

TO WHOM IT MAY CONCERN

We attach Part 1 of our submission to your Enquiry, and request that we be advised of the date of the Hearings at Bundaberg, so we can speak to some of the issues we raise.

There is a big question mark hanging over what is happening here with our Council, and this Government appears to be complicit.

Please be advised that we request the following appendices remain commercial-in-confidence.

1. Email from/to Council re delegated authority. We need to protect the staff
2. Land-holding for Giovanni Santalucia – Legitimately obtained under FOI – we need to retain his commercial interests as confidential
3. Calculations of our economic analysis – it is based on the sales of land. Individual sales are itemised to ensure legitimacy of our calculations, but they should remain confidential

Thank you for providing this opportunity. Both the Council and the Minister have some very serious questions to answer. Only the duopoly and strong Government links could get away with what they are trying to get away with here.

An additional file follows – too much for one transmission

Please acknowledge receipt and advise what, if anything, we need to do

Sincerely

Mary Walsh OAM,CPA, AIFS JP(Q)

Secretary

Kepnock Residents Action Group

Kepnock Residents Action Group – Submission



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Facebook.com/kepnock residents action group

SUBMISSION TO THE SENATE ENQUIRY INTO THE QUEENSLAND STATE GOVERNMENT

This submission details the 4 year battle by residents against the development of a regional shopping centre, by the duopoly, on low density, ratepayer serviced single storey, residential A land in the eastern suburb of Kepnock, in provincial Bundaberg, Queensland.

It illustrates the systematic abuse of planning and zoning laws against the lawful residents of that area, in processes that “lack consistency, transparency and accountability” by both the Queensland State Government and the Bundaberg Regional Council.

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| 7. Attachment 2 is a separate PDF file. It has 3 sub-sections and is our formal response following the Minister’s approval of Masters(2) and his statement that it is “the catalyst” for the precinct to become a commercial zone. This was followed by his release of the proposed new Town Plan – which turning the precinct into a 3 storey regional shopping centre. | |
| 8. Attachment 3 is the list of appendices – some of which are Commercial-in-Confidence referred to within this submission | 40-60 |

Keppnock Residents Action Group – Submission to Senate Enquiry

27th. October, 2014

Committee Secretariat

Select Committee into Certain Aspects of Queensland Government Administration related to Commonwealth Government Affairs

PO Box 6100

Parliament House

Canberra...ACT 2600

Dear Sir/Madam,

For your attention we enclose our submission, which relates to a lack of accountability, transparency and consistency on the part of the Queensland Deputy Premier (The Minister for Planning and Infrastructure – Hon Jeff Seeney MLA) and the Mayor and Councillors of the Bundaberg Regional Council in the performance of their duties as elected officials and public servants of the State of Queensland.

Our case is relevant to your Terms of Reference because:-

- (a) It involves the duopoly and the current commercial war between Woolworths(Masters) and Wesfarmers(Bunnings) as these commercial giants battle it out for national market domination, not market share, of the lucrative Australian DIY markets.
- (b) State matters of bio-diversity and environmental protection – now delegated to Local Government and State Planning Policies- have been ignored by both the Minister and the local Council, who are trustees of the adjoining environmental park - and have been for the past century.
- (c) The approval is not in the best interests of past – and present - Commonwealth expenditure of funds for flood mitigation purposes. The Commonwealth, State and Council had to provide equal funding (2000-2002) for flood mitigation purposes to remedy some previously inappropriate Council approvals of buildings on, or near local waterways (drains) as a result of urbanization. This led to combined expenditure – equally between Council, State and Commonwealth for a “buy-back” scheme to reduce water inundation during heavy rainfall events. The Commonwealth, State and Council have now had to spend millions following the devastating floods of 2011 and 2013, yet Masters(2) has been approved in a flood hazard zone, with an accompanying application that repeats the mistakes of the past – a huge shopping centre over a vulnerable waterway (“drain”). The approvals carry with them no requirement for flood mitigation measures.
- (d) Planning and development processes – throughout our 4 year duopoly/Masters drama have been deliberately manipulated by the applicant – with the blessing of both the Council and the Minister.
- (e) Alternative, appropriately zoned commercial/industrial sites are readily available for these developments. Sacrificing valuable, ratepayer serviced residential A land – available for homes and local job creation – to the commercial greed of the duopoly and a monopolistic land-owner – to the detriment of the existing infrastructure, the local community, the nearby school and the environment does not meet the necessary standards of good governance.

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- (f) There is no over-riding need for these developments. They are retail outlets by commercial giants and will provide few local jobs – either in the course of their construction or future operation. If needed – there are alternative commercial sites available.
- (g) The proposed developments are built over the regional aquifer, with both levels of Government ignoring their responsibility for appropriate protection of Australia's natural resources.



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Our case relates to a development application by Hydrox Nominees P/L – trading as Masters DIY Hardware – and covers its 4 year history since the lodgment and subsequent Council refusal of their first application for one of their huge Masters hardware stores on low density residential A land - known as Masters(1).

1. The site is a greenfield residential site of approximately 12 ha. It has been a greenfield residential A site for almost 3 decades. It is owned by the City's most powerful land-owner, Giovanni Santalucia, whose holdings encircle the City to the extent that it is monopolistic. Land holdings, of approximately 2100 hectares, are provided as a commercial-in-confidence (*appendix 1 – pages 41-44.*)
2. This site abuts, to the west (towards the City) a further residential site, which was approved by the then Bundaberg City Council as a retirement village. The owner got into financial difficulties during the Global Financial Crisis. His financial situation was aggravated by the refusal of the State Government Department of Main Roads, whose strict "limited access policy" refused him any residential access to the Main Road – FE Walker Street. This left him with only a small suburban entrance/exit for his development as the State Government were ruthlessly adamant about their access refusal. He was forced to re-design his development and had to go into liquidation.
3. The site was eventually bought at auction – with its approval for 255 residential lots – and NO access to FE Walker Street – by an associated Santalucia family company – JANAM P/L, The site is also approximately 12 ha. This meant the Santalucia development consortium then held some 25h of prime, low density residential A land – in the names of two separate legal entities. They used approx. 2 h for a residential development called "Kepnock Place" – and on 29 February, 2012 lodged their application for a huge shopping centre – built over the Kepnock Drain/Waterway.
4. On the same day, Masters(1) re-lodged their amended application – Council had refused them access off Kepnock Road – the local High School is only two blocks from the site, and their acoustic report required them to move it further away from the existing new homes. Their "back of shop" operations, loading, unloading and compaction were up against the homes. A 6m acoustic fence was to provide Master's solution for the incompatible residential/commercial interface.
5. The applicants then maneuvered their developments, using the "we are separate entities" criteria through the planning processes dictated by the Sustainable Planning Act (2009). They wanted them approved together. Jointly the developments would have had a 6m acoustic fence for Masters(1) meeting the 5.5m acoustic fence of the proposed shopping centre – on a local residential street, resulting in a blind dead-end street.
6. As adversely affected residents we advised Masters that we would support the development, down on FE Walker Street – not so close to the homes (i.e. further north of the Masters(1) site) – provided they would agree to appropriate environmental, and traffic conditions, and guarantee there would be no further incursion of commercial onto the residential land. The remaining residential land was flood free, serviced, with a flat topography. It was needed to provide local jobs for local builders, preserve the residential amenity of existing residents – still buying and building in the new housing estate - protect the nearby wetlands and give a greater level of safety to students of the nearby High School, which was scheduled to have Grade 7's enrolled in 2015.
7. Masters (1) was subsequently refused by Council on 13 solid planning grounds in December 2012. It was a split vote. Masters did not appeal that refusal.

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8. The Shopping Centre was forced to amendment after serious objections during the public notification process – at the same time as the Masters refusal
9. The devastating floods of January, 2013 changed Bundaberg forever. Prime flood-free residential land became a scarce commodity – and remains so to-day..
10. After the 2013 flood we formally advised Masters, the Council and the State Government that we would no longer support the development on FEWalker Street, as that site was seriously flooded. This meant the only east-west access for the City for 3 to 4 days, during the 2013 flood, was Kepnock Road. In fact we would not support any development there until after the Council had completed their Flood Study and reported back to the community
11. Six months later Masters re-lodged the same application 500 metres further to the north (in the now flood hazard zone) – abutting the Main Roads but, with no Main Roads access. The plans included a huge commercial round-about and plans to link to the proposed shopping centre (by the associated family developer) to create the City's largest single shopping centre. Masters(2) had the popular media support to be the key to the whole development. There were no flood mitigation measures. The application attracted 81 submissions – of which 76 were objections.
12. After a strong media/Council campaign Masters(2) was unanimously approved at the meeting of 23 January, 2014. Our transcript of that meeting is contained in *Attachment 1- pages 29-33*
13. There were 3 appeals – one from us and two from commercial objectors
14. Council requested the Minister to call-it in. This ensures there are no appeal rights for the adversely affected environmental advocates, the nearby residents and student safety is placed in further jeopardy. The subsequent history is effectively covered in the attachments and appendices

Because of our concerns about the manipulation of the planning processes by both the Minister and the Council we made submissions to the Productivity Commission Enquiry into the Retail Trade. They are submissions DR35, DR40, DR41, and they are available on the Productivity Commission's web-site. As they are now public documents into that enquiry – specifically the planning and zoning laws section of that Enquiry – they remain the property of that Enquiry. To provide your Members with the necessary background data, we re-submit a modified version of our 3 Productivity Commission submissions as a separate appendix for this Senate Enquiry. It forms *attachment 1- pages 23-40*

The Productivity Commission is highly regarded as a reputable, independent source which advises the Federal Government on matters of national significance, as required, by the Federal Government of the day. Their comments on our case study are here-under. A lack of transparency, consistency and accountability in local government processes and decision making is an obvious conclusion for any independent analysis. The Minister and the local Council have always been well aware of ALL of these issues, and that is why a broader, National scrutiny is now necessary. .

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Australian Government
Productivity Commission

Relative Costs of Doing Business in Australia: Retail Trade

Productivity Commission
Research Report

September 2014

Another stakeholder (Kepnock Residents Action Group, subs. DR35, DR40) raised a number of concerns about planning and zoning outcomes in relation to a retail development in Queensland. Although the core issues raised in the submission are beyond the scope of this study, the submission does raise broader concerns relating to issues of transparency, consistency and accountability in local government processes and decision making, and these go to the heart of improving planning and zoning outcomes. The submission also raises important questions about noise abatement, particularly when commercial development is permitted close to pre existing residential zones following rezoning of residential land.

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The new Draft Town Plan has now been released – approved by Minister Seeney . The previous page (5) shows a comparison between the Minister’s formally approved Master’s overall site plan – and the proposed new Kepnock Commercial Precinct Concept as displayed in the proposed new Town Plan. It is obvious that the Santalucia/duopoly developments have been ratified as the basis of the proposed new Kepnock Commercial Centre on this low density residential A land. The Commercial centre has a maximum 3 storey building limit, creates a commercial “rat-run” past the High School and is now in the process of public consultation until 28 November, 2014. If it is approved by Council and gazetted - as is – the goals of the duopoly, the developer, the Minister, and the council will be achieved at great detriment to the future of our City, student safety, our environment, national legal precedent, residential amenity, and the traffic hierarchy. There will also be a significant loss of personal investment by those who bought and built in this precinct on the safety and security promised by successive Town Plans (1994-2014).

Changes in zoning of land usually occur with the lodgment of a Material Change of Use by the developer – as has happened in this instance. Where the existing infrastructure has been developed based on the existing zoning, the developer then has to fund the costs of new infrastructure for the changed zoning. In this instance, this Council has provided a 50% reduction in infrastructure charges for this developer on that site. There are alternative sites for these developments, which would bring the same benefits – whatever they might be – to the economic future of our City, without any detriment to others. The loss of local job creation, environmental degradation, impact on the aquifer, and the increased flooding risks in the future are a high price to pay for a hardware store and shopping centre – simply to increase the wealth of the duopoly and a powerful developer.

Council’s development “incentive” for the Masters(2) application is in the order of \$1million. The loss of investment value for the adversely affected residents is approximately in the same order. So, not only do Woolworths and the powerful developer benefit – to the disadvantage of the local community, the environment and the existing infrastructure – they also have their applications cemented into the new Town Plan. This makes ratepayers responsible for any upgrading to Council infrastructure needed to accommodate what would then be a formally gazetted commercial zone.

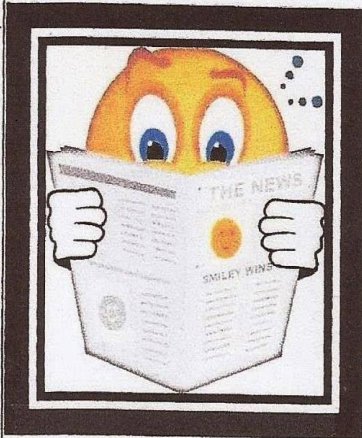
We strongly disagree with a recent extension of the “discount period” for Masters to retain eligibility for their \$1million reduction in infrastructure charges, with Council, as recently as this week, agreeing to an extension until February 2016 for the building to be completed. We contend that the extension time should only be that time between the date of the Council approval and the Minister’s subsequent call-in process and approval – that was 5 September, 2014. . Whilst we disagree with the granting of any financial “reward” to anyone lodging an application in breach of the Town Plan, we would concede a 25% “reward” – approx. ½ \$million under Council’s “Open for Development” incentive scheme’s criteria.

Following a meeting with the Mayor, to put the case for a refusal - consistent with Masters(1) - it was obvious Council was determined to approve Masters(2). A copy of my letter to the editor following community concerns that residents were being used as “fodder” by the duopoly in their national war, is reproduced on Page 9. As our submission confirms – it all came to pass – as predicted.

1. A broad overview of our case study forms ***attachment 1***
2. Our formal response to the Minister’s call-in and approval of Masters(2) forms ***attachment 2***. It comprises 3 separate sub sections. It was provided, by registered mail, to the Council, to Masters, to the Minister for Local Government and the Minister for Planning. Council has reproduced our correspondence on their Pd-on line web-page. It is application number **325.2013.38669.1** and is attached as a separate PDF file.
3. **Facebook.com/kepnock residents action group** details our 3 year documented battle. A necessary avenue to overcome perceived, and actual, local media bias.

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1



NEWS-MAIL MEDIA – 27 November, 2013

OVER-RIDING THE PLANNING SCHEME

This letter is self-explanatory and the outcome discussed may, or may not, come to pass. Shining the light on a possible scenario will be interesting to watch in coming months.

Over-riding scheme is road to court

ANY "conspiracy" is in the hands of the council, and time will see how this plays out.

Depending on the strength of the environmental outrage about Baldwin Swamp I'd expect an approval for Masters (2). The council won't want to face the backlash of a second refusal – but it's okay for us to have to do that.

There is no valid reason for an approval, and council knows an approval will be appealed. They also know it would be lost in the court, or if the State Government calls it in then the council can beat its chest and blame everyone else. Council is making sure they can't lose on this one.

Hope I'm wrong – think we'll have a decision before Christmas. We'll just have to wait and see.

If there's any conspiracy, it's much closer to home. Do you remember the dump and Burnett shire? It was close to election time so Burnett shire refused it, Bundaberg City Council appealed it – it went to court and cost Bundaberg ratepayers more than \$1 million extra. We all knew Burnett could never win it – so did they, but they spent ratepayer funds to defend a hopeless case.

When BCC won it could tell its ratepayers: "Well, we did everything we could but the court ruled against us." Had the State Government called it in it would have copped the blame.

This is same old, same old, and my letter might shine a light on it.

I suspect that this is going to be more of the same ... just hope I'm wrong.

"We all want a Bundy Masters" said SR Charles (NM, 25/11).

A conspiracy theory with the two hardware giants – I think not. But against Bundy residents, yes.

Woolies makes its own rules. Masters would now be up and running if it played by the rules like everyone else.

Masters (1) was never going to be approved under the Town Plan. Masters (2) is the same, with more hurdles.

The site is a flood hazard zone, and 50m from the council's own environmental park. A community asset now at the mercy of the council's decision.

The precedent for the Masters (1) refusal was set by this council. To approve Masters (2) it has to over-ride its own precedent – and the legislated Planning Scheme.

Now they might not want the public backlash of refusing Masters a second time, but any argument for over-riding the Planning Scheme – well that will be very interesting, and costly for

ratepayers.

We were not the only objectors to Masters (1) so a Masters (2) approval by the council over-riding the Planning Scheme will end up in court – and the council knows that. We haven't written the script – but we've read it, and if there is any conspiracy theory, it could be closer to home.

MARY WALSH
Kepnock



Kepnock Residents Action Group – Submission to Senate Enquiry

EXECUTIVE SUMMARY

Based on the information provided in the preceding Overview, and the attachments hereto, we conclude that our 4 year duopoly experience:--

- 1. Is relevant to the Terms of Reference of this Senate Enquiry into the Queensland State Government.**
- 2. Confirms there is a case to be answered by the Queensland State Government in their call-in and subsequent approval of the Masters(2) development on low density residential A land – contrary to the existing Town Plan, the existing State Regional Plan, other statutory planning instruments and State Planning policies – when alternative appropriate sites are readily available.**
- 3. That, as The Queensland State Government has aided, abetted and subsequently approved questionable Local Government approval of a development application by Woolworths and the City's most powerful developer, in contravention of the Town Plan, Environmental Legislation, and existing State and Council policies – that Local Government Authority, (as a subservient level of Government to the Queensland State Government, bound to abide by State Government approved Local Government Plans, Laws and Policies), also comes within the ambit of this Senate Enquiry.**
- 4. That there is a case to be answered by the Bundaberg Regional Council for their actions in unanimously approving an application:--**
 - In breach of the existing Town Plan,**
 - against their own legal planning precedent set by their own refusal of Masters(1) only 13 months previously,**
 - in breach of their responsibility as Trustees of the Baldwin Wetlands, which is a ratepayer funded natural resource, managed by them on behalf of past, present and future generations.**
 - In breach of their responsibility to students attending the nearby State High School.**
 - In breach of their responsibility to ensure storm-water management and flooding risks are managed in accordance with planning policies, with historical data, with natural resource (aquifer) protection and sound environmental practice.**
- 5. That the Productivity Commission's reference to Kepnock Residents Action Groups' submissions to their National Enquiry into the Retail Trade – (Submissions numbers DR 35, DR40 and DR41) in their Formal Report to the Federal Government, released September, 2014 expressing "concerns relating to issues of transparency, consistency and accountability in local government processes and decision making" should be**

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carefully examined by an independent Federal Authority. Ministerial intervention, by the Queensland State Government, has ensured that all avenues of independent assessment have been forcefully removed from adversely affected local residents, the local community, and environmental advocates

- 6. That, Ministerial intervention – despite the information provided – confirms State Government endorsement of all the actions of the said Local Government Authority, including the manipulation of the Sustainable Planning Act (2009), and the legal Planning and Environment Court of Appeal, of which the Queensland State Government has carriage.**
- 7. Further, that State Government sanction of a Draft New Town Plan, containing their concept plan for the proposed Kepnock District Commercial Precinct, which :**
 - ❖ ratifies the Minister’s questionable development approval as the basis for proposed commercialization (up to 3 storeys) of 20h of prime low density residential “A” land – with no possibility of due recompense for the adversely affected local community or the financially disadvantaged residents ;**
 - ❖ approves, implicitly, a development application, by the same associated family developer, that is still before Council, has had two rounds of public notification and attracted over 150 objections during the 2years and 9 months it has been before the Council.**
 - ❖ transfers that implicitly approved and controversial development, over a vulnerable waterway/drainage system, into the new Town Plan, ensuring the local community is then deprived of any input into the future direction of their community, their school and their environment, despite the existing 150 legal and “duly made” objections.**
 - ❖ condones the gross manipulation by the developers/duopoly of State Government Planning legislation with their tandem applications, using “grey” areas of the said legislation- as confirmed by the attached Matrix documentation in attachments 1 and 2;**
 - ❖ endorses increased flooding risks – with no requirement for flood mitigation measures – which would be created by the said Kepnock Commercial Precinct – if gazetted, as an approved part, of the said new Town Plan.**
 - ❖ endangers the future viability of our Central Business District (CBD) by locating a District Commercial Precinct too close to it, when the existing local community and its infrastructure, over the past 30 years- have been based on a small local neighbour-hood shopping centre – not a major regional shopping centre. This has always been the expectation of previous Councils and residents who bought into the new housing estate – over the past 15 years – on the security of successive Town Plans from 1994 – 2014.**

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- ❖ **Provides the wealthy developer and the duopoly with prime, ratepayer serviced residential land- for commercial development – with the loss of over 300 local home construction jobs over the next 5 years – to the benefit of the applicant, the developer and Council. No doubt this display of development and shopper convenience would appeal to voters in the lead-up to the State elections next year and the Council elections in March, 2016 – when Masters(2) is expected to be opened – with the appropriate Council fan-fare.**



This is the existing and only formal entrance of Scherer Bvd. It leads into the prime residential development opened in 2005 and marketed as “Kepnock Gardens”. That proposed a Retirement – over 55’s- lifestyle, Council approved residential village concept with a Community Centre as a central component.

The proposed commercialization of this whole precinct will turn this entrance into a commercial “rat-run” link to the proposed 3 storey commercialization of all the land to the north and east of this entrance.

This estate abuts the Kepnock State High School to the west of this photo.

The infrastructure in this precinct is not equipped to handle what will become the major shopping centre for the region, and rival the existing one – to the west of the City.

Everything about this Council/developer/Ministerial new town plan proposal raises questions about accountability, consistency and transparency at both the State and Local Government levels of Government and public office.

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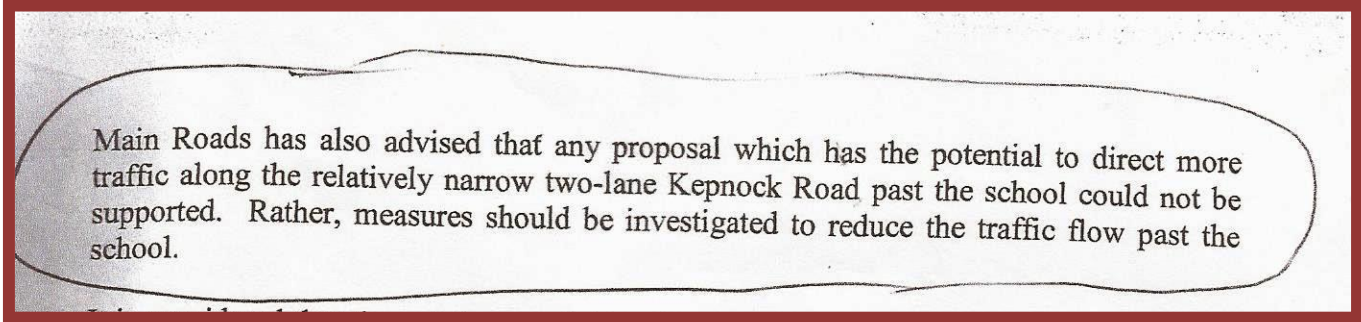
RECOMMENDATIONS & CONCLUSIONS

Based on the data provided, the executive summary and various attachments that form part of our submission, we recommend to the Senate Enquiry that the Queensland State Government and the Councillors of the Bundaberg Regional Council – being elected public officers – should answer, in the interests of accountability, transparency and consistency - the following questions:-

QUEENSLAND STATE GOVERNMENT

The Queensland State Government needs to explain

1. Why Minister Seeney refused to use his Ministerial Power with Masters(1).
2. Used it with Masters(2). Same development, same parcel of land, same manipulation of State Planning legislation - just 13 months later
- 3 Why the safety of school students is critical to Government decisions when determining the route of their State Ring Road, but immaterial when approving thousands of extra vehicles, and heavier vehicle types for a Masters DIY hardware store that has popular electoral appeal to voters in the lead-up to a State election.



Main Roads has also advised that any proposal which has the potential to direct more traffic along the relatively narrow two-lane Kepnock Road past the school could not be supported. Rather, measures should be investigated to reduce the traffic flow past the school.

- 4 Why no provision has been made, in the past 5 years, for access over the Ring Road by students currently running the gauntlet over the 80K State Road to get to their State High School. The Ministerial approval of Masters(2) makes no provision for access over the Ring Road, despite the increased local and Ring Road traffic generated by a regional shopping centre that includes Masters. Neither is there any provision for a bikeway to get them safely to their school. This is in direct contravention of the State Government “Safety around Schools” guidelines, and contrary to their State Government directive to Council in 2007 to “*reduce traffic flow past the school*”
- 5 Why did the State Government reverse their “limited access” policy for one developer, but refused to do it for another.? The State Government stipulated the enforcement of

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their “no access” policy for the proposed shopping centre in May, 2012. Twelve months later they reversed it, after the Masters(2) application was lodged and needed a Main Roads access point. The shopping centre was, prior to its purchase by this associated Santalucia developer, an approved retirement village. Main Roads refusal of any access, even left-in:left-out, for this developer contributed to his financial downfall. The land was then purchased by the current developer. We realize that policies will sometimes change – but this changed from a no access for passive residential – to a signalized intersection – over a vulnerable waterway, in a then flood hazard zone for thousands of cars, heavy vehicles, massive loading and unloading operations on a 363 day, 6am-10pm daily basis for a regional shopping centre – which is too close to the CBD

Function of the State-controlled road network

- The subject land is included in the Urban Residential zone in the Bundaberg Regional Council planning scheme.
- The department’s planning for the state-controlled road network in this area has been based on the intended use of the subject land being Urban Residential.

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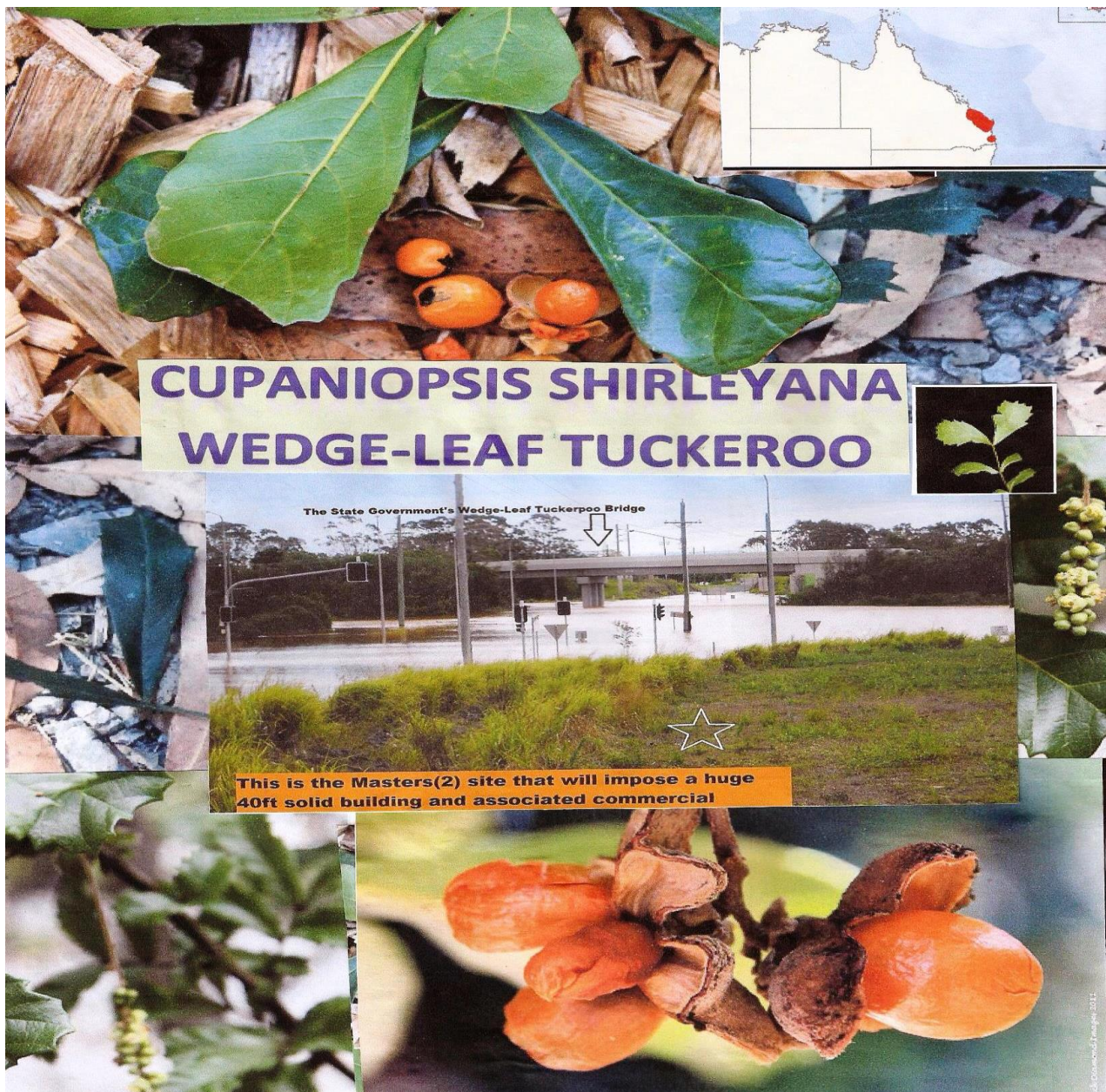
Why?

The physical and environmental attributes and vulnerabilities of the site remain the same. The only difference is the owner.

- 6 Why did the Minister exercise his Ministerial call-in powers, contra not only to his previously stated position with this development, but contra also to the feed-back elicited from all submitters in the Ministerial call-in process? It was quite clear that – not only did the majority believe there was no state interest, did not support the development on that site, but also believed the Minister had no grounds to “call-it-in”. Why did he do that, because his stated reasons, in his formal letter to all submitters, do not stand up to scrutiny – let alone close scrutiny as detailed in *attachment 2*?
- 7 Why did the Minister sanction such blatant abuse and manipulation of the State planning legislation by these developers, acting in tandem, to ensure that their co-dependent developments for Woolworths(Masters) and the shopping centre (Coles) were approved at detriment to the accountability of the planning legislation and to the detriment of the local community, environment, and job creation. ?

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- 8 Not only has the Minister sanctioned this manipulation of the development application system, he has then endorsed it as the key facet of the proposed District Commercial Precinct – giving the developers exactly what they demanded – as the key component of the Kepnock precinct within the proposed new Town Plan – to the detriment of that local community.
- 9 Why has the Minister denied the very existence of the Baldwin Wetlands and the very vulnerable species of flora, fauna and State protected MSES bio-diversity (Matters of State Environmental Significance) that are contained within and around those wetlands? The State Government Ring Road overpass bridge is named the “Wedge-Leaf Tuckeroo Bridge”, because of the vulnerable species (*Cupaniopsis Shirleyana*) over



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which it is constructed. Yet, the Minister has approved a massive hardware store with an inventory of 35, 000, items, some of which are paints, pesticides, abrasives, inflammables, fertilisers and herbicides. The Minister was made aware that once the capacity of the bio-retention basin was reached, any excess was simply diverted, untreated – via the Ring Road detention basis - directly into the wetlands. Increasing that run-off from 50% residential to 95% commercial – with accompanying commercial pollutants – only aggravated the environmental damage, and increased the risk of higher levels of flooding to other homes and businesses along the Baldwin Wetlands – and then into the Burnett River.

- 10 Why has the Minister refused the local residents their democratic rights under the legal system for independent adjudication? At all times the Minister was well aware that this was never a case of Australian commercial objectors engaged in anti-competitive behavior. Rather this was a case of multi-nationals – the duopoly – engaged in a national commercial war launched by Woolworths to grab market domination – not market share- from their adversary - Bunnings. This national war has seen Masters losing financial ground, nationally, with one of the prime reasons being listed as “poor site selection”. Well, our 4 year drama has instanced two cases of poor site selection with the local residents, the environment and local community being the “victims” in a David versus Goliath national war. The Minister called in and approved the “Costco” development at North Lakes. That’s the same size, and we agree he should have called it in and approved it. It was commercial on commercial. But this is intense commercial on prime, low density (single storey) residential A, when there’s a huge, purpose built Retail Bulky Good Precinct with available space. The Minister has further “victimized” the local “victims” of this 4 year saga.**
- 11 The Minister was made aware that the Council was using “delegated authority” to secretly approve and grow the Kensington Retail Bulky Goods Precinct near the City’s major shopping centre – to the west of Kepnock. We questioned the legitimacy of this seemingly unaccountable process – under the circumstances. His written response was that the Council had a policy of delegating authority. This process was, therefore, legitimate. In actual fact the last thing the Council and the Minister needed was for the general public to know that, while the community angst was tearing apart Kepnock’s liveable community – there was not only room in the specifically built retail bulky goods precinct – but that the precinct was, secretly, being enlarged.**
- 12 Why has the Minister, contrary to their flood mitigation policy – and the huge amounts of Commonwealth, State and Council funds poured into the Bundaberg community –**

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post flood - knowingly give an implied approval for a huge shopping centre over a vulnerable waterway in a flood hazard zone ? The history of the Kepnock Drain/waterway (detailed in *attachment 2*) - and the position it held in relation to the environment, emergency access to the school, the nearby homes – and ones still being constructed – was well known to the Minister who refused, at all times, to meet with disadvantaged residents concerned about Masters(2). However, it is reasonable to assume that he would certainly have met with lobbyists for the duopoly, wanting to ensure that, if they re-applied in the flood hazard zone, they would not be refused – for the second time.

- 13 Why would the State Government and Council spend approximately \$100m on new sewerage infrastructure at Rubyanna, to service this area into the future– and then commit to a proposed new Town Plan replacing residential land – with an estimated 600 EP(equivalent person) toilet/sewerage capacity - to a commercial one of approx. 100EP – into the future.
- 14 A distinct conflict of interest exists with Council, and the State Government, sacrificing the available high quality (ratepayer serviced and sequentially planned) Santalucia residential land, with enormous financial benefit to both them –and Woolworths. The latter get a \$1million ratepayer funded “reward” – to increase the value of nearby (unserved) residential land owned by both Santalucia – to the immediate east, the Council- to the immediate north and other high profile developers to the immediate south east. None of that land has the infrastructure. This precinct does. Why should residents, buying/building under the surety of the Town Plan – be forcefully financially disadvantaged – to increase the wealth of the Santalucia consortium, the duopoly, and Council’s poorer quality residential land-holdings – when alternative commercial land already exists. What’s more that alternative land would create no detriment to the environment, amenity, and/or existing infrastructure.
- 15 The proposed new Town Plan – which has been driven, in this Kepnock precinct, by the existing development applications of Woolworths, Coles, and Santalucia , supported because of popular appeal and electoral advantage by the Councillors – in breach of the Town Plan - promotes a “District Commercial Centre”. A further “Local Activity Centre” – is then proposed only .08klm further to the east. The Kepnock precinct – which has the infrastructure – was always intended to have the “Local Activity Centre” - of which the approved Aldi was to be the anchor tenant. The proposed “District” Centre is, in reality a “Regional” one and, if needed should be further to the East, because the existing infrastructure and environment will suffer too much detriment.

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At the same time:

The Bundaberg Regional Council should explain:-

- Why did they change their vote from a refusal for Masters(1) to a unanimous approval for Masters(2)? It's the same application by the same developer, for the same development on the same parcel of land, with more planning grounds for refusal than Masters(1). Additionally, it is in a flood hazard zone, with no requirements for flood mitigation or prevention measures.
- Was the unanimous approval a “done deal” with the Minister? A strong united approval would have had to be a pre-requisite for Ministerial intervention. There was never any doubt that a Masters(2) approval would be appealed. As there was no State interest – previously confirmed to us in writing by the same Minister – the legal appeal would be the necessary trigger to start the “call-in” process, with the ultimate Ministerial approval being the end goal. Then the new Town Plan could accommodate remaining applications for these developers, by circumventing community consultation on the future commercial developments that this developer consortium (and Council?) has, till now, kept secret.
- Why did the Council, in their approval memoranda state there were no areas of significant natural importance or ecosystems abutting the site, when the Baldwin wetlands eastern entrance is only 50 metres from the Master's site. Councillors are well aware that the Wetlands were not covered by their own ecological overlay – because the Kepnock sites are residential A – had been for over 30 years – and that was the best way to protect future eastern expansion near the Wetlands. The Main Roads limited access policy also strengthened that local commitment to the Wetlands
- How does the Council reconcile the difference in their Environmental policy with their practical adoption of that policy? The Council's Corporate Plan 2014-2019 commits to preserving the region's natural environment. This Policy was gazetted 4 months after the Masters(2) approval. Using their Corporate Plan as the basis for Council decisions, planning and long-term infrastructure strategies, how do Councillors explain their denial of the Wetland's existence with the Masters(2) approval?
- Why has the Council, with the Masters(2) approval, compromised previous expenditure of the combined funding by the Commonwealth, State and ratepayers in buy-back schemes rectifying previous Council decisions building in, on or too near drains. The proposed shopping centre has been publicly supported by the Mayor and

Kepnock Residents Action Group – Submission to Senate Enquiry

Cr Sommerfeld - the Chair of Planning and Development – yet it is dependent for its entrance on building over the vulnerable Kepnock Drain/waterway. Council was made well aware of the adverse impacts of localized heavy rainfall events on this waterway, just as they are well aware of the unwise decision they made in approving the building of 10 units over the Showground/Walker Street waterway/drain, where the preliminary earthworks were swept away in the 2013 flood.

- Why did Council approve the 24 lot residential development of Kepnock Place, which abuts the proposed shopping centre - and is the same developer - with no requirement for that development to ensure post development flows do not exceed pre-development flows? Other than a small bio-retention basin – with a retention lip of about 12inches, there is no water retention requirement for that development, whatsoever. Consequently the development has increased the eastern wall of the waterway by 2 metres, with no accompanying increase on the western wall – where all the homes are situated. This displaces the water, in any heavy localized rainfall event closer to the homes – as Council well knows. This breaches the basic tenet of planning and storm-water management. Was this a case of rectifying the increasing up-stream water flow with a proposed shopping centre detention basin – at a later date? But, the homes are nearly all built, and the shopping centre not yet even formally approved. So, the developers have won, the community and environment have lost out, yet again. The increased water flow from 24 homes, as confirmed by Council engineers cannot, now, be retrospectively contained on site to the disadvantage of downstream residents – with the storm season now upon us.**
- Why did Council apply a new footpath policy, not then gazetted, to the same developer, allowing him not to fulfil a condition of his approval – viz a footpath along the front of the development – consistent with Council’s policy when the development was originally lodged and approved ?. Despite the Council having issued a Certificate of Compliance, which allowed the whole development to be formally sealed and lots to be sold – with the footpath as a condition of that approval - the footpath was never built. When brought to Council’s attention by a resident, the new(not then formally approved or gazetted) policy was applied retrospectively. As the plans had been sealed they could not be changed, so the developer lodged a new application to remove an approval condition. Council then unanimously voted to remove the requirement for the footpath, retrospectively – to the disadvantage of the community and the significant advantage of the developer.**

Kepnock Residents Action Group – Submission to Senate Enquiry

- **Why has Council jeopardized the vibrancy and viability of the CBD with a proposed District Commercial Centre – 3 storeys – when there are already some 180 shop vacancies in our region (*appendix 2- pages 45-50*) . All Councillors are well aware that this area has been developed on the promise of residential, with a small neighbourhood shopping centre near FEWalker Street – that’s why residents did not object to the ALDI in 2010. This push for Masters and the shopping centre has been led, publicly by the Mayor and Cr. Somerfeld, yet the same Cr. Sommerfeld formally objected to the as-of-right development of a small medical centre next door to his own home, near the CBD frame – with 26 car-parks. Yet he’s happy to put thousands of cars, commuters and shoppers next to homes in this area – which is res A – not res B – and they will operate 363 days a year, from 6am to 10pm.**
- **As Council is committed to a proposed new Town Plan, which includes the proposed Kepnock District Commercial Centre , and is dependent on part of the shopping centre building and the entrance being built over the Kepnock waterway/drain - what indemnity will Council provide to nearby residents who might, at some time in the future, be inundated by either a Defined Flood Event or an Estuarine Flood Event, because of Council’s approval and its combined impact of heavy rain and a drainage system that backs up .? This becomes even more relevant in the light of recent comments made publicly by the Mayor to a meeting of concerned members of the Burnett River Communities Flood Prevention Organisation this past week. The Mayor assured those attending that Council’s “Get Ready” campaign adequately catered for future floods. He had, he said, personally, spoken to the aboriginal elders and residents of Gayndah, who said that the 2013 flood “was nothing”. “The Burnett River had flooded to 6metres higher in the past, AND IT WILL HAPPEN AGAIN IN THE RIGHT CONDITIONS”. How reassuring is that for those residents living near the Kepnock waterway and having to rely on engineers whose hydraulic calculations and modelling cannot accommodate rainfall events in excess of 1% AEP. Yet, last November’s downpour was in excess of 1%AEP, and there is only 2 years between the Bundaberg floods of 2011 and 2013.**
- **What recompense, other than a class action, is available to residents whose property investments have been financially reduced because they invested under the security of the Council’s Town Plan, which the Council has now chosen to dis-regard – for no valid reason?**
- **How does Council justify a financial incentive of \$1million dollars to Woolworths – to the financial disadvantage of its own residents when there is no shortage of**

Kepnock Residents Action Group – Submission to Senate Enquiry

alternative commercial land available for the Masters(2) development? That alternative land would create no detriment to anyone, Woolworths would get the same “rewards” and there would be no loss of jobs for our local home construction builders. (Refer Appendix 3 – pages 51-56)

- **How does Council justify the eligibility of that 50% (\$1Million) ratepayer- funded incentive for Woolworths till an end date of February, 2016, when it should only be the difference between the Council approval date and the final Ministerial approval date. That would be \$1million till November 2015, or \$1/2million (25%) till July, 2016**
- **How can Council justify decisions, using delegated authority, to approve applications to enlarge the existing retail bulky goods precinct – without such approvals being formalized in Council minutes, agendas or public reporting? Council cannot argue that it was just “cutting red tape” because some of those decisions, which are multi-million dollar approvals, were made within days of formal Council planning meetings(Refer Appendix 4- pages 57-60)**
- **Were those decisions – and the reasons for the use of delegated authority – entered into a formal record ?**
- **Were they later ratified at a formal Council meeting?**
- **Why would Council consent to “lending” the Kepnock waterway/drain to a powerful developer to construct a building over it – and then hand it back to ratepayers, along with contingent liability – when they enforce, rigidly, their own policy of not “building over sewers”. GP-3-030, - available on Council’s web-site. Council’s Building over Sewers Policy Objectives are:-**

3.0 This policy allows development of the land by landowners whilst ensuring Council’s infrastructure is accessible and is not interfered with or damaged as a result of new building works or their imposed loads. It also ensures that costs associated with maintaining, repairing or replacing underground Council’s sewerage infrastructure are minimised.” .

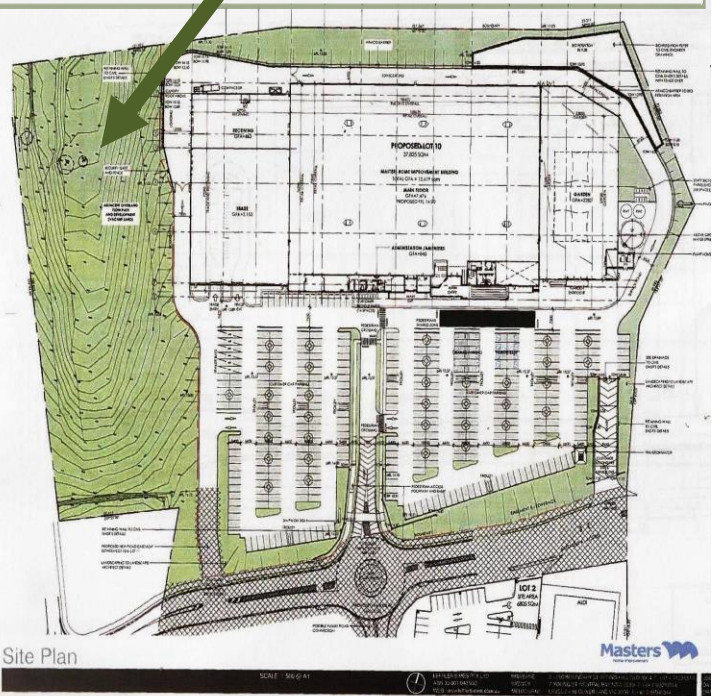
The Kepnock Waterway/Drain is a significant piece of ratepayer/Council infrastructure – for all the reasons previously stated. It’s functions and purpose for disposing of waste water, rather than waste human product, is equally as important. Ratepayers who have funded it expect Council to protect it.

Kepnock Residents Action Group – Submission to Senate Enquiry

- The transcription of Council comment *pages 29-33*)– during the Masters(2) approval meeting – confirm our concerns that the drainage easement “*The western culvert*”– leading to the Baldwin wetlands would easily become another Woolworth’s enterprise, simply by using a suspended slab over that drainage easement. This appears to be a “done deal” with the proposed District Commercial Centre. Suddenly that easement has disappeared, another has appeared further to the south and the previously designated “drainage easement” is now designated as a commercial building – as depicted hereunder.



The vulnerable “western culvert” drainage area – all that green to the left of this photo was badly flooded and is “to remain a drainage easement unless Council approves an alternate use”. It has suddenly disappeared in the new Town Plan – appearing as a drainage easement – to the south – not the north abutting FE Walker Street.



Attachment 1

Our submission is relevant to this Senate Enquiry, and has national significance because, after 3 1/2 years, the duopoly would have expected they would have “finished us off” by now.

Keppnock Residents Action Group – Submission to Senate Enquiry

Our submission exemplifies the social cost - a cost that sits outside the financial but one that is, increasingly, wreaking untold social and human impact throughout Australia, but especially in regional and rural areas.

The retail sector, in all its forms, has representative bodies that are paid to “put their case” – in financial terms, at many national levels. There are ongoing national Enquiries by these national bodies, including the Harper Review into Competition Policy, (still ongoing) but the average Australian has little or no input into such national forums, where policy is formulated, reviewed and strategic direction is set for the future of various industries into the long term future – i.e. the dairy industry, the pork industry, retail trade etc. Such Enquiries and Reviews set the regulatory framework which the Federal Government can by-pass as “not our responsibility”. It is this regulatory frame-work which State Governments devolve down to Local Government. It is this regulatory frame work which can be, and sometimes is, manipulated – at great human and social cost – by power, money and political pressure - as all levels of Government, yield to the political pressures of the duopoly in their national fight – not for market share – but for market domination.

The retail sector is in a state of great change, as are our social systems, but Governments are expected to listen to the people. Our message, and our case study – are simple. It is national. It personifies what is happening at grass roots level, as the duopoly fight for yet more and more power, less regulation – and the “little people” of Australia pay the price.

Our submission comprises:-

1. Our case study. It is a complex, but far too common example of the power of the duopoly. Sadly, it is also reflective of how local governments, and, in our case, the Queensland State Government has yielded to political pressure. It is, it seems, all about:-
 - numbers – dollars and voting power and
 - the power of the media to sway popular opinion, and control outcomes. The advertising dollars of the duopoly, and the changing face of the print media are powerful incentives for media survival.
2. Our Response to Minister Seeney, the Minister for Local Government, the Bundaberg Regional Council and the Woolworths Board of Directors about the Queensland State Government’s intervention in the Bundaberg Masters/duopoly drama. That interference, as detailed within our submission to this Senate Enquiry, is out of step with the processes dictated by Queensland legislation. Our response is also on the Council’s pd-on-line website under application number **325.2013.38669.1**, and attached as a separate PDF file.
3. Our Facebook page – *facebook.com/keppnock_residents_action_group*
4. The Formal Report of the Productivity Commission’s Review into Australia’s Retail Trade. Our submissions are numbered DR35, DR40, DR41 and are publicly available on that web-site. .

Our submission raises serious questions about the consistency, accountability and transparency of both the Queensland State Government and the Bundaberg Regional Council. That questionable “intervention” is now to be legitimized into a future Town Plan that seals the financial gains of the duopoly, the developer and political fortunes of both the Council and the State Government into the future development of our

Kepnock Residents Action Group – Submission to Senate Enquiry

City, the devastation of our protected environment, the safety of our students, the residential amenity of a whole community and the financial detriment of residents who placed their trust in the City's Town Plan – over the past 10-20 years.

Our concerns revolve around the Large Format Retailers, and for purposes of this submission will be limited to Masters/Bunnings and Woolworths/Coles, as they broaden their grip on the Australian market in so many facets of business. We are not alone in our local battle against the power and money of these commercial giants, as our 3 year public fight has linked us to many such “little people” in many parts of Australia.

Our comments, concerns and injustices should be viewed in a regional Australian background because, although all these issues are sorted out in the offices of the major cities – they affect the lives of all Australians. This is not well understood by our politicians (or, perhaps it is?), and in the board-rooms of high-powered executives for the duopoly and “big business”.

The executive of our group has sound business backgrounds, with the chairman and myself having 22 years of practical elected local government experience as the chairs of our City Council Planning and Development Portfolios.

Our face-book page tells the 3year story, but a brief background of those years is required to provide Senators with a good understanding of all the issues. Our Facebook page was necessary to counteract media bias, driven by the advertising dollar of the duopoly, council and powerful developers. The past 3 years have seen residents vilified, being the subject of media criticism from readers and writers not required to provide their identification and hiding under nom-de-plumes, and elements of “hate-mail”. Paramount in this whole debate is that there are alternative commercial options and sites for a local Master's store, and the benefits they would provide - no matter where they are, eventually, sited.

We cover some of the media bias before we move onto the site/s specific.

Kepnock Residents Action Group – Submission to Senate Enquiry

FROM THE EDITOR'S DESK

Megastore offers more pros than cons for Bundy ^{2/4/12}

THE news today that Bundy may receive a new home improvements megastore is a big deal – a really big deal.

At more than 13,500sq m it would be our biggest single retailer by a long way, dwarfing the near-9000sq m Bunnings store.

But towering over the sheer size of the place is its promise of up to 150 new jobs in town, especially against the downcast atmosphere of business in Bundy at the moment.

Shoppers will have unprecedented choice and the resultant competition will drive down prices.

And if local tradies are to be involved in the store's construction, the faltering building industry may also receive a much-needed shot in the arm.

But will bigger mean better for Bundy?

Our small, local businesses that stock similar lines will feel the strain, especially when the inevitable price wars between the new big two flare up.

But our small traders do have an advantage in the service they can offer.

If they are to rise to the challenge, as always, they will need to make good on



CLINT HEATHORN
Deputy Editor

their offer of giving each and every customer who walks through their door, better and more personalised attention.

Then there are the nearby residents who don't want the gargantuan construction ruining their residential vistas.

While I can see where they're coming from, in this case I believe the law of utilitarianism should be invoked.

The residents risk standing in the way of something that could be good for Bundy and portraying themselves as a much-maligned NIMBY (Not In My Back Yard) brigade. I believe the megastore going ahead would create the greatest good for the greatest number.

2nd. June, 2011

FROM THE EDITOR'S DESK

Subdivision plan raises questions on future of land

MANY people might view the current situation brewing over the proposed Masters superstore as a battle between residents and big developers, but there's a little more to it than that.

