

## 5.5. NEWSPORT ADVERTISING SIGNS CAPTAIN COOK HIGHWAY

<b>REPORT AUTHOR(S)</b>	Jenny Elphinstone, Senior Planning Officer
<b>GENERAL MANAGER</b>	Nick Wellwood, General Manager Operations
<b>DEPARTMENT</b>	Development Assessment and Coordination
<b>PROPOSAL</b>	Request to Change – Town Planning Consent for an Advertising Device
<b>APPLICANT</b>	Salvatore and Orazia Cavallaro PO Box 89 MOSSMAN QLD 4873
<b>LOCATION OF SITE</b>	6368R Captain Cook Highway, Port Douglas
<b>PROPERTY</b>	Lot 1 on RP706628

### LOCALITY PLAN

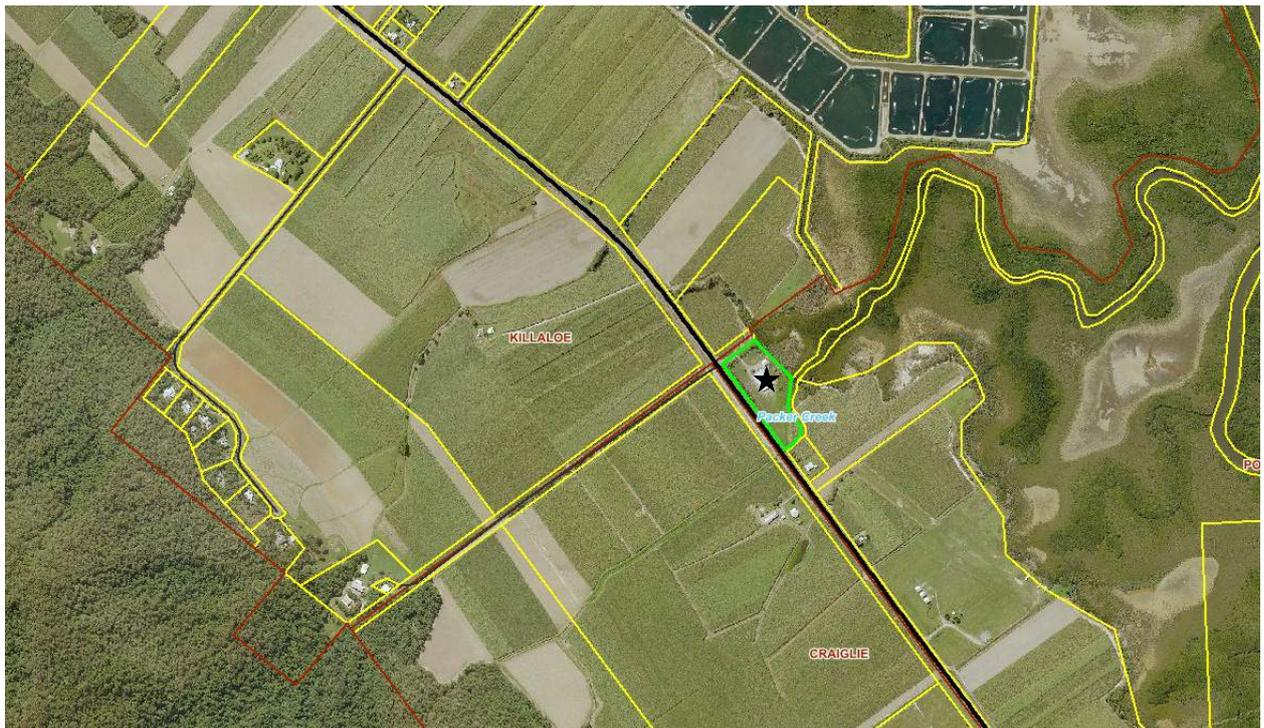


Figure 4 - Locality Plan

<b>LOCALITY</b>	Rural Areas and Rural Settlements
<b>PLANNING AREA</b>	Rural
<b>PLANNING SCHEME</b>	Douglas Shire Planning Scheme 1996
<b>REFERRAL AGENCIES</b>	None Applicable
<b>NUMBER OF SUBMITTERS</b>	None to the original application
<b>STATUTORY ASSESSMENT DEADLINE</b>	27 April 2017
<b>APPLICATION DATE</b>	8 March 2017 (Request to change a development approval.)

**RECOMMENDATION**

**A. That Council approves in part the request for a permissible change for the development approval for the off-premises advertising device for land at 6368R Captain Cook Highway, Port Douglas, being more particularly described as Lot 1 on RP706628, whereby:**

- i. The approval is granted for the change to the south facing advertising sign only; and**
- ii. The following additional conditions are included on the approval:**

**“5. 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***

**6. The conditions of the Development Permit must be effected prior to Commencement of Use, except where specified otherwise in these conditions of approval.**

***Amendment to Design***

**7. The proposed development must be amended to accommodate the following changes:**

- a. the deletion of the north facing advertising device.**

**Structural Certification**

8. *The supporting structure must be certified by a suitably qualified RPEQ and a copy of the certification must be lodged with Council within 20 business days of the approval taking effect.*

**Illumination / Animation**

9. *No illumination or animation of the sign is permitted.*

**Sign Face**

10. *Any further change to the advertising content must be to the satisfaction of the Chief Executive Officer."*

- iii. The approved plan(s) and document(s) are as follows:

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

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

Drawing or Document	Reference	Date
Figure 1	Page 1	As accompanying letter dated 7 February 2017
Top View	Page 2.	As accompanying letter dated 7 February 2017 and as amended by Condition 7a.
South face	Page 3	As accompanying letter dated 7 February 2017 and as amended by Condition 7a.

