

# Development Application Report No. D82/17



**Subject:** 4-6 Grosvenor Street, Kensington (DA/166/2017)

**Folder No:** DA/166/2017

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**Proposal:** Demolition of existing structures, construction of a 3 storey residential flat building containing 9 dwellings, basement parking for 13 vehicles, landscaping and associated works

**Ward:** West Ward

**Applicant:** New Oriental Pty Ltd

**Owner:** New Oriental Pty Ltd

**Summary Recommendation:** Approval



## Development Application Executive summary report

The proposed development is referred to the Planning Committee as it has a cost of works greater than \$2 million.

## Proposal

Demolition of existing structures, construction of a three storey residential flat building containing nine dwellings, basement parking for 13 cars, landscaping and associated works.

Amended plans were received on 14 June 2017 which included the following changes:

- Reduction in floor area by 35 sqm, which results in the development having a proposed FSR of 0.939:1, reduced from the 0.99:1 as proposed in the application as originally submitted.
- Reduction in the height of the proposal from 12m to 10.5m.
- Revision of the basement layout and an increase in deep soil landscaping.
- Addition of privacy measures and planting to limit privacy impacts on No. 8 Grosvenor Street.

## Site

The area is characterised by single dwellings and residential flat buildings of three and four storeys in height. A primary school is located at the corner of Grosvenor and Kensington Streets. Anzac parade is located approximately 200m to the east.

Adjacent development includes a four storey residential flat building to the west three storey.



**Subject site at No. 4- 6 Grosvenor Street**

## Randwick Local Environmental Plan 2012

The key standards and objectives in the RLEP 2012 applicable to the development are detailed below:

### Key RLEP Standards

Description	Council Standard	Proposed	Compliance (Yes/No)
R3 Medium Density	Objectives	Listed below under Clause 4.6 exception	See below
Height of Buildings – Clause 4.3	12m	10.5m	Yes
Floor Space Ratio – Clause 4.4	0.9:1	0.93:1	No – see Clause 4.6 discussion below

### Land use – R3 Medium Density Residential Zone

The relevant objectives under RLEP 2012 for the medium density zone are as follows:

- *To provide for the housing needs of the community within a medium density residential environment*
- *To provide a variety of housing types within a medium density residential environment*

The proposal provides for additional dwellings in a medium density scale which will meet the needs of the community. The proposal provides additional housing choice for residents.

- *To recognize the desirable elements in the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.*
- *To protect the amenity of residents.*

As detailed in this assessment, it is considered that the proposal will be acceptable in regard to potential impacts on neighbours and the area in general. The design of the development is also acceptable and has been reviewed by Council's Design Excellence Panel. The proposal will be in keeping with the desired future character of the area.

### Clause 4.6 - Exceptions to development standards

Clause 4.6 of RLEP provides a mechanism for variation to development standards in certain circumstances.

The proposal contravenes the maximum floor space ratio (FSR) development standard of Clause 4.4: Floor Space Ratio, contained within RLEP 2012. The applicant has submitted a written justification that seeks to justify the contravention of the standard pursuant to Clause 4.6. The variation is addressed as follows:

### Clause 4.4 - Floor Space Ratio Control

Clause 4.4 (2) states that the maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#). The FSR indicated on the map for the land is 0.9:1.

The proposed FSR is 0.93:1 (or GFA of 321.7m<sup>2</sup>). The proposed variation is summarized in the table below:

Site area	689.8m <sup>2</sup>
Proposal	FSR of 0.939:1
LEP development standard	0.9:1
% variation to development standard	4.3%

**Assessment against the applicant's written justifications for the contravention of the development standard**

Pursuant to clause 4.6(3) of RLEP 2012 development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Further, the consent authority must be satisfied that:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

The concurrence of the Director-General of the Department of Planning and Infrastructure must also be obtained for development that contravenes a development standard. However, pursuant to the Notification of assumed concurrence of the Director-General under clause 4.6(4) (and the former clause 24(4)) of the Standard Instrument contained in Planning Circular PS 08-003 (dated 9 May 2008) the concurrence of the Director-General of the Department of Planning and Infrastructure under clause 4.6(4)(b) of RLEP 2012 may be assumed in certain cases.

