



ABN 61 148 085 492

Suite 2B, 125 Bull St  
Newcastle West 2302

02 4940 0442  
reception@kdc.com.au  
kdc.com.au

Our ref: 20279.2.71

13 July 2021

The General Manager  
Penrith City Council  
PO Box 60  
Penrith NSW 2751

Dear Sir/Madam,

**RE: Development Application for Replacement Signage at the Existing Caltex Service Station at 370-372 Carrington Road, Londonderry NSW 2753**

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## 1 INTRODUCTION

SLR Consulting Australia Pty Ltd (SLR) have prepared this Statement of Environmental Effects (SEE) on behalf of Caltex Australia Petroleum Pty Ltd (Caltex) for the proposed replacement signage to reflect the Ampol rebranding at the existing Caltex service station at 370-372 Carrington Road, Londonderry NSW 2753.

This Statement of Environmental Effects (SEE) describes the site, its environments, the proposed modification and an assessment of the proposal in terms of the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979). Refer to Architectural Plans prepared by Urbis at Appendix A for full details.

This SEE, including attachments, provides an overall comment on the proposal.

### 1.1 BACKGROUND

A search of the Penrith Council DA tracker found the following development application available for this site. However, this application does not intend to alter the existing approved uses on site.

DA19/0054 - Redevelopment of an Existing Service Station & Associated Remediation Works

DA16/0799 - Erection of Service Station Signage - Removal of 3 x Signs and Installation of 2 x Signs

## 2 THE SITE AND SURROUNDS

The site is located on the corner of Carrington Road and Londonderry Road within Penrith City Council (LGA). It is legally described as Lot 2 DP 1179316 and is commonly known as 370-372 Carrington Road, Londonderry NSW 2753. Access to the site is provided by an ingress and egress driveways on Carrington Road and an egress driveway on Londonderry Road. Refer to Figures 1 and 2 for details of the site and its surrounds.

The site currently contains a Caltex service station, a convenience store, and associated car parking.

Refer to the following photographs for the existing site and surrounding uses.



Figure 1 – Site Aerial (Source: Six Maps)

