

28 May 2026

Andrew Neil
Director Planning and Environment
Yass Valley Council
PO Box 6
YASS NSW 2582

Attention: Andrew Neil, Director Planning and Environment

Via the NSW Planning Portal

Dear Andrew,

**Re: Modification Application – Variation to Development Standards under Clause 4.6
Nelson Street, Yass**

This Statement of Environmental Effects (SEE) is submitted to Yass Valley Council on behalf of WMD Communities, in support of an application to modify Development Consent no DA210272C relating to the subdivision of land to create 32 residential lots, One Super Lot and One Residual Lot.

This request is made pursuant to Section 4.55(1) of the Environmental Planning and Assessment Act 1979 ("the EPA Act"), as the proposed modification has no environmental impact.

The modification responds to current housing market pressures and severe affordability constraints, which has led to a chronic undersupply. Whilst this modification does not increase the overall supply of housing, it creates the opportunity to bring additional housing lots to the market and increases the likeness of development. Lots subject to the modification, were designed in a way to allow for the construction of dual occupancy or multi-dwelling houses; however, due to increases to interest rates and the likely impacts from the recent federal budget, it has become challenging for family investors to secure loans to undertake the full development opportunity of each site.

As a result, the approved larger-lot format is proving increasingly difficult for many intended purchasers to activate staged funding requirements, particularly first home buyers, downsizers, family investors and small-scale local builders who are constrained by borrowing capacity, construction costs and increasing rates. Feedback from the market indicates that smaller, more readily financeable lots provide a more viable pathway to home ownership and housing delivery, while remaining consistent with Yarrah's broader objective of providing diverse housing choices for the Yass community.

Allowing flexibility in lot sizes responds to macro trends and allows Yass Valley Council to continue to contribute to the supply of housing under the National Housing Accord.

1. Overview

This modification is sought to alter the number of lots approved in DA210272C, from 33 lots to 39 lots, as shown in Figures 1 and 2 below. As a result of the increase, the proposal will provide an additional 6 lots (and 11 lots under the minimum lot size).

The modification only applies to approved lots 77, 78, 88, 89 and 90 which were designed to facilitate dual occupancies and multi-dwelling housing under *Chapter 6 Low and mid rise housing, Part 2 Dual occupancies and semi-detached dwellings* of the *State and Environmental Planning Policy (Housing) 2021*, and the Low Rise Housing Diversity Design Guide, commonly known as the Low Rise Medium Density Code. The resulting lots will range from 402m² to 505m² in size. As shown in the figures below. Note: as part of the modification and additional lots, lot labels will also be amended.

To facilitate the creation of the abovementioned lots, a variation to development standards under Clause 4.6 Exception to Development Standards of the Yass Valley Local Environmental Plan 2023 (LEP) is sought, which relates to the minimum lot size development standard of 700m². A Clause 4.6 variation report has been provided as part of the application.

Ultimately there is considered to be no impact over and above what was considered in the original application and the change is worthy of Council support.

The proposed changes sought by this application have been discussed with Council, who agreed that it could be undertaken as a modification.

