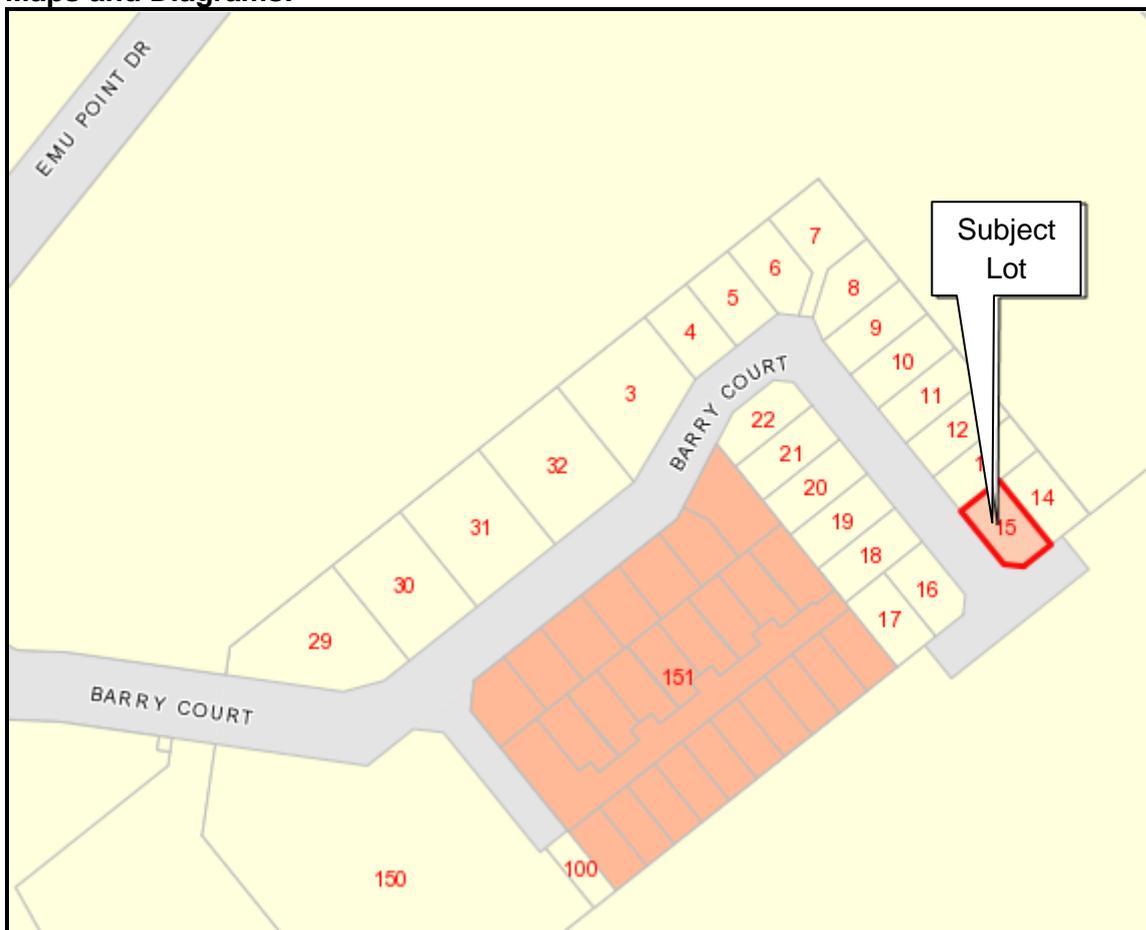


2.3: DEVELOPMENT APPLICATION – OUTBUILDING (LOT 15) NO. 55 BARRY COURT, COLLINGWOOD PARK –VERSION TWO

Land Description : (Lot 15) No. 55 Barry Court, Collingwood Park
Proponent : Wren Pty Ltd
Owner : Ian and Denise James
Business Entity Name : Tucson Pty Ltd
Attachments : Site Plan / Elevations
Neighbours Comments
Responsible Officer(s) : E/Director Planning and Development Services (Dale Putland)

Maps and Diagrams:



IN BRIEF

- A development application was submitted for an outbuilding on Lot 15 (55) Barry Court, Collingwood Park, which is currently vacant.
- The application was referred to occupiers of neighbouring properties for comment.
- Neighbours objected for various reasons.
- The applicant changed the design of the outbuilding to ease concerns from neighbouring residents.
- The application complies with regulations governing development at Barry Court.

