6.3 Reports

6.3.1 DA 0129/2015 - Demolition and Reconstruction of Existing BP Service Station Including New Shop Building, New Canopy & Signage, Replacement of Fuel Tanks and Upgrading of Forecourt Area at Lot 41 DP 998528, 77 Church Street Mudgee

REPORT BY THE STATUTORY/STRATEGIC PLANNER TO 17 DECEMBER 2014 COUNCIL MEETING
DA 0129-2015 - BP Service Station
GOV400038, DA012915

RECOMMENDATION

That:

1. the report by the Statutory/Strategic Planner on the DA 0129/2015 - Demolition and Reconstruction of Existing BP Service Station Including New Shop Building, New Canopy & Signage, Replacement of Fuel Tanks and Upgrading of Forecourt Area at Lot 41 DP 998528, 77 Church Street Mudgee be received;

2. DA 0129/2015 - Demolition and Reconstruction of Existing BP Service Station Including New Shop Building, New Canopy & Signage, Replacement of Fuel Tanks and Upgrading of Forecourt Area at Lot 41 DP 998528, 77 Church Street Mudgee be approved subject to the following conditions of consent:

APPROVED PLANS

1. Development is to be carried out generally in accordance with stamped plans identified in the table below and the Application received by Council on 17 October 2014 except as varied by the conditions listed herein. Any minor modification to the approved plans will require the lodgement and consideration by Council of amended plans. Major modifications will require the lodgement of a new development application.

<table>
<thead>
<tr>
<th>PLAN DESCRIPTION</th>
<th>DRAWING NO.</th>
<th>REVISION</th>
<th>DRAWN BY</th>
<th>DATED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing Site Plan</td>
<td>SK-08933-A001</td>
<td>A</td>
<td>Meinhardt Australia Pty Ltd</td>
<td>23.09.14</td>
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<tr>
<td>Demolition Plan</td>
<td>SK-08933-A002D</td>
<td>A</td>
<td>Meinhardt Australia Pty Ltd</td>
<td>30.10.14</td>
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<tr>
<td>Proposed Site Plan</td>
<td>SK-08933-A003</td>
<td>A</td>
<td>Meinhardt Australia Pty Ltd</td>
<td>03.10.14</td>
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<tr>
<td>Proposed Elevations A &amp; B</td>
<td>SK-08933-A004</td>
<td>A</td>
<td>Meinhardt Australia Pty Ltd</td>
<td>30.09.14</td>
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<tr>
<td>Proposed Elevations C &amp; D</td>
<td>SK-08933-A005</td>
<td>A</td>
<td>Meinhardt Australia Pty Ltd</td>
<td>30.09.14</td>
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<tr>
<td>Signage Details</td>
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<td>A</td>
<td>Meinhardt Australia Pty Ltd</td>
<td>30.09.14</td>
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<tr>
<td>BP Shop Plan &amp; Elevations</td>
<td>SK-08933-A007</td>
<td>A</td>
<td>Meinhardt Australia Pty Ltd</td>
<td>23.09.14</td>
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<tr>
<td>19m B-Double Tanker Path</td>
<td>SK-08933-A008</td>
<td>A</td>
<td>Meinhardt Australia Pty Ltd</td>
<td>30.09.14</td>
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<tr>
<td>Garbage Truck &amp; Car Turning</td>
<td>SK-08933-A009</td>
<td>A</td>
<td>Meinhardt Australia</td>
<td>30.09.14</td>
</tr>
</tbody>
</table>
GENERAL CONDITIONS

2. Plant species used in the landscaping in the north-east corner appropriately advanced trees and shrubs, be drought/frost tolerant and generally endemic to the Mid-Western region. The landscaping is to be established prior to occupation.

3. This approval does not provide any indemnity to the owner or applicant under the Disability Discrimination Act 1992 with respect to the provision of access and facilities for people with disabilities.

4. For every 12 month period after the issue of the Final Fire Safety Certificate the owner/agent of the building must provide the Council and the Commissioner of NSW Fire Brigades with a copy of an Annual Fire Safety Statement Certifying that each specified fire safety measure is capable of performing to its specification.

5. The air conditioning unit/s must be operated in accordance with the requirements of the Protection of the Environmental Operations Act (Noise Control) Regulation 2008.

6. All vehicles are required to enter and leave the site in a forward direction at all times. Signage to this effect is to be appropriately located within the site.

7. All loading and unloading in connection with the premises shall be carried out wholly within the site.

8. All exterior lighting associated with the development shall be designed and installed so that no obtrusive light will be cast onto any adjoining property or roadways, in accordance with Australian Standard 4282 “Control of the Obtrusive Effects of Outdoor Lighting”.

9. No display or sale of goods is to take place from public areas or footpaths fronting the premises.

10. All waste generated by the proposed development shall be disposed of to an approved location in accordance with the Waste Minimization & Management Act 1995.

