ITEM <u>16</u> REPORTS <u>25/11/19</u>

NORTH SYDNEY COUNCIL REPORTS

Report to General Manager

Attachments: 1. OSD Plans

SUBJECT: Victoria Cross - Over Station Development (OSD)

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ENDORSED BY: Joseph Hill, Director City Strategy

EXECUTIVE SUMMARY:

The Minister for Planning granted development consent to the Concept State Significant Development Application (SSD 17_8874) for Victoria Cross Station Over Station Development (OSD) on 18 December 2018.

Sydney Metro appointed Lendlease (Victoria Cross) Pty Ltd (Lendlease) as the preferred development partner to deliver the OSD. As a result of ongoing design development between Lendlease and Sydney Metro, modifications to the approved building envelope are now required to respond to functional brief requirements and recommendations of the design excellence process.

Two applications have been submitted to the Department of Planning, Industry & Environment (DPIE) for determination. The first being the Section 4.55(2) application to modify the SSD consent (Council ref: DA 349/19/2), and the second being the development application for the over station development by Lend Lease (Council ref: DA 350/19).

The applications are on public exhibition until 28 November 2019 for comment. Council was required to provide comment by 21 November 2019. The Department of Planning has extended this period to allow Council to consider this report.

The purpose of this report is to describe the two applications/proposals, explain their relationship to each other and identify any concerns or issues that need to be addressed in the Department's determination of the applications for the OSD.

The proposal will require construction zones for the next four years and Council's preference would be the use of Miller Street's southbound, kerbside lane along the frontage of the Metro site for a loading/construction zone during the Metro and Metro OSD construction period.

The transport infrastructure represented by Metro and the related employment floor space and public domain potential enhancements associated with this project, are strongly supported.

FINANCIAL IMPLICATIONS:

Council will be seeking a Section 7.11 contribution in accordance with the adopted Contributions Plan.

RECOMMENDATION:

1. THAT Council make a submission to the State Significant Development Applications for the Victoria Cross Metro Over Station Development.

2. THAT the discussion and assessment contained in this report, be the basis of Council's submission to the Department of Planning, Industry & Environment.

3. THAT Council support the use of Miller Street's southbound, kerbside lane along the frontage of the Metro site for a loading/construction zone during the Metro and Metro OSD construction period.

4. THAT the NSW Government note the critical role of creating safe, comfortable and high amenity pedestrian spaces in association with Metro and Council's ongoing efforts to create these with the Laneways Masterplan and continued advocacy for the conversion of Miller Street to a pedestrian space.

5. THAT Council request the Department of Planning, Industry & Environment to impose a site-specific condition which requires legal vehicular and pedestrian access through the Metro and Metro Over Station Development sites to the MLC building.

LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

| Direction: | 1. Our Living Environment |
|------------|--|
| Outcome: | 1.4 Public open space and recreation facilities and services meet community needs |
| Direction: | 2. Our Built Infrastructure |
| Outcome: | 2.1 Infrastructure and assets meet community needs2.2 Vibrant centres, public domain, villages and streetscapes |
| Direction: | 3. Our Future Planning |
| Outcome: | 3.4 North Sydney is distinctive with a sense of place and quality design |
| Direction: | 5. Our Civic Leadership |
| Outcome: | 5.1 Council leads the strategic direction of North Sydney |

BACKGROUND

In January 2017, the construction of the initial portion of Sydney Metro Stage 2 (Chatswood to Sydenham) was approved by the Minister for Planning under Part 5.1 (now Division 5.2) of the Environmental Planning and Assessment Act 1979 (EP&A Act) as a Critical State Significant Infrastructure project (SSI 15_7400). The project designated as Critical State Significant Infrastructure (hereafter referred to as the CSSI Approval) includes the delivery of seven new Metro stations, including a new station at Victoria Cross at North Sydney.

While the Victoria Cross Station and Over Station Development (OSD) will form a single Integrated Station Development, the planning pathways defined under the EP&A Act require separate assessment for each component of the development. In this regard, the approved station works (CSSI Approval) are subject to the provisions of Part 5.1 of the EP&A Act (now referred to as Division 5.2) and the OSD component is subject to the provisions of Part 4 of the EP&A Act, with DPIE being the consent authority.

A concept State Significant Development (SSD) Application for Over Station Development (OSD) comprising a commercial tower integrated with the future Victoria Cross Station was lodged with the DPIE for determination with the Minister being the consent authority. The current provisions of the EP&A Act regarding SSD's result following the deletion of Part 3A Major Infrastructure and other projects provisions from the Amended Act.

The Minister for Planning granted development consent to the Concept SSD Development Application (DA) (SSD 17_8874) on 18 December 2018. Concept Approval was granted for:

- A maximum building envelope, including street wall and setbacks for the OSD;
- A maximum building height of RL 230 or 168m above ground level, providing:
 - 40 commercial storeys and 2 additional storeys for rooftop plant for the high-rise portion of the building envelope
 - Approximately 13 storeys for the lower eastern portion of the building envelope at RL 118 or 55m
- A maximum gross floor area (GFA) of 60,000m², excluding station floorspace; and
- Basement car parking for a maximum 150 parking spaces.

Sydney Metro appointed Lendlease (Victoria Cross) Pty Ltd (Lendlease) as the preferred development partner to deliver the Victoria Cross Station OSD. As a result of ongoing design development modifications to the approved building envelope are now required to respond to functional brief requirements and recommendations of the design excellence process.

Two applications have thus been submitted to DPIE for determination. The first being the Section 4.55(2) application to modify the SSD consent (Council ref: DA.349/19/2) and the second being the development application for the over station development by Lend Lease (Council ref: DA.350/19).

The purpose of the modification application is to align what has been granted approval with what is now actually to be built.