On the face of it, Bundaberg Regional Council yesterday said no to the subdivision of a Residential A parcel of land, bound by Kepnock Rd, Greathead Rd and Walker St, into three lots – partly because the easements and lots included in the application were too big for a residential development.

While that's certainly true on planning grounds, it's a little perplexing because there couldn't be one council member who doesn't know one of those lots is designated for the development of the Masters DIY superstore, backed by Woolworths. Everyone knows it will not be a residential development.

Also perplexing is why developer John Santalucia would not provide the council with more residential layout details for the land parcel.



CHRISTINA ONGLEY
Editor

It begs the question that, with an Aldi store already on one part of the land and the possibility of a Masters store on a neighbouring section, might there not be detailed residential layout plans? Might the plan be to change the use of much of the Res A land to commercial anyway?

In the short term, this will have little impact on the future of the Masters proposal, but it does raise some questions on the future of that entire area of land.

With the developers refusing to co-operate with the council or talk to the News-Mail, I guess we'll just have to wait and see.

21 September, 2011

The site of Masters(1) is an intersection only 1 block from our local State High School, which services the Coast. Our school will have an additional 300 students next year as Grade 7 is incorporated into the State High School regime. The land-owner lodged the original sub-division request for the lots as "residential" – obviously a deliberate developmental manoeuvre because of the residential status of the land. Masters(1) was lobbed 3 months later, but the developer refused to change his separate subdivision application claiming it was for residential purposes, even though the easements matched the Master's configurations.

Kepnock Residents Action Group – Submission to Senate Enquiry

As a separate application Council refused their approval based on the inconsistencies of the information provided. The developer then appealed that in court, and left it there long enough for the associated family shopping centre application to “catch-up”, so the two would swing along in just enough unison to ensure the incremental developments – through their various “compliance” requirements would be treated as TWO separate developments – not a deliberate manipulation of the planning processes to commercialise all the residential land – by default. Our group requested Masters(1) be called in as a matter of State interest, because of these inconsistencies. The Minister advised there were no state interests and refused our request.



Office of the Deputy Premier
Minister for State Development,
Infrastructure and Planning

Our ref: MBN12/563

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- 1 NOV 2012

Ms Mary Walsh
24 Scherer Boulevard
Kepnock
BUNDABERG QLD 4670

Dear Ms Walsh

Thank you for your letter of 25 April 2012 requesting that I enact my ministerial powers to call in the Masters Hardware development application currently being assessed by the Bundaberg Regional Council.

I acknowledge the concerns raised by the Kepnock Residents Action Group and note the development application is still being considered by Council. The Council, as the assessment manager, is obliged to undertake a complete and thorough assessment of the application, including the issues raised through your submission.

For me to call in a development application, it should involve a state interest. As the proposed development involves local impacts, there is presently no opportunity for the state to call in the application.

If you require any further information, please contact Natalie Keys, Assistant Policy Advisor, on 3224 4600, who will be pleased to assist.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Jeff Seeney'.

JEFF SEENEY MP
DEPUTY PREMIER
Minister for State Development, Infrastructure and Planning

Keppnock Residents Action Group – Submission to Senate Enquiry

FROM THE EDITOR'S DESK

NIMBYs must not be allowed to ruin our city's future

AS A journalist who has worked throughout regional Queensland, there's nothing I love reporting upon more than plans for a major new shopping development.

It's sure to fire up the debate, with progress shaping up to the status quo.

And this airing of different ideas can only be a good thing.

It gives us the best chance of finding the right balance between the future of an entire city and the residential enjoyment of a few individuals.

But most of all, such a development means the place where I'm living, working and raising my family is going ahead.

The obvious benefit is jobs.

There'll be employment for all manner of workers from when the first sod is turned, right through to when the customers pour through the doors and beyond.

But more than that, it really does add an air of vibrancy and expectation to Bundaberg; something completely missing at the



CLINT HEATHORN
Deputy Editor

moment.

It shows we're growing and it shows someone has the confidence in us to invest an awful lot of money in the city's future.

And that, I believe, is something we should be proud of.

I can sympathise with the NIMBY set's argument, but how can the interests of just a few be more important than a city's future and the wishes and needs of the majority?

Those against constantly trot out the line that they're not anti-progress.

This may be the case, as long as the progress is nowhere near where they live.

Masters(1) was subsequently refused on solid planning grounds. Residents were vilified as stopping progress and denying "jobs". Our argument then, and now, is that Masters should be on an industrial-commercial site, where there would be no loss of benefits and no adverse impacts on the community. The local media christened us "NIMBY's" from the start. This ensured that stigma stifled rational debate.

Never, at any stage has the local media been prepared to print the visual picture of the whole scenario. That might not work to the advantage of the duopoly, a Council keen to be judged as "progressive" and might even give the resident's group some legitimacy.

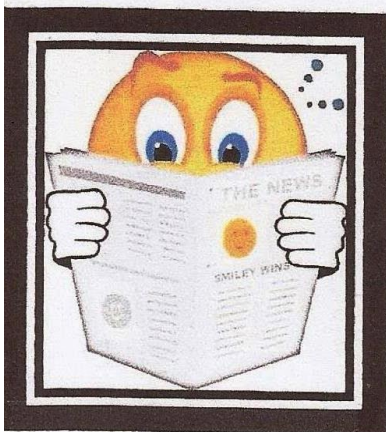
Even now, with Masters(2) Ministerially approved, the media will not print the over-all site approval map – a formal State Government document, (page 36 of the Council's 57 page approval decision) provided to all submitters.

It was referred to by a Councillor during that Council approval meeting and our transcription of that meeting is attached hereunder. Also attached is some media coverage via Letters to the Editor, just after the end of the public consultation period for Masters(2) (2 months prior decision). As an ex-Councillor, our secretary tried to alert the public as to what the future possible scenario of the Masters saga – and the future of those sites might be. It is relevant to our overall submission and confirms that all processes can be manipulated – and not always in the best interests of the community - which elected persons purport to serve. This letter was a response to some public

concerns put forward by members of the public, who did identify themselves, expressing concerns that our residents might be the victims of a conspiracy by the hardware giants in their national commercial war, and all might not be as it seemed. We make no attempt to retain confidentiality of the Council processes. These are elected officials and this transcript is on our Facebook page. We commend Cr. Rowleson for having a conscience. He is not our divisional representative. Our divisional representative never commented – simply voted.

Keppnock Residents Action Group – Submission to Senate Enquiry

1



NEWS-MAIL MEDIA – 27 November, 2013

OVER-RIDING THE PLANNING SCHEME

This letter is self-explanatory and the outcome discussed may, or may not, come to pass. Shining the light on a possible scenario will be interesting to watch in coming months.

Over-riding scheme is road to court

ANY "conspiracy" is in the hands of the council, and time will see how this plays out.

Depending on the strength of the environmental outrage about Baldwin Swamp I'd expect an approval for Masters (2). The council won't want to face the backlash of a second refusal – but it's okay for us to have to do that.

There is no valid reason for an approval, and council knows an approval will be appealed. They also know it would be lost in the court, or if the State Government calls it in then the council can beat its chest and blame everyone else. Council is making sure they can't lose on this one.

Hope I'm wrong – think we'll have a decision before Christmas. We'll just have to wait and see.

If there's any conspiracy, it's much closer to home. Do you remember the dump and Burnett shire? It was close to election time so Burnett shire refused it, Bundaberg City Council appealed it – it went to court and cost Bundaberg ratepayers more than \$1 million extra. We all knew Burnett could never win it – so did they, but they spent ratepayer funds to defend a hopeless case.

When BCC won it could tell its ratepayers: "Well, we did everything we could but the court ruled against us." Had the State Government called it in it would have copped the blame.

This is same old, same old, and my letter might shine a light on it.

I suspect that this is going to be more of the same ... just hope I'm wrong.

"We all want a Bundy Masters" said SR Charles (NM, 25/11).

A conspiracy theory with the two hardware giants – I think not. But against Bundy residents, yes.

Woolies makes its own rules. Masters would now be up and running if it played by the rules like everyone else.

Masters (1) was never going to be approved under the Town Plan. Masters (2) is the same, with more hurdles.

The site is a flood hazard zone, and 50m from the council's own environmental park. A community asset now at the mercy of the council's decision.

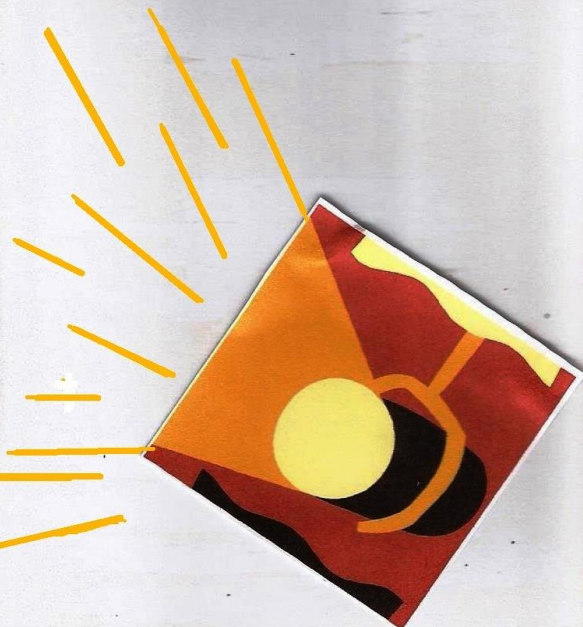
The precedent for the Masters (1) refusal was set by this council. To approve Masters (2) it has to over-ride its own precedent – and the legislated Planning Scheme.

Now they might not want the public backlash of refusing Masters a second time, but any argument for over-riding the Planning Scheme – well that will be very interesting, and costly for

ratepayers.

We were not the only objectors to Masters (1) so a Masters (2) approval by the council over-riding the Planning Scheme will end up in court – and the council knows that. We haven't written the script – but we've read it, and if there is any conspiracy theory, it could be closer to home.

MARY WALSH
Keppnock



Kepnock Residents Action Group – Submission to Senate Enquiry

1

KEPNOCK RESIDENTS ACTION GROUP ANALYSIS OF

Meeting 23rd. January, 2014 – Bundaberg Regional Council Chambers

Chair: **Cr. Ross Sommerfeld**

A full tape of the meeting is held by KRAG. There was no debate apart from this speech by Cr. Rowleson.

Senior Planner - Mrs. Lee-Anne Manski- read the report and the Recommendation for Approval

Motion moved and spoken to by Cr. Mal Forman (Mayor)- comments not included.

Seconded: **Cr. Greg Barnes**

Chair: Any speakers against the motion?.....Cr.Rowleson:

"Thank you Mr. Speaker:

I think I have to say something on behalf of the community . Like all Councillors, I suspect, and of course not wanting to speak on behalf of my colleagues, I believe that this Masters application has caused us a great deal of soul-searching, a great deal of consternation about which way is the right way to go , and in fact it's my genuine belief that had common sense prevailed with the first application for Masters, and it been appropriately sited and without the-the-uh-the approach taken by the developer at the time, then we probably wouldn't be standing here now – we'd actually be having this development under way.

Uhm...but- Is it needed in the area? and I believe it is, and I want to make this absolutely clear I think Masters is needed and it should be considered as something that is vital to the growth of this community and I support the opportunity and the proposition to get more employment in the area.

However, I'm concerned about the way that the development has been actually lodged, and I think it would have been more appropriate to have been able to deal with this development and the JANAM development at the same time, so that we could have provided the community with some sort of assurance about where we are going and what is actually happening in this area.

Sadly we can't do that because of timing and the way that information came back from the State, which has meant there's been a separation between the two ."

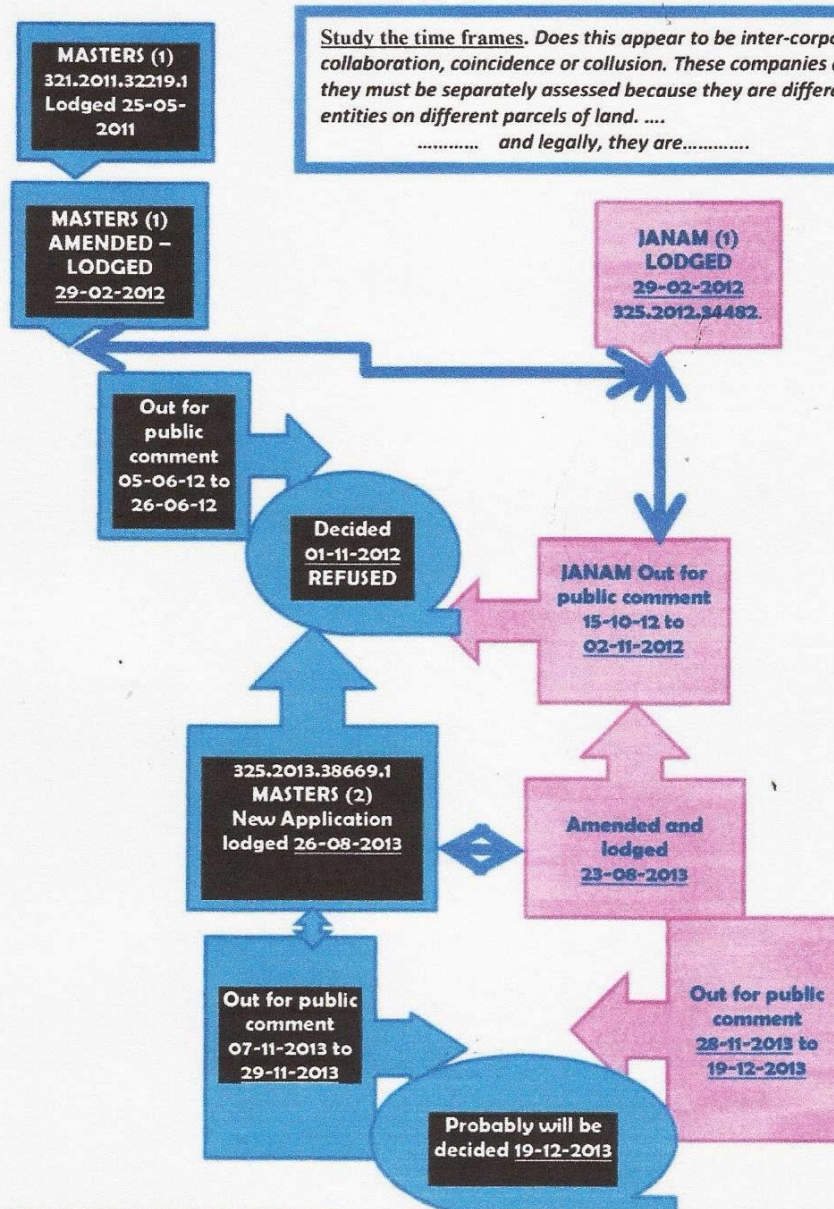
Kepnock Residents Action Group – Submission to Senate Enquiry

2

KRAG COMMENT:

The timing for these two applications has been deliberately manipulated – over a 3 year period. The State Government was not to blame for the time-frame – these developers have been manipulating the system since JANAM purchased the current shopping centre site in April, 2010. They waited for the approval of the retirement village to lapse, then lobbied their Grand Plan for Sugarland(2). Masters is the key.

MASTERS – JANAM TIME MATRIX.



Relevant dates –

29-02-2012 - Amended Masters lodged same day as Janam's initial shopping centre

01-11-2012 & 02-11-2012 - Masters(1) decided the day before public comment for Janam closes

August, 2013 – New Masters (2) and Amended Janam (2) lodged same time (week-end in-between)

28-11-2013 – Janam out for public comment the day before public comment closes for Masters(2) closes

19-12-2013 – closing date for comments on Janam(2) and Masters(2) will probably be decided the same day.

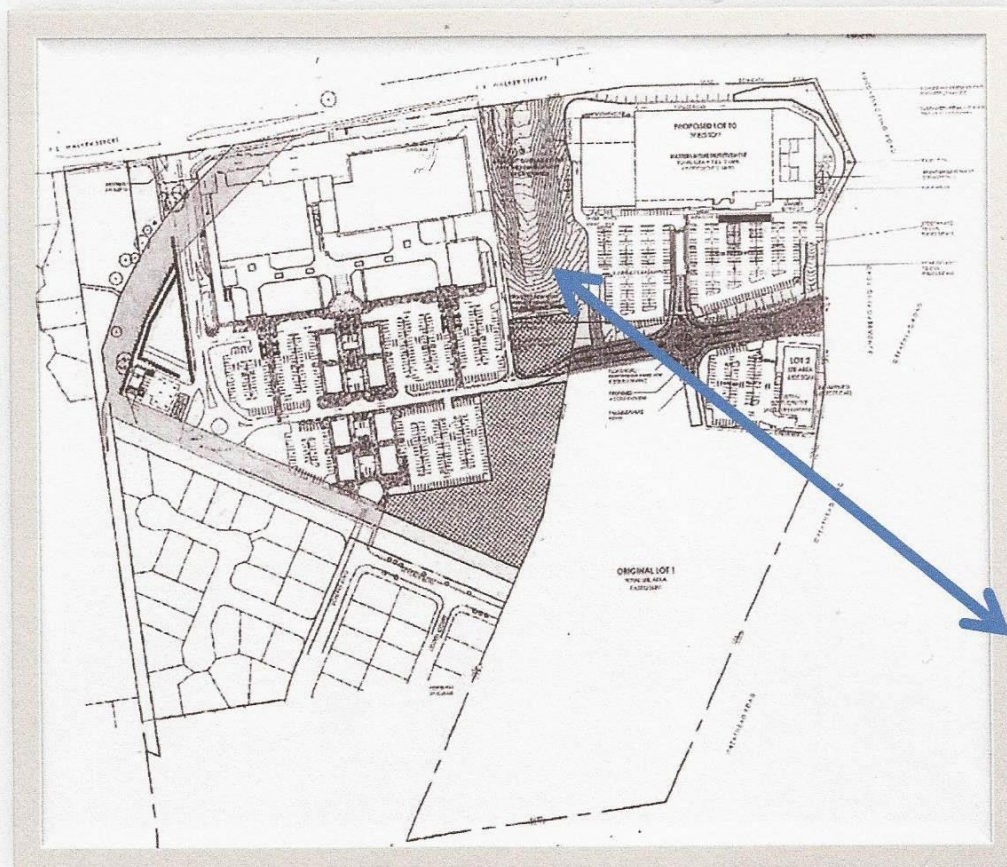
Keppnock Residents Action Group – Submission to Senate Enquiry

3

Cr. Rowleson continues: “However I draw a conclusion here from the reference made on Page 103 of to-day’s Agenda by the applicant wherein it shows the interface on the western side of the Masters development as being interfaced with commercial. I’d just like to remind everybody as we’re considering this that the land is not commercial – it is residential until such time as an MC application is approved (*gallery applause*). I don’t believe that this overall attitude that’s been displayed on behalf of the applicant is constructive. I know that our planning staff have actually spoken to the applicant in relation to JANAM, and I know we are getting off the subject a little bit but it actually relates back to this, that an alternative is available – and with the Master Planning that this Council has spent a lot of money involving themselves in and a lot of money in preparing in respect of our future Development Control Plan for the whole region, and the overall notion that this is not residential land but is for future commercial is just wrong and it should be preserved as such and the interface should have been clearly shown and should have been related to a residential application.”

KRAG COMMENT:

Alternative, appropriately zoned sites for Master(1) and Masters(2) have always been available. Not only is Masters(2) contra to the Town Plan but it (apparently) is also contra to the Council’s future Development Control Plan- now being developed, at some cost. So why are they bothering to even develop that Plan if they contravene it before it is adopted.?



Map referred to as Page 103.

Shows two commercial areas, separated by the drainage reserve (known as the "western culvert").

Kepnock Residents Action Group – Submission to Senate Enquiry

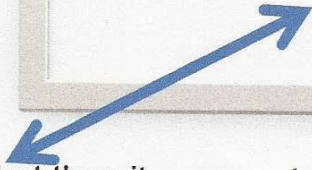
4

Cr. Rowleson continues “Now I know that the Masters development is being built up and as a consequence of that the western boundary is quite high, so therefore landscaping is necessary. And I draw again a conclusion to Item 2 in to-day’s agenda, and this talks about the part of Lot 11 adjacent western boundary of Lot 10, must be used for drainage purposes, unless otherwise approved by Council, and that’s fine,

17. Submit to Council for approval, prior to the lodgement of any Building or Operational Work applications related to this development, an amended plan of subdivision.

The amended plan must be generally in accordance with the approved plan, have due regard to the conditions of this approval and include the following features:

- (a) Provide a road dedication as required by Conditions 7 and 8 of Part 1(a) of this approval; and
- (b) (i) Amend the western boundary of Lot 10 in order that the earth batters proposed as part of the filling of the site, with a maximum gradient of 1:6, are contained within the boundary of Lot 10; or
- (ii) Provide a right of way easement over the area containing the earth batters, with a maximum gradient of 1:6, burdening Lot 11 and in favour of Lot 10.



but then it goes on to further condition 17B part 2 – that a permanent right of way has to be provided which, in some ways circumvents the opportunity to use this land for some other use in the future, but reality dictates that that’s not the case, for all someone has to do is, in fact, lodge another application over that land, put a suspended slab operation over that drainage area and it could be used for a Dan Murphy’s or some other Woolworths associated enterprise, and you’ve got a change again of that site, so to know what we’re actually dealing with here is to me ultra- important. I’d like to be able to stand with my hand on my heart and say – “yes” I’ve done the right thing on behalf of my community – I’ve done the right thing in terms of trying to create jobs but, at the same time I want to be able to preserve the living amenity of those people who live out there (*gallery applause*) . And it’s just really important for me to know these things and, unfortunately, as the- the way this application has been lodged – I don’t know . I don’t know what the future holds for this area. It gives me a great deal of concern.”

KRAG COMMENT:

The developer was questioned about future intent of this drainage easement – and their formal response indicated future development of this site was contemplated, even though this drainage reserve (“gully”) flooded – with water over FEWalker Street. We expressed concerns about this possibility in our submission because the developer’s response was .” *Further it is noted that the northern part of Lot 11 is*

Kepnock Residents Action Group – Submission to Senate Enquiry

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unlikely to be developed in the future given its role as a drainage reserve. Notwithstanding the above, any future development of the northern part of proposed Lot 11 will need to take into account the earth batters in Lot 11.” Cr. Rowleson’s response is spot on. This Council voted unanimously for this approval, contra the Town Plan, even though they – the decision-makers - “don’t know what the future holds for this area”. None of the long term impacts on this whole precinct – resulting from this decision- was considered. So, the road hierarchy, the environment, the school, drainage, traffic, liveability, and flood mitigation impact reports weren’t a consideration. Yet, Council knows the long term goal is future full commercialisation.

Cr. Rowleson continues: “On the other side, I definitely want to promote jobs, I want to promote employment, and I want to see a balance between the Bunnings of this world and the Masters of this world, wherein the coastal precincts and the eastern precincts of Bundaberg don’t have to travel all the way to Johanna Boulevard unless they have to – in order to get access to these things.

Some people will speak about the fact that they’re concerned that there’ll be loss of jobs in the retail sector, particularly in relation to white goods. But, I’m reminded by some long term residents in this area that the same feelings were created when Bunnings came to town, and that hasn’t had an adverse effect on the way that those white goods operate - people operate - and in fact I believe they’ll grow with Masters and Bunnings in terms of services. So I don’t have any major concerns there, but I just generally feel that “

KRAG COMMENT:

“Promoting jobs” is not “creating” jobs – this just transfers them around. Also .Bunnings didn’t then – and don’t now – sell white goods.

CHAIR – Will you sum up please, times expired. ?

Cr Rowleson continues – “we need to protect the interests of the community and Council has a Master Plan for this area , and I think we all should be minded by it.”

CHAIR – Any speakers in favour of the recommendation? If not – with that - the recommendation is on page 51 of your printed agenda. I’ll put this to the vote for approval with the conditions.....

CHAIR – Sorry – Mr Mayor – do you wish to sum up the debate.....Sorry

MAYOR ‘S comments (not included) - **CHAIR:** Thank you Cr Forman

With that recommendation – All those in favour....(vote taken) .
We actually have a unanimous decision. It’s carried.....11 to nil

Thank you – and we now move on to Item 2

End of transcript – CD held on file

Kepnock Residents Action Group – Submission to Senate Enquiry

From this background our case study needs to provide an understanding of the site/s. There are two greenfield, residential A sites owned by the City's most powerful developer. Parcel 1 – the Masters site – has been owned by him for over 30 years. The 2nd parcel was purchased by the current owner (an associated family company) in April, 2010. This second parcel was an approved retirement village and part of the new residential estate called "Kepnock Gardens" – a prime residential estate approved in 2005. It was approved by the then City Council to meet the growing coastal needs of our ageing community with a 255 residential lot approval. The developer was caught in the GFC and placed into administration, (2009) so the current owner – an associated Santalucia family company purchased it.

Plans for future commercialisation, working with the developer/council consortium were then initiated. So, using the corporate veil, all the land is, effectively, held by various members of this land developer. Both sites have been residential A for almost 30 years, and the area's transport, drainage, sewerage, residential and educational infrastructure have been based on that zoning over all that time. Parcel 2 backs onto our growing State High School with 1400 students to the south, the Baldwin Wetlands – a protected



Kepnock Residents Action Group – Submission to Senate Enquiry

environmental park – to the north and a new housing estate surrounds it. Woolworths lodged a development application for their standard Masters format on the southern section of the site (Parcel 1) in May, 2011. After a bitter public fight Masters(1) was defeated by one vote in December, 2012. Bundaberg was devastated by floods in January 2013, and Masters lodged their 2nd. application on the same parcel of land, 300 metres further north, but only 50 metres from the wetlands - in August, 2013. It was subsequently approved at the Council's meeting of 23 January, 2014. A transcription of that approval process has been previously included. It was a farce - and any objective person would shake their head in disbelief. That approval was subsequently appealed by us and also by Mirvac and AMP.

Minister Jeff Seeney, ultimately approved it and, in doing so, gave his implicit approval for the proposed shopping centre (Coles). The duopoly has enormous power and the two sites are connected by a massive round-about – being constructed to service 19m articulated semi-trailers. This will enable the commercialization of the land to the south – as far back as Kepnock Road (the school road- where there is supposed to be “reduced traffic”). This is Council's formal flood map. The formal overall site map – which our media won't print - has been overlaid onto it.

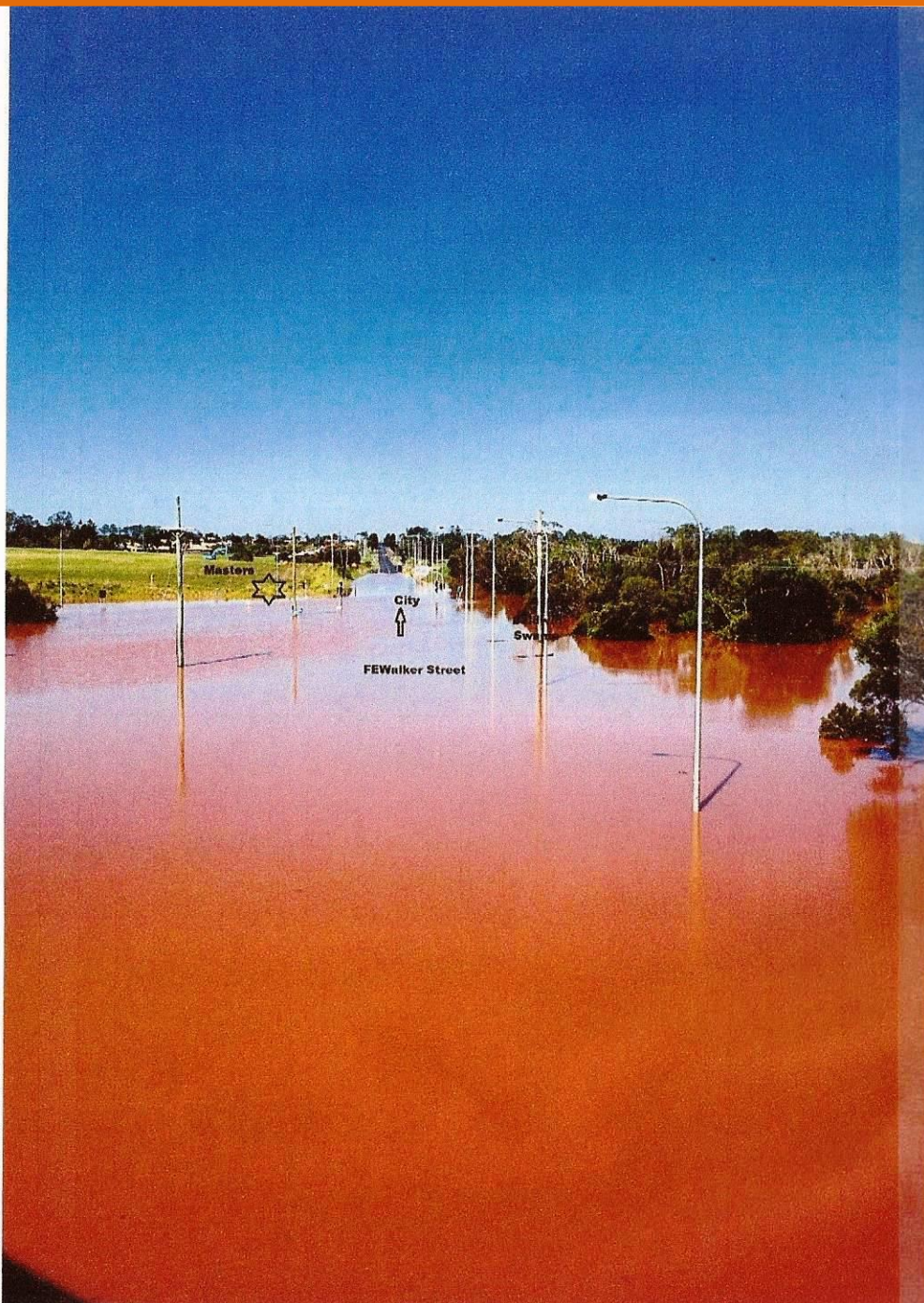


Kepnock Residents Action Group – Submission to Senate Enquiry

The associated family company has an application still before Council for their huge 32000sqm shopping centre, with a proposed (Coles?) shopper docket fuel station on the sensitive drain to the wetlands, just behind the school. It is this development application that the Minister has implicitly approved saying - with his Masters(2) approval – that it was the “catalyst” for further commercialization of the site.

The Masters(2) site is in a flood hazard zone. They claim it doesn't affect them – they are not residential, so it doesn't apply. They are above the defined flood level. Our concerns are that their sheer size creates a concrete levee. A future flood event would never flood Masters, their concrete levee walls would divert the water east and west to the homes.

The Masters(2) site is noted, in this photo, with the proposed shopping centre joining onto it. This is the



Notices

Public Notices



Adoption of Temporary Local Planning Instrument (TLPI)

1/2014 – Interim Flood Response Sustainable Planning Act 2009

Notice is given under the Sustainable Planning Act 2009 that on 18 March 2014, Bundaberg Regional Council adopted a Temporary Local Planning Instrument (TLPI) 1/2014 – Interim Flood Response.

Council advises that it has also designated, by resolution, flood hazard areas for the purposes of section 13 of the Building Regulation 2006.

The TLPI applies to designated flood hazard areas in the Bundaberg Region. The purpose and general effect of the TLPI is to suspend certain provisions contained in Council's current planning schemes, to –

- ensure development in flood hazard areas considers the nature of the flooding impacts and incorporates increased resilience measures where appropriate;
- limit intensification of residential development (e.g. subdivision and multiple dwellings) in flood hazard areas;
- exempt repairs to existing buildings or structures to rectify damage caused by the 2013 flood event;
- facilitate self assessment of dwelling houses to allow houses to be raised to improve flood resilience; and
- ensure filling of land in the flood hazard area does not worsen flooding impacts on other land.

The TLPI commences on 20 March 2014 and will cease to have effect on 19 March 2015. The flood hazard area resolution takes effect on 20 March 2014 and replaces Council's previous resolution made at its meeting held 6 March 2013.

A copy of the TLPI and details of Council's flood hazard area resolution are available for inspection and purchase at Bundaberg Regional Council's Administration Building, 190 Bourbong Street, Bundaberg and can be viewed on Council's website at www.bundaberg.qld.gov.au.

Peter Byrne
Chief Executive Officer

23-03-14

Kepnock Residents Action Group – Submission to Senate Enquiry

State's main East-West link and for 4 days during the flood it was impassable.

The Bundaberg region has just been classed as the unemployment capital of the nation, it is socially very vulnerable, with a tag as the obesity capital of the nation. It has a higher than national incidence of disability, the aged and is a "hot-spot" for poker machines. These are social issues which we, as a community must deal with but, it is from this background that we ask your Senate Enquiry to look, independently, at the processes under which our legitimate right to have our case heard by the Planning and Environment Court has been over-ruled by this Council and the State Government.

THERE IS NO SHORTAGE OF APPROPRIATELY ZONED COMMERCIAL-INDUSTRIAL LAND IN THIS CITY. In fact, Council staff (not Councillors) have been "secretly" approving large tracts of land in our commercial estate for months to create the Kensington Retail Bulky Goods Precinct. The expanded Bunnings is the anchor, but Woolworths have decided they don't want to be near their competition.

This Council is providing a \$1million ratepayer funded incentive for Woolworths (Masters) to lodge their development application, contra the Town Plan – when alternative, appropriately zoned land is readily available.

Should bad corporate behavior be "rewarded" to the detriment of adversely affected ratepayers, residential amenity, the environment and the safety of nearby students.

We contend the joint actions of the Bundaberg Regional Council and the Queensland State Government have been "questionable" and raise very serious questions about the consistency, transparency and accountability of both.

We base our submission to your Enquiry on:

1. The availability of alternative sites for Masters, where the appropriate zoning would bring them better long-term commercial benefits with no detrimental impact on our broader community
2. Masters – because it is a destination venue in a regional area of 120,000-140,000 people - will provide the same consumer benefits, create the same jobs, job losses and job transfers in the right zone – it doesn't have to be on residential A land

Kepnock Residents Action Group – Submission to Senate Enquiry

3. Ours is NOT an isolated example. It shows a national culture of corporate bullying, of exploiting the vulnerable “little people” of Australia, including small business, suppliers, and providers. Local Councils, media and State Governments – who have the power to stop it – have deliberately chosen to enable this culture- in the name of “progress”.

We ask the Senate Enquiry to consider our submission based on these generalisations:-

1. The regulatory framework of planning and zoning can be manipulated by power, money and selective media imaging. In our case this has been facilitated by both the Bundaberg Regional Council and the Queensland State Government – for reasons that do not withstand close scrutiny.
2. Land use is not static. There is no “one size fits all”. The concept of mixed developments requires pro-active and strategic planning that must consider the net community benefit – not just the net commercial return for big business. Retro-fitting mixed developments to provide enormous financial gains to the duopoly and developers at a negative outcome for communities is a “NO-GO”.
3. The needs of regional/rural Australia are different to metropolitan/urban Australia.
4. There is no “like for like” in comparisons between Australian international practices and Business Australia, based on geographical, cultural and technological differences.
5. We should learn from overseas and local mistakes – not repeat them.
6. There is no “like-for-like” in interstate Australian comparisons. At 227,216 sq klms. Victoria is 1/7th the size of Queensland, and 1/11th the size of Western Australia.
7. The essence of de-centralisation depends on the survival of small business in the regions.
8. Australia, historically, is the land of the “fair-go”. There is nothing “fair” about market domination that sacrifices small business, producers and suppliers, destroys livable communities and permits political agendas to dominate community outcomes
9. Changing the goal-posts mid-play will always disadvantage some of the players. Net community benefit - not net commercial return and brand-mark victory - should prevail.
10. Harmonisation of Australian regulations in all business sectors should benefit all. But the highest cost of doing business in Australia is wages – and that impacts on ALL business – EVERYWHERE.
11. Small business and suppliers are critical to the Australian way of life, but they do not have the profit margins and market segmentation options enjoyed by international enterprises like the duopoly.
12. RULES are RULES. Society is regulated by them, and we are all expected to live by them. Big business should not be able to bend the rules to suit their commercial bottom line – to the disadvantage of communities, local small business producers and suppliers..

Kepnock Residents Action Group – Submission to Senate Enquiry

13. The march of the duopoly and their ever-increasing grip on a wider variety of market types should be sending warning signals to all levels of government in Australia.. Our case study is not an Australian one-off, but a victory for the duopoly here in Kepnock, Bundaberg will set dangerous precedents – nationally. This is totally res A – and has been for 30 years – so that’s how the infrastructure has been developed.

14. The use of ratepayer serviced residential land is less costly for the duopoly, in our case study, than another greenfield site, owned by the same developer consortium – only 800m further to the east – where there is, as yet, no residential development – but, also, no infrastructure. Developers claim commercial competition should not govern development approvals – a principle which the Productivity Commission endorses. Neither should developers expect their costs of development should be reduced simply because they do not want to locate in proximity to their commercial competition. There is a serviced, growing Bulky Goods Retail Precinct near Bunnings, which still has plenty of available land. Masters want to locate away from there, near the Ring Road – despite the site impediments – but don’t want the increased infrastructure costs of lodging their development on the alternate green-field site. If they insist this eastern location is the ONLY one that suits their marketing strategy, and gives them the competitive edge of LOCATION - then their insistence that commercial competition should not govern development approvals also extends to site selection and the extra developer costs of choice– not just commercial competitor costs. There is abundant case-law to confirm that – just as commercial competition should not govern approvals – neither should the added developer cost of infrastructure govern a development approval - if the applicant selects a serviced residential site to reduce their own development cost.

15. Governments should neither assist nor condone big business in abusing the system. This leads to a development at any cost mentality

16. The “little people” of Australia should not be forced into David and Goliath battles when there is no over-riding need and alternative business options exist.

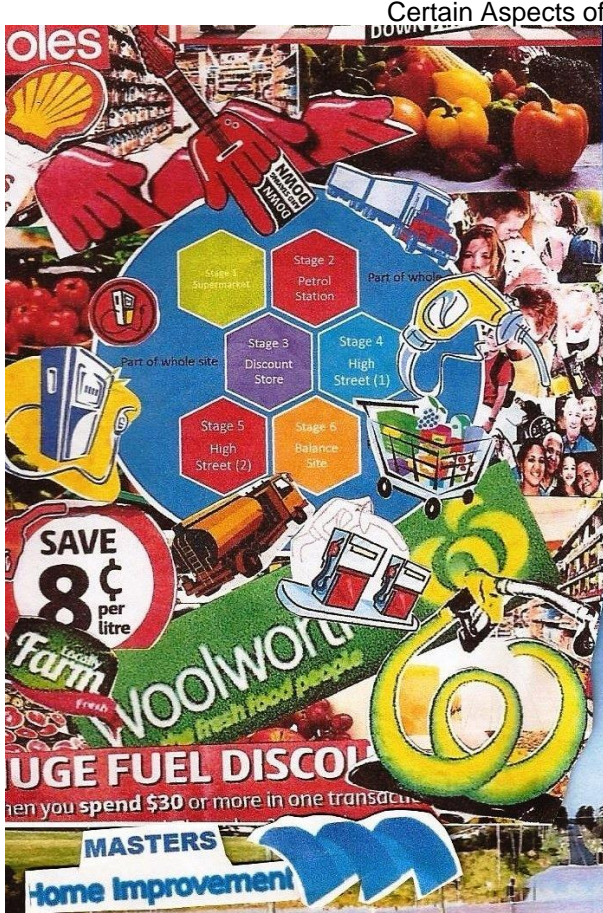
17. Appellants against Government decisions – when there is a proven case of land-use planning issues – should not be denied their collective rights to have their case decided by an independent judge – based on law.

18. Planning and zoning laws should be allowed an “en-globo” assessment when obvious manipulation by the developer results in incremental applications that ensure the developer wins.

19. Just as the laws should not allow “frivolous and vexatious” appeals against planning decisions by disadvantaged ratepayers and/or commercial competition, so too the laws should not allow Councils to “pass the responsibility for contentious decisions” back to the State. This is dereliction of duty and Councils who do that, without just cause and reasonable transparency, should be penalised.

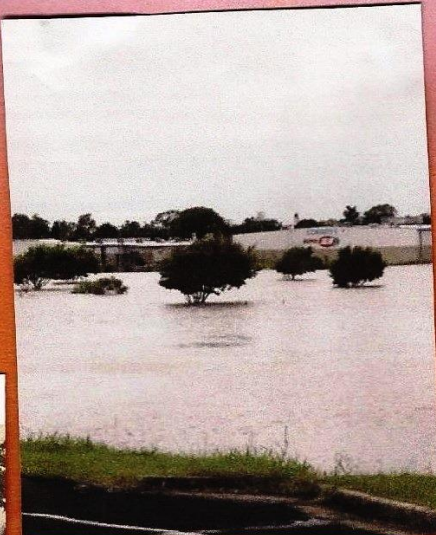
20. Equally State Governments who facilitate such “dereliction of duty” by Local Governments are, themselves, also guilty of questionable behavior.

The site is a flood hazard zone. Council states that's OK - it's above the defined flood level.



Queensland's
wonderful
wetlands

Hinkler Central was above the Defined Flood Level, when constructed



And so was Northway Plaza. Both were flooded and out of action for 5 months.



Keppnock Residents Action Group – Submission to Senate Enquiry

LIST OF APPENDICES

1. Land- holdings – Giovanni Santalucia (Commercial-in-confidence)
2. Identified empty shops prepared for the Ministerial call –in submission
3. Economic analysis of local job potential for builders if area remains residential, and is not covered with concrete for commercial purposes.
4. Use of delegated authority (commercial-in-confidence to protect Council staff)

Appendix 1

Mary Walsh

From: Revenue <Revenue@bundaberg.qld.gov.au>
Sent: Thursday, 2 January 2014 3:57 PM
To: 'marywalsh6@bigpond.com.au'
Subject: List of Properties - G & PN Santalucia
Attachments: List of Properties - G & PN Santalucia.xls

Hi Mary

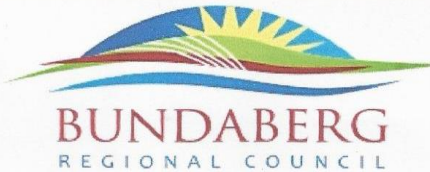
Please find attached list of properties owned by G & PN Santalucia as requested for Keppnock Residents Action Group.

Regards

Rae Bell
Senior Rates Officer

REVENUE SECTION

Bundaberg Regional Council
PO Box 3130
Bundaberg QLD 4670
Tel: 1300 883 699
Fax: (07) 4150 5410
<http://bundaberg.qld.gov.au/>



ABN #: 72427835198 Bundaberg Regional Council PO Box 3130 BUNDABERG CENTRAL QLD 4670 Ph 1300 883 699 Fax 07 4150 5410 Email: CEO@bundaberg.qld.gov.au Website: www.bundaberg.qld.gov.au	Date 24/12/2013 14:14 Receipt 01595188:0001 Terminal 30:6238 Keppnock Residents Action Group 24 Scherer Blvd KEPPNOCK QLD 4670	Amount Rates Search Fee 272.00 Search Fees Total Value: 272.00 Tendered Credit 272.00 Change 0.00	Cheque Payment: Receipt is conditional on collection of proceeds of the cheque
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COMMONWEALTH BANK EFTPOS BUNDABERG REGIONAL COUNCIL QLD TERMINAL: 94888300 REFERENCE: 070273 CUSTOMER COPY	CARD NO: 4940-5457<1> PAN SEQ NO: 01 EXPIRY DATE: 10/14 AID: A0000000031010 TUR: 0000008000 TSI: FB00 ATC: 000B7 TC: 1813270964492543	CREDIT PURCHASE TOTAL AUD \$272.00 \$272.00	24 DEC 2013 14:14 Visa Credit AUTH NO.: 079559 APPROVED 08 THANK YOU
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Personally paid by Mary Walsh - TO BE RE-IMBURSED BY KRAS.

Keppnock Residents Action Group – Submission to Senate Enquiry

Property Description	Property Address	Area	Measure	Parish	County	Owner
Lot: 140 CK: 1432	27 Eggmolesse Street SVENSSON HEIGHTS QLD 4670	13.076 H		Bundaberg	Cook	G Santalucia
Lot: 7 B: 1586	Woongarra Street BUNDABERG CENTRAL QLD 4670	1012 M		Bundaberg	Cook	
Lot: 14 B: 1586	64 Woongarra Street BUNDABERG CENTRAL QLD 4670	1012 M		Bundaberg	Cook	
Lot: 251 CK: 3004	Johnston Street AVOCA QLD 4670	1.84 H		Bundaberg	Cook	
Lot: 5 RP: 45217	80D Greathead Road ASHFIELD QLD 4670	4173 M		Kalkie	Cook	
Lot: 3 RP: 56061	Johnston Street AVOCA QLD 4670	0.5059 H		Bundaberg	Cook	
Lot: 1 RP: 140026	142 Bourbong Street BUNDABERG CENTRAL QLD 4670	2533 M		Bundaberg	Cook	
Lot: 10 RP: 161808	80F Greathead Road ASHFIELD QLD 4670	17.145 H		Kalkie	Cook	
Lot: 11 RP: 162772	80G Greathead Road ASHFIELD QLD 4670	12.1469 H		Kalkie	Cook	
Lot: 3 RP: 904414	23 Bartholdt Drive BRANYAN QLD 4670	16 H		Takalvan	Cook	
Lot: 1 SP: 117736	Johnston Street AVOCA QLD 4670	16.18 H		Bundaberg	Cook	
Lot: 4 SP: 151243	Bartholdt Drive BRANYAN QLD 4670	54.08 H		Takalvan	Cook	
Lot: 1 SP: 187560	301 Goodwood Road THABEBAN QLD 4670	1965 M		Bundaberg	Cook	
Lot: 2 SP: 187560	299 Goodwood Road THABEBAN QLD 4670	1.424 H		Bundaberg	Cook	
Lot: 2 SP: 208621	1 Sienna Boulevard ASHFIELD QLD 4670	22.85 H		Kalkie	Cook	
Lot: 84 CK: 2560	365 Mahogany Creek Road ELLIOTT QLD 4670	371.501 H		Barns	Cook	
Lot: 62 CK: 2049	Mahogany Creek Road ELLIOTT QLD 4670	725.242 H		Bingera	Cook	
Lot: 2 RP: 90172	Childers Road BRANYAN QLD 4670	1.621 H		Takalvan	Cook	
Lot: 11 RP: 210917	Childers Road BRANYAN QLD 4670	12.123 H		Takalvan	Cook	
Lot: 6 RP: 213642	Goodwood Road ELLIOTT QLD 4670	8.55 H		Barns	Cook	
Lot: 7 RP: 213642	Goodwood Road ELLIOTT QLD 4670	10.27 H		Barns	Cook	
Lot: 8 RP: 800407	Goodwood Road ELLIOTT QLD 4670	391.18 H		Barns	Cook	
Lot: 1 SP: 199551	Childers Road BRANYAN QLD 4670	18.69 H		Takalvan	Cook	
Lot: 2 SP: 199551	Childers Road BRANYAN QLD 4670	10.68 H		Takalvan	Cook	
Lot: 4 SP: 220641	Altivole Drive NORVILLE QLD 4670	9306 M		Bundaberg	Cook	
Lot: 34 SP: 220641	1 Altivole Drive NORVILLE QLD 4670	1107 M		Bundaberg	Cook	
Lot: 3 SP: 220700	Eggmolesse Street NORVILLE QLD 4670	49.67 H		Bundaberg	Cook	
Lot: 64 SP: 240511	3 Harpulia Court KALKIE QLD 4670	1322 M		Kalkie	Cook	
Lot: 101 SP: 240526	80E Greathead Road ASHFIELD QLD 4670	5.034 H		Kalkie	Cook	
Lot: 1 SP: 172085	128 FE Walker Street KEPNOCK QLD 4670	12.02 H		Kalkie	Cook	
Lot: 310 SP: 243420	Telegraph Road KALKIE QLD 4670	3.524 H		Kalkie	Cook	
Lot: 1 RP: 134143	80 Greathead Road ASHFIELD QLD 4670	2365 M		Kalkie	Cook	G Santalucia & P N Santalucia
Lot: 132 CK: 2348	Garryowen Road FARNSFIELD QLD 4660	212.814 H		Gregory	Cook	
Lot: 295 CK: 2900	205 Garryowen Road REDRIDGE QLD 4660	64.95 H		Gregory	Cook	
Lot: 151 SP: 199491	Greathead Road ASHFIELD QLD 4670	5.209 H		Kalkie	Cook	
Lot: 3 RP: 13507	285 Goodwood Road THABEBAN QLD 4670	8094 M		Bundaberg	Cook	P N Santalucia & J M Wilson & A J Santalucia

Keenock Residents Action Group – Submission to Senate Enquiry

SANTALUCIA URBAN LAND-BANK

Santalucia Holdings – Norville, Branyan and Kalkie-Ashfield areas. This summary does not include holdings at Elliott, Redridge, Farnsfield – which are not yet urbanised.

Ashfield – East – abutting the Ring Road

80D Greathead Road	.4173m	
80F Greathead Road	17.1450h	
80G Greathead Road	12.1469h	
80E Greathead Road	5.0340h	
80 Greathead Road	.2365m	
Greathead Road	<u>5.2090h</u>	
Total Greathead Rd		40.1887h
1 Sienna Bvd		22.8500h
128 FEWalker (106 (10h)held by assoc company)		<u>12.0200h</u>

Total Ashfield/Ring Road holdings 75.0587h

Kalkie

3 Harpoulia Ct	.1322m	
Telegraph Rd	<u>3.5240H</u>	
		3.6562h

Total Kalkie/Ring Road Holdings 3.6562h

Kalkie/Ashfield Holdings (do not include the JANAM 10h at 106 FEWalker Street) 78.7149h

Norville/Svennson Heights: - (Airport proximity)

Altivole Dve – Norville	.9306m	
1 Altivole Dve	.1107m	
Eggmolsesse Street	49.6700h	
27Eggmolsesse Street	<u>13.0760h</u>	

Total Norville/Svennson Hts 63.7873h

Goodwood Rd-Thabeban

285Goodwood Rd	.8094m	
301 Goodwood	.1965m	
299 Goodwood	<u>1.4240h</u>	
Total – Goodwood Rd		2.4299h

Central Business District

Bourbong Street Suncorp Arcade	.2533m	
Woongarra St	.1012m	
64 Woongarra St	<u>.1012m</u>	
Total CBD		.4557m

Sugarland /Johnston St-Avoca

Johnston St-Avoca	16.1800h	
Johnston St	1.8400h	
Johnston Street	<u>.5059m</u>	
Total – Avoca		18.5259h

Branyan

23 Bartholdt Dve-Branyan	16.0000h	
Childers Rd – Branyan	1.6210h	
Childers Rd-Branyan	12.1230h	
Childers Rd –Branyan	18.6900h	
Childers Rd-Branyan	<u>10.6800h</u>	
Total-Branyan		59.1140h

Keppnock Residents Action Group – Submission to Senate Enquiry

Santalucia properties



It is difficult to place the various properties into an overall map of the Bundaberg region. However, we have added what we could to a Google map – designated by the yellow thumbtack.

