

Policy Context and Detailed Assessment

Policy Context

State Planning Policy Framework

Broadly the **State Planning Policy Framework** (SPPF) encourages the establishment of well-planned and serviced residential communities in locations which can accommodate growth.

As an overarching aim:

- *“Society has various needs and expectations such as land for settlement, protection of the environment, economic well-being, various social needs, proper management of resources and infrastructure. Planning aims to meet these by addressing aspects of economic, environmental and social well-being affected by land use and development.” (10.04 – Integrated Decision Making)*

The following clauses of the SPPF are of some relevance to consideration of the Development Plan:

- 11.01-1 – Activity centre network
- 11.02-3 – Structure planning
- 11.05-1 – Regional settlement networks
- 11.05-4- Regional planning strategies and principles
- 11.07-3 – Connected communities
- 11.07-6 – Sustainable communities
- 13.04-1 Noise abatement
- 14.02-2 – Water quality
- 15.01 – Urban environment
- 15.02 – Sustainable development
- 17.01-1 – Business
- 18.01-1 – Land use and transport planning
- 18.02 – Movement networks

Local Planning Policy Framework

The Local Planning Policy Framework is detailed in the **Municipal Framework Plan**. This Plan (Clause 21.01-4) establishes that *“The underlying principle that directs all local policy and strategies of the Surf Coast Planning Scheme is that the natural environment is the single most important attribute and asset of the Surf Coast Shire.”*

Key relevant strategic directions for Settlement Built Environment and Heritage for the Shire are:

- *To manage population and tourist growth and development in an ecologically sustainable manner.*
- *To concentrate urban growth predominantly in the towns of Torquay-Jan Juc and Winchelsea.*
- *To support and strengthen the individual character and role of the coastal and rural towns within the Shire that contributes to the diversity of experiences, and residential, commercial, recreational and employment opportunities.*

The theme of Settlement, Built Environment, provides local policy including the objective for Activity Centre Planning (Clause 21.02-2):

- *To support a strong hierarchy of multi-functional, attractive, accessible activity centres across the municipality that can deliver the best possible facilities to residents and visitors and that maintains a vibrant and sustainable local economy.”*

Relevant strategies to achieve this objective include:

- *Ensure activity centres are designed and scaled to embrace the local character of the township or neighbourhood in which they are located.*

- *Facilitate a diversity of uses and activities within activity centres to support local employment opportunities which will make towns more self-contained and thus reduce motor vehicle dependency.*
- *Encourage the provision of a horizontal and vertical mix of uses within activity centres, including active uses at ground floor and offices and apartments at upper floors, where appropriate.*
- *Provide a flexible built form, complementary to the local character, that can evolve over time to meet current and future requirements.*
- *Where appropriate, facilitate the establishment of neighbourhood activity centres in new growth areas, providing a range of retail, commercial and community facilities to service local residents.*
- *Ensure the built form of large format retail premises is integrated into the surrounding area by being 'sleeved' by smaller retail units (e.g. shops, cafes) that are consistent with the prevailing rhythm and scale of the street and have active frontages.*
- *Limit the visual impact of large at-grade car parks from main roads by placing them to the side or rear of buildings and breaking up large areas of parking with landscaping.*
- *Ensure landscaping, including the provision of shade trees, is integrated with the design of car parking areas, open space and streets.*
- *Ensure activity centres are easily accessible by pedestrians, cyclists and public transport from surrounding residential areas.*
- *Facilitate a high level of pedestrian permeability and amenity within activity centres.*
- *Ensure that advertising signage is consistent with the surrounding urban context in terms of scale, format, materials, colours and illumination and is designed to minimise visual clutter through integrating into the overall building form of the development.*

Under the heading of Settlement Patterns (Clause 21.02-3) the objective is:

- *"To ensure that urban development minimises the impact on the environment, makes efficient use of land, infrastructure and resources, and is concentrated in accessible locations."*

Under the heading of Open Space and Infrastructure (Clause 21.02-6) the objective is:

- *To build on the existing transportation system in a manner that reduces car dependence, encourages walking and cycling for local trips, integrates pathways with public transport and public open space and manages the summer tourist / holiday peaks.*

The objective for the management of Environmental Assets (Clause 21.03-2) is:

- *To protect and enhance the Shire's diverse natural resources in an ecologically sustainable manner for present and future generations.*