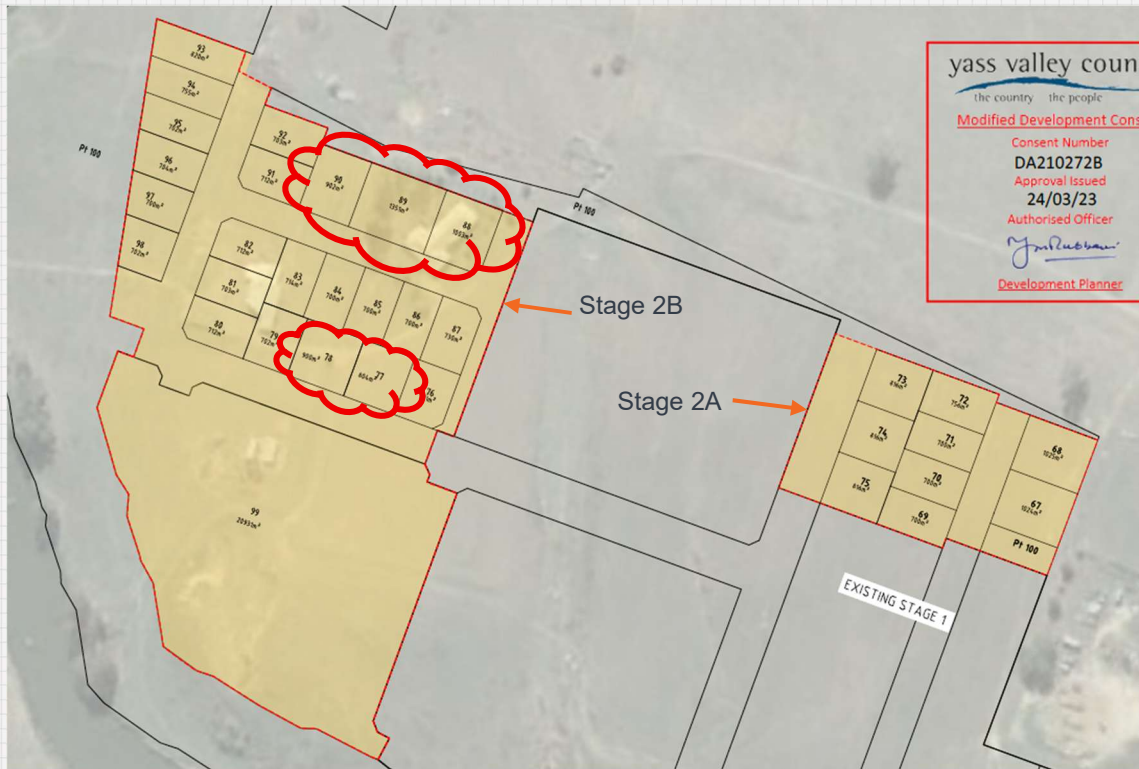


Figure 1: Approved Stage 2B subdivision plan, impacted lots in red

2. Site Description

The site subject to the modification is wholly located on Lot 1 DP 1316265 and is the next stage of delivery of the Yarrah Stage 2 development. Yarrah creates a new growth area for Yass infilling a previous undeveloped riverside parcel isolated by the disused rail corridor.

The site is an extension of the approved subdivision. The land has a complex topography, gently sloping on in the north western part of the site and falling towards the Yass River in the south west. The land is vacant, with earthworks underway to support the construction of the subdivision approved as part of DA210272C.

The site has access via new road connections to Laidlaw Street and is within 1,400m of the Yass Town Centre.

Stage 2 is a direction extension of Stage 1, as shown in Figure 3 below.