The total area of the Santalucia properties – as provided by the Council under our Rate Search is 2,061.52 hectares. There are 16 separate properties – which then become 36 different parcels.

Some of these are still farming enterprises, but we have further defined the Bundaberg urban areas – as per the attached sheet.

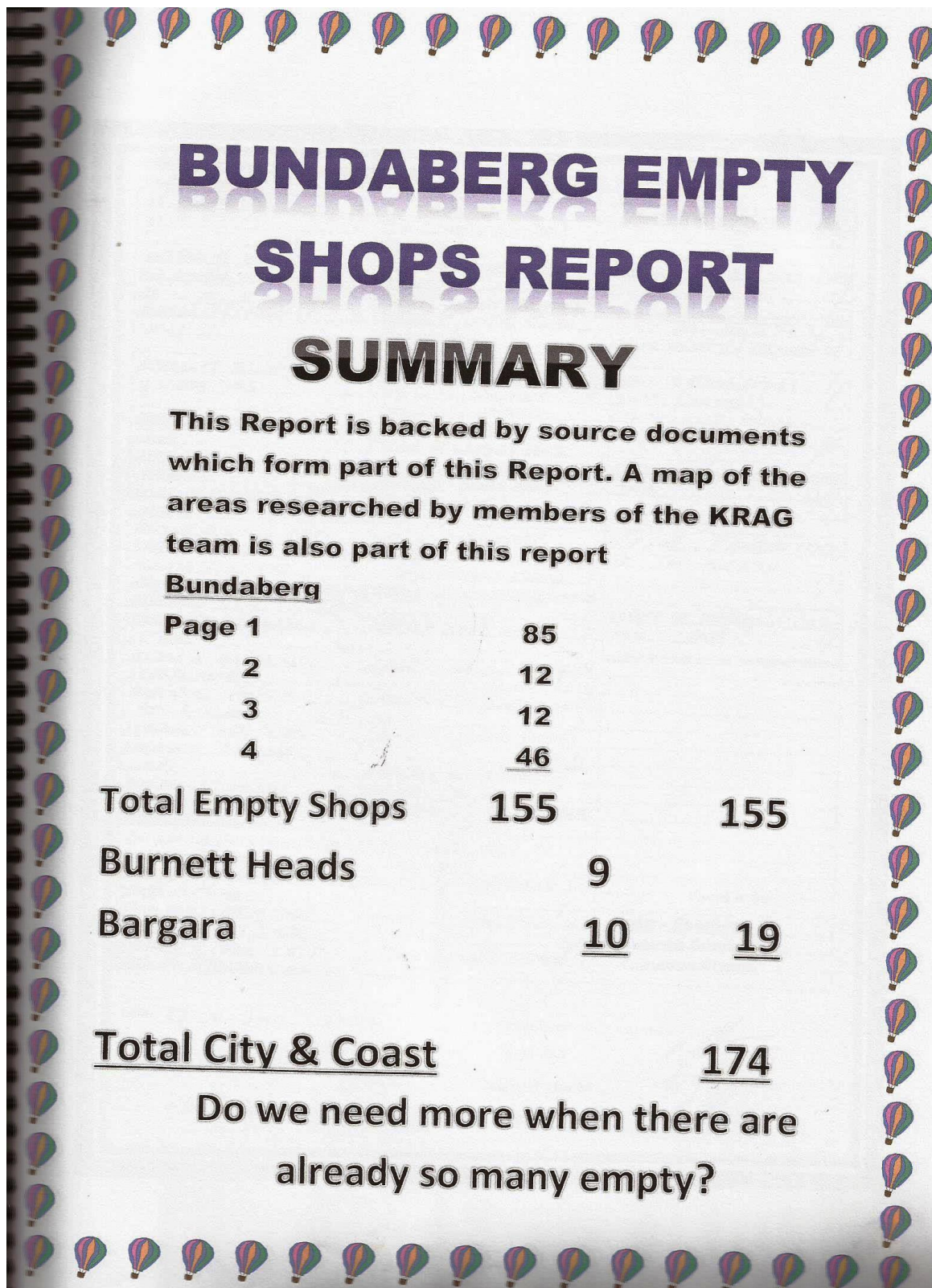
The Santalucia properties, under various names – and we have excluded the JANAM holdings- encircle the City. This developer is wealthy and powerful. He determines what is to be sold – when, and also the price. He holds no lands to the north of the City but has huge holdings around the Ring Road area, having bought most of that land before the Ring Road eventuated. He also has a land bank near the Airport, in the Branyan and Norville areas. He owns all the vacant land next to Sugarland and has pressurised the Council for decades to allow that to be converted to commercial. Successive Councils have wisely refused.

He owns the largest commercial space in the CBD – the Suncorp building – the five top stories of which have been un-tenanted for the past 15 years. This building has an arcade through to Woongarra Street, and a parking lot over the road in Woongarra Street. Many of the shops in the arcade are untenanted or sporadically tenanted – depending on the economic climate over the years.

Yet – with all this land – he is determined to convert his 128 FEWalker Street holdings – and the associated 106 FEWalker Street (JANAM) from Res A to intense commercial.

Kepnock Residents Action Group – Submission to Senate Enquiry

Appendix 2 – The Empty Shops Report



Keppnock Residents Action Group – Submission to Senate Enquiry

KRAG – Empty shop identification and count

Location- Street

15 BOURBONG ST	1	21 TARGO ST	1	CORNER BRIDGE ST & GEORGE ST (EAST)	1/
74 " "	1	TAKALVAN ST (EX AUTO BARN)	1		1/
" " NEAR		TAKALVAN			
PURMAAGIES DIRECT	2	TOONBURRA ST (NEXT TO		GEORGE ST (EAST) NEAR TRUCK W/SHOP	
AMP BOURBONG ST	1	SUBWAY)	1		1/
170 " "	1	TARGO ST (EX BUNNY SUPPLEMENTS)	1		1/
BOURBONG ST & CORNER OF		BARDIN ST (NEXT TO KITCHEN			
WALLA ST	1	CONFIDENCE)	1	29-04-2014	
				CORNER WALKER ST & TAKALVAN ST	
BOURBONG ST BETWEEN SKF		SHOP INNES PARK	1	(NEXT TO ARCHIES POOLS)	1/
& LUXURY PAINTS	3	FOOD WORKS CORAL COVE	1	SHOP 3 (CORONAL)	1/
		TARGO ST EX BUNDABERG		(COLONIAL COURT) WALKER ST.	
BOURBONG ST NEXT TO HJR		CHAINSPNS & MOWERS	1		1/
BLOCK	1	CORNER BOUNDARY ST & WALKER			1/
BOURBONG ST NEXT TO GREEN		ST.	2	TAKALVAN ST (NEXT TO HUNGRY	
MAGIC	1	FIVEWAYS CORNER WALLA ST		JACKS	2/
BOURBONG ST NEXT TO THE		(EX ZACKS BUTCHER)	1		
HUT	1				
BOURBONG ST NEXT TO YUNNY		NEW BUILDING (FIVEWAYS		TOP END OF RICHIE	
STAR NOODLES & SUSHI	1	KLEIDON)	1	ST. SHED FOR LEASE	
BOURBONG ST & CORNER OF	1	KEPNOCK ROAD (NEAR SCHOOL)	1		1/
MARYBOROUGH ST (EX E/M SERVICE STATION)		GEORGE ST EX CLOTHING (UNIFORMS			
BOURBONG ST 2/197	1		1	CORNER OF BOUNDARY ST & SIMS	
BOURBONG ST BUNNY INTERNET		JOHANNA BVD (EX MITRE 10)	1	ROAD (SHOP)	1/
CENTER	1				
BOURBONG ST NEXT TO OLD		COUNTED ON 27-04-2014			
FEDERAL HOTEL	1	" " 28-04-2014			
BOURBONG ST FANCETT'S		TAKALVAN STREET (WESTSIDE SHOPPING			
BOOK EXCHANGE	1	CENTER)	2		
BOURBONG ST TOTAL RENTALS	1	BOURBONG ST. (ROUNDS ARCADE)			
BOURBONG ST SECOND HAND					
GOODS	1	ELEVEN-11			
BOURBONG ST (OLD L.W.C)	1	BOURBONG ST. SUNCORD			
BOURBONG ST EASTERN PERL	1	ARCADE. 7/ POSS 8/?			
BOURBONG ST & MURDOCH ST	1	BOURBONG ST PALACE ARCADE			
EX CLARON YAMAHA (CENTER POINT)		POSS 1/?			
BOURBONG ST (TANDBRI)	1	QUAY ST. EAST NEXT TO			
BOURBONG ST (BINGERA COURT)	2	BLACK WOODS			
TAKALVAN ST (SINGER)	1	CORNER QUAY ST & PETERSEN ST.			
TAKALVAN ST NEXT TO SINGER	1				
TAKALVAN ST NO 3 } NEAR	1	PRINCESS ST NO 42, SHED 20, NO			
TAKALVAN ST NO 5 } x RAY DEP.	1	38 36/1 36/2.	5/		
TAKALVAN ST (BUNDABERG MEDIA CENTER)	1	BARDIN ROAD (CR. CAMPBELL ST.			
		MECHANICAL)	1/		
					Total = 85
					CBD - Bourbong St
					Eastern Bundaberg
					Takalvan Street

Date: 27-04-2014

Start Time

Finish Time

Signed:-

1:00 PM

3:15 PM

28-04-2014

10:30 AM

12:00 NOON

29-04-2014

7:00 AM

8:00 AM

Location- Street

ELECTRA CRT 2/17 2	HINKLEY PROFESSIONAL CENTRE	BARDOLIA PLAZA
ELECTRA ST 19 1	MARYBOROUGH ST 1	BARDOLIA ST 2
ELECTRA ST - 1	GEORGE + BARDOLIA 1	
MARYBOROUGH ST 12 1	TANTITHA BOWLS CLUB 1	
M'LENN ST SHEDS		
GEORGE ST RETIREMENT 1		

BOMAKER ARCADE WOODWARD ST	3 shops	
TAKKIDAN ST. EXIT ROAD		
BUNNIBERG COACH TOURS BUILDING 5		46

[illegible]

Finish Time 4:20 pm Signed:-



Location- Street

12

[illegible]

Signed:-

Signed:-

Keppock Residents Action Group – Submission to Senate Enquiry

Vacant Shops 4 May 2014

Burnett Heads
Burnett Heads Shopping Complex – 8 vacant
IGA Complex – 1 vacant

Bargara CBD area. – 0 vacant.

Bargara Beach Plaza – 3 vacant
"area" – formally "One fish, 2 fish"
– Bargara Surf Centre
– vacant shop.

Bargara Woolworths Area. – 1 vacant

Platinum Apartments Cr. of Whalley & Cr Sec St
Shopping Complex – 5 vacant

Bundaberg Port Marina area – 0 vacant

^{old} Windmill Complex – 1. vacant

A Mackenzie ams

The closure of Crazy Clarks, Sam's Warehouse and the rationalization of the Bourbong Street branch of Wide Bay Australia has increased the numbers and we have used 180 – which is a conservative estimate.

Kepnock Residents Action Group – Submission to Senate Enquiry

Appendix 3

Is an analysis of building opportunities for our local building contractors. This is local jobs for local contractors. The land purchase costs are based on the actual sales figures for Kepnock Place – included as appendix 3A

By a “tradie”, who was also a teacher at TAFE and probably trained many of the builders who would benefit from the opportunity to build more homes, at a time when the market and the interest rates are ideal.

Figures used are after consultation with local industry leaders in local home construction

Calculations provided by Mr. Geoff Ferguson
QBSA NO. 11045 (supervisory)
BA (Voc Ed) .
Vice Chairman The Kepnock Residents Action Group



Kepnock Residents Action Group – Submission to Senate Enquiry

<u>Capital Value of 250 homes,</u>		
at an average lot value of \$150,000	\$37.50m	
and average home cost of \$375,000	<u>\$93.75m</u>	
	Total	\$131.25m
Materials – sourced locally		\$10m
Yearly rates for Council		<u>\$800,000 per year</u>
5 years work for 90 builders		

These estimates do not allow for those home owners who elect DYO fencing, driveways, paths, Etc. Neither have all the building materials for this work – all of which would be local, been factored in.

Additionally, swimming pools are an item which has not been factored in as standard, but some of these would certainly have them, if the newer homes in the area are any indication.



Kepnock Residents Action Group – Submission to Senate Enquiry



Email from Geoff Ferguson

I am including my figures on the construction side of things, and have come up with some eye-catching figures. Any person of importance could not, in any circumstances, ignore the importance of what this would mean to Bundaberg and it's mighty band of great builders and their suppliers. You can use these to assist with our response to the Minister – they are based on a reliable source and years of involvement in the local building industry – both actual and teaching.

THESE FIGURES ARE BASED ON CONSTRUCTING 250 LOWSET, BRICK VENEERED, 4 BEDROOM/DOUBLE LOCK-UP GARAGED HOMES, FULLY FENCED AND LANDSCAPED.

Value of allotments @ \$150.000	\$36,500.000
Value of council rates / 1/2year @ \$1600	\$ 800.000
Value of homes @ \$375.000	\$93,750,000

LOCAL WORK CREATED

Average construction time 16 weeks (kindly supplied by local building company)

Total construction time 4000 weeks

At present time, there are 80 plus builders in the Bundaberg area, capable of this type of construction, but using averages, say a total of 15 building companies, this complex would create

267 weeks per builder, or 5 years work. If each builder employed 6 men, that would generate 5 years work for 90 construction workers. In addition, there would be work created for the following:-

Kepnock Residents Action Group – Submission to Senate Enquiry

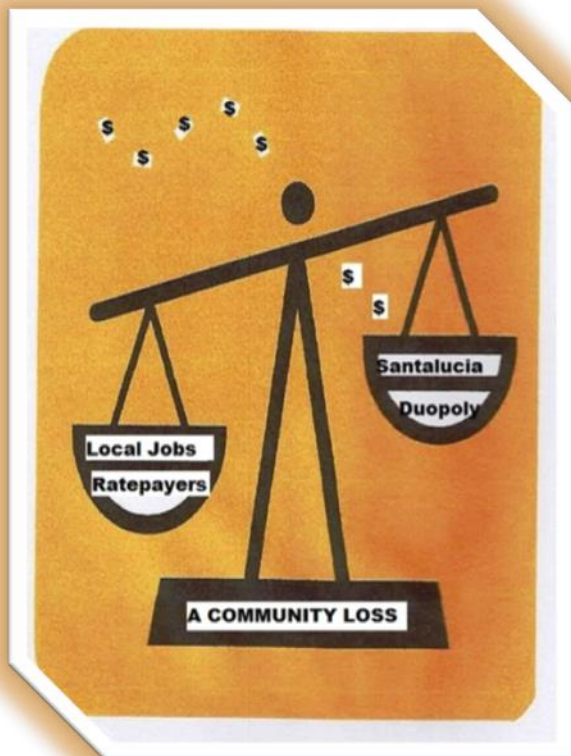
50 weeks work for 4 Fencing Contractors
52 '' '' '' 4 Plumbing Contractors
32 '' '' '' 4 Electrical Contractors
52 '' '' '' 4 Painting Contractors
52 '' '' '' 4 Tiling Contractors
60 '' '' '' 4 Plastering Contractors
52 '' '' '' 4 Cabinet Making- Contractors
32 '' '' '' 4 Concrete-Finishing Contractors

These homes would attract an average of 480 adults, and 720 children (2 parents/ 3 children per family)

MATERIAL VALUES TO PRODUCE THESE HOMES.

Concrete	\$ 1,400,000
Roofing	\$ 1,500,000
Bricks/Blocks	\$ 1,500,000
P/Board	\$ 600,000
Roof Trusses	\$ 1,500,000
Paint Supplies	\$ 550,000
Timber	\$ 1,000,000
White Goods	\$ 750,000
Council Fees ,H/Ware,Reinf.Steel, Pest Con.	\$ 2,000,000
<u>TOTAL</u>	<u>\$10,000,000</u>

These estimates do not allow for those home buyers who elect to D.Y.O Fencing, Driveways, Paths,etc
They also do not give the work (in labour) of the various suppliers to these Building Companies, but it is easy to see how many more working weeks would be added to the region's workforce.



I hope these figures/calculations are of value to our cause. Let me know what you think. I also have drawn up a picture illustrating why "Mr." SantaLucia would prefer Commercial as to Residential.

Regards, Fergie

Kepnock Residents Action Group – Submission to Senate Enquiry

Appendix 3 A

“KEPNOCK PLACE” Estate came on line in September, 2013 with the sale to date of some 17 blocks. We have used those sales as the base for our economic projections in our residential v commercial appendix. Most of those blocks now have homes under construction.



SALES

<u>Date</u>	<u>Purchaser</u>	<u>Price</u>
25-11-2013	Shari L Bauer	159,000
18-11-2013	PJ & R Seymour	147,000
26-09-2013	P Baxter & K Sellars	146,000
19-09-2013	E & T Brigden	159,000
17-09-2013	D Jackowski & L Walk	157,000
16-09-2013	P.Walz	144,000
16-09-2013	H & L Rowland	159,000
19-07-2013	I J Phillips	159,000
21-05-2013	SM Hunt	147,000
03-05-2013	H Etherton & R Howard	139,000
03-05-2013	Diret Investments	145,000
03-05-2013	KB Etherton	143,000
09-05-2013	Diret Investments	145,000
09-04-2013	CJ Ford	157,000
03-04-2013	D & N Hunt	149,000
03-04-2013	S Anderson & D Shaw	149,000
23-11-2012	JL McDonnell	<u>149,000</u>
Total Sales	(17)	Average sale value \$150,311
		<u>\$2,553,000</u>

Kepnock Residents Action Group – Submission to Senate Enquiry

With local homes approvals now up by 157%, interest rates among the lowest ever – ratepayer serviced residential land should be used for homes.

The dates confirm that 9 homes were sold off the plan – prior to the formal opening. There were 14 with the earlier Kepnock Gardens estate. This is a very liveable community and the demand and financial climate support housing construction – not intense commercialisation that doesn't provide local jobs for local tradies..

These figures have been used as the basis of land cost for our financial analysis of the benefits in creating local jobs for local tradies if the land remains as it is zoned.

Since these calculations, there only remains 1 block unsold, and 3 homes still under construction.

However, these developers (who are the same developers building the shopping centre for Coles) were never required to ensure – contra to basic town planning approvals – that their post development stormwater run-off, from this development, did not exceed their pre-development run-off.

An associated Santalucia identity – their stormwater goes straight into the Kepnock waterway/drain – which Council and the State Government are prepared to “lend” them to build part of the shopping centre building – and the entrance for thousands of cars. It will then be handed back to ratepayers.

Kepnock Residents Action Group – Submission to Senate Enquiry

Appendix 4

“Delegated authority” - This is one of several relating to staff approvals to enlarge the bulky goods retail precinct to the west of the Kepnock site. The Minister’s response to our query concerning this matter is here-under

From: Michael Ellery [<mailto:Michael.Ellery@bundaberg.qld.gov.au>]
Sent: Thursday, 10 April 2014 4:43 PM
To: Mary Walsh; Lee-Anne Manski
Cc: 'Mike Edgar'
Subject: RE: Dolcorp P/L

Mary, I saw your email and thought I should let you know that Lee-Anne is away on leave at the moment. In answer to some of your questions:

1. This is not an application for a Masters store – it was an approval for a bulky goods complex opposite the approved new Bunnings site – Council is not aware of who the individual tenancies might be at this time. That is not to say that a Masters might not move in here but a couple of things would suggest that it isn’t likely, such as the lack of a cafe and outdoor landscaping supplies area.
2. The approval was granted under delegated authority, therefore you will not see anything in Council meeting agendas or minutes because it was not required to go to a Council meeting. The application was approved by the Manager Development Assessment, Mr Richard Jenner. The decision notice should be available on PD Online, if you have trouble accessing it please let me know.
3. The date of the Decision Notice, 31 March 2013, is a typographical error – the Decision Notice was issued on 31 March 2014. Thank you for bringing this error to our attention, we have notified the applicant and will correct the decision notice very shortly.

Please let me know if you need anything further relating to this approval.

MICHAEL ELLERY
Group Manager - Development
Bundaberg Regional Council
PO Box 3130
Bundaberg QLD 4670
Tel: 1300 883 699
Fax: (07) 4150 5410
<http://bundaberg.qld.gov.au/>



From: Mary Walsh [<mailto:marywalsh6@bigpond.com>]
Sent: Thursday, 10 April 2014 4:10 PM
To: Lee-Anne Manski

Kepnock Residents Action Group – Submission to Senate Enquiry

Cc: Michael Ellery; 'Mike Edgar'

Subject: Dolcorp P/L

Hi Lee-anne

Following the publicity around the Council approval of the bulky goods store – we have had many calls as to why Masters isn't out there – and, is this Masters under another name?

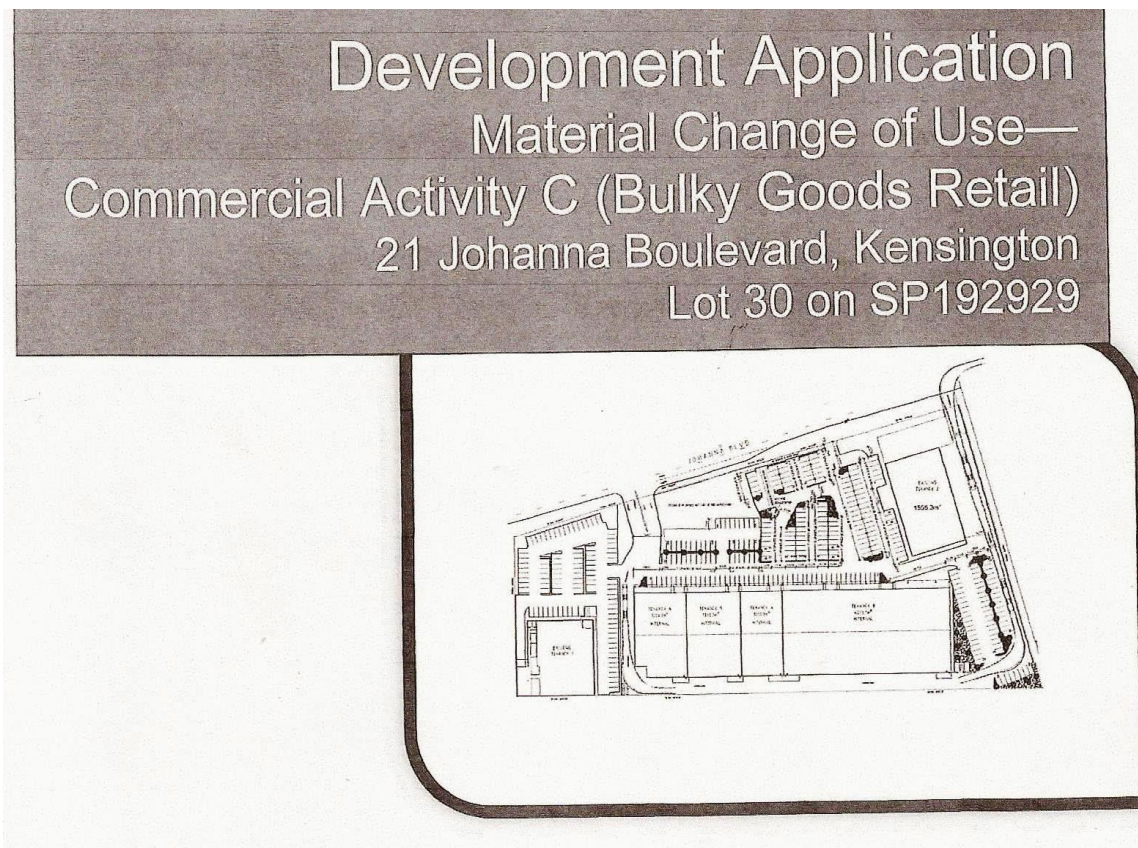
Conspiracy theory is alive and well but would you please advise when, where and how all this happened. The paper-work doesn't make any sense.

It is **322.2014.39718.1** – under your name Lee-anne. It seems to be a 2014 application. The decision notice has the wrong year dates on it??, and there is no meeting on the 28th. March., 2014. I thought it might have been the meeting of the 18th. – but can't find it there, either.

What am I missing here – would you please advise, so I can access the relevant minutes and Agenda that contain that application and all the relevant data. The public record doesn't make much sense

Thanks

Mary



This is the relevant approval by the planning officer. – it is a large bulky goods building – approved outside the normal Council meeting process – 8 months ago, and the site is till vacant. Cr. Sommerfeld stated it had “the potential to become a major bulky goods shopping destination. It abuts another development approval – also approved by staff

to avoid “waiting to progress through a Council meeting”. There was never any emergency for this – the site is

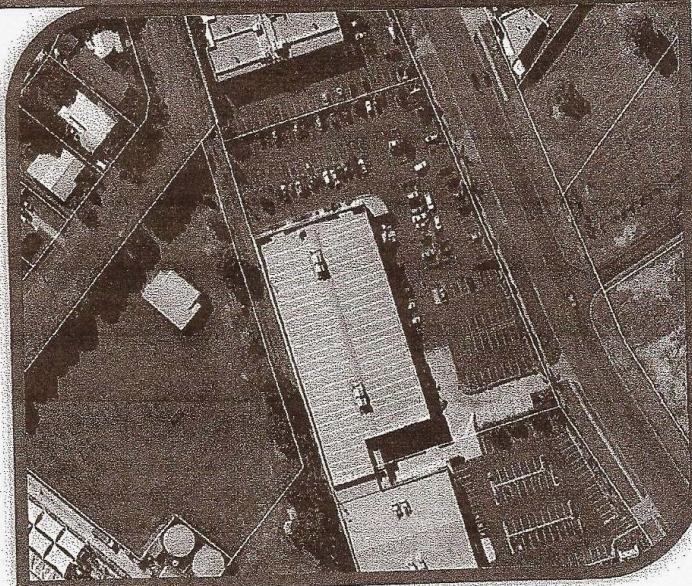
Kepnock Residents Action Group – Submission to Senate Enquiry

still vacant, even though both the Council and the Minister insist there is no “suitable site” for Masters(2) other than the residential A site on which the Minister has now approved it. Council requested the minister call –in Masters(2) on 25th. March, 2014. This Dolcorp application was approved 6 days later This one for Sam’s warehouse was approved on 11th. June – 5 days after the Minister decided to call in Masters(2).

Development Application
Material Change of Use —
Expansion to Existing Commercial Premises
(Commercial Activity C - Bulky Goods Retail)
& Car Park Re-development
7 Johanna Boulevard, Kensington
Lot 20 on SP192929 & EMT B on RP867438

322.2014.40382.1

Our Council has delegated authority to senior planning staff to approve development applications that do not need to go out for public notification and/or consultation. i.e. they are on the right zone- i.e. code assessable.



Why all the secrecy ? This has nothing to do with “cutting red tape”

This is the application referred to in the Minister’s letter, after we queried the need for Council to be “secretly” (“delegating”) authority for multi-million dollar approvals to staff – to avoid public scrutiny.

We contend the Minister did not “thoroughly assess” the Masters(2) application. He ignored the environmental issues, and the availability of alternate commercial sites that would create no detriment to anyone, and would leave the residential precinct for local jobs – not imported or transferred ones from existing businesses.

Keppnock Residents Action Group – Submission to Senate Enquiry



Hon Jeff Seeney MP

Deputy Premier

Minister for State Development, Infrastructure and Planning

Our ref: MC14/2242, MC14/2308
MW160614

14 AUG 2014

Mrs Mary Walsh
Secretary
Keppnock Residents Action Group
24 Scherer Boulevard
KEPNOCK QLD 4670

Dear Mrs Walsh

Thank you for your letter received on 30 June 2014 to the Honourable Campbell Newman MP, Premier, and your correspondence of 11 and 16 June 2014 to me, about the ministerial call in of the Masters Home Improvement Store development application in Bundaberg, and a development approval issued by Bundaberg Regional Council at 7 Johanna Boulevard, Kensington.

On deciding to call in the Masters development application on 6 June 2014, I advised relevant parties that a thorough re-assessment of the development application against all relevant instruments, under the assessment and decision provisions of the Sustainable Planning Act 2009, would be undertaken. The decision will take into consideration all common material relating to the application.

A re-assessment is currently being undertaken and a decision will be made in due course.

I understand that the application at 7 Johanna Boulevard, Kensington was for a development permit for a material change of use and that the application was subject to code assessment. Code assessable applications are assessed against the provisions of the planning scheme, and do not require public notification. Council has delegated decisions on these types of applications to council officers.

If you require any further assistance, please do not hesitate to contact my office.

Yours sincerely

JEFF SEENEY MP
DEPUTY PREMIER
Minister for State Development, Infrastructure and Planning

Level 12 Executive Building
100 George Street Brisbane
PO Box 15009 City East
Queensland 4002 Australia
Telephone +61 7 3719 7100
Facsimile +61 7 3210 2185
Email deputypremier@ministerial.qld.gov.au

Positive Action for a Positive Outcome

24 Scherer Bvd,
Kepnock Q4670
marywalsh6@bigpond.com
0418 887 976
Visit us on:-
Facebook.com/kepnock residents action group



2 October, 2014

The attached Report/Letter contains 3 separate sections:-

1. **Primary Letter** to place, firmly on the record, the issues decision-makers have been advised about, but have failed to address in their decision-making processes. This letter identifies:-
 - Traffic
 - Student Safety
 - Storm-water control/flooding
 as matters that place increased liability and costs on residents and ratepayers. This Ministerial approval of Masters has, till now- been deliberately separated from the accompanying shopping centre application still before Council. These two applications are dependent on each other – and always have been – despite assertions to the contrary - by the associated developers, the Council and the applicants.
2. **Attachment 1:** addresses operational issues and questions about environmental protection and student safety. We also contend that the State Government conditions of storm-water management (9 -page7) and dust and debris(12 – page 8) are unachievable with such a huge industrial building on a constrained residential site. This site has peak student/bus and residential traffic on school days, and this type of commercial building will exacerbate traffic safety and lifestyle issues for all, especially during construction.
3. **Attachment 2:** details our response to the Minister's reasons for the Master's approval. There is a public perception that this whole 4 year drama – and its subsequent resolution – in favour of the duopoly, the Council's agenda and a very powerful developer- lacks accountability and transparency. The same commercial and economic outcome could have been achieved on an appropriately zoned site – with no adverse impact. Instead, Masters will receive an approximate \$500,000 ratepayer funded incentive – to the detriment of adversely affected residents, the wider community, ratepayers and the nearby sensitive environment. The proposed Commercial Precinct in the Draft New Town Plan – approved by the Minister – is simply a replica of the developer's financial goals and applications – to date. The developer and Woolworths will be laughing all the way to the Bank. Ratepayers, residents and our environment will be paying for this for decades.

26 September, 2014

Hon. Jeff Seeney,
Minister for Planning and Infrastructure
PO Box 15009
City East Q4002

Dear Minister,

Re: MINISTERIAL APPROVAL OF MASTERS(2) - KEPNOCK – BUNDABERG

Following a meeting of our residents on 19 September, 2014 it was formally resolved that we contact your office to place, firmly on the record, our concerns about the implications of this approval – on that site. The future impacts of your approval – now replicated in the Draft Town Plan and proposed Kepnock District Activity Centre Precinct - raise issues of grave concern for motorists, student safety, the environment, future storm-water/flooding and residential amenity.

We, as vulnerable citizens, cannot change what you have done. We have, at all times followed “due process” – but you have now, using Ministerial power, deprived us of our democratic rights. We now need to ensure that anyone suffering any future repercussions- resulting from this approval – has recourse to formal documents confirming the State Government, the Councillors and the developer were made fully aware of the increased risks to community /student safety generated by your Ministerial approval – on this constrained site.

Our residents regard this whole 4 year drama as a text-book case of power, money and politics. Accordingly this case study is now on the public record as Submissions DR35, 40 and 41 on the Productivity Commission’s web-site for their Enquiry into the Retail Trade Industry in Australia.

Because your approval on this site – when other appropriately zoned sites are readily available – is in conflict with the existing infrastructure and settlement pattern under previous Town Plans, we have resolved - for the future protection of our residents and school population - to place these matters before you, the Bundaberg Regional Council and the Board of Directors of Woolworths(Masters). It will provide the best avenue of recourse should there be any adverse future community repercussions from this approval – on that site.

We have been informed that as the decision conditions result from a Ministerial approval – and not a Council one – the resident’s questions concerning some of those conditions should be directed to your office. These form Attachment 1

Our formal response to your stated reasons for approving Masters(2) in a low density residential A precinct form Attachment 2. They will also be publicly provided on our Facebook page for wider public consumption.

Our formal response to the Draft Town Plan and its Development Control Plan for the Kepnock District Activity Centre Concept will be dealt with through the consultation and submission process.

Issues of concern – raised by our residents – needing to be placed on the public record for possible future adverse repercussions are :-

- 1. Traffic**
- 2. Student Safety**
- 3. Stormwater control/Flooding**

Traffic:

The State Government, confirmed there would be no access for the proposed shopping centre to FE Walker Street, in this excerpt of the DTMR letter (*Ref TMR12-002316- dated 10 May, 2012*). Now, not only is there access – but it's a signalized intersection over a very vulnerable drain – The Kepnock Drain.

Function of the State-controlled road network

- The subject land is included in the Urban Residential zone in the Bundaberg Regional Council planning scheme.
- The department's planning for the state-controlled road network in this area has been based on the intended use of the subject land being Urban Residential.

Page 2 of 13

Apart from a 3 chord intersection at the junction of Kepnock & Greatehead Roads – there is no requirement in the decision approval for local Council roads, or the access/egress of the Aldi Round-about to be reconfigured to an extent required to deal with such a huge, vehicular-centric, regional facility. A huge commercial empire, generating thousands of vehicles into the future, has now been ministerially approved for that same urban residential site – around which the State (and the local Council) network - has been shaped over the past 40 years. The residential settlement pattern around that site has also been determined by the same criteria used by the State Government for their roads – the site is low density residential.

It is a matter of known fact that, during the crushing – depending on the time of day - some cane trucks “rat-run” off the Ring Road, down the Link Road, turn right at the lights into FE Walker Street. They do this because the Ring Road speed drops back to 60k near Telegraph Rd, and they also have to deal with eastern school traffic. This “rat-run” gets them onto FE Walker Street and straight through to the Port at 80k all the way. This saves the truckies valuable time, but could place lives at risk. This pattern of driver behavior is already a matter of knowledge to the State Government. The Masters(2) approval exacerbates both traffic volumes and types. Yet, neither the State Government nor the Council have made any allowances for this at the junction of State/Council roads on the site or leading to the site. A mediocre \$110,000 towards the QueHee/Walker St intersection – at some time in the future - is a mere pittance for Masters, when the impact of their traffic volume and types on surrounding local roads is put into perspective.

Masters(2) is a regional - not a local – destination shopping venue. It projects 826vph on Saturdays, and 447vph on Thursdays. Local traffic – at peak school times – especially the afternoons – already creates huge traffic congestion in all the local streets near your State High School. The projected shopping centre has, initially, 1200 car parks, and is positioned immediately behind your School. Yet the Masters(2) Ministerial approval is acknowledged by the Minister as “the catalyst for future development’ of the area as a commercial/retail site. The Ministerial overall plan – and the Minister’s statement, to us, in writing, that his assessment would consider all “the common material” - endorses his public support for the proposed shopping centre. This position is further strengthened in the new draft Town Plan – now out for public consultation. .

The Ministerial approval is based on the future approval of the shopping centre and the necessary link it would provide – for Masters(2) – to the west. Masters will simply not work with its only point of access and exit being the little Aldi round-about and Greatehead Road. The Minister is well aware that the proposed shopping centre’s point of access off FE Walker Street is over the Kepnock Drain. This is a vulnerable drain and its use for commercial purposes – to the detriment of the nearby residents, the wider local community, the CBD, and the nearby Baldwin Wetlands does not have the wider community support – unlike the Masters project.

The Kepnock Aldi is low impact, lower height, in a local low built environment - but it is already having car-parking and volume issues as this photo confirms. Aldi staff has been parking off-site for the past 6 months.

Really Mr CEO of Woolies - you have to be joking !!! This is Aldi (94 car parks). Masters will have 373 car parks. Are you REALLY going to put a projected 826 vehicles an hour onto the ALDI round - about - on Saturday mornings - with NO western access or egress ??????



The huge Masters round-about would be roughly here.- but this is ALDI traffic - not Masters

There is an increasing use of RV's as incoming tourists stock up and outgoing tourists replenish supplies before heading south/north. This change in usage and vehicular type introduces traffic requiring good future planning – not retrofitting into a constrained site for short term political and financial gain - at detriment to the wider community. This is simply Bunnings(1) repeated – with a far worse outcome in both the short and long term.

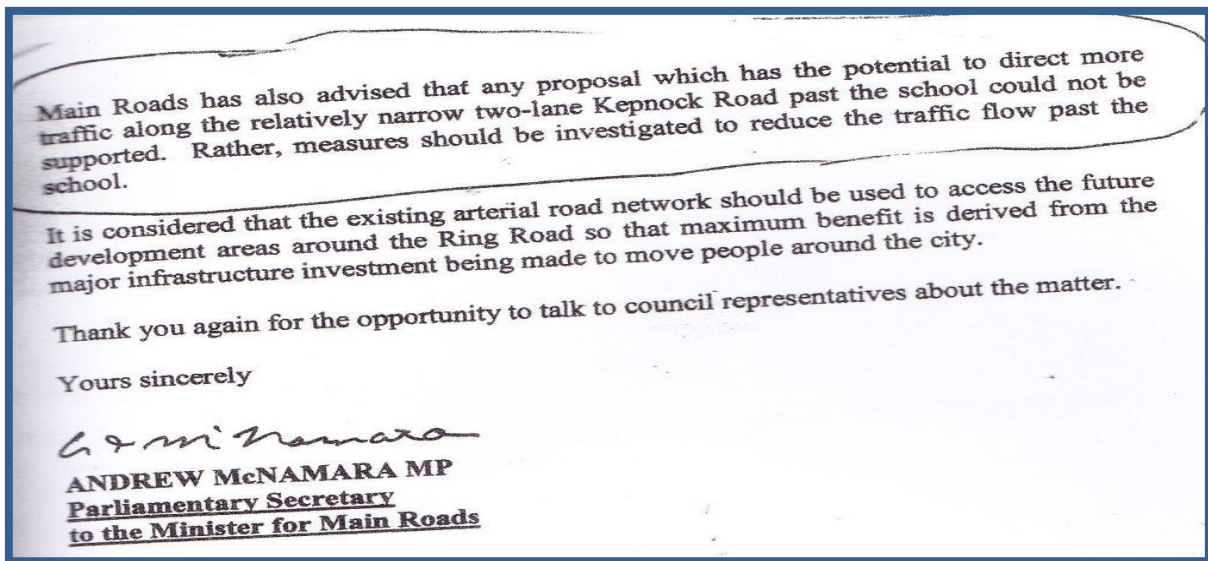
STUDENT SAFETY:

The Masters traffic studies did not contain a full day's traffic count on a full school day – and there are an average 200 school days a year.

Kepnock High School services the coast. No coastal High School is planned for the next decade. The State Government is well aware of the concerns raised about the lack of access over the 80k Ring Road for students living to the east. Currently students either walk/run down the embankment and over the Ring Road, or cycle down to the Aldi round-about and back up Greathead Road to their school

An extra 300 year 7's will join the Kepnock High student population in January, 2015. They aren't as travel-smart as some of their older peers. That's more students, more buses, more cars, especially on inclement days. KRAG did do physical counts – as the Minister well knows. There are, on average - 27 buses a school day at the corner of Greathead/ Kepnock Roads. The decision notice requires this corner to have a 3 chord configuration. Kepnok Road cannot be widened. It, like your State network – has been based on this area remaining urban residential. Well – you have just changed that with Masters – with a promise of far more to come. But students still have a right of safe passage to their school. This letter – prior to the construction of the

Ring Road – confirms that the State Government firmly opposed any Council access over the Ring Road because of the capacity to increase traffic, especially heavier traffic types, past their school



The “existing arterial road network” was never planned to accommodate a regional commercial/industrial activity like Masters. It was certainly never planned to accommodate a shopping centre that will be bigger, than the existing major centre of Sugarland. This centre to the west of Bundaberg was previously owned by the existing Masters developer. He has since sold it, and now wants to repeat his financial gain by repeating this type of investment in the east – to the detriment of that community and the loss of local jobs.

The Woolworths (Masters) Board is well aware of this issue. A copy of this letter was provided to them when Masters(1) was being considered, and appropriate duly received correspondence is also held.





Students “running the gauntlet” over the Ring Road

Your conditions, Minister can attempt to address the risk of this corner. It does not diminish the risk to students. Your approval and the Ministerially approved draft Town Plan – which replicates the wishes of the developer, the duopoly, the Government and the Council – against the wishes of the adversely affected community – increase the risk to students with both increased traffic – and heavier traffic types.

Students attending your High School are now, apparently, less important than they were when the State Government built the Ring Road.

Our Community does not share your view

Masters(2) will have significant impact on students, pedestrians and the cycling public – especially when it should not be in this constrained space and, historically, the local infrastructure has never allowed for it.

If this cycling network was considered necessary 3 years ago for Masters(1) – it is no less necessary now – and is firmly placed on record. The Kepnock Place/.Shopping Centre development contains a Council condition that wasn't complied with – (a footpath). Now there's no on-site water detention – probably because it was a deal that "we'll handle that when we do the shopping centre". That's not good governance. Retro-fitting, which is what Masters is all about – doesn't work. Our community deserves better. So this is all now on the record – for future reference, if need be.



**Queensland
Government**

File No: 500/143
Your ref: 322.2011.32219.1

C/c

Mr Peter Byrne
Chief Executive Officer
Bundaberg Regional Council
PO Box 3130
Bundaberg Qld 4670

Attention Ms Gail Downie

I advise that Transport and Main Roads intends to soon commence developing a Principal Cycle Network Plan for Bundaberg. The plan will identify a strategic cycling network utilising state and local road corridors.

Therefore, if Council intends to condition the development to provide a footpath, I recommend that it condition for a minimum 2.5m shared off-road pathway for cyclists and pedestrians for the full frontage of the development along Greathead Road (north to FE Walker Street and south to Kepnock Road) and along Kepnock Road.

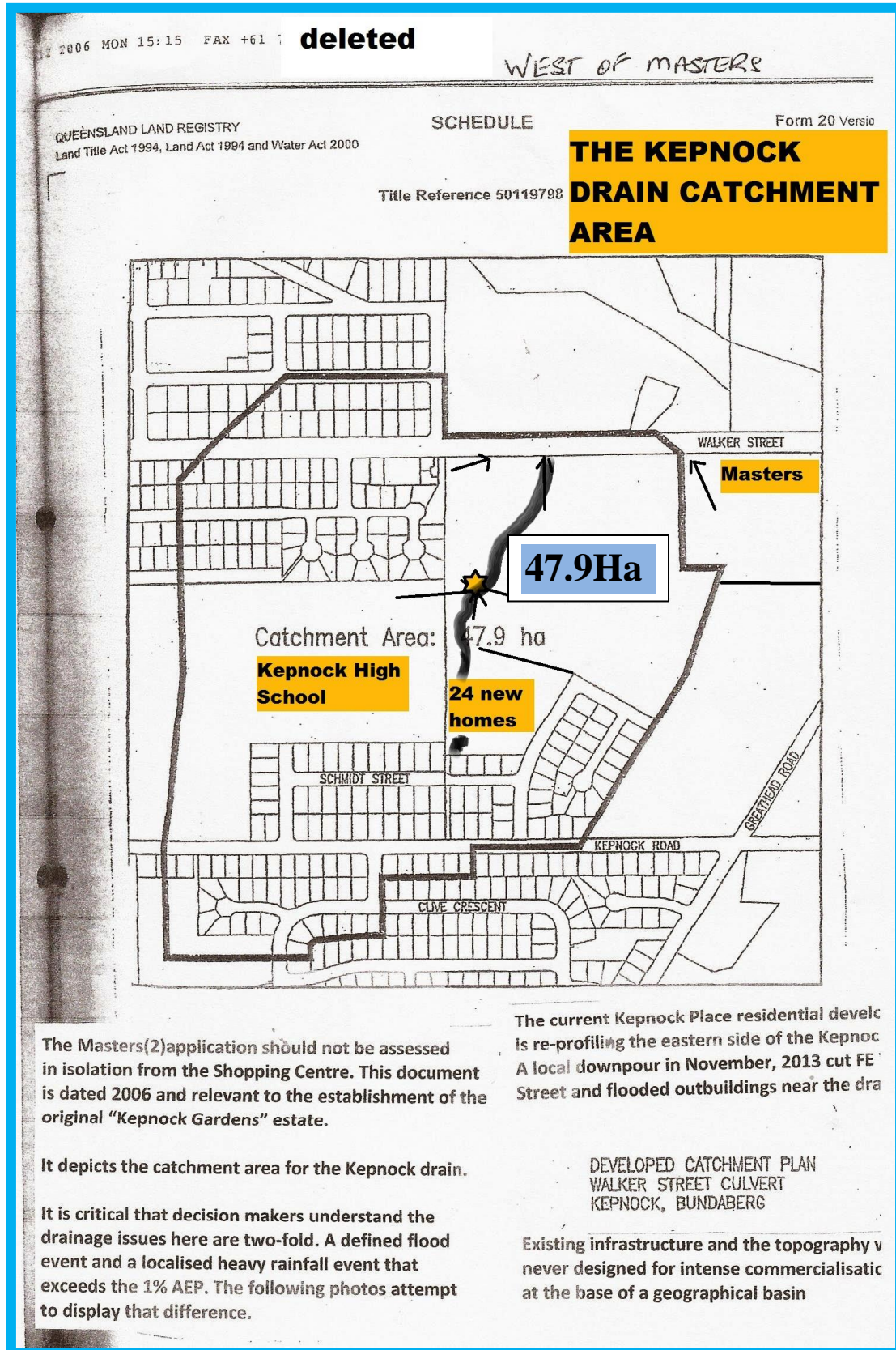
The pathways should be provided in accordance with AUSTROADS *Guide to Road Design Part 6A: Cyclists and Pedestrian Pathways*.

A handwritten signature in black ink, appearing to read 'Doug Wass'.

Doug Wass
Regional Director (Wide Bay/Burnett)

2 August 2011

STORM-WATER AND FLOODING



Our submission to both the Council and the Minister comprehensively addressed this issue, but it is raised again for the formal record following the Ministerial approval - and now the Draft new Town Plan.

Masters(2) approval includes the “western culvert”. This is the after-flood site – with the “western culvert marked (1) and (2) the northern view from the “western culvert” – where it flooded FEWalker Street.



The “western culvert” is a critical drainage path for the upper local catchment- with part of the western flow being directed to it. This drainage easement is referred to as Lot 11 in the Master’s application. The Minister

has left the future of this critical drainage easement to the discretion of Council – for the future. So, in a matter of time Woolworths will simply lob a suspended slab over it, a culvert under it and there will be a complementary Woolworth’s enterprise on top of it. There appears to be no bio-retention basin attached to this drainage system – which flows directly into the Wetlands.

It is unacceptable for Masters, the Minister and the Council to accept that “Masters is commercial – not residential – so flood mitigation is not required. Masters is above the DFE” . But the site is subject to both local DFE and estuarine DFE – the more water you pour into the Wetlands from other areas, the more it will back up in a flood event. Increased local run-off in a heavy rainfall event will now be 95% - and not the residential 50%. Residential run-off is the basis of all local infrastructure, including the State road network. A heavy rainfall event blocks off Que Hee Street, on average - once a year. It and FEWalker Street were cut off in a localized heavy rainfall event of 17 November, 2013. These pictures show the extent of the torrent in the Kepnock



Drain. The “western culvert” also overflowed, during that local rainfall event, as water backed up to the top of Scherer Bvd, flooding one home in Schmidt Street and several out-buildings along the Kepnock Drain

The developers of the shopping centre (an associated Santalucia company) claim “flood immunity” for their land, saying the drain “worked to design” (*Pg 11*). But locals, and photos, confirm it was very close to overtopping. That was well before all the development of “Kepnock Place” had even started. Commercial development of this whole area increases the run-off by 45%. The January, 2013 floods had **NO** development in the upper, or lower reaches of this area. Now, with Kepnock Place residential development (50% not 95% run-off) nearing completion (only 1 of the 24 blocks remaining unsold) - the eastern side of that drain is roughly 2 metres higher – with no compensating height increase near the adjacent homes – that’s the western side.

We are working with Council to assess the reasons and adverse impact of this – but the obvious answer is that the Kepnock Place development, despite our earlier, documented, concerns was approved with NO on-site detention. This can’t be rectified retrospectively. That’s a bit like the “missing footpath”. But, this is water; this threatens homes and breaches basic town-planning tenets. At least 2 of the homes could be impacted into the future, unless the CURRENT problem is addressed. The proposed Shopping Centre has public Ministerial support of the overall site plan for Masters, and also of the area’s Development Control Plan – i.e. proposed Kepnock District Activity Centre Precinct – as documented within the Draft Town Plan.

