

Your Ref: SEDA MCUI1599/2016 (D#797416)
Our Ref: J000049:NQL:KLG
Date: 9 March 2017

Chief Executive Officer
Douglas Shire Council
PO Box 723
MOSSMAN QLD 4873
Via email

Attention: Ms Jenny Elphinstone, Senior Planner

Dear Madam,

Re: Application for Undefined Use ("Mowbray Adventure Park") on land located at Andreasson Road, more particularly described as Lots 1 – 6 on C2254, Lot 87 on SR370 and Lot 90 on SR678

I refer to previous correspondence regarding the above-described Application lodged with Council via Smart EDA under cover of letter dated 22 July 2016.

Council advised by letter dated 23 August and 19 December 2016 that the Application is "Not Properly Made" pursuant to Section 261 of the *Sustainable Planning Act 2009* for a number of reasons. The following action was required to rectify the situation:

1. All land over which the use is proposed to be carried out must be included in the application with description, either by title reference or, where part of a lot / road / waterway, by a surveyed metes and bounds description; and
2. Provide owners consent for all lands / roads / waterways to which the application applies.

The Applicant provides the following response:

Owners Consent

The Planning Report and IDAS Form 1 lodged online in July 2016 confirmed the Application related to Lots 1 – 6 on C2254, Lot 87 on SR370 and Lot 90 on SR678. These properties are all owned by NQL Properties Pty Ltd, and owners consent for same was tendered with the Application submission.

Council has requested consent be provided for two areas of road reserve for internal site access on the basis that those areas are "integral to the proposed development, and necessary for its proper functioning as a single, integrated use, because there is no other available means by which access between the freehold parcels forming part of the overall use may be gained."

The Applicant has previously sought advice from the Department of Infrastructure, Local Government and Planning (SARA) and Department of Natural Resources and Mines in this regard. In addition, by letter dated 24 August 2016, the Applicant confirmed its view that:

Crossings to access allotments adjacent road reserves will be constructed to an appropriate standard, in compliance with reasonable engineering and practical requirements, in the context of site conditions and constraints. As a single vehicular access is proposed to the site (adjacent Lot 3), the Applicant does not propose formalization of roads within existing reserves to provide vehicular access; however, use of the reserves for ordinary purposes including property access is considered reasonable and does not require (in the usual course) "Owners Consent" from the State. This position has been confirmed within a number of Planning & Environment Court Judgements, including Gibway Pty Ltd v Caboolture Shire Council [1987] 2 Qd R 65 and Kenlynn Hospitality Pty Ltd v Bundaberg City Council [2007] QPELR 37. A similar position appears to have been taken in Savage & Savage Resorts Pty Ltd v Cairns Regional Council [2015] QPEC 37, albeit in regards consent of a Body Corporate in a common property situation.

It is not anticipated that Council will require formalization of all roads per the road reserve arrangement, given the low-key nature of the use proposed, and potential for increased environmental impacts given road reserve alignments through vegetation and marine plant areas.

This view was considered consistent with advice received from relevant State agencies.

Subsequently, we have received correspondence from the Department of Natural Resources and Mines dated 21 February 2017, confirming the Department provides owner's consent to the Application on the area of road separating Lot 87 on SR370 and Lot 4 on C2254, and the area adjacent Lots 4 – 6 on C2254. A copy of this correspondence is **attached**, with confirmation that:

"Although owner's consent to the development application has been provided and no tenure under the Land Act is required over the areas or dedicated road, [the Applicant] is to undertake works on the land only if and when the development application has been approved by the assessment manager, and in accordance with the conditions of that approval."

Amended IDAS Form 1

An Amended IDAS Form 1 is also **attached**, including reference to these road areas, although the Applicant reiterates no intention to undertake any element of the land use or activity on those areas, save and except use for access purposes.

Metes and Bounds Plan

GT Pozzi Surveyor was engaged to provide metes and bounds information for the road areas referenced in State correspondence dated 21 February 2017, and Council's correspondence of 14 December 2016.

Please find attached a Metes and Bounds Plan (File 17/045 Sheet 1/1 Version 2) prepared, providing required information for assessment purposes.

Conclusion

On behalf of the Applicant, the above response to the notice of "Not Properly Made Application" dated and received 23 August 2016, further clarified by correspondence dated 14 December 2016, is submitted.

We look forward to receiving Council's Acknowledgement Notice for the Application as soon as possible.