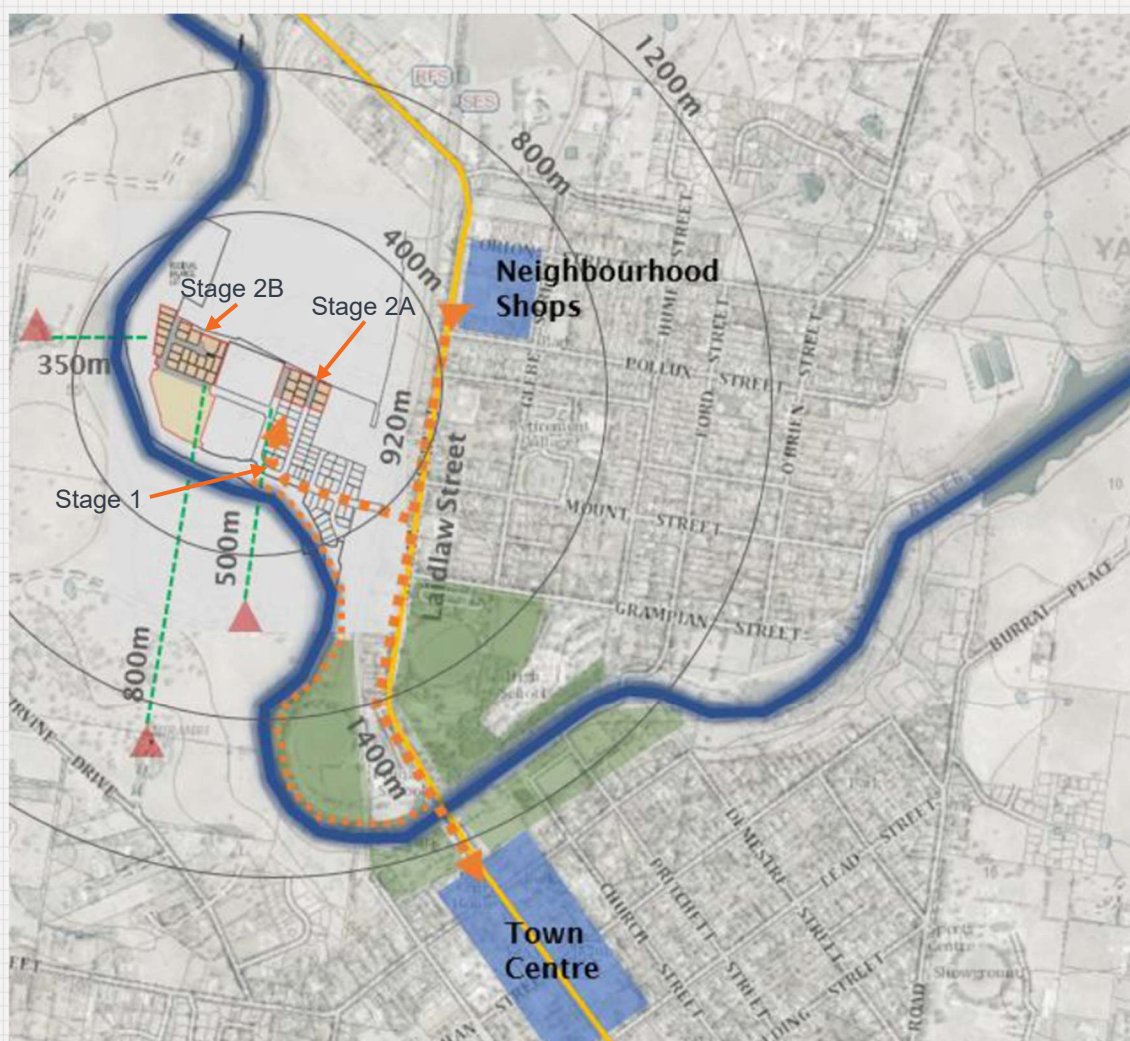


Figure 3: Site and locality (Source: Original SEE)

3. Consent to be Modified

The consent to be modified is DA210272C which was last modified on 31 October 2025. The development is described by the consent and modifications in Table 1 below.

Table 1 – Previous approval and modification history

Application No.	Approved	Description
No. DA210272	2 September 2022	Subdivision of the Residue Lot of the Subdivision of Lot 1 DP 660006 and Lot 1 DP 38166 (DA180013) to create 32 Residential Lots, One Super Lot and One Residual Lot
No. DA210272B	24 March 2023	Development Consent DA210272 was amended in the following manners:

		• Amend the road/lot layout to remove the cul de sac and provide a through laneway • Consolidate Lot 66 in residue Lot 100 • Subdivide Lot 88 to create two lots
No. DA210272C	31 October 2025	Development Consent DA210272B is proposed to be amended in the following manner: • Introduce a preliminary stage prior to stage 2 • Undertake a two-lot Torrens Title subdivision of Lot 76 DP1273537 in accordance with submitted plans • Remove Condition 28 • Modify Condition 113

4. Description of Proposed Modification

This modification is sought to alter the number of lots approved in DA210272C, from 33 lots to 39 lots, as shown in Figures 1 and 2 above. As a result of the increase, the proposal will provide an additional 6 lots (and 11 lots under the minimum lot size).

The modification only applies to approved lots 77, 78, 88, 89 and 90 which were designed to facilitate dual occupancies and multi-dwelling housing under *Chapter 6 Low and mid rise housing, Part 2 Dual occupancies and semi-detached dwellings* of the *State and Environmental Planning Policy (Housing) 2021*, and the Low Rise Housing Diversity Design Guide, commonly known as the Low Rise Medium Density Code. The resulting lots will range from 402m² to 505m² in size. As shown in the figures above. Note: as part of the modification and additional lots, lot labels will also be amended.

The modification will create 6 additional lots, all of which are under the minimum lot size of 700m². Table 2 below contains the existing and proposed lots sizes relevant to this application.

Table 2 – Approved and proposed lot sizes

Approved Lot No.	Approved Lot size	Proposed Lot No.	Proposed amended lots size
Lot 77	804m ²	Lot 77	402m ²
		Lot 78	402m ²
Lot 78	900m ²	Lot 79	450m ²
		Lot 80	450m ²
Lot 88	1003m ²	Lot 90	497m ²

		Lot 91	505m2
Lot 89	1351m2	Lot 92	450m2
		Lot 93	450m2
		Lot 94	450m2
Lot 90	902m2	Lot 95	450m2
		Lot 96	450m2

To facilitate the subdivision of the abovementioned lots, a variation to development standards under Clause 4.6 Exception to Development Standards is sought. A Clause 4.6 variation report has been provided as part of the application.

5. Substantially the same development

Section 4.55(1A)(b) of the Act requires a consent authority to be satisfied that the development to which the consent as modified relates is “substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all)”.

The development, as proposed to be modified, is substantially the same development as that originally approved in that it retains the same residential outcomes and uses as originally approved and it does not change the subdivisions construction impacts or its impact on servicing requirements. The incorporation of the proposed modifications will result in a development which is substantially the same as the approved development and are considered to have minimal environmental impact under Section 4.55(1A)(a).

