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

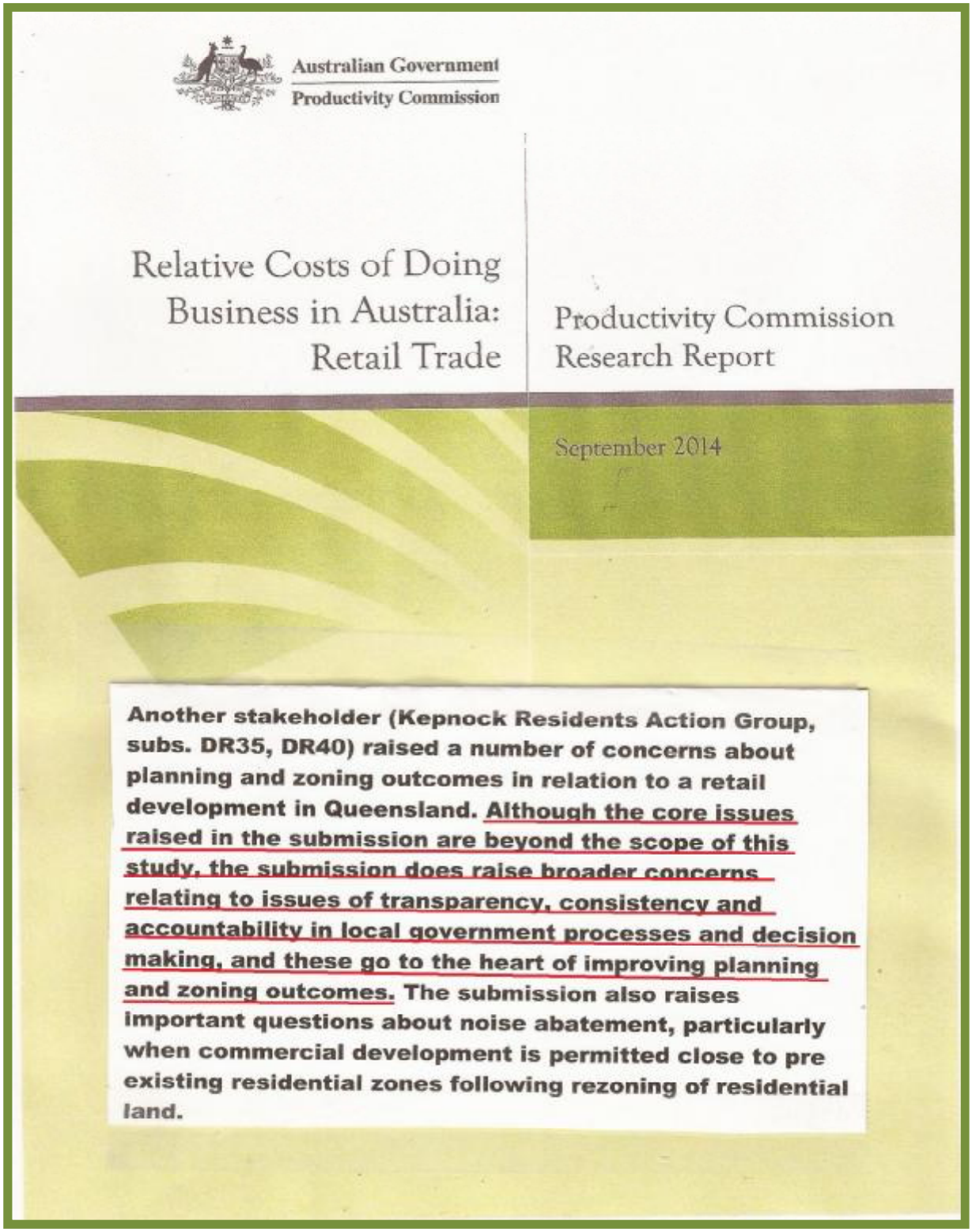
We appreciated the opportunity to attend the Public Forum in Brisbane and to hear directly from the Panel. Also, it was a great opportunity to listen to the interaction from other participants, interested persons and "victims" of a system that has nothing to do with fair market competition – especially 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

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.

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.

Consider our case study, concentrating only on the right hand side of the upload.

1. The plan to the right comprises two separate parcels of land, owned by the same associated family developer consortium.

2. They are two separate legal identities so, under Queensland law their development applications are separate applications. While there is a requirement to consider the "common material" they can get around that by using incremental applications – or "drip-feeding" the applications to suit their own plans – which they don't necessarily have to reveal.

