

**MIN NO**

**DRAFT MINUTES OF ORDINARY MEETING  
TUESDAY 23 MARCH 2010**

**98/10**

**RESOLVED**

Stott / Wangmann

**That item 10.1 be recommitted the time being 8.15pm.**

Councillors present at the time included Councillors McKenna, Cassidy, Drury, Kelso, Lofts, Adams, Wang, Mansour, Kennedy, Rerceretnam, Stott and Wangmann.

**DEVELOPMENT APPLICATION: 10.2009.235.1**

135 PARK AVENUE ASHFIELD Andrew Johnston - Development  
Assessment Officer. Report Submitted with attachments 1 and 2.

(11/03/10)

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**CM 10.1 Attached**

1/2 That the matter be deferred due the excessive bulk and scale of the design, out of character with the historic single story dwellings of Park Avenue, overlooking, loss of privacy and overshadowing of the adjoining premises and that it is not in the public interest.

2/2 That Council seek legal advice regarding the status of claiming Crown Land for the purpose of commercial gain.

The voting was as follows:-

For the Motion

Councillors Rerceretnam, Stott and Wangmann.

Against the Motion

Councillors McKenna, Cassidy, Drury, Kelso, Lofts, Adams, Wang, Mansour and Kennedy.

The Motion was Lost

**99/10**

**RESOLVED**

Mansour / Adams

**That the matter be refused due the excessive bulk and scale of the design, out of character with the historic single story dwellings of Park Avenue, overlooking, loss of privacy and overshadowing of the adjoining premises and that it is not in the public interest.**

The Motion was Carried

**SUSPENSION OF STANDING ORDERS**

**STAFF REPORTS**

**DEVELOPMENT APPLICATION: 10.2009.235.1**

135 PARK AVENUE ASHFIELD. Andrew Johnston - Development  
Assessment Officer. Report Submitted with attachments 1 and 2.  
(11/03/10)

10.2009.235.1

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**CM 10.1 Attached**

**86/10**

**RESOLVED**

Stott / Cassidy

**That members of the public be permitted to address the meeting.**

Cecily Horton addressed the meeting at 7.03pm and concluded at 7.05pm

Sandra Smith addressed the meeting at 7.08pm and concluded at 7.11pm

**87/10**

**RESOLVED**

Stott / Kennedy

That Council note with disappointment the RTA's refusal to modify their proposals for Park Avenue. Council would like to defer the matter in order to negotiate with the RTA to modify the proposal to a single story house as it is:-

- a) out of keeping with the bulk and scale of adjacent properties
- b) the architecture does not compliment surrounding properties.

The voting was as follows:-

For the Motion

Councillors Rerceretnam, Stott, Wangmann and Kennedy.

Against the Motion

Councillors McKenna, Cassidy, Drury, Kelso, Lofts, Adams, Wang and Mansour.

The Motion was Lost

A Foreshadowed Motion was Moved by Councillor Mansour and  
Seconded by Councillor Adams

That the matter be refused due the excessive bulk and scale of the design, out of character with the historic single story dwellings of Park Avenue, overlooking, loss of privacy and overshadowing of the adjoining premises and that it is not in the public interest.

The voting was as follows:-

**MIN NO**

**DRAFT MINUTES OF ORDINARY MEETING  
TUESDAY 23 MARCH 2010**

For the Motion

Councillors McKenna, Rerceretnam, Stott, Wangmann, Cassidy, Drury, Kelso, Lofts, Adams, Wang, Mansour and Kennedy.

Against the Motion

Nil.