The key strategic document within the planning scheme to guide the future development of Torquay-Jan Juc urban area is the Torquay-Jan Juc Strategy (Clause 21.08). Key issues and influences identified for the townships include:

Settlement, Built Environment and Housing

- *State and regional policies identifying Torquay-Jan Juc as a growth node in the Great Ocean Road and G21 regions.*
- *Making adequate provision for additional residential land and key services and infrastructure (e.g. schools, retail and employment areas, open space and community facilities, public transport) to support future growth.*
- *Balancing growth and development densities against a community desire to maintain the coastal character of Torquay-Jan Juc whilst also achieving overarching sustainability objectives. The five values identified in Sustainable Futures Plan Torquay Jan Juc 2040 (2012) to help manage this are:*
 - Value 1: Places for People – The importance of a close knit community*
 - Value 2: The Natural Environment – Protecting and enhancing the natural environment*
 - Value 3: The Built Environment – Fostering the unique coastal look and feel*
 - Value 4: Services and Infrastructure – Planning for services and infrastructure with development*

Value 5: A Local Economy – Providing employment opportunities locally.

Transport and Infrastructure

- *Provision of neighbourhood responsive streets particularly in new estates that are permeable and well-connected and designed to reflect the coastal character requiring an innovative application of engineering standards.*

On Map 1 to Clause 21.08 the site is identified as being part of a Neighbourhood Activity Centre with housing around the NAC as well as active open space.

The objective for Torquay-Jan Juc for the Environment and Landscape is established at Clause 21.08-3 as:

To protect and enhance significant environmental, landscape and cultural heritage features which contribute to the ecological values, coastal character and residential amenity of Torquay-Jan Juc in response to Value 2 'The Natural Environment' from the Sustainable Futures Plan Torquay Jan Juc 2040 (2012).

Clause 21.08-4 identifies the objective for Economic Development as:

To support a strong hierarchy of mixed use, sustainable, attractive and accessible activity centres in Torquay-Jan Juc and ensure sufficient retail and commercial facilities are provided to cater for the growing population and visitors in response to Value 5 'A Local Economy' from the Sustainable Futures Plan Torquay Jan Juc 2040 (2012).

Strategies to achieve this objective include:

- *Reinforce the hierarchy and role of the established and planned activity, tourist and employment centres in accordance with Map 3 to Clause 21.08 – Torquay Jan Juc Activity Centre Hierarchy.*
- *Encourage mixed-use development within activity centres, with shop-top apartments and offices, at an intensity and scale that is in keeping with the scale and character of the centre.*
- *Ensure that development within the activity centres is of outstanding built form and design, using colours, materials, architectural features and landscaping that promotes and celebrates the surfing, beach and coastal image of Torquay-Jan Juc.*
- *Encourage the establishment of a neighbourhood activity centre in Torquay North providing a range of shopping and commercial services, including a full-line supermarket, to provide a hub to the growing community.*

The objectives and strategies of Clause 21.08 are to be implemented by, amongst other things:

- *Using local policy (Clause 22.02) to encourage the use of predominantly indigenous plant species in landscaping and the use of shade trees in street tree planting.*
- *Reinforcing and strengthening Torquay-Jan Juc's activity centres through strongly discouraging the establishment of anchor stores outside designated major or neighbourhood activity centres.*
- *Reinforcing the fine grained subdivision and development pattern of strip shopping within all major, neighbourhood and local activity centres, with large format retail premises and large surface car parking sleeved to ensure streets provide an active, safe and vibrant edge.*

22.02 – Streetscape and Landscaping Policy

The objectives of this policy are:

To protect and enhance the individual landscape character of each town.

To promote the development of co-ordinated and visually pleasing streetscapes in residential, commercial and industrial areas.

To encourage ecologically and economically sustainable streetscapes and landscapes.

To achieve these objectives it is policy to require a landscape plan with commercial development and creation of new public roads (as well as other specified forms of development). The policy also sets a number of requirements for the content of landscape plans.

Overall State and Municipal Policy Framework Assessment

The State Policy Framework does not specifically preclude service station but rather set the scene for a more detailed assessment. The State Policy Framework is mostly concerned about responding to the needs of the residents of the area. From a Local Planning Policy Framework point of view, the site is part of a Neighbourhood Activity Centre (NAC), being the Torquay North NAC. A range of services and facilities of a commercial nature is planned to be provided in this area with an approved Development Plan providing council's vision for the NAC. Council specifically excluded service station from the approved Development Plan.

