

## Memo

<b>To:</b>	Ms Lara Huckstepp, North Sydney Council
<b>From:</b>	Ms Lisa Trueman, Senior Associate, and Ms Léonie Masson, Senior Heritage Consultant and Historian, GML Heritage
<b>Date:</b>	2 October 2020
<b>Our Ref:</b>	20-0336
<b>Subject:</b>	Heritage Referral DA 147/20—105 Miller Street North Sydney—Heritage Assessment of Development Application

## Background

This referral provides an independent assessment of the heritage issues relating to DA 147/20, for the proposed redevelopment of the MLC Building at 105 Miller Street, North Sydney (the site).

The MLC North Sydney building is listed as a heritage item of local significance in Schedule 5 of the *North Sydney Local Environmental Plan 2013* (NSLEP 2013). The development application proposes the demolition of the existing heritage listed office building and construction of a new high-rise office building on the site. Due to the nature of application and the public interest, North Sydney Council (Council) has engaged GML Heritage Pty Ltd (GML) to provide an independent assessment of the heritage impacts of the proposed development and peer review of Council's internal heritage planner's comments.



**Figure 1** The site, outlined in red. (Source: Nearmap with GML overlay)

## Heritage Context

The MLC North Sydney building is listed as a heritage item of local significance within Schedule 5 of NSLEP 2013. It is also located within the vicinity of several heritage items of local and state significance, as listed in Table 1. The North Sydney Court House and Post Office (former police station) and the Former North Sydney Technical High School are listed on the State Heritage Register (SHR) (Items 01417 and 00517).

The statutory heritage context of the site is indicated on Figure 2.



Figure 2 NSLEP Heritage Map showing the site. (Source: NSLEP 2013 with GML overlay)

Table 1 Heritage Items on and within the Vicinity of the MLC Building.

Name	Address	Significance	Listing	Item No.
MLC Building	105–153 Miller Street, North Sydney	Local	NSLEP	10893
Greenwood (former North Sydney Technical High School)	36 Blue Street, North Sydney	State	SHR NSLEP	00517 10892
North Sydney Post Office and Court House (former police station)	92–94 Pacific Highway, North Sydney	State	SHR NSLEP	01417 10953
Former Bank of NSW	51 Mount Street, North Sydney	Local	NSLEP	10919
Façade of S. Thompson Building (No 67A)	67–69 Mount Street, North Sydney	Local	NSLEP	10920
House	67–69 Mount Street, North Sydney	Local	NSLEP	10921

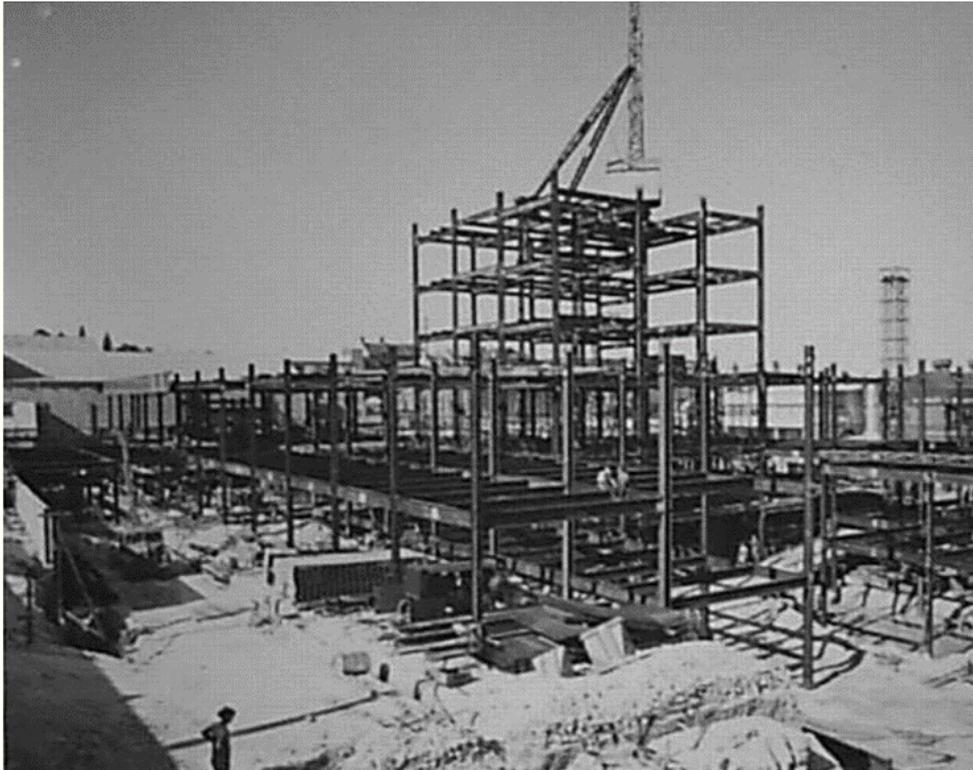
Name	Address	Significance	Listing	Item No.
Former fire station	86 Walker Street, North Sydney	Local	NSLEP	10983
Telephone Exchange	1 Wheeler Lane, North Sydney	Local	NSLEP	11030
St Joseph's Convent School and Chapel	7-11 Mount Street, North Sydney	Local	NSLEP	10918

## Statement of Significance

The following Statement of Significance for 105 Miller Street is taken from the State Heritage Inventory (SHI) database listing for the MLC Building (10893):

*The first high rise office block in North Sydney and the largest for a number of years after its construction, the MLC Building in North Sydney is a seminal building on subsequent high-rise design in Sydney and utilised construction and structural techniques not previously used in Australia. With the first use of a curtain wall design and the first use of modular units in Australia, its use of exceptional modernist building materials in the curtain wall facade and terracotta glazed bricks are representative of the Post-War International style of architecture that predominated in these early commercial high-rise buildings. The architect, Walter Osborn McCutcheon's desire for his buildings to integrate modern art within the fabric of the design is demonstrated by the inclusion of significant artists such as Andor Mészáros and Gerald Lewers. As a result, and despite subsequent modifications, the interior, exterior and landscape setting are of high aesthetic, technical and representative significance. The building is also of historical, associative and aesthetic significance as an important work by a significant firm of architects Bates Smart and McCutcheon, and master builders Concrete Constructions, and as a landmark site at North Sydney which signified the transformation of the centre of North Sydney from Nineteenth Century town to the second commercial hub of metropolitan Sydney from the late 1950s.*

The full SHI datasheet is attached in Appendix A.



**Figure 3** Construction of framework, MLC North Sydney Building, c1955. (Source: Stanton Library, North Sydney Heritage Centre)



**Figure 4** Construction of framework and facing of aluminium and tile external walls, MLC North Sydney, c1956. (Source: Stanton Library, North Sydney Heritage Centre Collection)



**Figure 5** Construction of curtain wall, MLC North Sydney, c1956. (Source: Stanton Library, North Sydney Heritage Centre Collection)



**Figure 6** MLC North Sydney from northwest, 1957. (Source: Max Dupain and Associates)



Figure 7 MLC North Sydney Building from southwest, September 1957. (Source: Max Dupain and Associates)

## Non-Statutory Listings

The site is not listed on the Register of the National Trust of Australia (NSW); however, the property is listed on the Australian Institute of Architects National Register of Significant Twentieth Century Architecture as item 105. The complete listing sheet is included at Appendix B. The register provided the following statement of significance:

*The MLC Building is an outstanding example of modern architecture in Australia in the post-World War 11 [sic] period being the first high rise office building incorporating 'light weight' construction, curtain wall façade & modular design.*

MLC North Sydney was identified in the Heritage Council of NSW study *The Modern Movement in NSW: a thematic study and survey of places* (HeriCon Consulting 2013), as a potential item for listing on the SHR.

