

TfA Ref: 22347
Council Ref: DA0129/2015

20 September 2023

The Chief Executive Officer
Mid-Western Regional Council
Via: Planning Portal

ATTN: Development Department

Dear Council,

**RE: MODIFICATION APPLICATION TO EXISTING DA APPROVAL DA0129/2015 UNDER SECTION 4.55(1A) OF EP&A ACT 1979 FOR REMOVAL OF CONDITION 19
77 CHURCH STREET, MUDGEE NSW 2850 – LOT 41 ON DP998528.**

On behalf of Bp Australia Pty Ltd (the applicant), we hereby lodge a formal request to the Mid-Western Regional Council (the council) to modify the above-mentioned development approval under Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979 No 203* (EP&A Act).

The above application was approved by Council on 18 December 2014 and subsequently amended on 27 May 2015. The following conditions of the Notice of Determination are considered to require modification, in this instance removal, as per each individual request detailed below:

- **Condition 19** – General conditions.

The Statement attached to this correspondence summarises the proposed changes to the conditions and addresses the relevant legislative provisions.

In support of this request, please also find the following information attached to this covering letter:

- **Appendix A** – Copy of Approval History

We would appreciate a fee invoice from Council so that payment can be arranged as soon as possible.

Please contact myself on (07) 3854 2961, or via email at charissa.kong@tfa.com.au should you require any additional information or have any questions in relation to the above.

Yours faithfully,



Charissa Kong
Graduate Town Planner
B.UrbDev (Urb & RegPlan)
For and on behalf of TfA Project Group

S4.55(1A) Statement of Environmental Effects

BP Mudgee Modification – 77 Church Street, Mudgee NSW 2850

1. Site Details

Applicant

APPLICANT DETAILS	BP Australia Pty Ltd
CONTACT DETAILS	C/- Charissa Kong (Graduate Town Planner) TfA Project Group 166 Knapp Street, Fortitude Valley, QLD 4006

Site

ADDRESS	77 Church Street, Mudgee NSW 2850
SITE DETAILS	Lot 41 on DP998528
SITE AREA	877 m ²
CURRENT LAND USE	Existing Service Station

Proposal

PROPOSAL DESCRIPTION	Amend approval to remove conditions 19
APPLICATION TYPE	Development Application (Permitted with Consent)

Local Government

DETERMINING AUTHORITY	Mid-Western Regional Council
LOCAL ENVIRONMENTAL PLANNING INSTRUMENT	<i>Mid-Western Regional Local Environmental Plan 2012</i>
ZONE	E2 – Commercial Centre

Refer Figure 1 below, which provides an aerial view of the current site.



Figure 1: Aerial View - subject site highlighted (Source: NSW SIX Maps Viewer)

2. Approval Background

On 18 December 2014, development consent was granted for the demolition and reconstruction of the existing service station including new shop building, new canopy and signage, replacement of fuel tanks and upgrading of forecourt area located at the above-mentioned site.

This approval was subsequently amended on 27 May 2015 to increase the approved building footprint.

On 21 April 2023, development consent was granted for Signage and Building Refurbishment upgrades to the existing building and structures (DA No. DA0227/2023). Part of the scope of the refurbishment as approved by council was the installation of a new night-pay window to increase security provisions at the site and allow for trading between the hours of 10pm to 5am to be undertaken via the secure night-pay window.

A copy of the approval history is attached in **Appendix A**.

3. Proposed Modification

It is proposed that the existing development consent be modified to remove condition 19 of this approval.

Condition 19 – General Condition

The subject condition is worded as follows:

“Independent security officers are to be employed by the operators of the service station between the hours of 12am till 5am Saturday and Sunday”.

The justification to remove the condition is due to the inclusion of the new night pay window as included in the recent approval DA0227/2023. Since the approval, the night pay window has been installed at the site. As a result, the entry way into the building will remain locked up during the hours of 10pm to 5am and the night pay window will be in use. A night pay window can enhance the safety and security of both customers and employees by reducing the need for in-store interactions during late hours.

Please note, where a disturbance occurs on site during late night hours, the employee inside the store can pick up disturbance safely (through either the glazing/windows or via cctv) and contact the police authorities while remaining in a safe and secure environment. As a result, condition 19 is now considered not relevant for the site.

4. Statutory Planning Framework

4.1 Environmental Planning and Assessment Act 1979 No 203

An application made under Section 4.55 of the *Environmental Planning and Assessment Act 1979 No 203* (the EP&A Act) is required to consider the following:

(1A) Modifications involving minimal environmental impact

- (a) *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—*
- (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.*

An assessment of the proposed modification to the conditions against the requirements of section 4.55(1A) has been carried out and resulted in the following key findings:

- The proposed modification of this condition will still result in substantially the same development and will not create environmental impact to the premises, noting that:
 - The approved night pay window will improve the safety of the site during extended hours.