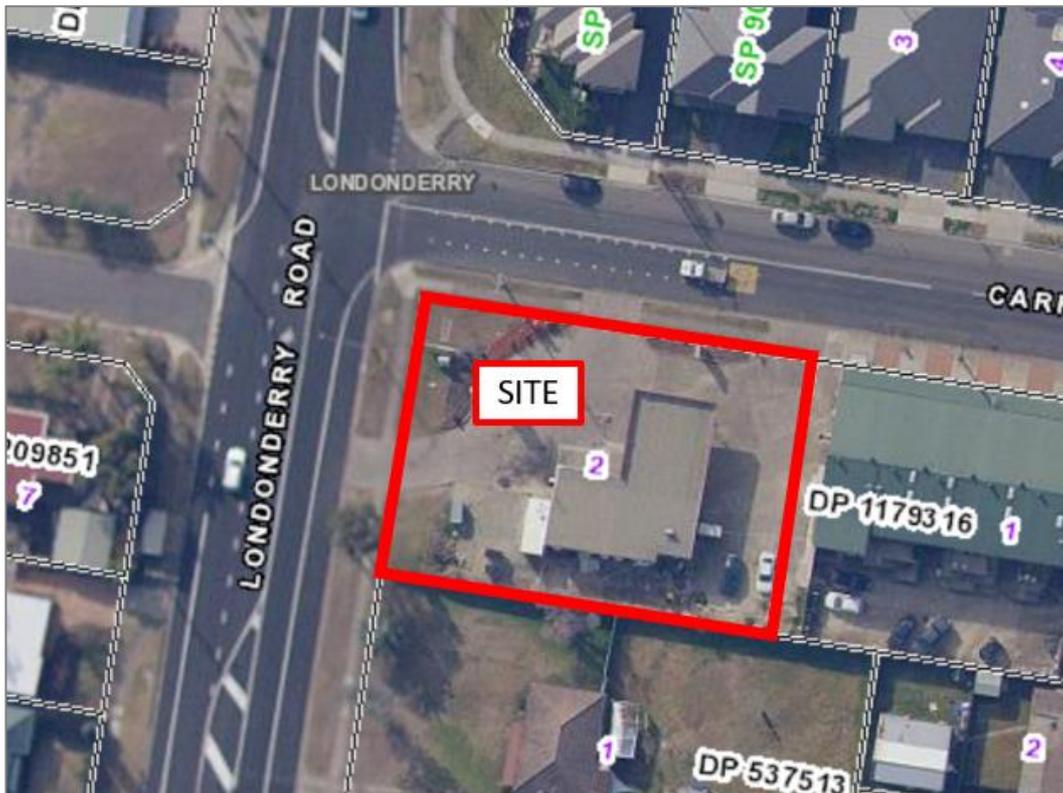


Figure 2 – Site Cadastre (Source: Six Maps)



Photograph 1 – View of Existing site from Carrington Road (Source: Google Maps Street View)



Photograph 2 – View of Existing site from Londonderry Road (Source: Google Maps Street View)



### 3 PROPOSAL

The proposed development is for replacement signage at the existing Caltex service station to reflect the Ampol rebranding. The proposed replacement signage reflects the rebranding of Caltex service stations to Ampol service stations Australia wide.

The proposed works specifically involve:

- + Replacement Signage including;
  - Removal and Replacement of Main Site ID Pylon Sign;
  - Removal and Replacement of Fuel Price Board Signage;
  - Removal and Replacement of Car Canopy Fascia Signage;

No changes to the internal figuration or built form of the existing convenience store building are proposed. The proposal will not impact operational factors such as deliveries and waste management, operational hours and staffing. Additionally, the proposal will not alter existing access to the site.

Refer to the Architectural Plans at Appendix A for full details of the proposed works.

## 4 LEGISLATION AND PLANNING CONTROLS

The following legislation, Environmental Planning Instruments (EPI's) and Development Control Plan (DCP) are relevant to the proposed development and have been addressed below:

- + Environmental Planning and Assessment Act 1979;
- + Environmental Planning and Assessment Regulation 2000;
- + State Environmental Planning Policy (Infrastructure) 2007
- + State Environmental Planning Policy No 64 – Advertising and Signage;
- + Penrith Local Environmental Plan (LEP) 2010; and
- + Penrith Development Control Plan (DCP) 2014.

### 4.1 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (EP&A ACT 1979)

The proposal is subject to the provisions of the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979). Section 4.15 of the EP&A Act 1979 provides criteria which a consent authority is to take into consideration, where relevant, when considering a DA. An assessment of the DA, in accordance with the relevant matters prescribed under Section 4.15 (1), is provided within this SEE.

#### 4.1.1 SECTION 4.65 – DEFINITION OF “EXISTING USE”

*(a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4 of this Part, have the effect of prohibiting that use, and*

*(b) the use of a building, work or land:*

*(i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*

*(ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.*

The site has been operating for numerous years as an approved service station. The use commenced before the commence date of the current LEP. All signage is ancillary to the use of the site as a service station.

#### 4.1.2 SECTION 4.66 – CONTINUANCE OF AND LIMITATION ON EXISTING USE

Section 4.66 (3) provides that an existing use is to be presumed, unless the contrary is established, to be abandoned if it ceases to be actually so used for a continuous period of 12 months, in which case the continuation of the use is not permitted.

The use of the site for the purposes of a service station is known to have continued for since approval, with no cessation of the use for a period of 12 months or more within that period. All signage is ancillary to the use of the site as a service station.

#### 4.1.3 SECTION 4.67 REGULATIONS RESPECTING EXISTING USE

*(1) The regulations may make provision for or with respect to existing use and, in particular, for or with respect to:*

*(a) the carrying out of alterations or extensions to or the rebuilding of a building or work being used for an existing use, and*

*(b) the change of an existing use to another use, and*

*(c) the enlargement or expansion or intensification of an existing use.*

*(2) The provisions (in this section referred to as the incorporated provisions) of any regulations in force for the purposes of subsection (1) are taken to be incorporated in every environmental planning instrument.*

*(3) An environmental planning instrument may, in accordance with this Act, contain provisions extending, expanding or supplementing the incorporated provisions, but any provisions (other than incorporated provisions) in such an instrument that, but for this subsection, would derogate or have the effect of derogating from the incorporated provisions have no force or effect while the incorporated provisions remain in force.*

The proposal is for replacement signage at the existing service station, as referenced in Section 3 above. The proposed replacement is minor in nature and considered ancillary development to the primary service station use.