The applications are on public exhibition until 28 November 2019 for comment. DPIE has allowed Council to make its formal submission following Council's consideration of this report.

CONSULTATION REQUIREMENTS

Community engagement is the responsibility of DPIE and further consultation by Council is not required.

SUSTAINABILITY STATEMENT

This report deals with State Government Applications which may have a substantial effect on sustainability. A detailed sustainability assessment has not been undertaken as this is the responsibility of DPIE.

DETAIL

The site is generally described as 155-167 Miller Street, 181 Miller Street, 187-189 Miller Street and part of 65 Berry Street, North Sydney (the site). The site occupies various addresses/allotments and is legally described as follows:

- 155-167 Miller Street (SP 35644) (which incorporates lots 40 and 41 of Strata Plan 81092 and lots 37, 38 and 39 of Strata Plan 79612)
- 181 Miller Street (Lot 15/DP 69345, Lot 1 & 2/DP 123056, Lot 10/DP 70667)
- 187 Miller Street (Lot A/DP 160018) 189 Miller Street (Lot 1/DP 633088)
- Formerly part 65 Berry Street (Lot 1/DP 1230458)

Section 4.55(2) Application – DA.349/19/2

The following details are provided from the Planning Report accompanying the application:

"The section 4.55(2) modification application proposes the following changes to the approved building envelope:

- *Reduction in the massing and overall dimensions of the building cantilever above the Miller Street special area setback;*
- *Relocation of building massing from the low-rise levels of the tower, north of the through-site link, to the high-rise levels of the tower;*
- *Reduction of the Berry Street setback from 5m to 4.5m, extending the building envelope marginally to the north; and*
- Increase in the total GFA permitted for the OSD to 61,500m².

The proposed modifications to the OSD building envelope are illustrated below. The building envelope drawings as proposed to be modified denote the Victoria Cross Station CSSI approved works or "metro box" in pink, whereas the OSD envelope is shown in light blue. It is noted that some minor changes have occurred within the pink CSSI "metro box" component. These changes have been approved through the 'consistency assessment' process under the CSSI Approval and are not within the scope of this modification to the OSD building envelope.



The modification application to the approved Concept SSD DA 8874 (building envelope) forms part of a broader planning process to realise the vision for an Integrated Station Development at the subject site. The proposed building envelope amendment sought within the modification application seeks to facilitate the following outcomes:

- Maximise integration of the OSD with the new Victoria Cross Metro Station and associated public realm areas, improving connectivity for the surrounding community living, working or visiting the site;
- *Reduce elements of the approved building envelope's massing which conceal the retail laneway;*
- Relocate commercial floor space in the southern portion of the site (above retail laneway) to the top of the tower to provide higher amenity for visitors to and occupants of both the retail floor space and commercial floor space;
- Ensure enhanced appreciation of existing built heritage by increasing separation to the adjacent MLC heritage building;
- Improve intuitive wayfinding through defining built form elements;
- *Maximise solar access to the metro, through-site link (retail laneway) and surrounding significant public open space areas; and*
- To achieve design excellence in accordance with the endorsed Design Excellence Strategy prepared in accordance with Condition A28 of the Concept SSD DA.

The modification application seeks changes to the description of the proposed development, approved OSD building envelopes referenced in Condition A2 and Condition A17, and the maximum GFA permitted for the OSD within Condition A18. <u>No changes are proposed within this modification application to the approved maximum height of the building envelope at RL 230.</u>

The proposed modifications to the approved building envelope can be summarised as:

- *Reduction in the massing and overall dimensions of the building cantilever above the Miller Street special area setback.*
- Relocation of building massing from the low-rise levels of the tower to the high-rise levels of the tower. Specifically, additional setbacks and lower building forms are proposed to the through-site link and Denison Street.
- *Reduction of the Berry Street setback from 5m to 4.5m, extending the building envelope marginally to the north.*
- Lowering of the base of the tower by 400mm from RL 82 to RL 81.6.

The proposed west elevation illustrates that an additional setback to the southern property boundary will be delivered as a result of the proposed modification application, from 26m between RL 124 and RL 182.3 (mid-section), to 28m adjacent the MLC Building above the 'metro box' to RL 124 (previously 18m). This increased setback is a result of the relocation of building massing from above the through-site link to the high-rise levels of the tower. However, there is no change in the overall approved building height of RL 230. The proposed OSD envelope has a maximum height of RL 230 which is concentrated towards the north portion of the site. This steps down to a height of RL182.3 towards the southern end of the site. The maximum height of the tower remains below the solar access plane to Greenwood Plaza. As illustrated in the western elevation there is also a minor reduction in the proposed tower setback to Berry Street of 500mm (from 5 to 4.5m) as a result of the proposed modification.



The proposed south elevation illustrates that the modified building envelope maintains a 6metre setback to Miller Street at the lower-levels of the commercial tower (up to a height of RL 124, an increase of 6 metres compared to the approved cantilever). From RL 124 to RL 179.5, the tower projects up to 3.5 metres towards Miller Street, proposing an increased setback of 2.5 metres (previously 1.5 metres) throughout the mid-rise section of the tower. Above RL 179.5 the building envelope maintains a 1.5 metre setback to Miller Street. As a result of the proposed modification to the Miller Street setback, there is an envelope reduction above the Miller Street Special Area compared to the building envelope approved within SSD 17_8874.

The lower levels of the modified OSD envelope features a significantly increased tower setback of 26.5 metres from the Denison Street property boundary, where the approved podium form projected to the site boundary to a height of RL 118. As a result of the proposed reduction of OSD volume at Denison Street, the perception of massing and scale at the through-site link and along Denison Street is reduced and the human-scale at these streets is improved compared to the approved building envelope. The significant reduction in the building bulk of the lowerlevels and re-massing to high-levels of the tower also allows for a greater separation distance to the neighbouring local heritage item, the MLC Building, and greater solar penetration to the through-site link. This provides improved usability of the laneway and facilitates appreciation of the local heritage significance. Similarly, the modified cantilever arrangement presents a less intrusive built form to the Miller Street Special Area setback.