In relation to the matters required to be demonstrated by subclause (3) there are various ways that may be invoked to establish that compliance with a development standard is unreasonable or unnecessary as discussed by Chief Justice Preston of the NSW Land and Environment Court in the case of *Wehbe v Pittwater Council* [2007] NSWLEC 827. Although the *Wehbe* case was decided in relation to State Environmental Planning Policy No 1—Development Standards ("SEPP 1") and not clause 4.6 of RLEP 2012 it remains of some assistance in relation to identifying the ways in which an applicant may demonstrate that compliance with a development standard is unreasonable or unnecessary in the circumstances of the case.

**Has the applicant's written request adequately addressed that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case?**

In the *Wehbe* case Justice Preston said the most commonly invoked way to establish that compliance with a development standard is unreasonable or unnecessary is to demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

The objectives of the floor space ratio standard are set out in clause 4.4(1) of RLEP 2012 as follows:

- (a) to ensure that the size and scale of development is compatible with the desired future character of the locality,

- (b) to ensure that buildings are well articulated and respond to environmental and energy needs,
- (c) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,
- (d) to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.

The applicant's written justifications outline the following key arguments for the departure from the standard:

**Clause 4.6(3)(a) - Is Compliance with the development standard unreasonable or unnecessary in the circumstances of the case**

*When considering the amended design, we are of the opinion that enforced compliance with the FSR standard is unreasonable and unnecessary given the circumstances of this case. Many of the below points were provided in Mecone's original Clause 4.6 assessment and remain relevant again:*

- *The proposal is consistent with the objectives of the standard as outlined below in this report (Wehbe "Test 1").*
- *Additional FSR is distributed evenly throughout the building and does not result in any obvious elements of extra bulk, nor does it cause the building height standard to be exceeded. This is particularly more evident given the deletion of the upper level mezzanine.*
- *The locality consists of varied built forms, in particular noting 4 storey developments to the west and north. These buildings appear significantly bulkier than the proposed development at 4-6 Grosvenor Street. Strict compliance with the FSR standard would be unreasonable in the circumstances, as this would not result in the proposed building being any more compatible with the surrounding area than it already would be. The non-compliance does not result in a proposal which is out of character with the surrounding built form;*
- *The original proposal was reviewed by Council's Design Review Panel (DRP) who advised that additional FSR would be of little consequence. This determination would remain for the revised scheme, which proposes even less of a variation to the control;*
- *The development has been revised to ensure compliance against key RDCP 2013 controls of concern to Council, namely: Solar access and overshadowing; Deep Soil Zones and Privacy.*

*The proposal also remains consistent with RDCP 2013 controls for building envelope, setbacks, and massing. This demonstrates that the built form, which is controlled in part by FSR, is reasonable and acceptable;*

- *The proposed development, as amended, remains consistent with the objectives of the FSR standard as outlined previously by Mecone and again within this document. The key objectives of the FSR standard primarily relates to controlling bulk, scale, adverse impacts, and ensuring appropriate design. The request for variation needs to be considered against these overarching objectives, and the revised design clearly complies with the objectives of the standard, despite the variation;*
- *The proposed development is consistent with the objectives of development in the R3 Medium Density Residential Zone, as outlined previously by Mecone and again further in this document;*

- *The contravention of the FSR standard does not raise any matter of State or regional planning significance; and*
- *There is no public benefit in maintaining the standard in the circumstances of the case as explained below.*

*Following from the above, our position remains that there is no benefit in strictly enforcing an FSR-compliant scheme, particularly given the very minor encroachment that is proposed (only 27sqm or 4.3%), and the indiscernible physical change which would come from compliance. For these reasons, compliance with the development standard is still considered unreasonable and unnecessary.*

***Clause 4.6(3)(b) - Are there sufficient environmental planning grounds to justify contravening the development standard?***

*There are sufficient environmental planning grounds for the contravention to the FSR standard as follows:*

