



Planning,  
Industry &  
Environment

EF18/48349

## Gateway determination report – PP\_2019\_CANAD\_001\_00

---

Planning proposal to amend floor space ratio and height controls for 1-9 Marquet Street and 4 Mary Street Rhodes (330 homes and 275-300 jobs)

March 21



Published by NSW Department of Planning, Industry and Environment

[dpie.nsw.gov.au](http://dpie.nsw.gov.au)

Title: Gateway determination report – PP\_2019\_CANAD\_001\_00

Subtitle: Planning proposal to amend floor space ratio and height controls for 1-9 Marquet Street and 4 Mary Street Rhodes (330 homes and 275-300 jobs)

---

© State of New South Wales through Department of Planning, Industry and Environment 2020. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning, Industry and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (September 20) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning, Industry and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

# Contents

1.1	Overview of planning proposal .....	1
1.2	Site description and surrounding area.....	2
<b>2</b>	<b>Background.....</b>	<b>4</b>
2.1	Planning proposal history.....	4
2.2	Rhodes Precinct Planning.....	7
<b>3</b>	<b>Proposal .....</b>	<b>7</b>
3.1	Objectives or intended outcomes .....	7
3.2	Explanation of provisions .....	8
3.3	Mapping.....	8
<b>4</b>	<b>Need for the planning proposal .....</b>	<b>10</b>
<b>5</b>	<b>Strategic Assessment .....</b>	<b>10</b>
5.1	Draft Rhodes Place Strategy.....	10
5.2	Greater Sydney Region Plan .....	13
5.3	Eastern District Plan .....	13
5.4	Local.....	15
5.5	Local planning panel (LPP) recommendation.....	16
5.6	Section 9.1 Ministerial Directions .....	16
5.7	State environmental planning policies (SEPPs) .....	17
<b>6</b>	<b>Site-specific assessment .....</b>	<b>17</b>
6.1	Environmental.....	17
6.2	Social and economic.....	18
6.3	Infrastructure .....	19
<b>7</b>	<b>Consultation.....</b>	<b>20</b>
7.1	Community .....	20
7.2	Agencies.....	20
<b>8</b>	<b>Timeframe .....</b>	<b>20</b>
<b>9</b>	<b>Local plan-making authority .....</b>	<b>20</b>
<b>10</b>	<b>Assessment Summary.....</b>	<b>20</b>
<b>11</b>	<b>Recommendation.....</b>	<b>21</b>

# 1. Introduction

## 1.1 Overview of planning proposal

The planning proposal seeks an amendment to the floor-space ratio (FSR) and height of building (HOB) controls to facilitate a mixed-use development.

The concept design submitted with the planning proposal provides for a tower of 36 storeys comprising retail and commercial uses at the lower levels, and up to 330 residential apartments. The concept also includes 343sqm of publicly accessible open space.

The planning proposal is supported by the following reports and plans:

- Planning Proposal (12 June 2018)
- Amended planning proposal (25 February 2019)
- Draft Public Domain Plan
- Traffic and Transport Assessment
- Shadow Assessment
- Design Statement
- Draft Public Domain Plan
- Voluntary Planning Agreement – Letter of Offer

**Table 1 Planning proposal details**

<b>PPA</b>	<b>Canada Bay</b>
<b>NAME</b>	<b>Planning Proposal to amend FSR and height controls for 1-9 Marquet Street and 4 Mary Street Rhodes (330 homes, 275-300 jobs)</b>
<b>NUMBER</b>	<b>PP_2019_CANAD_001_00</b>
<b>LEP TO BE AMENDED</b>	<b>Canada Bay Local Environmental Plan 2013</b>
<b>ADDRESS</b>	<b>1-9 Marquet Street and 4 Mary Street</b>
<b>DESCRIPTION</b>	<b>Lots 1, 2, 3, 4, 5 &amp; 6 of DP 17671</b>
<b>RECEIVED</b>	<b>11/03/2019</b>
<b>FILE NO.</b>	<b>EF18/48349</b>
<b>POLITICAL DONATIONS</b>	<b>There are no donations or gifts to disclose and a political donation disclosure is not required</b>
<b>LOBBYIST CODE OF CONDUCT</b>	<b>There have been no meetings or communications with registered lobbyists with respect to this proposal</b>

## 1.2 Site description and surrounding area

The site is comprised of six regular shaped lots with a total area of approximately 2,902sqm (**Figure 1**). The subject site is the last remaining cluster of detached dwelling houses in the area and is surrounded by existing and emerging high density mixed-use developments and residential flat buildings. Rhodes train station is located approximately 120m to the east of the site.

The site is within the proposed Station Gateway West character area of the Draft Rhodes Place Strategy (2020). The Station Gateway West character area is located west of Rhodes Station, bound by Gauthorpe Street, Walker Street, Mary Street and Marquet Street (**Figure 2**). The subject site is in the south-west corner of the Station Gateway West character area (**Figures 1 and 3**).



**Figure 1: Subject site in yellow (source: Applicant)**

**Table 2: Details of lots**

Reference	Street Address	Legal Description	Approximate area
Lot A	1 Marquet Street	Lot 5 DP 17671	455sq
Lot B	3 Marquet Street	Lot 4 DP 17671	474sqm
Lot C	5 Marquet Street	Lot 3 DP 17671	474sqm
Lot D	7 Marquet Street	Lot 2 DP 17671	474sqm
Lot E	9 Marquet Street	Lot 1 DP 17671	480sqm
Lot F	4 Mary Street	Lot 6 DP 17671	543sqm





Figure 2: Site context - subject site indicated in green. Rhodes precinct identified in red. (source: Nearmap)



Figure 3: Rhodes Precinct Character Areas (source: Rhodes Place Strategy)

## 2 Background

### 2.1 Planning proposal history

The planning proposal was originally submitted to Council in May 2016. Since that time the planning proposal has been amended three times. The planning proposal was submitted to the Department for Gateway determination in 2019. However, since 2018 the site has formed part of the Rhodes Precinct, subject to a State-led planning approach.

Table 3 outlines the history of the planning proposal.