Kind regards,



Kristy Gilvear
Director
Gilvear Planning Pty Ltd

Far North Queensland Office

t: 0448 897 991
e: kristy@gilvearplanning.com.au
p: PO Box 228, BABINDA, QLD, 4861

Author Deanna Holder
File / Ref number CNS915080
Directorate / Unit State Land Asset Management
Phone (07)40483701

21 February 2017

Ms Kristy Gilvear
Director / Town Planner
Gilvear Planning Pty Ltd
P O Box 228
BABINDA QLD 4861

Email: kristy@gilvearplanning.com.au

Dear Kristy

Reference is made to the request for owner's consent required to accompany the development application for preliminary approval for a material change of use for undefined use (education, sport and entertainment facility on freehold lots 1-6 on Crown Plan C2254, Lot 87 on Crown Plan SR370 and Lot 90 on Crown Plan SR678 and adjoining areas of road.

The department hereby gives owner's consent to the above development application for preliminary approval for a material change of use for undefined use (education, sport and entertainment facility on the area of road separating Lot 87 on Crown SR370 and Lot 4 on Crown Plan C2254 and road area adjoining Lots 4-6 on Crown Plan C2254.

Although owner's consent to the development application has been provided and no tenure under the Land Act is required over the areas or dedicated road, your client is to undertake works on the land only if and when the development application has been approved by the assessment manager, and in accordance with the conditions of that approval.

A copy of this letter is to be attached to your client's IDAS Form 1 as the required evidence of owners consent.

Your client will also need to comply with all other legislative and regulatory requirements which may also include approvals that are not part of the assessment of the development application under the *Sustainable Planning Act 2009* (SPA) e.g. a marine park permit if in a marine park.

Further, please note that the above consent will expire on 21 August 2017. Should the development application not be lodged with the assessment manager prior to this date, your client will be required again to lodge the IDAS Form 1 and any attachments with this Department with a further request for owner's consent - any further request will need to be reconsidered by the Department.

It is also advised that any land use activities must comply with the *Aboriginal Cultural Heritage Act 2003* or the *Torres Strait Islander Heritage Act 2003*.

Finally, owner's consent is required under SPA to enable the application to be considered properly made for lodging with the assessment manager and is a completely separate process to assessment of the application under SPA.

Accordingly, the State may act at a later date as assessment manager or referral agency in the assessment of the development application - providing owner's consent will not influence any role the State may have in this development assessment.

If you wish to discuss this matter please contact Deanna Holder on (07) 4016 1903.

All future correspondence relative to this matter is to be referred to the contact Officer at the address below or by email to Townsville.SLAMS@dnrm.qld.gov.au. Any hard copy correspondence received will be electronically scanned and filed. For this reason, it is recommended that any attached plans, sketches or maps be no larger than A3-sized.

Please quote reference number CNS915080 in any future correspondence.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D Holder', written over a horizontal line.

Deanna Dawn Holder

Senior Land Officer

A duly authorised delegate of the Minister
under the current Land Act (Ministerial) Delegation

IDAS form 1—Application details

(Sustainable Planning Act 2009 version 4.2 effective 3 August 2015)

This form must be used for **ALL** development applications.

You **MUST** complete **ALL** questions that are stated to be a mandatory requirement unless otherwise identified on this form.

For all development applications, you must:

- complete this form (*IDAS form 1—Application details*)
- complete any other forms relevant to your application
- provide any mandatory supporting information identified on the forms as being required to accompany your application.

Attach extra pages if there is insufficient space on this form.

All terms used on this form have the meaning given in the *Sustainable Planning Act 2009* (SPA) or the Sustainable Planning Regulation 2009.

This form and any other IDAS form relevant to your application must be used for development applications relating to strategic port land and Brisbane core port land under the *Transport Infrastructure Act 1994* and airport land under the *Airport Assets (Restructuring and Disposal) Act 2008*. Whenever a planning scheme is mentioned, take it to mean land use plan for the strategic port land, Brisbane core port land or airport land.

PLEASE NOTE: This form is not required to accompany requests for compliance assessment.

Mandatory requirements

Applicant details (Note: the applicant is the person responsible for making the application and need not be the owner of the land. The applicant is responsible for ensuring the information provided on all IDAS application forms is correct. Any development permit or preliminary approval that may be issued as a consequence of this application will be issued to the applicant.)

