

Committee for North Sydney

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23 March 2021

Chair
Independent Planning Commission
Level 3 201 Elizabeth Street
SYDNEY NSW 2001

Submitted on the IPC website

The MLC Building: A key element in the North Sydney city centre's sense of place

1 The MLC Building's cultural significance

The Committee for North Sydney* welcomed the Heritage Council's heritage assessment of the former MLC Building, since this landmark Australian building – of well-documented aesthetic, technical and representative significance – has been a civilised presence in the city centre for over sixty years.

The Committee for North Sydney has given careful thought to the origins, design and significance of the MLC Building in North Sydney. At the Committee's request one of the members, leading architect, architectural historian and urban researcher Adjunct Professor Geoff Hanmer, made a thorough and objective assessment of the building.

I submit with this letter Mr Hanmer's report.

The facts of the matter confirm that the MLC Building has the high degree of cultural significance to be listed on the State Heritage Register. The Heritage Council determined that the MLC Building had state-level historical, associative, aesthetic and social significance, rarity and representativeness. This assessment of the significance of the place is made not in relation to expediency or alternatives but in relation to the facts, irrespective of other planning and political processes concerning the future of the building.

We are confident that the Independent Planning Commission will confirm this assessment, as distinct from the question as to whether the MLC Building should be listed. This second question may depend on the Commission's assessment of options for reasonable or economic use and of the financial impact on the owner.

To assist the Commission in making this assessment, we will be submitting additional information on or before 1 April 2021.

2 The listing of the MLC Building

Listing the MLC Building would have the effect of precluding its total demolition. Through conditions, exemptions, heritage agreements and planning processes there will be options for the site, making it very difficult to argue that it would be incapable of reasonable or economic use and/or that it would cause 'undue' financial hardship.

We will be arguing that, for a range of reasons, retaining the heritage significance of the site while realising its additional economic and civic values provides the greatest environmental, economic and social return to the owners and users as well as the wider community.

* The members of the [Committee for North Sydney](http://www.committeefornorthsydney.org.au) are eminent practitioners in planning, architecture, urban design and related fields and respected members of the North Sydney community. Their primary purpose is to involve the community in planning for the strategic evolution of North Sydney from merely a CBD to an appealing *city centre* – a place for people.

We note that the Heritage Council made four significant findings.

- It is the 'iconic Miller Street wing' that has the greater significance.
- A major upgrade/refurbishment would not compromise its heritage significance.
- A reasonable or economic use of the building is possible based on economic analysis.
- Undue financial hardship to the beneficial owners has not been demonstrated.

It is clear from the Heritage Council's assessment that the options go beyond 'demolish or retain as is'. The third option is an imaginative and expert realisation of the site's increased development potential while (i) retaining and recovering the essential elements of the building's cultural significance and (ii) incorporating civic spaces and functions that would enhance the city centre at its very heart. An example would be Option 3 in the PTW report commissioned by the Heritage Council.

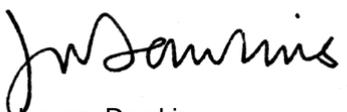
We were advised, in early briefings by Investa, that the new owners were fully aware, before purchasing the building, that their options were either refurbishment or demolition, and that they considered the building a good long-term investment in either case. It must also be the case that before buying the building the new owner considered the kind of third option mentioned above.

There is an added reason for recommending that the Heritage Council's advice be agreed to. The current building is not subject to strict (but only marginally effective) rules about overshadowing that were adopted well after the MLC Building was constructed. The replacement building, as proposed in North Sydney DA 147/20, inflicts serious damage on this core and very public area of the city because the rules now mandate a built form that offends all urban design precepts.

2 Request to present in person to the IPC's MLC Building review panel

Representatives of the Committee for North Sydney would welcome the opportunity to attend a hearing held by the panel.

Yours sincerely



Jeremy Dawkins
Convenor
Committee for North Sydney

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1 April 2021

Chair
Independent Planning Commission
Level 3 201 Elizabeth Street
SYDNEY NSW 2001

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Supplementary Submission

The MLC Building has a future

The Committee for North Sydney made a submission on 26 March 2021. The submission included an assessment of the building undertaken, at the Committee's request, by Adjunct Professor Geoff Hanmer AIA.

We foreshadowed sending additional information to assist the Commission in preparing advice to the Minister on the future of the MLC Building.

1 Three attachments with this letter

We trust that the following documents will contribute to a thorough and objective assessment of this complex question.