11. There being no interference with the amenity of the neighbourhood by reason of the emission of any “offensive noise”, vibration, smell, fumes, smoke, vapour, steam, soot, ash or dust, or otherwise as a result of the proposed development.

12. The signage is to be securely affixed and is not to flash, move or be objectionably glaring.

13. Illumination of the canopy fascia is not permitted under this consent.
14. The boundary fence proposed along the eastern boundary of the site (adjoining Lot 1 DP 199187) is to be solid (i.e. no gaps), 1.8 metres in height and constructed of either colorbond steel or be lapped and capped timber fencing.

15. The removal and installation of the underground petroleum storage tanks is to be carried out as per the requirements of the Protection of the Environment Operation (Underground Petroleum Storage Systems) Regulation 2008.

16. As the existing premises with a refuelling point will be refurbished, in accordance with the NSW Office of Waters’ requirements, the discharge from this area must be disconnected from Council’s sewerage system. Where the premises do not have other trade waste discharges (eg. from a restaurant, vehicle wash, mechanical workshop), trade waste fees and charges would no longer apply.

17. A Notice of Completion for the remediation work is to be provided to Council within 30 days after the completion of work and shall include the following details prescribed by State Environmental Planning Policy 55 – Remediation of Land:
   a) be in writing prepared and signed by the person who carried out the work, and
   b) provide the person’s name, address and business telephone number, and
   c) provide details of the person’s qualifications to carry out the work, and
   d) specify, by reference to its property description and street address (if any), the land on which the work was carried out, and
   e) provide a map of the location of the land, and
   f) state when the work was completed, and
   g) specify the uses of the land, and the substances, that contaminated it in such a way as to present a risk of harm to human health or some other aspect of the environment, and
   h) specify the uses of the land immediately before the work started, and
   i) briefly describe the method of remediation used in the work, and
   j) specify the guidelines that were complied with in the work, and
   k) specify the standard of remediation achieved (in the light of the use proposed for the land), and
   l) show in what manner the work (if a category 1 remediation work) complied with the conditions of the relevant development consent, and
   m) state what action must be maintained in relation to the land after the completion of the remediation work if the standard of remediation achieved is to be maintained.

18. Closed-Circuit Television (CCTV) cameras are to be installed around the site in locations that are able to capture the registration plates of all vehicle entering and exiting the site. The cameras should provide adequate coverage of the premises and forecourt areas.

19. Independent security officers are to be employed by the operators of the service station between the hours of 12am till 5am Saturday and Sunday.
PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

20. Development Consent number DA 0504/2013 is to be surrendered to Council in accordance with clause 97 of the Environmental Planning & Assessment Regulation 2000 prior to the issue of a Construction Certificate.

21. A floor plan of the control building, including floor layout, internal partitioning, room sizes and intended uses for each part of the building, is to be submitted to Council for approval prior to the issue of a Construction Certificate.

22. The applicant is to submit a Drainage Report prepared in accordance with the Institution of Engineers publication Australian Rainfall and Run-off to the Principal Certifying Authority for approval prior to the release of the Construction Certificate. The report must demonstrate that stormwater runoff from the site is not increased beyond the existing undeveloped state up to and including a 1.5 year event. All storm water detention details including analysis shall be included with the drainage report.

23. A Traffic Control Plan (TCP) completed by a “Certified Person” for implementation during works is to be submitted to Mid-Western Regional Council prior to any work commencing.

24. A copy of the Contractor’s public liability insurance cover for a minimum of $20,000,000 (Twenty million dollars) is to be provided to Mid-Western Regional Council. Mid-Western Regional Council is to be indemnified against any works carried out by the contractor.

25. A registered Surveyors Certificate showing the boundaries of the site and the proposed building plotted thereon being submitted to the Principal Certifying Authority before construction is commenced.

26. Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Mid-Western Regional Council.

PRIOR TO THE COMMENCEMENT OF WORKS

27. No work shall commence until a Construction Certificate has been issued and the applicant has notified Council of:
   a) the appointment of a Principal Certifying Authority and
   b) the date on which work will commence.

Such notice shall include details of the Principal Certifying Authority and must be submitted to Council at least two (2) days before work commences.

28. The site shall be provided with a waste enclose (minimum 1800mm X 1800mm X 1200mm) that has a lid or secure covering for the duration of the construction works to ensure that all wastes are contained on the site. The receptacle is to be emptied periodically to reduce the potential for rubbish to leave the site. Council encourages the separation and recycling of suitable materials.

NOTE: ALL WASTE GENERATED FROM THE CONSTRUCTION PROCESS IS TO BE CONTAINED ON-SITE
29. Prior to the commencement of works on site, the applicant shall advise Council’s Development and Community Services Department, in writing, of any existing damage to Council property.