Picture 20 – Approved Building Envelope South Elevation Picture 21 – Modified Building Envelope South Elevation

The plan below illustrates the indicative ground floor layout of the approved building envelope and a revised ground floor layout which responds to the proposed modified building envelope with the station entry and low-scale building continuing to define the northern edge of the through-site link and maintaining vehicular access to the site from Denison Street. Under this layout the OSD commercial lobby location is relocated to the corner of Berry and Miller Street to maximise the extent of retail activation along the Miller Street Special Area, the majority of the commercial office lobby has been raised to level one."



Picture 22 - Approved Building Envelope Indicative Ground Floor Plan



Comments

Council raised a number of concerns with the OSD application when it was notified in June 2018. Concerns were raised about the public domain and setbacks to Miller and Berry Streets. Metro advised that these were matters that related to the station component rather than the OSD.

Council strongly objected to the breach of the 5m Miller Street setback above the podium and this was approved by the Department although it is inconsistent with all recent developments in the area that have setbacks of towers behind the podium setback.

Council also raised the importance of allowing for future vehicle assess through the parking area to the MLC site to improve pedestrian safety and remove vehicles from the lower part of Denison Street where a pedestrian plaza is proposed. Metro did not make this a requirement when appointing Lend Lease to develop the OSD. However, this could be made a condition of consent for the detailed application.

Council comments on the modification application can only relate to proposed modifications and not other parts (parking) that may still be of concern.

Council did not support the Miller Street setbacks approved by a Clause 4.6 (variation to development standard) request. The proposed changes to the envelope and shape of the tower might be an improvement but are still not supported. Council character statement controls requires a podium with tower setback of 5m. The podium height consistent with the MLC is considered acceptable.

The proposal features a reverse podium which is inconsistent with every recent development in the CBD and Council's character statement for the CBD as part of its DCP. The articulation of the tower could occur within the 5m setback behind the podium building line at RL 118 with a weighted average of 5m at least. Council could consider a variation of the entire setback less that the weighted average of 5m or at least in line with the podium. The tower should not be closer to the street than the proposed podium but setback to be consistent with all of the other buildings in the CBD. This would also assist in reducing the building's dominance to Miller Street.

The application should be amended to comply absolutely with the Miller Street setback for the entirety of the façade of the building which faces Miller Street.

The proposed modifications remain generally compliant with other key development standards pertaining to bulk, density and scale.

The proposed modifications reduce the bulk and scale of the building from the Miller Street Special Area, the through-site link, and Denison Street. The amendments made to the area through-site link is of interest and clearly a benefit.

The proposal enhances appreciation of existing built heritage compared to the approved scheme by increasing separation to the adjacent MLC local heritage building.

The modified envelope results in largely reduced visual and view impact to surrounding residents and public open spaces within the vicinity of the site.

The modified envelope does not result in a net increase in overshadowing to Special Areas and Public Recreation zones such as the Miller Street Special Area, Greenwood Plaza and Brett Whiteley Plaza. Furthermore, the proposal does not pose any additional unreasonable impacts to the solar access of nearby residential properties.

The modifications to the Concept approval are considered reasonable and an improvement subject to the tower being setback on the Miller Street faced to at last be in line with the podium.

State Significant Development - SSD-10294 – Council ref: DA 350/19

The following details are provided from the EIS accompanying the application.

"The proposal includes construction of a commercial office building and retail premises above the Sydney Metro Victoria Cross Station – otherwise known as the Victoria Cross Station OSD.

In summary, the proposed Detailed SSD DA seeks approval for the following:

- The design, construction, and operation of a new commercial office tower with a maximum building height of RL 230 or 168m (42 storeys);
- The commercial tower including 61,500m² of GFA, excluding floor space approved in the CSSI;
- Integration with the approved CSSI proposal including though not limited to:

 Structures, mechanical and electronic systems, and services; and
 Vertical transfers;
- Use of spaces within the CSSI 'Sydney Metro box' building envelope for the purposes

of:

– Retail tenancies;

- Commercial office lobbies and space;

-161 car parking spaces within the basement for the purposes of the commercial office and retail use with a maximum of 150 of those car parking spaces relating to the OSD; - End of trip facilities; and

- Loading and services access;
- Utilities and services provision;
- Signage zone locations; and
- Stratum subdivision (staged).

It is important to identify the delineation between the works included within the CSSI Approval and the components sought for approval under the Detailed SSD DA for the OSD.

The CSSI Approval separately grants consent for the 'metro box', including the commercial podium and the 'retail building', and including all public domain works. These components are included throughout the SSD documentation for information only. No Consent is sought for those components which will be constructed pursuant to the CSSI Approval for such works.

Artist's Impression of proposed development (ground plane)



Picture 1 – Sydney Metro Victoria Cross Station Entrance, Miller Street



Picture 2 – Sydney Metro Victoria Cross Station Entrance, Denison Street Source: Bates Smart

Artist's Impression of proposed development (commercial tower)



Source: Bates Smart

As the proposal is for the purposes of a 'commercial premises' associated with railway infrastructure and has a Capital Investment Value of more than \$30 million, it is classified as SSD pursuant to clause 19(2), Schedule 1 of State Environmental Planning Policy (State and Regional Development) 2011. The Minister for Planning, or their delegate, is the consent authority for the SSD DA and the application is lodged with the NSW Department of Planning, Industry and Environment (DPIE) for assessment."

