

**REQUEST TO APPLY SUPERSEDED PLANNING SCHEME – DA 18-2020-2021 – SHIRLEY A RUSSELL
– 600 RAVENSBOURNE ROAD, BLACKALL**

EXECUTIVE SUMMARY

The applicant, Shirley A Russell, has lodged a request for Council to apply the superseded *Blackall Shire Planning Scheme 2006* ('the superseded planning scheme') to a proposed development located at 600 Ravensbourne Road, Blackall, formally described as Lot 58 on TA228134 ('the premises'). The proposal is for the establishment of small-scale visitor accommodation in the form of six camp/caravan sites on an approximate 518 hectare rural property south of the Blackall township. The proposal also includes the establishment of an associated ablution and kitchen facilities building.

The 2006 planning scheme was superseded by the *Blackall-Tambo Region Planning Scheme 2020* ('the current planning scheme') on 24 January 2020. Under Section 29 of the *Planning Act 2016* ('the Planning Act') a person may, within one (1) year of the planning scheme becoming a superseded planning scheme, make a *superseded planning scheme request*. The request to apply the superseded planning scheme was properly made by the applicant on 17 December 2020. A request of this nature is usually made to Council where the planning process is more favourable or simple under the superseded planning scheme, compared to the current scheme.

In this instance, the proposed development is categorised as Accepted development subject to requirements under the superseded planning scheme while being categorised as Assessable development under the current planning scheme. Accepted development does not require a planning approval, while Assessable development requires a planning approval. By making this superseded planning scheme request, the applicant can therefore proceed with the development without planning approval, provided the relevant requirements are met, as it is Accepted development under the superseded planning scheme. Without the approval of such a request, the current planning scheme would apply and the applicant would need to lodge a development application with Council to seek the relevant planning approval (a Development Permit for Material Change of Use).

Previous advice has been given to the applicant by Reel Planning CQ, on behalf of Council, that the development would reasonably be able to comply with the relevant requirements of the superseded planning scheme. Should Council agree to the request to apply the superseded planning scheme to the proposed development, the development would need to maintain compliance with the relevant requirements of the superseded planning scheme outlined herein at all times to ensure the development remained Accepted development.

This report recommends the request be agreed to by Council.

RECOMMENDATION

THAT Blackall-Tambo Regional Council approves the request to apply the superseded *Blackall Shire Planning Scheme 2006* to a Material Change of Use for Visitor Accommodation over land at 600 Ravensbourne Road, Blackall, formally described as Lot 58 on TA228134.

1.0 REQUEST SUMMARY

TABLE 1 – OVERVIEW OF THE REQUEST

PROPERTY DETAILS	
Site address	600 Ravensbourne Road, Blackall
RPD	Lot 58 on TA228134
Site Area	5,179,980m ²
Landowner	Shirley A Russell
Existing use of land	Dwelling house, ancillary farm shed and rural activities
Approvals in effect	DA 10-2017-2018 Dwelling – Building Application approved 14-12-2017, Final issued 07-02-2020

	DA 28-2019-2020 Farm Shed – Building Application approved 12-03-2020 Final issued 29-04-2020
APPLICATION DETAILS	
Request No.	DA 18-2020-2021
Applicant	Shirley A Russell
Request description	Request to apply superseded planning scheme to proposed development
Date request was made	17 December 2020
Decision due date	24 February 2021
Proposal	Visitor Accommodation
STATUTORY DETAILS	
Mapped matters of interest under the Planning Regulation 2017	Water Resources <ul style="list-style-type: none"> • Water resource planning area boundaries • Great artesian water resource plan area Native Vegetation Clearing <ul style="list-style-type: none"> • Regulated Vegetation (Category B – least concern regional ecosystem)
State agency referrals	Nil
State Planning Policy	State Planning Policy (July 2017)
Regional Plan	Central West Regional Plan (September 2009)
Current Planning Scheme	Blackall-Tambo Region Planning Scheme 2020
Zone	Rural Zone
Overlays	None applicable

2.0 SITE AND SURROUNDS DESCRIPTION

The property, Shannendoah Park, is located at 600 Ravensbourne Road, Blackall, formally described as Lot 58 on TA228134 (see **Figure 1**). The site is approximately 518 hectares in area and is a regular configuration, with frontage to Frames Lane to the north and Ravensbourne Road to the east. Based on aerial imagery, it appears Frames Lane is an unsealed road while Ravensbourne Road is sealed for approximately 250 metres south of the junction of these two roads. The land is vegetated in areas, including along a watercourse that enters the property from the west, and denser bushland exists in the northern part of the property.