Table 3: history of the planning proposal

26 May 2016	<b>Planning Proposal – Original submission</b>
	<p>Planning proposal submitted to Council for 2-9 Marquet Street and 4 Mary Street, Rhodes. The proposal did not include 1 Marquet Street, Rhodes. The proposal sought to:</p> <ul style="list-style-type: none"> <li>- Increase FSR from 1.76:1 under the Canada Bay LEP 2013 to 13.78:1;</li> <li>- Increase HOB from 23m to 127m; and</li> </ul>

	<ul style="list-style-type: none"> <li>- Deliver approximately 399 apartments.</li> </ul>
30 January 2017	<b>Planning Proposal – Amendment 1</b>
	<p>Revised planning proposal submitted which included 1 Marquet Street. The amended planning proposal sought to:</p> <ul style="list-style-type: none"> <li>- Increase FSR from 1.76:1 to 13.46;</li> <li>- Increase the maximum HOB from 23m to 117.4m;</li> <li>- A 35 storey tower on 1-9 Marquet Street, with a 3 storey perimeter podium;</li> <li>- A 2 storey development east of the laneway on 4 Mary Street; and</li> <li>- Deliver 350 apartments (based on 96.55m<sup>2</sup> per dwelling), 1,404m<sup>2</sup> of retail floor space and 3,861m<sup>2</sup> of commercial floor space.</li> </ul>
2 May 2017	<p>The planning proposal was reported to Council on 2 May 2017 and refused because the proposal:</p> <ul style="list-style-type: none"> <li>- Was not the result of any strategic study and did not have site-specific merit;</li> <li>- Was inconsistent with the Station Precinct Master Plan and the Canada Bay Local Planning Strategy; and</li> <li>- Would create adverse overshadowing, urban design and amenity impacts.</li> </ul>
18 May 2017	<b>Planning Proposal – Amendment 2</b>
	<p>A further revised planning proposal was submitted to Council. A revised planning proposal sought to:</p> <ul style="list-style-type: none"> <li>- Increase the FSR from 1.76:1 to 13.08:1 (including wintergardens);</li> <li>- Increase the maximum HOB from 23m to 119.9m;</li> <li>- A 37 storey tower including podium on 1-9 Marquet Street; and</li> <li>- A 3 storey development east of the laneway to 4 Mary Street.</li> </ul>
September 2017	<p>The first Draft Rhodes Precinct Plan was publicly exhibited by DPIE. The subject site was not included in the Precinct Plan.</p>
April 2018	<b>Planning Proposal – Amendment 3 (current proposal)</b>
	<p>Revised documentation was provided to Council. The planning proposal seeks:</p> <ul style="list-style-type: none"> <li>- A maximum FSR of 13.06:1 (including wintergardens), representing an increase to the Gross Floor Area (GFA) from 5,162m<sup>2</sup> (under the current LEP) to 37,893m<sup>2</sup>;</li> <li>- A maximum building height of 117m (excluding heliostat), comprising a 36 storey tower including a 3 storey podium;</li> <li>- A heliostat above the building to redirect light to Union Square; and</li> <li>- Provision of 343m<sup>2</sup> of public open space at ground level on the corner of Marquet and Mary Streets.</li> </ul>



15 May 2018	<p>On 15 May 2018, Council resolved that the following amendments be made to the planning proposal prior to the submission to the Department for Gateway Determination:</p> <ul style="list-style-type: none"> <li>- Amendment to reflect a maximum Floor Space Ratio of 13.06:1 and a maximum Height of Building of 117m.</li> <li>- Provision of 343m<sup>2</sup> of land at ground level on the corner of Marquet Street and Mary Street be provided as a partly open/partly covered open space that is to be publicly accessible</li> <li>- Preparation of a number of supporting studies, including a solar assessment, traffic and transport assessment, wind assessment, SEPP 65 report, and a site investigation to identify any land contamination.</li> </ul>
25 July 2018	<b>Design Review Panel's Recommendation</b>
	The Design Review Panel considered the planning proposal on 25 July 2018 and highlighted the key issues being overshadowing; scale, mass and siting; amenity of proposed open space; insufficient setbacks; and infrastructure capacity as a result of the development.
23 August 2018	<b>Local Planning Panel's Recommendation</b>
	<p>The planning proposal was considered by the Local Planning Panel (LPP) on 23 August 2018. The LPP also considered the Design Review Panel's advice from 25 July 2018 and generally supported the Design Review Panel's advice and raised concern regarding:</p> <ul style="list-style-type: none"> <li>- The proposed departure of controls compared to the Station Precinct Masterplan;</li> <li>- Interruption of stepping down of built form to the foreshore;</li> <li>- Amenity of proposed 343sqm of public open space;</li> <li>- Capacity of the existing transport network; and</li> <li>- Use of a heliostat to maintain solar access to open space.</li> </ul> <p>It was recommended that Council consider the advice and recommendations of the Local Planning Panel for the planning proposal whether the proposal should be endorsed for progression to the Department for Gateway Determination.</p>
9 December 2018	The Draft Revised Rhodes Precinct Plan was publicly exhibited until 28 February 2019 by the Department. The subject site was included in the draft Revised Rhodes Precinct Plan.
17 December 2018	The Department received the planning proposal on 17 December 2018. However, the Department requested Council consider the Local Planning Panel's recommendations (as outlined previously at '23 August 2018' in this table) before it resolved to forward the Planning Proposal to the Minister for a Gateway assessment.
19 February 2019	The planning proposal was reported to Council on 19 February 2019. A report was prepared seeking Council's consideration of the Local Planning Panel's recommendations.

	Council resolved to forward the planning proposal for a Gateway determination.
1 March 2019	The Department received the current planning proposal but deferred consideration of it pending the development of a strategy for the Rhodes precinct.
August 31 to 9 October 2020	The Draft Rhodes Place Strategy was publicly exhibited by the Department. The draft Place Strategy includes proposed controls for the subject site.

## 2.2 Rhodes Precinct Planning

Rhodes is identified as a Strategic Centre in the Eastern City District Plan, with significant opportunities to accommodate new housing and jobs.

The Rhodes Precinct has been identified as a State-led precinct to deliver urban renewal where the State has an opportunity to provide more homes, jobs and great public spaces.

Two previous precinct plans were exhibited in 2017 and 2018. The 2018 Precinct Plan expanded the precinct to include land west of Rhodes Station, including the subject site.