- *The Land and Environment Court in its recent decisions in Four2Five vs Ashfield Council has ruled that a clause 4.6 variation must do **more than** demonstrate that the development meets the objectives of the development standard and the zone, a test commonly referred to as the Wehbe Test #1 (which are matters dealt with further below). The clause 4.6 objection must **also** demonstrate some other environmental planning grounds that justify contravening the development standard, preferably some that are specific to the site, although that is not essential, according to the Court of Appeal decision in Four2Five vs Ashfield Council. The decision also suggests that the requirements under clause 4.6(3)(a) and (b) must not be 'watered down' and must be adequately addressed.*
- *The proposed built form has been amended to present as a 3 storey building, with no mezzanine level, which fits easily into the 12m height limit. This amended design is suitable for the site and consistent with the scale of the existing and new development and is, in fact, less dominant than many existing nearby buildings which feature a fourth storey.*
- *This presents environmental planning grounds to justify the encroachment given that the breach in FSR, which controls building form, does not present any built form incompatibility issues.*
- *The site of the proposed development is constrained in size, at less than 700m<sup>2</sup>, making it a challenge to provide a development which strictly complies with all controls, and still provides excellent amenity for existing and future residents. The proposal has managed to do this, incorporating a minor increase in floor area.*
- *Additional FSR has no environmental impact. In terms of visual appearance, the additional density is evenly distributed throughout the building rather than resulting in an obvious additional floor or encroachment above the height or setback requirements. Environmental impacts of the development as a whole are mitigated through engineering solutions for stormwater matters, articulation in façade and building height compliance for overshadowing. The remaining additional FSR does not impede on these outcomes or otherwise substantially increase the impacts.*
- *The remaining additional FSR and a more efficient building redesign still provides a better typology mix without an increase in apartment numbers. As outlined previously to Council, the development increases the number of 3*

*bedroom dwellings provided in comparison to the almost identical development at 8-10 Grosvenor Street, despite no increase in the overall provision of 9 units. Greater housing mix is a significantly better planning outcome as this promotes further diversity in Kensington, allowing larger family groups to reside at the property.*

- *Given the above strict compliance with the FSR control would hinder the attainment of the objects of the Act, and would not result in the orderly and economic use and development of land.*
- *Council raised specific concerns with the proposed development in letter dated 15 May 2017. The revision to the design and subsequent reduction in FSR has addressed the issues that Council raised.*

***Clause 4.6(4)(a)(ii) - Is the proposed development in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out***

*In the court case Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90, Commissioner Pearson stipulates that the consent authority is to be satisfied the proposed development will be in the public interest because it is consistent with:*

- a) the objectives of the particular standard, and*
- b) the objectives for development within the zone in which the development is proposed to be carried out.*

*The objectives of the development standard and the zone are addressed below under the relevant headings:*

***(i) the objectives of the particular standard***

*The particular development standard is Clause 4.4 FSR of the RLEP and the relevant objectives are addressed below:*

- (a) to ensure that the size and scale of development is compatible with the desired future character of the locality*

*The size and scale of the proposed residential flat building is compatible with the desired future character of the locality, referred to within the zoning objectives. The building presents as a three storey building to Grosvenor Street which aligns with development to its sides and rear, and does not dominate the single storey dwellings on the opposite side of the street.*

- (b) to ensure that buildings are well articulated and respond to environmental and energy needs,*

*The building has been well designed with good articulation, variation in materiality, and a response to environmental and energy needs. This is evidenced by the proposal's exceedance of minimum cross ventilation, solar access, and BASIX requirements.*

- (c) to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,*

*The proposal is not within a heritage conservation area and does not adjoin any heritage items.*

- (d) *to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.*

*The proposal does not adversely impact on the amenity of adjoining and neighbouring land in terms of the above items. The site is orientated north-south, and as such shadows that are cast move quickly from the property to the west in the morning, to Grosvenor Street to the south, and to the property to the east in the afternoon. The proposal has been well designed to ensure visual privacy is retained for all surrounding properties, through high level windows on side boundaries, and elements of privacy screening on balconies.*

*The visual bulk of the development is consistent with surrounding development in the R3 Zone, which consists of many 3-4 storey apartment buildings.*

**(ii) *the objectives for development within the zone in which the development is proposed to be carried out.***

*The objectives of the R3 Medium Density Residential zone are as follows:*

- To provide for the housing needs of the community within a medium density residential environment.*

*The development provides additional housing for the needs of the community in an area consisting of a number of medium density residential properties.*

- To provide a variety of housing types within a medium density residential environment.*