; and

- iv. The following Advice is included on the approval:

- “1. *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 potential cyclone warning and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.*
2. *This approval does not negate the requirement for compliance with relevant Local Laws and statutory requirements.*
3. *For information relating to the Sustainable Planning Act 2009 log on to [www.dsdip.qld.gov.au](http://www.dsdip.qld.gov.au) . To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to [www.dsc.qld.gov.au](http://www.dsc.qld.gov.au) .”*

- B. That Council refuses in part the request for a permissible change for the development approval for the off-premises advertising device for land at 6368R Captain Cook Highway, Port Douglas, being more particularly described as Lot 1 on RP706628, on the following grounds:**
- 1. The refusal is limited to the north facing advertising sign only;**
  - 2. The north facing sign is considered an additional sign;**
  - 3. The additional signage detracts from the scenic visual amenity of the landscape in particular when viewed from the road and having regard to the use of the road as a scenic, tourist route;**
  - 4. The additional signage is considered a traffic hazard for drivers of the adjacent road;**
  - 5. The additional signage is considered to adversely impact on the rural environment;**
  - 6. The additional signage is inconsistent with: Rural Areas and Rural Settlements Locality Code; the Rural Planning Area Code; and the Design and Siting of Advertising Devices Code of the current Planning Scheme.**
  - 7. The additional signage is incompatible with the exhibited proposed major amendment to the Planning Scheme. The additional signage is considered to be incompatible development in regards to maintaining the strategic intent, protecting the unique environmental character, internationally renowned landscapes and scenic amenity of the Shire, and key transport corridors; the Rural zone and the Advertising Devices Code.**

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## **EXECUTIVE SUMMARY**

Approval issued in 1980 for a single face advertising sign promoting Ross Cavallaro Real Estate for land at the corner of McClelland Road and the Captain Cook Highway. The sign stood for many years and was visually prominent due to the road alignment at this location. The sign was recently changed whereby additional supporting structures were added, the pre-existing sign facing south was amended and a new sign facing north was established. The sign now promotes the Newport, a web based business located at Port Douglas and serving the Douglas Shire area. As a consequence of Council officers issuing a show cause notice the owners have lodged a request to change the approval. Part of the request, that being a change to the south facing sign, is considered reasonable having regard to continuing use rights. The additional sign, facing north, is considered inconsistent development with the current scheme and incompatible with the proposed planning scheme. The report recommends part approval with additional conditions reflecting the changes and part refusal for the additional sign.

## TOWN PLANNING CONSIDERATIONS

### Background

The land is located on the southeast corner of the Captain Cook Highway and McClelland Road. The Highway has a width of 40 metres and McClelland, which has a gravel surface at this point, has a width of 30 metres.

The original application was made and approved under the Interim Development By-Law which preceded the 1981 Planning Scheme. The By-Law required applications to be lodged, the application to undergo public notification and Council's determination to have regard to any submissions. There was no requirement for the original application to be referred to a concurrence agency. There were no submissions to the original application.

On 15 April 1980 the former Douglas Shire Council approved the application for a single face, "*advertising sign board (hoarding)*." Council does not hold a copy of the issued decision notice. A copy of the Council's Meeting minutes and the application plan are included in Attachment 1.

The approved sign was erected and stood for many years, facing northbound traffic and promoting "*Ross Cavallaro Real Estate*." The use of the land was described on the original application as "*sugar cane farming no buildings*." The sign content, as detailed on the submitted plans gave a business and after hours phone numbers. Mr Cavallaro directed the real estate company with the office located over 11kms away in Mossman. Mr and Mrs Cavallaro owned the property through Katandra Farming Property Limited with a residence on the neighbouring lot (the residence being some 350m from the sign). A photograph of the original sign is included in Attachment 2.

The sign was recently changed whereby:

1. The sign has been further supported by an additional timber and star picket structure;
2. A different sign-face was attached facing north bound traffic;
3. A new, second sign-face is displayed facing north; and
4. Both signs now advertise the Newsport website/business.

The north facing sign has a white background and the south facing sign has a red background. The Newsport is an online business, based in Port Douglas that promotes and gives links to a range of community and other business entities in the Shire. Photographs of the current signage are included in Attachment 3.

No approval had issued for the change or additional signage. The land owners were issued with a show cause notice and in response have lodged a request to change the original approval to reflect the current signage.

## Proposal

The Applicants have requested the existing approval be amended to support the current signage, being:

1. A south facing advertisement of 3000mm x 3000mm (original size was 3100mm x 2700mm); and
2. A north facing advertisement of 3000mm x 3000 mm.