The Draft Rhodes Place Strategy was exhibited between 31 August and 9 October 2020, with 3,000 submissions received, almost 90% of which were form letters relating to one site seeking additional development. The draft masterplan addresses issues raised in the previous exhibitions and provides clear direction for the four character areas of Rhodes, including recommended land uses, building heights, floor space ratio controls and supporting infrastructure requirements, such as public domain upgrades.

The Department is reviewing the issues raised in submissions, considering whether any changes to the exhibited package are required in response to issues raised, as well as further investigating the infrastructure needs and delivery framework for the precinct. The Department aims to finalise the Place Strategy and rezoning for the entire precinct by mid 2021.

## 3 Proposal

### 3.1 Objectives or intended outcomes

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

- Increase the maximum floor space ratio from 1.76:1 to 13.06:1; and
- Increase the maximum height of building from 23m to 117m.

The proposed changes would facilitate the delivery of approximately 330 units, 275-300 jobs, and include 343sqm of public open space at ground level on the corner of Marquet and Mary Streets. The applicant also proposed to enter into a Voluntary Planning Agreement (VPA) to contribute to public domain upgrades in the area as well as affordable housing.

No change to the existing B4 Mixed Use zone is proposed.

The objectives of this planning proposal are clear and adequate. However the intended outcomes for the site do not align with the proposed controls in the Draft Place Strategy as outlined in Section 5 and Section 6 of this report.

## 3.2 Explanation of provisions

The planning proposal seeks to amend the Canada Bay LEP 2013 per the changes below:

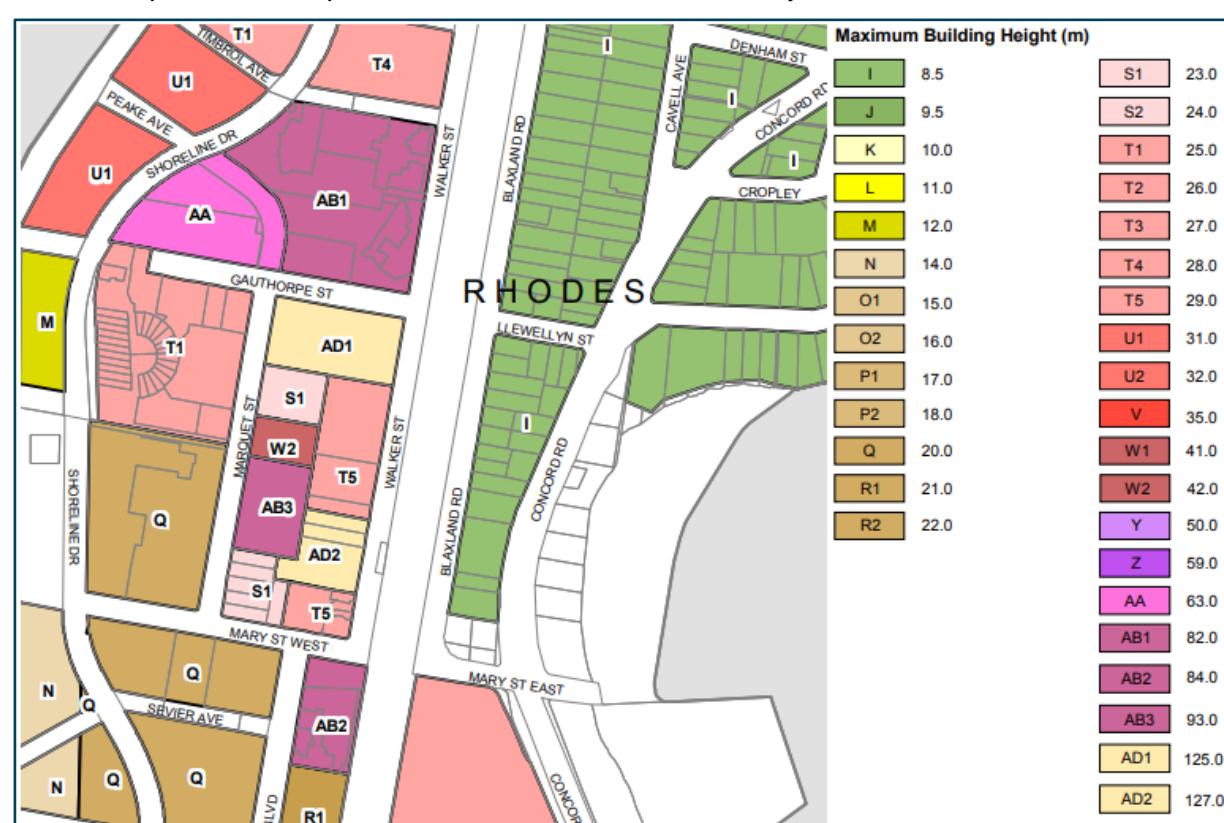
**Table 4: Current and Proposed controls**

Control	Current	Proposed
Maximum height of the building	23m	117m
Floor space ratio	1.76:1	13.06:1
Number of dwellings	6	330
Number of ongoing jobs	0	275-300

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

## 3.3 Mapping

The planning proposal includes mapping showing the proposed changes to the height of building and floor space ratio maps, which are suitable for community consultation.