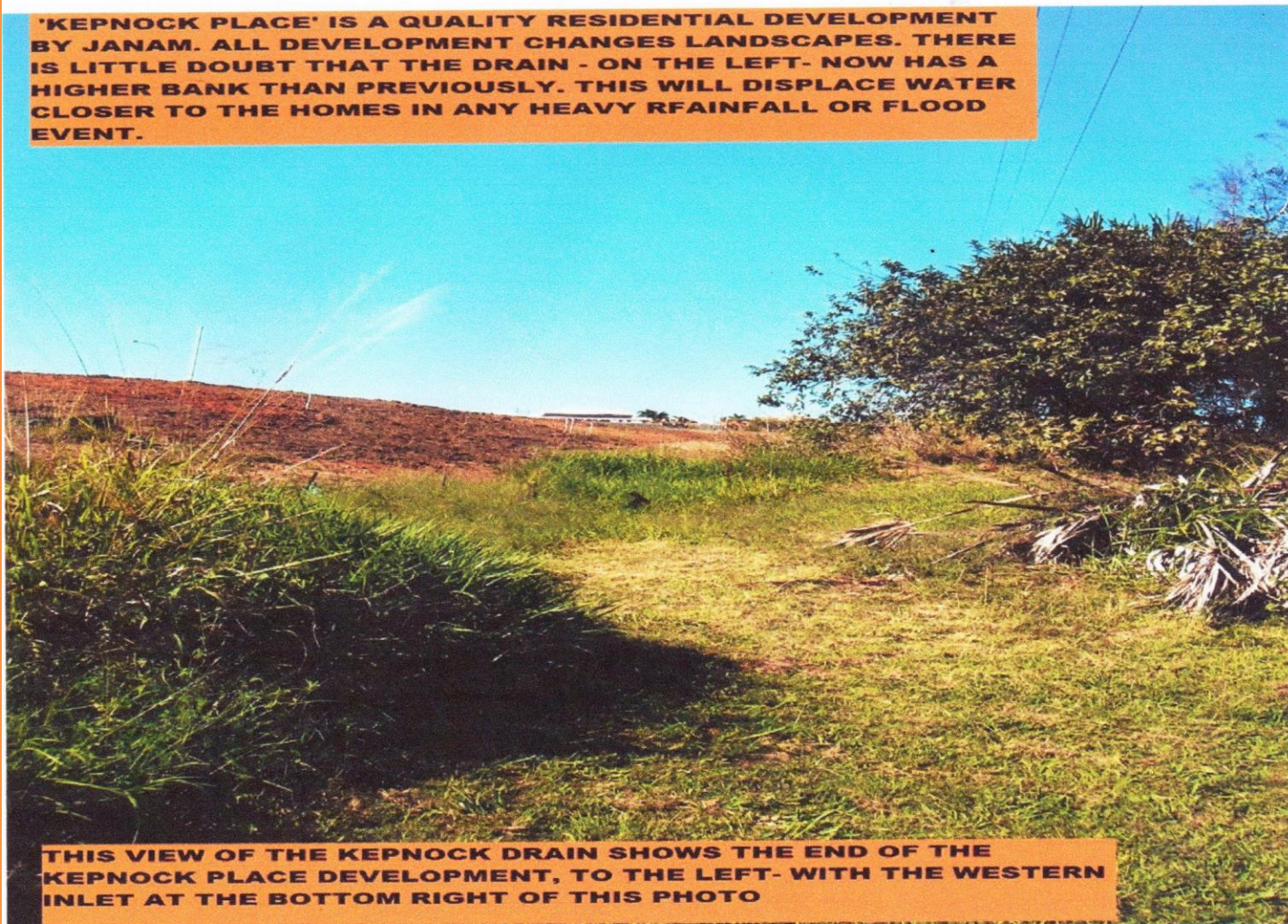
But, this plan requires the “loan” of the Kepnock Drain to the developers, who will then build part of their huge building over it. It will provide the ONLY entrance to the shopping centre ,continued access to the south through local residential streets and the necessary western link for Masters(2). The initial car-parking projection – over that entrance- is for 1200 car parks. That’s a lot of cars, diesel, fumes and people – over an increasing depth of water, as future commercial development (95% run-off) and not residential run-off (50%) must be built into the storm-water management system. That requires a very large on-site detention basin. The Kepnock Drain will then be handed back to the ratepayers with all the accompanying liability.

The Council and the Minister feel “lending the ratepayer’s drain” – with all its sensitivities to the developer- is appropriate. The Master’s approved overall site plan – and the Draft Development Control Plan within the Draft Town Plan- still show the “Kepnock Drain” disappearing under the western boundary of the shopping centre building. Our community doesn’t share that view. We are not prepared to accept the increased risks of flooding that this proposal creates, and rightfully insist that ALL post development flows must not exceed pre-development flows. Homes border the Kepnock Drain and private residences are also located at the receiving end over the other side of FEWalker Street. Public records confirm that Council, at the insistence of Main Roads, purchased extra land on the northern side of FEWalker Street to overcome drainage flow problems with earlier residential development higher up the catchment. Continued damage to State Roads was being incurred post the Berghofer Estate development near Kepnock School. There was an unfortunate accident because the increased Council run-off downstream (The Kepnock Drain) created adverse Main Roads problems with downed fences and erosion of Main Roads infrastructure. Now, future development of the remaining catchment will be changed from low impact residential to vehicle intensive commercial development, with a 45% increased, more potentially polluting, run-off. Despite this, decision-makers, living nowhere near the site, have agreed building over that Drain - to enable that development - is appropriate - and publicly “approved”.

Masters is a part of this – because of the “western culvert” . As this information, plus the Masters(1) and Janam(1) – Shopping Centre – submissions formed an integral part of our submission against the Masters(2) application - all of this information is now a matter of record for the Minister, the Council, and the developer – prior to the Minister’s call-in and subsequent approval of Masters(2)

Considering the refusal of decision makers to take these well documented issues into consideration, we are placing the issue of increased risk – in matters documented here-in – firmly on the public record. The prior knowledge of public risks, which are exacerbated, despite that prior knowledge, by decision makers - increases the liability of those decision makers. Having been deprived of our democratic right to have these matters discussed under “due process” we, as concerned citizens have now taken the only course open to us.

'KEPNOCK PLACE' IS A QUALITY RESIDENTIAL DEVELOPMENT BY JANAM. ALL DEVELOPMENT CHANGES LANDSCAPES. THERE IS LITTLE DOUBT THAT THE DRAIN - ON THE LEFT - NOW HAS A HIGHER BANK THAN PREVIOUSLY. THIS WILL DISPLACE WATER CLOSER TO THE HOMES IN ANY HEAVY RAINFALL OR FLOOD EVENT.



THIS VIEW OF THE KEPNOCK DRAIN SHOWS THE END OF THE KEPNOCK PLACE DEVELOPMENT, TO THE LEFT - WITH THE WESTERN INLET AT THE BOTTOM RIGHT OF THIS PHOTO

13.0 SITE FLOOD IMMUNITY

"The site was unaffected". Will that be the case next time around ? This time the site is green-field, no buildings. The centre will be (eventually) 3/4 solid concrete and thousands of cars. Look at how close the water came - this time



The effects of the January 2013 floods on the Bundaberg Community were devastating.

DRAIN FLOOD WATERS

Apart from the personal hardships and loss of property, life in Bundaberg and her day to day operations were affected considerably not only for those whose houses and businesses were inundated but in terms of all of the community having their ability to shop for basic foodstuffs severely limited.

Immense pressure was put on the City and its food supply chain with the closure of many foodstores through flooding. None was more evident than in the Bundaberg CBD with the closure of the Hinkler Centre. This eventually resulted in the loss of two Full-line Supermarkets, the DDS and other specialty tenancies for 6 months.

Fortunately, there were other unaffected centres that were able to meet the increased demand however it has shown the need for the ability to maintain logistics and food supply for the community.

Certainly through the flood that occurred, roads were cut that precluded the delivery of foodstuffs. But as soon as the roads were open, it was crucial to have the necessary infrastructure in place to commence operation as soon as the roads opened.

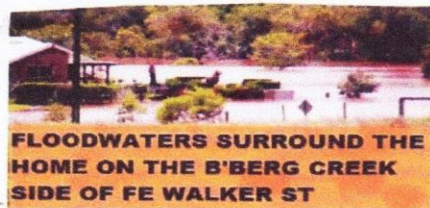
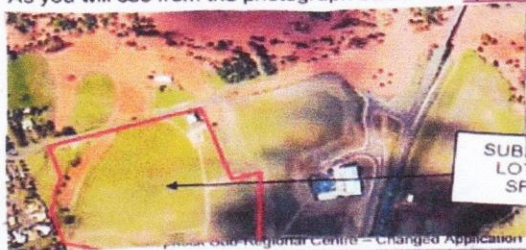
Also, it was realised that the importance of flood immunity in future development planning was needed to ensure that businesses were able to quickly reopen following a flood event particularly in terms of being able to maintain employment after such an event.

Council as part of their flood review has released a number of Flood Maps. The Burnett River Flood Hazard Area & Defined Flood Level Map- Map 1 City Inset which covers the area in which the Site is located is shown below.

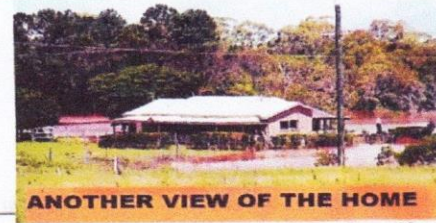
As can be seen, the Site of the proposed centre (except for the stormwater drainage channel that operated as designed and without overflowing onto the Site or FE Walker Street) is not shown as being within a Flood Hazard Area.

This is further demonstrated in one of the aerial photographs taken at the time and also included below.

As you will see from the photograph below that apart from water in the stormwater drainage channel, the Site was unaffected.



FLOODWATERS SURROUND THE HOME ON THE B'BERG CREEK SIDE OF FE WALKER ST



ANOTHER VIEW OF THE HOME

We cannot change the Ministerial decision now thrust upon our residents. Our legal advice has been to ensure the matters are placed firmly on the record, and that our members are provided with copies of that record to lodge with their personal legal advisers and/or insurers..

We regret this action has been deemed necessary, but we live in this area – and none of the decision makers- or the developer- do. It is (was) our livable community. It is still our school, our homes, our families and our futures.

We have, at all times been prepared to accept reasonable commercialization of the precinct abutting FEWalker Street – but our attempts at collaboration and compromise have been treated with total contempt. All that we have left is self- protection.

There is no need for the Masters development on this site and we are confident that, had our democratic rights not been purposefully taken away from us, we would have had an independent arbiter decide in our favour. Then we would have had a local neighbor-hood centre in this precinct, and none of this would have been necessary

There are many other commercial options available and, if a district activity centre is considered necessary into the future – then it should be further east.

Yours faithfully

Mary Walsh
Secretary

Keppnock Residents Action Group

CC's Woolworths Board of Directors
 Minister David Crisafulli
 Mayor, CEO and individual Bundaberg Regional Councillors
 Residents – as requested
 Others – as decided by the Executive.

Sent by registered mail to:-Woolworths, Minister Crisafulli, Minister Seeney and the Mayor. – receipts held.

Sent by Express Post to individual regional Councillors, Ho. Jack Dempsey, Hon Steve Bennett and Hon Keith Pitt – State and Federal Members of Parliament.....Receipts held

Attachment 1

Q1 - As this is a Ministerial approval – are we - as residents affected by the approval, the construction and subsequent operation of this Masters(2).enterprise - allowed any input into the “negotiable” elements of the approval?

Q2 - We will publicly resist any attempt by the land-owner to set up his machinery compound anywhere near the Kepnock Road boundary of his land holdings. They would not be entering the site from the East. The land-owner left a rubbish dump close to the homes when he did the Aldi development. It took 2 years to get it cleaned up. It was a fire risk and vermin laden dump, with snakes that invaded the homes during the hot weather – seeking water. The remaining pipes – which he still refuses to shift – are used by hoons and truanting school children. It took the threat of legal action to have the site cleaned up last time. Residents have had to keep the property verge mowed, themselves – to protect their own properties. What rights, if any, do residents have – given this land-owner’s past record. – with his use of his own property in the process of his Masters development?



This is the mound at the end of Scherer Bvd – another mound exists over the road. This mound is rubbish left over from the Aldi development. The other is a stockpile of fill that took a long time to get it cleaned up



Q3 - The land-owner has a large stock-pile of soil (and rubbish) which he has been moving – over time to his other projects in other parts of the City. This stockpile is located on the other side of Scherer Bvd. This has involved large trucks and earthmoving equipment that have entered the site from a road he created off Greathead Rd – near the Aldi. In dry weather it creates volumes of dust that is carried into our homes. Several times the site has been set on fire by wayward students. How will residents be protected from the dust, dirt and off-site impacts of this approval?. This land owner is difficult to deal with.





Q4. The future of Lot 11 is a matter of grave concern for residents, and for the environmental advocates – given that both the State Government and the Council have deliberately denied the existence of the adjoining wetlands – which receives the end product of pollution this site and the larger site will engender and distribute to the Wetlands.

1. Can there be a bio-retention basin in Lot 11?

2. Can the State Government dictate that any future change of usage for Lot 11 be denied – on State environmental grounds. There are Matters of State Environmental Significance 50 metres from this site. Why should volunteers devote thousands of hours to protect our environmental legacy if the Minister can just deny its existence? The Regional Plan should over-ride the Town Plan – especially as the Minister reckons the Town Plan is so “out-of-date”.

Q5 Can there be a requirement for a protective cycle/pedestrian path for the students and others from this site to the Kepnock Rd/Greathead Rd intersection- in line with the TMR 2011proposal?. This approval increases risk for students and others with increased traffic volumes and much larger and heavier traffic types.

Q6 When will the State Government reduce the student/pedestrian risk of no access over their Ring Road?. We understand there is to be a pedestrian refuge – but there is no mention of it with this approval. It needs to be a condition of approval and needs to be implemented as a matter of priority. It is already overdue.

Q7 The conditions re dust/debris and stormwater management during construction are something of a joke, sadly. This is a huge industrial building, being built with a ground level of 14m – facing the homes – not your road. This is a constrained residential precinct and conditions 9 and 12 only stipulate the Main Road – not the residents, the heavy school traffic or the environment. This building is NOT being built in the appropriate zone. We will be demanding that the construction hours are strictly complied with. Despite all your conditions – this will be a nightmare for our livable community – during its construction and thereafter.

ATTACHMENT 2

REASONS FOR THE MINISTERIAL APPROVAL OF THE MASTERS(2) DEVELOPMENT ON LOW DENSITY RESIDENTIAL 'A' LAND IN KEPNOCK, BUNDABERG

The reasons for the ministerial call-in – based on the feed-back of the proposal letter sent to the 81 submitters are, at best, questionable:-

Consideration of call in
On 16 April 2014, I issued a proposed call in notice for the development application. The representation period was for 15 business days, closing on 12 May 2014.

Written representations
During the stated representation period, between 17 April 2014 and 12 May 2014, a total of 36 properly made representations were received. Nine of the representations advised that the development application involved state interests. Seven representations agreed that I should exercise my ministerial call in powers to re-assess and re-decide the development application. Table 1 below provides a summary of the representations received.

State interest		
There is state interest	There is no state interest	N/A - did not identify
9	17	10
Masters Home Improvement Store Development Application		
Support	Oppose	N/A - did not identify
7	29	0
Call in		
Support	Oppose	N/A - did not identify
7	19	10

Table 1: Summary of representations received

If you do the numbers on this feed-back the results look something like this:-

	<u>Yes</u>	<u>No</u>
Do you support the development on that site	19%	81%
Is there a state interest	35%	65%
Do you support calling it in?	27%	73%

The Minister confirmed, with Masters(1) that this hardware store had no state interests – “only local impacts”. His change of heart for Masters(2) has nothing to do with fact – more to do with politics



Office of the Deputy Premier
Minister for State Development,
Infrastructure and Planning

Our ref: MBN12/563

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100 George Street Brisbane 4000
PO Box 15009 City East
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Telephone +61 07 3224 4600
Facsimile +61 07 3224 4781
Email deputypremier@ministerial.qld.gov.au

- 1 NOV 2012

Ms Mary Walsh
24 Scherer Boulevard
Kepnock
BUNDABERG QLD 4670

Dear Ms Walsh

Thank you for your letter of 25 April 2012 requesting that I enact my ministerial powers to call in the Masters Hardware development application currently being assessed by the Bundaberg Regional Council.

I acknowledge the concerns raised by the Kepnock Residents Action Group and note the development application is still being considered by Council. The Council, as the assessment manager, is obliged to undertake a complete and thorough assessment of the application, including the issues raised through your submission.

For me to call in a development application, it should involve a state interest. As the proposed development involves local impacts, there is presently no opportunity for the state to call in the application.

If you require any further information, please contact Natalie Keys, Assistant Policy Advisor, on 3224 4600, who will be pleased to assist.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Jeff Seeney'.

JEFF SEENEY MP
DEPUTY PREMIER
Minister for State Development, Infrastructure and Planning

Based on these facts it should not have been called-in – 81%, 65% and 73% beat 51% - in any school of mathematics

It is interesting that, in the formal reasons provided by the Minister there is not one mention of “jobs”. Yet the jobs, jobs, jobs hype was the governing media, Council and State Government reasons for demanding that Masters(2) application should be approved – on that site. Every business person knows that the duopoly are experts at self-serve and that retail only transfers jobs – doesn’t create new jobs. Also, anyone with a grain of common sense knows that Masters – on the right site – would create the same number of jobs – whatever that might be – as it would on this residential site. The difference is that Masters (2) on this site deprives local builders of local jobs into the future, and the minister would not want that counter-argument to surface. So – it doesn’t even rate a mention in the formal reasons – and neither it should.

Our response to his stated reasons for over-riding the Planning Scheme and approving it – without letting it be tested under his own “improved” reforms to Planning law – is as follows:-

1. There are sufficient economic grounds relating to community need and demand and a lack of suitable alternative sites to approve the development application

1.i Response:

The community need and demand would have been satisfied - no matter where Masters had lodged their development application. Masters proudly boast they are a “destination market” – so people will travel. Masters brings few local construction jobs and creates few long term – full time employment - positions. Increasingly self-serve - as with all duopoly shopping - is replacing a large number of check-out positions. Masters is no different

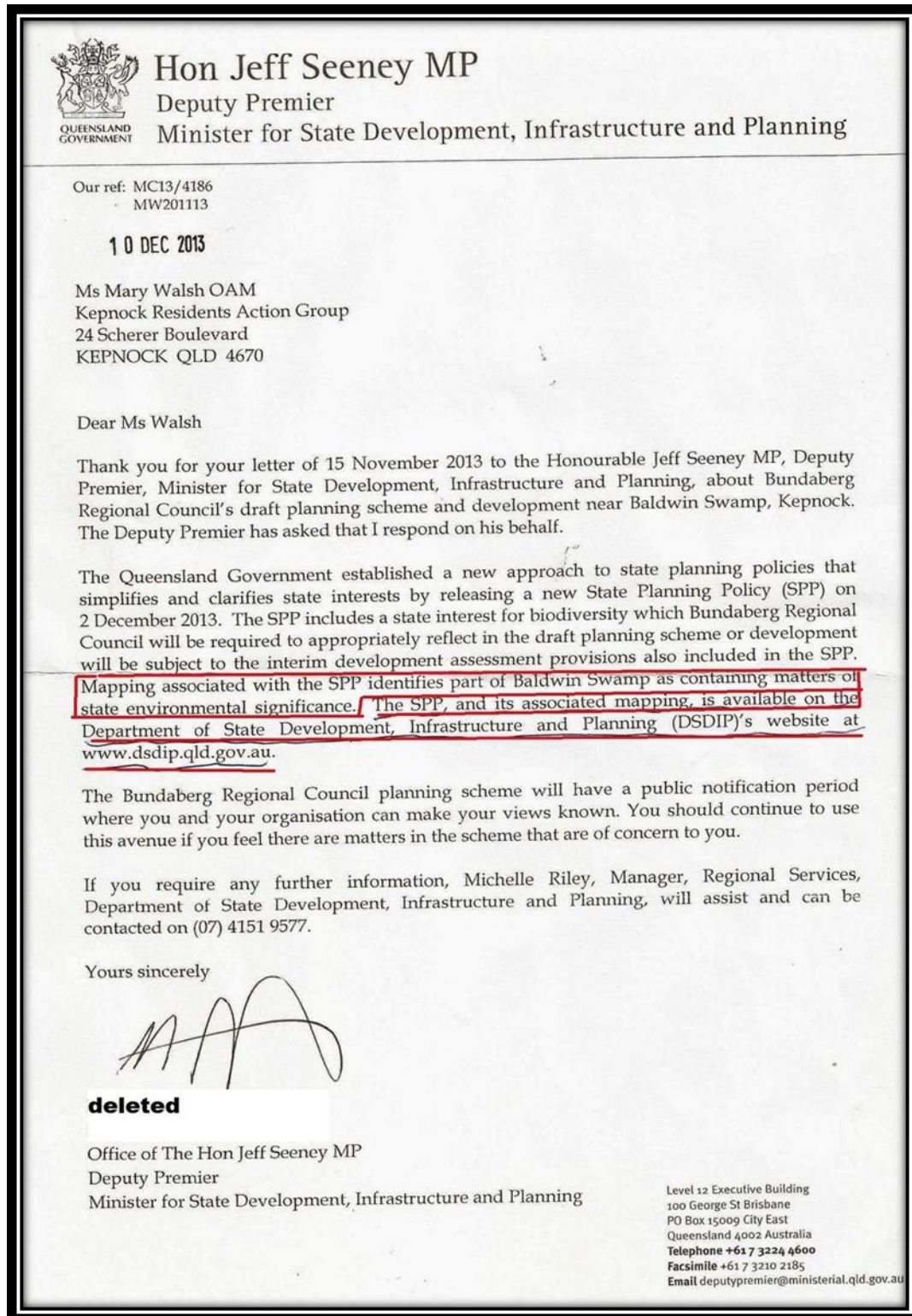
1.ii A lack of suitable alternative sites: There is a large, specifically designed Retail Bulky Goods Precinct near the Bundaberg Airport. It is accessed by a signalised intersection from the four-laned Isis Highway. It is the first large industrial/commercial complex entering the City from the south. There are plans to enlarge that precinct into the future, but Woolworths didn’t want to be near their national competitor – Bunnings. They wanted to publicly “trump” them with a public win on res “A” land – and set a national precedent that might prove beneficial to future expansion in sensitive areas in other parts of our nation. The precinct is designed for bulky goods retailing and Masters would be out there with all their competitors. That makes for customer convenience with choice, comparison and cost evaluations, and lessens the impact on motorists with the heavier vehicle manoeuvring.

There are other sites, even in the East - if Masters desperately wanted to be closer to the Coast- but they have no infrastructure. This would have increased the development costs for Masters. Also, perhaps – they are not owned by Mr. John Santalucia – the City’s most powerful developer.

The site approved by the Minister – not the legal system of which he is so proud (because it would never have been approved under planning law) is hardly “suitable” for this type of huge auto-centric retailing because:-

- It has only one access and egress – a small round-about – coming off a small local Council collector road
- It is constrained in the wider area by a “T” junction at both ends of the 2 local streets leading to the site from the south and the south west.
- It is in a flood hazard zone – but no flood mitigation measures have been imposed by the Minister. It’s considered large enough not to flood,
- It is 50 m from a protected environmental park that contains bio-diversity areas of State significance. But this is not mentioned in any of the paperwork and the Council approval stated that “there are no areas of any natural importance or eco-systems abutting the site”. However, the other side of the “suitable” site now approved by the minister, is the eastern foot- walk and entrance to the

environmental park, which also contains confirmed bio-diversity sites of "State environmental significance" (*letter from Minister dated December 2013*).



- If the stormwater run-off exceeds the capacity of the on-site detention basin – and it will in that topographical position - , the run-off will be diverted straight to the Ring Road detention basin and then the environmental park. That run-off will be untreated, contaminated and polluting to the wetlands because of the paint, pesticide, herbicide nature of some of Master's 35,000 inventory lines and 373 car-parks.

- That local road is the primary entrance for their Kepnock State High School and has up to 27 buses daily. An extra 300 students are expected when year 7 joins the school campus next year – in the middle of the wet season and when the building construction is expected to commence.
- The State Government has rigorously defended THEIR network – allowing no access from the main road. All traffic has to come off the little council road, whose width- for widening purposes- is now constricted because of the State Ring Road's restricted road reserves.

Yet – THIS site is considered more “suitable” – than the available specifically designed, and built – Retail Bulky Goods Precinct which is only 8km from the current site.??

2. The Bundaberg market is large enough to support the proposed development and will provide residents with improved choice, variety and price competition.

2- Response: No argument with that but, on the right site that choice would be made easier if consumers don't have to travel away from all their competitors to exercise that choice. Additionally, on the right site there would be no detriment to the environment, to residential amenity, to the local infrastructure. There would be no loss of local construction jobs on the best residential land in the region, no loss of residential investment into their residential A homes, and no increased risk of flooding by an increased run-off of 45% (residential is 50% - commercial is 95%). There would be no increased, and unacceptable heavy equipment traffic into a constricted residential zone –mixing it with school buses, student foot and bike traffic. Masters project 826vph on Saturdays and 447 vph on Thursdays.

3. The subject site is well positioned to accommodate a Masters Home Improvement Store capable of servicing the whole of Bundaberg, and especially its eastern and coastal residential area.

3- Response: The detriments of this site far outweigh the only benefit – which is that eastern customers will not have to travel quite so far to get to Masters. . On the other hand – this is a regional facility – not a local one – so regional customers now have to travel further – unless you come from the south. Customers of the large, specifically designed Retail Bulky Goods Precinct - which accommodates all the Master's competition - will have to travel further to access Masters. The Minister has decided that the travel convenience of the eastern section of the wider community outweighs the extra travel impost on customers from other local and regional areas. Add this travel convenience issue to the already detailed wider community detriments – the Minister has made a political choice – not a community or commercial one.

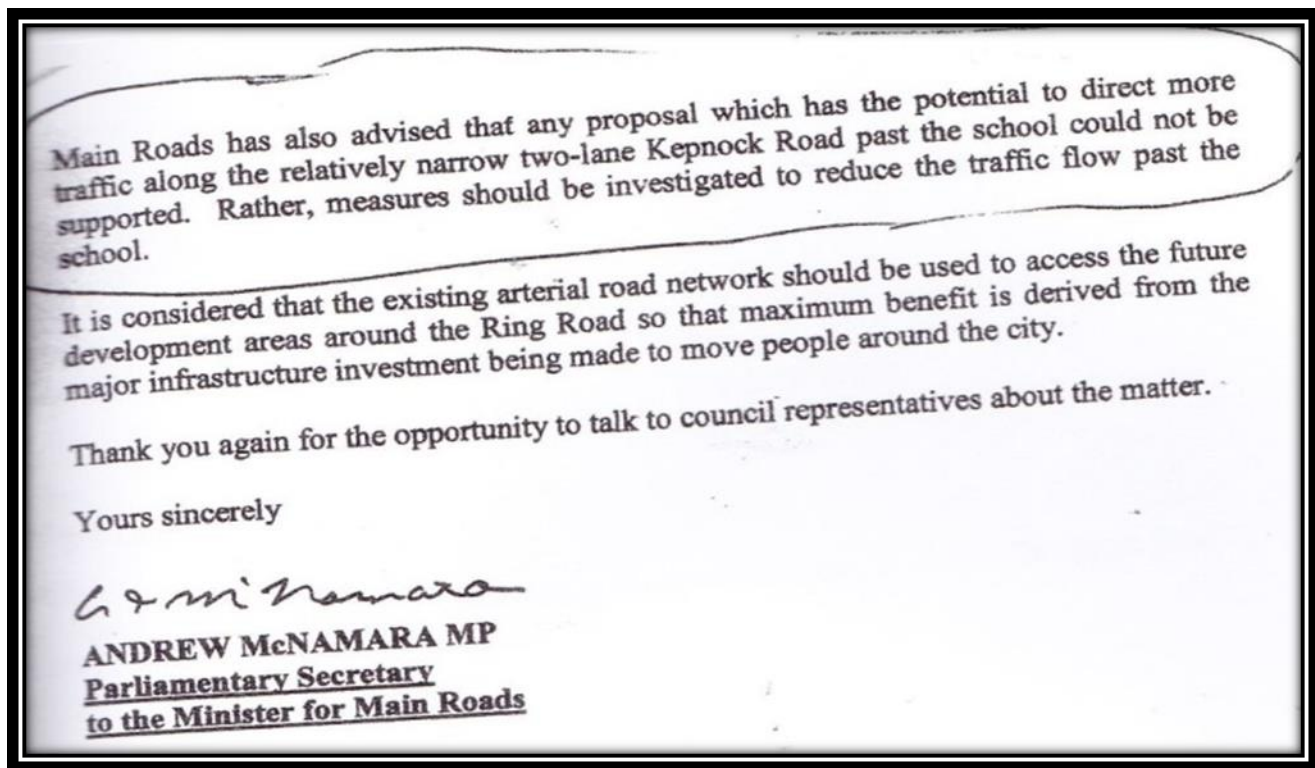
4 It is arguable that the Bundaberg City Plan, which took effect in 2004, is out of date and a number of developments occurred in relation to future land use planning relevant to the subject site and surrounds; namely:-

4.1 The completion of the Bundaberg Ring Road in 2009, providing motorists with an alternative route around Bundaberg, easing congestion on inner city streets and reducing travel time from the Isis Highway to the eastern suburbs, and impacting on land intended for future low density residential development

4.1 Response: There were 2 Town Plans in the lifetime of some 20 years of planning and reviewing- to establish the Ring Road. It's actually only a “link” road – not a ring road. A ring road takes all the traffic away from the growth. This one – positioned strongly against the documented wishes of the Council and business of the day- took all the heavy traffic and dumped it in the middle of the eastern corridor growth area – and industrial east Bundaberg - right on the doorstep of our city's Bundaberg Brewed Drinks , near a large and growing school with “lollipop” stoppages - instead of taking it around the city and linking to the large Port

Road round-about. Approved by the previous State Government the position was the subject of much historical criticism from the very politicians now championing it.

The future residential growth was well known and well planned for by the Council of the day – few people know that better than I. As recently as May, 2012 the State Government confirmed there would be NO access to FEWalker Street for these two parcels of Santalucia residential A land. The State road network had been based on this land being urban residential – and remaining so under the Town Plan. You might be able to retro-fit State Roads, but you can't retrofit any of the roads leading to the site which the Minister considers so "suitable". This documented history confirms the concerns of the Council of the day about the lack of Ring Road access for students getting from the future eastern population area to Kepnock State High School. The State Government refused to allow a pedestrian crossing because:-

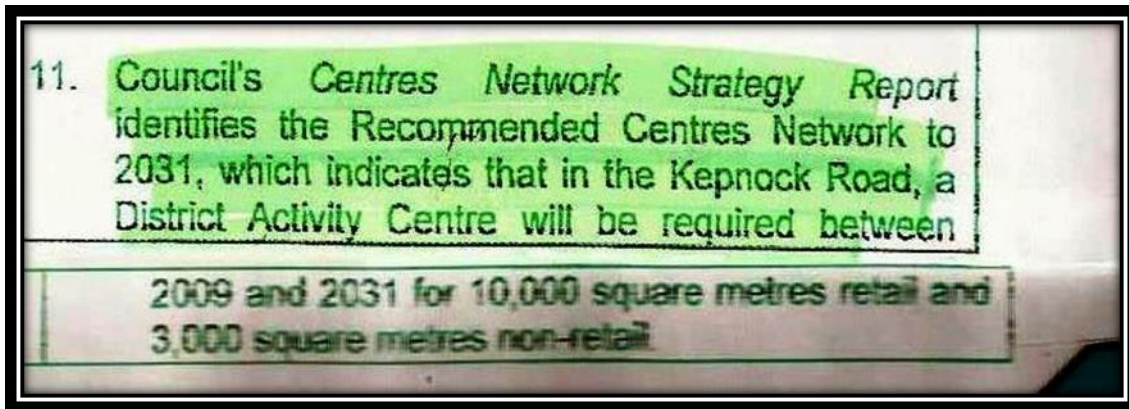


of genuine concerns about increasing both the volume and type of traffic that might "rat-run" off their Ring Road and down Kepnock Road. This was a critical issue for the Council of the day. They were well aware of the projected residential growth of the (now) Belle Eden and Sanctuary Park Estates - because they were dealing with prospective developers even then. A figure of between 400-750 new homes was on the drawing board as the proposed Ring Road site firmed up, and at least two of the existing Councillors, including Mayor Forman (who lives in that area) – were well aware of that.

Now, however, the Minister of the day – in harmony with the Bundaberg Regional Council - has changed the guidelines, despite the fact the same concerns remain. The Minister has decided the "existing arterial road network" should carry the brunt of a traffic impost – on that network – never catered for in the first instance, and impossible to retro-fit, to accommodate his Ministerial approval of Masters(2) – whose only access is from that limited local road network.

4.2 The approval in March, 2010 of the Aldi store on the land adjacent to the subject site, and the inclusion of the ALDI site in a Centres Zone under the Bundaberg City Plan

4.2 Response: A small grocery store was always to be the anchor tenant for a proposed small, local neighbourhood shopping centre on that site. It could have been IGA, Foodworks or any other similar – small store – not a full line supermarket. It just happened to be Aldi. The development application was anticipated by the residents building and buying into the new housing estate at the time. This is a matter of historical fact and Mr, Santalucia had plans of his proposal – with residential surrounding it. It is just an excuse for the Minister and the Council to try and justify their actions The Aldi owes its existence to the very urban Centres Report quoted by the Minister. Recommendation 11 states as follows:-



No site was nominated and, when Aldi was nominated as the anchor tenant on that site residents expected it to be closer to Walker Street but did not object to the development. They were aware it was coming, was low impact and would be joined by some smaller shops to complement it – to a maximum of 13,000 sq m. – 10,000 retail and 3,000 non retail. The Aldi supermarket in total is 7,943 sq.m –

The Minister is being selective in his use of that Report, and it can't be used as an indicator that the existing 2004 City Plan did not allow for it. It was on the drawing board from early 2000 – and well before the City Plan of 2004 – which the Minister insists is "out of date" because it wasn't planned for. That's manipulation of both history and fact.

4.3 in the preparation of the Wide Bay Burnett Regional Plan 2011

4.3 Response: To argue that later developments were "out of date" with the City Plan of 2004 and use the State Regional Plan of 2011 as one of those events is, again being "tricky". The Bundaberg Regional Council provided their Council submission to the State Government in preparation of that Plan on 14 December 2010. – Aldi was approved in March, 2010. It was well and truly factored into their response in the preparation of the 2011 Wide Bay Burnett Regional Plan. To use the State Plan as an event that rendered the City Plan "out of date" ignores the State Government's own assessment – within their State Plan- of the Kalkie -Ashfield precinct – which reads as follows:-

"The Kalkie -Ashfield Development area (DA) to the east of Bundaberg provides significant opportunity to accommodate residential growth in Bundaberg. It is intended that the area will incorporate local employment, community and recreational activities, in addition to the predominantly residential uses which will provide a diverse housing stock

Development of the Kalkie-Ashfield DA will not occur until further detailed planning is undertaken and endorsed. Infrastructure planning and investment will be necessary to ensure that Kalkie-Ashfield can support a substantial proportion of the envisaged growth for Bundaberg".

Council minutes confirm that the Council expected assistance from the State with infrastructure for this development area (DA) but also indicated that they were happy with the designations of the Urban Footprint within that Regional Plan.

So – while future available residential land in the Kalkie/Ashfield precinct is now being delayed as detailed infrastructure planning is undertaken, costed and financed before it is “available”. The “available” prime quality residential land, with infrastructure capacity, is being sacrificed by the monopolistic land-owner – John Santalucia – for commercialisation – while available industrial and commercial land remains under-utilised. The Minister – with this approval – should “own up” to his part in sacrificing the “available” residential land – not use the State Plan as an event that made the 2004 City Plan – “out-of-date”.

4.4 carrying out of an Activity Centres and Industrial Land Planning Study by Urban Economics in 2012, which identified the need for a District Centre in eastern Bundaberg

4.4 Response: The Minister is, yet again, being “selective” in providing reasons for his approval – contra the City Plan. He identifies these studies as being events – with recommendations – that support his claim that the existing City Plan is out-of-date. This is far from the case.

There were 2 separate Reports – both by Urban Economics – and these have been consistently referenced in our objections to the Council and to the Minister. They are the Activity Centres and Industrial Land Planning Study Bundaberg Region dated 2012 and an earlier one titled Centres Network Strategy – 2008..

- **The Centres Network Strategy** cost \$45,437, and has approximately 200 pages. The earlier(ALDI) quote is part of that Report – although there is further reference on page 94. There was comment about a future District activity centre near the Kepnock Aldi – with the timing being anticipated “to occur at the mid to later part of the next 22 year planning horizon.” That’s 11 years from 2009 – adds up to 2020 to us. But then, the minister isn’t very proficient at maths.

The same Study identifies the issue of Bulky Goods Uses and provides a set of Performance criteria. – pages 118-119. They include a provision that:-

Bulky goods – because of their building design - must not dominate the landscape and They must minimise the impact on adjacent development, particularly where adjacent development is residential.

- **The Activity Centres and Industrial Land Planning Report** cost \$32,342- also has approximately 200 pages and is dated 2012.

This report recognised that:-

- (1) The CBD was both strong and active, particularly in comparison to other regional centres on Queensland’s east coast.
- (2) There is a need for a district activity centre – in eastern Bundaberg – site to be determined.
- (3) There is considerable vacant and available industrial land – sufficient to meet Bundaberg’s needs beyond 2031.
- (4) There was a need to consolidate existing centres before releasing new centres because of the vacancy rate in some of the existing centres.
- (5) A net community benefits test(*pg 131*) demonstrating “overwhelming need in the community interest” is to be undertaken for “out-of-centre” developments.

There was no up-to-date net community benefit test done by the applicants for Masters(2). Rather it was a “cut and paste” result from the failed Masters(1) application, even though the floods 8 months previously had

devastated the region, and changed our City forever. This appears to have been ignored by the applicant, the Council, the developer and the Minister .

4.5. Ex-tropical cyclone Oswald in January, 2013, which produced extreme rainfall and flooding across Queensland, with some of the most severe impacts centred on the Bundaberg region, which had a major economic impact on the region.

4.5 Response:: No one would deny the economic impact of the disastrous flooding of Bundaberg. Land use – for many areas will never be the same again, and good flood free residential land is at a premium. To use this as a reason for turning the region’s best, serviced, residential land into a commercial precinct with a huge built structure that totally dominates the entire area cannot be justified on economic grounds. Masters – on the appropriate site in the Bulky Goods Precinct would provide exactly the same benefits, the same jobs, the same loss and transfer of jobs in existing businesses- as it will on this prime residential site. On the appropriately zoned site it would create no adverse impacts on the surrounding region. Its approval on this residential site robs us of local contractor jobs for home construction. Despite public comments to the contrary - Masters will create few local construction jobs. If this was a genuine reason – instead of a political one – you would have the same economic benefits on the right site PLUS the added contractors jobs on this residential land. The Minister has the opportunity to provide an economic win-win for our local economy, Instead he has aligned himself to the duopoly, the Council and powerful developers to the disadvantage of the local community.

Additionally, if this is all about good flood-proofing strategies for the city – with added economic rewards – why would you approve something as large as Masters in this flood hazard zone - when alternative flood free, commercial land is readily available in a specifically built and designated zone. ?

The Minister’s approval contains no requirements for flood mitigation on site, yet its sheer size will displace water volume in the event of a flood or heavy localised rainfall event

The site is subject to both riverine flood events and local flood events – but there is no requirement for this to be addressed – anymore than there is for its detrimental impact on the nearby protected wetlands and areas of bio-diversity to be lessened.

5 The Wide Bay Burnett Regional Plan 2011 identifies Bundaberg as a “principle activity centre” and provides for out-of-centre development where there is a demonstrated public need and sound economic justification. There are no alternative in-centre sites, the proposed development does not adversely impact on the urban infrastructure network and does not consume land otherwise earmarked for commercial or industrial uses.

5. Response:

- Bundaberg has been a “principal activity centre”, a regional “hub” and centre of this regional area for the past 100 years. The existing Town Plan allowed for this, and protected it.
- The CBD is judged- in the reports referenced by the Minister- as one of the best CBD’s in regional Queensland. The nexus for that has been that, up until this development – the Council of the day has worked for the City – not the developer. Out-of-centre development – with the capacity to damage the vibrancy and viability of the CBD - has never been approved, while ever existing centres could accommodate new commercial development.
- There is an excellent and expanding Bulky Goods Retail Precinct – where the Masters competitors are located – because Councils would NOT allow them to set-up elsewhere. Bulky goods are auto centric. That precinct is a centre in it’s own right, and abuts the major activity centre for the region

– Sugarland Shopping Town. The Minister is being less than honest when he claims there are “no alternative in-centre sites”. That is a total mis-representation

- The Minister has publicly supported Masters as the catalyst for the future approval of a large shopping centre – linked to the Masters enterprise – which will be larger than Sugarland . The applicant for this centre is an associated family company. Working together – as two separate applicants they have deliberately manipulated the planning system to achieve an eastern replacement for Sugarland – which was previously owned by this Family corporation, and sold several years before the exact route of the Ring Road was determined. The development does adversely impact on the CBD –because there are already approximately 180 vacant shops. The Minister has, unnecessarily, publicly supported a development application – still not determined by Council. Contrary to the Minister’s ridiculous claims – this huge development, in a constrained physical site - will have serious adverse impacts on the local urban infrastructure network- into the short and long term future. Whilst his approval does “not consume land otherwise earmarked for commercial or industrial uses” it does consume valuable and scarce high quality residential land earmarked for homes that provide local construction jobs for our tradies .Masters is a hardware store – not an urgent community facility. There is no over-riding need – and there is plenty of alternative, commercial land available to accommodate this development – with no adverse impacts on the surrounding infrastructure, the amenity, the community and the value of associated investment by the nearby residents – protected by the City Plan.

The Minister cannot, under analysis, justify his reasons for :-

- Using his Ministerial “call-in” power to keep the Masters development out of the legal system.
- Using that same power to approve it - despite the obvious, and well documented, disadvantages of the site, the loss of local construction jobs, the loss of residential amenity and the long term adverse impact on the environment, on urban infrastructure, on the local school, local businesses and investment value of adversely affected residents.
- Abusing his position to publicly support a subsidiary development application – by the same developer company - not yet decided by the elected Council.

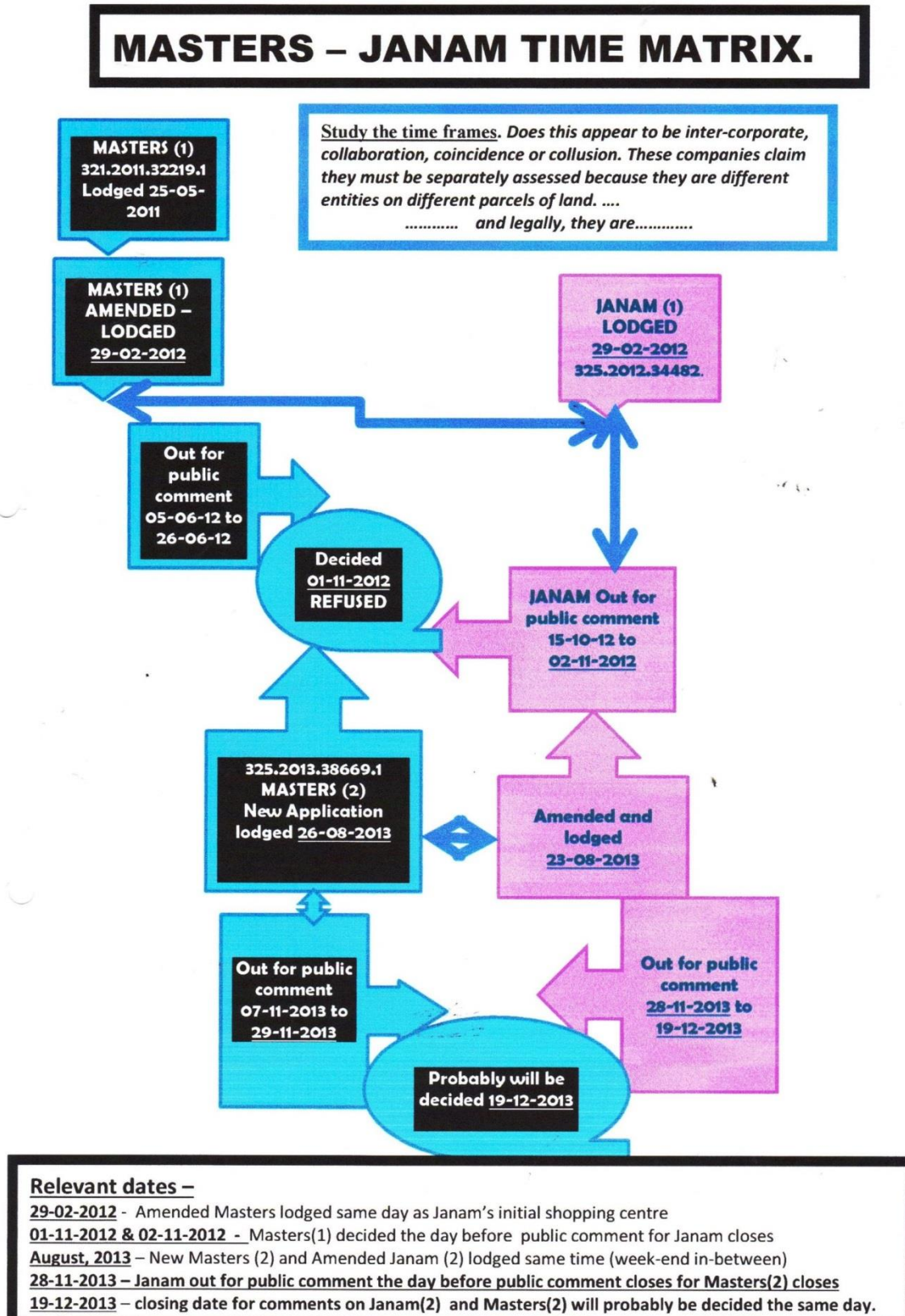
The Minister’s list of reasons for approving the Masters(2) development as the catalyst for replicating existing development applications by the City’s most powerful developer into a proposed 20h district commercial precinct – on existing low density residential A land – in the Draft Town Planning scheme do not stand up to close scrutiny.

The Minister’s actions are

- (1) In defiance of process
- (2) In defiance of the statutory planning legislation and its associated legal instruments, and
- (3) In defiance of sound environmental practice and legislation

The 4 year long Bundaberg Masters drama is but one stage of a national commercial war being fought for market supremacy by two powerful combatants – Coles and Woolworths. The Bundaberg campaign has been waged on different sections of the same battleground – both owned by the same powerful developer – when an alternative specially built Retail Bulky Goods Precinct is available. It is a national war with national consequence. It raises serious questions about process and, rightly or wrongly, public perceptions about accountability

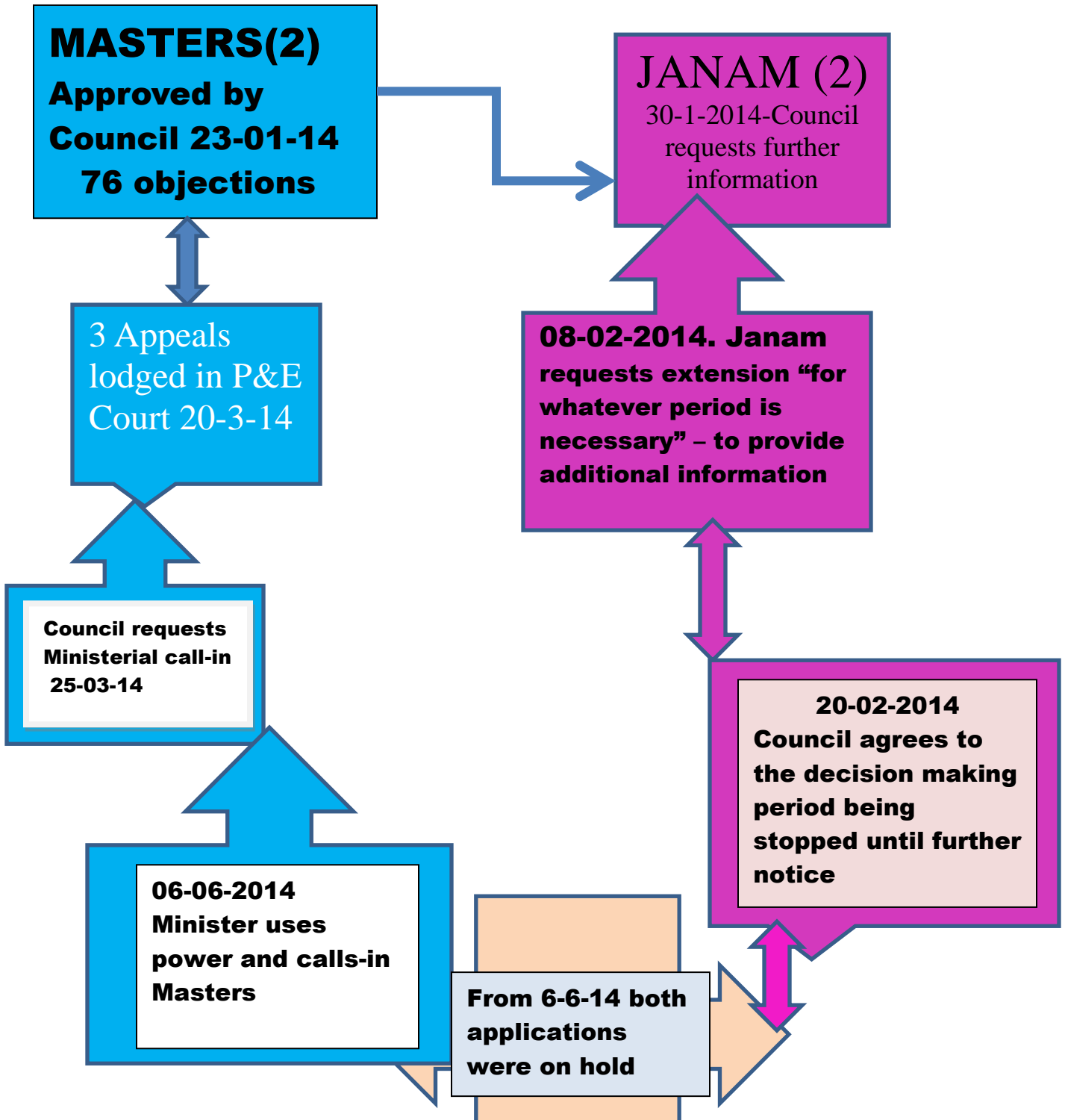
The Minister has, knowingly, and very publicly, applied the imprimatur of the Queensland State Government to a deliberately contrived abuse of Queensland's Sustainable Planning Act and associated legal planning instruments by a powerful developer and associated family company. The Minister has, at all times, been aware of this manipulation, for windfall commercial gain, as depicted in this



matrix..

This is the Matrix up till December, 2013.

