

ORDINARY MEETING	5.1
5 MAY 2015	

MATERIAL CHANGE OF USE (IMPACT ASSESSABLE) – DISPLAY FACILITIES (CAR & BICYCLE HIRE) – 52 & 54 MACROSSAN STREET, PORT DOUGLAS
Neil Beck, Planning Officer: MCUI 585/2014 # 435752

<u>PROPOSAL:</u>	MATERIAL CHANGE OF USE (IMPACT ASSESSABLE) – DISPLAY FACILITIES (CAR & BICYCLE HIRE)
<u>APPLICANT:</u>	HARUE PTY LTD & KSTAR TOURS AND ELECTRIC BIKE HIRE C/- PLANZ TOWN PLANNING PTY LTD 17 ATHERTON STREET WHITFIELD QLD 4870
<u>LOCATION OF SITE:</u>	52 & 54 MACROSSAN STREET, PORT DOUGLAS
<u>PROPERTY:</u>	LOTS 502 & 503 ON PTD2092
<u>LOCALITY:</u>	PORT DOUGLAS AND ENVIRONS
<u>PLANNING AREA:</u>	COMMERCIAL
<u>PLANNING SCHEME:</u>	DOUGLAS SHIRE PLANNING SCHEME 2008
<u>REFERRAL AGENCIES:</u>	DEPARTMENT OF TRANSPORT & MAIN ROADS
<u>NUMBER OF SUBMITTERS:</u>	NONE
<u>STATUTORY ASSESSMENT DEADLINE:</u>	25 MAY 2015
<u>APPLICATION DATE:</u>	9 DECEMBER 2014
<u>APPENDIX:</u>	<ol style="list-style-type: none"> 1. APPROVED PLAN(S) & DOCUMENT(S) 2. CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS

LOCALITY PLAN



RECOMMENDATION:

That Council approve the development application for a Material Change of Use for Display Facilities (Car and Bicycle Hire) over land described as Lots 502 and 503 on PTD2092, located at 52 & 54 Macrossan Street, Port Douglas, subject to the following:

APPROVED DRAWING(S) AND / OR DOCUMENT(S)

The term 'approved drawing(s) and / or document(s)' or other similar expressions means:

Drawing or Document	Reference	Date
Site Plan	Port Douglas Car Hire - Lot 502	Undated
Site Plan	Port Douglas Car Hire Office – Lot 503	Undated

ASSESSMENT MANAGER CONDITIONS

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:-
 - a. The specifications, facts and circumstances as set out in the application submitted to Council;
 - b. The following conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual,

except where modified by these conditions of approval

Timing of Effect

2. The conditions of the Development Permit must be effected upon the Development Permit taking effect, unless otherwise specified in these conditions of approval.

Display Facilities (Car Hire)

Operational Requirements

3. The Display Facility (Car Hire) must be undertaken in accordance with the following operational requirements:-
 - (i) The use of on-street car parking spaces or the area adjacent the building at 54 Macrossan Street to display vehicles for hire is not permitted. Customers must take possession of their vehicle on Lot 502 and leave the site in a forward gear.
 - (ii) Vehicles that are parked in on-street car parking spaces by customers returning vehicles must be moved and returned to the hire fleet on Lot 502 within a reasonable timeframe being 15 – 20 minutes.
 - (iii) The washing and/or hosing down of vehicles onsite without a designated wash down facility connected to sewer is not permitted.
 - (iv) No other portable advertising device other than those approved and registered by Council are permitted for use either onsite or on road reserve.

The above operational requirements must be observed and complied with at all times to the satisfaction of the Chief Executive Officer.

Limitation of Use

4. The Display Facility (Car Hire) component of this Development Permit remains valid only while both Lot 502 & Lot 503 are made available to accommodate the approved use. In the event circumstances change that result in either lot not being available to accommodate or be used for the approved use, the Development Permit to the extent relevant to the Display Facility (Car Hire) has no force or effect.

Display Facilities (Bike Hire)

Operational Requirements

5. The Display Facility (Bike Hire) must be undertaken in accordance with the following operational requirements:-
 - (i) The grassed area adjacent the building may be used to display bikes for hire provided such area is kept clean, tidy and presentable.
 - (ii) The display of bikes for hire is not permitted on the road verge of Macrossan Street unless authorised by an approval under Local Law 59 (Commercial Use of Roads).
 - (iii) Any and all portable advertising devices associated with the use must be approved and registered with Council at all times.