## Interim Heritage Orders

In response to the current proposal, which includes the full demolition of the existing MLC Building, Docomomo Australia and the National Trust of Australia (NSW) formally requested that the Heritage Council

of NSW place an Interim Heritage Order (IHO) over the building to protect it from demolition. The Docomomo Australia request included an updated assessment of significance (Appendix C of this report).

On 4 August 2020, the Heritage Council considered the requests to place an IHO over the MLC Building due to the threat posed by the development assessment (DA) to demolish the building and replace it with a 29-storey tower.

The Heritage Council resolved:

*to recommend to the Minister that an Interim Heritage Order for the MLC Building be made pursuant to section 24 of the Heritage Act 1977 to enable that further inquiry be undertaken as the item is under immediate or imminent threat of harm.*

The Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts is currently considering the IHO and has requested Heritage NSW monitor the issue and provide updates.

## Consideration of Listing on the State Heritage Register

In addition, the Heritage Council resolved on 1 September 2020 its intention to consider listing the MLC Building on the SHR. The Heritage Council provided the following Statement of Significance to support the nomination for the former MLC Building, North Sydney:

*The former MLC Building, North Sydney is likely to be of state heritage significance as Australia's first post-war office block in respect of its design, materials & mode of construction. Completed in 1957 it was the first high rise office block in North Sydney and the largest for a number of years after its construction, and is a seminal building associated with the evolution of high-rise design in Sydney and NSW.*

*It was designed and constructed by architectural firm Bates Smart and McCutcheon (Architect Sir Walter Osbourne McCutcheon, Engineer Harvey H Brown) utilising construction and structural techniques not previously used in Australia. This includes the first use of a curtain wall design, the first use of modular units in Australia, fully rigid steel frame structure combined with 'light weight' construction of hollow steel floors resulting in reduced construction loads, cost & time.*

*The building is representative of the Post-War trends in modern offices with the provision of food (cafeteria, lounge and dining) and recreation (squash, billiards, theatre, roof top garden) spaces for its 5000 workers. It is a landmark site which signified the transformation of the centre of North Sydney from C19th town to the second CBD of Sydney.*

*The former MLC Building North Sydney is potentially of state heritage significance for its aesthetic heritage values as it makes use of exceptional modernist building materials such as the curtain wall facade and terracotta glazed bricks that are representative of the Post-War International style of architecture that predominated in early commercial high-rise buildings. McCutcheon's desire for his buildings to integrate modern art within the fabric of the design is demonstrated by the inclusion of works by significant artists such as Andor Mészáros and Gerald Lewers. As a result, and despite subsequent modifications, the building and its landscape setting are of high aesthetic, technical and representative significance.*

*The building is also of associative significance as the (then) NSW's head office of Mutual Life & Citizens Assurance Company Limited (MLC). It is also potentially of state heritage significance as an important work by a significant firm of architects Bates Smart and McCutcheon, and master builders Concrete Constructions.*

The Heritage Council's draft SHR inventory sheet for the listing is included in Appendix D.

The Heritage Council's Notice of Intention to List the building on the SHR is currently on public exhibition. In response, Docomomo Australia updated its assessment in a further submission to the Heritage Council on 25 September 2020. That assessment provided the following Statement of Significance:

*The MLC Building, North Sydney is significant at a National level as Australia's first high-rise curtain-wall skyscraper and is of aesthetic significance at a National level for its high level of aesthetic sophistication and skill by its architects including the use of a textured aluminium and glass curtain-wallfaçade system, which is scarce evidence of the best available 1950's curtain-wall technology. The ribbed aluminium textured panels are a rare use of such a system so early in the introduction of the curtain-wall to Australian skyscrapers when its Australian and overseas contemporaries were usually clad in all-glass façades. The proportions of the building, the use of a ground level colonnade and the blade-supported rooftop terrace awning demonstrate a sophisticated design that was the equal of any contemporary skyscrapers. This aesthetic and technical significance is recognised by the architectural profession through their non-statutory listings and by the academic community through the building's inclusion as a significant building in important books on the development of Australian architecture.*

*The MLC Building, North Sydney has technical and research potential at a National level, for the introduction of innovative construction methods and details as well as building services including: use of light-weight materials; materials testing leading to evolution of building regulations; prefabricated steel structural framing and flooring system; incorporation of modular design and fitout of the interiors; adoption of 'fast-track' construction methods as well as building services such as high-capacity lifts; for its internal finishes and services.*

*The building retains a high level of exterior integrity.*

*The MLC Building, North Sydney is significant at a State level as the first high-rise building in North Sydney, signalling the commencement of the development of North Sydney as Sydney's (and NSW's) second CBD.*

*The building is significant at a State level because of its association with significant architects, Bates Smart & McCutcheon, who were the pre-eminent architects for the design and development of early post-war Modernist office buildings in a number of Australian cities. The building is also significant for its association with the long-established Sydney construction firm, Concrete Constructions Pty Ltd, that had been involved in the construction of a number of Sydney's tall buildings since 1916. The building is also significant for its association with significant artists for the artworks commissioned for the building, such as Andor Mészáros for the bronze bas relief on the south façade, and Gerald Lewers for the stone sculptures in the Miller Street garden.*

The full Docomomo Australia submission is included in Appendix E of this report.

The closing date for submissions is 8 October 2020. It is expected that the Heritage Council will consider its recommendation to list on 3 November 2020.

## Relevant Planning Controls

As the property is listed as a heritage item, the following controls are relevant to the assessment of this DA:

- NSLEP 2013 Clause 5.10 (Heritage Conservation); and
- *North Sydney Development Control Plan 2013* (NSDCP 2013) Section 13 (Heritage and Conservation).