The property is improved by a dwelling house that fronts Ravensbourne Road and an ancillary farm shed (see location of star in Figure 1 for general position of these buildings). Each building has building approval.



FIGURE 1 – AERIAL PHOTOGRAPH OF THE SUBJECT SITE

3.0 DESCRIPTION OF PROPOSAL

The landowner proposes to host tourists on the property as part of a bush camping / rural lifestyle experience. Six camp sites are proposed to accommodate caravans and campers with a maximum of 12 paying guests at any one time. This small scale of accommodation is guided by thresholds prescribed in the superseded planning scheme for 'Visitor Accommodation' where planning approval is not triggered if certain requirements of the scheme are met (further discussed in the planning assessment below).

A 162m² (18m x 9m) ablution and kitchen facility is proposed to service basic needs of the guests. The concept plan of this facility is shown in **Figure 2** and will have a 'camp kitchen' character. This will provide two showers, two toilets, laundry and cooking facilities.

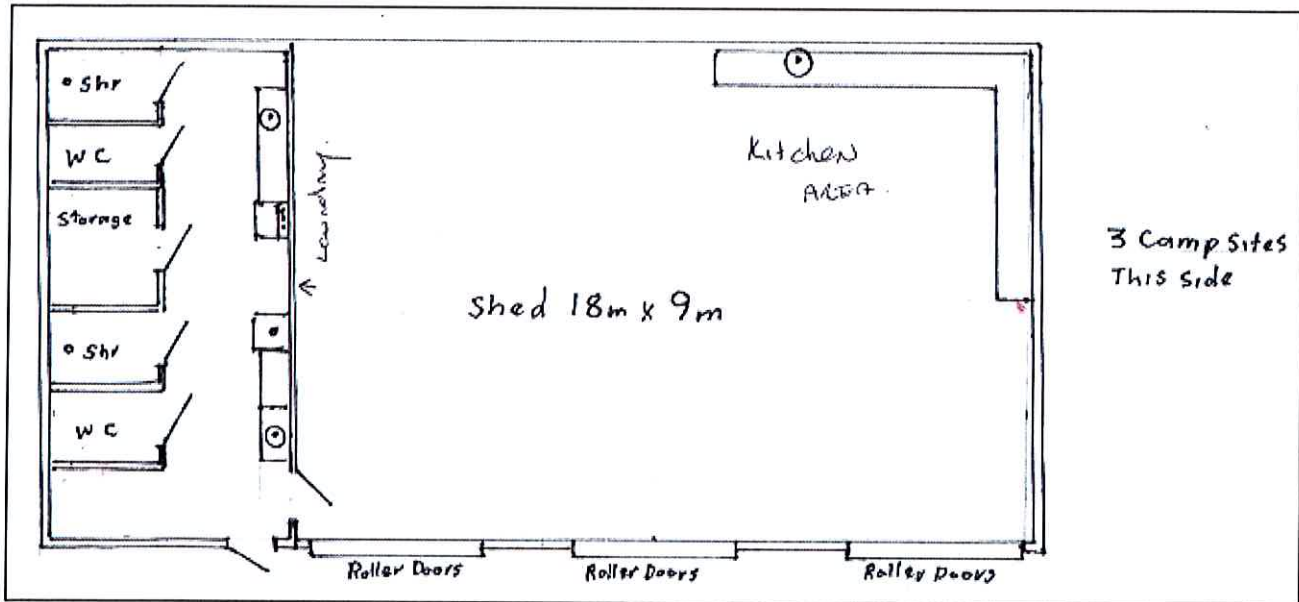


FIGURE 2 – CONCEPT PLAN OF THE ABLUTION AND KITCHEN BUILDING (3x sites are shown and another 3x sites will be provided on the other side of the facility).

A set of proposal plans submitted by the applicant are provided in **Attachment 1**. The camp sites will be positioned around the communal facility and will be proximate to the dwelling house and its access from Ravensbourne Road.

In addition to limiting the accommodation capacity of the development, the superseded planning scheme also prescribes requirements relating to such matters as building height, lighting, separation from incompatible land uses, water supply, effluent disposal, electricity and vehicle access. In order for the development to be categorised as Accepted development under the superseded planning scheme, these requirements must be met by the applicant.

