

### 8.3. State Heritage Listing for the MLC Building North Sydney

The MLC Building, North Sydney is located at 105-153 Miller Street, North Sydney, within the North Sydney CBD. It was completed in 1957 in the Post-War International Modernist style. The building was designed by architect Sir Walter Osborn McCutcheon of the firm Bates Smart & McCutcheon and has been listed as a heritage item of local significance in Schedule 5 of the North Sydney Local Environmental Plan 2013 since about 1989. It is located opposite four other buildings listed in Schedule 5, and in the vicinity of several others.

On 4 September 2013, the MLC Building was endorsed by the Heritage Council as part of a priority list for further investigation for potential State heritage significance, under the Modern Movement thematic listing program.

On 5 May 2020, the State Heritage Register Committee, under delegation from the Heritage Council, resolved to activate the proposed listing from the Modern Movement heritage study.

On 25 February 2021, the Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts (the Minister) referred a request to the NSW Independent Planning Commission (the IPC) to conduct a review relating to a recommendation from the Heritage Council of NSW to list the MLC Building, North Sydney on the State Heritage Register (SHR) under section 32(2) of the Heritage Act 1977 (the Act).

On 31 May 2021, the Minister decided to direct the listing of the MLC Building on the State Heritage Register pursuant to s 34(2) of the Heritage Act 1979. On 4 June 2021, the Heritage Council gave notice in the Government Gazette that the item known as the MLC Building, North Sydney (former) had been listed on the State Heritage Register in the accordance with the decision of the Minister made on 31 May 2021 to direct the listing.

On 15 July 2022 Justice Sandra Duggan delivered her decision in ***IOF Custodian Pty Limited atf the 105 Miller Street North Sydney Trust v Special Minister of State [2022] NSWLEC 86*** and relevantly declared and ordered:

1. ***Declares [that the Minister's] decision to direct the listing of the MLC Building, North Sydney on the State Heritage Register is invalid and/or of no effect;***
2. ***Orders that the Minister's decision to direct the listing of the MLC Building, North Sydney (former) at 105-153 Miller Street, North Sydney on the State Heritage Register be set aside; and***
3. ***Orders that the Heritage Council to remove the listing of the MLC Building from the State Heritage Register.***

Significantly, the Court did not make any finding in respect to the substance of the heritage significance of the site.

On 7 July 2020 a Development Application (DA) was lodged seeking consent for the demolition of the existing MLC Building and construction of a new 27-storey commercial building.

The development application was appealed to the Land and Environment Court.

On 3 May 2023 Senior Commissioner Dixon dismissed the appeal and in the course of her decision found that the MLC building is of State heritage significance.

It is timely then to, once again, seek that the Minister for Heritage act to recognise this significance and cure the technical defect in the listing.

**I therefore recommend:**

**1.THAT** Council write to the Minister for Heritage, The Hon Penny Sharpe, MLC urging her to urgently act to take all steps necessary to direct the listing of the MLC Building on the State Heritage Register pursuant to s 34(2) of the Heritage Act 1979.

**COUNCILLOR ZOË BAKER  
MAYOR**