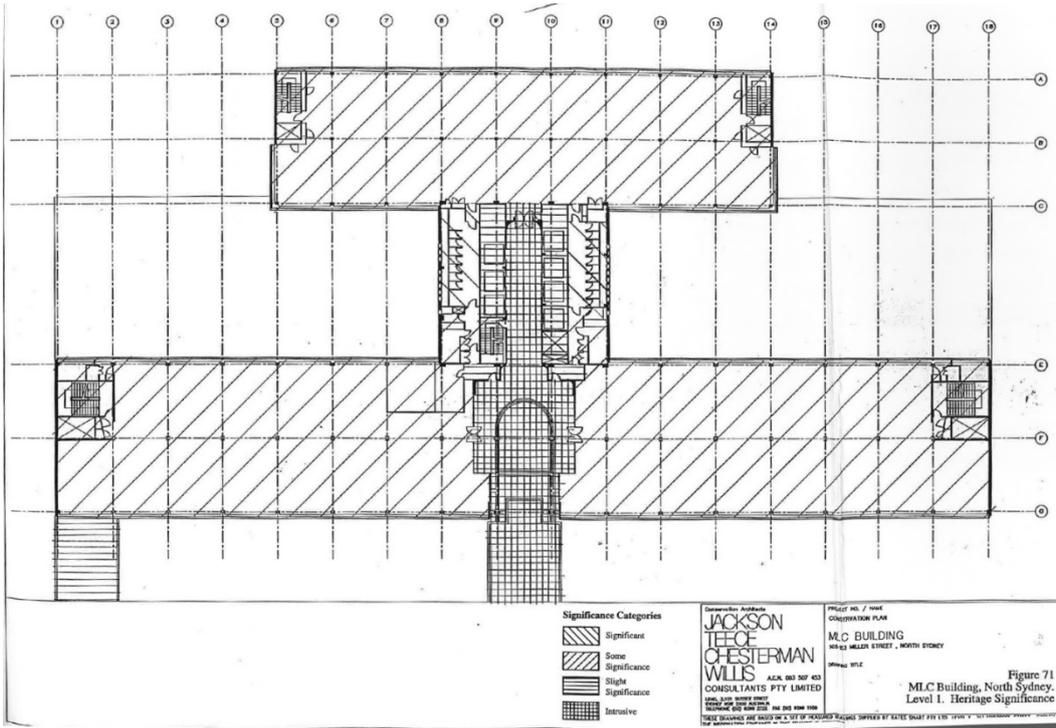


Figure 11 Level 1 heritage significance. (Source: Jackson Teece Chesterman Willis 1998, North Sydney MLC Conservation Management Plan 1998)

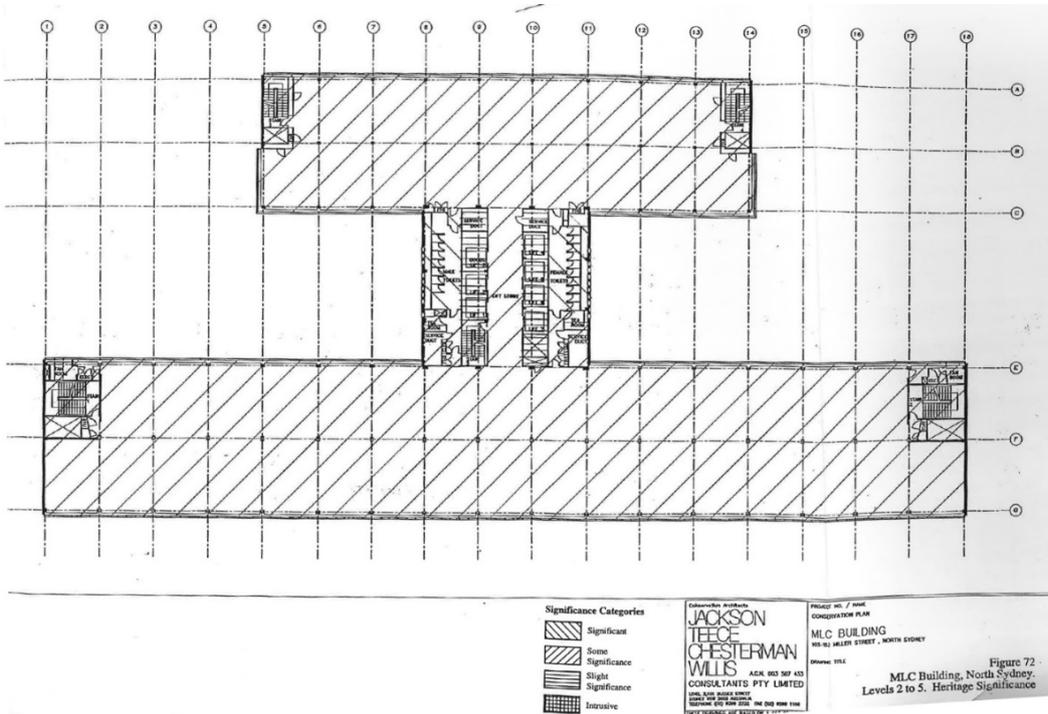


Figure 12 Levels 2 to 5 heritage significance. (Source: Jackson Teece Chesterman Willis 1998, North Sydney MLC Conservation Management Plan 1998)

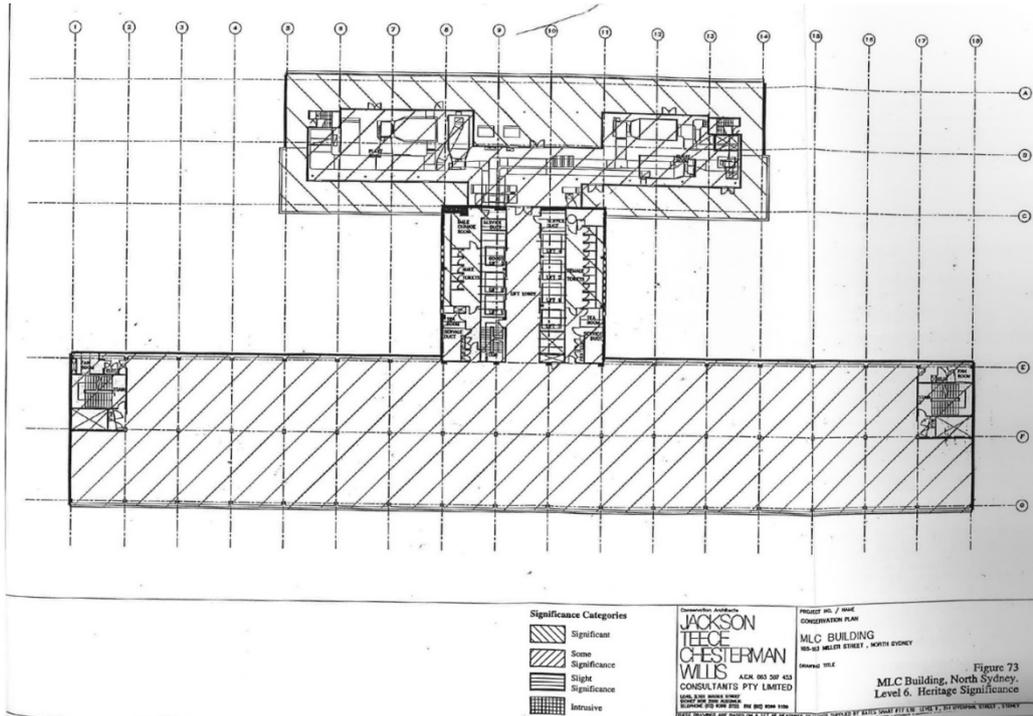


Figure 13 Level 6 heritage significance. (Source: Jackson Teece Chesterman Willis 1998, North Sydney MLC Conservation Management Plan 1998)