3. Now, these developers have a common goal – to establish a huge regional shopping centre. They'll make a squillion because it's all residential A land – has been for nearly 30 years

4. Their first step was to lodge the application for Masters(1) on the most difficult section to win – right up against all those new homes in this new housing estate. That would have put a 6m fence up against the homes. Fortunately it was refused – but only by one (1) vote. If they'd won the rest of the plan would have been a "walk-over".

5. The land to the top of the plan is the local environmental icon – the BaldwinWetlands – 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 FEWalker 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,

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 FEWalker 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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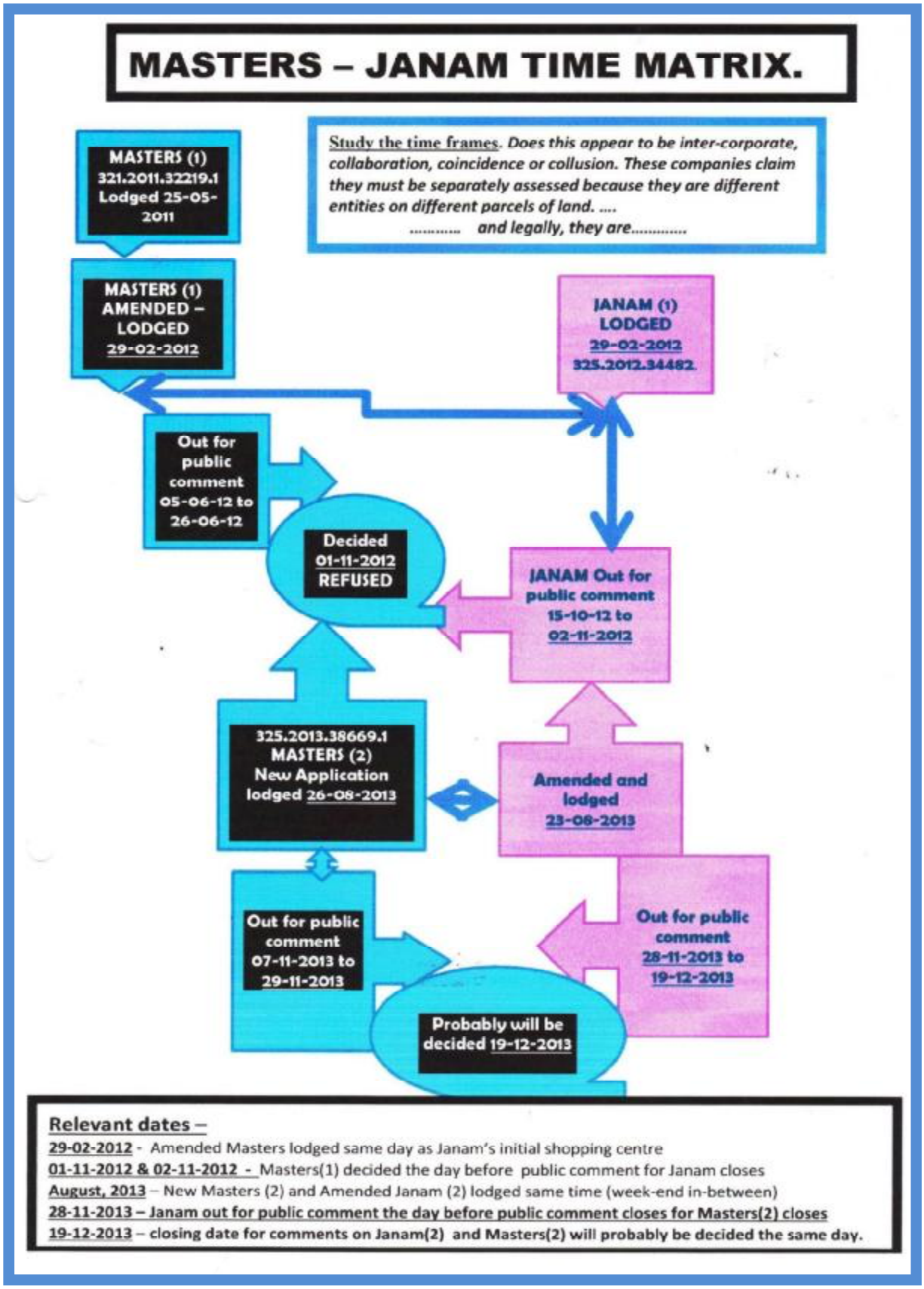