The above operational requirements must be observed and complied with at all times to the satisfaction of the Chief Executive Officer.

CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS

Concurrency Agency	Concurrency Agency Reference	Date	Council Electronic Reference
State Development & Infrastructure Planning	SDA-0215-018021	26 March 2015	#451468

Refer to Appendix 2: Concurrence Agency Requirements. (Please note that these conditions / requirements may be superseded by subsequent negotiations with the relevant referral agencies).

ADVICE

1. This approval, granted under the provisions of the *Sustainable Planning Act 2009*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of sections 339 and 341 of the *Sustainable Planning Act 2009*.
2. All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
3. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
4. For information relating to the *Sustainable Planning Act 2009* log on to www.dsdp.qld.gov.au. To access the *FNQROC Development Manual*, Local Laws and other applicable Policies log on to www.douglas.qld.gov.au.

LAND USE DEFINITIONS*

In accordance with the Douglas Shire Planning Scheme 2008, the approved land use of Display Facilities is defined as:

Means the use of premises for the display, hire or sale, by retail or by auction, of goods such as:

- building and construction materials with or without hardware;
- garden supplies including plants, tools, garden furniture and equipment and other products for use in gardening and Landscaping;
- vehicles including cars, trucks, motor cycles, boats, caravans and trailers;
- produce, animal fodder and farming goods and equipment.

The use includes facilities commonly described as:

- garden centre;
- produce market;
- produce store;
- car or truck sales yard;
- auction yard; or
- car hire centre.

and others more particularly described as bulky goods retail such as:

- Camping World
- Freedom Furniture
- Harvey Norman
- Capt'n Snooze
- Office Works
- Pet Cafe, among others.

The use does not include retail chain outlets such as:

- Crazy Clarke's
- The Warehouse
- Overflow

which are defined as Shopping Facilities.

*This definition is provided for convenience only. This Development Permit is limited to the specifications, facts and circumstances as set out in the application submitted to Council and is subject to the abovementioned conditions of approval and the requirements of Council's Planning Scheme and the *FNQROC Development Manual*.

EXECUTIVE SUMMARY:

Council is in receipt of a Material Change of Use application seeking approval for Display Facilities (Car and Bicycle Hire) over land at 52 & 54 Macrossan Street, Port Douglas.

The development application specifically relates to Port Douglas Car Hire and K-Star Tours & Electric Bike Hire who currently operate from the premises and have done so for some time.

The application required referral to the Department of Transport and Main Roads (DTMR) who approved the development subject to conditions. The Concurrence Agency response is attached at Appendix 2.

The application demonstrates compliance with applicable provisions of the Planning Scheme and is suitably located within the Town Centre of Port Douglas. Approval of the application is recommended subject to conditions.

TOWN PLANNING CONSIDERATIONS:

Background

An investigation into several vehicle hire premises was undertaken last year due to a number of complaints being received by Council raising issue with respect to hire vehicles occupying on-street car parking spaces, signage and other related matters.

A review of the property file for 54 Macrossan Street revealed that a Town Planning Consent Permit was issued for a Vehicle Hire Premises on 22 April 1997 subject to conditions. Conditions of the Consent Permit required the provision of 15 onsite parking spaces (as proposed in the development application) in addition to the installation of a designated wash down bay amongst other requirements.

The Consent Permit related to the one allotment being 54 Macrossan Street.

The Vehicle Hire Premises commenced sometime thereafter.

Conditions of the Consent Permit with respect to on-site car parking and wash bay were not undertaken and remained outstanding.

The Vehicle Hire Premises at 54 Macrossan Street has subsequently included the hiring of electric bikes in 2013 while 52 Macrossan Street was being used to accommodate and display hire vehicles.

The applicant was therefore advised a Material Change of Use application was required in order to make the use lawful or alternatively comply with the Town Planning Consent Permit issued in 1997.

No issues were raised with the ongoing use of the premises while seeking approval for current operations.

The Site

The site consists of two separate allotments each having a land area of 1012m² with both parcels of land being located within the Commercial Planning Area. The site is located within the town centre of Port Douglas.

The site at 52 Macrossan Street is an elevated site above the carriageway and road verges of Macrossan Street with a stepped landscaped retaining wall along the road frontage. An existing

driveway provides suitable access to a substantial flat cleared area in the middle of the allotment. The site is characterised by steep treed areas at the rear of the site. No development or works are proposed over this area of land.