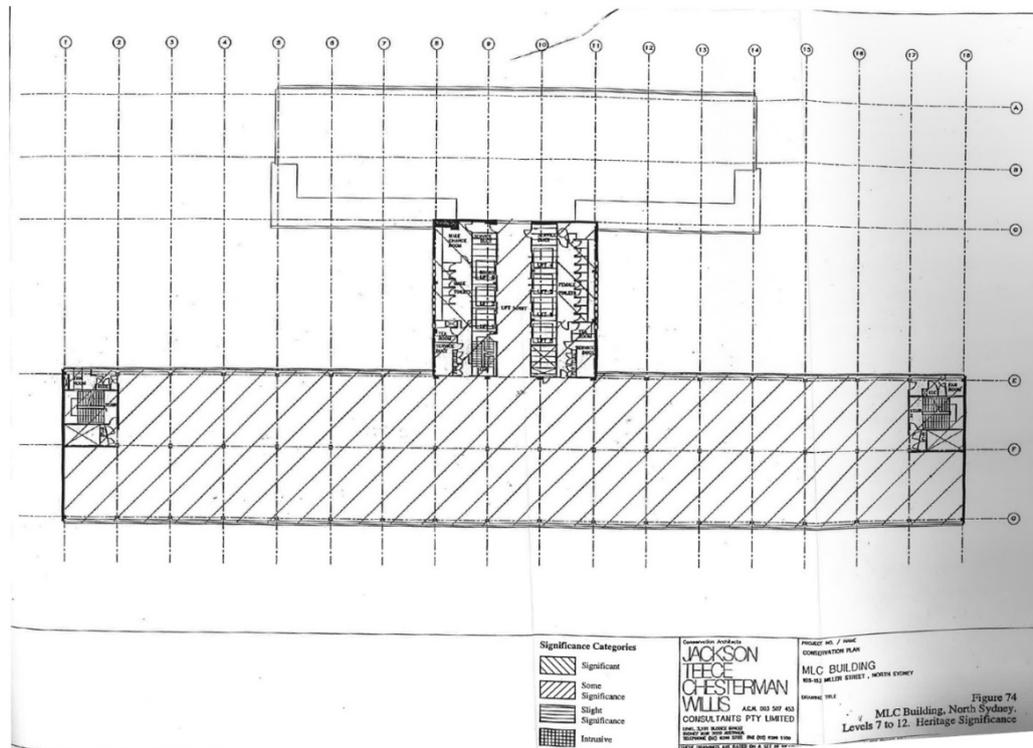


Figure 14 Levels 7 to 12 heritage significance. (Source: Jackson Teece Chesterman Willis 1998, North Sydney MLC Conservation Management Plan 1998)

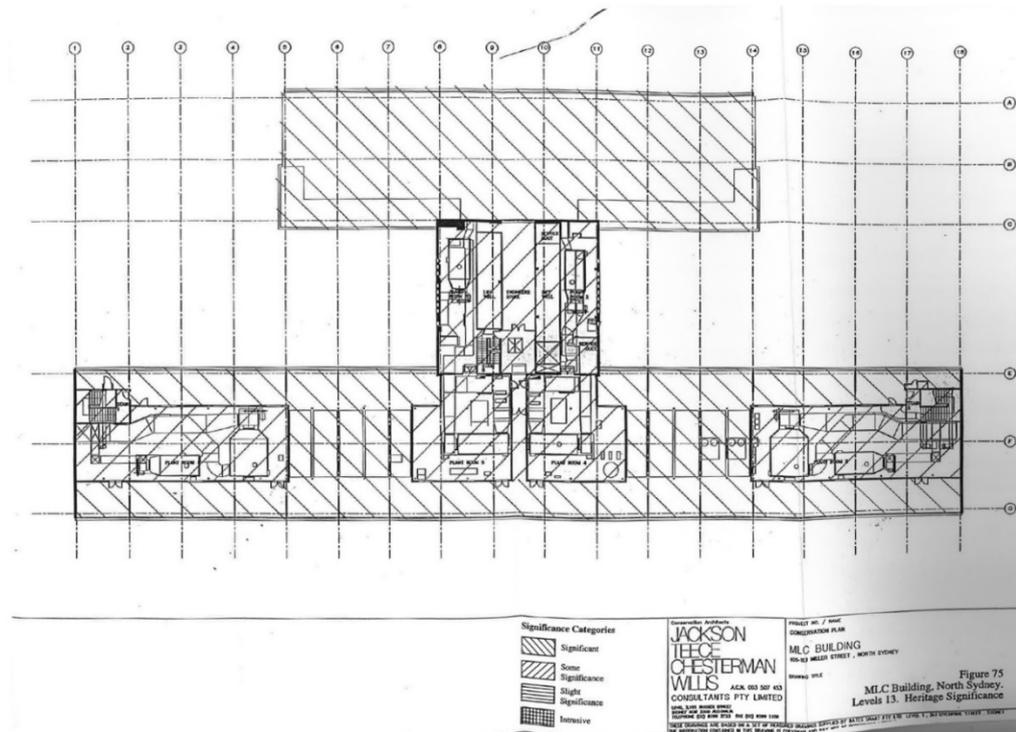


Figure 15 Level 13 heritage significance. (Source: Jackson Teece Chesterman Willis 1998, North Sydney MLC Conservation Management Plan 1998)

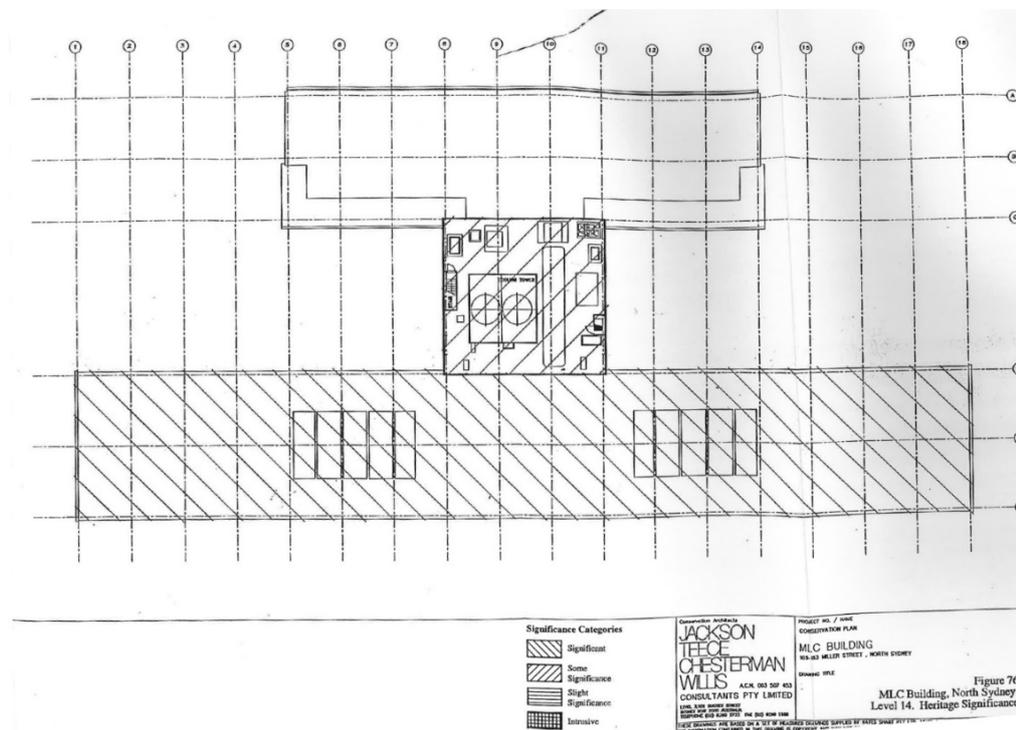


Figure 16 Level 14 heritage significance. (Source: Jackson Teece Chesterman Willis 1998, North Sydney MLC Conservation Management Plan 1998)

## Development Application DA 147/20 (2020)

The DA was lodged with Council on 7 July 2020. The works as proposed are summarised below:

- Demolition of all existing structures, bulk excavation and tree removal.
- Construction of a 27-level commercial building comprising 24 commercial office floors, publicly accessible lower ground floor and ground floor containing retail tenancies, commercial lobby, passive recreation and dining facilities.
- Redesigned public open space fronting Miller Street and redesigned interface and increased area to Brett Whiteley Place.
- Construction of two basement levels, including driveway access from Denison Street, 123 vehicle parking spaces and 802 bicycle parking spaces and associated end-of-trip facilities.