The incorporated provisions, contained within the Regulations 2000, are addressed in Section 4.2 of this SEE.

## 4.2 ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

### 4.2.1 CLAUSE 41 – CERTAIN DEVELOPMENT ALLOWED

*(1) An existing use may, subject to this Division:*

*(a) be enlarged, expanded or intensified, or*

*(b) be altered or extended, or*

*(c) be rebuilt, or*

*(d) be changed to another use, but only if that other use is a use that may be carried out with or without development consent under the Act, or*

*(e) if it is a commercial use-be changed to another commercial use (including a commercial use that would otherwise be prohibited under the Act), or*

*(f) if it is a light industrial use-be changed to another light industrial use or a commercial use (including a light industrial use or commercial use that would otherwise be prohibited under the Act)*

The current application proposes the replacement of existing signage at the site; no change to the overall built form is proposed.

### 4.2.2 CLAUSE 43 - DEVELOPMENT CONSENT REQUIRED FOR ALTERATION OR EXTENSION OF BUILDING AND WORKS

*(1) Development consent is required for any alteration or extension of a building or work used for an existing use.*

*(2) The alteration or extension:*

*(a) must be for the existing use of the building or work and for no other use, and*

*(b) must be erected or carried out only on the land on which the building or work was erected or carried out immediately before the relevant date.*

The proposed replacement signage will continue to be ancillary to the service station use.

#### **4.2.3 LAND AND ENVIRONMENT COURT PLANNING PRINCIPLE: EXISTING USE RIGHTS MERIT ASSESSMENT**

The proposal is assessed against the four questions that usually arise in the assessment of existing use rights developments, below:

##### ***1) How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites? (Principle 1)***

*"While planning controls, such as height, floor space ratio and setbacks do not apply to sites with existing use rights; they have relevance to the assessment of applications on such sites. This is because the controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessment. "*

Response: The proposal consists of replacement signage and as such will not change the scale, setback, bulk or height of the site. The proposal will not change the approved height and floor space ratio on site. The proposed works simply aim to reflect the rebranding of the site from Caltex to Ampol. The proposal therefore satisfies this question.

##### ***2) What is the relevance of the building in which the existing use [sic] takes place? (Principle 2)***

*"Where the change of use is proposed within an existing building, the bulk and scale of that building are likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision."*

Response: As described above, there is no change to the building floor area or envelope, and the proposal also does not trigger the requirement for additional parking. The proposal therefore satisfies this question.

##### ***3) What are the impacts on adjoining land? (Principle 3)***

*"The impact on adjoining land should be assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be maintained in adjoining rear yards, the numerical control does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable."*

Response: The proposal involves replacement signage, which will not have a significant impact on adjoining land. Given the existing screening and attenuation measures, coupled with the design and scale of the existing building; the proposed replacement signage will not have an unreasonable impact on neighbours. The proposed signage will have an illumination intensity similar to the existing signage, so as to not impact on adjoining land. The proposal therefore satisfies this question.

##### ***4) What is the internal amenity? (Principle 4)***

*"Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be judged acceptable as a matter of good planning and design. None of the legal principles discussed above suggests that development on sites with existing use rights have lower amenity than development generally."*

Response: The proposed replacement of signage will uphold amenity and functionality within the site and for the adjoining lands. The proposal continues to represent good design, and therefore satisfies this question.

The proposed replacement signage at the existing service station is therefore consistent with the test established in the Land and Environment Court for merit assessment of existing uses.

#### **4.3 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007**

The State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP) aims to facilitate the efficient delivery of Infrastructure across the State. The relevant clauses of the Infrastructure SEPP are set out below.