ENGINEERING CONSTRUCTION

30. The developer must install sewer chambers where the current sewer line intersects the north and south of the property boundary. The current vitrified clay pipe must be replaced with class 8 uPVC of at least equal internal diameter. The replacement pipe must be concrete encased as per WSAA 02-2002 drawing SEW-1205. Saw cuts must be provided 1.5m either side of the replacement pipe within the proposed concrete area.

NOTE: Any work on live sewer mains must be done by Council.

31. Raised kerbing is to be constructed around the site, as per the approved site plan, to separate pedestrian traffic from vehicles manoeuvring within the forecourt area.

32. Car parking spaces are to be provided within the site, as per the approved plans, and comply with AS 2890.1: 2004 and the following requirements:
   a) Each parking space is to have minimum dimensions of 5.5m x 2.4m;
   b) Each disabled car parking space is to be in accordance with the provisions of AS 2890.6: 2009.
   c) All car parking spaces are to be line-marked and provided with a hard standing, all weather compacted gravel surface and must be maintained in a satisfactory condition at all times;
   d) Off street parking is to be encouraged by the placement of prominent signs indicating the availability of parking.

33. All public footways, foot paving, kerbs, gutters and road pavement damaged during the works are to be restored to match existing conditions at the Developer’s/Demolisher’s expense.

34. All stormwater is to discharge to the street with the use of non-flexible kerb adaptors. Please note this can be achieved by connecting to existing stormwater lines.

BUILDING CONSTRUCTION

35. All building work is to comply with the requirements of the Access to Premises Standard

36. All building work must be carried out in accordance with the provisions of the National Construction Code, the Environmental Planning & Assessment Act 1979 and Regulations and all relevant Australian Standards.

37. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the Plumbing Code of Australia.

38. Construction work noise that is audible at other premises is to be restricted to the following times:
   - Monday to Saturday - 7.00am to 5.00pm

   No construction work noise is permitted on Sundays or Public Holidays.
39. All mandatory inspections required by the Environmental Planning & Assessment Act and any other inspections deemed necessary by the Principal Certifying Authority being carried out during the relevant stage of construction.

40. The licensed demolition contractor and/or principal contractor must comply with the following specific requirements in respect of the proposed demolition works:
   a) Demolition work is not be undertaken until:
      - Council has been provided with a copy of any required Hazardous Substances Management Plan;
      - The licensed demolition contractor and/or principal contractor has inspected the site and is satisfied that all measures are in place to comply with the provisions of such Plan;
   b) The removal, handling and disposal of any asbestos material (in excess of 10m²) is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by WorkCover NSW, and in accordance with the requirements of WorkCover NSW, the Work Health and Safety Act 2011 and Australian Standard 2601-2001;
   c) All asbestos and other hazardous materials are to be appropriately contained and disposed of at a facility holding the appropriate license issued by the NSW Environmental Protection Agency;
   d) Seven working days notice in writing is to be given to Council prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor.

41. The development site is to be managed for the entirety of work in the following manner:
   a) Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
   b) Appropriate dust control measures;
   c) Construction equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained;
   d) Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

42. The strength of the concrete used for the reinforced concrete floor slab must be a minimum 25Mpa.

43. If the work involved in the erection/demolition of the building:
   a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
   b) building involves the enclosure of a public place.

44. A hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.
The placing of building materials or the carrying out of building operations upon or from Council’s footway or roadway is prohibited unless prior consent in writing is obtained from Council.

A sign must be erected in a prominent position on any work site on which involved in the erection or demolition of a building is carried out;

- stating that unauthorised entry to the work site is prohibited, and
- showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.
- the name, address and telephone number of the principal certifying authority for the work,
- The sign shall be removed when the erection or demolition of the building has been completed.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

Prior to the occupation of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the erection of the building.

All car parking and associated forecourt works are to be completed prior to occupation of the development.

Prior to occupation or the issue of the Occupation Certificate (or Interim Occupation Certificate) the owner of the building must cause the Principal Certifying Authority to be given a fire safety certificate (or interim fire safety certificate in the case of a building or part of a building occupied before completion) in accordance with Clause 153 of the Environmental Planning and Assessment Regulation 2000 for each measure listed in the schedule. The certificate must only be in the form specified by Clause 174 of the Regulation. A copy of the certificate is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building.

