the new Victoria Cross Metro Station will double the available public open space near the tower and create a continuous ‘civic green spine’ along Miller Street, with landscaped terraces, outdoor dining, casual seating areas and pedestrian paths.”
- “North Sydney is already a strong commercial hub for Greater Sydney and this project will provide a much-needed boost, injecting \$315 million into the economy and creating between 400-600 construction jobs to deliver the over station development.”

## **The Australian**

**08.07.2020 NSW Government gives green light to massive skyscraper above metro station**

<https://www.theaustralian.com.au/breaking-news/nsw-government-gives-green-light-to-massive-skyscraper-above-metro-station/news-story/4e5f2cd3909c0aa8666815773ae276f7>

- “I’m particularly excited about jobs, new public open spaces and commercial retail offerings made available thanks to this extraordinary offering,”

## **Sydney Morning Herald**

**08.07.2020 – North Sydney’s new tallest building gets green light**

<https://www.smh.com.au/national/nsw/north-sydney-s-new-tallest-building-given-green-light-by-government-20200708-p55a8z.html>

- “North Sydney, particularly in the '60s and '70s, was turned into a very classic old fashioned downtown which was alive only between 9 and 5 — this is all about breathing new life and liveability into an urban core.”

**14.06.2020 - 'Windswept and cold': Can North Sydney overcome a legacy of bad planning and busy roads?**

<https://www.smh.com.au/national/windswept-and-cold-can-north-sydney-overcome-a-legacy-of-bad-planning-and-busy-roads-20200612-p55248.html>

- "time to repair the damage inflicted over the past few decades".
- “The 1960s, 70s and 80s saw North Sydney CBD become a one-dimensional 9-5 downtown, where segregated land use planning saw wall-to-wall commercial offices towers displace virtually every other use,”
- “This saw the soul stripped out of the inner-city hub, with much of the local character lost to nondescript commercial office towers.”

**30/09/2020- Planning Minister warns of direct action against north shore council (Ku-ring-gai) over housing targets**

<https://www.smh.com.au/national/nsw/planning-minister-warns-of-direct-action-against-north-shore-council-over-housing-targets-20200929-p5608f.html>

- "My preference is they do what they're elected to do, because I think their community feels passionately about local planning, so I'd encourage them not to hand over their powers but if they want to, we'll help them."

***NSW Transport Minister Hon Andrew Constance***

## **Government Press Release**

**08.07.2020 – New Vision for North Sydney CBD to become a reality**

<https://www.planning.nsw.gov.au/News/2020/New-vision-for-North-Sydney-CBD-to-become-reality>

- “This tower will provide space for more than 4,000 office workers on top of a world-class public transport system, which is not only transforming our city’s public transport network, it’s transforming the areas around it.”
- “This project is a great example of the NSW Government’s commitment to ensure our communities have access to great public transport infrastructure regardless of where they live, work or play.”

**NSW Treasurer Hon Dom Perrottet**

### **Government Press Release**

**15.09.2020 – More than 100 planning decisions fast-tracked in six months**

<https://www.planning.nsw.gov.au/News/2020/More-than-100-planning-decisions-fast-tracked-in-6-months>

- “We know our planning system will be a key lever in driving investment in NSW as we come out of this crisis,”
- “NSW already has the country’s biggest infrastructure program and we need to do what we can now to make sure that continues.”

### **Sydney Morning Herald**

**30.05.2020 – Perrottet’s plan to boost jobs fuelled by borrowing and asset recycling**

<https://www.smh.com.au/national/nsw/perrottet-s-plan-to-boost-jobs-fuelled-by-borrowing-and-asset-recycling-20200529-p54xua.html>

- "From metropolitan Sydney right out to every town, we need to have as many projects under way as possible and as quickly as possible."