**Figure 4: Current height of building map**

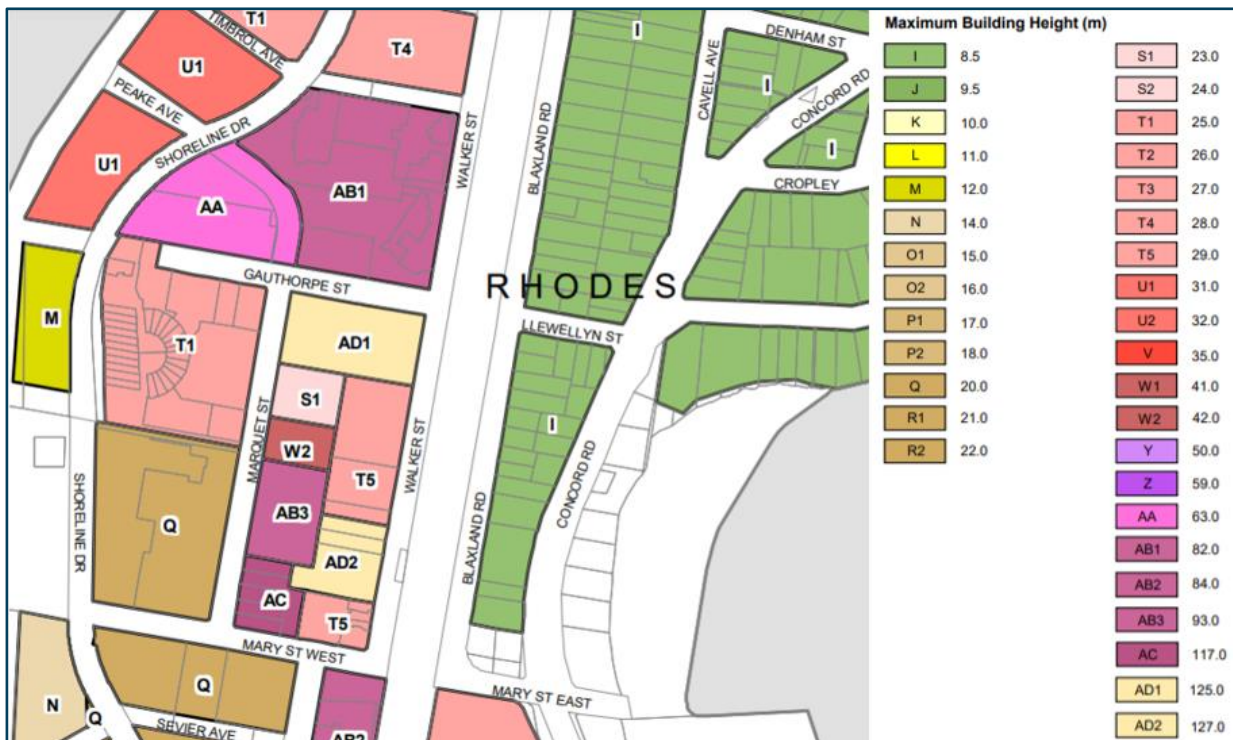


Figure 5: Proposed height of building map

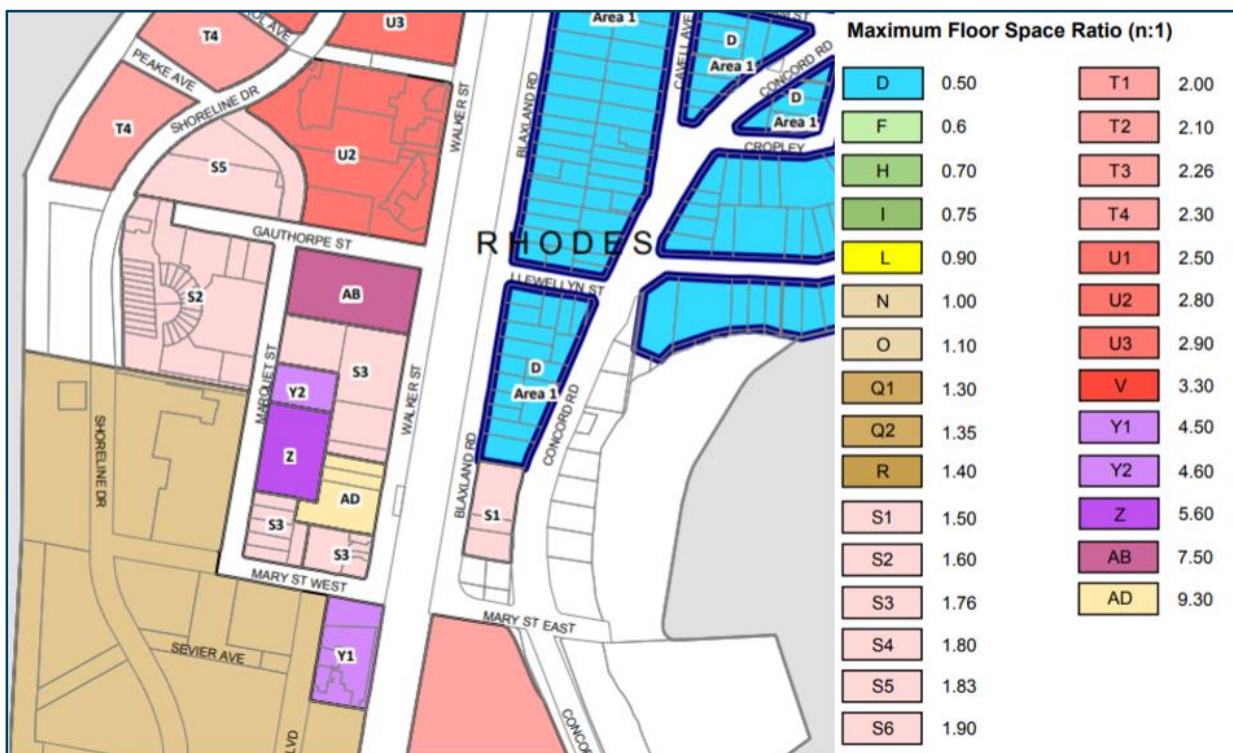


Figure 6: Current floor space ratio map



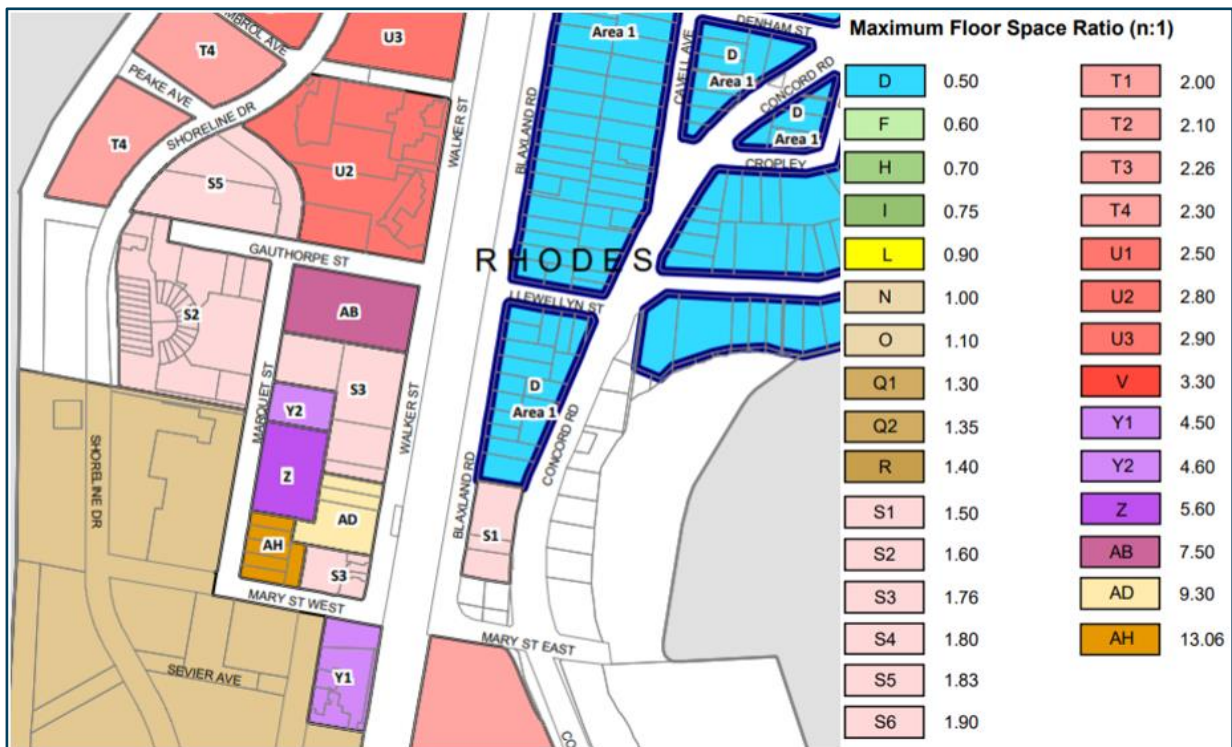


Figure 7: Proposed floor space ratio map

## 4 Need for the planning proposal

The proposal is not the result of an endorsed Local Strategic Planning Statement, strategic study or report. The subject site was considered for inclusion in Council's Station Precinct master plan. However, in resolving to amend the Canada Bay LEP at that time, Council excluded the site based on land ownership patterns not including site A (Lot 5 DP 17671) (see Figure 1). Therefore, additional development controls were not applied in the same manner as surrounding land.

While the original planning proposal was submitted to Canada Bay Council in 2016, prior to the subject site's inclusion in the Rhodes East precinct plan, the planning proposal was not lodged with the Department for Gateway Assessment until November 2018 – after the Draft Rhodes Precinct Strategy (2018-19) had been revised to include the Station West precinct (inclusive of the subject site) and been publicly exhibited.

When finalised, the Draft Rhodes East Place Strategy (2020) will provide the 20 year strategic framework for the entire Station Gateway West precinct and renders the planning proposal inconsistent with the site's recommended controls in the draft Place Strategy. A planning proposal would normally be required to achieve the proposed built form objectives and strategic outcomes for the subject site. However, rezoning for the site will instead be undertaken via the Draft Rhodes Place Strategy 2020 as part of the wider State-led precinct planning for the area.

## 5 Strategic Assessment

### 5.1 Draft Rhodes Place Strategy

The Draft Rhodes Place Strategy (Draft Strategy) is a 20-year plan for the Rhodes Precinct, comprising four distinct character areas: Station Gateway West, Station Gateway East, Cavell Avenue and Leeds Street character areas. Each character area envisages a distinct built form and function and has prescribed planning controls and guidelines to achieve this.



The Draft Strategy was informed by design principles and criteria which were prioritised to balance government aspirations, community expectations and to set best practice standards to guide the renewal of Rhodes.

The subject site is in the Station Gateway West character area, and a detailed urban design outcome has been prepared for each land parcel in this character area.