Executive summary

<table>
<thead>
<tr>
<th>Applicant:</th>
<th>BP Australia</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estimated cost of development:</td>
<td>$2,500,000</td>
</tr>
<tr>
<td>Reason for reporting to council:</td>
<td>Estimated cost of development over $1m</td>
</tr>
<tr>
<td>Public submissions:</td>
<td>1</td>
</tr>
</tbody>
</table>

Council has received a development application for the demolition and reconstruction of the existing BP Service Station and includes:

- Demolition of the existing control building, canopy, disused workshop and associated infrastructure;
- Demolition of existing forecourt area;
- Removal of 4 existing fuel storage tanks and 1 waste oil storage tank;
- Excavation and remediation of fuel tank farm area;
- Construction of a new control building with a floor area of 122.4m².
- Installation of two new fibreglass 70kL tanks;
- Construction of a new 5m high canopy;
- Installation of fuels pumps and fuel associated infrastructure;
- Installation of new signage including
  - 6m high freestanding sign for display of fuel prices;
  - 1 oval sign above entrance to control building
- Installation of 3 illuminated signs on sides of canopy;
- Canopy fascia signage that will include BP corporate colours and LED strips on the sides of the canopy.
- Installation of promotional poster boards on the side of the control building.

The proposed works will take approximately 16 weeks to be carried out, during which time the service station will be closed.

The proposal is likely to involve some remediation work. As the site is located within the heritage conservation area, the application was treated as Category 1 Remediation Works under State Environmental Plan Policy No 55 - Remediation of Land. This required the proposal to be advertised for a period of 30 days.

The site has been used as a service station for a number of years. The exact date the use commenced is unable to be ascertained from Council's records, however information contained in the title records obtained by the applicant show the use of the site as a service station dating back to the early 1960’s. Service Stations are no longer a permissible use within the B3 Commercial Core zone and the site relies on the existing use rights provisions contained in the Environmental Planning & Assessment Act and associated Regulation.

The application has been referred to Council as the estimated cost of development places it outside of the delegation of Council staff to determine.

The proposal for the demolition and reconstruction of the service station is recommended for approval subject to the conditions of consent contained in this report.

Detailed report

SECTION 79C (1)(A)(I) PROVISIONS OF ANY ENVIRONMENTAL PLANNING INSTRUMENT

Mid-Western Regional Local Environmental Plan 2012

The land is zoned B3 Commercial Core pursuant to the Mid-Western Regional LEP 2012. The Objectives of the zone are:

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To promote the central business district of Mudgee as the major focus for retail and commercial activity in Mid-Western Regional.
- To consolidate business development in the Mudgee town centre and avoid unnecessary or inappropriate expansion of business-related land uses into surrounding residential neighbourhoods.
- To ensure that new development is compatible with the historic architectural character and streetscapes of the Mudgee commercial core area.
- To ensure that the form and layout of new development is designed to encourage free pedestrian movement and connectivity within the commercial core.

Comment:
The use of the site is defined as a *Service Station* which is a prohibited use under the LEP 2012 in the B3 Commercial Core zone. The site does, however, have existing use rights pursuant to Section 106 of the EP & A Act 1979. Expansion of the existing use is permissible under clause 41 of the *EP & A Regulation 2000*.

The proposal will improve pedestrian safety around the site while having minimal impact on the heritage significance of the area.

**Clause 5.10 Heritage Conservation**

The site is located within the heritage conservation area and there are two items of local significance directly to the east. Another item is located across Church Street to the west of the site (old fire station).

Comment:
The proposal is an improvement of the existing development which currently includes a disused workshop building and a forecourt area that does not meet current environmental standards.

It is considered that the proposed development does not detract from the heritage significance of the adjoining heritage items or Mudgee heritage conservation area.

**Clause 6.1 Salinity**

This clause requires the consent authority to consider whether the proposed development is likely to have any impact on salinisation processes.

Comment:
The proposal is unlikely to have any impact on salinity processes.

**Clause 6.4 Groundwater Vulnerability**

Before determining a development application, the consent authority is to consider the impact the development may have on groundwater resources.

Comment:
The service station as it currently operates already has the potential to contaminate groundwater. The remediation of the fuel tank area will have a positive impact on groundwater resources as it will reduce the risk of any potential contamination of the groundwater. Preliminary testing of the soils and groundwater indicate that contaminants are present and the proposal will go some way to rectifying the issue.

**Clause 6.7 Active Street Frontage**

Under this clause, development consent must not be granted for the erection of a building, or change of use, unless the consent authority is satisfied the building will have an active street frontage.

Comment:
The building faces the street and, although setback some distance from the street, meets the definition of an active street frontage as the ground floor is used for business or retail purposes.

**State Environmental Planning Policy No. 33 – Hazardous and Offensive Development**

Clause 13 of the SEPP requires the consent authority to consider whether the proposed development constitutes a potentially hazardous industry.

The applicant carried out preliminary risk screening in accordance with the ‘Hazardous and Offensive Development Application Guidelines’ and which placed the proposal outside of the definition of potentially hazardous development.
State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7 of the SEPP requires the applicant to prepare a preliminary contamination assessment of the site to determine whether the proposed use is suitable for the site.

Pursuant to clause 9 of the SEPP, the development is considered Category 1 remediation as the site is located within a heritage conservation area. This required a mandatory 30 day advertising period for the proposed development, during which time 1 submission was received.