MASTERS – JANAM TIME MATRIX.
Study the time frames. Does this appear to be inter-corporate, collaboration, coincidence or collusion. These companies claim they must be separately assessed because they are different entities on different parcels of land. ....
..... and legally, they are.....
MASTERS (1) 321.2011.32219.1 Lodged 25-05-2011
MASTERS (1) AMENDED – LODGED 29-02-2012
JANAM (1) LODGED 29-02-2012 325.2012.34482
Out for public comment 05-06-12 to 26-06-12
Decided 01-11-2012 REFUSED
JANAM Out for public comment 15-10-12 to 02-11-2012
325.2013.38669.1 MASTERS (2) New Application lodged 26-08-2013
Amended and lodged 23-08-2013
Out for public comment 07-11-2013 to 29-11-2013
Out for public comment 28-11-2013 to 19-12-2013
Probably will be decided 19-12-2013
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.

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

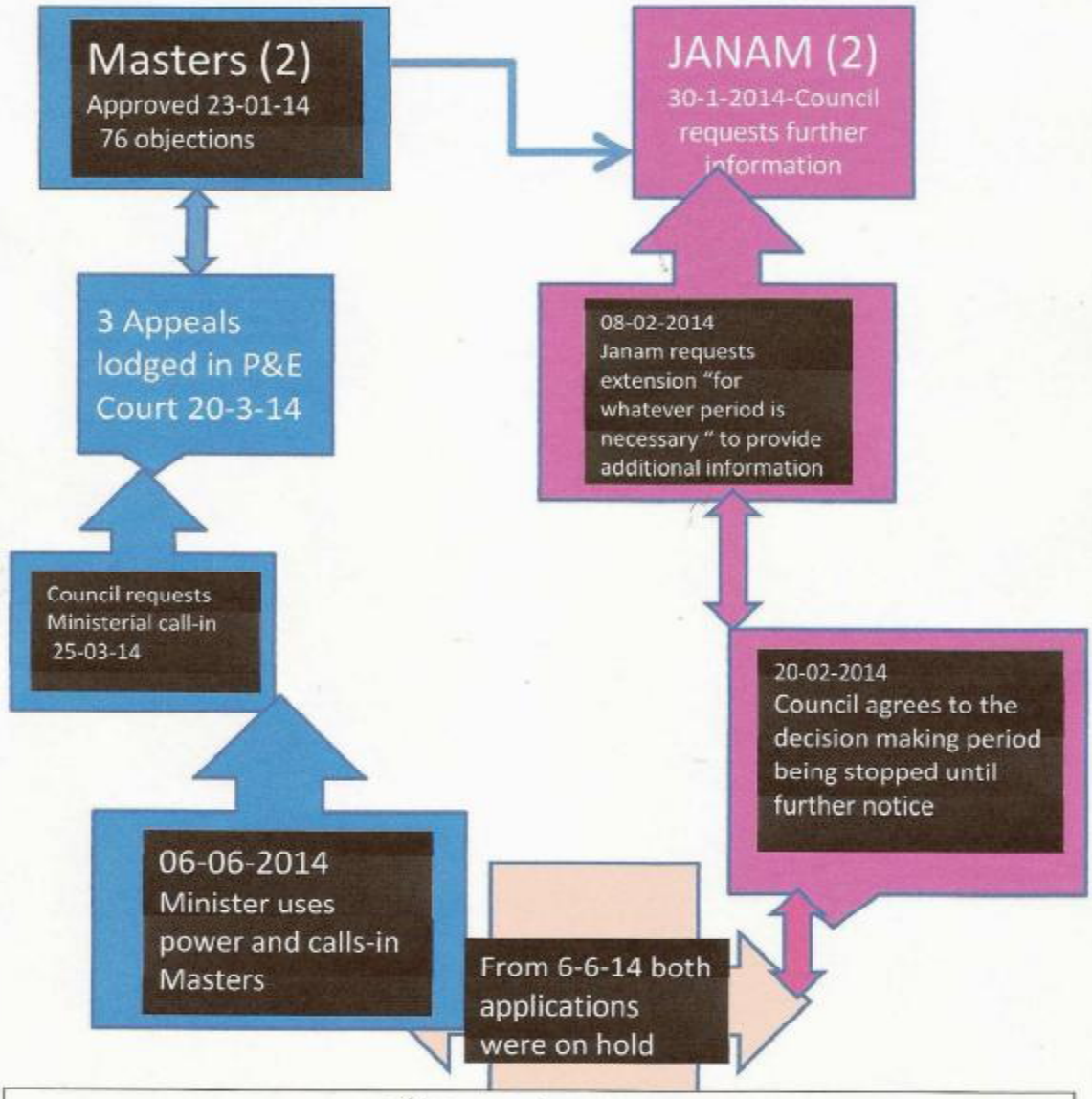
The shopping centre is now out for its third round of public notification, sinking a 24 hr Coles shopper docket petrol station into the sensitive drainage easement that flows into the wetlands. It closes on 18th.Novemver, 2014

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.