The Applicants noted that the north facing advertisement includes a timber and star picket supporting structure. The Applicant's request seeks the changes to be considered as "*an improvement aesthetically to the original sign*" and in support of the Newport use, the new signage is to, "*help raise awareness and increase attendance to some of the region's major events throughout the year.*" The design plan is included in Attachment 4 together with images from the Newport website that in the Applicant's view promotes the Shire.

## Sustainable Planning Act 2009

Section 367 of the Sustainable Planning Act (SPA) 2009 outlines what constitutes a Permissible Change for a development approval.

1. **"A *Permissible Change* for a development approval is a change to the approval that would not:**
  - (a) *result in a substantially different development; or*
  - (b) *if the application for the approval were remade including the change-*
    - (i) *require referral to additional concurrence agencies; or*
    - (ii) *for an approval for assessable development that previously did not require impact assessment – require impact assessment; or*
  - (c) *for an approval for assessable development that previously required impact assessment – be likely, in the responsible entity's opinion, to cause a person to make a properly made submission objecting to the proposed change, if the circumstances allowed; or*
  - (d) *cause development to which the approval relates to include any prohibited development.*
- (2) *For deciding whether a change is a permissible change under subsection (1)(b) or (d), the planning instruments or law in force at the time the request for the change was made apply."*

An assessment against the above criteria is as follows.

### **(1)(a) Result in a substantially different development**

While the Sustainable Planning Act defines an advertising device as operational work, Council's Planning Scheme categorises the development of an off-premises advertising device as material change of use. It is not clear whether the additional sign

is a “substantially” different development having regard to interpretations of the Act.

That part of the proposed change referring to the previously existing sign face, south facing sign, is not a substantially different sign. The supporting structure to the previously existing sign is not considered a “substantially different structure.”

The new, additional face is considered an additional hoarding and a substantially different development.

**(1)(b)(i) Require referral to additional concurrence agencies**

If the application for approval was remade there are no additional concurrence agencies.

**(1)(b)(ii) Change the level of assessment increasing to impact assessment**

There is no change to the level of assessment. All applications under the Interim By-Law required public notification.

**(1)(c) Where previously requiring impact assessment, be likely to result in submissions, if circumstances allowed.**

Given the lengthy existence of the previous sign, either the full removal or an update of this face would be an expected outcome from the community.

The current and the proposed planning scheme, as recently exhibited by Council, do not support off-premises advertising. The use is considered by the Schemes to be impact inconsistent. This position has been held by the community since the introduction of the 2006 Planning Scheme. It cannot be said that “*no submissions for the additional advertisement face would be likely*” should a new application be lodged. It is unknown whether submissions would be received.

**(1)(d) Include Prohibited development**

No prohibited development is proposed.

Section 374 SPA outlines how Council must assess the request to change.

*“374 Responsible entity to assess request*

- (1) *To the extent relevant, the responsible entity must assess the request having regard to—*
- (a) *the information the person making the request included with the request; and*
  - (b) *the matters the responsible entity would have regard to if the request were a development application; and*
  - (c) *if submissions were made about the original application—the submissions; and*
  - (d) *any notice about the request given under section 373 to the entity; and*

- (e) *any pre-request response notice about the request given to the entity.*
- (2) *For subsection (1)(b), the responsible entity must have regard to the planning instruments, plans, codes, laws or policies applying when the original application was made, but may give the weight it considers appropriate to the planning instruments, plans, codes, laws or policies applying when the request was made.”*

Section 375 provides for the ability to include conditions on a approval where these are reasonable and relevant.

- “375 (1) After assessing the request under section 374, the responsible entity must decide to—*
- (a) approve the request, with or without conditions; or*
- (b) refuse the request.”*

The planning instrument applicable at the time, the Interim Development By-Law, was simplistic in its form and required all development to undergo impact assessment and be subject to a Council determination. At that time Council was in the process of developing town plans for Mossman and Port Douglas. The Shire’s first Planning Scheme came into effect in June 1981 and supported off-premises devices in limited circumstances. The 1981 Scheme defined advertising devices as either: Advertising Hoardings or Advertising Signs. An Advertising Sign promoted goods/services located within 5kms of the sign. Planning scheme support for off-premises advertising was extinguished with the introduction of the 2006 Scheme that defined the use as *“off-premises advertising device”* and categorised the use as impact assessable (inconsistent).

The Sustainable Planning Act provides for continuing use rights where these are lawfully established. In this instance consideration can be given to the continuing right for a south facing advertisement to continue. A permissible change is appropriate as this reflects a similar area of signage and refers to a local business. Aesthetically the Newport advertisement, being a newer sign, is an improvement to the former sign that had fallen into disrepair, was faded and referred to a closed business. The existing conditions continue to apply including a requirement that the sign be maintained in a good condition. The recommendation includes additional conditions that provide for this changed advertising face and supporting structure.

Concern is raised with the north facing sign due to an increased in the number of signs, the overall increase in area of advertisement, the additional impact on views and traffic with signage now facing both directions of traffic movements. The current Planning Scheme, adopted in 2006, made a major change from its superseded schemes (1981 and 1996) no longer supporting the establishment of off-premises advertising. Significant value is given in the current planning scheme to scenic amenity in particular of rural and natural landscapes from the Highway. The development of the additional, north facing sign is not supported for these reasons.