Groundwater monitoring and tank condition reporting has been undertaken at regular intervals since 2002 and various contaminants have been uncovered, namely Phase-Separated Hydrocarbons (PSH). Some remediation works have already taken place, with more proposed as part of this application. These will be required to be carried out in accordance with the Department of Urban Affairs and Planning (now NSW Planning & Environment) Managing Land Contamination Planning Guidelines and other relevant industry standards.

State Environmental Planning Policy No. 64 – Advertising and Signage

The applicant proposes to replace the existing signage with the following:

- 6m high freestanding sign for display of fuel prices;
- 1 oval sign above entrance to control building
- Installation of 3 illuminated signs on sides of canopy;
- Canopy fascia signage that will include BP corporate colours and LED strips on the sides of the canopy.
- Installation of promotional poster boards on the side of the control building.

The following is a checklist of the assessment criteria contained within Schedule 1 of the SEPP:

<table>
<thead>
<tr>
<th>Assessment Criteria</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Character of the area</td>
<td>The proposal will be an improvement on the existing structure.</td>
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<tr>
<td>- Is the proposal compatible with the</td>
<td></td>
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<tr>
<td>existing or desired future character of</td>
<td></td>
</tr>
<tr>
<td>the area or locality in which it is</td>
<td></td>
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<tr>
<td>proposed to be located?</td>
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<tr>
<td>- Is the proposal consistent with a</td>
<td></td>
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<tr>
<td>particular theme for outdoor advertising</td>
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<tr>
<td>in the area or locality?</td>
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<tr>
<td>Special areas</td>
<td>Overall the proposed development does not detract from the amenity of</td>
</tr>
<tr>
<td>- Does the proposal detract from the</td>
<td>the heritage conservation area, with the exception of the illuminated</td>
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<tr>
<td>amenity or visual quality of any</td>
<td>fascia.</td>
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<tr>
<td>environmentally sensitive areas, heritage</td>
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<tr>
<td>areas, natural or other conservation</td>
<td></td>
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<tr>
<td>areas, open space areas, waterways,</td>
<td></td>
</tr>
<tr>
<td>rural landscapes or residential areas?</td>
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</tr>
<tr>
<td>Views and vistas</td>
<td>The proposal has no impact on views and/or vistas.</td>
</tr>
<tr>
<td>- Does the proposal obscure or</td>
<td></td>
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<tr>
<td>compromise important views?</td>
<td></td>
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<tr>
<td>- Does the proposal dominate the skyline</td>
<td></td>
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<tr>
<td>and reduce the quality of vistas?</td>
<td></td>
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<tr>
<td>- Does the proposal respect the viewing</td>
<td></td>
</tr>
<tr>
<td>rights of other advertisers?</td>
<td></td>
</tr>
<tr>
<td>Streetscape, setting or landscape</td>
<td>The proposal is considered to be consistent with the streetscape.</td>
</tr>
<tr>
<td>- Is the scale, proportion and form of</td>
<td></td>
</tr>
<tr>
<td>the proposal appropriate for the</td>
<td></td>
</tr>
<tr>
<td>streetscape, setting or landscape?</td>
<td></td>
</tr>
<tr>
<td>- Does the proposal contribute to the</td>
<td></td>
</tr>
<tr>
<td>visual interest of the streetscape,</td>
<td></td>
</tr>
<tr>
<td>setting or landscape?</td>
<td></td>
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</table>
### Assessment Criteria

<table>
<thead>
<tr>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Does the proposal reduce clutter by rationalising and simplifying existing advertising?</td>
</tr>
<tr>
<td>- Does the proposal screen unsightliness?</td>
</tr>
<tr>
<td>- Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</td>
</tr>
<tr>
<td>- Does the proposal require ongoing vegetation management?</td>
</tr>
</tbody>
</table>

### Site and building

| Proposal is consistent with bulk and scale of adjacent building. |
| - Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located? |
| - Does the proposal respect important features of the site or building, or both? |
| - Does the proposal show innovation and imagination in its relationship to the site or building, or both? |

### Associated devices and logos with advertisements and advertising structures

| Signage generally appropriate with the exception of the illuminated fascia. |
| - Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed? |

### Illumination

| Internal illumination of pricing board pylon sign generally ok as these signs are LED displayed. Illumination of the fascia is not considered appropriate in the heritage conservation area. |
| - Would illumination result in unacceptable glare? |
| - Would illumination affect safety for pedestrians, vehicles or aircraft? |
| - Would illumination detract from the amenity of any residence or other form of accommodation? |
| - Can the intensity of the illumination be adjusted, if necessary? |
| - Is the illumination subject to a curfew? |

### Safety

| The proposed signage will have no impact on pedestrian, driver or cyclist safety. |
| - Would the proposal reduce the safety for any public road? |
| - Would the proposal reduce the safety for pedestrians or bicyclists? |
| - Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas? |

### Section 79C (1)(a)(ii) any draft environmental planning instrument

No draft EPI’s are applicable to the application.