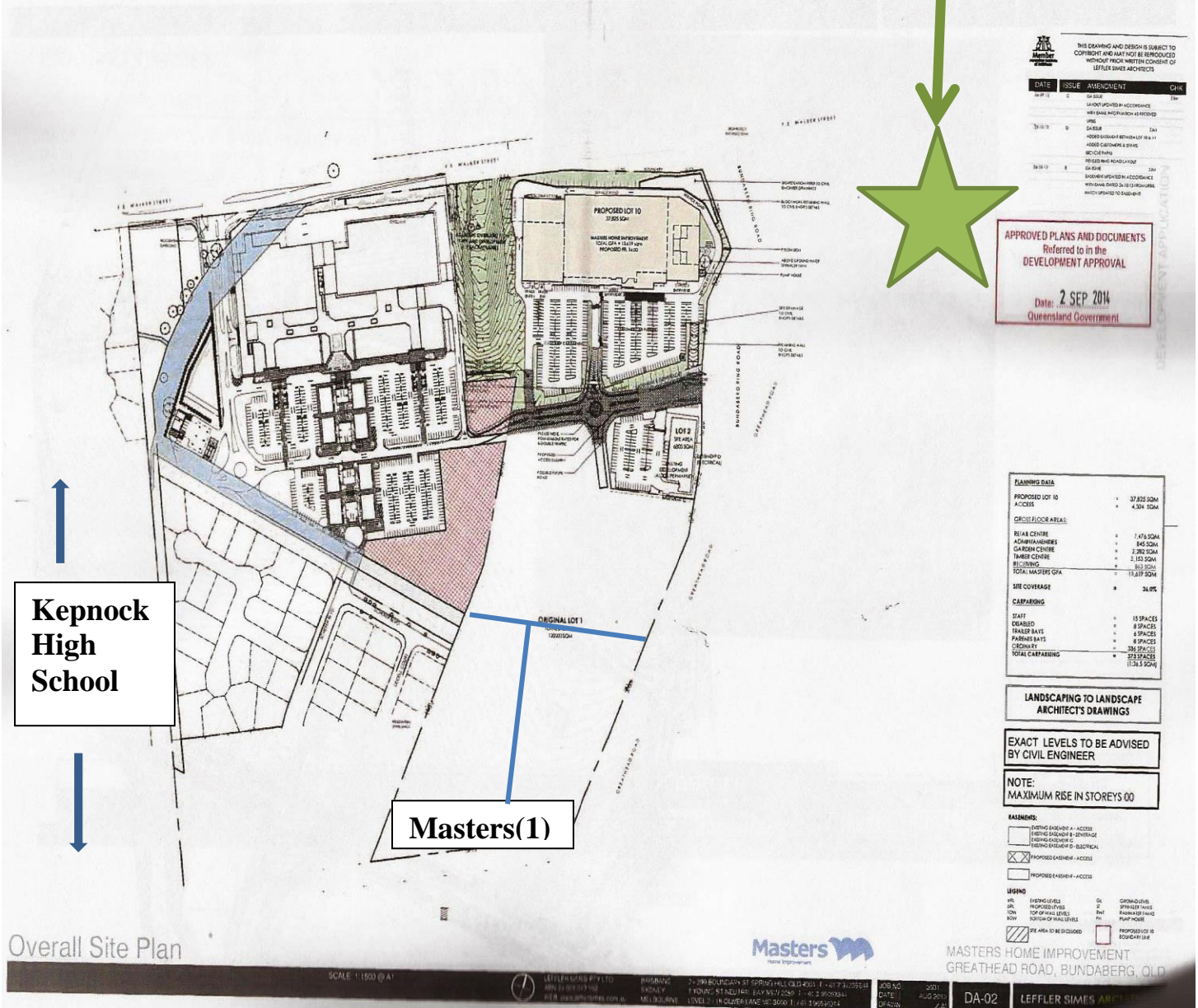
The following Matrix has evolved since then



5th. September, 2014

Minister announced his approval of Masters (2) and further declares it is the "catalyst for further development of the total area as a commercial/retail precinct." Minister also advised Council he has approved the new Draft Town Plan for public consultation. It contains the future Development Control Plan for these specific landholdings. It is the Kepnock District Activity Centre Concept Plan. It replicates these inter-related applications as displayed on next page

OVERALL SITE PLAN WITH STATE GOVERNMENT APPROVAL STAMP



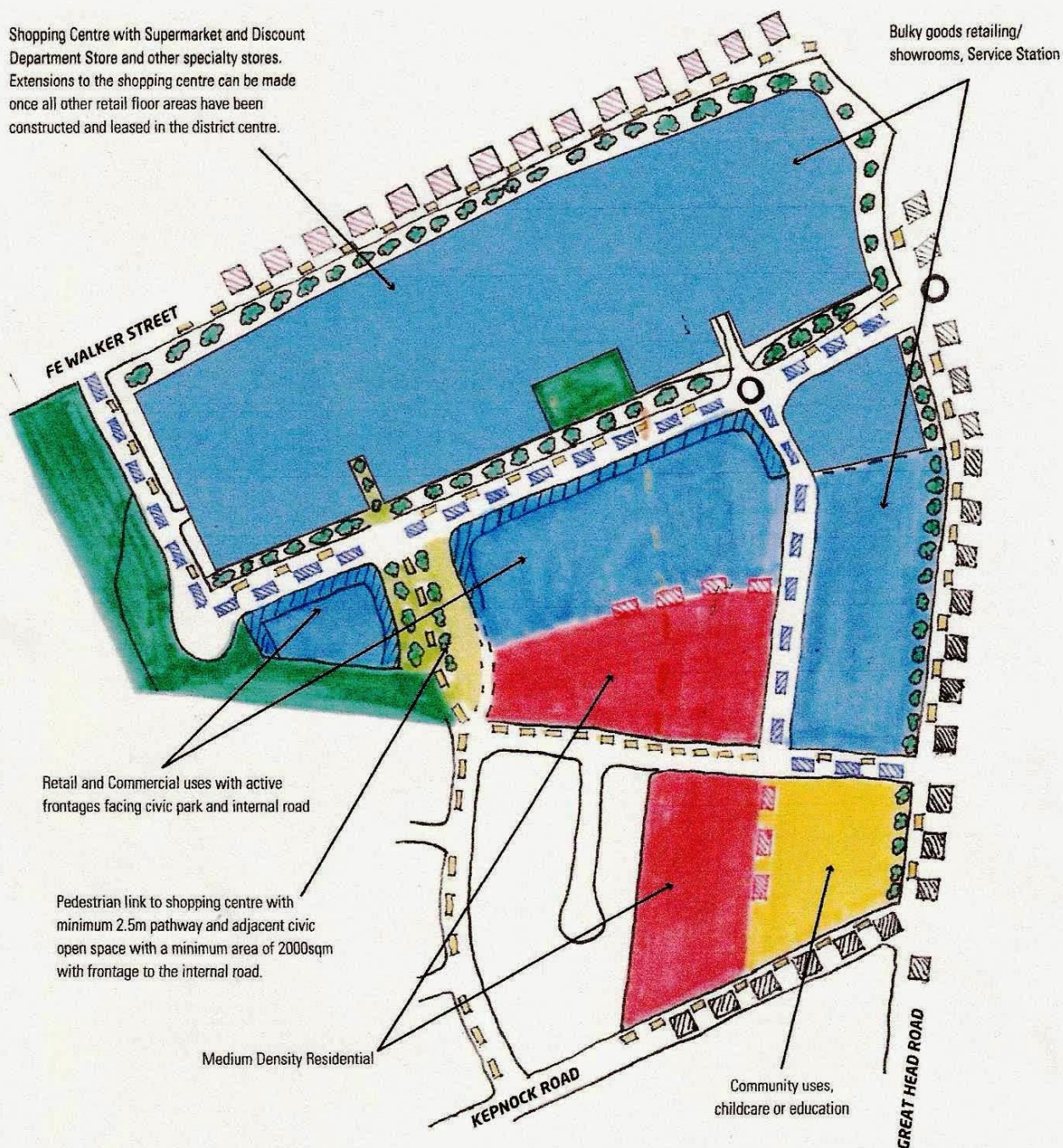
This is the overall site plan for the Masters(2) development. It was part of the formal decision notice forwarded to submitters with the Council approval in January, 2014

- (1) Masters(1) was on the southern end of the parcel of land.
- (2) When it was refused the next application – post flood- was lodged at the northern end. It connects directly with Janam's shopping centre development application– to the left of this plan. The two sites are separated by a vulnerable drainage easement

Despite the overall site plan being a public document for almost 12 months – the local media have refused to print it.

The proposed Kepnock District Commercial Precinct has a maximum height of 3 storeys – Masters has a height of 14m. It faces the existing new homes – not the street-scape .

The shopping centre is 2 storeys with an underground car-park over the regional aquifer. Its entrance will be built over the vulnerable Kepnock Drain (*Page 10 –part1*) . There are homes abutting this – to the west. The Kepnock State High School abuts the shopping centre – with its only entrance being on Kepnock Road – where Masters(1) was proposed. The residential area that has been retained has been re-designated from low density residential A to medium density – all abutting intense commercial, with a road link that will cut through the precinct – as far back as the school.



INDICATIVE LAND USE ELEMENTS

- COMMERCIAL
- MEDIUM DENSITY RESIDENTIAL
- COMMUNITY USES
- CIVIC OPEN SPACE
- OPEN SPACE AND DRAINAGE

TRANSPORT AND ACCESS ELEMENTS

- PEDESTRIAN / CYCLE LINK
- PROPOSED COMMERCIAL ACCESS
- PROPOSED LOCAL ACCESS
- TRUNK COLLECTOR
- ARTERIAL - STATE CONTROLLED ROAD

OTHER ELEMENTS

- ACTIVE FRONTAGE



Figure 6.2.6
Kepnock District
Activity Centre
Concept Plan

DRAFT JUNE 2014

The Shopping Centre land was approved for a Retirement Village . Main Roads refused access to FEWalker Street for that development – and the developer subsequently got into financial difficulties. The lack of northern access was a contributory factor towards the financial

outcome. The land, with the current retirement village approval, was subsequently sold to an associated Santalucia family company, who then let the approval lapse and instigated plans for commercialising the precinct. Now, the associated Santalucia company has access – when the previous owner did not.

Now that Masters(2) has been approved by the Minister – the Janam Shopping Centre development is expected to re-emerge. It had no eastern access without Masters(2) and Masters(2) had no western access without Janam. The decision making stage for Janam will now be re-engaged, but we would expect a third round of Public Notification would be required before it can get back to the decision-making stage, again.

The Minister has publicly supported this commercial development still before Council, still on low density residential land in the Town Plan under which it must be assessed. It has had 2 rounds of Public Notification, with an average of 75 objections to both. The current plans have a shopper docket fuel station behind the school, and on the vulnerable Kepnock Drain (*pg 10 –part1*) leading to the Wetlands.

Despite the blatant abuse and manipulation of the planning legislation, the Minister has given his approval to such manipulation and ensured that the developer/s will be able to pursue their commercial goals with a new Town Plan (provided it is approved as is) that provides them with “as-of-right” use to commercial developments – yet to be announced – with a maximum height of 3 storeys or 12m.

A re-zoning – or material change of use – normally happens with a development application. This also requires the developers to provide, at their cost – the necessary road and/or infrastructure upgrades consistent with that material-change-of-use. In this instance, a new Town Plan provides a significant financial bonus to these developers. Not only do they get the benefit of the increased value of commercial land, after paying residential rates over a long period of time, but much of the existing infrastructure has already been provided by the ratepayers – for residential development and job creation.

In approving Masters(2), Council’s response to concerns expressed by the residents that such a huge commercial development would impact on the value of the adjacent homes was *“It is appreciated and understood that residents in the Kepnock area have made significant investments in their homes. However, home valuations are not a planning scheme consideration...”* Yet these developers will make a fortune with the conversion of their residential land to high value commercial at a cost to the nearby environmental wetlands, the school, local home construction jobs and residents who invested in a prime new housing estate – and have continued to do so – since 2005 – on the promise of the current Town Plan.

There is:-

- No “over-whelming need” for the Masters development – on that site
- There is a large Bulky Goods Retail Precinct – where all the Master’s competitors are located
- There is also other land in the East – if Master’s marketing strategy dictates it must be in that locale.

In the middle of a National commercial war by the duopoly – the Minister has “run up the white flag” to the benefit of the duopoly, the Council, the developer - against the best interests of the affected local community, natural environment and businesses. He has publicly supported a development, against the current Town Plan, before the elected Council has made a decision on that application. Furthermore – he has endorsed that plan into his Ministerial decision of Masters(2). He has then approved the developer’s Master Plan for that residential precinct as a future commercial shopping centre into the proposed new Town Plan. This ensures a huge financial windfall for the developer and financial, environmental, lifestyle and employment detriment for the local community.

The History of the Kepnock Drain and historically poor decision making by Council.

The Kepnock Drain is referenced many times throughout this document. Historically the drain was a “waterway” that drained into Bundaberg Creek. As the City developed, successive Councils recognised its significance – environmentally- as it drains directly into the Wetlands. Council was required to purchase more land on the western side of FEWalker Street to protect their investment environmentally, to protect their own and State infrastructure, and also use it as an informal but necessary entrance to the School – if ever there was an emergency at the school The drain backs up to the school, which could have limited emergency vehicular access, depending on the nature of any such future emergency. The drain has a vehicle-width maintenance easement – from Kepnock Road - right through to FEWalker Street. It should not be “lent” to a wealthy and powerful developer, or approved by the Minister as a “sacrificial gesture” to establish a shopping centre – when other, commercial sites, or alternative sites exist – where there would be no such detriment.

The ratepayers of Bundaberg have spent a lot of money repairing previous poor Council decisions in “buying back” drains over which building approvals have been given – i.e. Lamb Street, Crofton Street. More recently the Council “rolled over” to a developer and approved a set of units over a crucial drain near the TAFE and Showgrounds. It was an appalling decision, which was claimed would be safe for future tenants. (This is covered in a recent album on Facebook.com/Kepnock residents actions group).



The drain seriously over-topped during the flood, as it had historically done in earlier heavy rainfall events. It washed away all the building pad and earth-works – but valuable trees had been summarily cut down – with some questions still remaining over that part of the operational works attaching to the developer's approval.

Bundaberg is demographically very flat – with poor drainage capacity everywhere in the City – apart from the Hummock area. The drainage systems must be protected – not “given away” for commercial use to powerful developers. In this instance, known locally as the “residents in the drain”, Council didn't want to defend their decision in Court – a problem that seems engrained in these particular councillors – so they “rolled over”. The Council has done likewise with the Santalucia family developers and the Masters application. There are alternative commercial sites. The Kepnock Drain – like this drain – should not be sacrificed for the commercial benefit of a developer – to the long-term detriment of the wider community.



The Minister and the Council publicly support building over the Kepnock Drain . This time the Council, again did not want to defend their approval in Court so there appears to have been a “done deal”.

Council reversed their earlier refusal – even though there are more planning grounds for refusal with Masters(2) . Why – because Masters need the western access and the Shopping Centre (mooted to be COLES) need the eastern access.

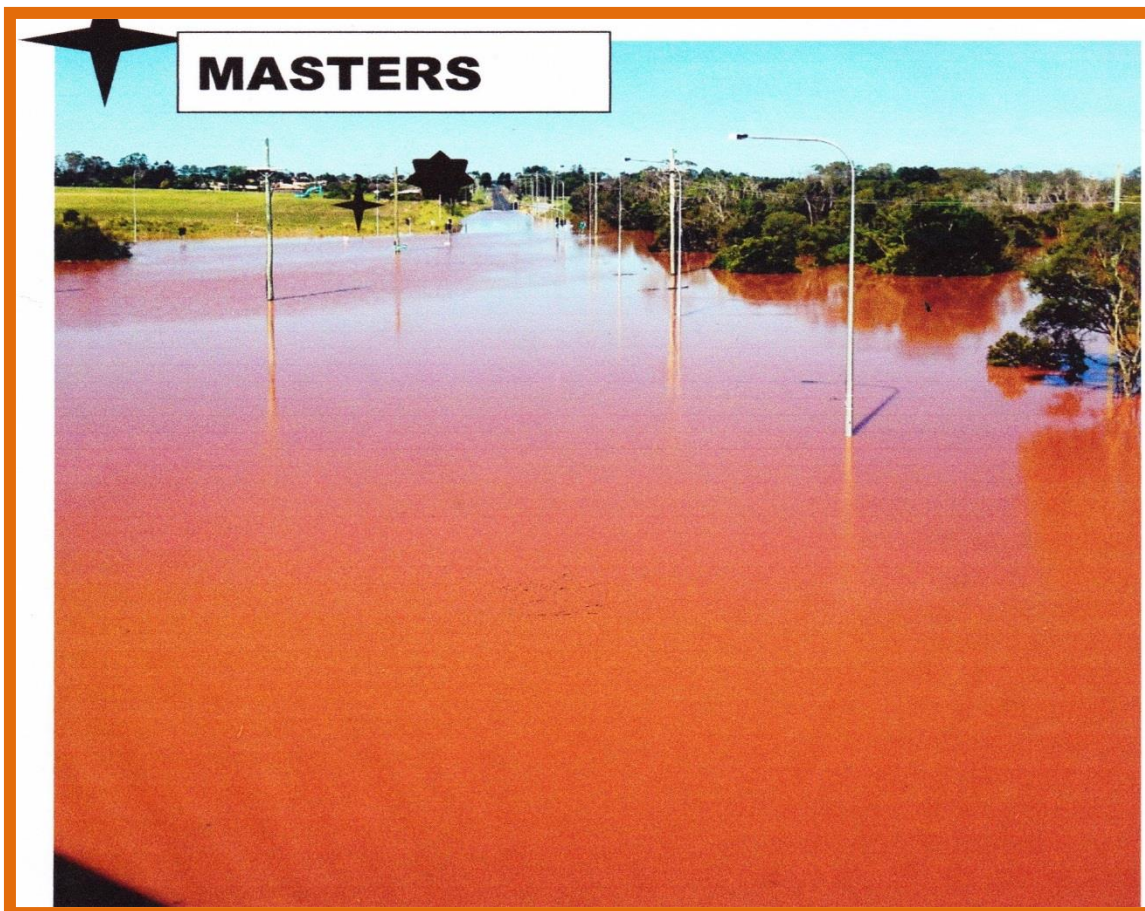
There has been a prolonged media campaign of vilification against the residents – so “everyone wants Masters” – but the Council approval would not stand up in Court. An approval, would be followed by appeals, on planning grounds, so Ministerial intervention appears to be a part of the “done deal”.

The State Government claims this will provide them with a “flood proofed road to the west”. That’s rubbish because another drain (1.klm further west) – also part of this original waterway- known as the “Jocumsen Street” drain - also overtops FE Walker Street in a really heavy downpour. Local State Member Minister Dempsey – knows this very well.

The Kepnock Drain is the crucial element that will allow these developers to turn valuable residential land into high value commercial land – for their own benefit. This will create all the detriments previously listed.

So – how will the residents – and the environment be protected?

Well – like the environment, the Minister and the Council have ignored their existence. The proposed Kepnock Commercial Precinct confirms the developers and the duopoly are far more important – even though this developer has a huge land bank that throttles the City and alternative flood free commercial sites are readily available – despite the Minister’s protestations to the contrary.



Consequently:--

The Minister needs to explain WHY-

- (1) He refused to use his Ministerial Power with Masters(1).**
- (2) Used it with Masters(2).**
- (3) He exercised his Ministerial Power contra to the representational responses from the Call-in proposal process**
- (4) Has condoned the abuse and manipulation of the State's planning legislation to the financial advantage of the developer and the duopoly – and the detriment of the local community**
- (5) Has replicated the existing applications from the same developers into the future Town Plan to ensure they will be able to achieve their future financial goals at the cost of a financial loss of investment and lifestyle for the residents and local community**
- (6) He has refused the local residents their democratic rights under the legal system for independent adjudication. The State Government returned autonomy to Local Government on the understanding that they would represent the interests of their constituents. Clearly, both the Council, and the Minister, in this instance, have represented the interests of the developers and the duopoly – not the residents, the environment or the affected local community.**

At the same time

The Bundaberg Regional Council should explain what induced them to change their vote from a 5/4 against Masters (1)- on 13 solid town planning grounds - to a unanimous approval for Masters(2). It's the same application by the same developer on the same parcel of land, with more planning grounds for refusal than Masters(1)

So – what happened to all those planning grounds?

The Ministerial approval contained not a single word about the jobs, jobs, jobs hype , so Council's reasons don't stand up to close scrutiny – any more than the Minister's.

Furthermore – Council also needs to explain how they can justify their appalling refusal to acknowledge the existence and vulnerability of the Baldwin Wetlands only 50 metres from the site. Their Corporate Plan (2014-2019) commits their support to preserve the region's natural environment. Yet, they are prepared to put a 20h commercial empire 50 metres away from their protected wetlands – with no more environmental protection than if it was situated in a commercial industrial estate.

Our community, our residents and our ratepayers deserve some answers

ENVIRONMENT

A sustainable, managed and healthy environment

4.2 ENVIRONMENT



4.2.1 Outcome: A natural environment that is valued and sustainable

Strategies:

Provide a range of community awareness and education activities and programs that support the preservation of the region's natural environment.

Encourage community involvement in such activities and programs.

Within resources and in partnerships with key stakeholders, effectively and efficiently manage, rehabilitate and preserve the environmental amenity of the region.

Implement a regional land use plan underpinned by the principles of sustainable development.

4.2.2 Outcome: A quality, aesthetically pleasing built environment that meets basic community needs

Strategies:

Implement principles and guidelines within the regional land use plan and building and development guidelines that support built environments that our community members feel proud to live in.

Continue to enable, support and manage our built environment so that it enhances the identity and liveability of individual communities and reflects the special character of our coastal and hinterland areas.

4.2.3 Outcome: The provision of quality infrastructure that meets the region's current and future needs

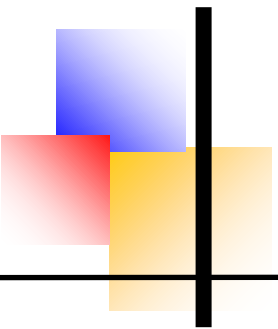
Strategies:

Ensure a coordinated and integrated approach to regional infrastructure planning, implementation and maintenance.

Support the rehabilitation and/or the preservation of the environmental amenity of the region.

Maintain and establish predictive modelling and scenario analysis for reviews and capital forecasting.

Apply financial sustainability principles in planning, funding, creating and maintaining infrastructure.



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12 November, 2014

Senate Enquiry into Certain Aspects of the Queensland Government Administration related to Commonwealth Government Affairs

Addendum to previous Submission

In the past couple of days Deputy Premier and Planning Minister – Jeff Seeney, MP has again intervened in a local government matter (Sunshine Coast) that aligns to the problems we are experiencing here.

The reasons he gives for justifying his direction for a change in the Town Plan are:-

1. A reluctance to remove existing property rights from lawful land-holders
2. His wish to protect “affordable housing”
3. His Government’s commitment to the construction jobs that a residential development, instead of a caravan park – would generate.

We would welcome the opportunity to present that evidence at a Public Hearing, because these are all the reasons we put forward for allowing Masters to go to the Planning & Environmental Court. He ignored our request and his reasons for so doing remain “questionable”

We understand that the Senate might feel our submission does not fit within the ambit of your Terms of Reference, but our case is not your ordinary developer scenario. We are caught in the middle of a national commercial war that involves national competition policy – and its abuse. There are two separate enquiries – (1) the Productivity Commission’s Retail Trade – which has just released its report – and (2) the National Harper Review – which is on-going.

Both admit the issue is a matter for concern, displays a lack of accountability, consistency and transparency – but “is outside the scope of the subject matter for both enquiries”

So! – whose responsibility is it? It’s the duopoly who already control 80% of our national markets – a scenario that no other country will allow. Yet, we do – and no one can do anything about it?

State laws are autonomous – but this issue reaches beyond the autonomy of States and goes to the very heart of Australia’s retail trade, to the abuse of national competition policy, to the survival of small business, nationally, and the impact of the duopoly on regional Australia.

The Queensland State Minister is using his reserve powers as Minister as a de-facto judge in the Planning and Environment Court, and the scenario – which no one is prepared to deal with – is the market power of the duopoly being aided and abetted by the manipulation of Government – at the highest levels. And, while this might be an Enquiry into certain aspects of the Queensland Government – this is a national problem. It is not just happening here. We have advocated for similar cases in other states – the most recent being at Willetton in Perth – where Masters were finally forced to withdraw their application or have it refused by the Western Australian Government.

Our case is not unique. It is a national problem that is personified here in Queensland, simply because we have had the determination not to let the duopoly, aided by the Government and Local Authority brow beat us into submission – YET.

The issue of the natural environment has been summarily dismissed by both the local Council and the State Minister. The nearby Wetlands don't even exist. Why? – because they don't directly abut the site. A small technical issue they are using to claw-back opportunity for the duopoly to beat existing national/state and international laws. The wetlands, in our case, are 50m away, but separated by a State Road. This is like saying that the ocean doesn't abut beachfront properties separated by a road.

We introduce the recent Sunshine Coast as a further element of our problem – and the national one – and ask that it be considered eligible for admission and testimony at your Public Hearings.

Sincerely

Mary Walsh OAM, CPA, AIFS, JP(Q)

Secretary

Kepnock Residents Action Group

From: [Mary Walsh](#)
To: [Committee, Queensland Government Administration \(SEN\)](#)
Subject: Addendum 2 - Krag
Date: Thursday, 13 November 2014 10:14:41 PM
Attachments: [Scherer submission - Senate.pdf](#)

To Whom it May Concern

-

Mr. Scherer is a member of our resident's group. He is also the previous owner of the prime low density residential A land on which the duopoly – Masters and now Coles are developing - their business enterprises. He has requested that his submission to the Bundaberg Regional Council objecting to the proposed establishment of a huge shopping centre on his previous home/farm land, be provided to this Enquiry, along with his request for him to be a witness to the Hearings – hopefully in Bundaberg.

His submission – against a local development – sits outside your Terms of reference, but the following matters – within that objection – do not:-

1. The adverse environmental impact on the aquifer – a natural resource which this Council and this State Government are not only failing to protect – but also failing to even acknowledge exists.
2. The almighty power of the duopoly.
3. A development that is not a state interest, not yet decided by Council, but has been tacitly approved by the Queensland Minister in his ministerial call-in and approval of the Masters store, and is now the key component of the future Town Plan.
4. This Kepnock commercial precinct – within the proposed new Town Plan – is being driven by the land-owner and Council.
5. It could be argued that the public consultation is now taking place. But the State Government has autocratically removed the democratic rights of the citizens, and those concerned citizens feel that this is all a “done deal” between the Council, the land-owner (who will make a lot of money to the future detriment of the community and the environment) the duopoly and the State Government.
6. Concerned citizens feel powerless because there is a determined Council/Government/Duopoly process here that is being ruthlessly implemented – contra to legislation, contra to the Commonwealth devolution of standards/community expectations – and there is an urgent need for a Commonwealth arbiter, based on national issues, which are being abused.

Mr Scherer has much to offer the Council – his attempts to provide that information have been ignored. The Council and State Government do not even acknowledge that the nearby wetlands and regional aquifer exist only 50 metres – and underground – of the relevant sites.

Competition policy, the environment and Australia's underground resources are Commonwealth matters which State Governments and Local Government are authorised to deal with on your behalf. They are failing to do this and their actions, to date, should be a matter for national evaluation. With no access to a senate in the Queensland Parliamentary System – your current Enquiry is our only avenue

Thank you for accepting and acknowledging receipt of Krag's addendum 2.

Mary Walsh
Secretary
Kepnock Residents Action Group

75 Langbeckers Road
Thabeban Q4670
13 November, 2014

Chief Executive Officer
Bundaberg Regional Council
PO Box 3130
Bundaberg...Q4670

Dear Sir,

Re: 106 FEWalker Street – DA 325.2012.34482.1

I no longer live at 106 FEWalker Street, having been the past owner of that land for 70 years, and I lodge this objection to this development application for the proposed shopping centre on that site because this is a prime piece of residential A land, which the existing neighbouring residents purchased in good faith believing the rest of the nearby land would become a peaceful retirement village.

The developer to whom I sold the land was Mintgrove P/L and he was forced into liquidation when the Main Roads flatly refused him access to FE Walker Street. It was against Main Roads policy, and he was forced to great expense to re-design an entrance on the other side of my old cane farm. This caused a delay of over 12 months, and placed him into the time frame of the global meltdown and eventual receivership.

Because of the impact of this Main Roads change of policy, an examination of why this happened should be demanded by a higher level of Government. JANAM, (the current owner is a related company of the Santalucia Corp – owner of the adjacent block) and they have been allowed to re-negotiate an access off FEWalker Street with Main Roads. Their plan will create massive congestion – with possible lethal accidents. This traffic will not be quiet residential traffic but busy, big and noisy commercial traffic as compared to the traffic that a retirement village would create coming off Scherer Bvd – not FEWalker Street.

The idea bandied around that a commercial enterprise submitted to Bundaberg Regional Council will create many jobs and bring more wealth to Bundaberg is only very minimal as Bundaberg still has the same population thus the same gross income, and will remain like this while it only has a steadily increasing population as compared to many a boom town such as Gladstone and many mining towns.

It should also be noted that the multi-nationals of Masters (Woolworths) Bunnings (Wesfarmers) (and this shopping centre would be no different) and others employ southern contractors to build their warehouses and shops, bringing with them their own contractors and sub-contractors and most of the building materials, sourcing very little out of Bundaberg. Thus most of the building profits go interstate. Alternatively if this land was to remain res “A” higher percentage of the homes would be built by our local builders and much of the monies from construction and materials would remain in our city of Bundaberg. Also, we expect our Council to help create local building jobs, not be helping to create jobs for Sydney and other capital cities.

Also noteworthy is the fact that other than a few managerial personnel, mostly trained and obtained from Head Offices and outlets in their major branches in the southern big cities, the rest of their rank and file employees are paid a wage on the lower end of the wage spectrum.

Why should these multi-national companies be allowed to displace ordinary res A residents so as to smuggle profits back to their countries (which they say they don't do) , but they would not be here for a

zero return. And many experts (*Dick Smith – Current Affair 5/11/14 – Win Channel*)) say they don't even pay their correct share of income tax - which is common knowledge.

I also object to the concept of a retention basin being built in the position it is proposed. Having owned and occupied this land for 70 years I consider it unwise to construct this basin so close to the underground aquifer, as the local underground structures are very permeable in this area, as was demonstrated when the nearby Kepnock High School was built, They dug a dam to supply water to supplement their meagre bore allocation with the result that when the dam filled frequently it also permeated into the aquifer within a short time. During consistent heavy rain I have seen the underground aquifer levels rise so as to flow out of the top of my bore on FEWalker Street, which has an RL of 10m. This bore actually sits to the front of this picture and in 2011 – water was seeping out of this bore and running down into the “gully”. By lifting the lid of my bore – you could have placed your hands in the aquifer water – it would have been about 12inches down – highly visible. The official DNR levels at the time were 3.5m – but I would provide a Statutory Declaration to testify that it was much higher than that – at least here – where you intend to build – not only your shopping centre - but also an underground car-park



My old wind-mill well has been full and near to overflowing on several occasions. Also I have seen clean aquifer water seeping out of the sides of the gully (Kepnock Drain) , behind where my old home stood, and running into Baldwin Swamp. Yet, you intend to build OVER this Drain (I always called it the gully” because it is a waterway.) Should a retention pond be placed at a level so close to the aquifer?. There is a great risk of contaminating this high quality aquifer water with run-off containing many pollutants such as oils, fuels, bitumen and rubber residues, roof oxidisations plus general consumer rubbish and garbage, thus degrading this fine natural resource.

The other bore near this site is the DNR bore and they only check the levels spasmodically. They have never obtained these high level readings during prolonged, heavy rainfall events.

I also strongly object to a petrol station being constructed where it is proposed – i.e. in the direct path of a major gully which drains directly into Baldwin Swamp. Can you imagine underground petrol tanks,(possibly

4) with all the possibilities of undetected leakages , dug into the aquifer underneath. The aquifer in this area is not just a lot of little streams – it is just one big lake. Petrol stations are notorious for secret leakages – just look at what you have to do when you cease that occupation and the ground has to be de-contaminated over a specified period of time. Yet – this is what this application proposes. This is environmental vandalism of the highest order, and the risks to the aquifer are too great. What if a hose from one of the tankers burst, or is badly connected?. It's hazardous, it's inflammable – and this proposal puts it where there will be lots of people all the time.

There are several known places along Baldwin Swamp where clean aquifer water has been known to rise steadily into the swamp and flow downstream when the aquifer has only moderate to high water levels, proving Baldwin Swamp and the aquifer are inter-connected. As Councillors you would know that, historically – this was the City's original water supply.

I have irrigation water analysis tests verifying the aquifer in this Kepnock area as some of the finest in Bundaberg, therefore it should be carefully protected.

In conclusion I point out that Bundaberg Regional Council has an obligation to consider its affected voting residents – as they do not have the capacity to employ expensive lobbyists and many other experienced experts on these matters, as the multi-nationals and the developers do. It should be noted that the multi-nationals do not even vote in the Bundaberg Regional Council area but seek to destroy small local businesses to increase their own profits at the expense of our community. Some of these family businesses and their members have served our community for many decades, yet their concerns are placed second to the needs of the multi-nationals. This means that once the duopoly reduces the local competition they can dictate whatever price they like to their suppliers and manufacturers AND ALL THOSE WHO ARE AT THE BOTTOM OF THE FOOD CHAIN.

In summary – my offer to meet with Council engineers to explain the history of the local area, and the catchment it serves – remains open. My water analysis data is available. The history of Baldwin Swamp speaks for itself – but, like the Masters debacle – no one seems to be listening, so I place this firmly on the formal record. It is my obligation to provide this information for posterity – even if Council doesn't want to hear it.

To date my offer to Council engineers has received no response.

Signed

Darryl Scherer.



Hon Jeff Seeney MP

Deputy Premier

Minister for State Development, Infrastructure and Planning

Our ref: MC13/4186
MW201113

10 DEC 2013

Ms Mary Walsh OAM
Kepnock Residents Action Group
24 Scherer Boulevard
KEPNOCK QLD 4670

Dear Ms Walsh

Thank you for your letter of 15 November 2013 to the Honourable Jeff Seeney MP, Deputy Premier, Minister for State Development, Infrastructure and Planning, about Bundaberg Regional Council's draft planning scheme and development near Baldwin Swamp, Kepnock. The Deputy Premier has asked that I respond on his behalf.

The Queensland Government established a new approach to state planning policies that simplifies and clarifies state interests by releasing a new State Planning Policy (SPP) on 2 December 2013. The SPP includes a state interest for biodiversity which Bundaberg Regional Council will be required to appropriately reflect in the draft planning scheme or development will be subject to the interim development assessment provisions also included in the SPP.

Mapping associated with the SPP identifies part of Baldwin Swamp as containing matters of state environmental significance. The SPP, and its associated mapping, is available on the Department of State Development, Infrastructure and Planning (DSDIP)'s website at www.dsdipl.qld.gov.au.

The Bundaberg Regional Council planning scheme will have a public notification period where you and your organisation can make your views known. You should continue to use this avenue if you feel there are matters in the scheme that are of concern to you.

If you require any further information, Michelle Riley, Manager, Regional Services, Department of State Development, Infrastructure and Planning, will assist and can be contacted on (07) 4151 9577.

Yours sincerely

deleted

Office of The Hon Jeff Seeney MP
Deputy Premier
Minister for State Development, Infrastructure and Planning

Level 12 Executive Building
100 George St Brisbane
PO Box 15009 City East
Queensland 4002 Australia
Telephone +61 7 3224 4600
Facsimile +61 7 3210 2185
Email deputypremier@ministerial.qld.gov.au

From: [Mary Walsh](#)
To: [Committee, Queensland Government Administration \(SEN\)](#)
Subject: KRAG submission addendum -
Date: Sunday, 16 November 2014 5:46:27 PM
Attachments: [KRAG - BRC -SUB JANAM \(3\).pdf](#)
[The Baldwins- some questions.pdf](#)

Hi Sophie,

Sorry to do this to you – but this continues to unfold – daily. The Council, the Developer and the duopoly are all planning on a decision for both the shopping centre and the Town Plan on 16 December, 2014. A Birthday present for Bundaberg

We attach our submission against the shopping centre so it is immediately obvious that

1. The risk of future flooding is higher if the shopping centre – i.e. the duopoly/council/state government/developer goal – is approved, as well as the new Town Plan
2. This City has, thankfully, received a significant amount of both Federal and State funding for both flood recovery and mitigation
3. Relevant sections of the submission cover grave concerns about the validity of the Stormwater Report. This is the 7th. Revision, by the same company, of their Stormwater Report and we all have to balance our lives on its accuracy.
4. We raise serious concerns about what appears to be preferential treatment – with the use of formal Council data – for this developer.

We provide the information in the hope that the Commonwealth can arbitrate the issues relevant to certain aspects of the Queensland Government management of Commonwealth matters.

The second document is a resume of the overall issues that have emerged – especially as we developed our response to the Shopping Centre (Coles) development application – due to be lodged to-morrow.

We believe the questions we raise do fit within the Terms of Reference – backed up by the information that is supplied here-in

Thanks for all your assistance

Mary Walsh
KRAG secretary

Submission to 325.2012.34482.1 – JANAM(3)

24 Scherer Bvd,
Kepnock Q4670
marywalsh6@bigpond.com
0418 887 976
Visit us on:-
Facebook.com/kepnock residents action group



We object to the proposed shopping centre – JANAM(3) for the following reasons:-

1. It is contra the Bundaberg Planning Scheme – under which is must be assessed
2. It forms the basis of the proposed Kepnock Regional Shopping Centre Concept in the proposed new Town Plan. It will change this low density residential A, single-storey precinct into an intense, auto centric commercial precinct – above and beyond the application under consideration.
3. Is part of a 4 year national duopoly commercial war that has been judged, at national level, by an independent Federally appointed body, to show a lack of “consistency, accountability and transparency” by the Bundaberg Regional Council.
4. Adverse economic impact on local businesses and the CBD.
5. Increased traffic risks for students.
6. Detrimental local traffic impacts that will result from the State Government’s change of limited access policy – for a privileged developer –following their earlier refusal of residential access by another developer
7. Destroys residential amenity.
8. Destroys local jobs for builders and the exponential benefits to local suppliers.
9. Ignores ratepayer funded advice from independent, professional consultants
10. Does not meet a basic Net Community Benefit Test.
11. Detrimental storm-water quantity and quality impacts due to apparent errors in the formal Opus storm-water report, which underpins the development
12. Adverse impact on both natural and built environment.
13. Ratepayer incentives that “reward” a developer for Breaching the Town Plan.
14. Creates overall negative investor confidence – especially for larger investors.
15. Creates possible “actionable nuisance’ into the future on matters of future flooding, storm-water, traffic, and loss of investment value by existing, disadvantaged residents. Their investment

Submission to 325.2012.34482.1 – JANAM(3)

decisions were based on Council's Planning Scheme and assurances when the shopping centre site was an approved retirement village, with passive residential traffic.

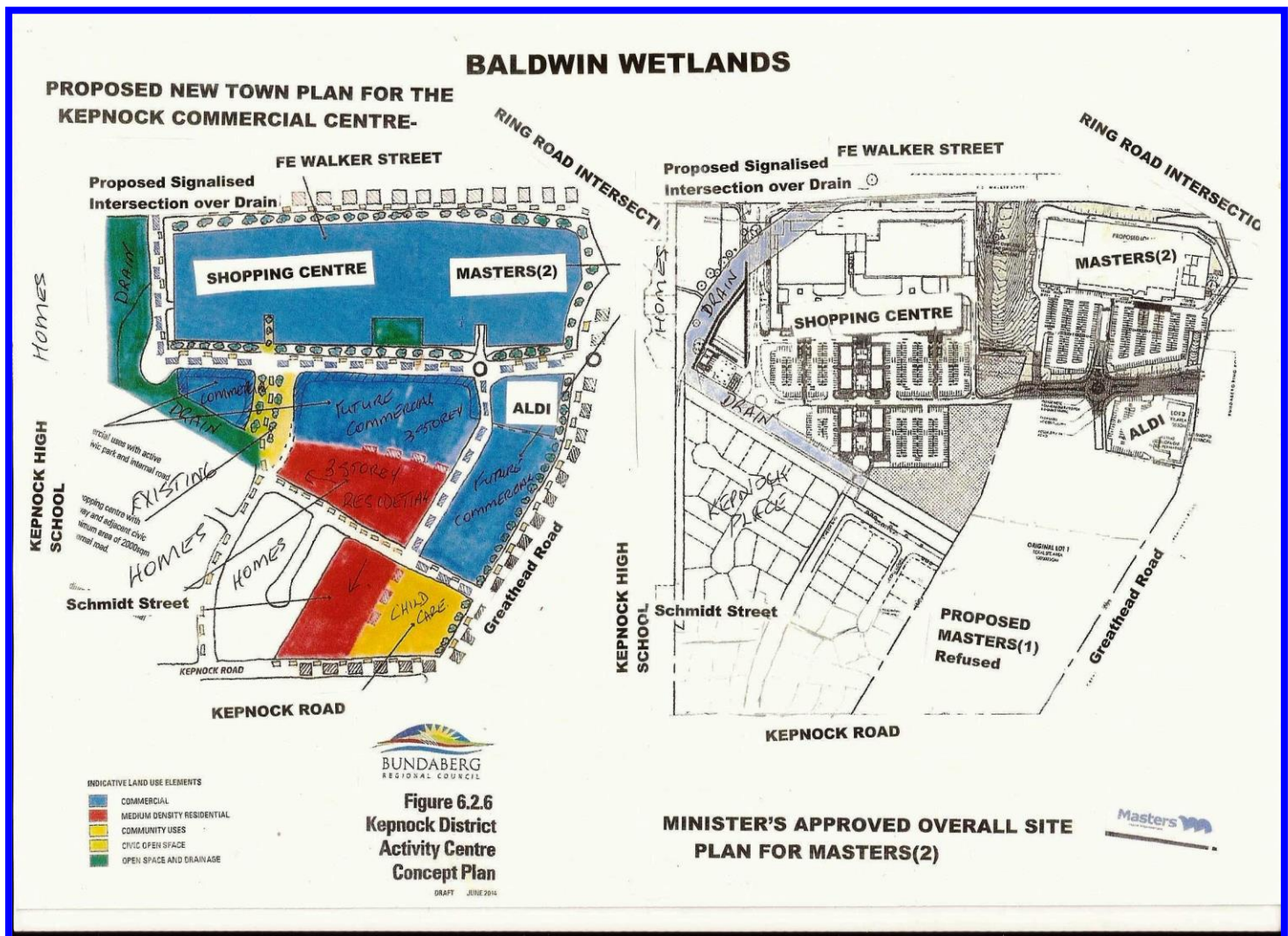
1. CONTRAVENES BUNDABERG CITY PLAN

Despite recent issues, this application still must be assessed under the requirements of the current Bundaberg City Plan. The issues have been well canvassed in our earlier submissions (attachments 1,2,3 and 4)

- There is an appropriate supply of alternate commercial land for this development.
- Council stated, with the Master's approval that an approval for Masters would "not sterilize the remainder of the land for residential use" so they cannot now use Masters and ALDI as setting a precedent, as they did, quite wrongly, with Aldi.
- The 13 solid planning grounds for the refusal of Masters 1 also apply here – plus additional traffic, amenity, student safety and environmental grounds

2. APPLICATION IS THE BASIS OF THE PROPOSED NEW TOWN PLAN

Whilst this issue will be more thoroughly covered in our submission to the Town Plan – due 28 November, 2014- it is increasingly obvious that the duopoly war, the developers' consortiums, electoral appeal for both the State Government and the Council are governing this development application and the proposed new Town Plan.



Submission to 325.2012.34482.1 – JANAM(3)

Council's commitment to their Corporate Plan 2014-2019 and the widespread commitment and wishes of the many people who provided input into that Plan are being ignored at all of the Corporate Plan levels. Governance, Economy, Environment and Economy strategies, desired outcomes and measurements mean nothing.

News-Mail
**Public Notification for the
Kepnock Shopping Centre
and the Coles Supermarket
in Bunnings old building.**
Tuesday 28 October, 2014

Proposed Development Notices
**Proposed development
Have your say**
**From: Bunnings Hardware and
Licenced Club & Carpark**
**To: Major Shopping Complex
and Licenced Club &
Carpark and
Reconfiguring a Lot
(Easements for access
and parking) and Erection
of Signage**
**At: 130 & 130A Takalvan Street,
Kensington QLD 4670**
**On: Lot 6 on SP251485 & Lot 2 on
SP134462**
**By: Coles Group Property
Developments c/- Planning
Initiatives**
Ph: (07) 3666 0766
Web: www.planning-initiatives.com
Approval sought: Development Permits for
a Material Change of Use
for a Commercial Activity
C (Major Shopping
Complex) and
Reconfiguring a Lot
(Proposed easements for
access and parking) and
Operational Works
(Advertising Signage)
Application no.: 325.2014.41521.1
Comment period:
29/10/2014 – 18/11/2014
Written comments to:
Chief Executive Officer
Bundaberg Regional Council
PO Box 3130
Bundaberg QLD 4670
1300 883 699
ceo@bundaberg.qld.gov.au
www.bundaberg.qld.gov.au
Copies of the full application can be viewed or
obtained from the assessment manager
**Public notification requirement per
Queensland Government - Sustainable
Planning Act 2009 Form 5 version 2.0**

**Proposed development
Have your say**
**From: Vacant Land & Detached
Dwelling**
**To: Commercial Activity C -
Major Shopping Complex
and Service Station in
three (3) Stages and
Erection of Advertising
Devices (Signage)**
At: 106 FE Walker Street, Kepnock
On: Lot 900 on SP261837
**By: Janam Property Trust
C/- Planning Initiatives**
Ph: (07) 3666 0766
Web: www.planning-initiatives
Approval sought: Development Permit for
a Material Change of Use
for Commercial Activity
C – Major Shopping
Complex & Service
Station in three (3)
Stages and Operational
Works – Advertising
Devices (Signage)
Application no.: 325.2012.34482.1
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obtained from the assessment manager
**Public notification requirement per
Queensland Government - Sustainable
Planning Act 2009 Form 5 version 2.0**

Public Notices
**Take NOTE - this is not co-
incidental.**
**Both end on 18 November,
2014.**
**They are BOTH about
COLES.**
**Wesfarmers need to know
whether the shopping
centre gets approved
before they consolidate
their Eastern expansion**

Remember Them. finda

Submission to 325.2012.34482.1 – JANAM(3)

This is NOT just about the shopping centre. It is simply another tool in a much bigger – and totally unaccountable- process of

- ✚ laying the framework, by this Council, the duopoly, the State Government and the development industry, for a new Town Plan to legitimize the use of the best ratepayer funded and serviced residential land in the region – for the commercial benefit of the duopoly and the development industry as promoted by the UDIA, and to gain electoral kudos in the lead up to both State and Local Government elections
- ✚ It's about working with the duopoly and developers to “harmonise” the strategic outcomes for both Wesfarmers and Woolworth's corporate consolidation of their expansion to the East- and the growth corridor for projected future population growth and future 24hr trading.
- ✚ Having aided and abetted Woolworths with their Master's project and consolidation to the East, it's now Wesfarmer's turn for equal treatment. But, it's difficult for them to commit to their eastern expansion unless the new Town Plan guarantees them further expansion – without ratepayer input. Thus the Kepnock Shopping Centre Concept Plan.
- ✚ It's about reducing costs for developers to the disadvantage of existing lawful uses of that land
- ✚ It's about establishing a commercial “rat-run” through the “quiet suburban” streets of Scherer Bvd, Schmidt and Baird streets – which Cr., Sommerfeld publicly guaranteed “would never happen”.
- ✚ It's about building over the “western culvert” that “drainage easement featured in the Master's approval” that would, as Cr. Rowleson suggested “just need Woolworths to lob a suspended slab over the top of it and then you'd have “Dan Murphys, or some other Woolworths enterprise” established there.
- ✚ It's about a proposed staged development – that might not be staged,- as Council would determine when the timing was right for the Discount Department Store to be built. Kepnock Place was an approved “staged development”, but it all happened within 12 months.
- ✚ It's about a petrol station – an industrial and licensed, hazardous – (environmentally relevant) activity, in the middle of suburbia, operating 24 hours a day, with minimal acoustic treatment.
- ✚ It's about that same petrol station, now close to that protected drainage easement- referred to above – with just a simple bio-retention basin that might not cope with the storm-water run-off
- ✚ It's about a huge regional commercial centre – euphemistically described as a “district activity centre” which will, in time create vacancy issues for the major activity centre at Sugarland and the CBD – our principal activity centre.

3. ‘ACCOUNTABILITY, TRANSPARENCY AND CONSISTENCY’

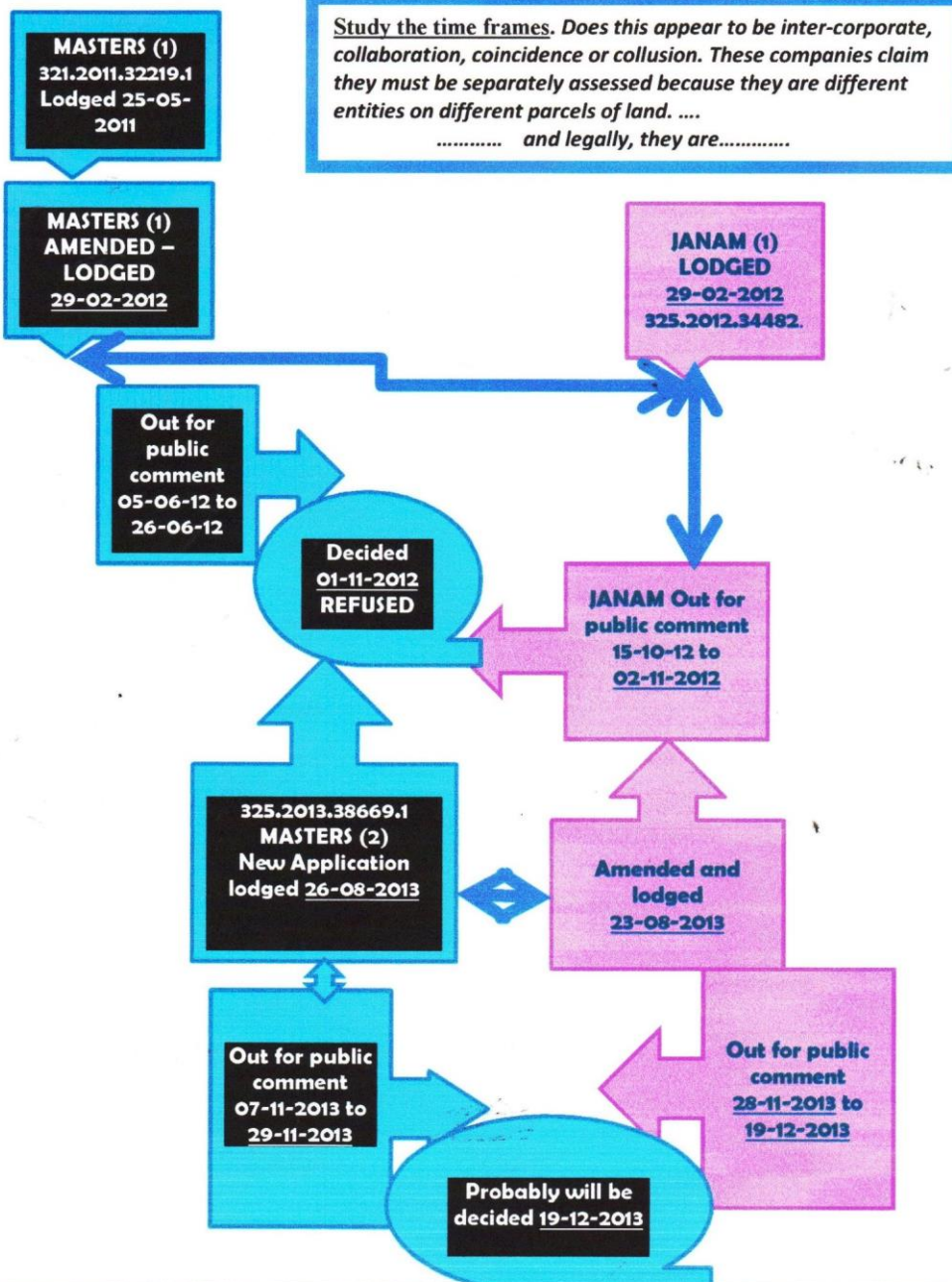
Council has already demonstrated that, in this 4 year Masters/duopoly war “accountability, transparency and consistency” mean nothing. This is contained in the formal report by the Productivity Commission and the full submissions can be accessed on the Productivity Commission's web-site as submissions DR35, DR40, and DR41. Our facebook page – facebook.com/kepnock residents action group is also relevant.