Name/s (individual or company name in full)

NQL Properties Pty Ltd A.C.N 108 180 338

For companies, contact name

C/- Kristy Gilvear, Gilvear Planning Pty Ltd

Postal address

PO Box 228

Suburb Babinda

State Queensland

Postcode

4861

Country Australia

Contact phone number

0448 897 991

Mobile number (non-mandatory requirement)

0448 897 991

Fax number (non-mandatory requirement)

N/A

Email address (non-mandatory requirement)

kristy@gilvearplanning.com.au

Applicant's reference number (non-mandatory requirement)

J000049:NQL:KLG

1. What is the nature of the development proposed and what type of approval is being sought?**Table A**—Aspect 1 of the application (If there are additional aspects to the application please list in Table B—Aspect 2.)

- a) What is the nature of the development? (Please only tick one box.)
- ☒ Material change of use ☐ Reconfiguring a lot ☐ Building work ☐ Operational work
- b) What is the approval type? (Please only tick one box.)
- ☒ Preliminary approval under s241 of SPA ☐ Preliminary approval under s241 and s242 of SPA ☐ Development permit
- c) Provide a brief description of the proposal, including use definition and number of buildings or structures where applicable (e.g. six unit apartment building defined as a *multi-unit dwelling*, 30 lot residential subdivision etc.)
- Preliminary approval for Undefined Use (education, sport and entertainment facility)
- d) What is the level of assessment? (Please only tick one box.)
- ☒ Impact assessment ☐ Code assessment

Table B—Aspect 2 of the application (If there are additional aspects to the application please list in Table C—Additional aspects of the application.)

- a) What is the nature of development? (Please only tick one box.)
- ☐ Material change of use ☐ Reconfiguring a lot ☐ Building work ☐ Operational work
- b) What is the approval type? (Please only tick one box.)
- ☐ Preliminary approval under s241 of SPA ☐ Preliminary approval under s241 and s242 of SPA ☐ Development permit
- c) Provide a brief description of the proposal, including use definition and number of buildings or structures where applicable (e.g. six unit apartment building defined as a *multi-unit dwelling*, 30 lot residential subdivision etc.)
-
- d) What is the level of assessment?
- ☐ Impact assessment ☐ Code assessment

Table C—Additional aspects of the application (If there are additional aspects to the application please list in a separate table on an extra page and attach to this form.)

- ☐ Refer attached schedule ☐ Not required

2. Location of the premises (Complete Table D and/or Table E as applicable. Identify each lot in a separate row.)

Table D—Street address and lot on plan for the premises or street address and lot on plan for the land adjoining or adjacent to the premises (Note: this table is to be used for applications involving taking or interfering with water.) (Attach a separate schedule if there is insufficient space in this table.)

- ☒ Street address **and** lot on plan (All lots must be listed.)
- ☐ Street address **and** lot on plan for the land adjoining or adjacent to the premises (Appropriate for development in water but adjoining or adjacent to land, e.g. jetty, pontoon. All lots must be listed.)

Street address					Lot on plan description		Local government area (e.g. Logan, Cairns)
Lot	Unit no.	Street no.	Street name and official suburb/ locality name	Post-code	Lot no.	Plan type and plan no.	
i)			Andreassen Road, Craigile.	4877	1	C2254	Douglas
ii)			Andreassen Road, Craigile.	4877	2	C2254	Douglas
iii)			Andreassen Road, Craigile.	4877	3	C2254	Douglas
iv)			Andreassen Road, Craigile.	4877	4	C2254	Douglas
v)			Andreassen Road, Craigile.	4877	5	C2254	Douglas
vi)			Andreassen Road, Craigile.	4877	6	C2254	Douglas
vii)			Andreassen Road, Craigile.	4877	87	SR370	Douglas
viii)			Andreassen Road, Craigile.	4877	90	SR678	Douglas
ix)			Part of Mitre Street and Andreasson Road as illustrated on GT Pozzi Plan File 17/045 Sheet 1/1 V 2 dated March 2017	4877			Douglas

Planning scheme details (If the premises involves multiple zones, clearly identify the relevant zone/s for each lot in a separate row in the below table. Non-mandatory)

Lot	Applicable zone / precinct	Applicable local plan / precinct	Applicable overlay/s
i)	Residential 1	Port Douglas & Environs Locality	Natural Hazards
ii)	Residential 1	Port Douglas & Environs Locality	Natural Hazards
iii)	Residential 1	Port Douglas & Environs Locality	Natural Hazards
iiii)	Residential 1	Port Douglas & Environs Locality	Natural Hazards
v)	Residential 1	Port Douglas & Environs Locality	Natural Hazards
vi)	Residential 1 Conservation	Port Douglas & Environs Locality	Natural Hazards
vii)	Residential 1 Conservation	Port Douglas & Environs Locality	Natural Hazards

viii)	Residential 1 Conservation	Port Douglas & Environs Locality	Natural Hazards
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Table E—Premises coordinates (Appropriate for development in remote areas, over part of a lot or in water not adjoining or adjacent to land e.g. channel dredging in Moreton Bay.) (Attach a separate schedule if there is insufficient space in this table.)