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

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 retro-fitting 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"

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
Kepnock Residents Action Group

Submission to 325.2012.34482.1 – JANAM(3)

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Kepnock Q4670
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Visit us on:-
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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**

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

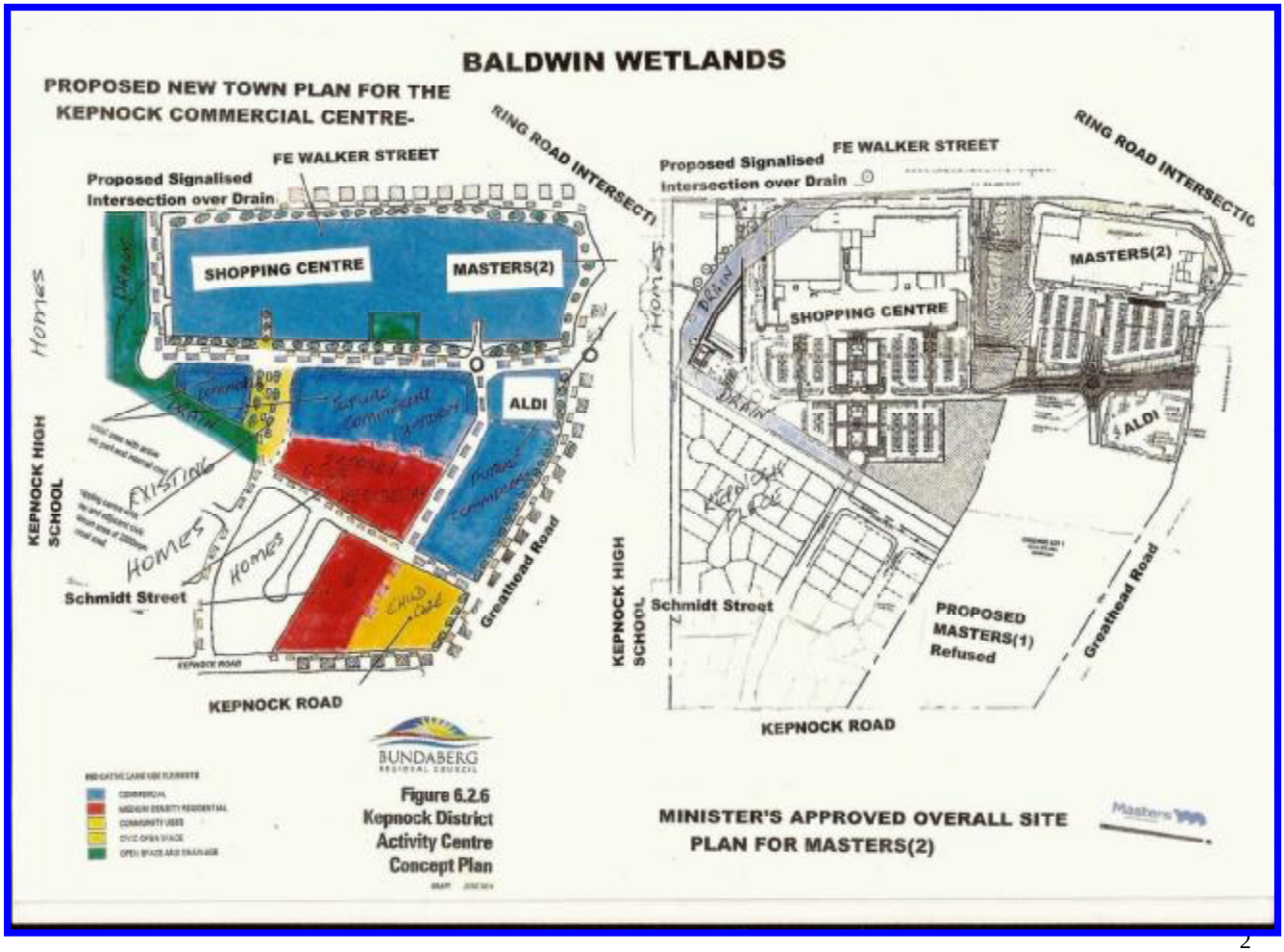
1. CONTRAVENES BUNDABERG CITY PLAN

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.