4.0 PLANNING ASSESSMENT

On behalf of Council, planning advice has been given on multiple occasions to the applicant since September 2020. Initially, the applicant proposed a larger-scale development involving numerous caravan sites and detailed advice was provided about the planning approval process, application requirements and the likely extent of amenities, infrastructure and servicing requirements to cater for the larger accommodation capacity on the rural property. The applicant decided to proceed with a smaller scale venture as proposed and has requested that this be considered under the superseded planning request.

Section 29 of the Planning Act prescribes that if a person wants a superseded planning scheme to apply to a proposed development, they may request a local government to do so. A superseded planning scheme request is a request written to a local government –

- (a) To accept, assess and decide a development application (to a superseded planning scheme application) under a superseded planning scheme; or

(b) To apply a superseded planning scheme to the carrying out of development that was accepted development under the superseded planning scheme.

In this instance the applicant is requesting Council to apply the superseded planning scheme to the carrying out of development that was accepted development under the superseded planning scheme (i.e. did not require planning approval subject to ongoing compliance with a set of requirements in the scheme).

A request of this nature must be made within one (1) year after a planning scheme becomes a superseded planning scheme. The *Blackall-Tambo Region Planning Scheme 2020* superseded the *Blackall Shire Planning Scheme 2006* on 24 January 2020. Therefore, any request must be made prior to 24 January 2021. The applicant made the request in time on 17 December 2020.

The Planning Act does not prescribe criteria for assessing superseded planning scheme requests. To assist Council in considering the request, a comparison of the superseded and current planning schemes and development outcomes achieved by the application of each has been completed. In some instances, Council could be subject to a compensation claim if any changes between schemes adversely affects a person (i.e. development rights are lost). A persons right to compensation is regulated by the Planning Act and only arises if a superseded planning scheme request is refused and an application made under the current planning scheme is also refused.

Contained herein is a brief review of the superseded and current planning schemes as it relates to the site and proposed development.

Planning Parameter	Superseded Planning Scheme Blackall Shire Planning Scheme 2006	Current Planning Scheme Blackall-Tambo Region Planning Scheme 2020
Strategic Framework	Nil	Non-urban land (Rural)
Zone	Rural Zone	Rural Zone
Overlays	Nil	Nil
Defined Use	"Visitor accommodation" – means "Premises" used for the temporary accommodation of and rendering services to travellers or tourists and includes "Uses" such as cabin parks, camping grounds, caravan parks and farm stays.	Tourist park means the use of premises for – (a) Holiday accommodation in caravans, self-contained cabins, tents or other similar structures; or (b) Amenity facilities, a food and drink outlet, a manager's residence, offices, recreation facilities for the use of occupants and their visitors, or staff accommodation, if the use is ancillary to the use in paragraph (a). OR Nature-based tourism means the use of premises for a tourism activity, including accommodation for tourists, for the appreciation, conservation or interpretation, conservation, or interpretation of – (a) An area of environmental, cultural or heritage value; or (b) A local ecosystem; or (c) The natural environment.
Category of Development and Assessment	Accepted development, subject to requirements (i.e. no development application for material change of use is required, subject to compliance with applicable requirements)	Tourist Park – Assessable development (Impact assessment) Nature-based tourism – Assessable development (Code assessment) (i.e. development application for material change of use is required. Impact assessment requires public notification)
Assessment Benchmarks	Rural Zone Code	<ul style="list-style-type: none"> • Strategic Framework (applicable only to Tourist Park) • Rural Zone Code • General Development Code

Notably, the proposed development can be categorised as Accepted development under the superseded planning scheme (no planning approval required) where compliance is achieved with the identified requirements, while under the current planning scheme it is categorised as Assessable development (planning approval required). Separate email advice has been provided to the applicant outlining all requirements under the superseded planning scheme that would need to be complied with to ensure the development remains Accepted development. These requirements are the applicable Acceptable Solutions of the Rural Zone Code. **Attachment 2** contains an assessment of these requirements, and demonstrates that compliance can be achieved. Notable Acceptable Solutions are provided below for reference:

	Rural Zone Code / Acceptable Solutions	Assessment for compliance
Height	<p>AS6 <u>"Buildings" and "Structures"</u> other than those within 100 metres of the boundary of an "Airport" <u>are less than 8.5 metres in height and are not more than 2 (two) storeys at any point above natural ground level.</u> (Except where establishing in an existing "Building" and no "Building works" are being undertaken for that existing "Building" and excluding windmills, silos, and other rural operational equipment).</p>	The ablution and kitchen building will not exceed the 8.5m building height.
Setbacks and boundary clearances	<p>AS7.1 <u>"Buildings" and "Structures" have a setback of not less than 20 metres from any road frontage</u> other than a State Controlled Road as identified on Land Characteristics Map – Features Map</p> <p>AS7.2 <u>"Buildings" and "Structures" have side and rear boundary clearances of not less than 15 metres from property boundaries.</u> (Except where establishing in an existing "Building" and no "Building works" are being undertaken for that existing "Building").</p>	The position of the proposed building will not exceed the setbacks prescribed.
Water supply	<p>For "Residential Activities": AS14.3 "Premises" are connected to a rain water tank with a minimum capacity of: <u>(a) 22 000 litres where not in a reticulated water supply area;</u> <u>(b) 11 000 litres where in a reticulated water supply area.</u></p>	A water tank will be supplied with a 22,000 litre capacity and will be supplemented with rain water captured from the roof of the proposed building.
Effluent disposal	AS15.2 "Premises" not in a sewered area have an on-site effluent disposal system in accordance with Schedule 1, Division 4: Standards for Sewerage, Section 4.2.	The amenities will be serviced by a septic system for which a plumbing approval will be required from Council. The applicant has a plumber to assist with the plumbing application.
Electricity	AS17 All "Premises" have a supply of electricity.	Solar power will be installed for the proposed building.
Vehicle access	AS18.1 All "Premises" must have vehicle access to a formed road. Access is to be designed and constructed in accordance with Schedule 1, Division 2: Standards for Roads, Carparking, Manoeuvring Areas and Access, Section 2.3(2).	Council's Director of Works and Services (formerly Mr J Turlan) advised that the property's vehicle access may need to be upgraded to comply with Standard Drawing 2 from the scheme. The applicant has been sent this plan to follow for any access works required.
Visitor Accommodation	<p>AS45.1 Provision is made for no more than 12 (twelve) paying guests to be accommodated at any one time.</p> <p>AS45.2 "Premises" contain not more than 6 (six) "Accommodation units" or camping or caravan sites.</p> <p>AS45.3 "Premises" are not located on Good Quality Agricultural Land areas as identified on the Land Characteristics Map – Good Quality Agricultural Land.</p>	<p>The applicant is accepting of this limit for 12 paying guests across a maximum of six (6) sites.</p> <p>The property does not contain Good Quality Agricultural Land as mapped in the scheme.</p>

In our view, it is reasonable that the proposed development would be able to comply with the above and all other listed Acceptable Solutions in the Rural Zone Code such that "planning approval" (i.e. a Development Permit for Material Change of Use) would not be required. Should the applicant not be able to comply with any one of the applicable requirements under the superseded planning scheme, or if a larger scale accommodation capacity is sought, then this would need to be considered under the current Planning Scheme and a Development Permit for Material Change of Use would likely be required.

In summary, it is our view that the applicable Acceptable Solutions, including notable requirements listed above, will appropriately regulate the scale, intensity and operation of the proposal such that there would be negligible impacts on the rural locality, while affording the applicant the opportunity to commence a small tourism venture without the need for planning approval.

5.0 CONCLUSION

This request to apply the superseded *Blackall Shire Planning Scheme 2006* to the carrying out of development for Material Change of Use for Visitor Accommodation that was accepted development subject to requirements under the superseded planning scheme, over land at 600 Ravensbourne Road, Blackall, formally described as Lot 58 on TA228134, is recommended for approval.

This recommendation is based on a comparison of the superseded and current planning schemes as they relate to the proposed development for small-scale accommodation which will support the local tourism industry and provide a genuine outback experience on the rural property. The superseded planning scheme is set up in such a way that allows for these small developments, subject to compliance with the Accepted Solutions of the Rural Zone Code. The proposal can comply with these requirements, which will regulate the establishment and ongoing operation of the development in a manner that is appropriate for the locality and Council.

<p>Assessment Officer (Author):</p> <p>Brendan Standen (Senior Town Planner) 10 February 2021</p>	
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