An approval for this Shopping Centre development will only further cement that national, independent analysis as contained in that Report and demonstrated by the gross manipulation of the State and Local Government Planning legislation and processes, as demonstrated in these time matrix.

Submission to 325.2012.34482.1 – JANAM(3)

From 25-05-2011 to 23 January, 2014

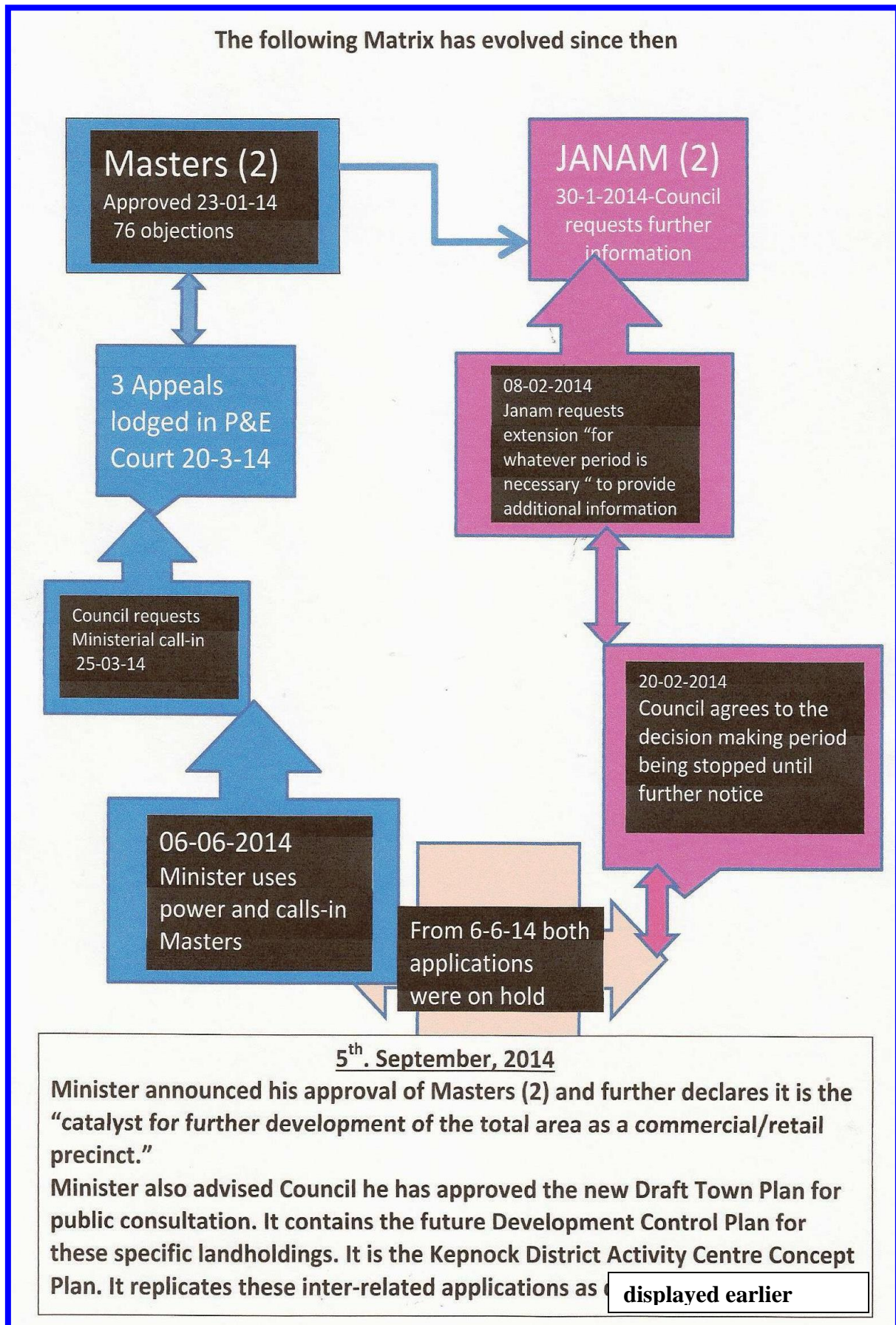
MASTERS – JANAM TIME MATRIX.



Relevant dates –

29-02-2012 - Amended Masters lodged same day as Janam's initial shopping centre
01-11-2012 & 02-11-2012 - Masters(1) decided the day before public comment for Janam closes
August, 2013 - New Masters (2) and Amended Janam (2) lodged same time (week-end in-between)
28-11-2013 - Janam out for public comment the day before public comment closes for Masters(2) closes
19-12-2013 - closing date for comments on Janam(2) and Masters(2) will probably be decided the same day.

Submission to 325.2012.34482.1 – JANAM(3)



Submission to 325.2012.34482.1 – JANAM(3)

4. ADVERSE ECONOMIC IMPACT ON LOCAL BUSINESS AND THE CBD.

The duopoly push for consolidation of their business interests to the East comes at a high economic cost to ratepayer infrastructure, local businesses and the nearby CBD.

There are 4 local plant nurseries nearby – all family businesses which will be impacted by Masters on their doorstep. Masters really did not need to be here – other than to serve the convenience of would-be shoppers living in the East – to the disadvantage of the large and growing Kensington Retail Bulky Goods Precinct in the west. The Minister and Council mutually decided that shoppers to the west of the City – unlike similar metropolitan precincts – should travel to the east for choice and price competition. Eastern would-be shoppers now need to travel to the west anyway – just as they would have done, (had Masters been sited in the right zone) – just for competitive price comparisons and choice.

Locally we have Moloneys, Kepnock Korner, the Fiveways and the Kepnock Super IGA adjacent to the school. The latter closed last week and the other vacancy has been there for the past 2 years. They are family businesses in local convenience stores.

Attachment 6 is our grass-roots survey of empty shops, with the technical papers to support the result. There have been added closures since then – Crazy Clarks, Sams, Wide Bay’s closure of their Bourbong Street office – and the list goes on. A figure of 180 empty shops is realistic so, if Council thinks, for one minute that

- More people will come to live here because of Masters
- More people will come to live here, just because Kepnock now has a new shopping centre
- More people will come to live here because Bunnings (I) will now be yet another Coles shopping centre - with the usual liquor outlet and franchisee shops that have exited other centres
- The existing population will have more money to spend.
- That retail – and not industry – actually creates the number of jobs the applicants state they will

Then - they are living on another planet. They must be totally out-of-touch with the ordinary business people of this City – who are already struggling.

Bundaberg is experiencing a significant economic downturn – which is NOT going to be addressed by more shopping centres or by Coles exerting a strategy to transfer Target out of the CBD – sooner rather than later.

New shopping centres attract business – not always new franchisees- with their supermarket (Stage 1). Groceries determine who will be attracted to a new centre. Groceries, bring people – we all have to eat. Centres offer just what Council does - “incentives” – only they pay for them themselves – Council relies on ratepayers - This could be lower rents – or no rents – for a limited time. If that time passes and the returns for the individual shops have not been realized so they can afford the new, or higher rents, then the merry-go-round continues. They are not new jobs – they are transferred jobs from other businesses. Survival for all depends on the available disposable income of the region (nationally below average), and the quality of service. The quality of service depends on staff, which depends on wage levels and Australia’s retail wages are among the highest in the world.

There are still vacancies at Hinkler Central and Sugarland, the Plaza and other smaller centres. The new Town Plan proposes a Local shopping centre .08klms from this one – near the tramlines to the east on FEWalker. The proposed Town Plan stipulates that the further commercialization (3 storeys) of this precinct will not be progressed until tenancies are secured and all shops “filled”, unless Council determines there is a need. Coles

Submission to 325.2012.34482.1 – JANAM(3)

will ensure there is “a need” – they will offer whatever “incentives” are necessary to create that “need” – even if it is temporary. After all, that is exactly what Council is doing with our ratepayer incentives

5. INCREASED TRAFFIC RISKS FOR STUDENTS

Council is well aware of the current risks to students of the Kepnock State High School, which will have an increased enrolment of Grade 7's next year. They have to “run the gauntlet” over the 80K Ring Road – with the promised pedestrian refuge still not materializing, and no requirement for Masters to address the impact of their thousands of cars on student safety.

Council determined, very conveniently, that the school would not be adversely impacted by Masters traffic, save for the need of a 3 chord truncation at the corner of Greathead and Kepnock Roads.

There is no dedicated bikeway – Kepnock Road is too narrow and usually parked out - so it's not a practical option. The shopping centre doesn't address this, yet as the key domino for the proposed Kepnock Regional Commercial Centre, it creates a commercial “rat run” from the future internal Master's commercial round-about up Scherer, into Schmidt, Baird and/or Kepnock Rd. Currently you can't exit out of Scherer, even now, for 20 minutes during peak school time. Shift workers have to leave home half an hour earlier. Students wait on the corner of Baird, so parents can pick them up – there is no stopping space in front of the school. Parents then come down Baird, collect their family member, and go via Schmidt, into Scherer and left turn onto Kepnock. The school parking lot in Baird Street empties the same way, and this time of the year sees increased Grade 12 students on P plates. They have no option – Kepnock Road is a nightmare for 20-30 minutes on a school day.

Yet, Council is prepared to add all the commercial traffic from a huge shopping centre into that mix – plus the shopper short-cut and rat-run from the South west to the shops. This will be in addition to all the parked cars – on small residential streets from shoppers parking their vehicles in Scherer Bvd, accessing the shops by foot - via the “pedestrian access”, bringing back their shopping trolleys and leaving them all over the streets.

Again the proposed new Town Plan (to legitimize all this eastern duopoly expansion) has a “pedestrian access” with what looks like a small local access marked. No doubt this will become a further road to service the back of future shop expansion to the south of the Coles/Woolies connector road and petrol station.

The land opposite the School, owned by Education Queensland is vacant community land, which, we understand is now for sale. If this shopping centre, with the new Town Plan to legitimize it, is approved the likelihood of that land also becoming commercial is high. This will add to the prospective traffic “melee” and create increased traffic risks for students – whom this Council has an obligation to protect.

Main Roads has also advised that any proposal which has the potential to direct more traffic along the relatively narrow two-lane Kepnock Road past the school could not be supported. Rather, measures should be investigated to reduce the traffic flow past the school.

It is considered that the existing arterial road network should be used to access the future development areas around the Ring Road so that maximum benefit is derived from the major infrastructure investment being made to move people around the city.

Thank you again for the opportunity to talk to council representatives about the matter.

Yours sincerely



ANDREW McNAMARA MP
Parliamentary Secretary
to the Minister for Main Roads

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6. DETRIMENTAL TRAFFIC IMPACTS ON LOCAL ROADS

For whatever reasons the State Government reversed their “limited access” policy on the shopping centre site That reversal remains questionable, as the site remains the same, and the access was reversed after the site was purchased by the current owners. The previous owner of the approved retirement village residential estate wanted passive residential access. He was refused any – not even a left-in:left-out. Despite spending a considerable amount of money with consultancy costs and impact studies, the State Government remained adamant. The State Government refusal contributed to his economic downfall, because he then had to amend the application to start with the new housing estate – not the village. Corporate liquidation and the GFC resulted in the land being purchased by JANAM. They let the approval lapse, and then lodged their huge commercial development. With Masters on the drawing board, the State Government suddenly changed their policy(as at May, 2012) – not just for passive residential but for huge commercial (1200 car-parks) – thousands of cars – over a sensitive waterway/drain – The physical and topographical aspects of the site have not changed..

Function of the State-controlled road network

- The subject land is included in the Urban Residential zone in the Bundaberg Regional Council planning scheme.
- The department’s planning for the state-controlled road network in this area has been based on the intended use of the subject land being Urban Residential.

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No extra provision is required, according to Council, for their local roads, despite the fact that Kepnock Road, Novakoski Street, Totten, Sydney, and Greathead – are all T junctions. They were never designed to be collector roads for a huge regional shopping centre, which changes the whole traffic hierarchy, retrospectively.

The amount of funds required for Masters(Woolworths) and Coles (Wesfarmers) to contribute towards new signalized intersections at the FEWalker Street Drain and Que Hee Streets is but a drop in the ocean compared to the impact on the ALDI round-about and all the local roads leading to the proposed regional shopping centre. Scherer Bvd – a quiet “suburban residential street” will become a de-facto collector road - in terms of traffic usage - , but it could never be widened to accommodate that changed designation.



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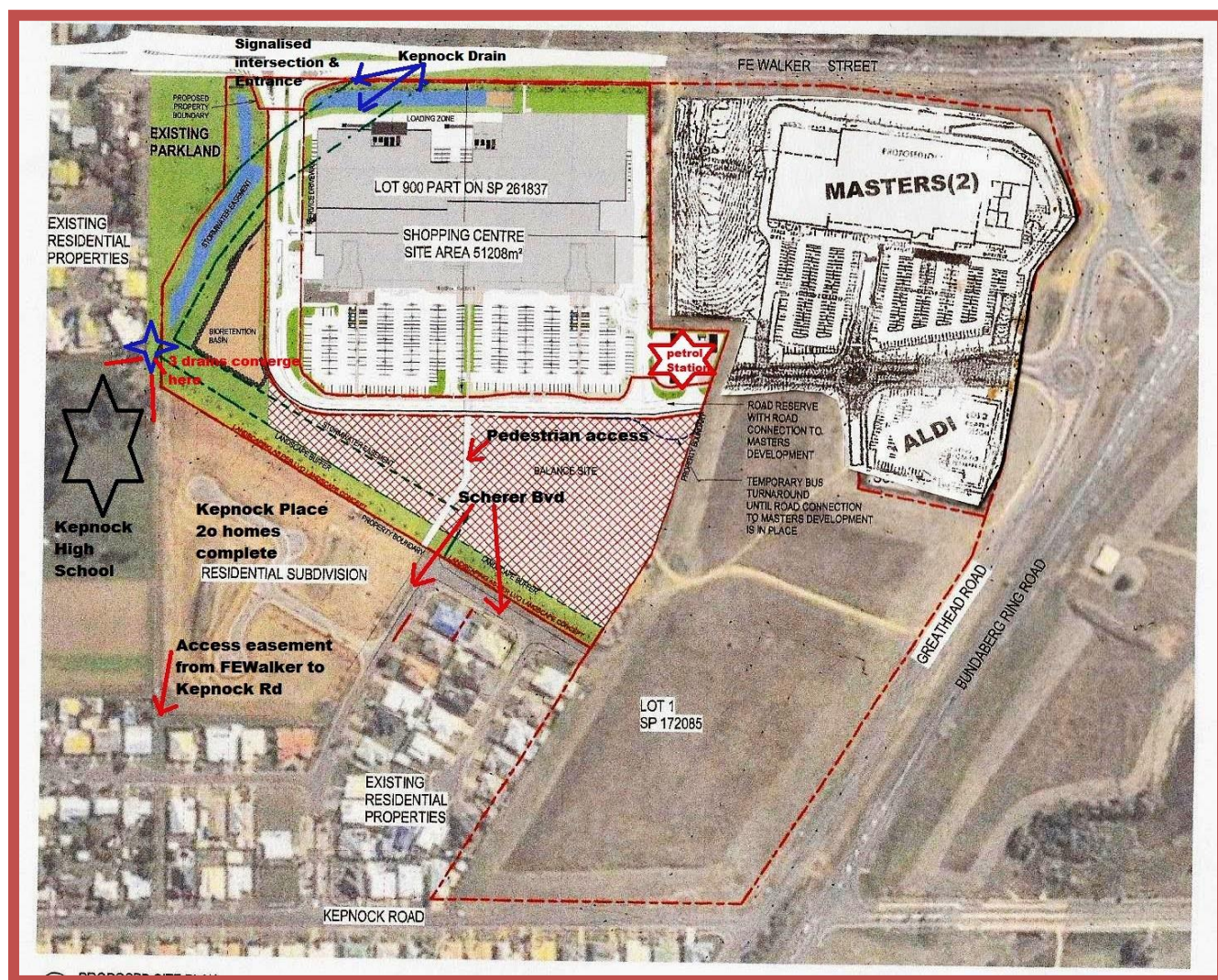
7. DESTROYS RESIDENTIAL AMENITY

No amount of landscaping and acoustic treatment can ameliorate the destruction of residential amenity that the creation of this huge, 3 storey commercial, regional shopping centre will have on this single storey, low density residential A precinct.

ALDI – as a low single storey – (94 car-parks) - was welcomed by the residents as the anchor tenant for a local neighbourhood shopping centre. This was the future plan for this estate – until the Santalucia consortium acquired the current shopping centre site. Historical evidence supports that original small/local concept

But even ALDI brings some detrimental environmental and acoustic impacts. The commercial bin emptying daily reverberates to Kepnock Road. But it's not incessant, and it is a commercial expectation. Residents accept it, the Ring Road and the cane tramlines – but this regional shopping centre totally destroys what is a very livable community.

The existing mound in Scherer Bvd moderates noise impacts, but this is to be removed and replaced by “an arbor of trees” spaced 5 metres apart. The service station will sit behind that – is to have 24 hours operation, 2 air-conditioning units, a refrigeration unit and compressor. This is an industrial usage, an environmentally relevant activity that requires a special hazardous licence – and is being placed in the middle of what is now suburbia, linking to the sensitive “western culvert” drainage easement, referred to earlier, and in the proposed new Town Plan converts that drainage easement to commercial – as predicted by Cr. Danny Rowleson.



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Council's classification of the shopping centre ("now moving to a Centre within the Draft Planning Scheme" – i.e. a regional, 3 storey shopping centre) has been accepted, by the developer as able to be used for the following activities:-

1. Amusement Centre
2. Bakery Product manufacturing
3. One (1) Discount Department Store (i.e.Target)
4. Dry Cleaning
5. Government statutory authority, business or professional office or studio (500sqm max).
6. Computer services
7. Hairdressers
8. Laundromat
9. Locksmiths
10. Medical or dental centre
11. Engraving and trophy manufacture
12. Picture framing
13. Provision of meals and refreshments (no doubt one will be McDonalds – next to the High School)
14. Restaurant
15. Service Station
16. Shops
17. Supermarket
18. Veterinary clinic: and
19. Other activities approved in writing by the Group Manager Development

"This classification does not authorize the use of the site for activities including Cinema, Theatre and Nightclub, and these activities must not be carried out on the land unless the subject of subsequent development approvals" – *page 3 Council RFI*.

The applicants want a "range of activities – including the petrol station – without requiring further development approvals" **SO** creating this huge commercial shopping centre – means the developers and Council will have all the say – residents will have none – which is, of course why the proposed new Town Plan is structured to accommodate these developments.

This total destruction of residential amenity should be compared to the small professional medical office in a converted 2 storey Queenslander home next to the personal home of the Chairman for Planning and Development – Cr. Ross Sommerfeld. It is residential B – in the CBD Frame – As a professional medical office, with 26 car-parks it was an as-of-right use. Cr. Sommerfeld formally objected – as the traffic and 26 car-parks would affect his residential amenity. Yet, he has publicly led the push, for the conversion of 20ha of prime residential A land into a 3 storey regional shopping centre, with thousands of cars, in a constrained environmentally sensitive area to accommodate the eastern expansion of the duopoly – when there is no shortage of other commercially zoned land available.

When you think of such a huge commercial/residential interface – it cannot be ameliorated.

- Think of the commercial litter
- Think of the hooning in the car-parks. We have a lot of that already with the Kepnock Aldi. If you go there just look at all the rubber burnt into the parking lot. Changes every week.
- Think of the increased crime risks
- Think of the 363 days a year, 6am to 11pm – by the time it's closed.

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- Think of the service station – internally positioned into suburbia – with its hazardous risks and 24 hour operations. Doors slamming, people talking, trucks and cars stopping and starting, constant refrigeration, compressor and air conditioning units. It's classified in the City plan as "light industrial"
- Think of all the "yahoo-ing" on Fridays and Saturday from all the louts
- Think of the interstate trucks – they won't abide by those hours - after travelling so far.
- Think of the proximity of a shopping centre with all its "(Un) healthy options" next to a State School that dictates the School must provide only "healthy options" at their canteen.
- Think of the student/social issues with a commercial shopping centre so close. It will be a repeat of Bundaberg High School and Hinkler Central – only much bigger, with smaller roads, no traffic lights near the school and lots of people, cars and opportunities for anti-social behaviour.
- Think of the constant traffic noise

Yet Cr. Sommerfeld thought that 26 car-parks was an assault on HIS personal residential amenity!!!!

8 DESTROYS LOCAL JOBS FOR BUILDERS.

The site is zoned residential A – and is the best serviced residential land in the region. The Kepnock Place residential development came on the market last August and, within 12 months was all but sold out. At the moment there are two lots still unsold. This confirms the climate of demand and interest rates couldn't be better, yet the State Government and the Council are sacrificing it to a multi-national duopoly – at the cost of local jobs.

Much has been made of the *jobs, jobs jobs* hype in the Master approval process by Council, and their request for the minister to call it in. Yet, his reasons for ministerial approval never mentioned jobs once. This application also has the same persuasive line – it sells the image of legitimacy to overcome current high unemployment levels. Woolworths and Coles not only created self-serve in Australia – they have perfected it. Wages are the highest cost of doing business in the retail trade – and most other trades. Self-serve is how the duopoly cut overheads and beat their small business competitors who, as small business must rely on service. This is unsustainable for extended trading hours, in a small business, over a long period of time. Market share is lost.

Our economic analysis is attachment 7. It uses the actual sales figures for the Kepnock Place residential lots.

This land is better quality residential land than the Kalkie Ashfield-coastal land or Council's Gympie Estate – both of which have a rock base. Builders were keen to buy into Kepnock Place because, although it was more expensive – it was easier building. They saved about \$20,000 in building costs per block- not dealing with rock, and their overall return was better. The Kepnock Place development is the living proof of that.

Sadly, those builders might not get their required return on investment, any more than existing residents of this new housing estate, because this development and the proposed Kepnock regional shopping centre reduce the prospect of sale by up to 25% lesser return on investment - depending on actual physical position. This will lead to a lot of rental properties. That then reduces it from prime residential A to second-class residential B – with possible social detriments to the whole precinct. It will no longer be considered a livable community - as the current lifestyle quality and attraction will be permanently destroyed.

And so will the jobs it could have provided for our local builders.

Interestingly, when refusing the Holcim Quarry last week, the Minister and the Local MP's relied on local job creation for local builders and quality residential land as the reason for the Minister's approval of the Coral

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Cove residential development – over the availability of a valued resource and 10 local industry jobs. Many thought the two could have co-existed – over time - and with appropriate staging.

We argue that is why Masters should have been forced to go to available commercial sites and this good quality residential land should not be sacrificed at great detriment to many. The appropriate siting of Masters would have meant the community could have had the benefits of Masters - whatever they might be – PLUS the local jobs for builders. There would have been no detriment to anyone. . It’s called a “win-win”

Obviously, the duopoly has ensured their commercial interests – for their shareholders – must come first. They have sold that concept to this State Government, this Council and selfish indulgence of those who want what they want – irrespective of detriment to others – as long as it’s NOT anywhere near them, and someone else pays the price for THEIR convenience. Perhaps non-divisional electoral reform could change some of that decision-making thinking for Councillors in the next-(2016) – Council elections. Having to make decisions, regionally, would, indeed, be a change.

9 IGNORES RATEPAYER- FUNDED, INDEPENDENT PROFESSIONAL ADVICE

Ratepayers have funded consultants to provide their expertise in guiding Councillors to make the right decisions with the following Urban Economic Reports:-

1. The Centres Network Strategy (2008)	\$45,437
2. The Activity Centres & Industrial Land Planning Study (2012)	<u>\$32,341</u>
Total Ratepayer Cost	\$77,778

Some of the results and recommendations:

- The CBD appears to be functioning reasonably well, particularly compared to other regional CBD’s in Queensland.- *page 16 (2012 study)*
- There is an oversupply of industrial land (*pg 18*)
- There is concern about the conflict between encroaching residential housing and industry land
- The vacancy supply of industrial land is sufficient for a further 23 years (*pg 84*)
- Concentrated expansion of commercial south of Bundaberg Creek is not supported....to avoid significant “bleeding” of commercial out of the CBD (*pg 132*)
- Large expansive land uses such as bulky goods activities are often unsuited to main street or town centre locations because of their bulky form and limited capacity to foster active frontages and integration(*pg 133*)

This Report also includes a section on planning and urban design (*pg 136*) “*that could be implemented or considered in the drafting of a new planning scheme for the Bundaberg region*”

G5 – PC(1) – mixed use development: – Development is to be designed to respect any established or evolving residential character within the commercial precinct and/or in the surrounding area in terms of scale, appearance and so on. In this regard, particular attention must be paid to the location and treatment of vehicle parking”

G1-PC3-cohesive attractive streetscape: - Developments must be designed to consider the interface between non-residential development and residential development

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G1-PC15 – direct access. Direct access to arterial roads is to be discouraged or restricted. Access to the development must be via a side street or parallel service road- Access to a main road will only be granted- where no other access point can be negotiated.

G2 – the number of access points – if more than one- must be justified in terms of traffic safety and convenience

PC20 –the design of bulky goods building forms must consider, and where possible, minimize the impact on adjacent development, particularly where adjacent development is residential G1 – development must provide a scale transition to the adjacent land uses

PC21 – Bulky goods building design must not dominate the streetscape.

PC24 – Out-of-centre development must satisfy identified need.

Out-of-centre development is to be discouraged in order to maintain the integrity and vibrancy of the defined centres network, except where it can be identified that there is an overwhelming need for the proposal, and that such needs cannot be accommodated within existing centres or on the fringe of an identified centre.

“Out-of-centre” developments, overwhelming need in the community interest is to be demonstrated, including the application of a net community benefits test, an Economic Impact Assessment test (EIA) Report is to accompany applications for out-of-centre development, demonstrating need for, and potential impacts of the proposal on the subject site. The EIA should include an analysis as to how the proposal could not (or should not) otherwise be accommodated within a defined activity centre

An Information Request may also request the preparation of a Social Impact Assessment Report, demonstrating the anticipated impacts and benefits of the proposal. The net benefits of the proposal in an out-of-centre location should demonstrate how the proposal will meet economic and social objectives and outcomes. .(page 131)

It is recommended that the Bundaberg Region Planning scheme includes measures to prevent or restrict development that is likely to contribute to “ribbon development” or otherwise adversely impact on the safe and efficient flow of traffic, including on highway corridors and arterial roads
Page 132

Bulky Goods – The centres hierarchy recognizes that land expansive or consumptive uses such as bulky goods are centre activities that should be accommodated in centres. It is recognized that special purpose centres may be required to accommodate these uses, with many attracted to major road frontages. Large expansive land uses such as bulky goods activities are often unsuited to main street or town centre locations.....page 133.

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It is an elementary planning policy test for dealing with “out-of centre” developments that they be assessed under the following process. Developments must demonstrate they have addressed this test, such that

- ✚ priority and preference is demonstrated for in-centre development – subsequently
- ✚ to edge of adjacent centre – and finally to
- ✚ out-of centre – provided it can be demonstrated that no option is available in or adjacent to existing centres

When the application can prove they have met this test, then overwhelming need must be demonstrated to justify any “out-of centre” development.

The 2009 study into the Regional Activity Centre Network recognized that:-

- ✚ Allowing for residential growth within the Council area – there is a recognized need for an additional 105,000 sqm of total retail floor-space in the Bundaberg Region over the next **22 years** ie to 2030. (*page 58*)
- ✚ There is a need to capitalize and consolidate existing centres. *Page 91*
- ✚ A district activity centre – defined within this report as 23,000 sqm retail and 13000 sqm non retail- i.e. total 36,000 sq m – will be required in the Kepnock district – site not determined – with the suggested timing being at the mid to later part of the next 22 year planning horizon- i.e. after 2020. (*page 94*). The Kepnock ALDI – (approx. 7000 sqm retail) has since been opened, leaving (now) Masters (inappropriate but 13,916sqm retail/wholesale). The Kepnock centre was seen to be primarily “traditional” retailing space, with North Bundaberg recommended to incorporate bulky goods floorspace.
- ✚ “Out-of-centre” development should be consistent with adjacent building lines *pg 109*
- ✚ “Out of centre” development should not adversely impact on nature conservation *pg 109*.

Both Reports identified the Kalkie/Ashfield areas as an Identified Growth Areas (IGA), as does the State Regional Plan.

- ❖ The 2012 Study identifies a higher rate of unemployment at 7% - above the State average of 5.5%. For every 100 people of working age – there are only 90 jobs. That has been static for decades.
- ❖ The retail trade contributes 7.4% to the Bundaberg regional economy
- ❖ The stakeholder list for the compilation of the 2012 Activity Centre and Industrial Land Planning Study included representation from 13 local group sources. One was the Santalucia Corporation – as the largest single land-owner in the region, and also the UDIA – on which a Santalucia family member holds an executive position. Other members were:- Andy’s Realty, Bundaberg Distilling Company, Bundaberg Fruit and vegetable Growers, Bundaberg Regional Council, Childers Chamber of Commerce, Childers Concrete and Haulage, Department of Economic Development and Innovation, John Fidden Real Estate, Port of Bundaberg, Real Estate Institute of Queensland and Starfire Solutions (also an advisory group to the Bundaberg Regional Council)
- ❖ The Report also identified that businesses attracted to the area enquire about cost, presence of a pro-active Council and lifestyle for employees.
- ❖ Key shapers for the future will include....a Planning Scheme that promotes confidence in investment decisions as to land availability and connectivity
- ❖ There is a low disposable income threshold
- ❖ The South Bundaberg Network Activity Centres Study (*page 57*) had an overall 11% vacancy rate. This was considered higher than average
- ❖ At the time of the 2012 study there was a need to fill existing vacancies within established centres – before considering any more “out-of-centre” development.
- ❖ As part of their SWOT analysis – the then newly established Kepnock Aldi, was identified as a stand-alone centre. Historically it had been established under a previously assessed report for the need of a

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13,000 local centre – 10,000 retail, and 3000 non retail local neighbourhood centre. The greatest threat to the future of the Activity Centres Network – for the Eastern Bundaberg region was *“Its proximity to the CBD”*. Page 107

- ❖ The SWOT analysis for the Bundaberg Region recognized (Page 103) 2 threats
 1. *Pressure for uncharacteristic development- bulky goods and showroom facilities within East Bundaberg*
 2. *Out-of-centre development*

Summarising:

Ratepayer funded professional, independent advice has been ignored because:-

1. An “uncharacteristic bulky goods store” in Eastern Bundaberg on residential A land” has been approved.
2. Alternate space was available in a special purpose bulky goods retail centre
1. Out-of centre development has been approved - without evidence of overwhelming need with no accompanying net community benefit study.
2. Not only is this out-of-centre development approved – Council now intends to legitimize it as a whole new 3 storey commercial centre – being an integral part of the proposed new Town Plan.
3. Vacancies in existing centres – some 180 of them – have not been filled. They will continue to grow as this proposed new “district” shopping centre “bleeds” custom away from established centres.
4. It’s proximity to the CBD is an identified risk for the survival of the CBD, Hinkler Central and Sugarland.
5. The new “District” Centre is no such thing. It is, by classification and size a “Regional Centre” that contains a proposed department store, servicing a catchment of approximately 120,000 people.
6. This Regional Activity Centre could displace other major centres - including the CBD.
7. As a Regional Centre it fills all the required projected future retail space till 2030
8. The need for a future centre in the Kalkie/Ashfield development area – by 2020 - did not identify a site
9. This “out-of-centre” development is not consistent with adjacent building lines
10. This “out-of-centre” development will adversely impact on nature conservation.
11. Population projections are unrealistic compared to recent realities
12. The centre will not address current unemployment levels. It just transfers jobs from existing business.
13. The use of the residential land for its currently zoned purpose would create local building jobs
14. The current Council is not pro-active and regionally focused. It has been independently judged as “inconsistent, unaccountable and not transparent”. *Productivity Report into the Retail Trade – September, 2014.*
15. This public perception – actually an investigative judgment – does not provide any confidence to investors - especially new, and larger investors- considering their business options
16. The proposed new Planning Scheme will not promote confidence in investment decisions as to land availability and connectivity. Council has overturned the existing Town Plan and then sought Ministerial intervention to avoid having their decision challenged in the P&E Court. Knowledge about Council arrogance and developer preferences has spread far and wide. It is a dis-incentive for future investment and confidence.
17. There is no provision for traffic safety of nearby school students, or residential amenity.
18. **This application displays an appalling lack of strategic planning – on a regional – basis for the future benefit of the region....a matter which we address in our response to the New Town Plan consultancy process, but it is very relevant to this development application**

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10

DOES NOT MEET A BASIC NET COMMUNITY BENEFIT TEST

This is an application for out-of-centre development. Contrary to requirements it does NOT demonstrate overwhelming need. Neither does it provide the required Net Community Benefit Test analysis.

Best practice town planning considers a Net Community Benefit Test as the necessary gateway to a material change of use for a re-zoning of this type.

- This development application cannot be dis-associated from the Ministerially approved Masters(2) decision.
- Nor can it be dis-associated from its ultimate goal of establishing a new Town Plan to legitimize a future Regional Shopping Centre.
- It is “Out-of-Centre”.
- There are extremely high vacancy rates in existing centres.
- It is a very real threat to the viability and hierarchy of the CBD.
- Ignores the nearby natural environmental park and eco-systems.
- Could destroy the traffic hierarchy – both State and Local.
- Will result in probable future “actionable nuisance” if existing storm-water and drainage problems – which are well documented and well known to the approval body (i.e. the Councillors) – are aggravated by an approval of this development application
- Is in a “high risk” category for water quality – (an issue not addressed by either this application or the Masters approval).
- Is in a flood hazard zone that is a vital east-west connector route.
- Is located behind a large, and growing, State High School with existing traffic, and drainage problems.
- Could create increased social and anti-social issues for students and community in general.
- Will destroy local jobs and local businesses.
- Will encourage further applications for “ribbon development” around the fringes.
- Will impact on the affordability of future home construction in the area.
- Does not address local unemployment levels- despite the “*jobs, jobs, jobs*” hype.
- Simply transfers the known traffic problems with Sugarland 1(West) to Sugarland 2 (East).

NET COMMUNITY BENEFIT TEST

A net community benefit arises where the sum of all the benefits of a development – particularly one that seeks a material change of use approval to establish a new regional centre – outweighs the sum of all the costs.

Such tests can be evaluated using a “transfer” effects technique, or a “welfare” effects approach. This application would fail both – a matter which will be addressed in our response to the proposed new Town Plan.

As the applicant does not address this net community benefit assessment – and we do not have access to the under-lying (drilled-down) data – we have done a SWOT analysis. It is provided for 2 scenarios – an approval of the development application and a refusal of the application.

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STRENGTHS - APPROVAL	WEAKNESSES - APPROVAL
<p>1 Provides convenience shopping for residents to the East and the growing Eastern corridor</p> <p>2 Provides consumer choice for residents in the East</p> <p>3 Provides competitive shopping choices for residents in the East</p> <p>4 Reduces travel costs for individual shoppers in the East and the south-west - i.e Walkervale, Thabeban, Avenell Heights, Kepnock .</p> <p>5 Provides windfall financial returns to the developer and the duopoly</p> <hr/> <p>BLANK</p>	<ol style="list-style-type: none"> 1. Assumes that development approvals is all that is required to “fix” the current regional economic crisis and “get things moving” 2. Creates adverse investor confidence for large business investors because it repeats the practice of overturning the current Town Plan – without valid reasons i.e. Sugarland just sold, Barga Central now on the market 3. Is contra ratepayer funded professional external advice – Urban Economics Reports 4. Lacks structure planning for the whole site 5. Lacks stakeholder input and strategic planning. 6. Is a poor example of retro-fitting a huge commercial development into a constrained residential site. 7. Repeats the known errors of a retro-fitting development (as opposed to an “in-filling”) development) – i.e. Bunnings(1) 8. Assumes projected population growth is accurate – Actual figures would be more realistic. 9. Increases costs of future housing by using good quality, rate-payer serviced residential land for commercial – when alternative land exists. 10. Ignores the current housing demand and low interest rate climate to capitalize on available, serviced residential land. 11. More shops without more available income – more business failures. 12. Conflicts of interest – increases value of poorer quality, adjacent, un-serviced land owned by Council and other high profile land-owners. 13. Exemplifies commercial opportunism and a “development at any cost” mentality.

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OPPORTUNITIES APPROVAL	THREATS - APPROVAL
<ol style="list-style-type: none"> 1. Good electoral appeal in lead-up to Council and State elections 2. Reduced costs for developer with the addition of a ratepayer funded “incentive” reduction on infrastructure charges 3. Opportunity for Santalucia development consortium to benefit, financially, by the conversion of a residential zoning (with its lower rate structure in the past) to a commercial sale at the higher commercial value. <p>-----</p> <p>BLANK</p>	<ol style="list-style-type: none"> 1. Sets unacceptable legal precedence by overriding the Town Plan- for no valid reason 2. There is no over-whelming need 3. Ignores the current vacancies in existing centres and local surrounds 4. Is an “out-of-centre” development that threatens the viability of the CBD and existing centres (i.e Hinkler Place, Olsens, Moloneys, Kepnock Korner, 5. Provides no net community benefit test to allow an overall impact or “effects” evaluation. 6. Is acknowledged as a “high risk” development for water quality – but is only required to make same provision as if on an industrial/commercial site. 7. Threatens the nearby wetlands 8. Is being built over the regional aquifer – 9. Requires extensive earthworks to establish a 2 storey building over the aquifer 10. Aggravates an existing storm-water-and water-detention on-site drainage problem 11. Increases risks of on-site flooding to nearby homes and streets 12. Builds over a Council waterway/drain which is very high risk. 13. Increases storm-water run-off to 95%, instead of 40% residential – allowed for by existing infrastructure 14. Is in a flood hazard zone and the site was inaccessible in 2013 flood 15. Creates a high risk of future litigation for Council and Councillors if there is future water inundation of nearby homes 16. Makes no provision for student safety 17. Aggravates existing peak-hour school problems in Schmidt, Baird, Novakoski and Scherer Sts 18. Destroys residential amenity with a 24hour service station in suburbia 19. Creates a pedestrian access and commercial “rat-run” that will destroy residential amenity with shopping trolleys and illegally parked vehicles on narrow residential

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	THREATS – APPROVAL (Cont'd)
BLANK	streets
	20. Will put service station over a drainage easement – with underground tanks – only 100 metres from the wetlands
	21. With 1200 car-parks increases social and crime potential with “hooning” and increased theft opportunity
	22. Adverse social impacts on school, which backs onto the large car-park.
	23. Once built cannot be retrospectively corrected
	24. Determines the future of all eastern development and is in the wrong position
	25. No provision for residential/commercial interface
	26. Assumes that acoustic and storm-water projections are accurate – when final design is incomplete
	27. Creates loss of local jobs – to the benefit of the duopoly
	28. Could affect the existing emergency access to Kepnock School via the easement from FEWalker to Kepnock Rd Does not capitalise on the EP sewerage income of residential (600) for commercial (50) - with the Rubyanna Treatment Plan to cost \$100m.
	29. Does not capitalize on the sewerage income of residential (600 pedestals)-commercial only (50)- with Rubyanna Treatment Plant to cost \$100m
	30. When considered, en globo – with Masters – this application is not for a District Centre but for a Regional one.
	31. Condone and attempts to rectify, retrospectively, the negligence and culpability of the same developer with the upstream residential development – which did not abide by the conditions of that approval.

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STRENGTHS – REFUSAL	WEAKNESSES - REFUSAL
<p>A refusal restores confidence in Council decision-making – not duopoly/developer manipulation</p> <ol style="list-style-type: none"> 1. A refusal respects the laws under which it was lodged. This application was lodged almost 3 years ago and the Town Plan was not out of date then. 2. Provides time to develop a structured, strategic plan for the future development within and around the eastern growth corridor. 3. Restores the confidence of possible future business investors who are reluctant to invest in the region, currently, because of uncertainty about the future 4. Protects access and safety for students and school 5. Limits adverse social impacts with the proximity of a High School backing onto a shopping centre. Our community does not need a repeat of the Bundaberg High School-Hinkler Central social issues. 6. Reduces the risk of flooding in a designated flood hazard zone, by reducing the run-off. 7. Residential storm-water run-off is 50% - Commercial is 95%. Reducing the run-off back to its intended residential use reduces the risk of damaging the environment and nearby homes. 8. Improves the quality of storm-water run-off to the Wetlands. 9. Protects the aquifer and our regional water supply from increased risk of salt-intrusion. 10. Allows this quality residential land to be used for its zoned use – thus providing local construction jobs and affordable housing 	<ol style="list-style-type: none"> 1. Reduces the financial return for the developer and the land-owner back to the residential zoning entitlement. 2. Reduces the electoral appeal of Council and the State Government in the lead-up to State and Council elections. 3. Removes the shopping convenience of the eastern population in the short term, They would have to revert to a continuation of patronizing existing businesses in existing centres and surrounds. 4. Increases the travel time of eastern shoppers – back to what it is at the moment – at least in the short term. <hr/> <p>BLANK</p>

Submission to 325.2012.34482.1 – JANAM(3)

STRENGTHS – REFUSAL (Cont'd)

- 11. Protects the viability of the CBD, other centres and nearby small businesses.**
- 12. Increases the possibility of filling existing vacancies in existing centres and the CBD- by reducing uncertainty**
- 13. Should flow through to the proposed new Town Plan – with a better long-term regional outcome.**
- 14. By reducing the flooding risk, the future possibility of “actionable nuisance” litigation is also reduced.**
- 15. Sends a powerful message to the national march of the duopoly. Regional Australia needs the right development in the right place and fair competition - so our local businesses have a level playing field.**
- 16. Upholds community standards and expectations**
- 17. Protects existing investment by local residents and local businesses.**
- 18. Provides a better net community benefit with reduced detrimental cost to social, financial, traffic and the environment.**
- 19. Retains the existing residential amenity and livable lifestyle of neighbouring home-owners.**
- 20. Removes the legal precedent that an approval would have created.**
- 21. Protects the jobs retention of employees in existing centres and businesses.**
- 22. Protects the existing road hierarchy – at both State and Council levels**
- 23. Decreases the need for 3 extra sets of**

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STRENGTHS – REFUSAL (Cont'd

signalized intersections in the short term resulting in decreased Coast-City travel times and reduced infrastructure costs.

25 Stalls the duopoly's current consolidation of their expansion to the east- at detriment to the west. This allows that consolidation to be determined by Council on behalf of the community- not by the market force of the duopoly and the financial returns for the developer.

26 Encourages Wesfarmers to keep Target in their current locale, retaining the viability of the CBD, while business, Council and Government join forces to attract business back to our City. – especially that lower part of our CBD.

27 Lessens the risk of “ribbon development” with the EQ land opposite Kepnock High School – now on the market. An approval of this application as commercial increases the likelihood of that land also becoming commercial to “feed-off” the higher cost shopping centre – at a lower cost and lesser overheads - in a ribbon development pattern

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<u>OPPORTUNITIES – REFUSAL</u>	<u>THREATS – REFUSAL</u>
<ol style="list-style-type: none">1. Provides much needed time to develop a strategic plan for the development of the eastern growth corridor. This is consistent with Council’s concern about “piece-meal” development of these green-field sites with the approval of ALDI and Masters(2),and the documented need, by Council, for a “ structure planning program that would involve consultation processes to achieve a high quality urban centre and provide residents and investors with certainty about the future form of development in the area.”2. Allows Councils and local Members of Parliament the time to undertake and become “involved in that consultation process” to restore the confidence and some certainty for residents and investors in this area – and the whole of Bundaberg. This could off-set the damaging national response to the 4 year Kepnock duopoly drama that has labelled decisions by this Council as “<i>lacking consistency, accountability and transparency</i>” – <i>Productivity Commission Report into Retail Trade – September, 2014.</i>3. Provides an opportunity to restore investor and constituent confidence in both State and Local Government processes.4. Would provide the opportunity to translate the benefits to the proposed new Town Plan- following appropriate community consultation	<ol style="list-style-type: none">1. Wesfarmers might withdraw their promise of investment in our City – at least to the East. (This would only be short term). Coles will not sit back and allow Woolworths – with Masters – to “steal a march” on their joint determination to beat each other with their projected eastern consolidation in Bundaberg. – particularly in or near the eastern growth corridor.2. There could be an argument that this would mean a loss of a “flood-free” FEWalker Street east-west road connection, in a flood emergency. Though well promoted, this is a false argument. That site does not have flood immunity, especially with all the storm-water run-off now having to be retained on site <hr/> <p>BLANK</p>

It is inappropriate to summarise these results on a numerical basis, but we encourage people to do their own evaluation using the same criteria – or other that they might think appropriate.

Our analysis, however, would withstand any critical evaluation from any objective person with even a little knowledge of this Kepnock precinct, the basics of good town-planning, community and economic development, governance and regional growth.

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SUMMARY OF SWOT ANALYSES

If the Shopping Centre is Approved

If the Shopping centre is Refused

Strengths	5.	27.
Weaknesses	13.	4.
Opportunities	3.	4.
Threats	31.	2.

11. DETRIMENTAL STORM-WATER QUANTITY AND QUALITY IMPACTS

This issue is critical to the choice of site for this development. We note that Opus have previously done work for both Coles and Aldi in the Sunshine Coast Council – specializing in this type of civil engineering. Some of the comments in OPW 12/0540 in relation to an information request that would have had storm- water flowing over the detention basin wall – did not inspire us with confidence – being familiar with previous revisions of this Report on the Janam 1,2 and now 3 applications. This latest Report is Revision G. It is dated 25/9/2014, so we question what seems like some indecent haste on a topic that will have such a huge impact in an identified flood hazard zone. This report has only been available to interested persons since 25 October, 2014- has gone to public notification on 29 October, and closes 18 November, 2014.

Additionally this application is high risk – for the nearby homes, the neighbourhood, and the road network. It seeks to put an underground car-park as a lower basement storey, over the regional aquifer that, only 3 years ago, following the 2011 floods, had a DNR depth of only 3.5metres, but a local identified level of 1 metre.

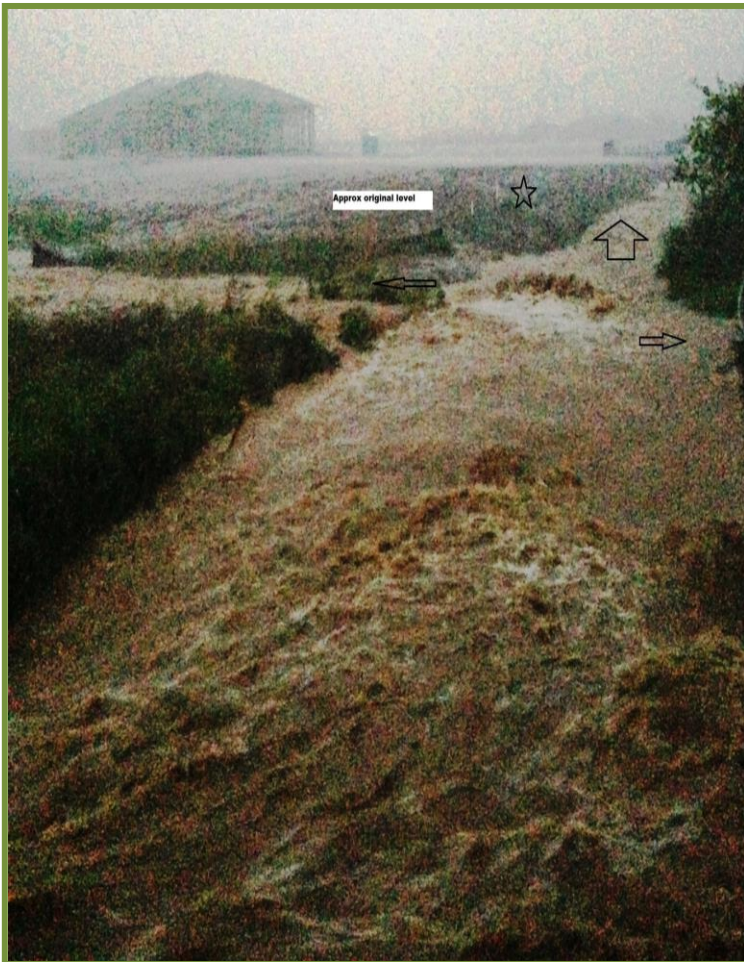
Yet – this Council has dismissed such concerns as not a matter for this Council to consider.

This application requires the “loan” of Council’s Kepnock Drain which is, in reality a “creek” – a tributary of the nearby Bundaberg Creek- part of the Baldwin Wetlands into which the water discharges. This is the extent of the open waterway involved. These photos show the extent of the open channel, with the building and the entrance being built over the exit and extending for some distance back to the south. The pictures to the south show the convergence point of 3 drains – the southern one going back past Edgar Street. The torrent of water is not flood-water it is from a localized downpour on the 17th. November, 2013. There was only 1 home under construction. Since then 20 have been built, 2 in course of construction with 2 vacant lots.

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This is where the storm event created a huge lake – with this drain, (Culvert A) another drain to the west (Culvert E) , Culvert B, 80m to the east and Culvert C– on the now Masters site – all overflowing and cutting off FE Walker Street.

This happened when there was NO development on the site, either to the east or the south, save for the preliminary pad of one home in Kepnock Place.

Council, in approving Kepnock Place did not require the developer – the same developer for this application – to put any water detention, at all, in place – (highly irregular). So the pre-development flows have simply entered the drain – without any requirement for post-development controls. The residential estate has had huge amounts of fill –to the extent that the eastern side of the drain – near the homes - has been increased by 2 metres – with no compensating increase in the height of the western side. This cannot be retrospectively rectified to slow down run-off from the south, east or west

During this seasonal downpour the water backed up to the top of Scherer Bvd, inundated one home in Schmidt Street,

flooded the outbuildings of the homes near where this photo was taken. There were no blockages. The velocity of the run-off was so strong that water from the upstream areas around Liddell Ct, Schmidt Street and upper parts of Scherer Bvd could not enter the drain and backed up over foot-paths and into garden beds. Some cars parked in Schmidt street had water enter under the doors.

Council has always been aware of the drainage issues with the Berghofer Estate and it took many years and a lot of ratepayer dollars to negotiate a widened drainage easement as the land was converted from farming to urban usage. At the time it was also necessary to put in place an easement that was wide enough to provide an emergency access for the Kepnock High School – which is surrounded by “T” junction roads to the south, east, west and north. To this end we recommended that Council engineers talk with the original owner of the site - Daryl Scherer - who lived there for 70 years – with his sister - building the remaining home that is to be demolished to make way for this development next to the approved Masters site. Council committed to doing this and reviewing the full catchment because commercial increases the fraction impervious (creating more run off) from 50% (residential) to 95% (commercial).