Proximity between commercial, residential and community uses is the key to create a liveable and active neighbourhood. The Municipal Policy Framework acknowledges that this can create conflicts and that those are to be appropriately managed through an orderly development. The proposal does not allow the orderly development in that it fails to propose a use that is suitable for the site as per the strategic intent for NAC. The Development Plan acknowledged that this site is sensitive due to its proximity to residential uses and that a petrol station will create unacceptable amenity issues including noise, lighting and is an inappropriate design outcome.

Detailed Assessment

Particular Provisions

Assessment of the proposal against the provisions of Clause 43.02 – Design and Development Overlay, Schedule 23.

Clause 43.02 – DDO23			
Requirements		Proposal	Comment
<i>Building height</i>	<ul style="list-style-type: none"> Buildings should have a height of two storeys except large format retail but no higher than 8m; A feature “gateway” building is to be located at the north –east intersection of Fischer and Merrijig that incorporates a 3 Storey element (max height 10.5 m; A min ground level floor to ceiling height of 3.5 m for all buildings within the NAC with a minimum upper level floor to ceiling height of 2.7 m 	Single Storey N/A 2.7 m floor to ceiling height – no upper level floor	Does not comply with the number of storeys or the floor to ceiling height.
<i>Building Setbacks</i>	<ul style="list-style-type: none"> Buildings should be setback from the Fisher and Merrijig frontages to achieve a min of 5 m wide footpath between the back of kerb and front wall, with some provision to be made for outdoor dining where appropriate; Zero side boundary setbacks are encouraged to create a continuous building edge to the street. 	There is an appropriately dimensioned footpath on Fischer Street Not appropriate in this instance.	Satisfactory
<i>Building Design</i>	<ul style="list-style-type: none"> Facades should provide for individuality in shop front presentation and promote activity and interaction with the street; <i>Buildings should be designed to differentiate horizontal and vertical tenancies and provide a variety in roof forms</i> Larger format retail premises (e.g. 	The building will be clearly identifiable as a Petrol Station. Satisfactory N/A	Satisfactory

	<p>supermarket) should engage with the main streets and be sleeved by active frontages to the street as shown in Diagram 2 'Sleeving the Box'.</p> <ul style="list-style-type: none"> • Buildings on corner sites should be designed to emphasise the corner location and address both street frontages. • Provision is to be made for an awning over the footpath along Fischer Street and Merrijig Drive that extends the length of the shopping strip and has a consistent height. • Buildings should be scaled and orientated to maximise sunlight penetration to footpaths and alfresco areas during winter, where possible. • Any upper level balconies should not extend beyond the front wall of the ground floor and balustrades should be transparent to facilitate sunlight penetration and maintain openness of design. 	<p>Landscaping is provided on site frontages – see comments below.</p> <p>No awning is provided. however a canopy is provided. Appropriate.</p> <p>Appropriate for a service station.</p> <p>N/A</p>	
<i>Landscaping</i>	<ul style="list-style-type: none"> • Planting visible from the public domain is to use species selected from the Torquay North street tree planting list (Table 1 to this schedule). 	Species selected from the planting list but unsatisfactory in terms of screen planting within the frontage and no replacement tree is provided for the removal of a verge tree	Inappropriate
<i>Advertising signs</i>	Advertising sign controls are at Clause 52.05, Category 3		See Signage Assessment

Assessment of the proposal against the provisions of Clause 52.05 – Advertising Signs

Due to DDO23 the land is in Category 3 for the purposes of Clause 52.05. Category 3 applies medium limitation with the table to this category providing:

Section 1 - Permit not required

Sign	Condition
Bed and breakfast sign	Only one to each premises.
Home occupation sign	The advertisement area must not exceed 0.2 sq m.
Direction sign	