## ADOPTED INFRASTRUCTURE CHARGES

The proposed development does not trigger Adopted Infrastructure Charges.

## COUNCIL'S ROLE

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

The following area outlines where Council has a clear responsibility to act:

**Regulator:** Meeting the responsibilities associated with regulating activities through legislation or local law.

Under the *Sustainable Planning Act 2009* and the *Sustainable Planning Regulation 2009*, Council is the assessment manager for the application.

## ATTACHMENTS

1. Existing Approval [5.5.1]
2. Former Cavallaro Sign [5.5.2]
3. Existing Signage [5.5.3]
4. Application amend sign [5.5.4]

526

DOUGLAS SHIRE COUNCIL  
INTERIM DEVELOPMENT BY-LAW

Particulars in relation to  
Application submitted by:

R. CAVALIARO.

of:

MILL. ST.  
MOSSMAN

Application No:

526.

Real Property Description of  
land for which Consent is  
sought:

PORTION 66 V. PARISH OF VICTORY,  
COUNTY OF SCLANDER.

Date of Receipt of Application:

19-3-80.

Latest Date for Advertising  
and for Erection of Notice  
on land (Allow 8 days from  
latest date of objections)

DATE ADVERTISED: 26/3/80

DATE NOTICE POSTED: 26/3/80.

Latest Date for Receipt of  
Objections (Two days prior  
to Council Meeting Date):

10/4/80.

Latest Prescribed Date for  
Consideration by Council:

Date of Council Meeting  
WHEN APPLICATION CONSIDERED:

Date Applicant and Objectors  
advised of Council's  
decision:

Latest date for lodgement of  
Appeal:

\$110.00 19-3-80. Rec. Ms 0894  
A

APPLICATION NO. 526

DOUGLAS SHIRE COUNCIL  
INTERIM DEVELOPMENT BY-LAW  
APPLICATION FOR CONSENT

The Shire Clerk,  
Douglas Shire Council,  
P.O. Box 104,  
MOSSMAN...QLD...4873

Dear Sir,

I hereby apply for consent to use or to alter the use, as the case may be, of land and/or building or other structure described hereunder for the following purpose:-

Real Property description) Portion 66V PARISH OF  
of land for which consent) VICTORY, COUNTY OF SOLANDER  
is sought: )

) COOK HIGHWAY, MOSSMAN. QLD.  
Postal Address of Land: )

Name of Registered ) KATANDRA FARMING PTY LTD  
Proprietor or Lessee: )

Address: ) P.O. Box 89, MOSSMAN. QLD  
)

Name of Applicant: ) R. CAVIALLARO  
)

Address: ) MILL STREET, MOSSMAN QLD  
)

Name of Occupier: ) NIL  
)

Use Desired to be Made of ) ERECT ADVERTISING SIGN  
Land: ) BOARD (HOARDING)  
)

Current Use of Land (to ) SUGAR CANE FARMING  
include any buildings or ) NO BUILDINGS.  
Other Structures) )

Description and Use of ) NIL  
Buildings or Other )  
Structures Currently )  
Erected on the Land: )

Height and Number of ) NIL  
Storeys of Proposed )  
Buildings: )

DOUGLAS FIRE COUNCIL

PAGE 2

Area of Land: 9.20435 ha.

Length of road frontage:  
(Frontage to each road  
if more than one)

1. 201 METRES

2. \_\_\_\_\_

Gross floor area: N.A

Number of car parking  
bays: N.A

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Number of Persons Engaged and Proposed to be Engaged in the Particular Use: NONE

Total Connected Load of Any Mechanical Power Proposed to be Employed in the Particular Use: NIL

Signature of Applicant/s: R. Cavallaro

Date: 19 March 1980

The following declaration must be made in any case where the applicant is not the registered proprietor in the case of Freehold land, or is not the registered lessee in the case of land held from the Crown for a leasehold tenure:-

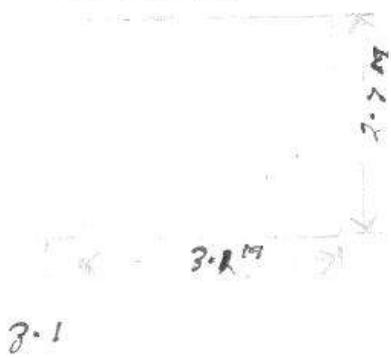
I <sup>we</sup> being the registered proprietor/s or lessee/s, as the case may be, of the land described above hereby declare that I/we consent to the use or to the alteration of use of the land and/or building or other structure which is the subject of this Application.

