



P B & Co  
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Toorak VIC 3142

D343/22

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED  
NOTICE OF DETERMINATION –Refusal**

*Issued under Section 4.18 of the Environmental Planning and Assessment Act 1979 (“the Act”). Clause 87 of the Environmental Planning and Assessment Regulation 2021 (“the Regulation”)*

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**Development Application Number:** 343/22

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**Land to which this applies:** 184B, 186 and 190 Kurraba Road, Kurraba Point  
Lot No.: SP 19950

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**Applicant:** P B & Co

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**Proposal:** Demolition of a dwelling house, two (2) dual occupancies and a swimming pool, and construction of two x residential flat buildings and 2 x dual occupancies, with basement parking and access provided by car lifts, associated landscaping and civil works and internal boundary realignment and subdivision.

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**Determination of Development Application:** The development application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 5 June 2024. Subject to the provisions of Section 4.17 of the Environmental Planning and Assessment Act 1979, the subject application has been refused for the reasons stated below.

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**Date of Determination:** 5 June 2024

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**Reasons for refusal:**

- 1. The proposed development fails to satisfy Clause 1.2(2) Aims in Part 1 of the North Sydney Local Environmental Plan 2013**
  - a) The application does not demonstrate the development will enhance the amenity of the community and environment and is inconsistent with Clause 1.2(2)(a);
  - b) The application exceeds the maximum site coverage and is deficient in landscaped area resulting in an overdevelopment of the site which is incompatible with the desired future character of the area and inconsistent with Clause 1.2(2)(b)(i);
  - c) The application fails to ensure that new development does not adversely affect residential amenity in terms of view sharing and is inconsistent with Clause 1.2(2)(c)(i); and
  - d) The application fails to protect the natural qualities of North Sydney and does not ensure that development does not adversely affect its significance and is inconsistent with Clause 1.2(2)(f).
  
- 2. The proposed development does achieve the objectives of the zone**
  - a) The proposal does not satisfy the objectives of the R4 High Density Residential zone as:
    - i. The proposed residential flat buildings do not demonstrate that a reasonably high level of amenity to the neighbouring properties are achieved, particularly in relation to view loss impacts; and
    - ii. The proposed residential flat buildings compromise the natural landscaped character of the area as the development does not satisfy the relevant built form controls as required within the R4 zone.
  
- 3. The proposed development does satisfy Clause 6.12 of the North Sydney LEP 2013.**
  - a) The development does not satisfy Clause 6.12 Residential flat buildings as it has not been adequately demonstrated that amalgamation has been considered for No. 184A Kurraba Road to the north. As such, the consent authority cannot be satisfied that land is capable of being redeveloped as a residential flat building.
  
- 4. The proposed development does not comply with the following provisions pursuant to the North Sydney DCP 2013.**
  - a) O2 and P2, P4 of Part B, Section 1.3.6 Views in NSDCP 2013;
  - b) O2, O3, O4 and P2, P6 of Part B, Section 1.4.6 Setbacks in NSDCP 2013;
  - c) O1 and P1 of Part B, Section 1.4.7 Form, massing and scale in NSDCP 2013;
  - d) O1 and P8 of Part B, Section 1.4.8 Built form character in NSDCP 2013;
  - e) O1, O2, O3, O4 and P1, P2, P3 of Part B, Section 1.5.5 Site Coverage in NSDCP 2013; and
  - f) O1 and P1, P2 of Part B, Section 1.5.6 Landscape Area in NSDCP 2013.
  
- 5. The application does not satisfy the provision of State Environmental Planning Policy (Biodiversity and Conservation) 2021**
  - a) The application does not satisfy the provisions of SEPP (Biodiversity and Conservation) 2021, specifically, Chapter 6 Water catchments in that the development does not protect or enhance terrestrial vegetation.

**6. Insufficient information**

Insufficient information has been provided to allow for the robust and thorough assessment of the application in accordance with Section 4.15 of the EP&A Act, 1979, as follows:

- a) The calculations for site coverage, landscaped area and un-built upon area are inaccurate and do not allow for a full and thorough assessment;
- b) The rear setback and building height plane of the R4 High Density Residential zone has not been measured from the proposed internal lot boundaries;
- c) The extent of view impact cannot be robustly assessed as insufficient information is provided to determine the extent of non-compliances to built form, particularly as it pertains to site coverage, landscaping and rear setback, incline plane;
- d) The view impact does not provide an assessment of a number of surrounding properties, including;
  - i. No. 143 Kurraba Road (Unit 43);
  - ii. No. 145 Kurraba Road (Units 1 and 6);
  - iii. No. 182 Kurraba Road (Units G01, 101, 201 and 301);
  - iv. No. 192 Kurraba Road (Units 2 and 4);
- e) No Valuation or Letter of Offer has been evidenced for the potential amalgamation of the property to the north at No. 184A Kurraba Road, Kurraba Point;
- f) No amended BASIX Certificate in relation to the amended development;
- g) No swept paths provided in relation to the revised vehicular access arrangement for Building B and D;
- h) No amended survey documentation for the revised easements as it pertains to Buildings B and D;
- i) No amended stormwater plans for the revised development;
- j) The amended landscaped documentation does not reflect the revised vehicular access arrangement of Building B and D; and
- k) The Amended Clause 4.6 Written Request does not address Objective (f) of Clause 4.3. The Clause 4.6 Written Request cannot be technically upheld as the Applicant has not demonstrated that this Objective will be satisfied.

**7. Not considered to be in the public interest or suitable for the subject site.**

- a) The proposed development is not considered suitable for the subject site nor in the public interest and does not satisfy Section 4.15(e) of the Environmental Planning and Assessment Act 1979 (as amended) due to a lack of information to enable a thorough assessment.

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**How community views were taken into account:**

The submissions received by Council were addressed in the NSLPP report (see Council's website: [North Sydney Local Planning Panel \(NSLPP\) – North Sydney Council \(nsw.gov.au\)](https://www.northsydney.nsw.gov.au/Planning-Panel-NSLPP))

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**Review of determination and right of appeal:**

Within 6 months after the date of notification of the decision, a review of this determination can be requested under Division 8.2 of the Act or an appeal to the Land and Environment Court made pursuant to the provisions of Section 8.7 of the Act. A review of determination should be lodged as soon as possible, and preferably no later two months after the date of notification of the decision to enable the review to be completed within the six-month period.

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**Endorsed for and on behalf of North Sydney Council**

**20 June 2024**

DATE



Signature on behalf of consent authority

**DAMON KENNY**  
**EXECUTIVE ASSESSMENT PLANNER**