Section 2 - Permit required

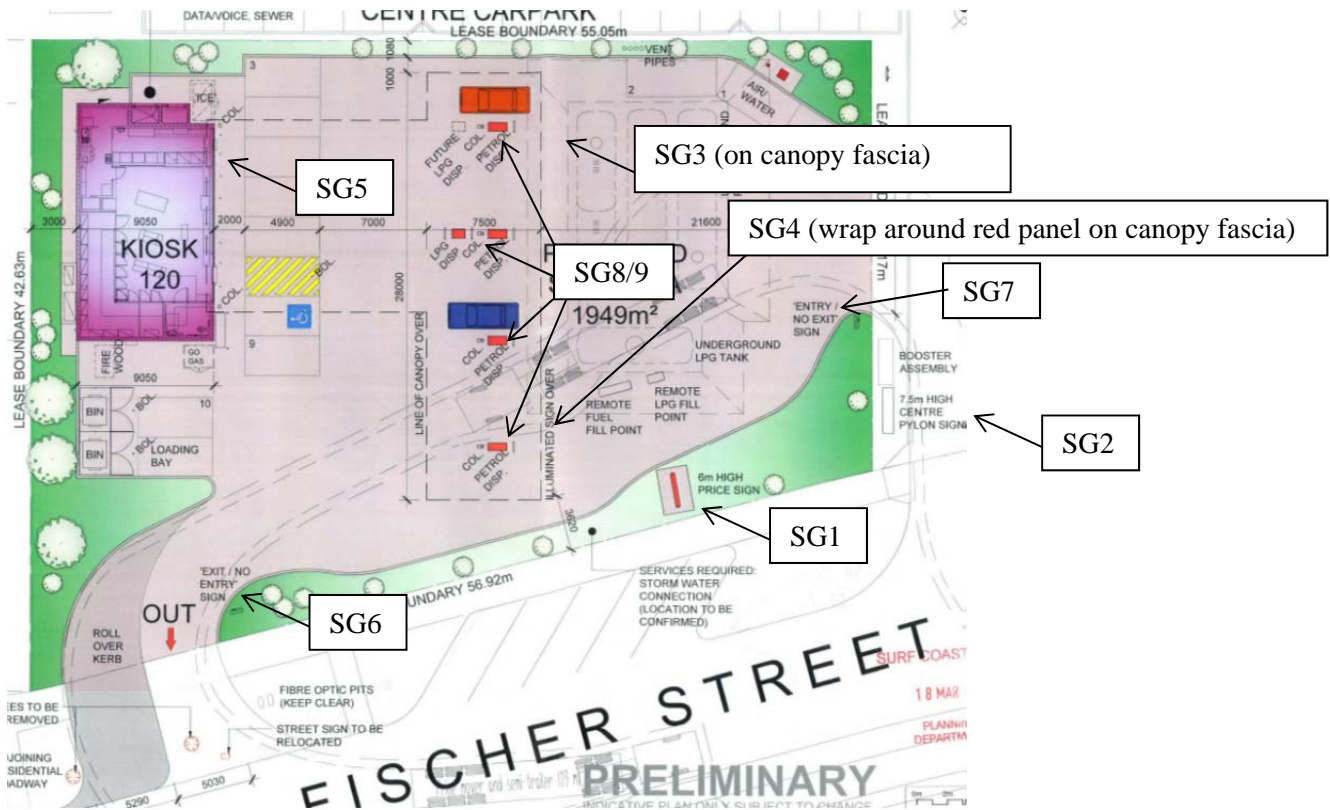
Sign	Condition
Above-verandah sign	
Business identification sign	
Floodlit sign	
High-wall sign	Must be a business logo or street number.
Internally-illuminated sign	
Pole sign	
Promotion sign	The advertisement area must not exceed 2 sq m.
Reflective sign	