To our knowledge this has not happened. We now have a report – made available only 7 business days ago- with public notification finishing in 2 weeks time. We are all well aware the earlier reports by the same

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consultants didn't get it right last time. Now we all have to place our lives, and our community – forever – on the basis of this report. Once built, if anyone gets it wrong, errors cannot be rectified as the building goes over the top of the drain for a considerable distance, as depicted in earlier pages. **Piping the open channel – a requirement for building over it – increases the risk of a blockage due to upstream debris. This results in severe damage because the flow finds an alternative overland flow path. Historically this happened with the Crofton Street car park back in the late 80's/early 90's – near Crofton St Hall (Ms Wills). The same result occurs if the flow ever exceeds pipe capacity – which, once built – cannot be reversed.**

Our legal advice has been that our submission needs to be very explicit about these issues because, although they are well known to the Council – any future “actionable nuisance” will be based on our submission, how Council's professional staff address the issues and how Councillors then determine the best interests of all affected parties – i.e. the Main Road, increased traffic, storm- water and possible flooding issues – when making their decision – for which they are jointly and severally liable.

The applicant states this site has “flood immunity”. This influenced Councillors to argue that the Master's site – when linked to this one – would provide a “flood-free” road in time of flood. But this rationale ignores the local knowledge that the Berghofer Estate created two separate drainage problems. The other is the Jocumsen Street drain. Both it and the Kepnock Drain are tributaries of Bundaberg Creek - and the problems with that drain are certainly well known to our divisional representative – Cr. Peters. This was the same downpour



News-Mail 18/11/13

Worried: With more rain on way, fears voiced over clogged culvert

Downpours bring debris

Mike Derry
mike.derry@news-mail.com.au

THE sound of heavy rain on the roof is something Kevin Berghofer hates to hear.

Mr Berghofer, who lives on F E Walker St, said every time there was a heavy downpour the culvert next to his home got blocked by debris.

“We get water right up in the yard because the drain gets clogged up with rubbish,” he said.

Mr Berghofer said since a new residential subdivision was built in Kepnock all the water from it went into the drain next to his house.

“It's a never-ending thing, it happens all the time,” he said.

The latest flooding happened during the heavy downpour on Sunday, when Mr Berghofer said branches and debris from upstream washed down the drain and blocked the culvert again.

“The water went over the road and they had to stop the traffic,” he said.

Mr Berghofer is calling for the culvert to be expanded to stop the blockage problem. A Transport and Main Roads spokesman said they were aware that flash flooding occurred recently on a section of F E Walker St.

“There are no current plans to upgrade the existing culvert but we will continue to monitor the structure to ensure it remains clear of debris,” he said. Local residents were also asked to play their part in keeping culverts clear by disposing of litter and vegetation waste at approved disposal sites.

If members of the public wished to report issues with the network, they were encouraged to contact Transport and Main Roads on 1300 728 390.

DRAIN DRAMA: Residents on Walker St aren't happy with the amount of debris that blocks the drain every time it rains.

PHOTO: ZACH HOGG

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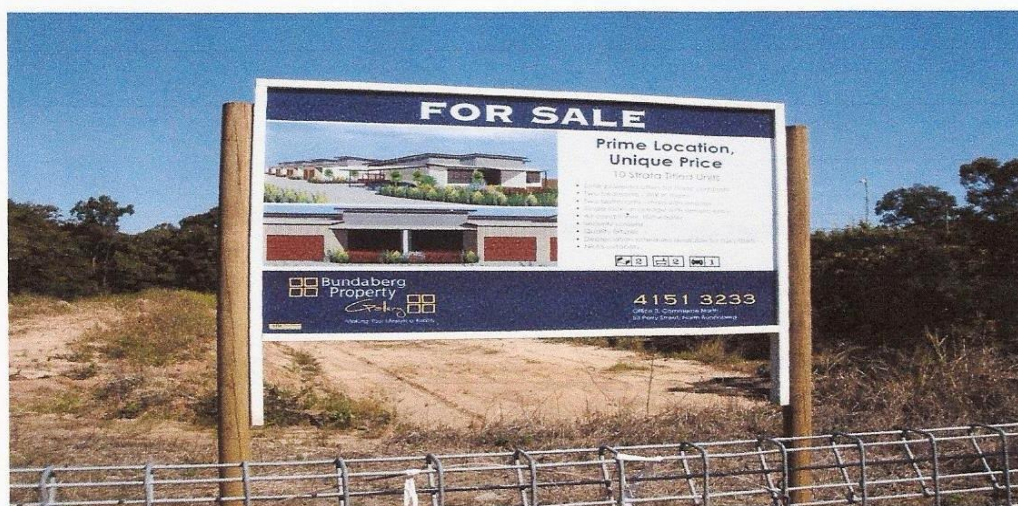
Water from this drain backs onto Endeavour Foundation and the Kepnock Grove Retirement Village – where flooding issues are historical. Que Hee Street gets flooded and cut-off on an average of once a year, and if the



Jocumsen Street drain overflows – then the risk is high that the Kepnock Drain will do likewise.

This site is well known to Councillors and exemplifies the fact that Engineers don't always get it right, that Mother Nature doesn't know what a 1% AEP or 1 in 100 means and that drains are meant for water – not buildings.

Council expenditure records will also confirm the joint expenditure of State, Federal and ratepayer funds to buy back properties in Lamb and Crofton Street where Council had, in earlier years built – not OVER drains – but too near them



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13.0 SITE FLOOD IMMUNITY

"The site was unaffected". Will that be the case next time around ? This time the site is green-field, no buildings. The centre will be (eventually) 3/4 solid concrete and thousands of cars. Look at how close the water came - this time



The effects of the January 2013 floods on the Bundaberg Community were devastating.

Apart from the personal hardships and loss of property, life in Bundaberg and her day to day operations were affected considerably not only for those whose houses and businesses were inundated but in terms of all of the community having their ability to shop for basic foodstuffs severely limited.

Immense pressure was put on the City and its food supply chain with the closure of many foodstores through flooding. None was more evident than in the Bundaberg CBD with the closure of the Hinkler Centre. This eventually resulted in the loss of two Full-line Supermarkets, the DDS and other specialty tenancies for 6 months.

Fortunately, there were other unaffected centres that were able to meet the increased demand however it has shown the need for the ability to maintain logistics and food supply for the community.

Certainly through the flood that occurred, roads were cut that precluded the delivery of foodstuffs. But as soon as the roads were open, it was crucial to have the necessary infrastructure in place to commence operation as soon as the roads opened.

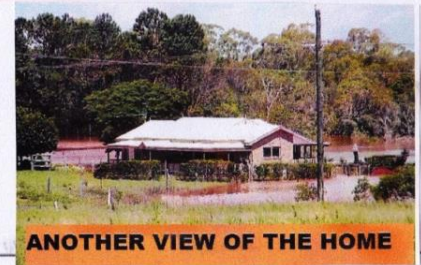
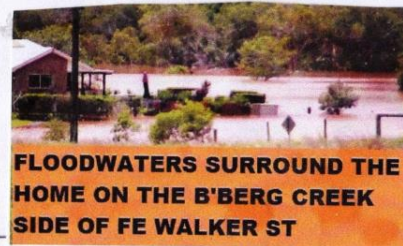
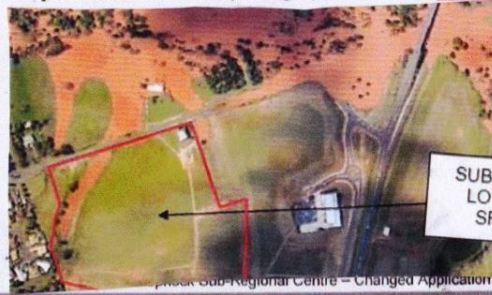
Also, it was realised that the importance of flood immunity in future development planning was needed to ensure that businesses were able to quickly reopen following a flood event particularly in terms of being able to maintain employment after such an event.

Council as part of their flood review has released a number of Flood Maps. The Burnett River Flood Hazard Area & Defined Flood Level Map- Map 1 City Inset which covers the area in which the Site is located is shown below.

As can be seen, the Site of the proposed centre (except for the stormwater drainage channel that operated as designed and without overflowing onto the Site or FE Walker Street) is not shown as being within a Flood Hazard Area.

This is further demonstrated in one of the aerial photographs taken at the time and also included below.

As you will see from the photograph below that apart from water in the stormwater drainage channel, the Site was unaffected.



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And NOW – we have this proposal for a huge commercial, 2 storied building, over the aquifer, over the drain on a site that was never meant to be anything other than residential A for all the many reasons we have listed over the past 4 years in 5 separate submissions.

Yet still this application is the very foundation for this Council to propose a fully commercialized up to 3 storey, 14m precinct – which ignores all the alarm bells

Specific to the Opus Report we raise the following issues:-

- The site has a 1 in 40 grade to the receiving waters of the Baldwin Wetlands under FE Walker Street. Visible in the previous photo is the velocity created by the gradient of the fall as the water flows north
- The Report states the site has a large external catchment of “approximately 40 hectares”. Our records indicate it is 47.9ha – which puts it closer to 50ha
- The development fronting FE Walker Street, including a portion of the main entry, the rear of the store roofs and the loading docks will be *directed to small bio retention “pods” within the landscaping strip north of the basement car-park.*

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WEST OF MASTERS

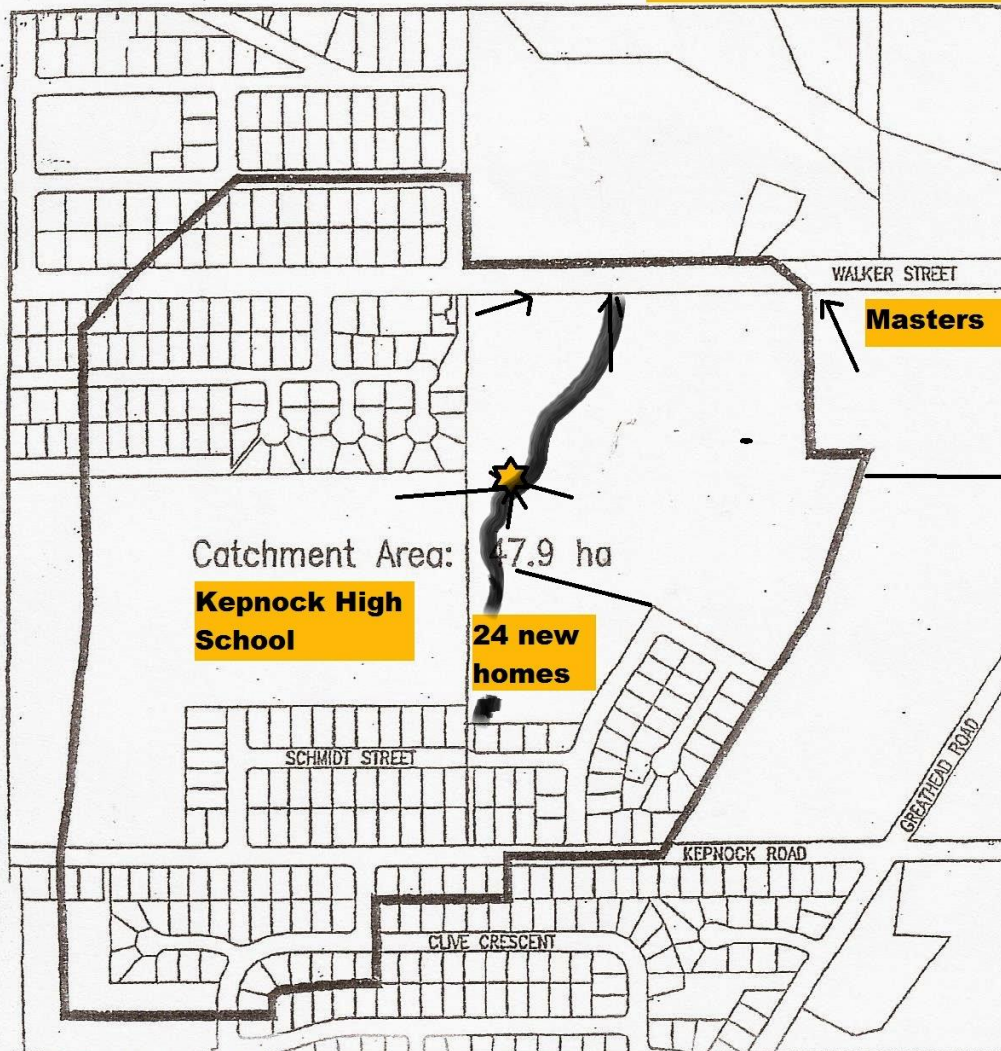
QUEENSLAND LAND REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

SCHEDULE

Form 20 Versio

Title Reference 50119798

**THE KEPNOCK
DRAIN CATCHMENT
AREA**



The Masters(2) application should not be assessed in isolation from the Shopping Centre. This document is dated 2006 and relevant to the establishment of the original "Kepnock Gardens" estate.

It depicts the catchment area for the Kepnock drain.

It is critical that decision makers understand the drainage issues here are two-fold. A defined flood event and a localised heavy rainfall event that exceeds the 1% AEP. The following photos attempt to display that difference.

The current Kepnock Place residential development is re-profiling the eastern side of the Kepnock. A local downpour in November, 2013 cut FE Street and flooded outbuildings near the drain.

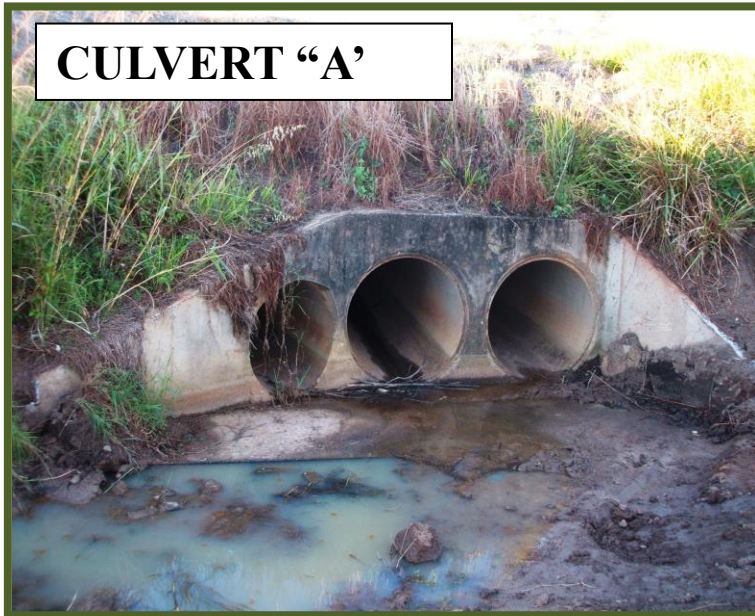
DEVELOPED CATCHMENT PLAN
WALKER STREET CULVERT
KEPNOCK, BUNDABERG

Existing infrastructure and the topography were never designed for intense commercialisation at the base of a geographical basin

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There is “an overland flow channel” – (the Kepnock Drain). Approximately “half of the existing site discharges north-west to this channel”, Opus identified 3 separate drainage systems – culverts A,B & C.

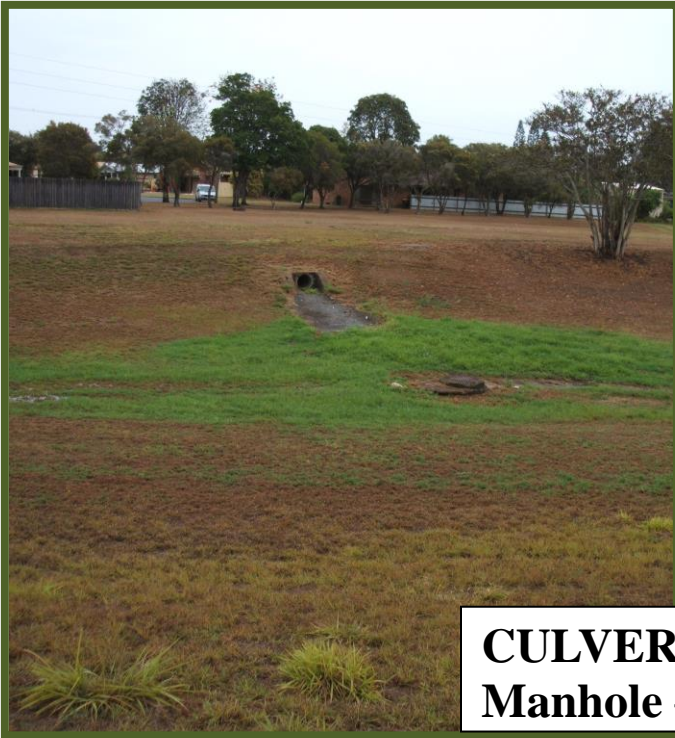
- I. This is **Culvert A** – which was only inches short of over-topping in the 2013 flood. This is where the water flows under FE Walker – or overtops if the depth and flow- through rate can’t be catered for by these pipes. Documentation states it has “two 900mm diameter RCP culverts”- pg 2. It actually has 2 x 900 RCP’s plus 1 x 750RCP
- II. **Culvert B** - “A small portion” (how much is that?) of the site discharges directly north towards a 750mm RCP culvert 80 metres to the east. This flows into the Kepnock Drain, on the other side of FEWalker, near that property seen in this photo
- III. **Culvert C** is on the Masters site. The Opus Report states “The remaining site (i.e. 100-50 plus a “small portion = ?) discharges north-east to the adjacent site –(Masters) – where it enters the Baldwin Wetlands via 2x600mm diameter culverts. The Masters documentation calls it the “western culvert” and it is the drainage easement referred to as Lot11 in Masters. It’s also the easement referred to during the Master’s meeting as able to “have a suspended slab over it – and then another Woolworths enterprise like Dan Murphys.



A&B are on the site, but
“C” is on Masters land on the
Eastern side of the house on the
site



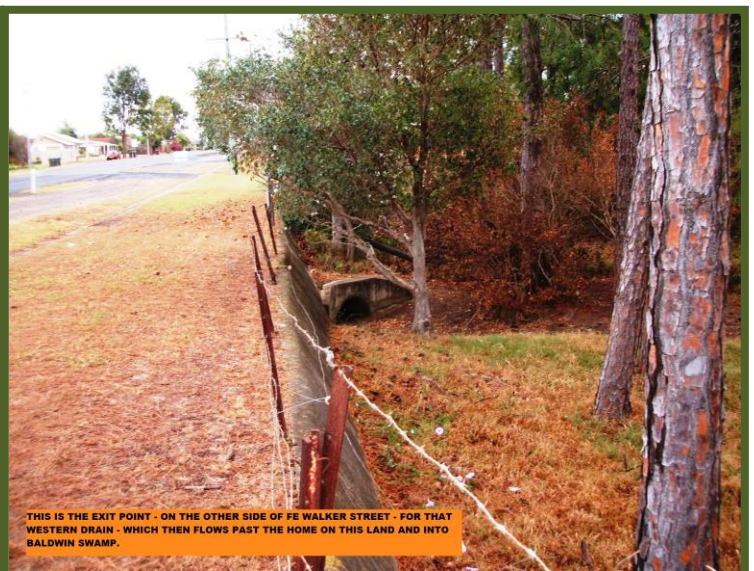
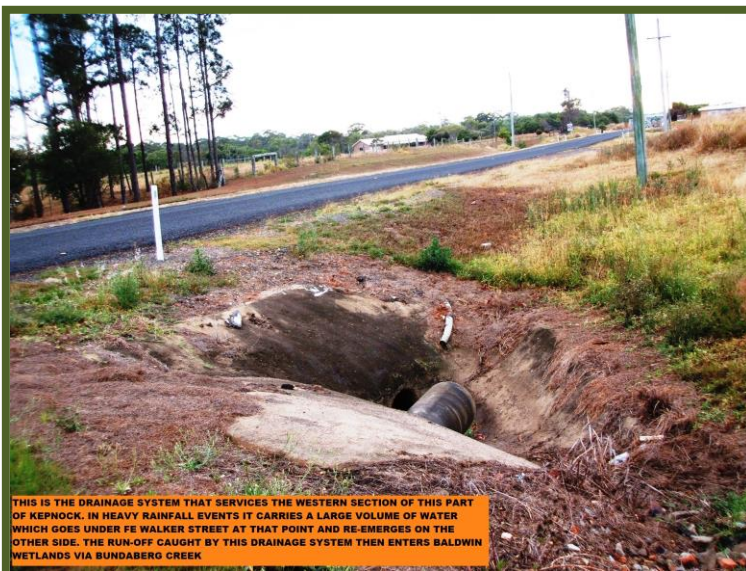
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**CULVERT D above sewage
Manhole – midway in drain**

This culvert – which drains a lot of the land to the west is in the middle of the Kepnock Drain, draining the homes to the west . Once water gets to that height, it restricts entry of that western water into the drain and it will back up in a heavy rainfall event.

This culvert is another unidentified system draining the west of the site. but in a torrential local downpour it also overflows onto the site. It overflows if the water in the Kepnock drain backs up at culvert A. It enters the wetlands through a separate drainage path west of the drain at Culvert A as seen here. Water backed up in this drain during the flood - as pictured in the next photo.



**CULVERT E – drains
the homes to the north-west**

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This drain enters the easement over the northern side of FEWalker Street at the point identified in the previous photo. This was the amount of water in that drain during the flood – at that northern entry point, and it was backed up over the (Opus unidentified) drain at the southern entry point depicted in the previous photo).

As this development, if approved, forms the nexus between the Masters site and this one - to establish the nucleus of the future regional shopping centre, it is critical that the Opus

Report – on which the whole storm- water drainage assumptions are based – is unquestionably correct.

This assumes that the data, on which the formal report is based – is accurate.

The purpose of the Opus Report is to demonstrate that the development can occur in accordance with all relevant drainage guideline - i.e. that post development flow does not exceed pre-development flow; that there is no adverse impact on adjoining properties or infrastructure and that there is no adverse increase in the existing natural hazard risk - in either an estuarine or localized flood event. Any errors in the base assumptions - (i.e. wrong pipe-sizes, unidentified piped/or open channel input from unidentified upstream water detention basins, or other outlets, or an incorrect whole-of-catchment size) make the Report invalid.

We contend the Report is invalid because:-

- 1. There are more than 2x900 RCPS at Culvert A. Incorrect pipe sizes invalidate the results.**
- 2. There is an unidentified 550 RCP – in the middle of the Kepnock Drain/Waterway. We have named it Culvert “D”**
- 3. There is an unidentified drainage inlet which has, historically overflowed in a heavy localized rainfall event – and in the last flood event – to the west of the site. We have identified it as “Culvert E”**
- 4. There are unidentified 3x600 RCP’s we have called Culvert F. Their placement, because of the velocity of the upstream southern water-flow – creates back-up water along Schmidt and Scherer Sts, during a heavy localized event -i.e. 17 November, 2013**
- 5. There are 2 unidentified upstream dams (detention basins) which, depending on their existing water height, during a localized event, could create additional volume and velocity.**
- 6. The flood mapping relevant to this site does not appear to be accurate.**

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There is a further, unidentified, drainage system below the associated residential development. This drains the higher areas of Scherer Bvd. It is a set of 3 x 600 drains that empty into the open channel where the 3 drainage systems converge near the homes to the west into the open channel. The velocity of water pouring down the drain- from the Kepnock Road, and School drains in a heavy rainfall event can restrict water from this higher ground level eastern drainage system entering the drainage channel. It, historically, backs up .



CULVERT F- 3x600 RCP's

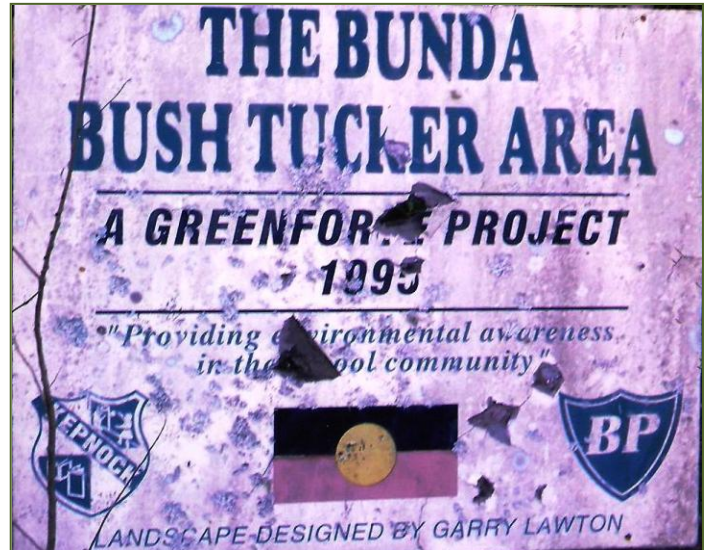
As can be seen from the photos of the deluge last November, the torrent of water coming from the south comes from 3 separate drainage systems – one behind the Kepnock High School, one from Kepnock Road and one from Scherer Bvd – all meeting at that one point. The run-off is torrential and the drainage system behind Kepnock High School has not been factored in. There are 2 dams, and this is the lower one. There is a rock dam wall, with a maintenance road . This dam system services the agricultural and irrigation needs of the school, and provides water for stock. It is on Education Qld land, and will always influence the run-off into the open Kepnock Drain channel lower down, depending on the height of the School's water retention system at times of heavy rain. If the school detention system has a high level of water in their dams, then more runs off and will impact the lower levels of the open channel. This is the dam face, and recent dry weather has meant the first dam now has little water in it. Water drains to it from several higher spots behind the school and from Kepnock Place and the area is an aboriginal "bush tucker" site



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This is the road that separates the rock wall face of the first dam from the actual dam itself – which is to the right of this photo. The rock wall face is part of the community indigenous site



No mention is made of this overall southern drainage system that this application now seeks to restrain into a pre-determined detention basin- down near FEWalker Street – at its northern base, prior to entering under FEWalker Street. This will be done by downsizing 3 x 1500 RCPs into 2 x 1500 RCPs meeting the 2x900RCPs – with the building being constructed over part of that diversion system to the proposed detention basin.

**AGAIN – THIS MODELLING
ASSUMES THAT THE BASE DATA IS
CORRECT. We question that?**

Submission to 325.2012.34482.1 – JANAM(3)

13.0 SITE FLOOD IMMUNITY

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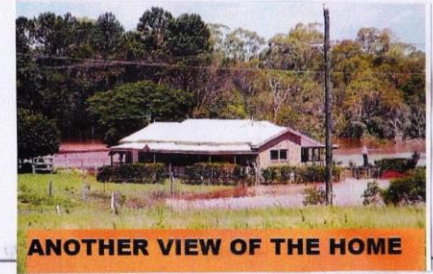
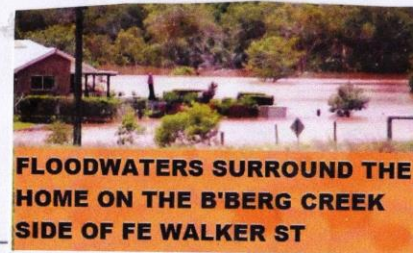
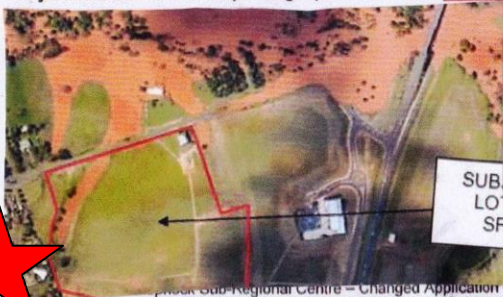
Also, it was realised that the importance of flood immunity in future development planning was needed to ensure that businesses were able to quickly reopen following a flood event particularly in terms of being able to maintain employment after such an event.

Council as part of their flood review has released a number of Flood Maps. The Burnett River Flood Hazard Area & Defined Flood Level Map- Map 1 City Inset which covers the area in which the Site is located is shown below.

As can be seen, the Site of the proposed centre (except for the stormwater drainage channel that operated as designed and without overflowing onto the Site or FE Walker Street) is not shown as being within a Flood Hazard Area.


This is further demonstrated in one of the aerial photographs taken at the time and also included below.

As you will see from the photograph below that apart from water in the stormwater drainage channel, the Site was unaffected.



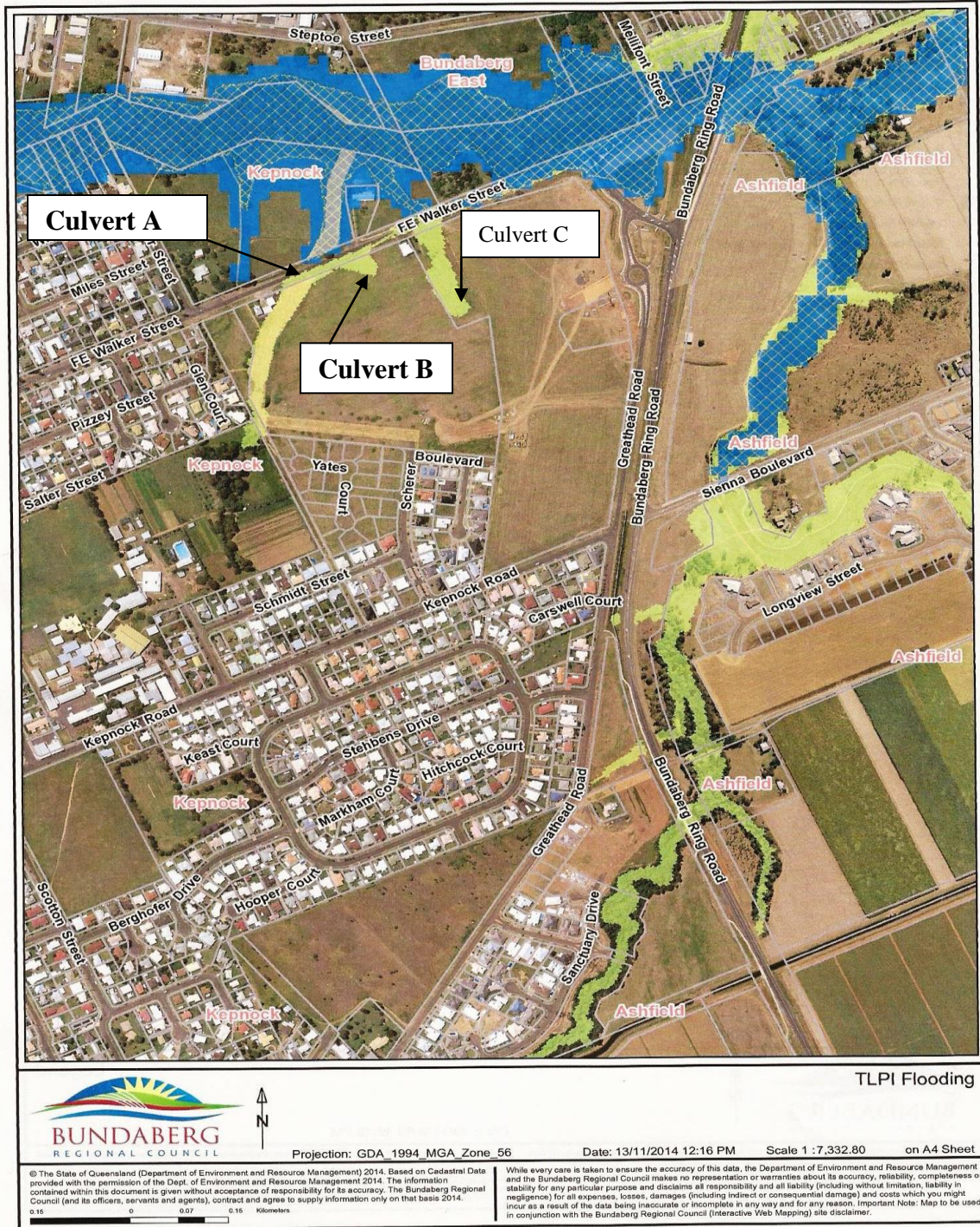
Page 36

The applicants maintain the site has “flood immunity”. The flooding on this site was a combination of “back-up” water and local run-off. Water was being pushed back up the tributaries, because the local water was unable to enter the Burnett River due to the velocity and volume of the River. The Kepnock Drain is a tributary of Bundaberg Creek, which, in turn empties into the Burnett River.

 Flood levels are evident in the above photo, submitted by the applicants for a “*SUB-REGIONAL*” (not a *DISTRICT*) shopping centre,. It is the Bundaberg Regional Council official Flood Map and shows the Kepnock Drain inundated with flood-waters. To the residents whose homes abutted that waterway – it was flood-water – and, had the water continued to rise and flood their homes – their insurance companies would have classed it as “flood-water” – not the drain “*acting within its designed capacity*”.

This application relies on the accuracy of the Opus Report and the formal flood maps, so it's important to compare the formal flood map, lodged by the applicant with their application with the TLPI Flood map, under which it is assessed, and then the flood overlay, as provided with the new Draft Town Plan

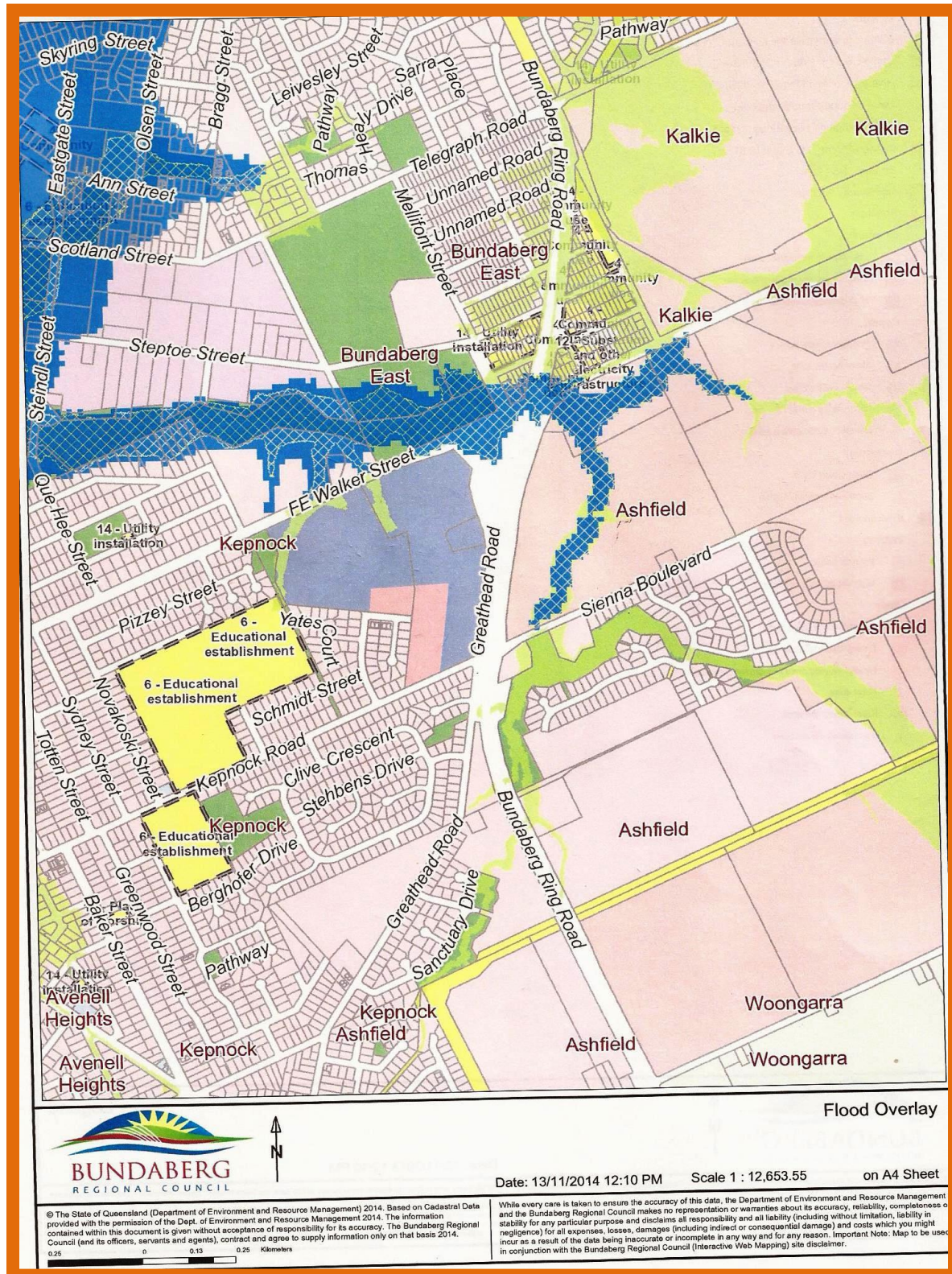
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In comparing the formal flood map lodged by the applicants as part of their application – with the TLPI map and then the flood overlay of the proposed new Town Plan, the site could appear to have “flood immunity”, but all that drainage colour – right up to behind Kepnock School **should be coloured blue**, the same as with Culverts B and C. The formal flood map makes no distinction – so why do the individual flood overlays? It’s the same water in the same position, on the same sites, threatening the same homes. This site is in a flood hazard zone and, if it was a private property that had flood waters in the yard – not the home – then the Council

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mapping system shows that quite clearly. This is the cause of the current local outrage by people whose yards were inundated – but their homes weren't. These overlays present a preferred picture for the developers – whose homes are nowhere near this site. We question the accuracy this provides to Councillors who have to make life-changing decisions for people living in this precinct. The floodwater did not stop on the northern side of FE Walker Street – as these overlays indicate. Floodwaters entered the Masters and this site – as shown in the official Flood Map – through culverts A,B,C,D,& E – and went right up to the back of the school. .



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This photo is of the Scherer Farm bore – which sits over the aquifer fronting FE Walker Street – to the east of Culvert A. The DNR bore is sited in the Council park, further to the west. We understand that the previous owner of this bore is prepared to provide a statutory declaration stating that, as he had lived there all his life (70 years) and farmed the land, he is aware that the 2011 aquifer levels were very high, with water actually seeping out of the side of that bore, yet the existence of the aquifer is ignored in this application.

This application seeks to put an underground car park over the top of this aquifer and our objections to that, with the Masters and this application simply met with “it is not our responsibility”

A detention basin 3.20m deep will be constructed to the west (on the houses side) of the entrance driveway, . The northern part of the development (including the loading dock and main entrance) will be too low to drain back to the basin – they will be diverted to the bio-retention “pods” north of the basement car-park

P4 – Code Compliance –Page 8, states “Based on hydraulic modelling prepared for previous development applications for the site, it is envisaged that the proposed filling work in the existing overland flow path will not increase flood levels either upstream or downstream and will be confirmed during the detailed design stage of the development”. But, if approved – that will happen after the decision is made. What happens if they get it wrong? This is their 3rd. attempt – and they haven’t got it right – YET

Pg 7 – The total peak discharge towards Culvert B will not increase as the proposed development will reduce the catchment ultimately discharging towards Culvert B. With all these unidentified drainage systems – to both the south and the west - how could this be accurate.?

7.1 – Methodology

Considerable earthworks are required to the overland flow path (channel) to comply with the storage requirements of the Kepnock Place Development, plus the added flood storage of the TLPI because the site is in a flood hazard zone.

The Kepnock Place Residential Approval was for a “staged development” – that was ultimately done as a single development. The Council and applicant have consistently maintained that the Kepnock Place, Masters and Kepnock Sub-Regional Shopping Centre are all separate developments – not inter-related, and must stand independently of each other. Planning legislation substantiates that, but allows for the consideration of all the “common material”.

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SUMMARISING:

1. Overall catchment area is incorrect – it's 47.9ha – not “approximately 40 hectares”
2. The area has been developed around two existing creeks – now known as the Kepnock Drain and the Jocusen Steet Drain. Both flood in times of heavy localized rainfall events. Mother Nature does not understand 1% AEP
3. A total drainage system to the west – that is part of that overall catchment - has been ignored.
4. A total drainage system to the south, that includes two dams, behind the school has been ignored
5. The drainage report only covers 1% AEP. It is not the floods that are the problem – you can prepare for those – it's the localized heavy rainfall events
6. The applicants (who are the same applicants for this commercial development) do not appear to have complied with the conditions of approval for the upstream residential development. (page 43-44)
7. That negligence cannot be retrospectively rectified.
8. The presence, and impact, on the aquifer has been ignored.
9. The downpour last year happened with NO development in the area –not even the now 22 new homes.
10. There's only 2 years between 2011 and 2013 – and this is a flood hazard zone

The Opus Report **7.3.1** and **7.3.2** covers the Council's Flood Storage Requirements – but we contend they must also accommodate the needs of heavy localized rainfall events. This is especially relevant when Council is aware of the lack of capacity – due to the topography – of the current site to accommodate such heavy rainfall events without damaging homes and infrastructure. Council's approval, also, would ultimately mean the open channel to the wetlands – for which ratepayers paid a considerable sum of money – is to be dammed, piped and then built over – by a concrete monolith, that cannot be changed, removed or corrected. .

7.3.2 refers to a previous development application for an upstream residential development in which the developer was required to provide on- site water detention assessed as being 700m³. The developer failed to do this, so the current development must allow 1/10 of the detention storage, on this site, to accommodate that developer's negligence. **If the current proposal does not proceed – where was Council going to require the additional storage to be provided by the upstream developer?**

Council has a very strict policy **GP-3-30** which prohibits “building over sewers”. It is rigidly enforced. *“3.0 This policy allows development of the land by landowners whilst ensuring Council's infrastructure is not interfered with or damaged as a result of new building works or their imposed loads. It also ensures that costs associated with maintaining, repairing or replacing Council's underground sewerage infrastructure are minimized”*

The Kepnock Waterway/Drain is a significant piece of ratepayer/Council infrastructure – for all the reasons stated. Its function and purpose for disposing of waste water, rather than waste human product, is equally as important. Ratepayers who have funded it expect Council to protect it – not “lend” it to a developer.

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KEPNOCK PLACE - 321.2010.30453.1 – NEGOTIATED DECISION NOTICE

By letter from Council dated 5 September, 2012 – being for reconfiguring a Lot of 24 Lots (in 4 stages)a list of changes to the original approval were noted on Attachment 1 . None of the following conditions of the original approval were deleted or amended in any way. :-

Stage 1 -6 lots

Approval Condition 39 – *“Detention storage is required to be provided to cater for increased storm-water run-off as a result of this development. Storm-water drainage from the subject land is to be limited to pre-development generated peak levels up to and including Q100 ARI flows via the provision of on-site detention storage. The detention storage shall be provided in accordance with the Empire Engineering Drainage Strategy (September, 2010). The detention storage shall be visually integrated into the surrounding landscape and designed with a high level of visual amenity”.*

Stage 2 – 7 lots

Approval Condition 82 – same as condition 39

Stage 3 – 6 lots

Approval Condition 122 – same as condition 39

Stage 4 – 5 lots

Approval Condition 161 - same as condition 39

The sum of these conditions meant a total 24 lots – with an approval condition for on- site detention storage which was to be “visually integrated into the surrounding landscape and designed with a high level of visual amenity”. – should have been provided with the water storage as conditioned. BUT – no such provision was made for any of the 24 lots.

This was a residential development (321-2010-30453.1) – up stream of the current commercial development application-(325.2012.34482.1). The latter – a separate development application - now requires an additional 700cubic metres of additional water storage – *“immediately upstream of Culvert A to achieve the non-worsening of peak run-off from the upstream residential development.* However, this additional storage capacity is now required retrospectively – physically removed from the required detention site of residential development **321-2010-30453.1**. The applicant for the residential development has negligently and culpably not fulfilled the required conditions of the approval for storm-water detention on site. By not fulfilling that pre-development storm-water detention condition, post development flows cannot be regulated to avoid actionable nuisance on downstream residents. Extra storage detention on a separate parcel of land, removed from the upstream development does not protect the downstream residents from the increased velocity and quantity of run-off in a heavy rainfall event because the land slopes sharply downstream at the junction of the two parcels of land, as the open channel receives incoming run-off from two other side channels. Additionally that increased velocity and quantity from 24 housing lots, running strongly in the main channel, restricts the incoming water from the other two side channels from entering the open drain. This results in water backing up for the entire length of the channel and both of the side channels. It also increases the risk of storage incapacity for the commercial application **325.2012.34482.1**

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11/5/2014 Bundaberg Regional Council Application Enquirer

333-2010-30453

Application Details

Details

Compliance Assessment
Description: Plan Sealing
Submitted: 21/08/2013

Decision

Compliance Certificate Issued on 23/08/2013

Properties

106 FE Walker ST, KEPNOCK

History

Open Date	Event description	Completed
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Officer

Adam Johnston

Documents

Documents currently being inputted, please check back soon.

Email

Contact us about this application.

FOLLOWING A COMPLAINT ABOUT THE 'MISSING FOOTPATH' - CONDITION 31 - THE APPLICANT LODGED A NEW D.A. TO HAVE THE CONDITION REMOVED. COUNCIL THEN UNANIMOUSLY APPROVED THE NEW DA. HOWEVER CONDITIONS 39,82, 122 AND 161, FOR ON-SITE STORMWATER DETENTION, HAVE NEVER BEEN DELETED AND NEVER BEEN DELIVERED, EVEN THOUGH THIS COMPLIANCE CERTIFICATE WAS PROVIDED. THIS NON-COMPLIANCE NOW IMPACTS ON DOWNSTREAM RESIDENTS

Black's Law Dictionary defines '**ACTIONABLE NUISANCE**' as "Anything injurious to health, or indecent, or offensive to the senses, or an **obstruction** to the free use of property so as to interfere with the comfortable enjoyment of life or property. *Code Civ. L'roc. Cal*

Submission to 325.2012.34482.1 – JANAM(3)

During heavy rainfall events heavy run-off affects the drainage easement (on Masters land) known as – Culvert C - as well as the water levels draining through Culvert A.

This development cannot increase post development flows to the neighbouring property downstream of this development, so the size of Culverts under FEWalker Street cannot be increased. The water will be dammed into the detention basin by re-profiling the open drain where it meets the western access drive-way to the development site . This will be done by implementing **3 x 1500mm diameter culverts, before downsizing to 2/1500mm diameter culverts –within the region providing additional flood storage between FEWalker Steet and the northern edge of the basement carpark). The system will then be downsized once again to match the existing 2 900mm diameter RCP’s under FEWalker Street.**

Currently, any overflow overtops the drain over FEWalker Street. That will be difficult to do in the future as the water flow will be contained, in part, under the building. Storage and/or flow incapacity there will simply force the water to overflow from the external detention basin- either over FEWalker Street or onto the homes to the west - or both. This will also create back-up problems further upstream

The OPUS report states “*The development is considered to be high risk with regards to pollution of receiving waters due to the large site area*”. (page 11) However, because Council’s ecological overlay ends on the northern side of FEWalker Street – and not the southern side of that Main Road – the applicant does not have to do anymore for water quality than if it was on a commercial or industrial estate.

The current site is not part of the ecological overlay because the residential A zoning protected the Wetlands – into the future. This zone was considered to be the least harmful and would allow the land to be used for future growth to the east – and still protect the Wetlands. The Main Road’s “limited access” policies – on that site - complemented Council’s approach – over the preceding decades.

Council, supported by the Minister, in the Master’s approval refused to recognise the existence of Baldwin Wetlands, even though Council’s public web-site promotes it as “*a beautiful, natural wetland just 3klms from the Bundaberg Post Office*”, and our FOI search revealed that ratepayers provide an average of \$105,000 per



year to maintain and improve it. Council’s dismissal of its existence within the Masters Report stated “*no areas of natural significance or ecosystems directly abutting the site*”.

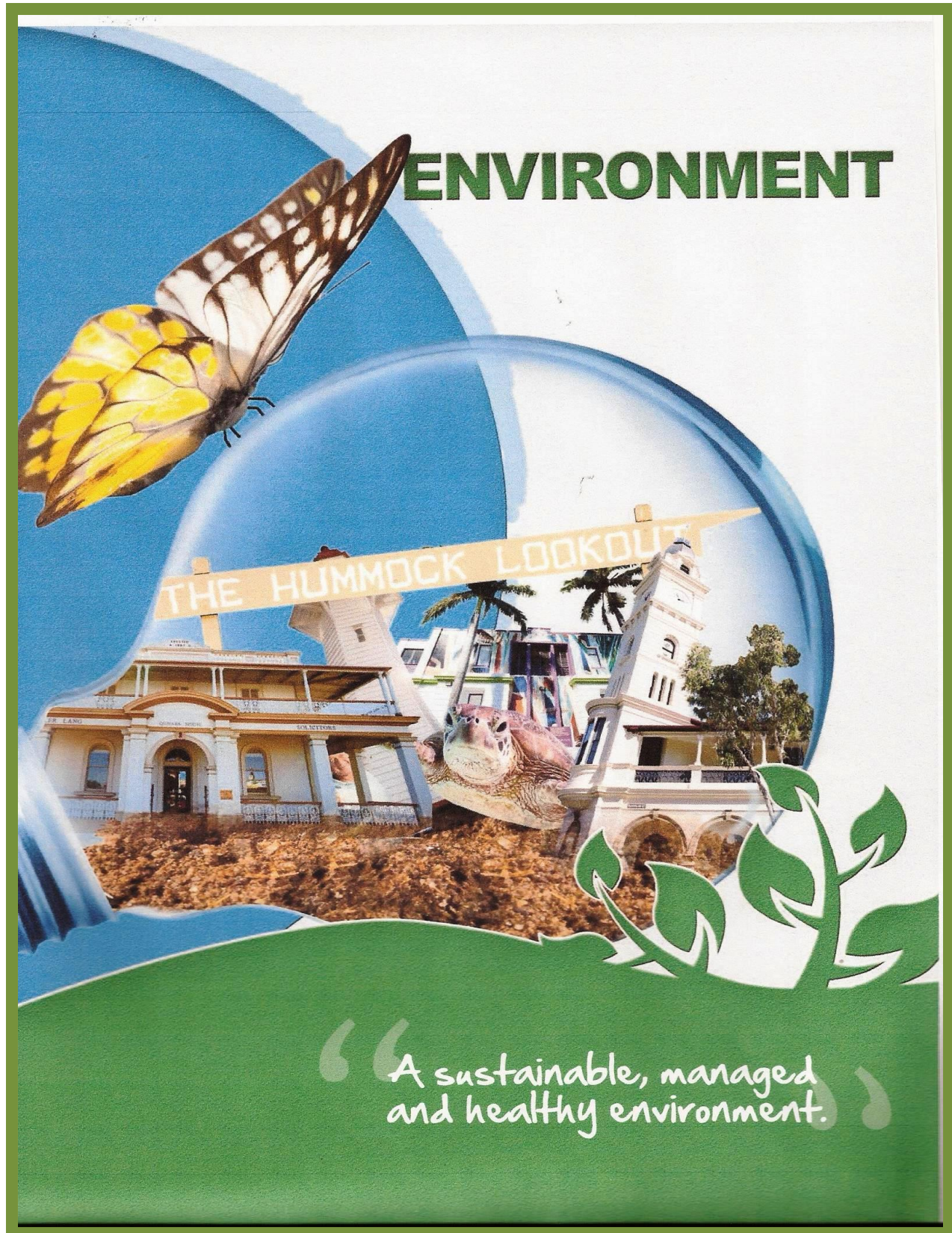
This was because FEWalker Street separates Masters (50m) – and now the shopping centre (150m) from the wetlands. However, this is tantamount to saying that the Mon Repos Turtles and the beaches don’t exist and shouldn’t be protected, because there is a road on the foreshores that separates them from human habitation.