*The proposal will provide a range of unit types within a medium density residential environment. This will include 1 x beds, 2 x beds, and 3 x bed apartments, to cater for the needs of individuals, couples, groups, and families.*

- To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

*The proposal does not impact upon the ability of other land in the zone being able to provide for different facilities or services.*

- To recognise the desirable elements of the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.*

*Desirable elements of the existing streetscape, such as consistent setbacks, landscaped areas, street trees, and development between 1 to 3 or 4 storeys, is respected by the development.*

- To protect the amenity of residents.*

*The proposal is designed in accordance with Council regulations around setbacks, building height, design, overshadowing, privacy, parking, and building materiality. The proposal is considered to therefore protect the amenity of residents.*

- To encourage housing affordability.*

*The proposal replaces two existing dwellings with 9 total dwellings. These 9 dwellings are each likely to be purchased at a price far below that of which the existing dwellings are worth, opening up the suburb for a number of additional prospective*

*purchasers. This encourages housing affordability in the Randwick LGA and places downward pressure on the cost of housing.*

**Assessing officer's comment:**

In assessing the proposed variation against the objectives of FSR standard, it is considered that the development achieves consistency with the objectives and will provide a positive planning outcome.

Despite the proposal exceeding the relevant development standard, the proposed floor space of the development is considered to be generally acceptable for the following reasons:

- The proposed development has been amended during the assessment process, *significantly* reducing the proposed floor area and reducing the height of the development to well within the height standard. The variation is now reduced to be a relatively small variation from the standard of 4.3%. The additional floor area does not result in any perceivable additional bulk with the floor area of the development being evenly distributed.
- The proposal generally complies with relevant building envelope controls *contained* within Randwick Development Control 2013, including setbacks and deep soil landscaping. The proposed development also meets the height development standard contained in the Randwick Local Environmental Plan 2012 and will be consistent with the desired future character anticipated by Council's built form controls.
- Solar impacts on adjacent sites are generally acceptable and are not directly the result of additional floor space as detailed in this assessment.
- The proposed development meets the relevant Zone Objectives and provides a reasonable form of medium density residential development.

Specifically in relation to the relevant objectives of the floor space ratio development standard the variation is considered to be acceptable because:

- The proposed development is compatible with the size and scale of the desired future character of the locality as the building envelope controls of maximum height, wall height and setbacks are generally satisfied. The proposed development will match the scale of the residential flat building being constructed at 8-10 Grosvenor Street.
- The proposed building is well articulated, with a break in the length of the building so that the bulk reads as two building forms when viewed from the east and west. The street elevation includes a variety of building materials and the proposed balconies break up the façade and reduce the perception of building bulk.
- The impact of the development on the heritage item at no. 16 Grosvenor Street and the Sacred Heart Heritage Conservation Area is considered to be acceptable. The contemporary form of the development will distinguish between the old and the new buildings in the streetscape and the bulk and the scale of the proposal is such that it will not detract from the significance of the heritage item or the conservation area. The proposal will meet the objectives of Clause 5.10: Heritage Conservation contained within RLEP2012.
- The impact of the development on the amenity of adjacent properties is considered to be acceptable, as discussed in this assessment, in particular,

shading of No. 2 Grosvenor Street is not considered to be the result of any additional proposed building bulk adjacent to that property.

In conclusion, the applicant's written request has successfully demonstrated that compliance with the development standard in question is unreasonable or unnecessary in the circumstances of the case.

**Has the applicant's written request adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard?**

The proposal has been carefully designed to achieve the planning objectives for the locality and to fit in with the scale and character of existing and proposed development in the immediate context, whilst minimising potential adverse impacts on surrounding properties.

The applicant's written request has successfully demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

**Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out?**

Based on the above assessment, it is considered that the proposed development is consistent with the objectives of the Floor Space Ratio standard. The relevant objectives for development within the zone in which the development is proposed to be carried out (Zone R3 – Medium Density Residential) are:

- *To provide for the housing needs of the community within a medium density residential environment*
- *To provide a variety of housing types within a medium density residential environment*
- *To recognize the desirable elements in the existing streetscape and built form or, in precincts undergoing transition, that contribute to the desired future character of the area.*
- *To protect the amenity of residents.*

Subject to conditions, it is considered that the proposed development is consistent with the objectives that are relevant because it is sympathetic to the existing residential environment and built form and would not have an unacceptable impact on the amenity of residents.