The submitted EIS has addressed the SEARs requirements issued for the development and includes an assessment against the relevant environmental planning instruments, policies, and guidelines to demonstrate that the proposed development does not result in any significant departures from applicable controls, or unreasonable environmental effects.

The general and key impacts resulting from the proposed development are outlined in detail in the EIS. Key impacts resulting from the proposed development include:

• Ensuring the achievement of design excellence through compliance with the approved Design Excellence Strategy and incorporating feedback from the independent Design Review Panel chaired by the NSW Government Architect.

- Minimising overshadowing to protected areas of public open space and surrounding residential premises, by complying with the building envelope to be determined in the Concept SSD DA.
- Protection of privacy to surrounding development by incorporating solid facades along large portions of the eastern façade and reducing sightlines through inclusion of blades on the façade.
- Managing additional traffic generation associated with the proposed development, including the reducing the provision of car parking spaces on site (operational) compared to car parking that existed on the site prior to CSSI demolition works, use of a Loading Dock Management Plan to manage delivery and service vehicle movements, and construction traffic management.
- Pedestrian management during construction and ensuring during operation that potential conflicts between pedestrians, cyclists and vehicles are minimised.
- Delivering appropriate pedestrian amenity suitable for the intended use of the public domain and surrounding locations.
- Ensuring the proposed building façade does not cause unreasonable or adverse solar reflectivity to pedestrians and motorists through use of fins and articulation of the façade.
- Delivering a safe and secure development that adheres to Crime Prevention through Environmental Design Principles, to be further refined during the detailed design of the proposal and concurrent CSSI Approval works.
- Addressing potential acoustic and vibration impacts to and from the development during the construction and operation of the development over a new Sydney Metro service.
- The achievement of Ecologically Sustainable Development through targeting ratings require by the Concept SSD DA.
- Mitigating impacts to surrounding non-indigenous heritage items and complying with the relevant CSSI Approval standards that relate to Aboriginal Heritage.
- Understanding the future minor augmentation required to connect into existing infrastructure services.
- Managing stormwater run-off and flood water across the site through the detailed design and concurrent CSSI Approval works.
- Complying with the relevant conditions relating to land contamination as per the terms of the CSSI Approval.
- Managing air quality so that it is not unreasonably diminished as a result of construction impacts.
- Ensuring any potential biodiversity qualities of the site and/or surrounds are not adversely impacted by the proposed development.
- Delivering appropriate management (and reduction) of waste during the construction and operational phases of the development.
- Ensuring the development complies with the required building standards including those relating to the National Construction Code, accessibility standards and fire safety standards.
- Ensuring the proposed maximum height of the development does not unreasonably or adversely impact protected airspace.
- Consideration of any cumulative impacts associated with nearby development and existing uses.
- Delivering a socially and economically sound development that is considered in the public interest.

In considering each of the above key planning issues and potential impacts associated with the development, the EIS outlines the proposed mitigation measures to address each of these matters.

Design Excellence and Design Guidelines

As part of the Concept SSD DA, a Design Excellence Strategy for the project was approved by the Minister for Planning.

The approved design excellence process, which applies to this subsequent SSD DA, involves:

- The establishment of a DEEP for the detailed design of the OSD, comprising three members of the Sydney Metro DRP (including the chair) and two new members, one nominated by Council.
- The DRP reviewing and providing advice on the detailed building design to ensure the achievement of design excellence, having regard to the Sydney Metro Victoria Cross Station Precinct Consolidated Design Guidelines; and
- The applicant having to obtain that advice prior to the lodgement of the Detailed Development Application(s), and throughout the assessment and post approval stages.

The applicant presented to the Sydney Metro DRP nine times prior to the lodgement of the Detailed SSD DA. As a result of incorporating this feedback, the DRP has endorsed the detailed design of the proposal against the Design Excellence Strategy.

It is noted that one of the design guidelines included:

"The development should safeguard a potential future underground connection south into the MLC Building to enable future consolidation of vehicular entrances to loading zones and facilitate safe pedestrianisation of Denison Street."

The response in the EIS was:

"The development has capacity to integrate with the basement parking area of the neighbouring MLC Building as detailed in the Traffic and Transport Impact Assessment."

There is no relevant commentary in the EIS or the Traffic Assessment. The B1 floor plan does allow for a safeguarded link. There is no commitment for the access to be made available in the future to allow vehicle access to the MLC site. This is in the public interest to ensure no conflicts with pedestrians entering or exiting the site and the Metro station and using the Denison Street Plaza. The alternative access for MLC would be entry from Denison Street that would have a severe impact on the public domain in Spring Street, Denison Street, Mount Street and Brett Whiteley Place.

It is noted that the application involves a stratum subdivision of the building. <u>A stratum lot</u> could be created over the vehicle access from Denison Street to the link in level B1 to the boundary. The lot would act as a right of way over this section and could be subject requirements that the owner of the adjacent site (MLC) be responsible for all costs to allow

connection including fire doors and safety and contributions for on-going maintenance of the stratum lot.



The pedestrianisation of Denison Street is critical to the future of this precinct and to ensure a safe and comfortable entry/exit environment to and from Metro for pedestrians. Whilst the MLC building continues to rely on vehicular entry exit for parking via Denison Street, this pedestrian environment, which is so crucial for Metro and the wider city, will be significantly compromised. The need to achieve joint vehicular access at Metro cannot be overstated. The Department is strongly encouraged to impose conditions on any future consent that require a legal capacity for the owners of the MLC building and their successors in title, to gain access via the metro site. Leaving what is a critical city building intervention, to future negotiation between landowners in the context of a major infrastructure/development proposal, is short sighted and inadequate.