Commercialisation – to the extent that this development seeks, will have devastating impacts on the neighbouring Wetlands – which Council has an obligation to protect for past, current and future generations.

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12 ADVERSE IMPACTS ON BOTH NATURAL & BUILT ENVIRONMENT

Council's 2014-2019 Corporate Plan commits to a Community vision for the future of the Region to be "*vibrant, progressive, connected and sustainable*". There are 4 separate strategic issues, and these are **Community, Environment, Economy and Governance**.



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The Corporate Plan is the lead document under-pinning Council's commitment to its constituents and the community, and is a legislative requirement of Local Government Regulation.

Council policies are guided by their Corporate Plan. It is the overarching document. It is divided into 4 separate sections- Community, Environment, Economy and Governance

Environment has 2 elements - natural and built. The Corporate Plan is currently 2014-2019

ENVIRONMENT

A sustainable, managed and healthy environment



4.2 ENVIRONMENT

4.2.1 Outcome: A natural environment that is valued and sustainable

Strategies:

- Provide a range of community awareness and education activities and programs that support the preservation of the region's natural environment.
- Encourage community involvement in such activities and programs.
- Within resources and in partnerships with key stakeholders, effectively and efficiently manage, rehabilitate and preserve the environmental amenity of the region.
- Implement a regional land use plan underpinned by the principles of sustainable development.

4.2.2 Outcome: A quality, aesthetically pleasing built environment that meets basic community needs

Strategies:

- Implement principles and guidelines within the regional land use plan and building and development guidelines that support built environments that our community members feel proud to live in.
- Continue to enable, support and manage our built environment so that it enhances the identity and liveability of individual communities and reflects the special character of our coastal and hinterland areas.

4.2.3 Outcome: The provision of quality infrastructure that meets the region's current and future needs

Strategies:

- Ensure a coordinated and integrated approach to regional infrastructure planning, implementation and maintenance.
- Support the rehabilitation and/or the preservation of the environmental amenity of the region.
- Maintain and establish predictive modelling and scenario analysis for reviews and capital forecasting.
- Apply financial sustainability principles in planning, funding, creating and maintaining infrastructure.

PI 11

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Approving Masters(2) on low density residential A – 50 metres from the City’s greatest natural asset breaches the very fibre of decency, responsible governance, town planning and sustainable development. The natural and built environment has not only been ignored, but abused as the visual, physical and external impacts will be compounded by this application. Council’s Corporate Plan commits them to *“balancing regional economic growth with the preservation and enhancement of our natural and built environment”*.

There are alternate sites for this development – just as there were for the Masters(2) development – but Council has placed pressure from the media, the duopoly, the developer consortium and electoral appeal ahead of their own Corporate Plan and Corporate responsibility to their community.



Council’s Values, expressed in their Corporate Plan are:-

Honesty and Integrity,

Respect and Tolerance,

Open Communication,

Accountability and Transparency,

Trust,

Empathy and

Common Sense,

but their public position with the management of this precinct, in accordance with the RULES, leaves much to be questioned.

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13 RATEPAYER INCENTIVES THAT ‘REWARD’ A DEVELOPER FOR BREACHING THE TOWN PLAN

The need for developer incentives is understood but, care needs to be exercised in how such incentives are targeted. In the end, it is the ratepayer who pays. As previously detailed, this application, like Masters, is

- “out-of-centre”,
- “wanted” by media-driven popular appeal – but not “needed”
- has alternative sites to deliver the same “benefits” – whatever they might be
- fails to meet basic town-planning tenets
- and will create serious detriment to the future viability of existing centres and the CBD

The concluding comments of the “Abridged Report on Bundaberg “Open for Development” Incentives should have been interpreted to ensure that the incentives were well targeted – and did not “reward” bad corporate behaviour.

Economic development is not just about how many approvals can be handed out for various projects. It’s about sustainability, and we question whether there has been an increase in jobs or investor confidence in our region.

Most of the incentives can be delivered either within existing operational budget limitations or will have minimal impacts, and will be done utilising existing resources. However, the discounting of infrastructure charges has the potential to have a significant impact on both short term budgets and longer term financial and capital plans. The report has outlined the scope of the potential impacts from know projects and examined the significant impacts of major development proposals currently in the process of being prepared for lodgment with Council.

Although the full extent of the impact cannot be know and will only become apparent over time, it is likely that further discounting will have impacts on Council’s long term financial plan, ability to borrow funding and delivery of trunk infrastructure which will have flow on effects on the viability of future development reliant on the provision of new trunk infrastructure.

The infrastructure discounts will provide real benefits to the development industry in terms of improving project viability. If these initiatives are successful and stimulate a significant upsurge in development activity then the Bundaberg region is likely to see flow on benefits in terms of increased economic development and job creation with flow on effects to existing businesses as population increases and increased wages are spent within the local economy. Council in turn would be likely to experience a corresponding increase in rates and other revenue.

When the major beneficiaries of this scheme would have continued with their marketing thrust, nationally, without these incentives, and contribute little towards local employment- long term. They are more about job transfer – not job creation.

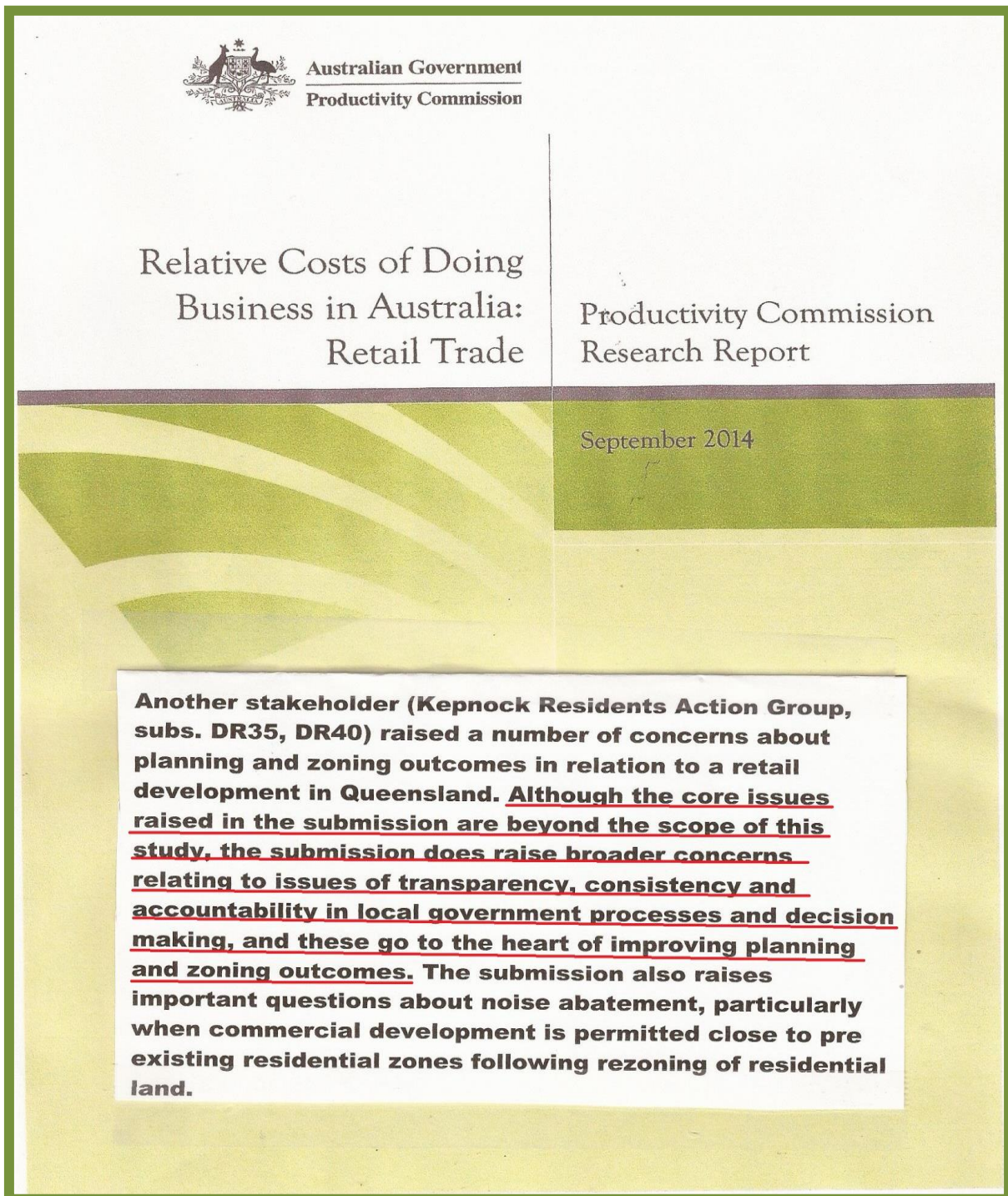
Instead, we have seen duopoly market power at work, aided and abetted by manipulation of Government at the highest levels.

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14 CREATES OVERALL NEGATIVE INVESTOR CONFIDENCE – ESPECIALLY FOR LARGER INVESTORS

The City has experienced flood devastation twice in the past 3 years- and is struggling economically to retain existing business or attract new business which will create jobs.

- a) The 4 year Duopoly commercial war here in Kepnock has been the subject of a national study into the retail trade by the Productivity Commission. Its report on our Council's decision-making processes is damning.



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- b) Inconsistent decisions by Council, in contravention of planning regulations, professional officer recommendations and regulated process, have created a lack of confidence for existing investors – and would-be investors – especially larger businesses who might be interested in investing here, but feel their investment is at risk in the longer term
- c) Investors make decisions that are long term – and that requires consistency of planning and zoning laws.
- d) Since 2008 Council has had a notorious reputation of overturning professional planning officers' recommendations.
- e) The recent call-in and subsequent ministerial approval of Masters(2) was seen at national level to be a breach of process and described as an arrogant display of duopoly market power aided and abetted by manipulation of Government at the highest levels.
- f) It suits the Council and media to lay the blame on negativity and “anti-progress” attitudes – but when community rights are over-ridden – and then democratic rights are arbitrarily removed – without adequate cause - the problem is much deeper than that. .
- g) Consistency breeds security – and that's what planning laws and zonings are meant to engender.
- h) There will always be times when Town Plans are over-ridden – for genuine reasons. But, they must stand up to close scrutiny. Sadly, that has been missing in Kepnock's 4 year duopoly drama.



Over time members of our group will have learned to live with the legacy left for posterity by this Council, or they will have taken their financial losses – if able to do so – and moved, as the precinct degenerates from a prime residential area into a less acceptable commercial rat-race of noise, traffic, anti-social behaviour and environmental blight.

The opportunity for strategic thinking, planning and positive outcomes rests with this Council. Whatever you decide will be YOUR legacy – forever. .

Sugarland(1) is a grid-locked disaster that was caught between two separate local authorities with two separate plans and visions.

The current Council have full throttle on the future. You can publish all the glossy reports and appendices that modern technology provides but, ultimately you will be judged on your legacy

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15 **CREATES POSSIBLE ‘ACTIONABLE NUISANCE’**

This application is high risk – for water quality and water quantity – but also for future possible “actionable nuisance” in matters of future flooding, storm-water, traffic and the loss of investment value by existing disadvantaged residents.

The shopping centre cannot allow post-development flows to exceed pre-development flows. A large on-site detention basin is designed to accommodate that, but 10.58% of that storage space is required to rectify Council’s negligence and culpability for an upstream residential development that failed to comply with approval conditions for on- site water detention.

This negligence cannot now be rectified retrospectively, so the risk of future flooding of nearby homes and over-topping of the Walker Street drain – with resultant high risk for accidents, damage to State infrastructure and downstream property – is extremely high.

We consider the Opus Report – on which the post development storm-water and drainage consequences of this development will depend – into the future - to be flawed. We have placed that on record

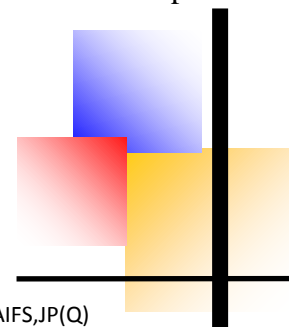
Equally, adversely affected residents who made their investments on the basis of Council’s Town Plan could now have a case for class action. There is no overwhelming need for this development and ratepayer-funded, external professional consultancy advice has been ignored.

Council’s commitment to a \$1million ratepayer funded “incentive” in reduced infrastructure charges to Woolworths for breaching the Town Plan remains questionable. This shopping centre application could also have eligibility for such an incentive – of unknown quantity at this stage.

The site is in a flood hazard zone which has a proven incapacity to cope with localized heavy rainfall events – and that’s historical due to the topography, as any local will confirm. This incapacity is well documented – with NO development on site. Yet this application puts a huge shopping centre there, increases the run-off by 95% and will build part of their building over the waterway that carries all that water, through an open channel to the neighbouring Wetlands. Piping that open channel on the southern side increases risk, and is dependent on scrupulous maintenance of the drain upstream. The history of the Jocusen Street drain should be your decision criteria.



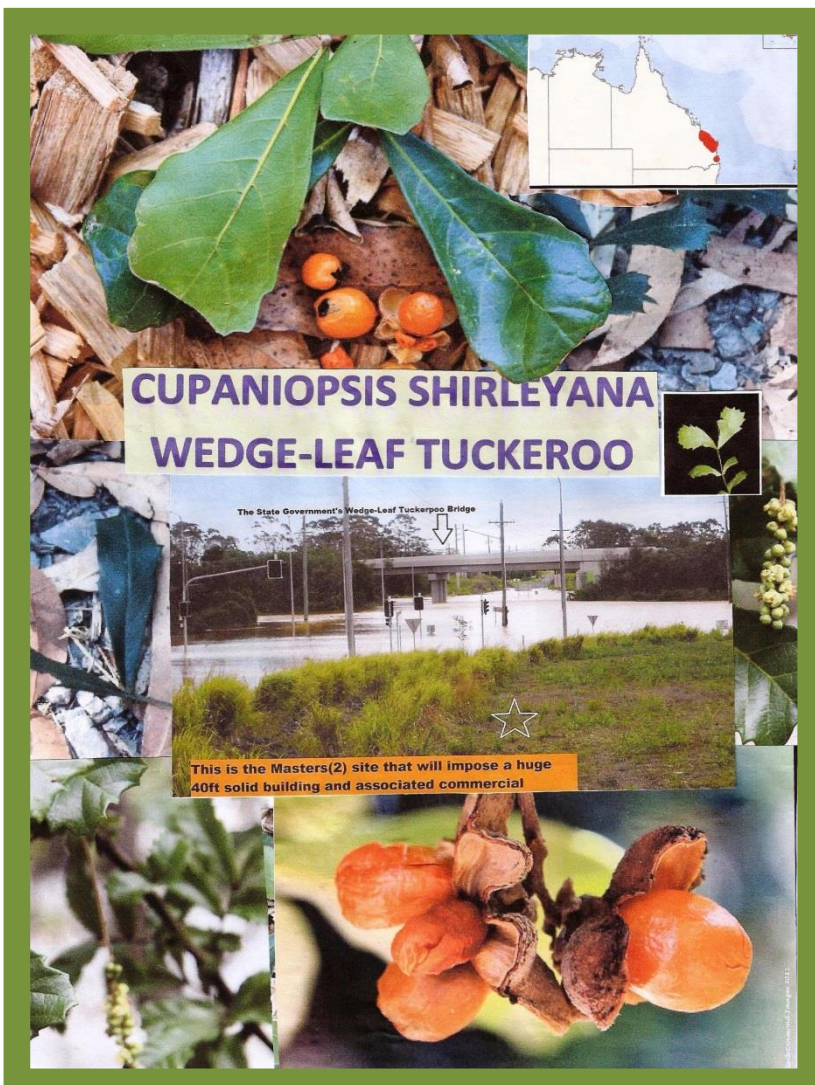
We have to live with Masters but this development application should NOT be approved for all of the reasons detailed here-in. The future of this land should remain residential A, despite the tantrums of the developers and the duopoly.



Compiled by Mary Walsh OAM, CPA, AIFS, JP(Q)
Secretary – Kepnock Residents Action Group

Who is responsible for the Baldwin wetlands?

1. The local Council is the official trustee – has been for over a century. They also purchased additional land in the late 80's with a view to rectification of previous usage and establishing a more formal and larger environmental park into the future.
2. The State Government had always retained guardianship/concurrence agency rights
3. In July, 2013 – the Qld State Government returned all responsibility to Local Govt.
4. The aquifers of Australia now don't seem to be anyone's responsibility – at least in Queensland.
5. Council stated with the Masters (Woolworths) approval – "it's not a matter covered by the Queensland Sustainable Planning Act (2009), so they don't have to consider it".
6. The 4 – 5 year duopoly drama in Kepnock has seen the Qld. Minister- using his reserve Powers of State – intervene and approve Masters –on res A land, 50 metres from the Wetlands, over the aquifer – when the response from legal submitters stated he should not do so – but should allow the existing legal action to continue.
7. No acknowledgement was made within the Minister's approval of the existence of the Wetlands, but he did tacitly approve the Coles shopping centre –(same associated developer family) whose application was currently before Council – and had been for almost 3 years - as part of the developer's manipulation of planning laws.



8. Neither did the Minister acknowledge the Matters of State Environmental Significance – within the Wetlands- nor

9. The nationally protected species of *cupaniopsis shirleyana* – (wedge-leaf tuckeroo) trees which abut the site, and after which the State Ring Road Overpass Bridge was named - "to remind people of their vulnerability."

10. He then released the State Approved Draft Town Plan, of which Masters and the shopping centre are the nucleus to turn the whole 23ha into a 3 storey commercial centre.

11. They are all timed to come together to ensure an approval prior to Christmas. Coles can't let Woolworths beat them in this national war. That way Council, and Coles can announce – that - just as Masters turns the first sod

– they will be providing Bundaberg with more choice and competition – with a huge shopping centre that will be bigger than the current Sugarland. What a coup for Council and the duopoly. Accomplished with the aid of the State Government – thank you Minister Seeney. A great Christmas present for Bundaberg.

12. The new Town Plan secures the Commercial precinct – abutting the wetlands, on residential A land, robbing local builders of local jobs, adjoining the State High School (with all the attendant traffic and social issues), posing considerable future risk of flooding and class action, and wrecking the lifestyle of all the nearby families. This will allow Council, this powerful developer – who will make a squillion – and the duopoly - to put what they like, where they like - without any input from the affected community, the wetlands or the aquifer. They have all been factored out of existence.
13. The Coles shopping centre – now completing its 3rd. round of public consultation – provides further evidence of apparent gross manipulation - by the developer and Council – of both process and data. This is apparent with the use of:-
 - delegated authority
 - planning approvals
 - mapping data



Delegated authority

Yesterday's media proclaimed that Bunnings (2) (Wesfarmers-Coles) – are relocating from their previous site, which is a traffic disaster - thanks to the (then) use of State ministerial power - 12 years ago.

They are relocating to where the council wanted them, all those years ago, and where Masters should now be. It is a specialised bulky goods precinct which Council is expanding.

Council argued there was no "suitable" site for Masters, but, Council officers – at the direction of Council, were approving multi-million dollar applications - using delegated

authority. This doesn't go to Council, isn't on Council agendas – and is removed from public knowledge. Directly opposite this new Bunnings site are the "secret" approval sites – approved to ensure developers "have a quick turn-around". The approvals were close to Council meeting dates and, 8 months later, the sites are still vacant.

We currently have an FOI on Council to determine their process once delegated authority – of this extent is triggered. We would expect that it would be documented in a register, the reasons, the amount, when and why – and then ratified by Council, minuted and signed off by the appropriate person.

Planning approvals: The shopping centre site is in a flood zone and has documented stormwater drainage problems. The shopping centre site abuts an earlier approval – by the same developer (each development must be assessed separately and the legal distinctions upheld) – of 24 housing lots. The approval conditions required detention onsite of the post-development run-off. A compliance certificate has been signed off by Council – but there’s no on-site detention. The lack of the detention basin allowed the developer to create one more lot for sale – and it’s been sold. Now they’re scrambling within the current shopping centre application to allow for an extra 700m³ – retrospectively – without flooding downstream homes. The area was badly flooded in a sudden downpour 12 months ago. Floods you can prepare for – torrential downpours – you can’t. And this isn’t the only condition this developer was “forgiven”.

Mapping data:



This is Council’s formal flood map – provided by the shopping centre applicant- with their site mapped out. The Kepnock Drain, which flooded – but didn’t overtop - is clearly shown. That’s the High School to the left. The flood waters – by their colour – are self-evident



—
This is the other side of the Kepnock Drain. That home had to be evacuated. That’s the shopping centre drain exit on the left – and the Master’s drain (ministerially approved) on the right. The home is

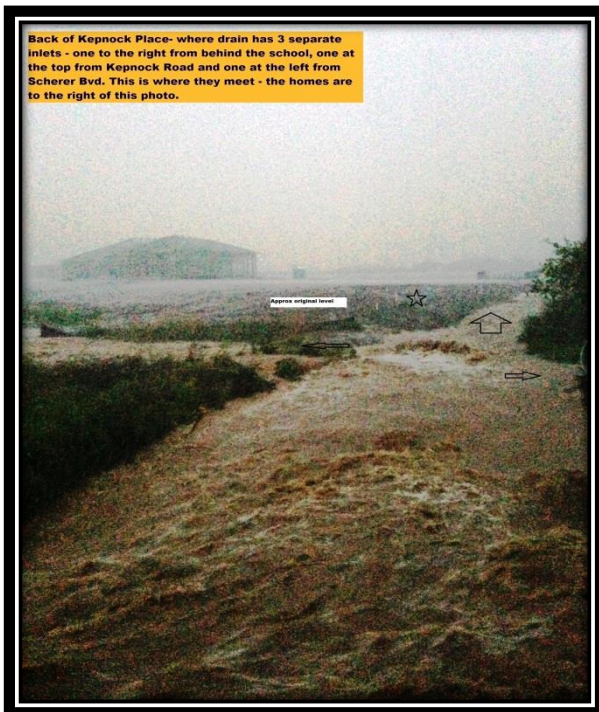
The Reality:

A property is flood affected if floodwaters enter the property – not necessarily the home. It creates extra risk, a reduction in resale value.

The residents of all those homes near the Kepnock Drain – which backed right up into school property – kept watching the flood waters rise in that drain, knowing that, if it overflowed they would be flooded. Had that happened – that would have been flood-water and their insurance costs would have risen accordingly.

Is this mapping data accurate?

In a heavy storm on 17 November, 2013, this run-off cut FE Walker Street, at the Kepnock Drain and at the (now) Masters drain. It flooded back as far as Schmidt St.(refer earlier flood overlay) and the upper end of Scherer Bvd. Those homes in Yates Court didn't exist then – and that's the 24 homes for which the same developer didn't provide the on-site water detention. Those pipes near the top of the flow are level with the yards of the homes abutting the drain. The water would be almost 2 metres deep there.



Yet – the flood overlay shows the area is (no longer, apparently) flood- affected, and the Coles shopping centre will be built over the mouth of this drain and piped to a detention basin near the homes. If there is an over-capacity rainfall, or a debris blockage of the pipes-some of which will be under the building- the risk to the homes will now be greater. Council strictly enforces their policy not to build over sewers – but it'






All decision-makers – including the Minister are well aware of all of this

COMMUNITY CONSULTATION:

The new Draft Town Plan has been a long time in the making. The first step was to set up a community reference group. We are now publicly asking what happened to this group – what were their recommendations?. How did a proposed small local neighbourhood centre in Kepnock (for which ALDI was to be the anchor tenant) become a huge shopping centre? Yes – a future district centre should be planned for –strategically – not retrospectively. But we now have a regional one, smack in the middle of residential A, on land owned by the City's most powerful developer who is able to do this because the State Government changed their access policy for this developer. But wouldn't do it for the previous one???

WHY?

Search

DISCOVER OUR SPIRIT     

New Planning Scheme process underway

24 Mar 2011

Community consultation including the formation of a reference group will be an integral part of Bundaberg Regional Council's process to establish a new planning scheme for the region.

The new scheme, when completed, will replace documents formulated by the former Bundaberg City and Burnett, Kolan and Isis shires.

Council's Planning and Development spokesperson, Cr. Ross Sommerfeld said the objectives of the Bundaberg Region Planning Scheme Project is to produce a single, integrated scheme which regulates development across the whole of the region.

"Council is working to produce a planning scheme which is simple, easy to use and administer while addressing the expectations of the community and complying with State legislation" Cr. Sommerfeld said.

"The new scheme is being prepared over a two and a half year period with a final version scheduled to be adopted by Council mid 2013" he added.

Cr. Sommerfeld said the preparation of the new scheme would be carried out in three stages with stage one set to be completed by next month.

"A wide range of community and stakeholder engagement activities are currently being undertaken or are planned as part of the preparation of the new scheme and these include the formation of a community reference group which will provide advice to Council about the preparation of the new scheme" Cr. Sommerfeld said.

"The group will represent a diverse range of economic, social and environmental interests" he said.

Cr. Sommerfeld said a series of community workshops will also be held to provide opportunities for public input into the planning strategies.

"The "Our Place – Our Plan" workshops will be conducted around the region to include coastal, central urban and rural town settings" Cr. Sommerfeld said.

More information including nomination forms for the community reference group and online forms to join the project database and to receive invitations to future consultations events can be found at www.bundaberg.qld.gov.au

We will be making an FOI request to Council for details of members, minutes and possible recommendations from the Town Plan community reference group. Did they recommend this precinct, with all its constraints, as a future regional shopping centre? If not – where did this come from – and whose agenda was it ? Those most affected were excluded – and shouldn't have been. Our community has always supported appropriate commercialisation fronting FEWalker Street – that's why ALDI is there - but there must be protection for the wetlands, the students and the good flood-free land must be left for building homes providing local jobs for our builders.

We will continue to follow due process, with our submission against the shopping centre now being finalised. We will do the same with the Draft Town Plan.

We do not expect any of the decision- makers to take any notice of it, or change their minds – no matter what reasonable approach we use. Their commitment is elsewhere – for whatever reason.

Too much evidence exists that this is all a “ done-deal”. The residents, the wetlands, the students, the community and Federal/State taxpayer funds for flood rectification and future prevention have been “done” and “duded” – sacrificed to the power of the duopoly, a wealthy powerful developer, the whim of the State Government and a Council whose commitment is – well, we give up on that one!

Q1 – Is the Commonwealth Government satisfied that THEIR funding – for flood disaster recovery and future flood-proofing – (in this instance)- has been acquitted with consistency, transparency and accountability?

Q2 – Is the Commonwealth Government satisfied that THEIR funding – for matters of environmental protection - of the natural environment and ecosystems – has been expended – (in this instance) with consistency, transparency and accountability?

Q3 – Is the Commonwealth Government satisfied that the State Government has exercised their custodial obligations as guardians of our natural underground resources (in this instance) – with consistency, transparency and accountability.?

Q4 – What level of risk is being generated – for future possible damages and/or class actions – against decision-makers - who will be jointly and severally liable for any adverse outcomes that might result from this apparent lack of consistency, accountability and transparency in creating a commercial monolith for the benefit of a privileged few – to the detriment of existing lawful property owners, the environment and our underground resources.? A lack of knowledge would be no defence. These issues have been well documented and extensively distributed to decision makers – at the highest levels of Government - over the past 4 years.

KRAG submission to Harper Review

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17th November, 2014

Competition Policy Review Secretariat
The Treasury
Langton Crescent
Parkes...ACT2600.

Dear Sir/Madam

We appreciated the opportunity to attend the Public Forum in Brisbane and to hear directly from the Panel. Also, it was a great opportunity to listen to the interaction from other participants, interested persons and “victims” of a system that has nothing to do with fair market competition – especially in some sectors.

Just some personal feed-back from all that discussion:

1. No! – the current Competition Policy is certainly “not fit for purpose”
2. We have great empathy with all those who expressed their concerns about de-regulation and its impact on Australia’s de-centralised society.
3. Equally, the point I made about policies that emanate from a metropolitan background, without any understanding that Victoria is 1/7th the size of Queensland and 1/11th the size of Western Australia, was crystal clear at that meeting. Listening to the broad range of opinions from various participants, from various backgrounds and various geographical areas crystallized the need for flexibility, for fairness, for consumer choice and competition – but it has to be relevant to individual areas. That comes at a price – that price is consistency – and the Review has the difficult task of working out how to achieve that balance.
4. The work, done to date, is appreciated and we commend the diligence and the consultative approach being employed by those tasked with this great responsibility.
5. We understand that our case sits outside many of the aspects of the Terms of Reference but it is relevant to:-
 - (i) Planning and Zoning Laws
 - (ii) The predatory power of the duopoly
 - (iii) The perceived, (but in our case real) manipulation of Government and the development industry, aided by media and the “jobs, jobs, jobs hype. Our submission attempts to address some of those issues, and we upload our recent submission to the (in this case) Coles part of the duopoly agenda to establish a huge shopping centre on residential A. land in Bundaberg Queensland. This presents the Coles side of the development. The Woolworths part of it (Masters DIY) was ministerially approved for the benefit of the duopoly, the developer, the media and the electoral appeal of both Council and the Queensland State Government.

This is the Productivity Commission’s analysis of our 4 year case study. It is so obvious that this is all about the power of the duopoly, the subservience of Council and manipulation of Government – but no

KRAG submission to Harper Review

one can do anything about it. Ordinary little Australians have been fighting a rear-guard action for 4 years.



Australian Government
Productivity Commission

Relative Costs of Doing Business in Australia: Retail Trade

Productivity Commission
Research Report

September 2014

Another stakeholder (Kepnock Residents Action Group, subs. DR35, DR40) raised a number of concerns about planning and zoning outcomes in relation to a retail development in Queensland. Although the core issues raised in the submission are beyond the scope of this study, the submission does raise broader concerns relating to issues of transparency, consistency and accountability in local government processes and decision making, and these go to the heart of improving planning and zoning outcomes. The submission also raises important questions about noise abatement, particularly when commercial development is permitted close to pre existing residential zones following rezoning of residential land.

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By show-casing this example at national level, before national Enquiries – we hope to epitomize the inability, or unwillingness, of decision-makers to tackle the problem head-on – and work for Australia – and their local communities and businesses - not the multi-nationals.

We trust this Enquiry, by addressing some of the cores problems can take a giant leap forward, and we congratulate them for including an “effects” test within section 46 as a good first step.

An analysis of the DIY (Big Box) national war between Bunnings and Masters is simply an exercise in a latecomer to the market (Masters) – determined to grasp market domination – not market share – from the established Bunnings market. It doesn’t seem to matter who gets caught in the middle – the small local nursery, the local hardware store, even residents who are lawful property owners of preferred “locations” or even abutting what the duopoly – for their marketing strategies - consider to be “preferred” locations.

We need to understand that this is not just about the DIY market – this is being repeated in so many of our local and regional businesses. The predatory tentacles reach out to so many different markets – fuel, groceries, liquor, pokies, and are now quickly “gobbling up” other market types with their footholds testing the government reaction to assess just how far they can push the envelope.

It would be wrong to see the Bundaberg theatre of the Masters v Bunnings national commercial campaign as being solely about planning and zoning laws – because it isn’t. Everyone wants fair competition – but our case study showcases much more than that.

That includes:-

(ii) Managing the media – especially the print media – and especially in regional Australia. You only have to open any regional daily – on their special days to see how much the various duopoly outlets provide in necessary advertising income to the print media – a medium greatly under threat by modern technology and the internet

(ii) A perception of individual hostility between the two – but, when it suits their joint purposes – they work very closely together. And, their joint purpose is to knock out the existing competition – whatever it is, wherever it is and whoever it is. This is all about market domination, and they’ll work together if it suits their joint purposes.

(iii) When playing “market-catch-up” or eyeing off green-field sites the power of the monopoly with local Councils and State Governments is frightening – if you are on the other end. The multi-nationals sell themselves on the electoral appeal of modern shopping, competition and “*jobs, jobs jobs*”. That’s especially appealing in areas of high unemployment, and their paid lobbyists can access the doors of power much easier than your average small business or disadvantaged resident.

(iv) So, when the duopoly are playing “catch-up”, consolidating or considering expansion into new growth areas – they have some powerful weapons in their arsenals. The average small business or disadvantaged resident can’t match them

(v) When, or if, the behaviour of the duopoly becomes predatory – all those weapons can lock in, very quickly, to provide a battery of fire-power that becomes insurmountable.



- 4

KRAG submission to Harper Review

5. The land to the top of the plan is the local environmental icon – the Baldwin Wetlands – managed by Council, which also has some matters of state environmental significance just around that State section of the Ring Road intersection.
6. Aldi was approved in 2009 as the key anchor of a small neighbourhood shopping centre – planned to service the growth area to the right (coastal) part of this plan. Residents welcomed that, as they had been told there would be a small local centre when buying into the new estate.
7. The left hand side of this plan – now notated as the shopping centre – was originally an approved 255 lot residential retirement village to complement future homes providing future jobs for local builders.
8. This venture got caught up in the GFC and the State Government’s refusal to grant any access for this developer for passive residential onto their main road – that’s FE Walker Street to the top
9. Because of the Main Roads consistent refusal to grant access, the developer had to re-do his plans and start with the new homes – to the bottom of the plan.
10. When he succumbed to the GFC his land was snapped up by the owner of the adjoining block – under another legal identity - but same family.
11. The new owners allowed the existing residential approval for 255 lots to lapse, and then the application for the shopping centre was lodged
12. The whole area is a flood zone along FE Walker Street and residents have always supported reasonable commercialization of that section provided the homes and the environment were appropriately buffered, and future commercial did not intrude past the back of the Aldi.
13. The land to the right will be Woolworths and the shopping centre (the parcel of land to the left) is Coles.

So, there they are – the bitter enemies – working together to achieve their mutual goals, even sharing the same internal road, which they have to provide

But this is all low density residential A land – with not a single two- storeyed home within coo-ee. So what will it take to achieve their mutual goals.

Firstly – you sell the “Want” – not the “Need”. For that you need the co-operation of the media and the Council. No problem there - there’s no Masters store anywhere in the region, so the day that Masters(1) lobs, the media do a wonderful front pager, with an editorial featuring the residents who say – yes- it’s a great opportunity but there’s lots of commercial land available. It shouldn’t be near a school or the local iconic wetlands. It should be on commercial land, not residential. That seems a reasonable response by the affected residents and, if the developer was anyone else – that would generate community empathy. But this is the City’s most powerful developer - and this is no ordinary development application. This is the duopoly. The editorial that days states that the residents are all NIMBYS and that the rule of utilitarianism should apply. It’s good for the region, it’s good for jobs – we all want it – and these residents should not object – in the best interests of the majority,

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From there the 4 year battle begins with both developers using “we are separate entities” and manipulating the planning legislation to achieve their joint (bitter enemies) goals.

The media, subservient to the advertising dollar of the Council - and the duopoly - wages a 4 year battle that has these residents being vilified for daring to stall “progress”. After all they are only a minority (70 families) – working against the best interests of jobs, our youth and the majority of people who want this. No, wouldn’t want it next to them – pity about that – but it needs to happen.

So the following pattern of manipulation develops over the years as Masters then lodge their second application down next to ALDI backing onto FE Walker Street. There’s no FE Walker Street access for them either because of the Ring Road lights.

The shopping centre goes to public notification twice and so does Masters – with this following time matrix developing

By December 2013 – Masters 2 is due for a Council decision, and Janan(2) also due around the same time.

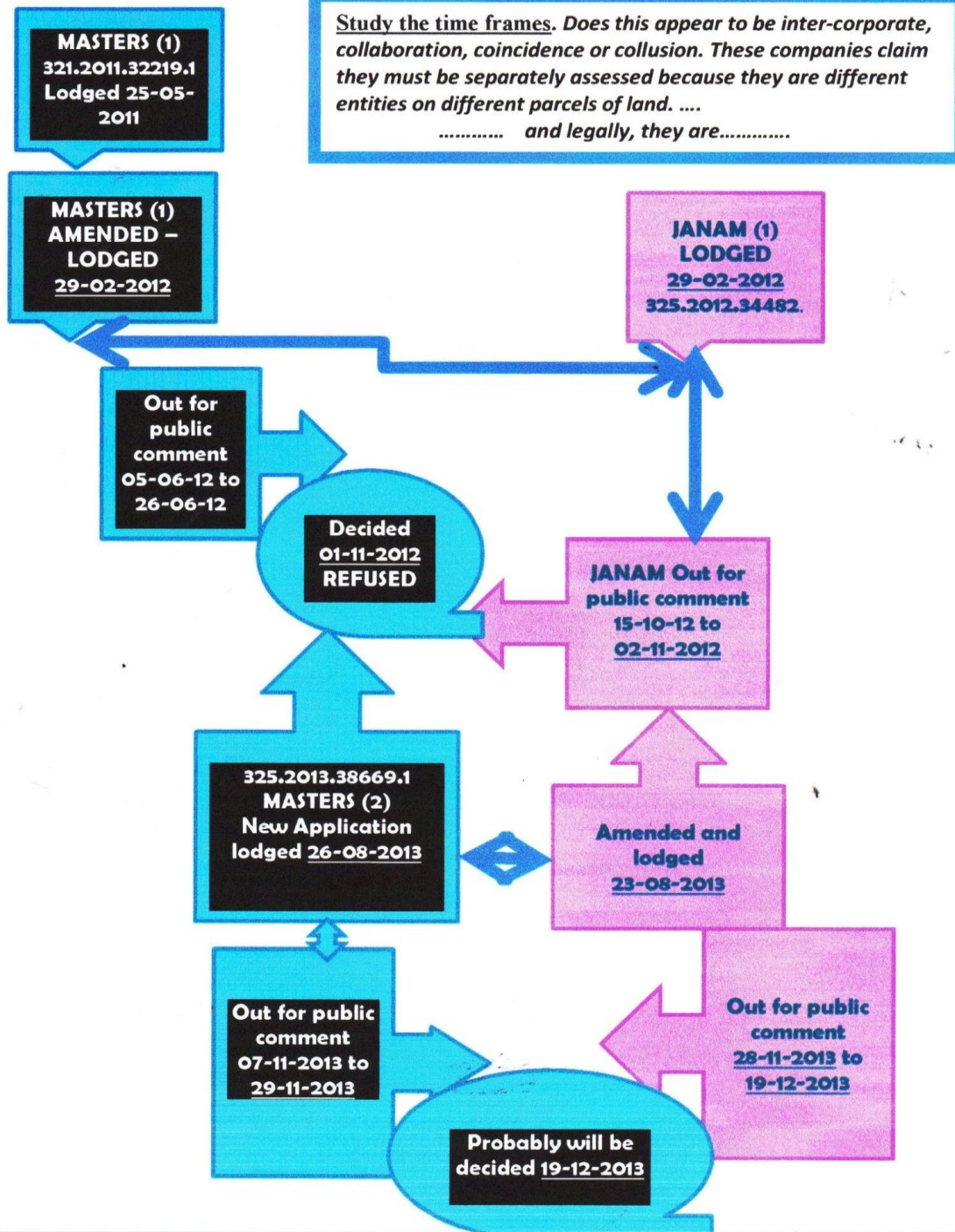
Masters(1) was refused for 13 solid town planning reasons, and that refusal was not appealed by Woolworths. They just waited 12 months and lodged a new application further down on the same block

Throughout all this time the media campaign continued to exert pressure

- on the Council to approve the applications;
- on the adversely affected residents to stop objecting and
- on the general population to keep up the public support for this to happen – sooner rather than later.
- “*We need the jobs, jobs* ” became the catch-cry to silence those dreadful residents. .

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MASTERS – JANAM TIME MATRIX.



Relevant dates –

29-02-2012 - Amended Masters lodged same day as Janam's initial shopping centre
01-11-2012 & 02-11-2012 - Masters(1) decided the day before public comment for Janam closes
August, 2013 - New Masters (2) and Amended Janam (2) lodged same time (week-end in-between)
28-11-2013 - Janam out for public comment the day before public comment closes for Masters(2) closes
19-12-2013 - closing date for comments on Janam(2) and Masters(2) will probably be decided the same day.

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So – on 23 January, 2014 Master(2) was approved unanimously by the Council – 50metres from their environmental park, but they were not required to do any more, by way of pollution reduction, than they would have had to do if they were on a commercial/industrial estate – where available land exist.

Exercising their rights the residents appealed Council's approval, as did two local commercial objectors. It was registered with the Planning and Environment Court and headed for its first Directions Hearing, when the Minister called it in. The same Minister had provided a letter to the residents following the refusal of Masters(1) that a Masters store was only local impact and he couldn't get involved – it was a matter between us and the Council.

As all the Masters drama was progressing the shopping centre was on its own little path. JANAM amended their original plan after the refusal of Masters (1). The Minister had a change of heart and decided to grant them full commercial rights of access to their main road – with permission for them to provide a signalized intersection just up from the residents to the west. The shopping centre would have an underground car park – 1200 car parks in total – and 600 of them would be accommodated in an underground car park dug into the aquifer.

So the time matrix changes as depicted on the next page.

On 5th September 2014 Minister Seeney decides to approve Masters (2) on Res A land, contra the Town Plan, contra the State Regional Plan, contra State Planning policies and requires them to do no more by way of the adjoining wetlands than if they were on an industrial estate .

Additionally he states that his masters approval is the catalyst for the precinct to become a future retail commercial area and endorses the now Draft new Town Plan, which simply replicates the approved Masters plan and the still to be decided shopping centre plan . This will allow the future development of the precinct in accordance with the wishes of the duopoly – Coles one side and Woolworths the other – with Aldi in the middle.

It ensures the residents, who are the lawful landholders of the adjacent properties will have no further say, and the regional shopping centre will be maximum 3 storeys. A small area of residential will be retained near the existing homes but it will go from low density res A to 3 storey res B

The shopping centre is now out for its third round of public notification, sinking a 24 hr Coles shopper docket petrol station into the sensitive drainage easement that flows into the wetlands. It closes on 18th.Novemver, 2014

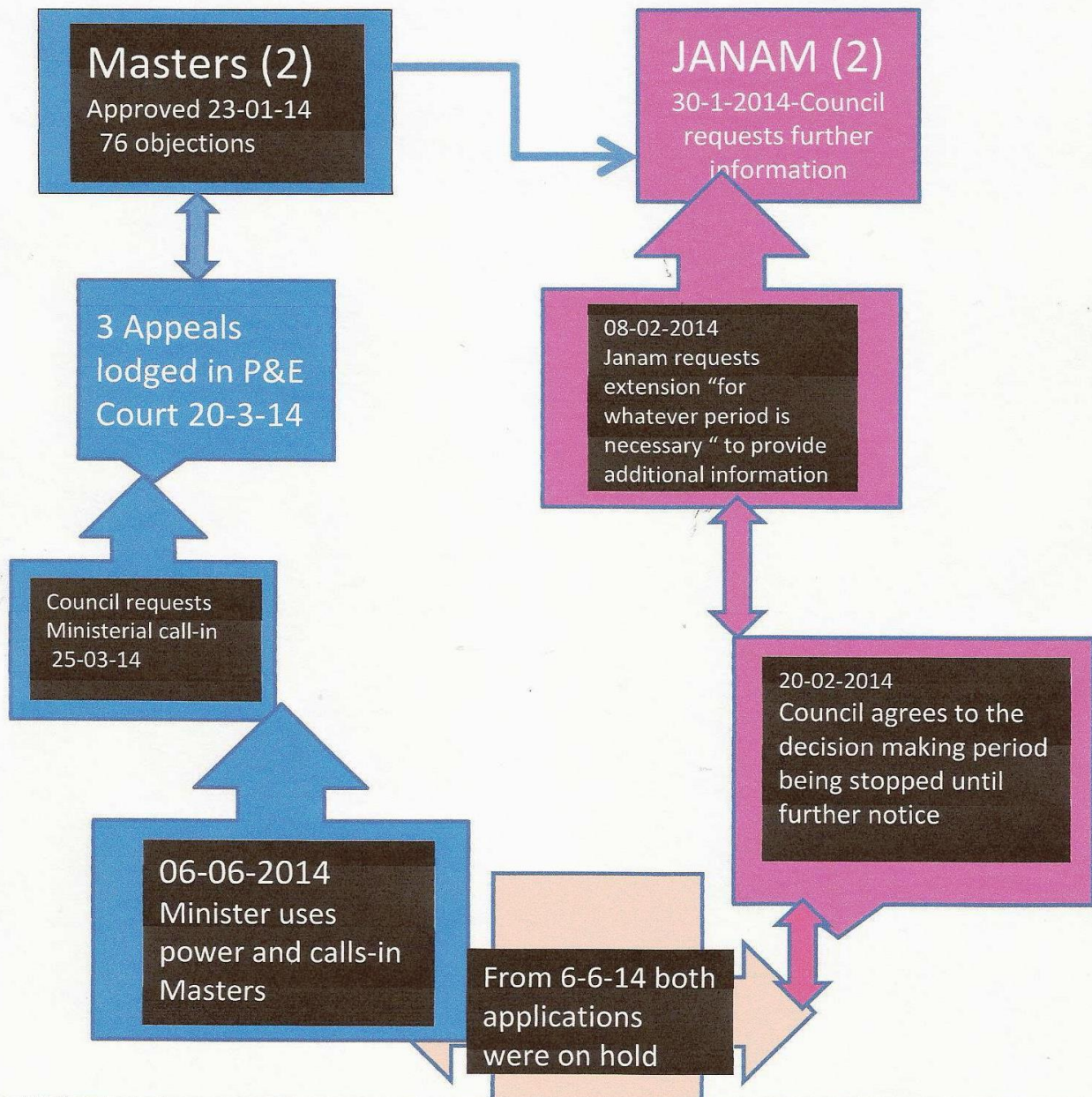
The Draft Town Plan- with the Minister's blessing - is now also out for public notification. It closes on 28 November 2014.

Council and the minister are confidently expecting approvals before Christmas – an early Christmas present for the duopoly and the community of Bundaberg. Shame about the students, the environment, and the nearby residents – but it's "progress" and alternative commercial/industrial sites were not "suitable"

It is from this background that we provide the following input to this Harper Review.

KRAG submission to Harper Review

The following Matrix has evolved since then



5th. September, 2014

Minister announced his approval of Masters (2) and further declares it is the "catalyst for further development of the total area as a commercial/retail precinct."

Minister also advised Council he has approved the new Draft Town Plan for public consultation. It contains the future Development Control Plan for these specific landholdings. It is the Kepnock District Activity Centre Concept Plan. It replicates these inter-related applications as displayed on next page

KRAG submission to Harper Review

Our Janam(3) submission provides a SWOT analysis – which was all we could do, based on the available data. It can be seen from our case study that the duopoly should have been required to consider the net community benefit with their applications,

- 1. So we really support the Harper Review’s finding that an analysis of the “effects” of their development on the community, should be a compulsory component of applications. Only by compulsorily enforcing S46 will the misuse of market power be reigned in.**
- 2. We support the requirement for applicants to include a net community benefit test for “out-of-centre” development, and to protect competition between supermarkets and liquor stores.**

The proposed shopping centre aims to relocate the Target store – in the CBD – out to the proposed new centre by 2018. This would have a serious detrimental effect on the viability of the CBD, and certain measures must ensure that Target are able to retain their competitive edge, make commercial decisions relevant to their need, but the genuine “effects” of their departure from the CBD, and its impact on business existing in their preferred re-location must be undertaken and must be a compulsory requirement.. It is reasonable to assume that the duopoly would have done their own strategic investigation of the best option for them – but this should also be about the community they service – or purport to service

The key component of a shopping centre is the supermarket – it’s the groceries. We all have to eat, so we shop for that anyway. It attracts the consumers, so the market builds around that key component.

A net community benefits test should also apply to a rezoning – which is what our drama is all about. Whilst there were available business sites for both of these developments - they chose – for their own marketing strategy to rezone. They should also have been forced to weigh up the sum of all the benefits of the rezoning to see if it outweighed the sum of all the costs.

There are various ways of evaluating the net community impact of development – especially when it is retrofitting a new development into an existing usage – in a “catch-up” approach

There is the “transfer” effects (i.e. transfers of benefits and costs between individuals and business with no net impact on welfare)

There is also the “welfare” effects, which addresses the jobs, jobs, jobs, hype.. The welfare effects is the transfers of benefits and costs between individuals and businesses that do have a net impact on welfare.

Employment impacts are better assessed using the “welfare” effects test, and the duopoly would fight that strenuously as anti-competitive. However, the “jobs jobs” hype is their greatest selling strategy for elected officials and the media – especially in an area of higher unemployment.

The duopoly are the experts of “self-serve” – they created it, and they have perfected it. The slow increase of self serve check-outs compared to staffed check-outs will gradually increase so it will be accepted over time – especially as the generations age.

The duopoly continue to argue – quite successfully, assisted by Government, Council and media , that their new development will create jobs in both construction and permanent and part-time operations jobs into the future. We all know that their site construction is specialized. They often bring in their own teams. Using the “transfer”

KRAG submission to Harper Review

effects of the benefits of a new development would see the duopoly only factor in the jobs specific to THEIR development.

Using the “welfare” effects means that the benefit is only the net number of new jobs created once movement within the labour market has been factored in. So, there is no net benefits if the opening of one of their stores in a new development means that someone from another business ends up without a job and presents down at Centrelink shortly thereafter for “welfare” assistance.

(2) Therefore, while a net community benefit test should be compulsory for certain developments- i.e rezoning, out of centre., the Review needs to recommend the appropriate type of test, and it should use the “welfare” effects option. The duopoly would argue that this would be too difficult, is anti-competitive would delay their business strategy – whatever it is for that particular application - and should not be compulsory. The duopoly would already have a good understanding of the “welfare” effect of the new operations - it’s a necessary part of ensuring job retention, so they could come up with an average for starters and collate that data over the years to ensure it is up-to-date. (NSW already has established evaluation criteria for net community benefits tests.)

Media and government manipulation are realities of life, and the media would rightly say they have to represent the full range of views. That’s right – they do, but the Panel should be very aware of the role they play – which is usually supportive of the duopoly to the detriment of others external to the process

(3) The impact of the media – and how it uses its unfettered reporting criteria – is a rightful trade process for the media – but they should know that their impact is a part of this Review and how they report can be tantamount to misuse of market power in some situations.

DRAFT RECOMMENDATION 10 – Planning and Zoning

We support this – sounds good – but it must be remembered that the harmonization of Australia’s competition policies must, at times focus on “local “concerns. Whilst the net community benefit test should be compulsory the need to provide flexibility is equally important. Also location choice, for the duopoly, should be a preferred business one and, unless the full force of competition policy is factored into applications for re—zoning like ours, or retrofitting – then not much will change into the future.

We commend the Panel for their consultative efforts

Mary Walsh OAM, CPA,AIFS JP(Q)
Secretary
Keppnock Residents Action Group