- 1 The MLC Building in 2040
- 2 The MLC Building Devalued
- 3 The MLC Building Vs Alternatives

2 MLC Building review panel hearings

In our submission of 26 March 2021 we requested an opportunity to attend a hearing held by the panel and to present evidence in person.

3 Telephone survey

We understand that a telephone survey is being conducted (by entities unknown, but presumed to be associates of the owners) to demonstrate, or to generate, public support for the replacement of the MLC Building with an office tower claimed to look good, improve the city centre and protect the environment.

If this is the case, and if figures are presented to the IPC showing public support for the demolition of the MLC Building, it would be appropriate to disregard any findings from the survey unless the IPC is provided with not just the numbers but with the entire script, including any preliminary statements.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jeremy Dawkins'.

Jeremy Dawkins
Convenor
Committee for North Sydney

The MLC Building in 2040

While the MLC Building has been called (by a developers' lobbyist) an 'ugly box private sector office building', many people celebrated the qualities of the building when it was built and have done so ever since, agreeing with the Heritage Council that it is 'seminal' and 'iconic', a 'landmark in the International Modern movement in Australia.' Others ignore it as just part of the landscape. Others again regard it as passé, lacking the appeal of a new office building such as the one in the next block at 100 Mount Street.

Styles of all kinds lose their appeal for a generation or three and are revalued. It happened to Georgian buildings, then Regency, then Victorian. Victorian exuberance was despised during the middle of the last century. It has been the same with houses: Federation, Californian, moderne; or red brick, magnesium brick, tapestry brick, salmon brick etc – all have their time in disgrace before regaining their charm and respect.

Therefore a thought experiment might help us appreciate the MLC Building.

It's 2040. We are at **Victoria Cross**, once the central six-way-intersection of North Sydney. What strikes us at once is that it is green – flowerbeds, Bangalow palms and red cedars mark out what used to be literally acres of bitumen. Most of it is planted, paved and furnished as pedestrian-friendly spaces with the occasional kiosk, market stall and pop-up activity. The roads have shrunk to become a simple crossroads of Pacific Highway and Miller Street, both of them now civilised two-lane city streets.

What also strikes us is that the traffic on those streets has changed. All vehicles are electric, of course. Their emissions are either zero or H₂O. They are quiet, safe, smart and use the roads intelligently, most likely autonomously. The decision to save Berry Street in 2021 means that traffic is either local – deliveries, services, etc – or public transport, including taxis and shared cars, in the form that public transport takes in 2040.

The six buildings surrounding the large and attractive space at Victoria Cross all seem somewhat venerable, even Northpoint (1980) and diagonally opposite 60 Miller Street (1987) and the former Optus Building (1992). Admittedly these three may be in their out-of-favour period, but as long-term fixtures they belong. The other three corners are occupied by the Post Office, the former Bank of NSW, and the former MLC Building.

Of these six buildings, the MLC Building stars.



It's 2040 and North Sydneysiders are proud to have in the centre of their city one of Australia's most notable modern buildings, a building of many 'firsts'. Once the building was added to the State Heritage Register in 2021, and to the National Heritage List in 2024, appreciation of the building rapidly increased, making it the prime landmark that defines the heart of the city. By 2040 it has become the icon of North Sydney. As a result, space in the building is eagerly sought after, particularly by creative, design and new-economy businesses.

Of all the buildings at Victoria Cross, this is the one that defines its own public space. It is the building that adds most to the life of the city. The big changes that happened in 2022-2025 not only saw a major new office tower added to the eastern half of the MLC site behind the Miller Street wing but also a comprehensive re-think of the way that commercial buildings should contribute to the life of the city centre. The new life in the MLC Building complex includes pedestrian links, pedestrian spaces, an occasional market, a branch library (resource centre), cinemas and a multifunction city hall.

By 2025 the complex had been reintegrated with the surrounding streets. The space in front of the MLC Building is now both wider and more significant. It is the prime space for interaction and interchange, where rail, metro, buses, taxis, shared cars and shared bikes all intersect with good public spaces, organised and spontaneous activities, and adjacent civic functions.

In 2040 it is impossible to imagine the North Sydney city centre without the MLC Building.

The MLC Building Vs Alternatives

A decision to list a place on the State Heritage Register is essentially independent of what might be the alternative developments of the site. In marginal cases, an alternative use of the site that is exceptional or imperative may be a material consideration in the decision whether or not to list the place. Perhaps for these reasons it has been (or was) the practice of the North Sydney Council to require a development application for future use when considering an application to demolish a building on the local heritage list.