Section 3 – Prohibited

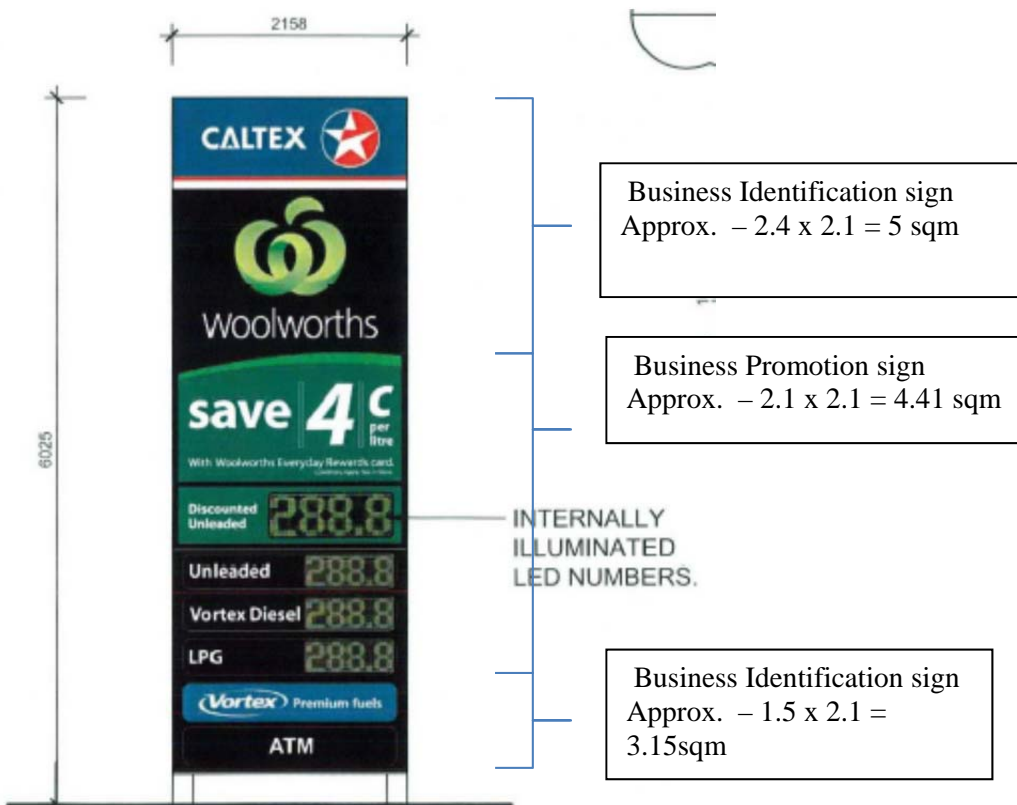
Sign	Condition
Any sign not in Sections 1 or 2	

Being Category 3 signs which are not included in Section 1 or 2 are prohibited sign types, therefore panel sign, sky sign, animated sign, major promotion sign and others are prohibited.

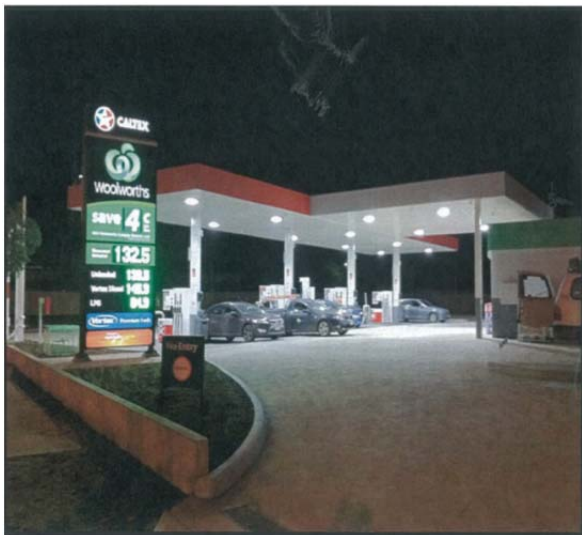
Considering each of the signs for which detail has been provided:



SG1 – This is a 6m high and 2.15 m wide freestanding internally illuminated sign. The total advertising area is 12.56 sqm which is higher than the 10sqm required and is therefore prohibited (panel sign). The sign consists of both promotion signs and business identification signs as per below:



The applicant has provided an example of how this could be provided:



Extract from Planning Consultant report p. 46

SG2 – This sign is outside the “lease area” and is part of Planning Application 15/0175. A notation on the plans should be included to clarify that this sign is outside the scope of this application.

SG3 – Illuminated business identification sign (on the canopy) – 0.75 m X 3.88 m – (2.91 sqm) :



SG4 – Business Identification sign - Wrap around red panel on canopy fascia – not illuminated (0.75 m x (7.4+28+14.8+14+3+7.4) = 55.95m

SG5- Illuminated Business identification signs – 4.6 sqm



SG6/7 (Entry/Exit), SG8 (Non- illuminated Business Identification Sign) and SG9 (signage on bowser) are considered appropriate.