The Station Gateway West character area has been identified as being able to accommodate a total of 690 additional dwellings (68,200sqm of residential gross floor area), of which 187 could be accommodated on the subject site. The 2018 precinct plan included a cap of 750 for Rhodes West which included 150 dwellings for this site and 600 for the remainder of the precinct.



A concept design for the site from the urban design report prepared to support the Draft Place Strategy is at Figure 9.

**Figure 9: Proposed urban design outcome for the Station Gateway West character area**

The planning proposal seeks to develop a tower building on the 2,902sqm site and proposes a 65% increase from the FSR of 7.9:1 proposed in the Draft Place Strategy to 13.06:1 in the planning proposal. Table 5 below provides a comparison of the gross floor area (GFA) and floor space ratio controls between the planning proposal and the Draft Place Strategy. Figure 10 compares the proposed built form outcomes achieved under the proposed planning controls in the planning proposal and Draft Place Strategy.

When finalised in mid 2021, the Draft Place Strategy will establish the 20 year strategic framework for the site, within the context of the vision for the broader Station Gateway West character area and Rhodes Precinct. The proposed controls sought in the planning proposal do not align with the draft Place Strategy, with the latter representing a more balanced planning and urban design outcome for the site, than the intended outcomes in the planning proposal.

**Table 5: Comparison of GFA and floor space ratio controls**

	Total		Residential			Commercial	
	Total GFA	FSR Control	GFA	FSR	Apartment yield	GFA	FSR

	Total		Residential			Commercial	
<b>Planning Proposal</b>	37,900sqm	13.06:1	32,751sqm	11.3:1	330	5,149sqm	1.7:1
<b>Draft Rhodes Place Strategy</b>	23,058sqm	7.9:1	15,392sqm	5.3:1	187	7,665sqm	2.6:1



**Figure 10: Comparison of planning proposal concept plan and master plan outcome**

The proposed increase to the FSR sought in the planning proposal would be inconsistent with the desired built form outcomes outlined in the Draft Strategy. The proposal more than doubles the GFA and total apartment yield expected from the site and also reduces the GFA of commercial and retail areas from the minimum requirements proposed in the Draft Place Strategy.

While the proposal indicates that it could result in up to 400 jobs, the overall reduction in commercial GFA means it will not meet the minimum non-residential use area of 33.5%, as outlined in the Explanation of Intended Effect (EIE) which supported the Draft Place Strategy. This non-residential use percentage was applied to complement the active street frontage controls and help achieve region and district employment targets.