An existing building containing office space and a liquor outlet is located at 54 Macrossan Street. An existing driveway provides vehicle access to the rear of the site. Similar to the adjacent allotment, and beyond the rear curtilage of the building, the site rises steeply and is heavily treed.

Proposal

The development application seeks to utilise 52 & 54 Macrossan Street, Port Douglas for the purpose of Display Facilities (Car & Bicycle Hire). The site has been used for car hire since approximately 1997 and bicycle hire since 2013. The applicant has advised that Port Douglas Car Hire generally has 20 cars for hire and business hours are 8am-5pm, 7 days a week.

Car Hire

Car hire is usually for 3 days, however single day hire and longer hire are not unusual. Customers hire a car to drive from their accommodation (Sheraton, Q.T., Sea Temple, Ramada etc.) into and around Port Douglas, as an alternative to the local shuttle bus. There is a pedestrian path from the rear of the office at 54 Macrossan Street to the area where hire cars are parked at 52 Macrossan Street. This area can also be accessed from Macrossan Street.

The applicant has advised that cars are usually returned in a clean condition and that onsite cleaning of cars will be limited to vacuuming and a wipe-down with an all-purpose spray that does not require wetting down or washing off. In the event that a car is returned in a dirty state that need washing, the vehicles will be cleaned at the Port Auto Car Wash at Craiglie. Therefore, no designated wash down facility is proposed.

All mechanical servicing of the vehicles will be undertaken off site.

Bike Hire

K Star Tours and Electric Bike Hire operates from a small office in the existing building with all bicycles being stored and maintained in a shipping container at the rear of the building. There are approximately 25 electric bicycles for hire and hours of operation are from 7am – 9pm, 7 days a week.

All maintenance is done within the shipping container at the rear of the site, and requires a brush kit and all-purpose spray, that does not require wetting down or washing off.

A separate application under Local Law 59 (Commercial Use of Roads) has been submitted to Council seeking approval to display a limited number of bikes for hire on the road verge immediately adjacent the kerb and channel in front of the premises. Determination of this application will take place once this application has been decided.

Douglas Shire Planning Scheme Assessment

Douglas Shire Port Douglas and Environs Planning Locality		Code Applicability	Compliance
Locality	Port Douglas and Environs	✓	Complies
Planning Area	Commercial	✓	Complies
Defined Use	Display Facilities	✓	Complies – see comment below
Overlay Codes	Acid Sulfate Soils Code	✗	N/A
	Cultural Heritage and Valuable Sites Code	✗	N/A
	Natural Hazards Code	✗	N/A
General Codes	Design and Siting of Advertising Devices Code	✓	Complies – see comment below
	Filling and Excavation Code	✗	N/A
	Landscaping Code	✓	Complies
	Natural Areas and Scenic Amenity Code	✗	N/A
	Reconfiguring a Lot Code	✗	N/A
	Vehicle Parking and Access Code	✓	Complies – see comment below
	Sustainable Development Code	✗	N/A

Compliance Issues

No new building work or earthworks form part of the development proposal and all vehicles can be contained onsite. As a consequence, compliance matters are limited to ensuring ongoing operation of the approved use is undertaken in an appropriate manner having regard to the following:-

- i) Ensure on-street car parking spaces are made available for use by the general public;
- ii) Cars are not displayed for hire adjacent the building at 54 Macrossan Street (requiring the hire vehicle to reverse along the footpath);
- iii) Council regulations regarding advertising devices and the Commercial Use of Roads are observed and complied with;
- iv) Vehicles are not washed and/or hosed down onsite. In this regard, the Applicant has specifically requested that Council not require an onsite wash down facility.
- v) All vehicle repairs to be undertaken offsite.

Conditions of approval have been included to ensure compliance with the items listed above.

Provided the operation of the Display Facility is undertaken in an appropriate manner, the location is well suited. The utilisation of both 52 & 54 Macrossan Street has the ability to adequately contain the development with minimal impact on the availability of on-street car parking spaces for use by the general public and surrounding businesses.

Amalgamation

It is a standard requirement that where development extends over two allotments, the lots are amalgamated to prevent the separate disposition of titles. However, the Applicant has requested this not apply, and in turn, requested that the approval would be valid only when both lots are in use as detailed in the development application.