## Application's Heritage Impact Statement

A review of the *105–153 Miller Street, North Sydney Statement of Heritage Impact* (RPS Group 2019) (HIS) has been undertaken as part of this assessment. The HIS states unequivocally that the proposal will have major adverse heritage impact due to the demolition of the MLC building. The Executive Summary (quoted below) summarises the effect of the proposal on the building:

*This Statement of Heritage Impact (SOHI) is submitted to North Sydney Council (Council) as part of a Development Application (DA) for the redevelopment of 105-153 Miller Street, North Sydney (the project area) on behalf of IOF Custodian Pty Ltd ATF Miller Street North Sydney Trust (the Applicant).*

*The MLC Building located at 105-153 Miller Street, North Sydney is listed as a heritage item of local significance in the North Sydney Local Environmental Plan (LEP) 2013. The Proposal would involve the demolition of the MLC Building and construction of a new commercial building.*

*The project area was laid out as part of the original survey of the township of St Leonards in 1838. While development on the North Shore began close to the Harbour at Blues and Milson's Points, it quickly extended to the formal township of St Leonards. Commercial activities in St Leonards centred on the intersection of Miller and Mount Streets, with the project area soon built up with one and two storey masonry buildings during the mid to late nineteenth century. With the opening of the Harbour Bridge in 1932, and the subsequent extension of Land Cove Road (now Pacific Highway) the North Sydney was opened up to residential and industrial expansion. The construction of the MLC Building on the project site in the 1950s was the beginning of what would become a busy business district in North Sydney.*

*The MLC Building officially opened in August 1957. It is an example of International Style post-war architecture in the form of a tri-part cubic structure with aluminium framed glass curtain walls. It also contains potential moveable heritage items, including original MLC office furniture, bas-relief sculpture(s) by Andor Mészáros and the decorative sandstone garden sculptures by Gerald Lewers.*

*The Proposal requires ground disturbance at a depth greater than the footing of the existing MLC Building.*

*This SOHI therefore included an assessment of archaeological potential. The archaeological potential of the project area is assessed as low. It is unlikely that intact archaeological resources associated with the nineteenth century shops which formerly stood on the project area would be identified within the project area due to the level of ground disturbance undertaken during construction of the MLC Building in the 1950s.*

*Excavation for the MLC building likely extended into the shallow bedrock of Hawkesbury Sandstone that lies beneath the project area.*

*The North Sydney LEP 2013 lists the MLC Building as being significant because:*

*The first high rise office block in North Sydney and the largest for a number of years after its construction.*

*Seminal building on subsequent high-rise design in Sydney and utilised construction and structural techniques not previously used in Australia. First use of curtain wall design; first use of modular units in Australia. Major landmark in North Sydney. The interior, exterior and landscape setting are of significance.*

*The Proposal would have a direct major adverse impact on the MLC Building through total demolition.*

The methodology of the HIS is considered to be inadequate for the following reasons:

- The document does not provide a satisfactory assessment of the proposed development in accordance with Heritage Council of NSW guidelines for the preparation of heritage impact statements.
- The HIS does not include an assessment of significance of the place against local, state and national register guidelines and hence does not meet the guidelines outlined by the Australia ICOMOS Burra Charter.
- The assessment of significance of the building is limited to directly quoting the SHI database Statement of Significance. In addition to not following the appropriate guidelines, this is particularly inappropriate given that the building is proposed to be demolished.
- The report fails to understand the cultural significance of MLC North Sydney and demonstrates a flawed heritage impact assessment process.
- There is inadequate discussion of heritage significance of both MLC North Sydney and nearby heritage items.
- There is no discussion of alternative development options which comprise retention of the heritage item.
- The HIS provides no actual heritage impact assessment of the proposal and does not present any evidence warranting the demolition of the building and associated landscape.

## **Public Submissions**

During the public notification of the DA, Council received over 80 individual submissions objecting to the demolition of the building, including submissions from the National Trust of Australia (NSW), Docomomo International and the Twentieth Century Heritage Society of NSW (Appendix F, G, and H). In addition, an online petition created by Docomomo Australia urging Council to refuse the application for the demolition attracted 1,731 signatures (Appendix I).

In addition, the owner of the adjoining property, Lendlease Real Estate Investments Limited, submitted an objection that included a Heritage Peer Review of the application, authored by Urbis (Appendix J). That report concludes:

*The MLC building in North Sydney is a seminal piece of work by Bates, Smart & McCutcheon and meets the criteria at a State level for its historic, associative, aesthetic, research, rarity, representative values. The 2002 refurbishment of the building by BVN resulted in two Royal Australian Institute of Architects awards, being the Royal Australian Institute of Architects Commendation for Interior Architecture (NSW) and the Royal Australian Institute of Architects National Award for Interior Architecture. Demolition of this building would have an unacceptable impact on the historic patrimony of North Sydney.*

*The RPS Group HIS lacks justification for supporting the demolition of this building and does not demonstrate a valid attempt to explore adaptive reuse options for the place in preference to demolition. Upgrading and conservation of important mid-century office buildings can be achieved through careful consideration of the fabric and the significance of place without requiring full demolition (for example, Peddle Thorp & Walker's 1962 AMP tower at 33 Alfred Street, Sydney). Replacement and conservation of building fabric and the associated costs of this work does not justify wholesale demolition.*

*Urbis strongly recommends that an updated Conservation Management Plan is prepared prior to major works being proposed to the place, and that the identified significance of the place should underpin the preparation of a sympathetic and respectful adaptive reuse proposal. A rigorous heritage impact assessment should be undertaken prior to any works to ensure that the significance of the place is sufficiently understood, protected and interpreted.*

## Assessment against MLC North Sydney Conservation Management Plan 1998

An assessment of the proposal has been undertaken against the relevant CMP policies.

The proposal does not comply with the conservation policies outlined in the MLC North Sydney CMP 1998.