Assessment

According to the planning Scheme a promotion and a business sign are defined as follows:

Promotion sign: A sign of less than 18 square metres that promotes goods, services, an event or any other matter, whether or not provided, undertaken or sold or for hire on the land or in the building on which the sign is sited.

It is noted that in the category 3 area (DDO23) a promotion sign must not exceed 2 sqm.

Business identification sign: A sign that provides business identification information about a business or industry on the land where it is displayed. The information may include the name of the business or building, the street number of the business premises, the nature of the business, a business logo or other business identification information.

The freestanding sign contains promotional material that is in excess of 2 sqm and the total advertising surface exceeds 10 sqm making it prohibited.

In relation to the illumination of the sign, it is a permissible sign provided it complies with the Decision Guidelines of Clause 52.05 – Advertising Signs. The relevant decision guidelines are to be considered:

- The character of the area including:
 - The sensitivity of the area in terms of the natural environment, heritage values, waterways and open space, rural landscape or residential character.
 - The compatibility of the proposed sign with the existing or desired future character of the area in which it is proposed to be located.
 - The cumulative impact of signs on the character of an area or route, including the need to avoid visual disorder or clutter of signs.
 - The consistency with any identifiable outdoor advertising theme in the area.
- The impact of any illumination:
 - The impact of glare and illumination on the safety of pedestrians and vehicles.
 - The impact of illumination on the amenity of nearby residents and the amenity of the area.
 - The potential to control illumination temporally or in terms of intensity.
- The need for identification and the opportunities for adequate identification on the site or locality.

Overall, the freestanding sign is prohibited and illumination is not acceptable due to the proximity of residence and the 24/7 opening hours.

Assessment of the proposal against the provisions of Clause 52.06 (Parking), 45.09 (Parking Overlay – Schedule 3) and 52.07 (Loading and Unloading of Vehicles).

Car parking number:

The requirements of Column B of Table 1 to Clause 52.06-5 apply to the number of car parking spaces to be provided as per the Parking Overlay.

As per clause 52.06, a service station does not attract car parking spaces and the demand. However, Clause **52.06-5A states the following:**

“Where a use of land is not specified in Table 1 or where a car parking requirement is not specified for the use in another provision of the planning scheme or in a schedule to the Parking Overlay, before a new use commences or the floor area or site area of an existing use is increased, car parking spaces must be provided to the satisfaction of the responsible authority.”

The “convenience “ part of the development would attract the need to provide car parking spaces.

A total of 10 car parking spaces are provided on site. This includes one disabled car parking space and two spaces for air/water users. This is considered satisfactory.

In relation to the petrol delivery, a 19 m semi-trailer is used. Turning circles were provided and submitted to Council’s Infrastructure department which has responded with the following;

“ The plans show the manoeuvring of a 19m Semi-Trailer through the site which crosses over onto the lane for opposing traffic in Fischer Street when exiting the site. As this will be a single occurrence on a regular basis, this will be acceptable if the fill times are early in the morning or late in the evening. A Service Vehicle should be able to exit the site without crossing over the centre-line of Fischer Street. It does not appear that this is possible with the proposed outlet onto Fischer Street. The access should be designed to fit this vehicle without crossing the centreline of Fischer Street then this may be acceptable. To achieve this, the nose at the loading bay adjoining the exit lanes could be shortened to permit the manoeuvre.’

It would be expected that petrol delivery would result in the closure of the entire station for safety reasons. Should a permit be granted, petrol delivery times should be limited to off peak traffic times to avoid conflicts.

Access

The site is proposed to include one in and one out access which is satisfactory. However, there are issues with the “ in” as per follows:

“Access to the site is proposed from the entrance to the car park for the adjoining site. The access is currently proposed to be within the lot containing the Supermarket, but it has been requested that the car park be included in Common Property with this lot a part of the owners corporation. Until this occurs the Service Station does not have a legal right to use the “In” access to it.”

At the time being, it is not considered that the proposed “in “has legal access. This is not considered acceptable and further consideration is required on this issue.

Loading / Unloading bay

As per Clause 52.07, the proposal requires the following:

FLOOR AREA OF BUILDING	MINIMUM LOADING BAY DIMENSIONS	
2,600 sq m or less in single occupation	Area	27.4 sq m
	Length	7.6 m
	Width	3.6 m
	Height clearance	4.0 m

The proposal includes a loading bay for the convenience shop associated with the petro station. However, the proposed loading bay does not comply with the required dimensions in that the loading bay is proposed to be approximately 20.4 sqm with dimensions of 6 m x 3.4 m.