Clause 45 - Determination of development application – other development

*(1) This clause applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following:*

- (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,*
- (b) development carried out:*
  - (i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*
  - (ii) immediately adjacent to an electricity substation, or*
  - (iii) within 5m of an exposed overhead electricity power line,*

Clause 45 requires the consent authority to give written notice to the electricity supply authority in certain circumstances, as well as give consideration to any response received within 21 days. The works are located adjacent to exposed overhead power lines, however due to the minor nature of the signage replacement works it is not considered that referral to the electricity supply authority will be necessary.

#### **4.4 STATE ENVIRONMENTAL PLANNING POLICY NO 64 – ADVERTISING AND SIGNAGE**

As stated in Section 3, approval is sought for replacement signage in an order to reflect the nation-wide rebranding from Caltex to Ampol service stations. The signs will relate only to the use within the tenancy and feature business identification content.

It is considered that the signage scheme proposed is consistent with the requirements outlined within SEPP 64 as detailed below.

Clause 8 of SEPP 64 states the following:

*"A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:*

- (a) that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and*
- (b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1."*

The assessment criteria in Schedule 1 of the SEPP relates to matters for consideration such as character of the area; amenity of residential areas; views and vistas; streetscape, setting and landscape; site and building compatibility; illumination; and safety.

A detailed assessment of the proposal against the provisions of SEPP 64 is provided in Appendix C attached to this SEE. Overall, the proposed signage meets the applicable criteria of SEPP 64 and is consistent with the aims of this SEPP.

#### 4.5 PENRITH LOCAL ENVIRONMENTAL PLAN (LEP) 2010

The site is subject to the provisions of the Penrith Local Environmental Plan 2010 (LEP) and is applicable to all land within Penrith City Council. The site is zoned RU5 Village under the LEP 2010 (Refer to Figure 3)

Figure 3 – Land Zoning Map Extract from Penrith LEP 2010 (LZN\_010)



#### **Zone RU5 Village**

##### **1 Objectives of zone**

- To provide for a range of land uses, services and facilities that are associated with a rural village.
- To provide limited housing development opportunities for existing and new residents, including an ageing population, where this is consistent with the other objectives of this zone.
- To ensure development is compatible with the role and character of the village, available infrastructure, services and facilities and with the environmental capabilities of the land.

##### **2 Permitted without consent**

*Home occupations*

##### **3 Permitted with consent**

*Building identification signs; Business identification signs; Car parks; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Educational establishments; Environmental facilities; Environmental*

*protection works; Flood mitigation works; Funeral homes; Health consulting rooms; Home-based child care; Home businesses; Home industries; Information and education facilities; Kiosks; Markets; Neighbourhood shops; Oyster aquaculture; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Restaurants or cafes; Roads; Schools; Secondary dwellings; Seniors housing; Sewage treatment plants; Shop top housing; Tank-based aquaculture; Tourist and visitor accommodation*

#### **4 Prohibited**

*Pond-based aquaculture; Serviced apartments; Any other development not specified in item 2 or 3*

A service station is a use that is prohibited in the RU5 Village zone as 'Any other development not specified in item 2 or 3'. The proposed works are inclusive of replacement signage at the existing service station and will not alter the existing use of the site.

##### Clause 4.3 Height of Buildings

There are no height of building controls for the site. The proposed alterations will not increase the existing height of the service station building or ancillary structures on site.

##### Clause 4.4 Floor Space ratio

Floor Space Ratios are not imposed for this site. The proposed signage alterations are not to alter the existing floor space ratio.

## **PENRITH DEVELOPMENT CONTROL PLAN 2014**

The Penrith Development Control Plan (DCP 2014) applies to all land within the Penrith LGA. The following sections are specifically relevant to the proposal:

- + *C9 Advertising and Signage*

An assessment of the relevant development controls has been carried out and a table of compliance can be located at Appendix B of this SEE.

## **5 ASSESSMENT OF PLANNING ISSUES**

The following is an assessment of the environmental effects of the proposed alterations to signage as described in the preceding sections of this SEE. The assessment considers only those matters under Section 4.15(1) of the EP&A Act 1979 that are relevant to the proposal.