North Sydney Local Environmental Plan 2013

Aims of Plan

The concept proposal is consistent with the aims of NSLEP 2013 in that it:

- Promotes commercial development suitable to the existing commercial context of North Sydney Centre;
- Provides for a commercial tower that is compatible with the high rise built form context of North Sydney (desired future character under recent Planning Proposal);
- Enhances North Sydney as an employment hub by providing opportunities for approximately 4,200 jobs; and
- Responds to and protects the significance of adjoining and surrounding heritage items.

Zone Objectives and Land Use Table

The site is zoned B3 Commercial Core. The proposed use of 'commercial premises' (which includes office, business and retail premises) is permitted with consent in the B3 zone.

The concept proposal is consistent with the objectives of the B3 zone in that it:

- Provides for a variety of business, office and retail uses commensurate with worker, visitor, station customer and local community requirements;
- Provides employment in a highly accessible location above the future Victoria Cross Station;
- Maximises the use of public transport and encourages walking and cycling by placing development directly above future high frequency public transport; and
- Minimises overshadowing and view loss to surrounding residential development.

Clause 4.3 Height of Buildings

The site is subject to four (4) height controls: • RL. 230m (north); • RL. 201m (central) • RL. 193m (south) • RL 135 (east).

Generally, the Victoria Cross OSD is proposed to comply with the maximum height standard applying to the site. However, it exceeds the central portion height control of RL 201m for a small part of the envelope. It is noted that the approved building envelope under the Concept DA (SSD 17_8874) included a height exceedance of the RL 201m building height through the central portion of the site. The proposed modification seeks approval for a partial height

variation at RL 201. If the proposed modification is approved, the proposed Detailed SSD DA will be consistent with the Concept Approval as modified. Notwithstanding, this Detailed SSD DA is accompanied by a clause 4.6 variation request to the height of building standard.

Overall, it is claimed that compliance with the height development standard is unreasonable and unnecessary in the context of the variation approved under the concept proposal. The proposed development is in the public interest as it remains consistent with the land use objectives of the B3 Commercial Core Zone. Specifically, the proposal serves the local and wider community by providing an increase in commercial floor space including retail and office premises that maximises active and public transport opportunities. In addition, it poses no additional amenity impacts to surrounding sensitive land uses above what has previously been assessed, and most importantly, does not impact upon the solar access plane to Greenwood Plaza (contained within the NSLEP 2013). The height variation does not change the maximum height of buildings at RL 230 approved under Condition A17 of DA Consent SSD 8874.

Clause 5.6 Architectural roof features

The proposal does not have an architectural roof feature.

Clause 5.10 Heritage conservation

A Heritage Impact Assessment Report has been prepared to accompany this application.

Immediately to the south of the site is the heritage listed MLC Building located at 105-153 Miller St. This building was designed by eminent architects Bates Smart McCutcheon in 1957 in the Post-war International style. It is considered to be the first high rise office block in North Sydney and the largest commercial building for a number of years after its construction. The building is noted by the Australian Institute of Architects as a seminal building that utilised construction and structural techniques not previously used in Australia. It exhibits the first use of curtain wall design and the first use of modular units in Australia. The interior, exterior and landscape setting are of also significance.

The proposed OSD has been satisfactorily designed such that the lowest quarter of the stacked tower elements has a similar massing to that of the MLC Building providing a visual contextual link. The height of this lower quarter of the stack is however, higher that the primary ridge of the MLC Building however, it is considered to be acceptable as the height responds to the slope of the terrain and the buildings step down the slope. The massing of the three other stacks on the proposed tower step back away from the MLC Building, minimizing the sense of overscaling.

The scale of the proposed development is significantly higher than that of the medium-scaled MLC Building. No objection is raised however, as the proposed tower has an adequate setback from the MLC Building of 28m. The transitional link element is smaller in scale than the MLC Building which will assist in ameliorating the difference in scale between the proposed tower and the MLC Building. The western setback of the proposed tower is considered to be acceptable as the lower transitional link is setback in line with the MLC Building at street level. The northern tiled elevation of the MLC Building will remain legible above the transitional link element when viewed from vantage points in both Miller and Denison Streets.

The character of the proposed OSD is considered to be complimentary to the Post-war International style of the MLC Building as the proposed materials are similar in character to the curtain wall glazing utilized on the MLC Building.

To the north of the site is the heritage-listed Rag and Famish Hotel at 199 Miller St and the former Sabemo Building located at 201 Miller St. To the north-west of the subject site is the heritage-listed Monte Sant' Angelo Mercy College. It is considered that the proposed development will have an acceptable level of impact upon the heritage significance and curtilage of these properties as they are physically separated by roadways from the subject site and have lot boundary curtilage.

Clause 6.3(2) controls building height in terms of overshadowing impacts to sensitive uses.

Development consent cannot be granted for the erection of a building on land in the North Sydney Centre where development would result in a net increase in overshadowing between 12:00pm and 2:00pm from the March equinox to the September equinox (inclusive) on land that is within Zone RE1 Public Recreation or that is identified as "Special Area".

In relation to the Detailed SSD proposal, the relevant areas requiring consideration are the Miller Street Special Area, Greenwood Plaza and Brett Whiteley Place. A detailed shadow study was provided with the building envelope modification application and includes an analysis of the shadow impacts from the summer to winter solstice and equinox for the existing buildings, approved building envelope and modified building envelope. It is noted that the detailed proposal is contained wholly within the building envelope as modified.