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

Remember Them. finda

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

Comment period:
29/10/2014 – 18/11/2014

Written comments to:
Chief Executive Officer
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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

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

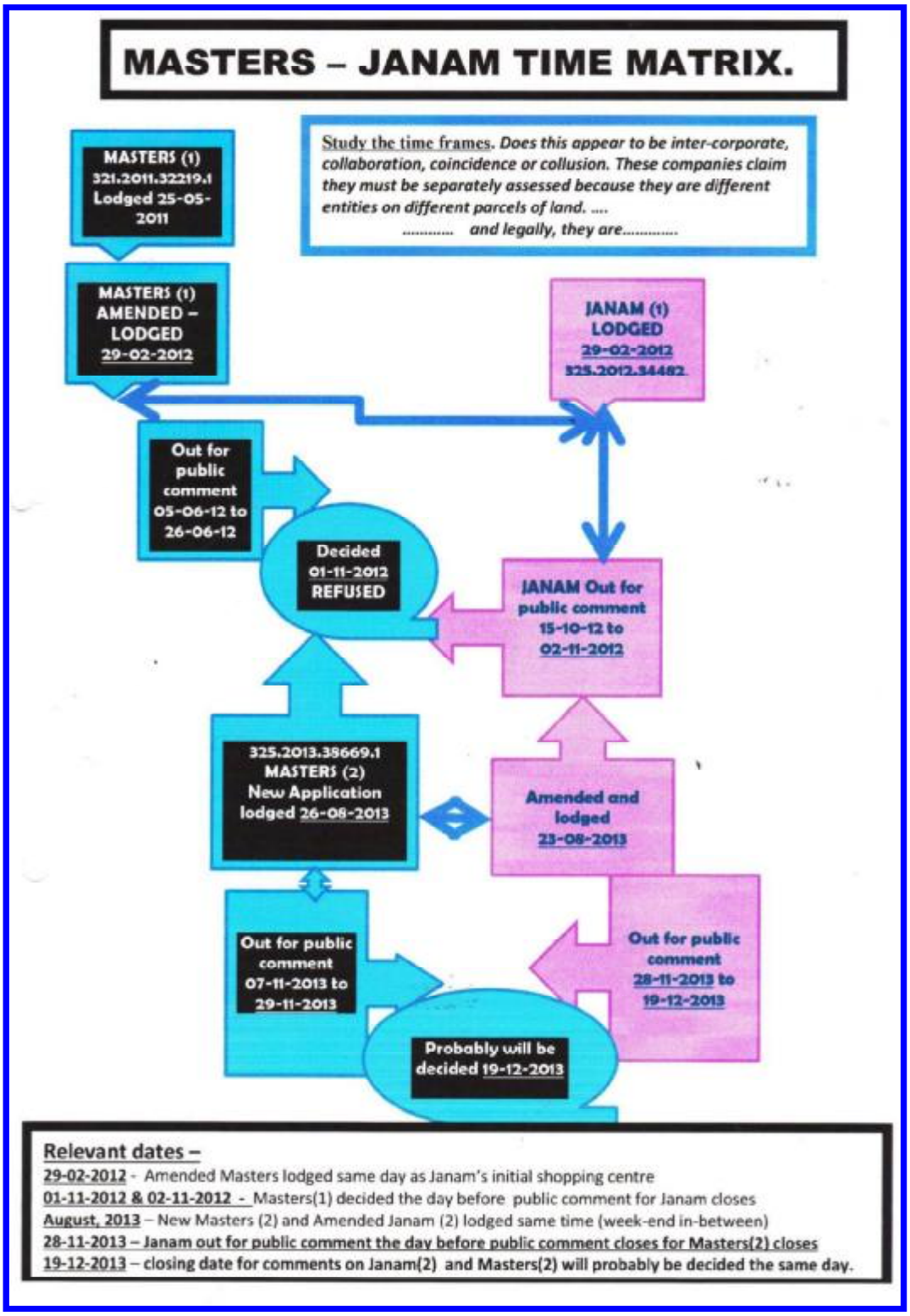
- laying the framework, by this Council, the duopoly, the State Government and the development industry, for a new Town Plan to legitimize the use of the best ratepayer funded and serviced residential land in the region – for the commercial benefit of the duopoly and the development industry as promoted 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 Shoppping 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'**