Given that no building works are proposed at 52 Macrossan Street and the use is not the highest and best use of the site, the request not to amalgamate the titles is supported. A condition of approval has been included to reinforce this aspect of the approval.

Electric Bike Hire

No issue or concern is raised with the aspect of the proposal relating to the hiring of electric bikes. The operation of this business is wholly contained to 54 Macrossan Street with all storage and any minor repairs / cleaning taking place in a shipping container at the rear of the building. The scale of this business is quite small with negligible impact on Macrossan Street.

The owner of this business has sought additional approval to display a limited number of bikes on the road verge in front of the premises under Local Law 59. This application will be determined following a decision on this application.

Public Notification / Submissions

The application was publically notified in accordance with the *Sustainable Planning Act 2009* and no submissions were received.

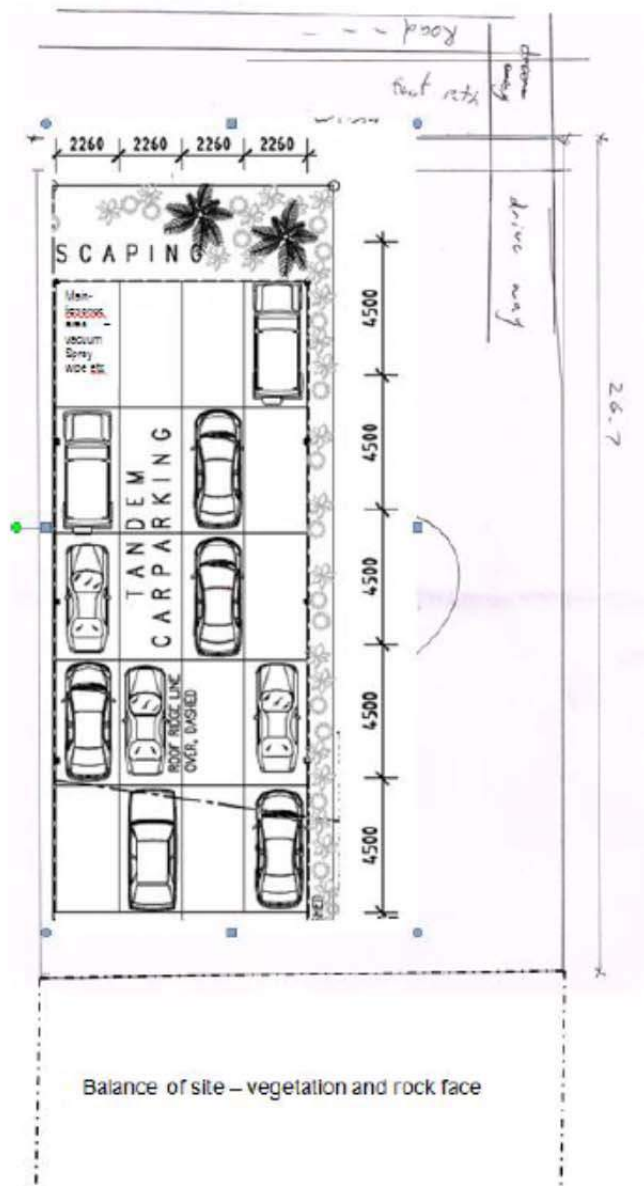
ADOPTED INFRASTRUCTURE CHARGES

The proposed development does not place additional demand on the water supply and sewer network and therefore infrastructure charges do not apply.

COUNCIL'S ROLE

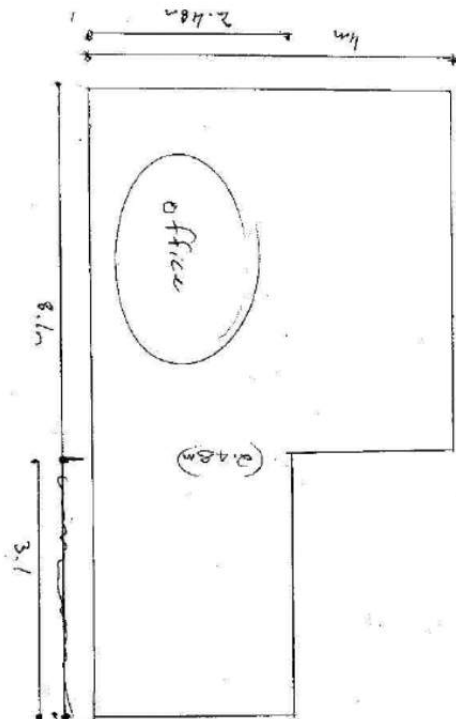
Under the *Sustainable Planning Act 2009* and the *Sustainable Planning Regulation 2009*, Council is the Assessment Manager for the application.