In summary, when comparing the approved and modified envelope:

- The modifications to the approved building envelopes do not impact overshadowing of the Miller Street Special Area in mid-winter;
- Despite the minor portion of overshadowing (25m²) to the Miller Street Special Area for approximately 10 minutes on the Autumn equinox, the modified envelope does not result in a net increase in overshadowing compared to buildings prior to demolition occurring on the site;
- The modified envelope does not result in any overshadowing impacts to Greenwood Plaza; and
- There is no additional overshadowing to Brett Whiteley Place above what has previously been considered and assessed under the approved envelope. Overall, the shadow study indicates that the modified OSD envelope (which the detailed OSD design is contained within) would not result in a net overall increase in overshadowing to any Special Areas or RE1 Public Recreation zones between 12pm and 2pm from the March to September equinox (inclusive) when compared to the previous conditions of the site.

Clause 6.3(5) – Buildings Height and Massing

Clause 6.3(5) establishes three considerations that the consent authority must take into account when granting consent.

The Detailed SSD DA proposal, responds positively to these considerations in that it:

- Is compatible with the existing and future (expected) scale, form and massing in the North Sydney Centre area;
- Poses no adverse impacts on the surround natural environment which have not been addressed;
- Poses no unmanageable impacts on the neighbouring development or development outside the North Sydney Centre;

- Would not unreasonably impact upon significant views and vistas as there is no material difference in new impact of the proposal and modified envelopment when compared to the approved Concept scheme); and
- Enhances the Miller, Berry and Denison Streets active frontages and streetscapes in relation to scale, materials and external treatments.

Clause 6.4 – Miller Street Setback

This clause requires specific setback requirements on the eastern side of Miller Street between McLaren Street and Mount Street to maintain the landscaped setting of the 'Miller Street Special Area'. In relation to the subject site, a setback ranging between 6 -11.5 metres is required.

The Detailed SSD DA proposal maintains the approved 6-metre setback for the building envelope up to a height of RL 127 in alignment with the CSSI approved 'metro box'. The envelope then steps forward up to 4.5 metres between RL 127 to RL 230. Technically the setback and cantilever arrangement to Miller Street presents a non-compliance with clause 6.4 of the NSLEP 2013 but is consistent with the approved setbacks under the Concept Approval. The OSD is setback in accordance with the required Miller Street Setback up to a height of RL 127. However, the non-compliance occurs between RL 127 to RL 179.5, where the envelope protrudes 3.5 metres into the setback area (which is a greater setback than the approved setback under the Concept Approval), and between RL 179.5 to RL 230, where the envelope protrudes 4.5 metres into the setback area as approved under the Concept Approval. Non-compliance with the setback standard was subject to a variation request under clause 4.6 and approved as part of the Concept Approval.

This Detailed SSD DA is consistent with the approved envelope which provided for a protrusion into the setback are between Rl 127 to RL 179.5 of 4.5 metres. Further, the Detailed SSD DA is similar to the proposed modification, which provides for a smaller protrusion into the setback area at this level of 3.5 metres. The approved envelope under the Concept SSD DA was more intrusive than the cantilever arrangement of the detailed design.

Council character statement controls requires a podium with tower setback of 5m. The podium height consistent with the MLC is acceptable. The proposal does the reverse which is inconsistent with every recent development in the CBD and Council's character statement for the CBD as part of its DCP. The State Government should be a model applicant in this regard. The articulation of the tower could occur within the 5m setback behind the podium building line at RL 118 with a weighted average of 5m at least. Council could consider a variation of the entire setback less that the weighted average of 5m or at least in line with the podium. The tower should not be closer to the street than the proposed podium but setback to be consistent with all of the other buildings in the CBD. This would also assist in reducing the building's dominance to Miller Street.

The DA should be amended to comply absolutely with the Miller Street setback for the entirety of the façade of the building which faces Miller Street.

Section 7.11 Contribution

Council's Contributions Plan requires a contribution where there is an increase in commercial floor space. For commercial development, the levy has been calculated according to the increase in workers, assuming an average of 20m² gross floor space per employee. The levy

for commercial development is determined by multiplying the per worker cost of each service by 5. This gives a levy per $100m^2$ which will then be applied to the increase in commercial floorspace.

Consent has been granted for the Metro station involving the demolition of all previous buildings. Following the Metro station consent a Concept approval for the OSD was granted after all previous buildings were demolished and no floorspace exists to offset the required contribution. The increase in commercial floor space is therefore calculated on the proposed GFA of the current OSD application (61,500m²).

| Administration | \$ 142,741.50 |
|--|-----------------|
| Community Centres | \$ 348,028.50 |
| Childcare Facilities | \$ 604,391.25 |
| Library and Local Studies Acquisitions | \$ 70,971.00 |
| Library Premises and Equipment | \$ 215,742.00 |
| Multi Purpose Indoor Sports Facility | \$ 81,672.00 |
| Olympic Pool | \$ 266,018.25 |
| Open Space Acquisitions | \$ 260,145.00 |
| Open Space Increased Capacity | \$ 515,677.50 |
| North Sydney Public Domain | \$5,836,411.50 |
| Traffic Improvements | \$ 352,425.75 |
| - | A |
| Total | \$ 8,694,224.25 |
| | |

Construction Management Plan

A draft Construction and Site Management Plan (CSMP) has been prepared by Lendlease which details the procedures and processes associated with the overall construction methodology for the proposed development. The applicant is responsible for delivering the construction of project works including the Metro Station works and the OSD works. They will be required to engage with two other contractors, the Line Wide Contractor who will be installing the bulk power system, traction power and tunnel ventilation, and the TSOM Contractor, who will be installing the communication equipment, controls and platform screen doors. The applicant will also collaborate with the Tunnel and Station Excavation Works Contractor following the completion of permanent tunnel structures and subsequent handover and demobilisation.

As such, it is in the applicant's interest to ensure construction management of the OSD is in alignment with and does not conflict with construction work required for the Sydney Metro and the Victoria Cross Station Work.

Construction Pedestrian and Traffic Management Plan (Framework CPTMP)

The applicant has engaged Arcadis & Mott Macdonald to develop a Framework CPTMP to address SEARs Item 8 and Concept Plan Approval condition B9.