### Section 79C (1)(a)(iii) any development control plan

The following table summarises the relevant matters for consideration under Part 4.5 Commercial Development in the DCP 2013 (Amendment 1):

<table>
<thead>
<tr>
<th>Part 4.5 Commercial Development</th>
<th>Requirement</th>
<th>Compliance/Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Setbacks</td>
<td>- No min. front setback</td>
<td>Complies. Setback proposed</td>
</tr>
<tr>
<td><strong>Design</strong></td>
<td></td>
<td><strong>Compliance</strong></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>• Active street frontage;</td>
<td></td>
<td>Complies.</td>
</tr>
<tr>
<td>• Ground floor facing street to comprise windows/doors to encourage interaction between pedestrian and retail space;</td>
<td></td>
<td>Complies.</td>
</tr>
<tr>
<td>• Is built form acceptable and compatible with streetscape?</td>
<td>Yes.</td>
<td></td>
</tr>
<tr>
<td>• Is external infrastructure shown on plans?</td>
<td>Yes.</td>
<td></td>
</tr>
<tr>
<td>• Where development adjoins residential zone, setbacks in form of access ways and landscape buffers provided.</td>
<td>N/A</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Scale, form and height</strong></th>
<th></th>
<th><strong>Compliance</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>• Max 8.5m building height</td>
<td>Complies. Height of the building 3.4m. Height of the canopy is 5m.</td>
<td></td>
</tr>
<tr>
<td>• Consistent with heritage character</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Church St</strong></th>
<th></th>
<th><strong>Compliance</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>• Enhance/maintain streetscape by encouraging coherent 2 storey pattern</td>
<td>Not 2 storey. The addition of a 2nd storey would not be practical and may have adverse impact on adjacent heritage items.</td>
<td></td>
</tr>
<tr>
<td>• Use building elements that highlight horizontal form of development in town centre</td>
<td>Control building is setback reasonable distance from street and has minimal impact on the streetscape.</td>
<td></td>
</tr>
<tr>
<td>• Visual treatment to minimise bulk and maintain streetscape</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Articulation and facade composition</strong></th>
<th></th>
<th><strong>Compliance</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>• Use of secondary vertical elements such as fenestration or changes in materials/colour</td>
<td>N/A as proposed control building will be setback a substantial distance from the street.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Verandahs/balconies</strong></th>
<th></th>
<th><strong>Compliance</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>• Post setback 600mm from edge of kerb, compliment elements of building and not interfere with utilities/infrastructure</td>
<td>N/A</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Residential/Commercial interface</strong></th>
<th></th>
<th><strong>Compliance</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>• Ground floor and first floor development should not overlook residential properties</td>
<td>Complies.</td>
<td></td>
</tr>
</tbody>
</table>
### Context and Setting

The proposal is considered suitable for the site as it is a continuation of an existing use.

### Access, Traffic and Transport

**Section 79C (1)(a)(iv) the regulations (to the extent that they prescribe matters for the purpose of this paragraph)**

Clause 92 of the Regulations requires the consent authority to consider the provisions of *Australian Standard AS2601: The Demolition of Structures* in the assessment of the development application.

The demolition of structures on site will be conditioned to be carried out in accordance with the requirements of the Australian Standard.

**Section 79C (1)(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts**

- **Boundaries**
  - Development should not reduce sunlight received at adjoining properties

- **Utilities and services**
  - Utilities/services able to handle additional demand.
  - Buildings and structures located clear of infrastructure
  - Building is proposed to be located over the existing sewer line, however this is consistent with the current situation as the disused workshop is constructed over the sewer. The existing pipe will be required to be replaced and encased with concrete to prevent any damage to the mains.

- **Traffic and access**
  - All vehicles able to enter/exit in a forward direction
  - Driveways comply with AS2890
  - Loading facilities located within site
  - Complies

- **Pedestrian access**
  - Maintain existing pedestrian covered access within town centre
  - Separation between pedestrians and vehicular traffic is achieved through the provision of raised kerbing between the footpath and forecourt area.

- **Landscaping**
  - Comprise low maintenance drought/frost tolerant species
  - A small amount of landscaping will be provided in the north-eastern corner of the site. Landscaping within the road reserve can be maintained.
The layout of the forecourt allows for B-Double heavy vehicles to enter and exit the site in a forward direction. The larger forecourt area and additional pumps mean that there is reduced potential for vehicles to queue onto the street.

Raised kerbing is proposed between the footpath and forecourt area to separate pedestrian and vehicular traffic.

Utilities

All essential utilities are available to service the development.

The existing workshop building is located over the sewer main and the proposed control building maintains this. As it is not practical to relocate the sewer it will be required to be replaced with new piping and encased in concrete to protect it from the extra load placed on it from the new building.