Coordinates (Note: place each set of coordinates in a separate row)				Zone reference	Datum	Local government area (if applicable)
Easting	Northing	Latitude	Longitude			
					<input type="checkbox"/> GDA94 <input type="checkbox"/> WGS84 <input type="checkbox"/> other	

3. Total area of the premises on which the development is proposed (indicate square metres)

376,120sq m (37.612ha)

4. Current use/s of the premises (e.g. vacant land, house, apartment building, cane farm etc.)

Sugar cane production, currently and historic, and vacant.

5. Are there any current approvals (e.g. a preliminary approval) associated with this application? (Non-mandatory requirement)

☒ No ☐ Yes—provide details below

List of approval reference/s	Date approved (dd/mm/yy)	Date approval lapses (dd/mm/yy)

6. Is owner's consent required for this application? (Refer to notes at the end of this form for more information.)

☐ No
☒ Yes—complete either Table F, Table G or Table H as applicable

Table F

Name of owner/s of the land	
I/We, the above-mentioned owner/s of the land, consent to the making of this application.	
Signature of owner/s of the land	
Date	

Table G

Name of owner/s of the land	
<input type="checkbox"/> The owner's written consent is attached or will be provided separately to the assessment manager.	

Table H

Name of owner/s of the land	NQL Properties Pty Ltd (Lots 1 – 6, Lot 87 and Lot 90)
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	State of Queensland represented by the Department of Natural Resources and Mines for Road Reserve
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☒ By making this application, I, the applicant, declare that the owner has given written consent to the making of the application.

7. Identify if any of the following apply to the premises (Tick applicable box/es.)

- ☒ Adjacent to a water body, watercourse or aquifer (e.g. creek, river, lake, canal)—complete Table I
- ☐ On strategic port land under the *Transport Infrastructure Act 1994*—complete Table J
- ☒ In a tidal water area—complete Table K
- ☐ On Brisbane core port land under the *Transport Infrastructure Act 1994* (No table requires completion.)
- ☐ On airport land under the *Airport Assets (Restructuring and Disposal) Act 2008* (no table requires completion)
- ☐ Listed on either the Contaminated Land Register (CLR) or the Environmental Management Register (EMR) under the *Environmental Protection Act 1994* (no table requires completion)

Table I

Name of water body, watercourse or aquifer

Mowbray River, Port Douglas.

Table J

Lot on plan description for strategic port land

Port authority for the lot

Table K

Name of local government for the tidal area (if applicable)

Port authority for the tidal area (if applicable)

Douglas Shire

8. Are there any existing easements on the premises? (e.g. for vehicular access, electricity, overland flow, water etc)

- ☒ No ☐ Yes—ensure the type, location and dimension of each easement is included in the plans submitted

9. Does the proposal include new building work or operational work on the premises? (Including any services)

- ☐ No ☒ Yes—ensure the nature, location and dimension of proposed works are included in plans submitted

10. Is the payment of a portable long service leave levy applicable to this application? (Refer to notes at the end of this form for more information.)

- ☒ No—go to question 12 ☐ Yes

11. Has the portable long service leave levy been paid? (Refer to notes at the end of this form for more information.)

- ☐ No
- ☐ Yes—complete Table L and submit with this application the yellow local government/private certifier's copy of the receipted QLeave form

Table L		
Amount paid	Date paid (dd/mm/yy)	QLLeave project number (6 digit number starting with A, B, E, L or P)

12. Has the local government agreed to apply a superseded planning scheme to this application under section 96 of the *Sustainable Planning Act 2009*?