**Table 2** Assessment against CMP 1998.

Statement of Conservation Policy in CMP		Comment
7.4.2. General Policies		
Policy 1.1	The future conservation and uses of the building and its site shall be guided by the principles of the Australia ICOMOS Charter for the Conservation of Places of Cultural Significance (The Burra Charter).	The proposal does not provide for the retention, conservation and future uses of the building in accordance with the Burra Charter. The HIS does not follow the processes outlined in the Burra Charter for managing places of cultural significance.
Policy 1.2	The Statement of Significance shall be accepted as one of the bases for future planning and work.	The HIS assessment includes the statement of significance but fails to thoroughly assess the proposal against it.
Policy 1.3	A policy of retention, enhancement and retrieval of the cultural significance of the place should be adopted to be implemented when and as the opportunities arise, and taking into consideration the differing needs of the various future uses.	The proposal involves complete demolition of the MLC North Sydney Building and irretrievable loss of cultural significance of the place. The proposal does not comply with this policy.
Policy 1.7	Surviving significant fabric should not be removed, altered or in any other way degraded.	The proposal does not comply with this policy as it involves demolition of all structures on the site and total loss of significant fabric. The HIS does not assess the proposal against this policy.
Policy 1.8	The treatment of existing structures, components, spaces, fabric, services, finishes, fittings and contents shall be in	The proposal does not comply with this policy as it will result in demolition of all structures and construction of a 27-level commercial building on the site. The HIS assessment disregards the significance mapping and statement of significance as outlined in the CMP.

Statement of Conservation Policy in CMP		Comment
	accordance with their assessed significance.	
Policy 2.1	Uses with access, subdivision or services requirement which would require major intrusion into and alterations to significant fabric and result in distortion of character of the building are unacceptable.	The proposal involves demolition of the entire building and structures on the site which results in the complete loss of significant fabric which contribute to the character of the building and cultural landscape. The proposal does not comply with this policy.
Policy 3.1	The original relationships of the building envelope to the original site boundaries shall be retained.	The new 27-level office building proposed to be erected on the site following demolition of MLC North Sydney does not comply with this policy.
Policy 3.2	The original configuration of the setback with its landscaped garden and paved concourse/colonnade along Miller Street should be conserved by adoption of a Lot Boundary Curtilage. The design of new landscaping should be expressive of the philosophy which informed the original design of these spaces.	The design intent pertaining to the proposal purports to reinterpret 'the philosophy of the MLC Building, while updating it for the twenty-first century'. There is no evidence that the proposed configuration of the setback and new landscaping respects the original design intent for the Miller and Denison Streets presentations.
Policy 4.1	Future repair, adaption and maintenance works to significant spaces and fabric shall be undertaken by competent and experience tradesmen, and exercised with a degree of care commensurate with that employed during the original construction of the building.	The proposal does not comply with this policy as all structures and significant space and fabric are to be demolished.
Policy 4.2	The introduction of new functions, fabric and services into significance spaces or fabric shall be done in such a manner that significance is not diminished, and that any impact is minimised.	The proposal does not comply with this policy as the existing building is proposed to be demolished and there will be nil significant fabric and spaces retained.
Policy 4.3	All new work shall take account of significant spaces and fabric with regard to the original design philosophy, and the quality, scale, colour and surface characteristics of the original fabric.	The proposal is contrary to this policy as the proposed new work involves the demolition of the building and associated loss of significant spaces and fabric residing in the MLC North Sydney.
Policy 4.4	All new work should be identifiably so, and should if feasible, be reversible.	The policy assumes MLC North Sydney is to be retained and this policy pertains to new work to the building. The proposal is, however, for demolition of the building which is neither new work as defined in the CMP nor reversible.
Policy 4.7	Artwork shall be retained and conserved. Missing elements shall be reinstated where possible or reconstructed if sufficient evidence exists.	Recommendation 2 of the HIS recommends conservation, retention and re-use of architectural features, with specific reference to the bas-relief sculpture and sandstone garden sculptures. The generic policy recommendation does not guarantee implementation of this policy in the CMP.
Policy 5.1	Foster actions and activities aimed at providing the users and occupants of the building, and the general public,	The proposal negates this conservation policy as it involves demolition of the building and all inherent heritage significance of the building as identified in the CMP. A heritage interpretation plan, Recommendation 4 in

Statement of Conservation Policy in CMP		Comment
	with a better appreciation and understanding of the heritage significance of the building.	the HIS, is not a substitute for retention and conservation of the building and its ability to communicate the importance to a range of users and occupants, and the general public.
Policy 6.1	The person responsible for making all decisions related to this Plan shall be nominated by MLC Pty Ltd. This person should make a written record of all planning activities, decisions, actions and communications related to the conservation of the place, and this record should be maintained as a dedicated register, which shall be kept in the Archives room.	The building is no longer owned by the CMP. Proposed demolition of MLC North Sydney negates this policy as it presupposes that the property owner has retained and conserved the building.
6.3	All conservation works, including regular inspections and maintenance, shall be undertaken by persons or contractors qualified and/or experienced in dealing with works of a specialist heritage nature, and/or the particular materials requiring conservation.	The proposal does not comply with this policy as the building is proposed for demolition.
6.5	Where new work or maintenance work is proposed, undertake any necessary additional research before or during planning for the work in order that the decision making process is properly and adequately informed.	The HIS fails to address the current body of research and knowledge on the building's importance to the Modern movement in Australia. The decision-making process disregards alternative design options which retain and conserve the building. The proposal does not comply with this policy.

## Assessment against Council's Heritage Controls

An assessment of the proposal has been undertaken against the relevant heritage controls in Clause 5.10 of NSLEP 2013 (Table 3) and Section 13 of NSDCP 2013 (Table 4).

The proposal is considered to be contrary to Clause 5.10 (Heritage Conservation) of the NSLEP 2013.

**Table 3** Assessment against Relevant Heritage Controls in NSLEP 2013.

Relevant Clause in NSLEP 2013		Comment
Clause 5.10 Heritage Conservation		
5.10 (1)	Objectives	The proposal will result in the complete demolition of a local heritage item which is contrary to the objectives of this clause. The proposal does not conserve the environmental heritage of North Sydney nor does it conserve the heritage significance of heritage items in the vicinity. No Aboriginal due diligence report has been undertaken in the preparation of the HIS. Overall, the proposal does not comply with this clause.
5.10 (2)	Requirement for consent	Consent is required and has been sought for development on this site, as required by this clause.