In this note the Committee for North Sydney examines alternative futures for the site occupied by the (former) MLC Building.

1 Impact of later rules

Well after the MLC Building was constructed, the North Sydney Council adopted strict building envelopes to regulate overshadowing, not anticipating that the rules would ever apply to a site on the local heritage list. The present building, of course, is 'grandfathered'. Any replacement building will be severely constrained by the current rules, with unintended and very negative consequences for this core area of the city.

2 An unintended, inappropriate and unfortunate building envelope

In our view, this is a case where the IPC cannot ignore the impact of rules enacted since the MLC Building was constructed. The building proposed by the owner takes the weird, weak form that makes the regulations visible in physical form but could not have emerged from a design process that respected the urban design and urban planning requirements for this key site.

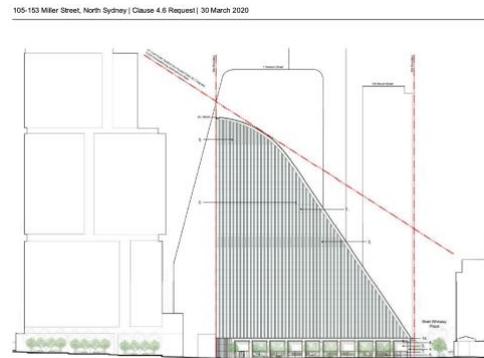


Figure 2: Height Plane Diagram
Source: Bates Smart

3 The context was understood

Before acquiring this site as a long-term investment, the new owner undertook due diligence and understood the context. First, the building's heritage significance was well documented and listed locally, and did not change the purchaser's assessment of its investment value even if refurbishment was the only option. Second, the implications of the rules governing the form of the building if the site were to be cleared were well understood. Third, any superficial examination of the site would have arrived at numerous options for adaptive reuse, ranging from conservation with adaptation to major interventions with partial redevelopment.

4 Sustainability

Any of these alternative approaches would allow for the conservation, in whole or in part, of the enormous material and energy resources already embodied in the building. Even with major interventions, the difference between total demolition and adaptive reuse is a very significant saving in materials (even sand), land fill, and energy. We have reached the stage when these resources can no longer remain unaccounted for, as if they don't exist.

5 Advantages in adaptive reuse

In addition to significant environmental savings and the possibility of various forms of cost savings, working with the existing building allows the owner to maintain the grandfathering of the rules, maintains a sense of place and a continuity of presence in the city, and allows a complexity and intriguing depth to the new building complex that is impossible to achieve straight off the drawing board. Creative and imaginative designers would see these possibilities as outstanding assets not to be wasted.

6 Social capital

The most valuable benefit from adaptive reuse, in the case of an icon such as the MLC Building at the very heart of the city centre, may well be the attraction of working in, doing business in, attending events in and otherwise using the building. This would be a new, contemporary complex of new and old, with the charm and standing of a national landmark building. Any owner (and city government) would be expected to appreciate and make the most of this asset.

The MLC Building Devalued

Response to Investa's submission to the Heritage Council

1 Whether to list

The owner's case against the listing of the building (so that it can be demolished) seems to amount to the following propositions.

- The building does not have heritage significance. The facts and the weight of expert opinion is against this proposition.
- The significance of the building has not been previously recognised. This is not the case.
- If the building does have a high degree of significance, it has been lost. This point is made many times, generally in reference to minor changes and adaptations that are either reversible or contribute to the building's evolving story.
- If the building does have a high degree of significance, the work required to refurbish the building would leave it with little or no cultural significance. This assertion can only be judged on the facts. The Heritage Council did so, and concluded that a major upgrade/refurbishment of the building would not compromise its heritage significance.

2 If listed

The rest of the owner's submission does not address the question of whether the MLC Building should be added to the State Heritage Register. Instead, it is concerned with a quite separate question: the value of the property after its listing.

Of course, maintenance and refurbishment is a normal consequence of long-term building ownership. This may even extend to the stripping of a building to its structural frame, as seen in many examples in Sydney – an approach that saves both demolition and construction costs and saves a lot of construction time because the new structures, services and finishes can proceed in parallel on many floors, not to mention a significant saving of resources that would make a substantial contribution to sustainability.