APPENDIX 1: APPROVED PLAN(S) & DOCUMENT(S)



Site Plan – Port Douglas Car Hire Lot 502

52 Macrossan Street, the western lot, contains a dense landscaped area at the front of the site, with a driveway on the western side. There is sufficient parking in the existing hardstand area for at least 20 cars in tandem. Car Hire parking is configured in a different manner to conventional parking lots.



Site Plan – Port Douglas Car Hire Office Lot 503

54 Macrossan Street, the eastern lot contains the Port Douglas Car Hire office (with an area of 35m approx.) as shown above. The Bike Hire office is 2m x 2m approx and 20m x 4m shipping container (see photos below).

APPENDIX 2: CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS



Department of
**State Development,
Infrastructure and Planning**

Our reference: SDA-0215-018021
Your reference: MCUI 585/2014

26 March 2015

Ms Linda Cardew
Chief Executive Officer
Douglas Shire Council
PO Box 723
Mossman QLD 4873

Attention: Neil Beck

Dear Ms Cardew

Concurrence agency response—with conditions

Material Change of Use – Display Facilities (Car and Bicycle Hire) on land described as Lots 502 and 503 on PTD2092, situated at 52-54 Macrossan Street, Port Douglas
(Given under section 285 of the *Sustainable Planning Act 2009*)

The referral agency material for the development application described below was received by the Department of State Development, Infrastructure and Planning under section 272 of the *Sustainable Planning Act 2009* on 2 February 2015.

Applicant details

Applicant name:	Harue Pty Ltd & KStar Tours and Electric Bike Hire
Applicant contact details:	C/- Planz Town Planning 17 Atherton Street Whitfield QLD 4870 nikki.huddy@planztp.com

Site details

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Far North Queensland Regional Office
Ground Floor, Cairns Port Authority
PO Box 2358
Cairns QLD 4870

Street address: 52-54 Macrossan Street, Port Douglas

Lot on plan: Lots 502 and 503 on PTD2092

Local government area: Douglas Shire Council

Application details

Proposed development: Development Permit for Material Change of Use – Display Facilities (Car and Bicycle Hire)

Aspects of development and type of approval being sought

Nature of Development	Approval Type	Brief Proposal of Description	Level of Assessment
Material Change of Use	Development permit	Display Facilities (Car Hire & Bicycle Hire)	Impact Assessment

Referral triggers

The development application was referred to the department under the following provisions of the *Sustainable Planning Regulation 2009*:

Referral trigger Schedule 7, Table 3, Item 1— State Controlled Roads

Conditions

Under section 287(1)(a) of the *Sustainable Planning Act 2009*, the conditions set out in Attachment 1 must be attached to any development approval.

Reasons for decision to impose conditions

Under section 289(1) of the *Sustainable Planning Act 2009*, the department must set out the reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

Further advice

Under section 287(6) of the *Sustainable Planning Act 2009*, the department offers advice about the application to the assessment manager—see Attachment 3.

Approved plans and specifications

The department requires that the following plans and specifications set out below and in Attachment 4 must be attached to any development approval.

Drawing/Report Title	Prepared by	Date	Reference no.	Version/Issue
Aspect of development: Material Change of Use (Display Facilities (Car & Bicycle Hire))				
Site Plan – Port Douglas Car Hire Lot 502	Unknown – included with the application material	Undated	-	-
Site Plan – Port Douglas Car Hire Office Lot 503	Unknown – included with the application material	Undated	-	-

A copy of this response has been sent to the applicant for their information.

For further information, please contact Jenny Sapuppo, Senior Planning Officer, Regional Services – Far North Queensland on (07) 4037 3202, or email jenny.sapuppo@dsdip.qld.gov.au who will be pleased to assist.