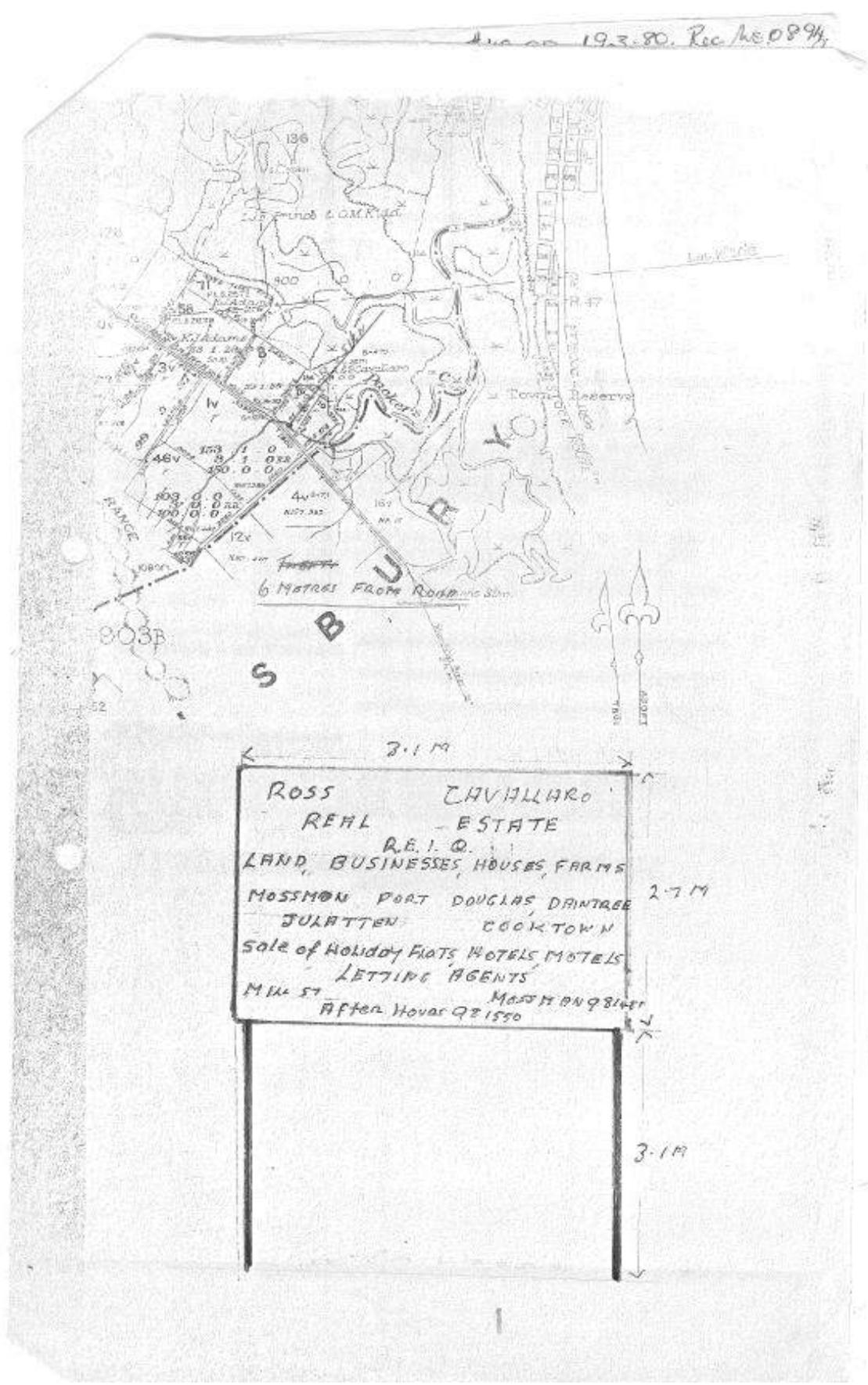
Signature of Registered Proprietor/s or Lessee/s: S. Cavallaro  
KATANDRA FARMING PTY. LTD

Date: 19 March 1980

A SITE PLAN AND LAYOUT OF ANY BUILDINGS OR OTHER STRUCTURES PROPOSED TO BE ERECTED ON THE LAND MUST ACCOMPANY THIS APPLICATION. (WHEN REQUESTED, ELEVATIONS MUST ALSO BE SUPPLIED)

\*\*\*\*\*THE APPLICATION FEE OF \$40.00 MUST ACCOMPANY THIS APPLICATION





INTERIM  
DEVELOPMENT  
APPLICATION NO.526  
-R. CAVALLARO  
(B.S. Report)

Moved Cr. Watson, seconded Cr. Mijo,  
 "That approval be granted to the Interim  
 Development Application as submitted by  
 R. Cavallaro of Mossman for the erection of  
 an advertising sign board on land described  
 as Portion 66V, Parish of Victory, County  
 of Solander, subject to the conditions as  
 recommended by the Building Surveyor in his  
 report of 11th April, 1980, which  
 recommendations are adopted."

CARRIED.