- The proposed development is considered to be in the public interest because it is consistent with the objectives of the standard and the relevant objectives for development within Zone R3 - Medium Density Residential.

**Does the Council have delegation to exercise the concurrence function of the Director-General of the Department of Planning and Infrastructure for development that contravenes a development standard? If so:**

- (a) **whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and**
- (b) **the public benefit of maintaining the development standard.**

**Comments:**

Pursuant to the Notification of assumed concurrence of the Director-General under clause 4.6(4) (and the former clause 24(4)) of the Standard Instrument contained in

Planning Circular PS 08–003 (dated 9 May 2008) the concurrence of the Director-General of the Department of Planning and Infrastructure under clause 4.6(4)(b) of RLEP 2012 may be assumed to the granting of development consent to the development that contravenes the development standard for Floor Space Ratio in clause 4.4 of RLEP 2012.

Variation from the adherence to the numerical Floor Space Ratio standard will not be detrimental to the orderly use of the site and there is no public benefit in maintaining the development standard in this instance.

The proposed development and variation from the development standard does not raise any matters of significance for State or regional environmental planning. The strict adherence to the numerical standard will not be necessary, in this case, for maintaining the low density housing forms, where such development does not compromise the amenity of surrounding residential areas and is compatible with the dominant character of existing development.

### Submissions

The owners of adjoining and likely affected neighbouring properties were notified of the proposed development in accordance with the Randwick Comprehensive DCP 2013. The following submission was received as a result of the notification process:

- 2 Grosvenor Street (unit unspecified)

A late submission was also received from:

- Unit 3, 2 Grosvenor Street

### Issue:

- **The proposal will have a negative impact on the privacy and ventilation of the residential flat building located to the west of the subject property.**

Comment: Window openings on the side elevations of the development are either of a highlight style, will be screened or have the minimum separations from windows in adjacent properties as specified in the Apartment Design Guide. Proposed conditions require screening to sides of balconies to limit impacts in this regard. It is not considered that the development will significantly impact on ventilation of adjacent properties given general compliance with required setbacks from boundaries.

- **The proposal will negatively impact on views to the east from No. 2 Grosvenor Street.**

Comment: The proposed development will not result in significant view loss impacts. Any views lost are not considered to be of significant scenic elements or recognised icons such as city skylines, landmark buildings or natural features of particular note.

- **The proposal will cause parking problems in the street.**

Comment: The development has been assessed by Council's Development Engineer as being acceptable and it complies with the car parking requirements in the Randwick Development control Plan 2013.

- **The proposal will have a negative impact on solar access to units in No. 2 Grosvenor Street which will also result in additional financial costs due increased electricity use because reduction in natural light.**

Comment: See discussion in Key Issues.

- **The proposed development will have a negative impact on property values**

Comment: This is not a valid matter of consideration under Section 79(c) of the Environmental Planning and Assessment Act, 1979.

- **The proposal will negatively impact on the adjacent Heritage Conservation Area**

- Comment: As detailed above, the impact of the development on the heritage item at no. 16 Grosvenor Street and the Sacred Heart Heritage Conservation Area is considered to be acceptable. The contemporary form of the development will distinguish between the old and the new buildings in the streetscape and the bulk and the scale of the proposal is such that it will not detract from the significance of the heritage item or the conservation area. The proposal will meet the objectives of Clause 5.10: Heritage Conservation contained within RLEP2012.

## Key Issues

### *Solar access to adjacent properties and minimum building separation requirements*

The development will provide a reasonable level of solar access to adjacent development in midwinter, 21 June. There will be additional shading to the first floor east-facing windows of No. 2 Grosvenor Street in the morning on 21 June, however these windows will be clear of the additional shadow by 10am. Of note, however are the two the first floor east-facing windows closest to the street boundary which will lose the only morning solar access received to these windows with the additional shadows received to 9am and there would also be additional shading of the adjacent balcony.

