


## S4.55 PLANNING STATEMENT

### PREPARED BY:

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<b>PROJECT:</b>	Modification to DA220185B for the Approval of the <i>Construction of a Single-story Dwelling House, Swimming Pool, Onsite Sewage Management Facility (AWTS), Construction of a Storage Shed, and the importation of 5,560m3 of Fill Material (VENM? ENM) and Associated Earthworks</i> to Slightly Change the Sitation of the Shed.  pursuant to the provisions of <i>S4.55(1A) of the Environmental Planning and Assessment Act 1979 (as amended)</i> .
<b>CLIENT:</b>	JOSH DOAK
<b>ADDRESS</b>	LOT 102 DP1152667 3 SHEARSBY CRESCENT YASS NSW 2582
<b>OUR REFERENCE:</b>	4566_DOAK
<b>DATE:</b>	MARCH 2025
<b>AUTHOR:</b>	RACHEL DOBERER SENIOR TOWN PLANNER
<b>SIGNATURE:</b>	

## Revision Status

Rev No	Date	Report Title	Author	Reviewed by
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1	06 March 2025	S4.551 – Modification DA220185B – 3 Shearsby Crescent, YASS (Final)	Rachel Doberer	Rachel Doberer
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# 1. INTRODUCTION

This statement has been prepared as supporting documentation to accompany an application made pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) (as amended) to modify the consent for **Development Application No 220185** approved by Yass Valley Council on 30 November 2022. The approval relates to the approval of:

1. *Construction of a dwelling house,*
2. *Swimming Pool,*
3. *On-site sewage management system (AWTS),*
4. *Construction of storage shed, and*
5. *The importation of 5,560m<sup>3</sup> of fill material (VENM/ ENM) and associated earthworks.*

This application seeks approval to:

- Amend the location of the Constructed Shed.

Having considered the reasons and additional information, and relevant provisions of the Environmental Planning & Assessment Act 1979 namely S4.15, the revised S4.55 proposal is deemed to be acceptable and in the public interest. An assessment of the proposed modification confirms that the revised proposal has an acceptable visual fit and environmental impact and responds appropriately to the site's opportunities and constraints.

Under division 4.9 post-consent provisions (S4.55) the applicant is able to request a modification of the consent following the determination of a consent authority under Part 4 of the EP&A Act.

This Statement has been prepared pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979. The Statement provides an assessment of the amended proposal having regard to the relevant legislative context, social economic and environmental impacts, potential amenity impacts of the development on the surrounding locality and the measures proposed within the application to mitigate such impacts.

This Statement details the proposed development's compliance against the applicable environmental planning instruments including but not limited to:

- Yass Valley Local Environmental Plan 2013 (YVLEP2013)
- Yass Valley Development Control Plan 2024 (YVDCP2024)

In support of this application, we enclose the following:

1. Signed YVC eLodgement Owners Consent Form
2. Notice of Determination/ Development Consent reference DA220185 dated 24 November 2022 (refer **Appendix A**).
3. Approved Architectural Plans reference DA220185 dated 24 November 2022 (refer **Appendix B**).
4. Updated Architectural Plans including Site Plan prepared by Arei Design dated 26 February 2025 (refer **Appendix C**).
5. Partial Identification Survey prepared by DPS YASS dated 13 December 2023 (refer **Appendix D**).



6. Email confirming lodgement of EE Encroachment Application dated 24 January 2025 (refer **Appendix E**)
7. Essential Energy Easement Consent Encroachment Letter dated 05 March 2025 (refer **Appendix F**).
8. Copy of Dealing Q21386 (refer **Appendix G**).
9. Certificate of Title and Deposited Plan for Lot 102 DP1152667 (refer **Appendix H**)

The Client is aware of Yass Valley Shire's Council's S4.55(1A) Modification Application fees, upon receiving an invoice this will be forwarded to the client for payment.

Having regard to the applicable legislative framework, the proposed amendments to the approved development are such that the development retains the same fundamental characteristics and is therefore substantially the same development. The amended development consent remains consistent with the aims and objectives of the relevant environmental planning instruments whilst remaining compatible with the character of the locality.

As a result of this assessment, it is concluded that the proposed modification in the manner proposed is considered to be acceptable and worthy of Council's support.



## **2. DIVISION 4.9 POST-CONSENT PROVISIONS**

In accordance with S4.55(1A) of the EP&A Act 1979 an applicant is entitled to request a modification of Councils determination. The intent is to allow the applicant a chance to modify the consent if the proposed modification is 'substantially the same development'. Specifically, S4.55(1A) states:

### **4.55 Modification of consents—generally**

*(1A) **Modifications involving minimal environmental impact** A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—*

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) it has notified the application in accordance with—*
  - (i) the regulations, if the regulations so require, or*
  - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

*Subsections (1), (2) and (5) do not apply to such a modification.*

In accordance with the above legislation/ provisions the request for a modification of the determination has been made pursuant to the reasons listed in item 3 of this Statement. The amended proposal retains the fundamental components of the approval and spatial characteristics of the development.

Conceptionally the proposal remains the approval for a dwelling house and ancillary items, with the exception of a slight change of the situation of the Shed as identified on the Partial Ident Survey (refer **Appendix D**) and the Updated Site Plan within the Architectural Plans (refer **Appendix C**).

It is noted the amended proposal retains an almost identical layout of the approved development. To the casual observer, the amended proposal would appear generally the same as the approved development. We rely on Council to have the appropriate officer(s) review and determine the application in accordance with the statutory requirements and internal Council delegations.

The proposed amendments do not result in any change to the fundamental characteristics of the development which will retain the essential character and elements of the approved development such that the amended proposal could nor reasonably be considered a substantially different development.