Heritage

The proposal is not considered to detract from the heritage significance of the adjoining items or the overall significance of the heritage conservation area, with the exception of the illuminated fascia. This will be conditioned to be non-illuminated.

Water

The proposal will have a positive impact on groundwater resources as it will provide an opportunity for remediation of contaminated parts of the site to occur.

Runoff from the forecourt area will be captured by a stormwater treatment system (SPEL Stormceptor) and discharged to the Council stormwater system, as per NSW Office of Water requirements.

Soils

Soils disturbed during excavation can be conditioned to be retained on site through erosion and sediment controls measures.

Air and Microclimate

The main potential for impacts on air quality arise from odours emitted from the vents during refuelling.

Waste

Waste generated during development will be conditioned to be disposed of at an approved waste management facility.

Waste generated during the ongoing operation of the site will be stored in an on-site container and disposed of by private contractor.

Noise

Noise generated by the operation of the service station is not expected increase as a result of the redevelopment.

Social and Economic Impact
There is some potential for adverse social impact from the development to occur due to the 24 hour operation and potential for noise. This is unchanged from the existing arrangement. The new layout will assist in discouraging antisocial behaviour as it will provide a more visible forecourt and shop area with improved lighting which will enhance passive surveillance of the site.

Following a referral to NSW Police, further conditions are proposed due to antisocial incidents that have occurred in the vicinity of the site. These conditions include the installation of CCTV cameras and the employment of independent security staff to reduce the risk of further antisocial incidents occurring.

The proposal will have minimal economic impact on the region.

Crime Prevention

The application was referred to NSW Police who did not raise any objection to the approval of the application nor require any specific conditions of consent.

Site Design and Internal Layout

The design of the forecourt complies with the requirements of document ‘Environmental Action for Service Stations’ and other relevant guidelines. Manoeuvrability is sufficient to allow the largest vehicle that will access the site to ingress and egress the site in a forward direction.

The floor plan for the control building shows a large empty space. This was discussed with the applicant who advised that the final layout of the shop including display shelves, counter, office and toilet facilities had not been decided upon yet. As this does not impact on any planning related issues, these details will be conditioned to be supplied to Council and the PCA prior to the issue of a Construction Certificate and will need to comply with the National Construction Code and Access to Premises Standards.

Section 79C (1)(c) the suitability of the site for the development

The site is considered suitable for the development as it has operated without major incident for over 50 years and the proposed upgrade will ensure that it has much less environmental impact than it currently does. The modernisation of the buildings and signage will improve the appearance from the street.

Section 79C (1)(d) any submissions made in accordance with this Act or the regulations

The application was notified and advertised for a period of 30 days in accordance with clause 89 of the Environmental Planning & Assessment Regulation and clause 13 of State Environmental Planning Policy No 55 – Remediation of Land. One public submission was received (see attachment 3) and one submission was received from NSW Police (previously addressed in this report). The issues raised in the public submission were:

<table>
<thead>
<tr>
<th>Issue</th>
<th>Staff Comment</th>
</tr>
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<tbody>
<tr>
<td>Fencing: Object to mesh wire fencing due to noise, privacy, and amenity. Would like to have rendered brick fence constructed.</td>
<td>Agree that mesh wire fencing not appropriate. Rendered brick is not considered reasonable to condition as the impact can be mitigated by other forms of fencing. Fencing needs to be 1.8m high and solid (i.e. no gaps). Actual material can be agreed upon between neighbours. Could be colorbond or timber. There are no windows proposed on the eastern side of the control building</td>
</tr>
</tbody>
</table>
**Setbacks:** Object to 650mm setback. Would like 900mm.  
DCP allows zero setback. An increase of 250mm would make no difference to the amenity of the adjoining residence. Wall can be fire rated to comply with National Construction Code.

**Vent Stack:** Concerned about gases from vent stack located in N-E corner of site.  
The height of the vent stack will be 4m which is higher than the gutter height of the adjoining dwelling. Vapours are generally emitted during refuelling and it is proposed to install a vapour recovery system so no vapour is emitted during tanker unloading.

**Air Conditioner:** Neighbour objects to positioning of air conditioner due to possible noise impacts with it running 24/7. Would like to see it repositioned.  
The air conditioner is proposed to be located in the south-eastern corner of the site which is approximately 9m from the dwelling. The operation of the air conditioner can be conditioned to not give rise to offensive noise as per the PoEO Act.

**Lighting:** Neighbour is concerned that lighting will shine into bedroom windows.  
Most of the lighting will be under the new canopy and will be screened by the control building. All lighting will be conditioned to comply with Australian Standard AS4282 ‘Control of the Obtrusive Effects of Outdoor Lighting’.