Relevant Clause in NSLEP 2013	Comment
<p>5.10 (4) Effect of proposed development on heritage significance</p>	<p>The heritage impact assessment does not provide a satisfactory impact assessment of the proposal against the stated heritage significance for the reasons stated below.</p> <p>No assessment against the NSLEP 2013 and NSDCP 2013 was provided.</p> <p>The report does not meet the guidelines for preparation of heritage impact statements. At a minimum the HIS should have addressed the subject site's contribution to the streetscape (height, scale, mass, setback, fenestration, architectural style and period). It has failed to identify and establish the relative heritage significance and conservation value of various elements of the subject site.</p> <p>The HIS has not followed NSW Heritage Office guidelines for assessing heritage significance. It has not assessed the site's significance using the NSW heritage assessment criteria nor critically analysed the current Statement of Significance associated with the SHI listing. It contains no examination of the significance of the building under the various SHR criteria, nor consideration of the non-statutory listings of the building during the assessment process.</p> <p>The HIS did not provide a heritage impact assessment of the alternative development options for the site as listed in the DA Report by Bates Smart in Section 5.1. The alternative development options are briefly mentioned in Section 1.2 of the HIS and discounted in favour of the current proposal which has been deemed more economically viable. It disproportionately emphasises the loss of significance resulting from replacement of the façade. There is minimal discussion of these design options and the rationale for the preferred option appears to have been decided on economic assessment rather than positive heritage outcomes.</p> <p>The HIS does not include a satisfactory assessment of the proposal in relation to adjoining and nearby heritage items of local and state significance. Section 6.1 (Significance Assessment) merely repeats the brief statement of significance for each heritage item in the vicinity. The impact assessment for these heritage items is briefly considered in Section 7.2 of the report. This assessment comprises one paragraph for each item and the last sentence is repeated as follows: 'The Proposal is consistent with the emerging high-rise surrounding landscape and the new structure would be of contrasting design to clearly separate old from new'.</p> <p>The impact assessment for the MLC Building (Section 7.2) is inadequate and flawed. It sums up the detrimental impact of the proposal in a single sentence and merely repeats the architect's 'motherhood' statement about 'reinterpretation of the philosophy of the MLC Building, while updating it for the twenty-first century'.</p> <p>The assessment of heritage significance of the proposed development does not comply with this clause.</p>
<p>5.10 (5) Heritage Assessment</p>	<p>This document is not considered to be an appropriate heritage management document for the purposes of compliance with this clause.</p>
<p>5.10 (6) Heritage Conservation Management Plans</p>	<p>The proposal has not been satisfactorily assessed against the MLC CMP. The CMP is listed in Section 9 (References), yet there is no evidence that the proposal was considered against the Conservation Policies in Section 7.4.</p> <p>It is noted that the complex has undergone various maintenance works and alterations since the CMP was written and the CMP requires updating to reflect its current layout and condition.</p>
<p>5.10 (7) Archaeological sites</p>	<p>The subject site is not an identified archaeological site.</p>
<p>5.10 (8) Aboriginal Places of heritage significance</p>	<p>The subject site is not an identified Aboriginal Place of heritage significance.</p>

**Table 4** Assessment against Relevant Sections of NSDCP 2013.

Relevant Part of NSDCP 2013	Comment
13.1.8 Heritage Applications – Development Applications	
(b) For development applications proposing substantial redevelopment or alterations and additions to, or demolition of heritage items may require: <ul style="list-style-type: none"> <li>(i) Demolition Report;</li> <li>(ii) Structural Report prepared by a structural engineer and is to verify that the proposed stability of the building.</li> </ul>	No Demolition Report and Structural Report has been submitted with the current development application.  The HIS prepared by RPS evinces a crucial lack of understanding of the significance of the site and fails to provide a thorough assessment of the impacts of demolition of the heritage item on the significance of both the item and its contribution to the environmental heritage of North Sydney.
13.4 Development in the Vicinity of Heritage Items	
P1	Respect and respond to the curtilage, setbacks, form, scale and style of the heritage item in the design and siting of new work. <p>The proposal for demolition and replacement with a new larger-scale contemporary office building will negatively impact on the heritage setting of nearby heritage items including the former Bank of NSW, façade of the S Thompson Building, façade of Shopfront at 69 Mount Street, and the North Sydney Post Office and Court House.</p>
P5	Retain original or significant landscape features that are associated with the heritage item or that contribute to its setting. <p>The proposal does not comply with this provision as it will result in the removal of the lawns which are an important landscape and setting feature of MLC North Sydney. Recommendation 2 of the HIS states ‘specific attention should be paid to the... decorative sandstone garden sculptures by Gerald Lewers’ but does not provide a guarantee that these landscape items will be retained and conserved on the site.</p>
13.5.1 Heritage Items	
O1	Ensure changes to heritage items are based on an understanding of the heritage significance of the heritage item. <p>The HIS is not based upon a sound understanding of the heritage significance of MLC North Sydney. The proposed replacement building designed by Bates Smart does not mitigate the loss of the MLC North Sydney building and is not a reinterpretation of it.</p>
P1	Retain features (including landscape features) that contribute to the significance of the item. <p>The proposal does not comply with this provision as it will result in the demolition of the whole building including removal of the lawns. Recommendation 2 of the HIS states ‘specific attention should be paid to the ...decorative sandstone garden sculptures by Gerald Lewers’. The HIS does not provide a guarantee that these landscape items will be retained and conserved on the site.  This will result in diminution of significance as the original setting and landscape form an important component of the curtilage of the MLC North Sydney and will be irretrievably destroyed by the proposal.</p>
P3	New work is to be consistent with the setback, massing, form and scale of the significant features of the heritage item. <p>The proposal does not comply with this provision as the proposed new building is significantly higher, comprising 27 levels with a trapezoidal form whereas the MLC Building is 14 storeys in height and uses rectangular prismatic forms.</p>
P4	Retain significant fabric, features or parts of the heritage item that represent key periods of the item’s history or development. <p>The proposal for total demolition of the heritage item will result in removal of significant fabric of MLC North Sydney including the structure, spaces, fabric, landscape elements, decorative architectural feature and functions of the building.</p>

Relevant Part of NSDCP 2013		Comment
P6	All works are to be consistent with an adopted Conservation Management Plan/s where applicable.	The proposal for demolition is contrary to sections 1.1, 1.2, 1.3, 1.4, 1.7, 1.8, 2.1, 3.1, 3.2, 4.1, 4.2, 4.3, 4.4, 4.7, 5.1, 6.1, 6.3 and 6.5 of the MLC CMP.
13.5.2 Form, Massing and Scale		
O1	To allow new alterations and additions to heritage items, where new work does not impact on the heritage significance of the heritage item.	The proposal does not comply with this provision as the alterations comprise complete demolition of the heritage item and impact negatively upon the building's significance.
O2	To maintain and promote the original built form of the heritage item as viewed from the public domain.	The proposal does not comply as it involves demolition of the building and the replacement building does not mirror the original built form in the North Sydney streetscape.
P4	Maintain the integrity of the building form (including the roof form and profile) so that the original building is retained and can be clearly discerned.	The original form and integrity of the heritage item will be lost with the proposed demolition of the building.
13.5.5 Interior Layouts		
O1	To ensure that significant interior elements are retained and preserved.	Significant interior elements of the building identified in the CMP will be demolished including the floor layout, lift core, room configuration, inner stairwell, staff dining hall/auditorium and associated kitchen, toilets and squash courts.  The proposal does not comply with this objective.
13.5.6 Upgrading for Fire Safety, BCA		
P2	Fire and other upgrades are to be consistent with the heritage significance applicable to the property. Upgrades and replacement of balconies, stairs, timber windows etc are to be sensitive to that significance.	The proposal does not comply as the building is to be demolished, making fire safety and BCA upgrades redundant.
P3	Fire and other upgrading works need to balance the fire safety and other compliance needs with protecting heritage significance. In order to achieve the most appropriate outcome, applicants may need to utilise alternative solutions to BCA compliance issues.	The proposal does not comply with this provision as it is to be demolished, thus negating the necessity to consider fire and safety upgrades in relation to preserving the heritage significance of the building.
13.8 Demolition		
P1	Heritage items must not be demolished and demolition will not be supported by Council.	The proposal does not satisfy this clause as it comprises demolition of the heritage item.
P2	Despite P1 above, Council may consider the demolition of a heritage item, but only where an applicant can satisfactorily demonstrate: (a) why it is not reasonable to conserve the heritage item taking into consideration: (i) The heritage significance of the property; and (ii) the structural condition of the building; and (iii) pest inspection reports; and	The current proposal does not comply with this provision as the HIS report does not demonstrate a sound/clear understanding of the significance of the heritage item. Currently listed as a heritage item on the NSLEP 2013, the North Sydney Council, Australia ICOMOS and Heritage Council of NSW have assessed the building as meeting the threshold for state and potentially national significance and are considering lodging a IHO for the site.  No evidence has been presented in the HIS to justify the demolition of the heritage item which is currently occupied by the MLC and other tenants as an ongoing commercial building. Continuing occupation of the commercial building negates any claim the building is structurally unsound and presents a danger to the public. No structural engineering