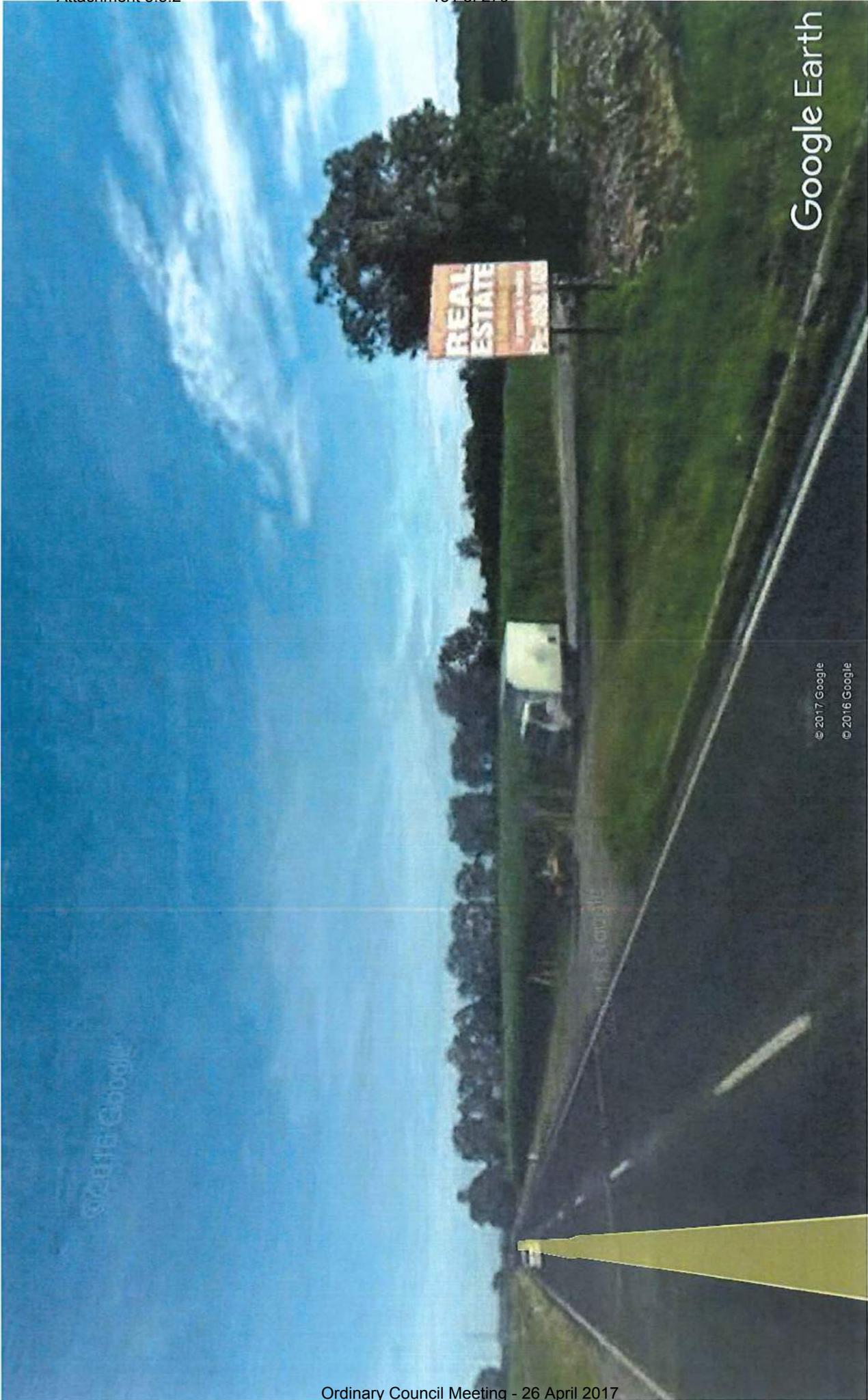
INTERIM DEVELOPMENT BY-LAWS - APPLICATION NO. 526

objections have been received to the application and it is  
 recommended that Council grant approval to the application subject  
 to the following conditions:-

2.

DOUGLAS SHIRE COUNCIL

1. The approval as granted will expire two (2) years from the date of this permit unless the development as approved is commenced within such period.
2. The approval does not constitute a building permit and a building permit must be obtained before building operations proceed.
3. The sign is not to be painted with reflectorised paint.
4. The sign is to be kept in good order and condition at all times.



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DOUGLAS SHIRE COUNCIL	
Received	
File Name.....	OP 1950/154 of 279 17
Document No.	
- 9 MAR 2017	
Attention:	TAV ong ✓
Information:	RN193878 40.2017.1950.1

Date: 6 February 2017

Dear Paul and Jenny,

Thank you for inviting Grace and Sam Cavallaro to submit an application to amend their approval for their sign on the Captain Cook Highway.

We are excited to come to an agreement to use the sign.

Having lived here for 20 years I personally do not want to reduce any natural beauty of our region.

We envisaged this as an opportunity to promote our business and the region and dress up an existing sign.

After watching other signage erected over the last few years we understand Council not wanting to support any new stand alone sign structures.

We do request however that Council look at this is an opportunity to support small business and upgrade an old sign enabling us to bring to life a number of opportunities including major events and spectacular scenery from around the region.

Thank you for your time.

We hope you do allow the Cavallaro's to amend their original approval to allow northern facing side

Regards



Sam Cullen  
Port Douglas Magazine &  
Newsport Publishing

Salvatore Cavallaro and  
Orazia Cavallaro  
PO Box 89  
MOSSMAN, QLD

Douglas Shire Council  
PO Box 723  
MOSSMAN, QLD

Dated: 7 February 2017

Dear Paul,

**RE: UNLAWFUL EXPANSION OF ADVERSITING SIGN 6368R CAPTAIN  
COOK HIGHWAY**

We refer to your letter dated 8 February 2017 alerting us to the unlawful expansion. We apologise, as we were unaware that a formal amendment to our original approval was required.