- ☒ No
- ☐ Yes—please provide details below

Name of local government	Date of written notice given by local government (dd/mm/yy)	Reference number of written notice given by local government (if applicable)

13. List below all of the forms and supporting information that accompany this application (Include all IDAS forms, checklists, mandatory supporting information etc. that will be submitted as part of this application)

Description of attachment or title of attachment	Method of lodgement to assessment manager
Planning Report	Electronically

14. Applicant's declaration

- ☒ By making this application, I declare that all information in this application is true and correct (Note: it is unlawful to provide false or misleading information)

Notes for completing this form

- Section 261 of the *Sustainable Planning Act 2009* prescribes when an application is a properly-made application. Note, the assessment manager has discretion to accept an application as properly made despite any non-compliance with the requirement to provide mandatory supporting information under section 260(1)(c) of the *Sustainable Planning Act 2009*

Applicant details

- Where the applicant is not a natural person, ensure the applicant entity is a real legal entity.

Question 1

- Schedule 3 of the Sustainable Planning Regulation 2009 identifies assessable development and the type of assessment. Where schedule 3 identifies assessable development as "various aspects of development" the applicant must identify each aspect of the development on Tables A, B and C respectively and as required.

Question 6

- Section 263 of the *Sustainable Planning Act 2009* sets out when the consent of the owner of the land is required for an application. Section 260(1)(e) of the *Sustainable Planning Act 2009* provides that if the owner's consent is required under section 263, then an application must contain, or be accompanied by, the written consent of the owner, or include a declaration by the applicant that the owner has given written consent to the making of the application. If a development application relates to a state resource, the application is not required to be supported by evidence of an allocation or entitlement to a state resource. However, where the state is the owner of the subject land, the written consent of the state, as landowner, may be required. Allocation or entitlement to the state resource is a separate process and will need to be obtained before development commences.

Question 7

- If the premises is listed on either the Contaminated Land Register (CLR) or the Environmental Management Register (EMR) under the *Environmental Protection Act 1994* it may be necessary to seek compliance assessment. Schedule 18 of the Sustainable Planning Regulation 2009 identifies where compliance assessment is required.

Question 11

- The *Building and Construction Industry (Portable Long Service Leave) Act 1991* prescribes when the portable long service leave levy is payable.
- The portable long service leave levy amount and other prescribed percentages and rates for calculating the levy are prescribed in the Building and Construction Industry (Portable Long Service Leave) Regulation 2002.

Question 12

- The portable long service leave levy need not be paid when the application is made, but the *Building and Construction Industry (Portable Long Service Leave) Act 1991* requires the levy to be paid before a development permit is issued.
- Building and construction industry notification and payment forms are available from any Queensland post office or agency, on request from QLeave, or can be completed on the QLeave website at www.qleave.qld.gov.au. For further information contact QLeave on 1800 803 481 or visit www.qleave.qld.gov.au.

Privacy—The information collected in this form will be used by the Department of Infrastructure, Local Government and Planning (DILGP), assessment manager, referral agency and/or building certifier in accordance with the processing and assessment of your application. Your personal details should not be disclosed for a purpose outside of the IDAS process or the provisions about public access to planning and development information in the *Sustainable Planning Act 2009*, except where required by legislation (including the *Right to Information Act 2009*) or as required by Parliament. This information may be stored in relevant databases. The information collected will be retained as required by the *Public Records Act 2002*.

OFFICE USE ONLY

Date received

Reference numbers

NOTIFICATION OF ENGAGEMENT OF A PRIVATE CERTIFIER

To

Council. I have been engaged as the private certifier for the building work referred to in this application

Date of engagement	Name	BSA Certification license number	Building classification/s
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