### **5.1 VISUAL IMPACT**

The proposed replacement signage has been designed to integrate with the existing building features and results in an overall simple and uncluttered external appearance. The proposed signage will not detract from surrounding development but will complement the surrounding area. Additionally, the signage will utilise high quality materials that are sympathetic to the existing building and built form of the area.

The proposal includes illumination elements which will be at appropriate LUX levels, generally consistent with other illuminated signs within the area. The signage will be illuminated at a maximum rate of 335-344 cd/m<sup>2</sup>. Illumination will comply with both Section 3 (Advertisements and Road safety) of the NSW Department of Planning and Environment Transport Corridor Outdoor Advertising and Signage Guidelines (November 2017) and AS 4282—1997, Control of the

obtrusive effects of outdoor lighting. As such, illuminated signs are not expected to distract pedestrians, motorists or road users on Carrington Road or Londonderry Road.

The proposal will provide high quality signage that will contribute to the aesthetics of the streetscape. The proposed signage is not expected to result in any adverse visual or amenity impacts. Further details outlining compliance with the Penrith DCP is provided in Appendix B of this SEE.

## **5.2 WASTE MANAGEMENT**

Demolition/construction waste shall be appropriately managed on site and recycled where possible in accordance with sustainability principles, as detailed in the Waste Management Plan provided in Appendix D. Operational waste management will remain unchanged by the proposal.

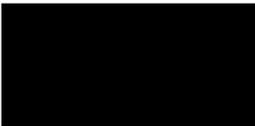
## 6 CONCLUSION

The proposed replacement signage at the existing service station at 370-372 Carrington Road, Londonderry will upgrade the site while appropriately reflecting the rebranding of the service station from Caltex to Ampol. The proposal is minor in nature and not considered likely to create any adverse impacts in terms of light spill or illumination, visual obtrusiveness to pedestrians or passing traffic, or impacts to the visual character of the area.

As discussed above, the proposed development is generally consistent and compliant with the aims and objectives of all relevant legislation, planning instruments and controls. A service station is prohibited in Zone RU5 (Village) however the proposed works are inclusive of replacement signage only and will not alter the existing approved use of the site.

Given the merit of the proposal and the absence of any significant adverse impacts, the application is considered to be in the public interest and worthy of Council's support. Should you have any questions please do not hesitate to contact the undersigned.

Yours sincerely



Theo Klok  
**Town Planner**  
**SLR Consulting Australia Pty Ltd**

### **Appendices:**

- Appendix A** – Architectural Plans
- Appendix B** – DCP Compliance Table
- Appendix C** – SEPP 64 Schedule 1 Assessment Criteria
- Appendix D** – Waste Management Plan

**APPENDIX A – ARCHITECTURAL PLANS**

Urbis

## APPENDIX B – DCP COMPLIANCE TABLE

SLR Consulting Australia Pty Ltd

### PENRITH DEVELOPMENT CONTROL PLAN 2014 COMPLIANCE TABLE

Control	Requirement	Comment	Compliance
<b>Penrith DCP 2014</b>			
<b>C9 Advertising and Signage</b>			
9.4. Commercial, Mixed Use and Industrial Zones C. Controls	1) Applicants intending to erect a sign (advertisement) should first consult the relevant environmental planning instrument applying to the subject property to determine whether or not an advertisement requires development consent.	Noted	Y
	2) All advertising is to be –		
	a) constructed of high quality, durable materials;	Compliant.	Y
	b) considered in conjunction with design and construction of buildings;	Compliant.	Y
	c) restricted to one sign identifying the name of the occupants and/or products manufactured or produced on the site; and	There is more than one sign as previously approved. No additional signs proposed.	N – Justified.
	d) contained wholly within the site.	Compliant.	Y
3) Signs should generally be confined to the ground level of the building, awning or fascia, unless it can be demonstrated that the building is of a scale, architectural style and in a location that would be enhanced by signage at different elevations (see Figure C9.3 below).	Compliant. Located within fascia.	Y	
4) The sign is to be contained fully within the confines of the wall or awning to which it is mounted.	The proposal consists of replacement signage that is of a similar scale to existing fascia signage on site. See Architectural Plans located at Appendix A for further details.	N – Justified.	
5) In the case of multiple occupancy of a building or site:			
a) Each development should have a single directory board listing each occupant of the building or site (see Figure C9.4 below). Multiple freestanding signs will not be supported;	N/A. Single Occupancy.	N/A	