This is an application to amend the original approval 6368R on the Captain Cook Highway. We reserve the rights of the original approval.

The sign is located on Lot 1 RP706628.

We request the following amendments to our approval 6368R:

1. The south facing decal to be amended to a new size of 3000mm x 3000mm. Original size was 3100mm x 2700mm – (See annexure 1, Page 1 & Page 3)
2. To add a north facing decal 3000mm x 3000mm. This would require approval of a new timber structure and star picket. (See annexure 1, Page 2 & Page 4)

In your letter you brought to our attention that new approvals for off-premise advertising are not supported in the current Douglas Shire Planning Scheme.

We understand this need to limit new independent structures. We hope however that this request to amend our current approval will be seen as an improvement aesthetically to the original sign and approval. We were happy to see the new sign erected and the back of the original sign covered up.

With regard to the expansion of the northern facing side (See annexure 3, Page 2 & Page 4) we would like to confirm that Newsport has requested if they could use the northern side to help raise awareness and increase attendances to some of the regions major events throughout the year.

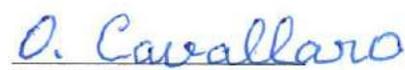
In between these events they also requested to use images to showcase the region. They provided us these images as examples. (See annexure 4)

Please contact me by if you require any more information.

We look forward to hearing from you regarding our request.