Preserving solar access to existing open spaces is a priority of the Draft Strategy, and it specifically requires no increase in overshadowing to Union Square between 9am and 2pm at the winter solstice. The size and scale of the proposal means that it will overshadow key public open space. As a result of the 65% increase in FSR controls (and therefore overall bulk of the proposed building), the proposal will overshadow Union square between 1:30pm and 2:00pm at the winter solstice. While a heliostat was proposed to mitigate this solar loss, the Draft Strategy does not support their use as a solar loss mitigation measure.

The proposal also seeks to increase the height of building controls (HOB) from 113m to 117m (approximately 1 storey, excluding the heliostat). This increase in height would also contribute to the overall bulk of the building and overshadowing impacts.

Overall, the planning proposal would develop a building that lacks site-specific merit and strategic alignment with the Draft Place Strategy.

## 5.2 Greater Sydney Region Plan

In March 2018, the Greater Sydney Commission released the *Greater Sydney Region Plan – A Metropolis of Three Cities* which aims to coordinate and manage the growth of Sydney. The Region Plan sets out objectives for the region over the next 40 years and informs the actions and directions of the District Plans.

The planning proposal seeks to enable a mixed-use development at the site to increase housing and employment in a strategic centre which is close to transport and services.

The Region Plan identifies the Rhodes East Precinct as a collaboration area and is subject of a State-led master planning process with Canada Bay Council and other key State agencies. The subject site is not located in Rhodes East. However, the Rhodes precinct was expanded in 2018 to include land to the west of the station, and the site was incorporated into the Rhodes precinct. The Draft Place Strategy establishes the strategic planning framework for the Rhodes precinct. It is inconsistent with the Region Plan to support changes to development controls for the site which would not achieve the outcomes sought by the Draft Rhodes Place Strategy.

## 5.3 Eastern District Plan

The site is within the Eastern City District, and the Eastern District Plan (released on 18 March 2018) is relevant to the assessment of this proposal. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets. The District Plan notes that the Rhodes East precinct will be a long-term initiative with collaboration between the Department, Canada Bay Council and other State agencies.

The planning proposal is generally consistent with the priorities for liveability, productivity, and sustainability in the plan as outlined below. The proposal is inconsistent with the priority for infrastructure and collaboration as outlined in Table 6.

The following table includes an assessment of the planning proposal against relevant directions and actions.



**Table 6: District Plan assessment**

District Plan	Justification
Planning Priority E1 – Planning for a city supported by infrastructure	<p>The proposal is in the Rhodes Precinct which is subject to a State-led master planning process and proposed controls in the Draft Place Strategy. The Draft Place Strategy identifies that the subject site could accommodate 187 dwellings which was based on the site complying with precinct-wide design criteria. Notably, the subject site is constrained by a requirement not to result in any additional overshadowing of open space (Union Square).</p> <p>The current planning proposal seeks to facilitate 330 dwellings at the site which is 143 additional dwellings beyond what is proposed in the Draft Rhodes Place Strategy.</p> <p>The local planning panel raised concern with the capacity of the transport network to support the planning proposal. The Department is working closely with Transport for NSW and Council in planning for the Rhodes Precinct to consider the transport needs of the entire precinct and the required upgrades to support growth.</p>
Planning Priority E2 – Working through collaboration	<p>The District Plan identifies Rhodes East as a collaboration area between the Department, Council and state agencies. The intended outcomes sought by the proposal are inconsistent with the desired outcomes for the precinct in the Draft Rhodes Place Strategy and so is considered inconsistent with this priority.</p>
Planning Priority E5 – Providing housing supply, choice and affordability, with access to jobs, service and public transport	<p><u>Objective 10 – Greater housing supply</u></p> <p>The proposal is consistent with this objective as it has the potential to provide approximately 330 dwellings and 275-300 jobs, within 400m of Rhodes train station, and within close proximity to employment hubs such as Rhodes office park, Concord Hospital and Rhodes Waterside shopping centre. However, the Draft Place Strategy will also contribute to housing in the area by facilitating 187 dwellings at the site.</p> <p><u>Objective 11 – Housing is more diverse and affordable</u></p> <p>The proposal has the potential to deliver diverse housing which would cater to various cohorts in terms of dwelling sizes and number of bedrooms. Affordable housing is also proposed by way of a VPA whereby 20% of the proposed VPA offer will be apportioned.</p> <p>The Draft Place Strategy will also include a requirement for housing diversity and affordable housing.</p>

District Plan	Justification
Planning Priority E6 – Creating and renewing great places and local centres and respecting the District's heritage	<p><u>Objective 12 – Great places that bring people together</u></p> <p>This priority includes a range of actions for collaboration areas, planned precincts and centres. The District Plan notes the roles of strategic centres in providing housing, employment, retail, commercial services and infrastructure.</p> <p>The proposal would contribute to the renewal of Rhodes; however, the desired outcomes for the site are not consistent with the broader strategic context of the Draft Place Strategy which identifies appropriate height and density controls based on global best-practice and a strategic place-based approach to precinct planning.</p>
Planning Priority E10 – Delivering integrated land use transport planning and a 30-minute city	<p>The proposal would deliver new housing in a well-connected location close to transport which will contribute to the aim of a 30-minute city.</p>
Planning Priority E11 - Growing investment, business opportunities and jobs in strategic centres	<p><u>Objective 22 – Investment and business activity in centres</u></p> <p>The proposal would deliver a mixed use development which would contribute towards both residential and non-residential uses at the site.</p> <p>The Draft Place Strategy identifies the site for a mixed use development and nominates a minimum of 33.2% non-residential use. The planning proposal indicates approximately ~5,500sqm, or 13.5% of total GFA, which falls short of the minimum non -residential use requirement set out in the exhibited EIE which supported the Draft Place Strategy.</p>
Planning Priority E18 – Delivering high quality open space	<p><u>Objective 31 Public open space is accessible, protected and enhanced</u></p> <p>The planning proposal seeks to maximise the building height and FSR to facilitate a mixed use tower development which would overshadow Union Square from 1:30-2:00pm, mid-winter. The proposal is inconsistent with this planning priority as the proposal would reduce solar access to Union Square.</p> <p>The Draft Place Strategy includes an indicative built form outcome for the site which would not result in any additional overshadowing of Union Square.</p>