The Framework CPTMP includes the following components:

• Proposed construction vehicle loading and unloading;

- Proposed pedestrian management and control;
- Locations of proposed construction zones;
- Proposed construction traffic management and control (including haulage routes);
- Proposed peak hour and daily truck movements and access arrangements (swept path analysis);
- Proposed construction hours and construction programming;
- Cumulative construction impacts; and
- Potential impacts and mitigation measures for traffic, cyclists, pedestrians and public transport within the surrounding area resulting from the construction phase.

Importantly, traffic management and control will be established for all major roads and interfaces areas across the project site. Control and mitigation measures include traffic controllers, warning lights and pedestrian boom gates at all site access/egress and construction zones.

During construction Lendlease will be responsible for ensuring surrounding stakeholders, commuters and visitors to North Sydney CBD are well informed of required footpath closures and the alternate travel paths to major destinations provided. Generally, a pedestrian access route will be provided around the southern site along Berry Street and Miller Street where pedestrian/vehicle crossover areas are manned by gates and qualified traffic controllers. As there is no parking available on site, subcontractor and construction workers access to the site will be encouraged through the use of existing public transport networks as part of the green travel plan (GTP).



Source: Lendlease

The Victoria Cross CTMP presented with the DA, shows a loading/construction zone within what is currently Miller Street's eastern footpath. This footpath is proposed to be narrowed to below 2.5m in places with a gantry and works accommodation provided overhead. This narrow, below gantry footpath is shown running along the Metro site boundary transitioning to kerbside near the intersection of Miller Street and Berry Street.

Although the proposed CTMP would retain the two southbound traffic lanes, it would also:

- provide a very narrow pedestrian facility for the volume of pedestrians that currently use Miller Street's eastern footpath (particularly in the evening peak when queuing bus passengers on the western footpath limit the flow of pedestrians along the opposite side of Miller Street);
- limit visual connectivity, due to the "dog-leg" in the proposed footpath, further impacting the security and amenity of pedestrians;
- require significant tree removal (for later replacement) along the site frontage; and
- limit the width of the gantry area adjacent to the construction/loading zone, which would result in the provision of unsightly multi-deck site accommodation structures around the Miller Street/Berry Street junction.

An alternative approach to the Metro CTMP was broadly identified in Council's *Metro Planning Study* (2017), which states:

"Metro construction offers the opportunity to trial a partial closure of Miller Street."

For the Metro CTMP, it is recommended that the Metro loading/construction zone be provided in Miller Street's southbound kerbside lane along the length of the Metro site for the duration of the construction period (2020-2024). This would reduce southbound lanes on Miller Street to a single mixed-traffic lane. Modelling undertaken as part of the development of the North Sydney CBD Transport Masterplan showed that this would not significantly impact intersection level of service due the majority of traffic in the kerbside lane north of Berry Street turning left on to Berry Street to access the Warringah Freeway.

Locating the loading/construction zone in the kerbside lane would:

- allow for provision of a wider pedestrian facility, with no dogleg;
- increase opportunities for retention of street trees; and
- limit the visual impact of above gantry site accommodation on Miller Street and Berry Street.

Reducing the number of traffic lanes on Miller Street is also a step towards the Vision for Miller Street (Miller Plaza) identified in the *North Sydney CBD Transport Masterplan* (2018) and the *North Sydney CBD Public Domain Strategy* (2019).

Conditions E77 and E92 of the Metro planning approval require the Metro project team to consult Council to inform traffic and transport management measures during construction and operation of the Victoria Cross Metro Station. This includes developing an Interchange Access Plan for Victoria Cross Station. Council officers are currently collaborating with TfNSW/RMS to inform the development of this Interchange Access Plan. Reducing the capacity and function of Miller Street for vehicle traffic through footpath widening, including the eventual creation of Miller Plaza, are integral to these discussions.

It is worth noting that Miller Street is a classified arterial road. As such, approval for a loading/construction zone in the Miller Street carriageway will require the approval of TfNSW/RMS and the commentary provided above would constitute Council's view as a stakeholder. Provision of swept path diagrams, showing that buses turning from Berry Street

into Miller Street will not be impacted by the Metro loading/construction zone, should be included in the applicant's CTMP submission to TfNSW/RMS.

Conclusion

There are two issues that require further attention with regard to the OSD application.

The breach of the Miller Street setback above the podium is unacceptable as it is inconsistent with Council's controls and all recent commercial buildings surrounding the site. The only reason to cantilever the floor plates on the Miller Street façade is to maximise the floor area potential of the site. This may set an undesirable precedent for future commercial buildings that are likely in the near future. The articulation of the tower could occur within the 5m setback behind the podium building line at RL 118 with a weighted average of 5m at least. Council could consider a variation of the entire setback less that the weighted average of 5m or at least in line with the podium. The tower should not be closer to the street than the proposed podium but setback to be consistent with all of the other buildings in the CBD. This would also assist in reducing the building's dominance to Miller Street.

The development does not adequately safeguard a potential future underground connection south into the MLC Building to enable future consolidation of vehicular entrances to loading zones and facilitate safe pedestrianisation of Denison Street. There is no commitment for the access to be made available in the future to allow vehicle access to the MLC site. This is in the public interest to ensure no conflicts with pedestrians entering or exiting the site and the Metro station and using the Denison Street Plaza. The alternative access for MLC would be entry from Denison Street that would have a severe impact on the public domain in Spring Street, Denison Street, Mount Street and Brett Whiteley Place.

A stratum lot could be created over the vehicle access from Denison Street to the link in level B1 to the boundary. The lot would act as a right of way over this section and could be subject requirements that the owner of the adjacent site (MLC) be responsible for all costs to allow connection including fire doors and safety and contributions for on-going maintenance of the stratum lot. It is in the interests of the Metro and the OSD and a successful public domain in North Sydney for access to be made available.