The Motion Was Carried

***The item 10.1 was recommitted later in the meeting – refer to Minute  
Number 98/10***

<b>Subject</b>	<b>DEVELOPMENT APPLICATION: 10.2009.235.1 135 PARK AVENUE ASHFIELD</b>
<b>File Ref</b>	10.2009.235.1
<b>Prepared by</b>	Andrew Johnston - Development Assessment Officer
<b>Reasons</b>	Application requires Council determination – application previously deferred
<b>Objective</b>	For Council to determine the application
<b>Strategic Plan Link</b>	N/A
<b>Management Plan Activity</b>	2.11 Development & Building Control, Strategic Planning

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### Overview of Report

**Pursuant to Clause 78A(1) of the Environmental Planning and Assessment (EP&A) Act 1979 (as amended) this application seeks Council's consent to construct a two-storey dwelling house, front fence and rear garage at 135 Park Avenue, Ashfield.**

### Background

#### 1.0 History of Application

Pursuant to Clause 78A(1) of the Environmental Planning and Assessment (EP&A) Act 1979 (as amended) this application seeks Council's consent to construct a two-storey dwelling house, front fence and rear garage at 135 Park Avenue, Ashfield. The front portion of the dwelling house is to be single-storey in height, with the two-storey portion setback approximately 12m from the front boundary.

The site is currently vacant.

This application has been lodged on behalf of the Roads and Traffic Authority (RTA) and would be defined as Crown Development as it was lodged by a public authority. It is comparable to DA: 10.2009. 234.1, which was lodged for the construction of a new dwelling house at 15 Park Avenue.

A report on this matter was previously heard at Council's meeting of 9 March 2010. A copy of this report, recommending the approval of the application, is included at **Attachment 1**.

At this meeting Council resolved:

**Ashfield Council**

**Meeting Held 23 March 2010**

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*That Council defer the matter to negotiate with the RTA to amend plans to delete the second storey.*

The RTA was advised of this resolution on 10 March 2010. The RTA does not wish to further modify the proposal and wants to proceed with the two-storey dwelling house as detailed in the previously prepared report. A copy of this correspondence is included at **Attachment 2**.

It is therefore requested that Council determine the proposal in its current form.

## **2.0 Determination of Crown Development Applications**

The RTA is defined as a 'public authority' under Clause 226(1)(a) of the Environmental Planning and Assessment (EP&A) Regulations 2000. As such the RTA may lodge applications under the Crown development provisions of Division 4 of Part 4 of the EP&A Act.

Section 89 of the EP&A Act states:

- (1) A consent authority (other than the Minister) must not:*
  - (a) refuse its consent to a Crown development application, except with the approval of the Minister, or*
  - (b) impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister.*

Council is therefore unable to formally refuse this application without the concurrence of the Minister who has delegated this responsibility to the Joint Regional Planning Panel.

Should Council support the development the previously prepared conditions would need to be referred to the RTA for concurrence pursuant to Clause 89(1)(b) of the EP&A Act.

## **Financial Implications**

Based on the supplied value-of-work of \$350,000.00 a Section 94A Contribution of \$3,500.00 would be payable should the application be approved.

## **Other Staff Comments**

See Section 8.1 of the previously prepared report.

## **Public Consultation**

Two (2) submissions were received during the notification of the development application:

**Ashfield Council**

**Meeting Held 23 0000 2010**

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<b>Submissions</b>
Ms S Smith 135 Park Avenue ASHFIELD NSW 2131
Ms C Horton PO Box 739 PETERSHAM NSW 2049 (Owner of 133 Park Avenue)

A copy of this submission and a discussion of the matters raised are included in the originally prepared report.

### **Conclusion**

This report has been submitted for the consideration of Council. It has been prepared in response to Council's resolution of 9 March 2010, which deferred the determination of this application.

The RTA has advised that they do not wish to modify the proposal and it is therefore requested that Council determine the current application.

Should Council elect to refuse the application the RTA may take the matter to the Joint Regional Planning Panel. Alternatively, should Council wish to approve the application the concurrence of the RTA would be required for the imposition of conditions.

### **ATTACHMENTS**

<b>Attachment 1</b>	Council Report dated 9 March 2010	34 Pages
<b>Attachment 2</b>	Correspondence with Road and Traffic Authority (RTA)	2 Pages

### **RECOMMENDATION**

**That the report is submitted for consideration.**

PHIL SARIN  
Director Planning & Environment