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**Section 79C (1)(e) the public interest**

With appropriate conditions of consent, the proposal to demolish and rebuild the BP service station is considered to be in the public interest as it will not result in any additional impact on neighbouring properties and will greatly reduce the environmental impact of the service station.

**Financial and Operational Plan implications**

Not applicable.

**Community Plan implications**

The assessment of the development application sits under theme 1 ‘Looking After Our Community, Goal 1.1 – A Safe and Healthy Community’.

MARK LYNDON  
STATUTORY/STRATEGIC PLANNER

GARY BRUCE  
ACTING DIRECTOR, DEVELOPMENT

10 November 2014

**Attachments:**  
1. Locality Plan  
2. Plans Submitted for Development Approval  
3. Submissions

**APPROVED FOR SUBMISSION:**

BRAD CAM  
GENERAL MANAGER
To the General Manager,

Re: Development application DA0129/2015

We live at 57 Gladstone street, Mudgee and are direct neighbours of the workshop adjoining the 24 hour BP service station at 77 Church street. It is our understanding that the BP own this workshop and have lodged a development application to demolish it and move the service station into its place, directly next to our house.

We have viewed the plans and have some concerns regarding the proposal as outlined below.

1) Fencing. This is our greatest concern.
It is proposed to use a wire mesh security fence between the service station and our property. This is unacceptable on account of privacy, noise, safety and lights. Our bedrooms are all on the western face of our house, along the boundary with the service station. It is therefore not enough to have a see-through mesh style fence between, where patrons and staff of the service station can potentially look straight into our bedroom windows 24 hours day and night.

The other issue is noise and safety. With the service station moving closer to our house, the noise from cars, trucks, air-conditioners, compressors and people will be louder than previously. Also as the service station is open 24 hours, there are often drunk people and noisy youths congregating on and around the premises late at night. Just this week we had a patron of the service station jump our fence and enter our property at 3:00 in the morning. Fortunately he was detained by police, but not before he had damaged our garden and woken us with the ensuing drama.
Noise from Fuel tankers refilling the petrol tanks and Rubbish trucks emptying the skip bin will also be transmitted directly through a mesh fence, usually late at night.
Headlights from cars and trucks and 24 hour lighting from the service station also make a wire mesh fence unacceptable.
We would like to have a rendered brick fence erected between the two properties to alleviate the above problems.

2) Setbacks. The development proposal shows the proposed setback from the fence as 650mm. The current setback from the existing workshop is around 900mm. We would like to see this 900mm setback retained so that the development doesn’t encroach unnecessarily on our residence.

3) Vent Stack. There is a proposed “MS/ SPEL VENT STACK” in the North East corner of the development proposal. This is only meters away from our bedroom windows. What sort of gasses will be emitted from this vent? Would it be possible to move it to a less intrusive location?

4) A/C Compressor. The air conditioning compressor is proposed to be very close to boundary. This will be running 24hrs a day. We would like to see it moved further from the boundary.

5) Lighting. As the service station is open 24hrs, there will no doubt be security lighting on the building. Can it be stipulated that this lighting is set in such a way as to not shine into our adjacent bedroom windows?
Thank you for considering our concerns.

Sincerely,
Charles and Nicolette Smith

Charles Owen Design
57 Gladstone St
Mudgee NSW 2850
Ph: 0412512490

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TRIM NUMBER

ISSUE
Development application – BP Service Station, Mudgee – Lot 41 DP 998528 –
Demolition and re build of service station including new Control Building, Canopy,
Underground Fuel Storage Tanks, Fuel Systems and Signage.

BACKGROUND
A copy of the development application was received in this office in December 2014.

COMMENT
From perusing the document and attached plans, Police have concerns in relation to the
following issues;

1. No indication of the installation of CCTV in the new premises. Over the past few
years a number of antisocial incidents and fraud (fail to pay for petrol) offences
have been detected at the BP Service Station. The antisocial offences usually
occur after the closure of nearby Licensed Premises. The availability of up to
date CCTV will allow Police to monitor and seize this footage to assist in any
future investigations that are required. The location of any CCTV cameras
should be such that all registration plates of vehicles, entering and exiting, the
Station can be recorded. It should also provide as much coverage of the
premises and streets as is possible.

2. Due to incidents that have occurred at, or in the immediate vicinity, of the BP
since it commenced trading 24 hours, Police feel that for the security of patrons,
employees, of the Service Station, and the community, independent security
officers need to be employed by the operators of deter the incidents of antisocial
behaviour from patrons that frequent this area after 12am, or at least on
Fri + Sat nights.

RECOMMENDATION
That Police concerns be raised at the relevant Mid Western Regional Council meeting.

Mark Allen
Crime Prevention Officer
Ph: 63728524
4 December 2014

1. Crime Co-ordinator, Mudgee LAC

2. Commander, Mudgee LAC  Noted. Forwarded to council

3. Gary BRUCE, Mid Western Regional Council

4/12/2014