If the building is listed, real-world considerations (rather than worst-case estimates) are likely to lead to many savings. We have had expert advice that the building can be refurbished at significantly less cost than the owner suggests. Likewise, as PTW found, there could be many forms of adaptive reuse, with potentially greater returns than the owner suggests.

In any event, the Heritage Council found that a reasonable or economic use of the building, if listed, will be possible. The Heritage Council was not persuaded that the listing of the building would lead to undue financial hardship.

These findings confirm advice from Investa when the Committee for North Sydney was initially briefed on their plans for the MLC Building.

Representatives of the Committee were advised that the new owners were fully aware, before purchasing the building, that their options might be either refurbishment or demolition, and that they considered the building a good long-term investment in either case.

3 Public opinion

We understand that a telephone survey has been conducted on behalf of the owners, seeking to establish the strength of feelings that respondents have to various futures for the MLC Building. The questions are preceded by statements about the building and the project for which planning approval is being sought. It seems that these statements tend towards a form of survey that is known as push polling.

We would urge the IPC to disregard any findings from the survey, unless the IPC is provided with not just the numbers but with the entire script, including the preliminary statements.

Response to Urban Taskforce's letter to the IPC

In a letter to the Chair of the IPC the CEO of the Urban Taskforce made a number of statements that deserve a response from the perspective of architectural, heritage and urban professionals.

The letter	Comment
<p>I write to raise serious concerns regarding the publicmedia statements of the NSW Government Architect in relation to the application for Heritage listing on Miller Street, North Sydney.</p> <p>To have senior executives in the Department of Planning engage in a last-minute push for the heritage listing of a privately owned building where the subject development has been through a development assessment process, a public consultation process and has been supported by North Sydney Council, is simply not appropriate.</p>	<p>The role of the Government Architect requires them to provide advice to the government and to play a role in the discussion of public issues related to architecture. The Government Architect has in the past reported directly to the Premier and there is plenty of evidence in their contribution to public debates, including Chris Johnson, the previous CEO of the Urban Taskforce, while he was in the role of Government Architect. The comments of the Government Architect are reasonable, measured and appropriate.</p> <p>One wonders whether an intemperate and tendentious letter from the CEO of an organisation devoted solely to promoting the interests of the development industry should carry any weight.</p>
<p>This is more the case as I am advised that, at this stage, the IPC will not be taking public submissions. I trust that the Developer, Council and the Urban Taskforce will be invited to make submissions?</p>	<p>The Urban Taskforce, which is a lobby for the development industry, does not have a relevant role in a heritage matter. It is a given that the Urban Taskforce will want their members to dispose of property as they see fit, but this is not the role of planning or heritage bodies which are there to protect the public interest.</p>
<p>These public comments by the Government Architect appear to be placing quite inappropriate pressure on the IPC and compromise both the reality and perception of an independent assessment and advice from the IPC to the Minister responsible for Heritage, Hon Don Harwin MLC.</p>	<p>It is up to the IPC to decide whether the comments of the Government Architect are inappropriate or not. Is the writer suggesting that the IPC is not independent or has insufficient integrity? This suggestion is absurd.</p>
<p>North Sydney Council has a strong history of protection of heritage assets. If they say the proposed development is in the public interest, the last thing we need is a last minute, ad-hoc intervention from the Heritage Council or DPIE executive staff.</p>	<p>NSC have listed the MLC building on their local heritage plan for many years. There are no statements from the Council about the development being in the public interest, but the Mayor may have made such statements; she is not the Council.</p> <p>The intervention from the Heritage Council is not ad-hoc as it is part of a legislated process, as is the decision of the Minister to refer it to the IPC.</p>
<p>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. This last-minute rush to Heritage list a building which has been ignored for years as insignificant, introduces a further significant risk. Risk results in increased cost. Worse, this is a sovereign risk. The costs associated with this heightened risk are borne by the community, by businesses, by consumers, right across Sydney.</p>	<p>The MLC building has been on the North Sydney Council heritage register for many years.</p> <p>Buying a building with a desire to redevelop it always carries the risk that the building will be heritage protected, possibly at the eleventh hour, possibly earlier.</p> <p>Contrary to the author's assertion, the MLC building has been regarded as significant since its construction. It's twin in Melbourne, the ICI building, has been protected, preserved and enhanced. Five minutes of web search would have revealed the significance of the building. It would be unusual if Investa had not carried out such research prior to purchase.</p> <p>Heritage protection of the MLC is not a sovereign risk as it does not involve a retrospective change to any legislation. The author clearly has no understanding of</p>