Yours sincerely



Angela Foster
Manager (Planning)

cc: Harue Pty Ltd & KStar Tours and Electric Bike Hire, nikki.huddy@planztp.com
enc: Attachment 1—Conditions to be imposed
Attachment 2—Reasons for decision to impose conditions
Attachment 3—Further advice
Attachment 4—Approved Plans and Specifications

Our reference: SDA-0215-018021
 Your reference: MCUI 585/2014

Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
Development Permit – Material Change of Use – Display Facilities (Car & Bicycle Hire)		
Schedule 7, Table 3, Item 1 – State controlled roads —Pursuant to section 255D of the <i>Sustainable Planning Act 2009</i> , the chief executive administering the Act nominates the Director-General of the Department of Transport and Main Roads to be the assessing authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
In accordance with approved plans		
1.	The development must be carried out generally in accordance with the following plans: <ul style="list-style-type: none"> • Site Plan – Port Douglas Car Hire Lot 502 • Site Plan – Port Douglas Car Hire Office Lot 503. 	At all times.
Location of the direct vehicular access to the state-controlled road		
2.	The permitted road access locations, for which approval under section 62 of the <i>Transport Infrastructure Act 1994</i> must be obtained, are to be located via the existing access locations between Port Douglas Road and <ul style="list-style-type: none"> • Lot 502, generally in accordance with Site Plan – Port Douglas Car Hire Lot 502; and • Lot 503 via the existing access, located near the eastern side boundary. 	At all times.
Internal and external manoeuvring associated with direct vehicular access to the state-controlled road		
3.	All vehicles must enter and exit Lot 502 and Lot 503 at the permitted road access locations (for which approval under section 62 of the <i>Transport Infrastructure Act 1994</i> must be obtained) in a forward motion.	At all times.

Our reference: SDA-0215-018021
Your reference: MCUI 585/2014

Attachment 2—Reasons for decision to impose conditions

The reasons for this decision are:

- To ensure the development is carried out generally in accordance with the plans of development submitted with the development application.
- To ensure the road access location to the state-controlled road from the site does not compromise the safety and efficiency of the state-controlled road.
- To ensure the turning movements of vehicles entering and exiting the premises via the road access maintains the safety and efficiency of the state-controlled road.

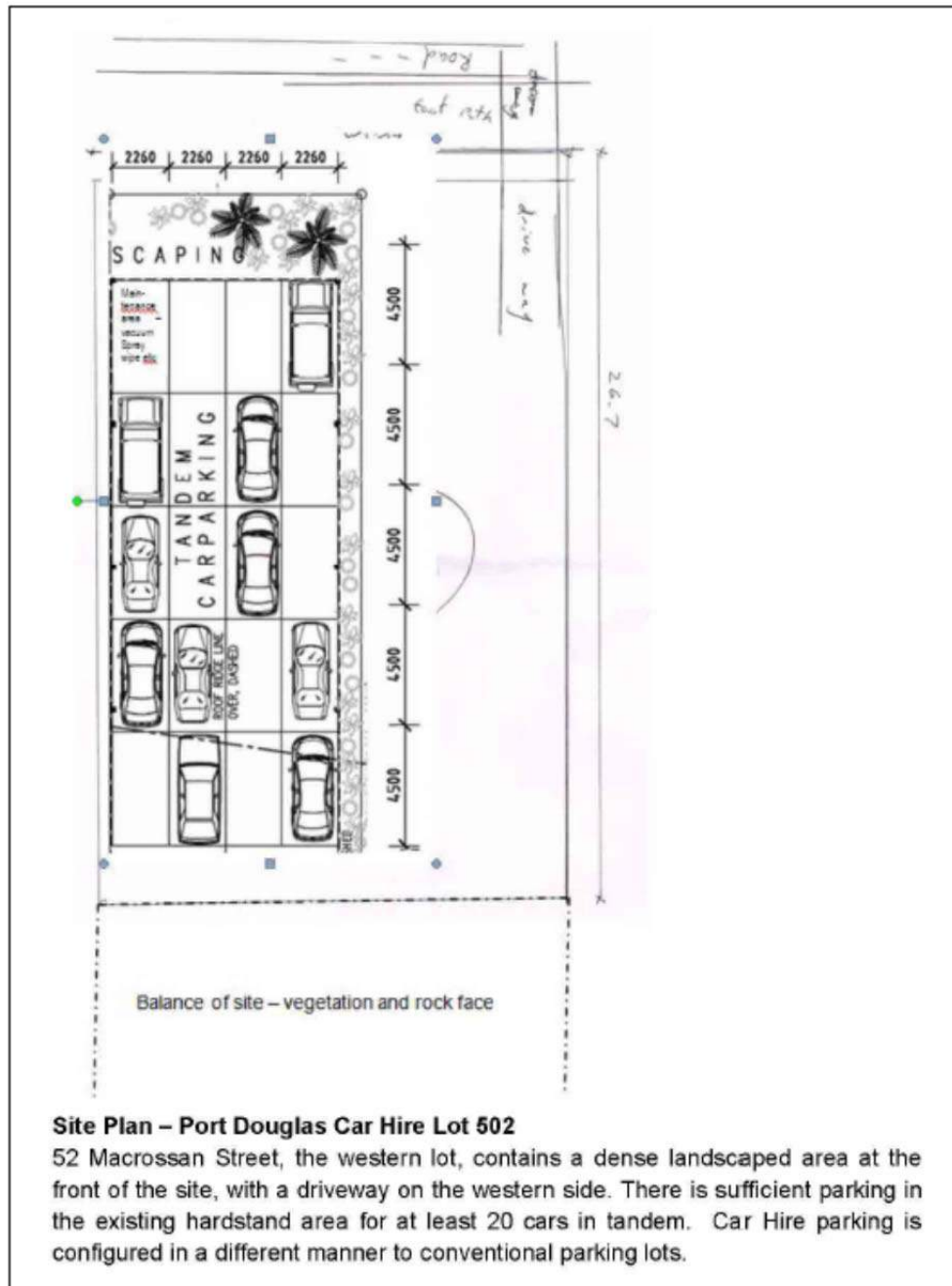
Our reference: SDA-0215-018021
 Your reference: MCUI 585/2014