<p>b) Only one sign is to be placed on the face of each premises either located on or over the door of the shop, unit, office, suite, etc.;</p> <p>c) One under awning sign shall be permitted for each shop, unit, office, suite, etc. (see Figure C9.5). In the case where the shop, office, suite etc. has more than one street frontage, one under awning sign may be permitted to each street frontage;</p> <p>d) The minimum distance between under awning signs shall be 3m (see Figure C9.6); and</p> <p>e) Where possible, multiple tenancies in the same building should use consistent sign size, location and design to avoid visual clutter and promote business identification.</p> <p>6) Projecting wall signs, generally, will not be supported unless it can be demonstrated to be of an architectural style which is particularly suited to that building in relation to its design.</p>	<p>N/A. No projecting wall signs.</p>	<p>N/A</p>
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## APPENDIX C – SEPP 64 SCHEDULE 1 ASSESSMENT CRITERIA

SLR Consulting Australia Pty Ltd

Assessment Criteria		Comment	Compliance
1) Character of the area	Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	Yes, the proposed signage, being replacement signage, continues to be compatible with the existing and desired future character of the area.	Y
	Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	No. There is no apparent advertising theme within the area.	N/A
2) Special areas	Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	No, the proposed signs have been designed, scaled and located to complement the visual quality of the surroundings and not have a significant negative impact on the amenity of the location.	Y
3) Views and vistas	Does the proposal obscure or compromise important views?	The proposed signage does not obscure or compromise important views.	Y
	Does the proposal dominate the skyline and reduce the quality of vistas?	The signage will not dominate the skyline or reduce the quality of vistas.	Y
	Does the proposal respect the viewing rights of other advertisers?	The proposed signage does not obscure any advertising.	Y
4) Streetscape, setting or landscape	Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale of the replacement signage is proportionate to the building and existing on-site signage. It remains set back from the streetscape and appropriate for the surrounding streetscape.	Y
	Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed signage will continue to contribute to the visual interest of the site in context of its surroundings.	Y
	Does the proposal reduce clutter by rationalizing and simplifying existing advertising?	The proposal remains consistent with the existing signage, which maintains a consolidated approach to signage on the site.	Y
	Does the proposal screen unsightliness?	The proposal does not screen unsightliness.	N/A
	Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	No, proposed signage is attached to the existing building/structures and does not extend beyond the built form.	Y
	Does the proposal require ongoing vegetation management?	No.	N/A
5) Site and 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?	The signage has been designed to continue to be compatible with the existing built form and site characteristics.	Y
	Does the proposal respect important features of the site or building, or both?	The proposed signage does not detract in any way from important features of the building or site.	Y

	Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signage has been designed to be simple and uncluttered and complement the existing building and other structures on site.	Y
6) Associated devices and logos with advertisements and advertising structures	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?	The proposed signage contains internally illuminated lighting elements; however these will be concealed.	Y
7) Illumination	Would illumination result in unacceptable glare?	No, the proposed signs will not result in excessive glare.	Y
	Would illumination affect safety for pedestrians, vehicles or aircraft?	No, the proposed signage will not be of a LUX level to affect the safety for pedestrians, vehicles or aircraft.	Y
	Would illumination detract from the amenity of any residence or other form of accommodation?	The proposed signage will not be of a LUX level to detract from the amenity of surrounding residences.	Y
	Can the intensity of the illumination be adjusted, if necessary?	The brightness of the signs will be fixed; however, the signs will only have a soft glow that is mostly visible at night.	Y
	Is the illumination subject to a curfew?	The signs will operate during the operating hours of the service station and convenience store.	Y
8) Safety	Would the proposal reduce the safety for any public road?	The signage will not affect road safety.	Y
	Would the proposal reduce the safety for pedestrians or cyclists?	No, the sign will not reduce the safety for pedestrians or cyclists.	Y
	Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	No, sightlines are not affected by the proposal.	Y



## **APPENDIX D – WASTE MANAGEMENT PLAN**

SLR Consulting Australia Pty Ltd