Relevant Part of NSDCP 2013	Comment
<p>(iv) whether the building constitutes a danger to the public.</p> <p><i>Note: A report from a qualified quantity surveyor is required where the costs of retention are part of the justification for the proposed demolition.</i></p>	<p>or quantity surveyors' reports have been presented to support the proposal for demolition.</p> <p>The HIS states briefly that the owner and architect developed and/or considered several design options for the site including retention of the building, partial demolition, and demolition and redevelopment (the current proposal). The applicant has not supplied as part of its DA package a report from a qualified quantity surveyor which assesses all design options and outlines the costs of retention vs demolition and redevelopment.</p>
<p>P2 (b) that alternative options to demolition have been considered with reasons provided as to why the alternatives are not acceptable.</p> <p><i>Note: Plans of the replacement building are to be lodged concurrently so that the applications can be assessed concurrently.</i></p>	<p>The proposal does not comply with this provision. The arguments presented in favour of the current proposal place undue weight on economic viability and commercial imperatives rather than a thorough assessment of heritage significance arising from alternative design options which seek to retain the heritage item.</p> <p>The environmental justification for the proposal as submitted is a weak argument as it does not account for the embodied energy of the existing building which is likely to be extremely high due to the extensive use of aluminium used on the façades, which would have had a high energy consumption during manufacture.</p> <p>There is a minimal discussion of alternative options for the building. The HIS does not analyse national and international Modern office buildings of comparable construction which have been retained and conserved.</p>
13.11.1 Commercial and Office Buildings	
<p>O2 Conserve important building elements and features including significant façades, fenestration patterns, decorative details, external materials and internal lobbies.</p>	<p>The proposal does not comply with this objective as the building is to be completely demolished, resulting in the loss of significant elements identified in the CMP. Recommendation 2 of the HIS recommends conservation and re-use of architectural features, plant equipment and moveable heritage items (where possible). There are however no guarantees that during demolition these items are damaged or irreparably lost.</p>

## Review of Council's Conservation Planner's Assessment

Council has requested that GML undertake a peer review of their internal Conservation Planner's assessment of the heritage impacts of the DA. The Conservation Planner's assessment is attached to this report in Appendix L.

The assessment provides an updated assessment of the heritage significance of the building against the NSW Heritage criteria. The assessment concludes that the building reaches the threshold for listing at a national level for its historical, associative, aesthetic, social, rarity and representative significance (criterion a, b, c, and d) and at state (and potentially national) level for its research potential, rarity and representativeness (criterion e, f and g). The assessment does not provide an updated Statement of Significance.

The assessment of the heritage impacts of the proposal includes an assessment against relevant NSLEP 2013 and NSDCP 2013 controls, and provides the following conclusion:

*The proposed demolition of a heritage item that is assessed as having national heritage significance and is capable of conservation and continued use, cannot be supported.*

*The proposal will remove a building identified in Council's Public Domain Strategy as contributing to North Sydney's heritage character. It will also result in the loss of a building that has been identified as a potential state item by Heritage NSW, as a 'Significant Twentieth Century Building' by the Australian Institute of Architects and by DOCOMOMO as a nationally significant building, and that is unique within North Sydney. The proposal is also contrary to the Conservation Management Plan for Lend Lease Interiors, by Jackson Teece Chesterman, Willis Consultants Pty Ltd that was prepared for the building.*

*It is recommended that the application be withdrawn or refused.*

The assessment and conclusion are well founded and concurred with. The proposal is contrary to NSLEP 2013 and NSDCP 2013 in that it proposes the demolition of a heritage item without adequate justification.

## **Conclusion and Recommendations**

DA 147/20 for 105 Miller Street, North Sydney (former MLC Building), cannot be supported as it proposes the demolition of a heritage item listed in Schedule 5 of NSLEP 2013 without proper consideration of its significance.

The applicant's HIS is inadequate; it has not followed the required guidelines and does not provide any consideration of the significance of the building. Regardless, its conclusion that the proposal will have 'direct major adverse impact on the MLC Building through demolition' is undeniable.

The building is clearly able to be retained and adaptively re-used and no adequate justification has been provided to support its demolition. The cost of renovation and conservation works does not justify the complete demolition of this highly significant building.

The proposal is not in accordance with the aims and intentions of NSLEP 2013 or NSDCP 2013 in proposing demolition of a heritage item, and it is not in accordance with the relevant policies in the CMP.

In addition to its statutory listing by North Sydney Council, the significance of the MLC Building is recognised by the Australian Institute of Architects, the National Trust, Docomomo Australia and academics around Australia as a rare surviving seminal work of Modern Australian architecture that should be retained and conserved for future generations.

The considerable public interest in the proposed demolition and objections to the proposal demonstrate the significance of the building to the North Sydney community and the community of NSW. The applicant's statement that the proposal has public benefits is not well founded and not supported. It has failed to adequately consider the heritage significance of the building or the public benefit of its retention for future generations.

The approval of the demolition of this highly significant building, the most important office building in North Sydney and arguably Australia, would set a precedent for the demolition of other heritage listed buildings, potentially resulting in widespread loss of the heritage fabric of North Sydney.

In addition, the building is subject to a Heritage Council of NSW resolution that it be considered for listing on the SHR, as it has been assessed as having significance at a state and national level. The potential

listing will be considered by the Heritage Council of NSW at its meeting on 3 November 2020. The determination of this application by the Joint Regional Planning Panel must be delayed until the public submission period and consideration by the Heritage Council is complete.

It is recommended that Council engage a structural engineer with heritage expertise to review the applicant's engineering reports, the condition of the façade, and the costs associated with its repair, including an assessment of alternative forms of repair.

It is considered to be unnecessary and inappropriate to provide an assessment of the heritage impacts of the proposed replacement building, or recommend conditions of consent, given the demolition of the existing heritage item cannot be supported.

## **Appendices**

### **Appendix A**

SHI Datasheet for 105 Miller Street North Sydney

### **Appendix B**

Australian Institute of Architects Twentieth Century Architecture Listing Sheet

### **Appendix C**

Docomomo Australia request for IHO

### **Appendix D**

Draft SHR Inventory Sheet

### **Appendix E**

Docomomo Australia Submission to Heritage Council NSW

### **Appendix F**

National Trust Submission to North Sydney Council NSW

### **Appendix G**

Docomomo International submission to North Sydney Council

### **Appendix H**

The Twentieth Century Heritage Society of NSW submission to North Sydney Council

### **Appendix I**

Docomomo Australia submission to North Sydney Council with petition

### **Appendix J**

Lendlease submission to North Sydney Council (including Urbis peer review of applicant's HIS)

### **Appendix K**

North Sydney Council Conservation Planner's Assessment



# Appendix A

SHI Datasheet for 105 Miller Street North Sydney