Considering the size of the kiosk (120 sqm), it would be unlikely that large delivery trucks access the site. In this instance, it is considered appropriate to reduce the size of the proposed loading bay. However, from a manoeuvring point of view, Council's Infrastructure department is recommending the "nose" of loading bay should be shortened. It is noted that for the sake of practicality, the proposed loading bay should be located in the area designated as parking space no. 3 or 10.

Assessment of the proposal against the provisions of Clause 52.12 for Service Stations.

Clause 52.12 Service Station			
Criteria	Standard	Proposal	Comment
<i>Site area and dimensions</i>	<ul style="list-style-type: none"> The site must be at least 1,080 sqm Minimum frontage 36m (30m for corner site) Minimum depth 30m 	<p>Proposed site area (not subdivided yet) :1949 sqm Current site area (Lot BB on PS 727250X): 2.273ha</p> <p>Frontage on Fisher Street: 56.92 m Frontage on common access way (southern side of proposed site : 28.17m</p> <p>Boundary on the northern side (adjoining proposed access way) 42.63 m</p>	<p>Overall site area satisfactory.</p> <p>Does not comply with the minimum depth requirement of 30 m (proposed 28.17m)</p>
<i>Crossovers</i>	<p>No more than 2 vehicle crossovers from a road and must be:</p> <ul style="list-style-type: none"> No wider than 7.7m At least 4.5m from another crossover At least 4.5m from another road At least 1.8m from a crossover on another property 	<p>2 crossovers proposed</p> <p>Crossover on Fisher Street: more than 10 m</p> <p>Crossover on the southern side (access way): More than 10 m</p> <p>More than 1.8m to adjoining crossover</p>	<p>Both crossovers are wider than 7.7 m</p> <p>Does not comply</p>
<i>Kerb or barrier</i>	<p>Except at crossovers, a kerb or barrier must be built along the road alignment to prevent the passage of vehicles</p>	<p>Kerb will be present</p>	<p>Satisfactory</p>
<i>Road setbacks</i>	<ul style="list-style-type: none"> A wall of a building at least 9m from a road A canopy at least 2.5m from a road Petrol pump, pump islands, water and air supply points and storage tank filling points at least 3.6m from a road Petrol tankers must be wholly on the site when storage tanks are being filled Driveway space must be 	<p>Min. 3m from future road to the north.</p> <p>19.8 m from Fisher Street.</p> <p>Canopy min. 3.6 m from the road.</p> <p>Approx. 7.4 m to pump</p> <p>Sufficient area for tankers to be within site whilst filling tanks</p> <p>Sufficient area to allow</p>	<p>Does not comply with the 9m setback from a road.</p>

	<p>sufficient to enable a vehicle 13.8m by 2.5m to enter and leave the site without reversing</p> <ul style="list-style-type: none"> No vehicle may be serviced unless it is wholly on site 	<p>vehicle to enter and exit in forward direction</p> <p>Sufficient area for vehicles to be wholly within site</p>	
<i>Discharge of waste</i>	<p>Waste from a vehicle wash area must drain into a public sewer or settlement and oil separation.</p>		Able to be conditioned
<i>Amenity requirements</i>	<p>The amenity of the locality must not be adversely affected by activity on the site, the appearance of any building, works or material, emissions from the premises or in any other way.</p>		See report
<i>Trailers for Hire</i>	<p>If trailers are for hire on the site:</p> <ul style="list-style-type: none"> The site must be at least 1080 sqm All trailers must be wholly within the site and not encroach on landscaping/parking/m anoeuvring Corner site setback 	<p>No trailers hire are proposed</p>	N/A
<i>Adjoining residential zone</i>	<p>If the site adjoins a residential zone:</p> <ul style="list-style-type: none"> A landscape buffer strip at least 3m wide along the common boundary must be planted External lights must be directed away from the residential zone to prevent light spill and glare 	<p>3m landscape strip along north boundary (adjoining future road with residential opposite future road) Min. 2 m landscape strip to Fisher Street (residential opposite Fisher Street)</p> <p>Details not provided</p>	<p>Technically acceptable.</p> <p>Condition of permit</p>