CEO:	RESPONSIBLE OFFICER:
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RECOMMENDATION

ITEM 2.3: RESPONSIBLE OFFICER RECOMMENDATION VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council resolves to ISSUE a Notice of Planning Scheme Consent for an Outbuilding at the vacant Lot 15 (55) Barry Court, Collingwood Park subject to the following conditions:

- a) Development occurring in accordance with the approved plans.**
- b) The outbuilding is not to be used for commercial purpose or a business related activity.**
- c) A 'Permit' for vehicular crossover construction being submitted for approval and subsequently being undertaken, at the cost of the applicant, to the satisfaction of the City.**
- d) The trees proposed to be planted being maintained by the applicant to the satisfaction of the City.**
- e) No activity occurring at the Lot that may cause a detriment to the amenity of the area by reason of noise, smell, fumes or smoke.**

BACKGROUND

1. In 2007, Council rescinded guidelines (Design Guidelines – Barry Court) which governed development on lots at Barry Court. Development at Barry Court is now governed by the Residential Design Codes and the Local Planning Scheme 1A and 3 Policy Manual.
2. The City has received an application for an outbuilding required by the applicant to store a boat on a vacant Lot, located at Lot 15 (55) Barry Court, Collingwood Park.
3. The City notified the applicant as to the concerns that were raised during the consultation process and requested that modifications be made to the design of the outbuilding to address the issues. The applicant submitted a revised plan demonstrating the following variations to reduce potential impacts:
 - a reduced floor area (85.6m²) ;
 - increased setbacks to front, side and rear boundaries;
 - a new access to support turning movements;
 - the outbuilding being orientated 90⁰;
 - a more appealing design with a variety of building materials (including weatherboards and glass windows); and
 - screening to the streets (permeable fence and vegetation).
4. The City provided the adjacent landowners, and all people who had previously provided comment, the opportunity to provide comment on the revised plans and as a result objections were received for reasons that were similar to those summarized above.

DISCUSSION

5. The Residential Design Codes and the Local Planning Scheme 1A and 3 Policy Manual do not prevent an outbuilding being developed on a vacant lot. The City has previously approved the development of outbuildings on vacant lots.

6. Section 6.10.1 states that new development should meet the performance criteria set out in the codes.
7. The performance criteria on which the R codes is based is “*Outbuildings that do not detract from the streetscape or visual amenity of residents or neighbouring properties*”. Therefore, this is the criteria on which assessment under the R Codes must be based.
8. If Council should seek to reject the application they must find good reasonable grounds for the rejection that are based on the “Performance Criteria” listed in the R Codes section 6.10.1. City staff could not find such reasonable grounds and felt that a decision to reject the proposal may give grounds for a successful appeal to the State Administrative Tribunal.
9. The acceptable development criteria which state that outbuildings that do not collectively exceed 60 sq m in area or 10 percent of the site area illustrate one way of meeting the associated performance criteria.
10. Page 4 of the R Codes clearly sets out the difference between “performance criteria” and “acceptable development criteria” and how they are administered (refer to attachment).
11. Further, Council has adopted an outbuilding policy that allows for a shed that is larger than stated in the R Codes. This shed application complies with Council’s adopted outbuilding policy.
12. The application does not alter the rights of adjoining or nearby landowners. However, it is noted that while current Council policy may allow construction of a shed on many of these properties, the location of each subject lot will determine how impacts of “amenity” on the area are evaluated. The impacts of amenity may be significant, providing grounds to reject the application.
13. In the opinion of City staff, the location of this specific block at the end of a cul de sac may lessen the shed’s impact on amenity and does not provide sufficient grounds to reject the application.
14. The objective of the City’s Outbuilding Policy is:

To achieve a balance between providing for various legitimate storage needs of residents whilst minimising any adverse impacts outbuildings may have on neighbouring properties, the street, the neighbourhood or locality, or the City.