As the proposed amendment does not alter the fundamental characteristics of the original approval, the proposal is appropriately categorised as being 'substantially the same' as required by Section 4.55(1A) of the EP&A Act. It is considered the proposed development is consistent with the aims and objectives of the relevant planning instruments, is compatible with and responds positively to the site conditions.



The proposed development is sympathetic with the surrounding amenity of the area, considers the opportunities and constraints of the site including all relevant legislation and is therefore considered worthy of Council's support.



### **3. PROPOSED MODIFICATION**

The purpose of this review is to consider the site characteristics and the anticipated impacts of the proposed development providing an assessment in accordance with the matters for consideration in Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act). Specifically, this review includes the assessment of the increase in the size of the Pool and Slight Change of Situation of the Dwelling House, Shed and Rainwater Tank.

Accordingly, the proposal seeks to include approval for:

- i. Slight change of Situation of the Shed (noting this structure is already constructed)

It is noted the approved development consent and supporting plans/ documentation were subject to approval via Council Meeting dated 24 November 2022. The recommendation stated that:

1. Conditional Development Consent be issued for Development Application No DA220185 for the dwelling, swimming pool and importation of fill at 3 Shearsby Crescent, Yass.
2. The shed proposed in Development Application No DA220185 be refused on the following grounds:
  - The shed is located forward of the building line set by the proposed dwelling house, contrary to the requirements of Building Line – Rural and Residential Land Policy.
  - There is insufficient planning basis to support the proposed variation.
  - The location of the shed will have an unacceptable visual impact on 12 Shearsby Crescent.

Due to a successful appeal to Council the recommendation for the shed was overturned and the motion recommended that it was:

- *Resolved that Conditional Development Consent be issued for Development Application No DA220185 for the dwelling, shed, swimming pool and importation of fill at 3 Shearsby Crescent, Yass and conditions be included in the Development Consent for the shed including the requirement for a landscape plan.*

Taking the above into consideration it is requested the same approach, being that of Council, is taken with this proposed modification. A tabulated response to the variation in relation to setbacks is listed below:





STRUCTURE	FRONT SETBACK – NOT FORWARD OF THE BUILDING LINE OF THE DWELLING HOUSE	SIDE SETBACK – 10M	COMPLIES
Shed	17.84m as per the Partial Identification Survey (refer <b>Appendix G</b> ).	19.87m as per the Partial Identification Survey (refer <b>Appendix G</b> )	<p>No. Whilst the side setback complies, the shed remains forward of the building line, as per the approved Plans.</p> <p>It is noted that whilst this may encroach an additional 2.16m to what the approved plan shows, this encroachment as originally demonstrated was determined to avoid any unnecessary removal of existing/ established vegetation.</p> <p>Further it is noted the existing shed encroaches into the Easement for Power Lines 20 Wide (E1) (DP250146) and the Easement to Drain Water and a Right of Carriageway (E2) (Q21386).</p> <p>A request for approval to remain within the Power Line easement has been lodged with Essential Energy (refer <b>Appendix E</b>).</p> <p>A subsequent approval via a consent letter issued by Essential Energy dated 05 March 2025 is included in this application (refer <b>Appendix F</b>).</p> <p>Q21386 demonstrates this easement is not benefitted by a Public Authority and therefore requires no further approvals for the encroachment (refer <b>Appendix G</b>).</p>

The proposed modification retains the essential components of the approved development and spatial characteristics of the development. As detailed in this submission the proposed modification may be made by the consent authority in accordance with Section 4.55(1A) of the Environmental Planning and Assessment Act 1979.

The proposed modification does not radically transform the approved development or alter the fundamental characteristics of the original proposal, as such the proposed review of determination is appropriately categorised as being 'substantially the same' as the approved development.



## **4. CONCLUSION**

This application seeks to amend Development Application DA220185 for the approval of:

1. *Construction of a dwelling house,*
2. *Swimming Pool,*
3. *On-site sewage management system (AWTS),*
4. *Construction of storage shed, and*
5. *The importation of 5,560m<sup>3</sup> of fill material (VENM/ ENM) and associated earthworks.*

at Lot 102 DP1152667 3 Shearsby Crescent, YASS to facilitate the slight amendment to the location of the constructed shed.

The amended proposal retains the fundamental components of the approved development and spatial characteristics of the development. The amended proposal also retains an essentially identical envelope to the previously approved development.

The proposed modification will not introduce any major environmental impacts as considered earlier in this Statement. The proposed modification does not alter the existing operation of the consent other than to acknowledge the changes listed in item 3 of this Statement.

As detailed in this submission the proposed modification may be made by the consent authority in accordance with *Section 4.55(1A) of the Environmental Planning and Assessment Act 1979*. The proposed amendment/ modification does not radically transform the approved development, nor does it alter the fundamental characteristics of the original proposal, as such the proposed modification is appropriately categorised as being 'substantially the same' as the approved development.

Having considered the assessment of the abovementioned application this report concludes that the proposed development indicates a positive contribution to Yass, is consistent with the strategic planning for the area and the relevant planning legislation and policies.

It is expected that any minor environmental impacts associated with the future operation of the development can be mitigated. As a result of this investigation, it is concluded that the proposed modification of DA220185B is permissible with conditional consent.

The proposed modification is considered minor in nature and is consistent with the relevant planning legislation and policies within the YVLEP2013 and YVDCP2024. Accordingly, it is recommended that the modified conditional consent be approved for the development at Lot 102 DP1152667 3 Shearsby Crescent, YASS reflecting the recommendations listed earlier in this S4.55 Planning Statement.