The pedestrianisation of Denison Street is critical to the future of this precinct and to ensure a safe and comfortable entry/exit environment to and from Metro for pedestrians. Whilst the MLC building continues to rely on vehicular entry exit for parking via Denison Street, this pedestrian environment, which is so crucial for Metro and the wider city, will be significantly compromised. The need to achieve joint vehicular access at Metro cannot be overstated. The Department is strongly encouraged to impose conditions on any future consent that require a legal capacity for the owners of the MLC building, to gain access via the metro site. Leaving what is a critical city building intervention, to future negotiation between landowners in the context of a major infrastructure/development proposal, is inadequate.

Subject to the above issues being addressed, the proposed development sought within the Detailed SSD DA is considered appropriate for the site.

The proposal contributes to the achievement of the objectives for development within the North Sydney CBD as outlined within the relevant strategic plans and policies. The proposed supports a GFA of 61,500sqm which is capable of contributing to an estimated 4,900 workers to

contribute to the job targets of the Northern District Plan.

The bulk and scale of the podium has been reduced significantly from the previously approved envelope to improve the impact of the development on Denison Street and the incorporated through-site link. The proposed reduction in the bulk and scale at the podium has removed the need for a full width awning across the through-site link and has improved sunlight access to this link. The proposal provides ground level activation through the positioning of retail tenancies along Miller Street and the through site link, at both ground level and in the podium levels to increase activation, activity outside typical business hours, and passive surveillance of the public domain.

The applications are on public exhibition until 28 November 2019 for comment. The Department has allowed Council to make its formal submission based on its resolution following Council's consideration of this report.

The proposal will require construction zones for the next four years and Council's preference would be the use of Miller Street's southbound, kerbside lane along the frontage of the Metro site for a loading/construction zone during the Metro and Metro OSD construction period. This may give opportunity to trial a partial closure of Miller Street and possibly lead to the realization of the Miller Place vision.

Victoria Cross **SSDA** Application North Sydney NSW 2060

SSDA Drawing List

| Drawing Number | | Drawing Name | Revision |
|--------------------------|--------|---|----------|
| SMCSWSVO-LLC-SVC-AT-DWG- | 401002 | COVER SHEET | 4.0 |
| SMCSWSVO-LLC-SVC-AT-DWG- | 401010 | SITE PLAN | 10 |
| SMCSWSVO-LLC-SVC-AT-DWG- | 420000 | DENISON STREET PLAN | 10 |
| SMCSWSVO-LLC-SVC-AT-DWG- | 420001 | MILLER STREET PLAN | 2.0 |
| SMCSWSVO-LLC-SVC-AT-DWG- | 420010 | LEVEL 01 PLAN (PODIUM OFFICE) | 2.0 |
| SMCSWSVO-LLC-SVC-AT-DWG- | 420020 | LEVEL 02 PLAN (OSD LOBBY) | 2.0 |
| SMCSWSVO-LLC-SVC-AT-DWG- | 420030 | LEVEL 03 PLAN (PODIUM OFFICE + PLANT) | 2.0 |
| SMCSWSVO-LLC-SVC-AT-DWG- | 420035 | LEVEL 03 MEZZANINE PLAN (PODIUM OFFICE L04) | 2.0 |
| SMCSWSVO-LLC-SVC-AT-DWG- | 420040 | LEVEL 04 PLAN (PODIUM OFFICE) | 3.0 |
| SMCSWSVO-LLC-SVC-AT-DWG- | 420050 | LEVEL 05 (PODIUM OFFICE + TOWER) | 4.0 |
| SMCSWSVO-LLC-SVC-AT-DWG- | 420060 | LEVEL 06-14 LOW RISE TYPICAL | 4.0 |
| SMCSWSVO-LLC-SVC-AT-DWG- | 420150 | LEVEL 15 MID LEVEL PLANT | 4.0 |
| SMCSWSVO-LLC-SVC-AT-DWG- | 420160 | LEVEL 16-27 MID RISE TYPICAL | 4.0 |
| SMCSWSVO-LLC-SVC-AT-DWG- | 420280 | LEVEL 28 MID RISE LIFT OVERHEAD | 4.0 |
| SMCSWSVO-LLC-SVC-AT-DWG- | 420290 | LEVEL 29 MID RISE TERRACE | 4.0 |
| SMCSWSVO-LLC-SVC-AT-DWG- | 420300 | LEVEL 30-39 HIGH RISE TYPICAL | 4.0 |
| SMCSWSVO-LLC-SVC-AT-DWG- | 420400 | LEVEL 40 ROOF PLANT | 4.0 |
| SMCSWSVO-LLC-SVC-AT-DWG- | 420430 | LEVEL 43 ROOF | 4.0 |
| SMCSWSVO-LLC-SVC-AT-DWG- | 430001 | NORTH ELEVATION | 4.0 |
| SMCSWSVO-LLC-SVC-AT-DWG- | 430002 | WEST ELEVATION | 4 0 |
| SMCSWSVO-LLC-SVC-AT-DWG- | 430003 | SOUTH ELEVATION | 4 0 |
| SMCSWSVO-LLC-SVC-AT-DWG- | 430004 | EAST ELEVATION | 40 |
| SMCSWSVO-LLC-SVC-AT-DWG- | 440001 | NORTH / SOUTH SECTION | 2.0 |
| SMCSWSVO-LLC-SVC-AT-DWG- | 440002 | EAST / WEST SECTION | 4.0 |
| SMCSWSVO-LLC-SVC-AT-DWG- | 440005 | NORTH / SOUTH SECTION | 2.0 |






























