15. Council’s Outbuilding Policy sets the permitted development criteria for outbuildings according to the zone and site area. For the subject land the following provisions apply:

Max. Wall Height	Max. Ridge Height	Max. Floor Area (combined all outbuildings)	Special Requirements
3 metres	4.2 metres	100m ²	If the floor area of an outbuilding is to exceed 60m ² the use of non-reflective materials is required

16. The proposal complies with all of the objectives and requirements of the outbuilding policy for the following reasons:
 - Wall height is 3 metres;
 - Ridge height is 4.2 metres;
 - Floor area is 85.6m²;

- Materials are a mixture of weatherboards, colourbond and glass; and
- Minimising of adverse impacts, as expressed by neighbours, has occurred.

GOVERNMENT CONSULTATION

17. No government consultation was required.

PUBLIC CONSULTATION / ENGAGEMENT

18. As the application proposes an outbuilding to be constructed without an existing onsite dwelling being present, neighbours were consulted and 11 submissions were received. The following is a summary of the comments received:
- the floor area (100m²) proposed is out of proportion with the size of the Lot (350m²);
 - the materials are not in keeping with development in the locality;
 - the Lots in Barry Court have been set aside for residential dwellings and not storage sheds;
 - an outbuilding developed by itself on a lot will detrimentally impact the amenity of the neighbourhood.
 - development should be conditional on the construction of a dwelling;
 - an outbuilding on a vacant lot will lower the value of lots in the locality; and
 - there is the potential for noise occurring as a result of a need to flush the engine of the boat proposed to be stored within the outbuilding.
19. The submissions are attached to the report item for Councillors to review.

STATUTORY IMPLICATIONS

20. The subject site is 350m² in area and is zoned "Tourist Residential" under Town Planning Scheme No. 1A.
21. The Outbuilding's Policy is a Town Planning Scheme Policy adopted under the Scheme. Clause 6.9.4 of TPS 3 states;
- a) *A Town Planning Scheme Policy shall not bind the council in respect of an application for Planning Consent, however, it may require the Council to advertise its intention to relax the provisions of the policy once in a newspaper circulating in the district stating that submissions may be made to the Council within 21 days of the publication thereof.*
- b) *Council shall take into account the provisions of the policy and objectives which the policy was designed to achieve and any submission lodged, before making its decision."*

STRATEGIC IMPLICATIONS

22. This item relates to the following elements of the City of Albany Strategic Plan (2011 2021):

Key Focus Area

Organisational Performance

Community Priority

Policy and Procedures

Proposed Strategies

- Develop clear processes and policies and ensure consistent, transparent application across the organisation.
- Regularly review all policies in consultation with community and key stakeholders.

POLICY IMPLICATIONS

23. The application complies with the City's Outbuilding Policy provisions.

RISK IDENTIFICATION & MITIGATION

24. The risk identification and categorisation relies on the City's Risk Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
The applicant appeals to a State Administrative Tribunal if the proposal is refused.	Likely	Minor	Medium	If a decision is made to refuse the application, sound reasoning is required to provide solid defence at a State Administrative Tribunal.

FINANCIAL IMPLICATIONS

25. There are no financial implications relating to this item.

LEGAL IMPLICATIONS

26. If Council refuses the application and the applicant appeals, the City of Albany may be required to defend reasons for refusal at a State Administrative Tribunal hearing.

ALTERNATE OPTIONS

27. Council may refuse the application. Reason for a refusal determination would need to be provided as part of the determination.

SUMMARY CONCLUSION

28. The proponent proposes to construct an outbuilding on a vacant lot. The proposed outbuilding complies with the provisions of the current Outbuildings Policy.

Consulted References	:	Council's Outbuilding's Policy Town Planning Scheme No. 1A Residential Design Codes Rescinded Design Guidelines – Barry Court
File Number (Name of Ward)	:	A186397 (West Ward)
Previous Reference	:	OCM 16/10/07 Item 11.3.2