## 5.4 Local

An assessment of the proposal against relevant local strategic plans is outlined in Table 7 below:

**Table 7: Local strategic planning assessment**

Local Strategies	Justification
Local Strategic Planning Statement (LSPS)	<p>The Canada Bay LSPS guides land use planning and development in the LGA. The proposal is consistent with the relevant priorities in the LSPS as it will contribute to housing in the LGA by providing 330 dwellings, including affordable housing.</p>



Canada Bay Local Planning Strategy 2010-2031	<p>The Department endorsed Council's Local Strategy on 27 November 2009. The Strategy was adopted by Council in June 2010. The planning proposal is broadly consistent with the objectives and actions in the Strategy, particularly:</p> <ul style="list-style-type: none"> <li>• OE1 Continue to strengthen employment and retailing in local centres;</li> <li>• OH1 Provide for a mixture of housing types over the short to medium term;</li> <li>• OT1 Integrate land use and transport; and</li> <li>• OT3 Promote walking and cycling trips.</li> </ul> <p>However, the proposal ultimately represents an overdevelopment of the site in terms of total dwellings/floor space, compared with growth originally contemplated by Council's Local Planning Strategy.</p>
Your Future 2030	<p>Your Future 2030 outlines Canada Bay's vision until 2030 and includes a set of goals, delivery strategies and measures to achieve the plan. The planning proposal is generally consistent with the goals of Your Future 2030 except for the following:</p> <p><i>Goal 4.2.1 – Provide strategic and land use planning to ensure the built and natural environment is highly liveable with quality and sustainable development incorporating best practice design.</i></p> <p>The proposal would result in a change in land use planning which would facilitate a built form outcome which does not incorporate best practice design because of its resultant overshadowing of Union Square, the use of a heliostat to compensate for any loss of solar access, and the low amenity of the proposed public open space.</p>

## 5.5 Local planning panel (LPP) recommendation

The proposal was considered by the local planning panel (LPP) on 23 August 2018. This was prior to the subject site being incorporated into the Rhodes precinct. The LPP raised concern with the proposal at the time regarding:

- the proposed departure from the built form outcomes anticipated by the Station Precinct Masterplan,
- the interruption of the principle of stepping down of built form to the foreshore;
- the quality and utility of 343sqm of proposed open space;
- the capacity of the existing transport network; and
- the appropriateness of heliostats to replace the loss of natural sunlight particularly on planned public spaces and the ongoing cost burden to residents.

The LPP supported the proposal for submission to the Department for Gateway determination subject to amendments and providing supporting analysis and studies.

## 5.6 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed in Table 8 below:

**Table 8: Assessment of 9.1 Ministerial Directions**

Directions	Consistent/ Not Applicable	Reasons for Consistency
Direction 1.1 – Business and Industrial Zones	Yes	The site is zoned B4 Mixed Use and the planning proposal does not propose to change the zoning of the land. The proposed zoning would contribute to employment growth and support the viability of the Rhodes precinct.
Direction 3.1 – Residential Zones	Yes	The proposal would contribute approximately 330 dwellings to the area and making more efficient use of existing infrastructure and services.
Direction 3.4 – Integrating land use and transport	Yes	The proposal would contribute to housing which is well located to transport and reduce travel demand by car.

## 5.7 State environmental planning policies (SEPPs)

The planning proposal is consistent with relevant SEPPs as discussed in Table 9.

**Table 9: Assessment of planning proposal against relevant SEPPs**

SEPPs	Requirement	Proposal	Complies
SEPP 55 – Remediation of Land	Yes	The proposal is supported by a Preliminary Site Investigation report prepared by Douglas Partners dated June 2018. The report concluded that the site is suitable or could be made suitable for high-density residential development.	Yes
SEPP 65- Design Quality of Residential Flat Buildings	Yes	The planning proposal is supported by a concept design for a mixed use tower development up to 36 storeys and so the SEPP applies. The proposal is supported by a Design Verification Statement by Koichi Takada Architects dated 15 June 2018 which states that the proposal achieves the quality principles set out in Schedule 1 – Design Quality Principles of SEPP 65 and complies with the requirements in the Apartment Design Guide.	Yes

## 6 Site-specific assessment

### 6.1 Environmental

Table 10 provides an assessment of the potential environmental impacts associated with the proposal.

**Table 10: Environmental impact assessment**

Environmental Impact	Assessment
Overshadowing	<p>The proposal was informed by a shadow assessment by Conybeare Morrison dated 7 November 2017. The assessment found that the proposed tower overshadows Union Square with a narrow shadow of approximately 1.5m-2m width during the winter solstice.</p> <p>Council's assessment found that the proposal would overshadow approximately 40% of the area of the town square by 2:00pm in mid-winter. The proposal nominates the use of a heliostat to offset solar access impacts however the continued use of artificial mechanisms to retain solar access to open space areas is not supported.</p> <p>The Draft Rhodes Place Strategy requires no net increase in overshadowing of Union Square between 9am and 2pm. The proposal is inconsistent with solar access requirements for Union Square proposed in the Draft Place Strategy and is not supported.</p>
Built form and scale	<p>The concept proposal for the site is a 36 storey tower (up to 117m) and a proposed FSR of 13.06:1. The proposed built form and scale of the proposed development, particularly the proposed FSR, is inconsistent with the intended built form outcomes in the Draft Rhodes Place Strategy which proposes a maximum height of 113m and a maximum FSR of 7.9:1.</p> <p>The proposed FSR would facilitate a development at the site which is inconsistent with the design objectives and criteria applied to the rest of the Rhodes precinct, notably that the resultant built form, bulk and scale would result in overshadowing of Union Square.</p>
Open space	<p>The proposal proposes to provide 343sqm of south-facing open space adjacent to Mary Street at the corner of Marquet Street. It is considered that this proposed open space being south-facing would provide low amenity due to a lack of solar amenity. Additionally, the proposal would result in afternoon overshadowing impacts to Union Square which is identified as a key open space in the Draft Rhodes Place Strategy.</p> <p>The proposed open space is not considered acceptable with regard to offsetting the proposed overshadowing of Union Square.</p>
Aeronautical impacts	<p>The proposal is supported by an Aeronautical Impact Assessment prepared by Landrum &amp; Brown dated 19 June 2018. The report concludes that a development at the site to 151.4m AHD would not result in aeronautical impacts.</p>
Wind impacts	<p>The proposal is supported by a qualitative wind assessment prepared by SLR and dated June 2018. The report assessed wind impacts on 11 locations of interest and found that wind impact potential was between moderate to high and that mitigation would be required for all locations.</p>

## 6.2 Social and economic

Table 11 provides an assessment of the potential social and economic impacts associated with the proposal.