The SEPP 65 Apartment Design Guide (ADG) states that where a neighbouring property does not currently receive a minimum of 2 hours direct solar access between 9am and 3pm in midwinter to living areas, private open space and communal open space the proposed development should not reduce this further by more than 20%. As the proposed development will result in one dwelling within No. 2 Grosvenor Street not gaining any solar access on 21 June there will be an 11% reduction in compliance with the ADG solar access requirements for neighbouring properties. It is noted that the ADG has a 6m separation control (Part 3F – Visual Privacy) between habitable rooms in buildings on adjacent sites. While the proposed development is located 3.3m from the common boundary with No. 2 Grosvenor Street for the portion of the development which is adjacent to the affected units in No. 2 Grosvenor Street, the existing residential flat building at 2 Grosvenor Street is less than 3m from the common boundary, therefore the 6m separation control is not met. The ADG acknowledges that compliance with the separation control is difficult to achieve in relation to narrow allotments in suburban areas that contain older flat buildings; these circumstances apply to the subject site and the surrounding area. In this respect, requiring compliance with the 6m minimum separation control would preclude the permissible and proper development of the site for the purposes of medium density housing.

It is considered that the additional impacts detailed above are acceptable as the proposed development complies with relevant height and exceeds Council's set back DCP controls in relation to this adjacent property (for the southern-most portion of the proposed development) contained within the RDCP 2013. In addition, the variation to the floor space ratio control is relatively minor and a reduction in floor space to ensure full compliance with the control would not necessarily reduce impacts on No. 2 Grosvenor Street. The location of the residential flat building at No. 2 Grosvenor Street is such that it would be difficult to undertake any reasonable

development on the subject site without there being some additional shading on the adjacent property.

There will be no additional shadow impacts on No 2 Grosvenor Street resulting from the proposal after 10am on 21 June.

#### *Privacy Impacts on Adjacent Sites*

Window openings on the side elevations of the development are either of a highlight style, will be screened or have the minimum separations from windows in adjacent properties as specified in the Apartment Design Guide. Proposed conditions require screening to sides of balconies to limit privacy impacts on adjacent properties and detail a minimum sill height for the windows in side elevations which have been identified as highlight windows on the plans submitted with the application.

### **Relationship to City Plan**

The relationship with the City Plan is as follows:

Outcome 4: Excellence in urban design and development.

Direction 4a: Improved design and sustainability across all development.

### **Financial impact statement**

There is no direct financial impact for this matter.

### **Conclusion**

The proposed development has been assessed against the relevant standards contained within Randwick Local Environmental Plan 2012 and controls contained within Randwick DCP 2013 and considered to be acceptable. Impacts on adjacent properties are considered to be acceptable subject to proposed conditions of consent.

### **Recommendation**

- A. That Council supports the exceptions to development standards under Clause 4.6 of Randwick Local Environmental Plan 2012 in respect to non-compliance with Clause 4.4 of Randwick Local Environmental Plan 2012, relating to floor space ratio, on the grounds that the proposed development complies with the objectives of the above clause, and will not adversely affect the amenity of the locality, and that the Department of Planning & Environment be advised accordingly.
- B. That Council, as the consent authority, grants development consent under Sections 80 and 80A of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/166/2017 for demolition of existing structures, construction of a 3 storey residential flat building containing 9 dwellings, basement car parking for 13 cars, landscaping and associated works at No.s 4-6 Grosvenor Street, Kensington, subject to the following non standard conditions and the standard conditions contained in the development application compliance report attached to this report:

### **Non standard conditions**

#### **Amendment of Plans**

2. The approved plans and documents must be amended in accordance with the following requirements:
  - a. All windows indicated as being highlight windows on the eastern and

western elevations must have a minimum sill height of 1.6m above floor level.

- b. Privacy screens having a height of 1.6 metres above floor level must be provided to the eastern and western sides of all front and rear balconies. The privacy screens must be constructed of metal or timber and the total area of any openings within the privacy screen must not exceed 25% of the area of the screen. Alternatively, the privacy screen may be constructed with translucent, obscured, frosted or sandblasted glazing in a suitable frame.

**Attachment/s:**

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| <ol style="list-style-type: none"><li>1. DA Compliance Report - 4-6 Grosvenor Street,<br/>KENSINGTON</li></ol> | Included under separate<br>cover |
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