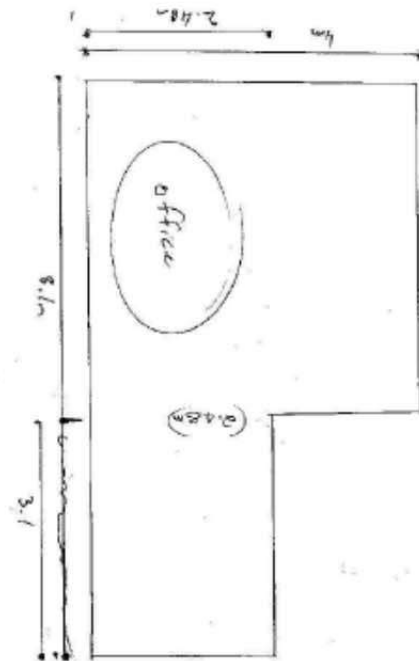
Attachment 3—Further advice

Advertising devices	
1.	Under section 43 of the <i>Transport Infrastructure Act 1994</i> , a local government must obtain approval from the Department of Transport and Main Roads (TMR) if it intends to approve the erection, alteration or operation of an advertising sign or other advertising device that would be visible from a state-controlled road, and beyond the boundaries of the state-controlled road, and reasonably likely to create a traffic hazard for the state-controlled road.
State controlled roads	
2.	Under section 62 of the <i>Transport Infrastructure Act 1994</i> (TIA), written approval is required from TMR to lawfully operate, construct, maintain and carry out road access works (including driveways) on a state-controlled road. Please contact TMR on 4045 7144 at the Cairns district office to make an application for approval under section 62. The road access approval process takes time – please contact TMR as soon as possible to ensure that gaining an access approval is not delayed.
3.	In accordance with section 50(2) and Schedule 6 of the TIA and Part 5 and Schedule 1 of the <i>Transport Infrastructure (State-Controlled Roads) Regulation 2006</i> , an applicant must obtain TMR approval to carry out ancillary works and encroachments on a state-controlled road. Please contact TMR on 4045 7144 to make an application for a Road Corridor Permit under section 50(2) of the TIA to carry out ancillary works and encroachments. Ancillary works and encroachments include but are not limited to advertising signs or other advertising devices, paths or bikeways, buildings/shelters/structures, vegetation clearing, landscaping and planting.
4.	All loading and unloading associated with the development should not be carried out within the state-controlled road reserve.

Our reference: SDA-0215-018021
 Your reference: MCUI 585/2014

Attachment 4—Approved plans and specifications





Site Plan – Port Douglas Car Hire Office Lot 503

54 Macrossan Street, the eastern lot contains the Port Douglas Car Hire office (with an area of 35m approx.) as shown above. The Bike Hire office is 2m x 2m approx and 20m x 4m shipping container (see photos below).