Best regards

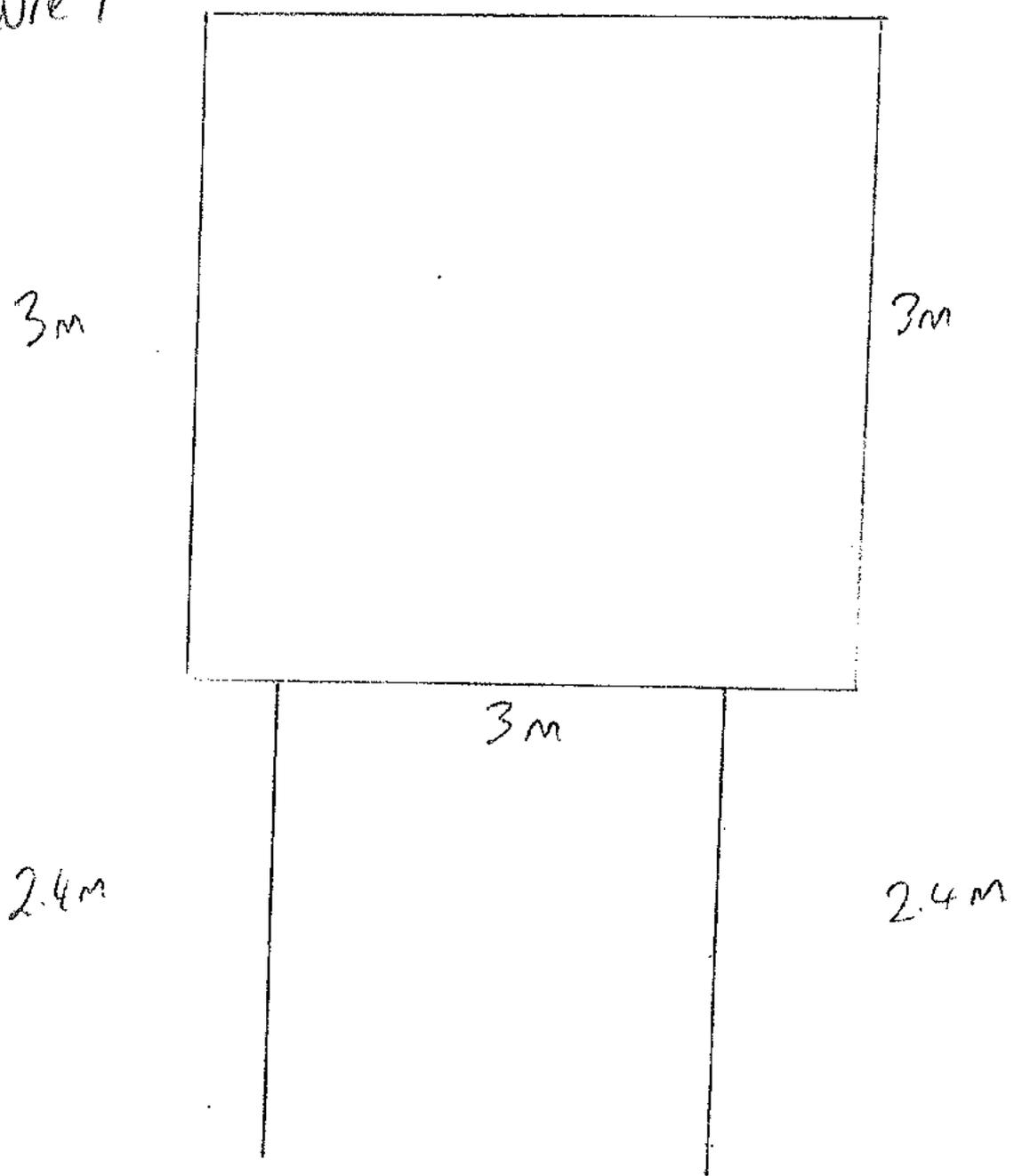
  
Salvatore Cavallaro

  
Orazia Cavallaro

Attachment 5.5.4  
Annexure 1

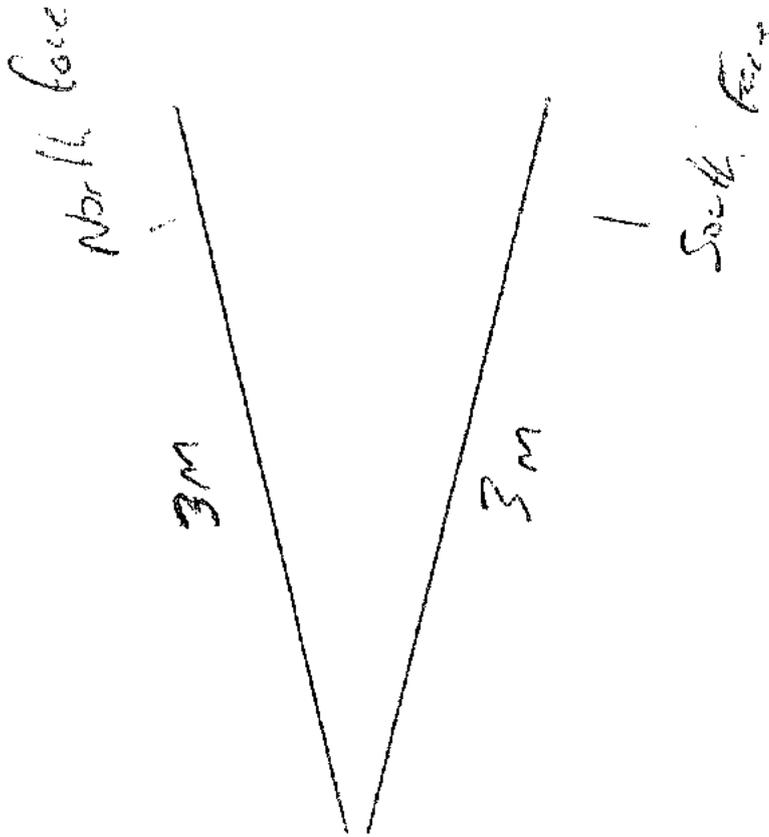
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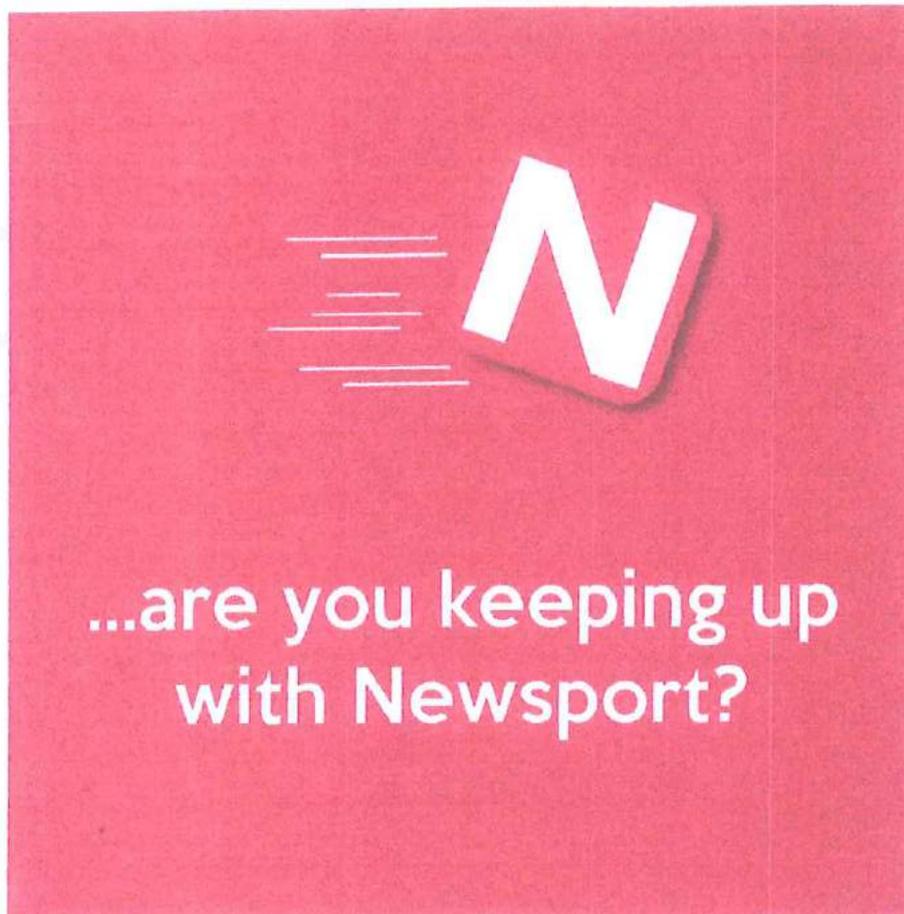


6368 R on Lot RP 706628

# TOP VIEW



South Face



North Face

**Newsport**



**connect everyday,  
anyway you want**

Annexure # 2