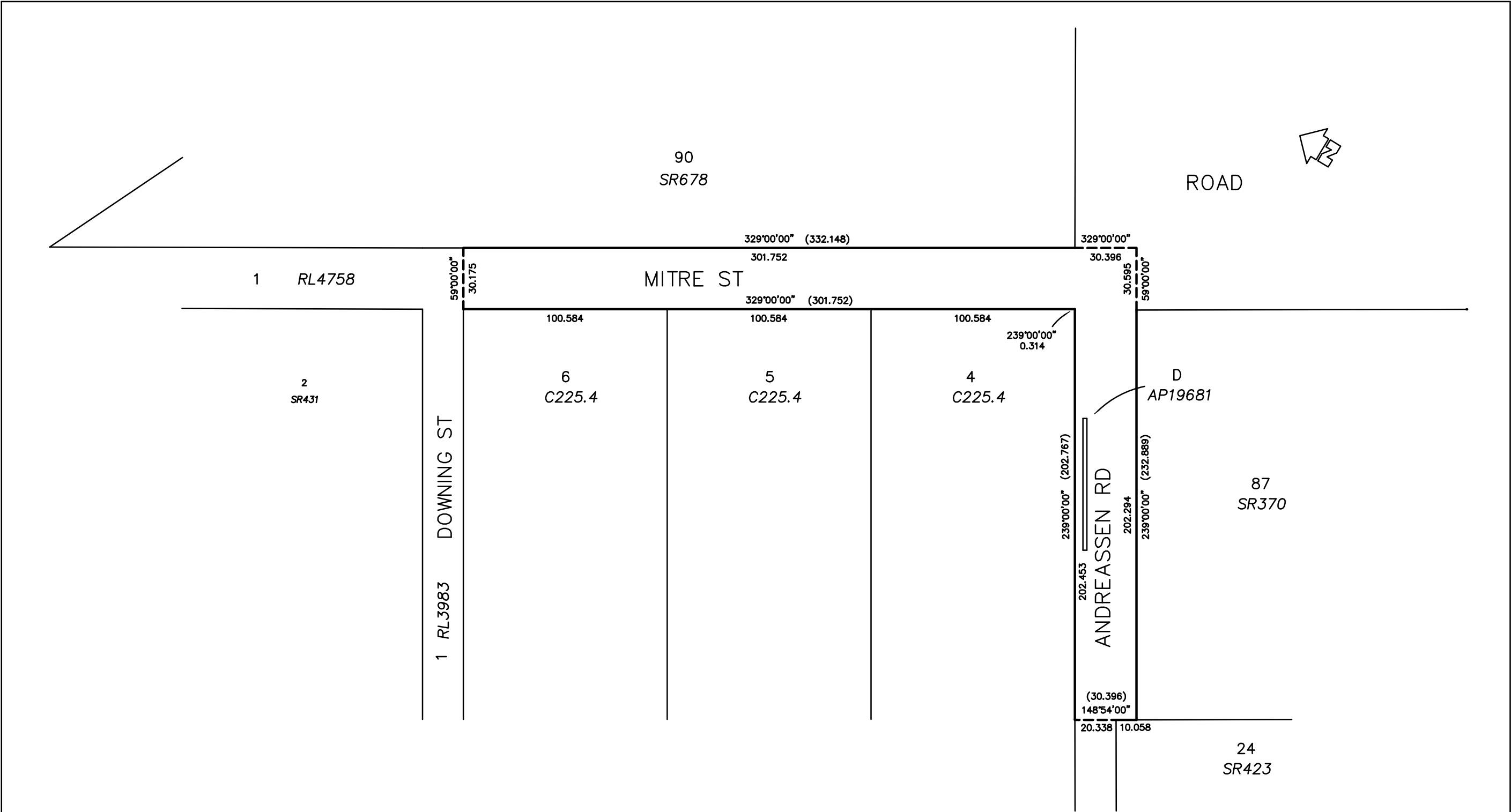
QLEAVE NOTIFICATION AND PAYMENT (For completion by assessment manager or private certifier if applicable.)

Description of the work	QLeave project number	Amount paid (\$)	Date paid	Date receipted form sighted by assessment manager	Name of officer who sighted the form
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

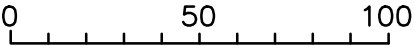
The *Sustainable Planning Act 2009* is administered by the Department of Infrastructure, Local Government and Planning. This form and all other required application materials should be sent to your assessment manager and any referral agency.

Department of State Development, Infrastructure and Planning
PO Box 15009 City East Qld 4002
tel 13 QGOV (13 74 68)
info@dssdip.qld.gov.au

www.dssdip.qld.gov.au



Notes :
• Boundaries shown on this plan subject to survey.



title: <div>METES and BOUNDS PLAN of Part of Andreasen Rd and Part of Mitre St CRAIGLIE</div>		CALCULATED	DATE	G.T.POZZI Bach.App.Sc.(Surv.) Cadastral Surveyor	11 Kavieng Street, Trinity Beach 4879. P.O. Box 152 Trinity Beach.	Phone: 0740 577 177 Mob: 0408 772 213 Fax: 0740 577 089 Email: gpozzi@bigpond.net.au	SCALE	1:2000 (A3)			
	LOCALITY Craiglie	SURVEYED	DATE				PROPERTY DESC				
	LOCAL AUTH. Douglas Shire	DRAWN GSM	DATE MAR 17				REVISIONS				
project :	SURVEY EXAMINED	DATE					NO.	DETAIL		DATE	
							2	Road licenses added			
client : NQL Properties Pty Ltd		PLAN EXAMINED G HOPKINS	DATE MAR 17		FILE	17/045	SHEET	1/1	VERSION	2	