**Table 11: Social and economic impact assessment**

Social and Economic Impact	Assessment
Social	<p>The proposal seeks to develop approximately 330 new dwellings at the site and provide ground level retail/commercial uses.</p> <p>The proposal will likely generate increased demand for social infrastructure such as schools, childcare and aged care. The planning proposal does not propose any additional social infrastructure to support the development.</p>
Employment	<p>The proposal will retain the existing B4 Mixed Use zoning. The indicative design concept submitted with the planning proposal intends to provide ground level commercial/retail tenancies comprising a total commercial/retail floor area of ~5,500sqm.</p> <p>The planning proposal notes the potential of the site to deliver approximately 275 to 300 full time jobs.</p> <p>The amount of commercial and retail floorspace proposed in the concept design is significantly less than identified for the site in the Draft Place Strategy. The proposed controls for the site under the Draft Place Strategy aim for a minimum of 33% of the GFA to be provided as commercial or retail floorspace. The planning proposal is inconsistent with the employment aims proposed for the site in the Draft Place Strategy.</p>
Affordable housing	<p>The proposal is supported by a VPA to contribute 20% of the proposed monetary contribution toward affordable housing.</p> <p>The EIE and Draft Place Strategy contain proposed affordable housing contributions that would apply to the site.</p>

## 6.3 Infrastructure

Table 12 provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

**Table 12: Infrastructure assessment**

Infrastructure	Assessment
----------------	------------

Public transport	<p>The site is near Rhodes train station and is well serviced by bus services to the surrounding area. The Draft Rhodes Place Strategy is a strategic, place-based approach to planning for the Rhodes precinct and identifies appropriate dwelling yields for the four character areas of the precinct based on best-practice design principles and a maximum dwelling yield of 4,200 dwellings for the precinct.</p> <p>The Draft Place Strategy proposes an initial dwelling yield cap of 3,000 dwellings to ensure that adequate infrastructure including public transport is available to support the redevelopment of the precinct.</p> <p>The Draft Place Strategy identified that 187 dwellings can be accommodated at the site and this is incorporated in the maximum dwelling yield cap and ability of public transport in the precinct to support future development.</p> <p>The proposal seeks to facilitate 330 dwellings at the site which would exceed the maximum dwelling yield for the precinct and public transport in the area would be unlikely to be able to support additional dwelling yields without further upgrades in excess of what is proposed by the Draft Place Strategy.</p>
Traffic	<p>A report was prepared by Jacobs dated 6 December 2016 at the request of Canada Bay Council. With regard to the subject site, the report found that when considered in isolation, morning and evening trips would not impact the existing road network and intersections. However, to address cumulative impacts, the report recommended Council should review its parking rates for Rhodes West.</p>

## 7 Consultation

### 7.1 Community

The planning proposal is not recommended to proceed to Gateway approval and subsequent public exhibition.

### 7.2 Agencies

The planning proposal is not supported and so agency consultation is not required.

## 8 Timeframe

No timeframe is required as the planning proposal is not recommended to proceed.

## 9 Local plan-making authority

The planning proposal is not recommended to proceed and so nomination of a local plan-making authority is not required.

## 10 Assessment Summary

The planning proposal is **not** supported to proceed for the following reasons:

- The proposal is inconsistent with the Greater Sydney Region Plan because the desired outcomes sought by the proposal are inconsistent with the Draft Rhodes Place Strategy which is the result of a collaborative approach between the Department, Council and State agencies for renewal of the area outlined in the Greater Sydney Region Plan.



- The proposal is inconsistent with the Eastern City District Plan because the desired outcomes sought by the proposal are inconsistent with the Draft Rhodes Place Strategy.
- The proposal seeks height of building and floor space ratio controls which are inconsistent with the desired future character of Rhodes in accordance with the precinct-wide design objectives and would result in an overdevelopment of site.
- The proposal would result in overshadowing of Union Square between 1:30pm and 2:00pm during the winter solstice which is inconsistent with the Draft Rhodes Strategy which requires no overshadowing of Union Square between 9:00am and 2:00pm. Additionally, the proposed open space at the south of the site is not considered to have good amenity to justify any proposed overshadowing of Union Square
- The proposal is inconsistent with the Draft Rhodes Place Strategy (Explanation of Intended Effect) as it does not provide a sufficient percentage of non-residential uses. The low percentage of proposed commercial/retail floorspace (13.5% of total GFA, compared to proposed residential floorspace of 86.5% total GFA) does not meet the minimum non-residential requirements of the Draft Place Strategy.

## 11 Recommendation

It is recommended that the delegate of the Minister determine that the planning proposal should **not** proceed because:

- The proposal lacks strategic merit as it does not give effect to the Greater Sydney Region Plan and Eastern Sydney District Plan, in accordance with section 3.8 of the Act.
- The proposal is inconsistent with the intended built form outcomes and proposed controls detailed in the Draft Rhodes Place Strategy 2020. The Draft Place Strategy establishes the strategic planning framework and intended outcomes for the Rhodes precinct.
- The proposed floor space ratio and height of building controls are inconsistent with the Draft Rhodes Place Strategy and would constitute an overdevelopment of the site in terms of the number of dwellings at the site and built form outcome.
- The proposal is inconsistent with intended mix of residential and employment floorspace identified for the subject site in the Draft Rhodes Place Strategy 2020. The proposal would result in adverse overshadowing impacts to Union Square.
- The proposed open space in south of the subject site is not considered to have good amenity and would not adequately compensate for any proposed loss of solar access to Union Square.



Katrina Burley  
Manager, Eastern & South Districts



Laura Locke,  
Director, Eastern and South Districts