	<p>the term ‘sovereign risk’.</p> <p>The parties bearing the cost of any heritage protection of a building or an object is a matter for circumstances, but the protection of heritage is of general benefit to the community and may be of benefit to the owner as well, an example being the redevelopment of the heritage protected QVB.</p>
<p>Governments should be at the forefront of protecting heritage assets owned by all levels of Government on behalf of the populations they serve. The Ryde Civic centre is analogous to the MLC building.</p>	<p>Federal, state and local governments all play a role in the protection of heritage assets they own and heritage assets owned by others. The point of this statement is unclear.</p> <p>The Ryde Civic Centre is in no way ‘analogous’ to the MLC building. The MLC building is one of the most significant modernist buildings in Australia and the Ryde Civic Centre is not.</p>
<p>The Ryde Civic Centre is located at the top of the hill, visible from the Parramatta River, Rhodes, Olympic Park and West Ryde. It showcases a curved frontage (similar to the Heritage listed AMP tower fronting Circular Quay) and represents an iconic depiction of the pride of post WWII mid-century population in the role of civic life and public administration. No one from Government stepped into save this building. The late efforts to consider its heritage merit were, at best, perfunctory and were ultimately cast aside.</p>	<p>If the efforts to heritage list the Ryde Civic Centre were unsuccessful under current arrangements, then it must have meant that its heritage merits were not sufficient to require protection.</p> <p>The author appears to fear that there is a real chance that the MLC building will be listed, which is rational as objectively, it does deserve protection.</p> <p>It is difficult to determine if the author is proposing more heritage protection or less.</p>
<p>The MLC building, by contrast, is not prominent in its location. It has no special architectural features – beyond being one of many ugly box private sector office buildings built in that period. It has no cultural significance nor civic contribution and its retention is not supported by the community or by Council. It does not fit in well with the context of the setting as North Sydney is a high-rise CBD – a point highlighted by Council. The proposed development has architectural merit. It is ironic that Council appears to be correctly applying the intent of the Draft Design and Place SEPP and DPIE is publicly opposing this.</p>	<p>There is no association between prominence and heritage. This is a nonsensical argument.</p> <p>It is understood that the author has no architectural, heritage or planning qualifications and would appear to be unqualified to comment on whether the building has any special architectural features or not, this in itself being irrelevant to the heritage significance of the building.</p> <p>There is no evidence that retention is not supported by the community or Council.</p> <p>If this is a reference to a current or recent telephone survey, please see the final section of our Response to Investa’s Submission, above.</p> <p>MLC was unique when it was built and is still unique. It clearly has architectural and cultural significance which is why it has been recommended for listing by the Heritage Council.</p> <p>The proposed development does not appear to have significant architectural merit and is in no way comparable to that of the MLC building.</p>
<p>Staff (and particularly Executives) of DPIE should resist any urge to become activists. The role of the Department is to establish the rules, undertake assessments and facilitate</p>	<p>According to their website, the role of the GANSW is to:</p> <ul style="list-style-type: none"> • Champion - <i>Promote, educate and advocate</i> for design awareness and excellence on behalf of Government, its agencies and partners. (<i>my emphasis</i>) • Connect - Foster public and private sector

<p>orderly consideration of applications.</p>	<p>partnerships, collaboration and design collaboration across built environment initiatives.</p> <ul style="list-style-type: none"> • Advise - Provide strategic and independent advice and quality review to support best practice and outcomes for design projects.
<p>If this building is of Heritage value, the Government should buy it (and this should have been done in a systematic fashion long ago). To have DPIE executive members actively campaign, including making comments to the media, further undermines public and investor confidence in the NSW planning system.</p>	<p>The proposition that the NSW Government should buy the building is absurd and delusional.</p> <p>It is probable that the recommendation to list the MLC building will have a positive contribution to public confidence in the planning system and it will remind investors that the redevelopment of heritage buildings is controlled by law.</p> <p>It is incredible that a single comment by the Government Architect is interpreted as an active 'campaign'.</p>
<p>I urge you to ask the Government Architect not to undermine public confidence in the process of assessment you (the IPC) are undertaking. I trust that you will forward our strong objections to this building being listed, so late in the piece, for Heritage protection.</p>	<p>This is insulting to the IPC and it is completely improper for a notably self-interested lobby group to seek to instruct the IPC or to undermine the integrity and independence of the Government Architect.</p>

Committee for North Sydney March 2021