In an application to modify a development approval, a proponent must demonstrate that the change, if carried out, would result in a development that would be substantially the same development as the original development.

The following reference to the test for a modification has been sourced from the NSW Department of Planning, Industry and Environment in relation to State Significant Development. The same principles apply to Local Development and reference to case law clarifies the principles established through decisions of the NSW Land and Environment Court (LEC).

“Substantially” means “essentially or materially” or “having the same essence.”

A development can still be substantially the same even if the development as modified involves land that was not the subject of the original consent (provided that the consent authority is satisfied that the proposal is substantially the same).

If the development as modified, involves an “additional and distinct land use”, it is not substantially the same development.

Notwithstanding the above, development as modified would not necessarily be substantially the same solely because it was for precisely the same use as that for which consent was originally granted.

To determine whether something is “substantially the same” requires a comparative task between the whole development as originally approved and the development as proposed to be modified. In order for the proposal to be “substantially the same”, the comparative task must:

- result in a finding that the modified development is “essentially or materially” the same

- appreciate the qualitative and quantitative differences in their proper context
- in addition to the physical difference, consider the environmental impacts of proposed Modification Applications to approved developments.

The proposed development, as modified has been compared to the original approved scheme having regard to and considering the following elements:

- classification of development or primary use – No change
- development size, scale and footprint – No change
- project life and hours of operation – No change
- extent, duration and severity of impacts – No change

The modification can therefore be considered substantially the same under Section 4.55(1A) of the Act.

6. Planning Assessment

Section 4.55(3) of the EP&A Act requires the consent authority, when assessing a Section 4.55 application, to take into consideration such of the matters referred to in Section 4.15(1) as relevant to the development. Table 3 below provides an assessment against such matters.

Table 3 – Matters for consideration

EP&A Act section and legislative requirement	Comment
(1) Matters for consideration—general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:	
The provision of:	
(i) any environmental planning instrument	Relevant sections of the Yass Local Environmental Plan has been considered in the attached Clause 4.6 Variation to Development Standards.
(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent	No draft Local Environmental Plans apply to the development site.
(iii) any development control plan	The Yass DCP has been addressed in the 4.6 Variation report accompanying this application.
(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4	Not Applicable.
(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)	This Modification is considered to satisfactorily meet the relevant requirements of the EP&A Regulations relating to modification applications.

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality	The application is considered to be minor in nature and will not result in impacts beyond those which were considered in the parent Development Application.
(c) the suitability of the site for the development	The site suitability was considered in the original Development Application. The Modification Application does not interfere with the original approval.
(d) any submissions made in accordance with this Act or the regulations	The modification will be notified in accordance with Council's policy for a minimum of 14 days. Any submissions will be considered prior to determination.
(e) the public interest	The proposal will result in a better design outcome for the estate and will allow for the sale and development of land.

6.1. Environmental Planning Instruments

The development, as proposed to be modified, requires a variation to development standards under Clause 4.6 Exception to Development Standards in the *Yass Valley Local Environmental Plan 2013*. A Clause 4.6 variation report has been provided as part of the application.

The Clause 4.6 variation report provides a detailed assessment against the relevant provisions and objectives in the LEP, the Yass Valley Development Control Plan 2024 and the Yarrah Development Guidelines 2019.

6.2. Context and Setting

There is no change to the built form or the total number of dwellings being sought to be constructed in the subdivision. The creation of the 11 lots under the minimum lot size allows for the individual sale of land to facilitate the construction of a future dwelling that would otherwise have been subject to a separate Development Application or Complying Development Certificate under the Low Rise Medium Density Code.

There is no material change to infrastructure and servicing, and no additional traffic movements are likely to occur as part of the amendment. Infrastructure and servicing have been designed to provide dual (or multiple) services to each of the lots subject to this application, as shown in the below construction drawings for Stage 2B (figures 4 & 5) below.

Likely impacts are considered negligible as the residential outcome remains the same.

Figure 4: Stage 2B Road Layout Plan



Figure 5: Stage 2B Water and Sewer Servicing Plan

7. Conclusion

The proposal does not alter the overall outcome for the site, being development associated with the subdivision of land for residential purposes. The details provided within this documentation and attached information demonstrate that there are no changes to the residential yield across the site and proposed subdivision works remain the same.

Having regard to the above, it is recommended that the proposed modification is supported by Council. I trust that the above and attached information will enable Council to favourably determine this modification. If you require any further information, please do not hesitate to contact the undersigned directly.

Should you have any queries please contact the undersigned directly on 6021 0662 or haydon@habitatplanning.com.au.



Haydon Murdoch
Associate