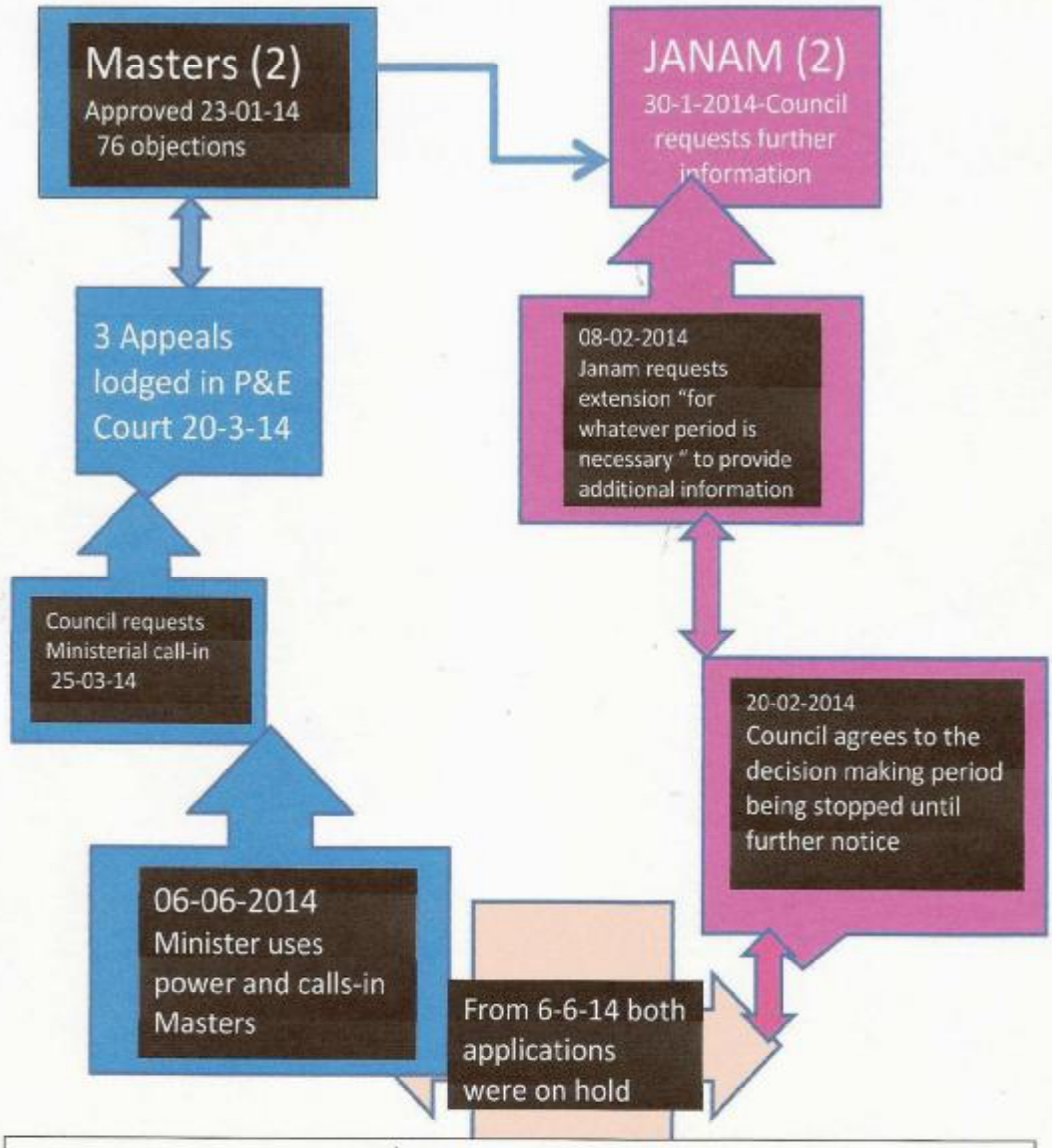
Council has already demonstrated that, in this 4 year Masters/duopoly war "accountability, transparency and consistency" mean nothing. This is contained in the formal report by the Productivity Commission and the full submissions can the accessed on the Productivity Commission's web-site as submissions 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.

From 25-05-2011 to 23 January, 2014



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 **displayed earlier**

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

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.

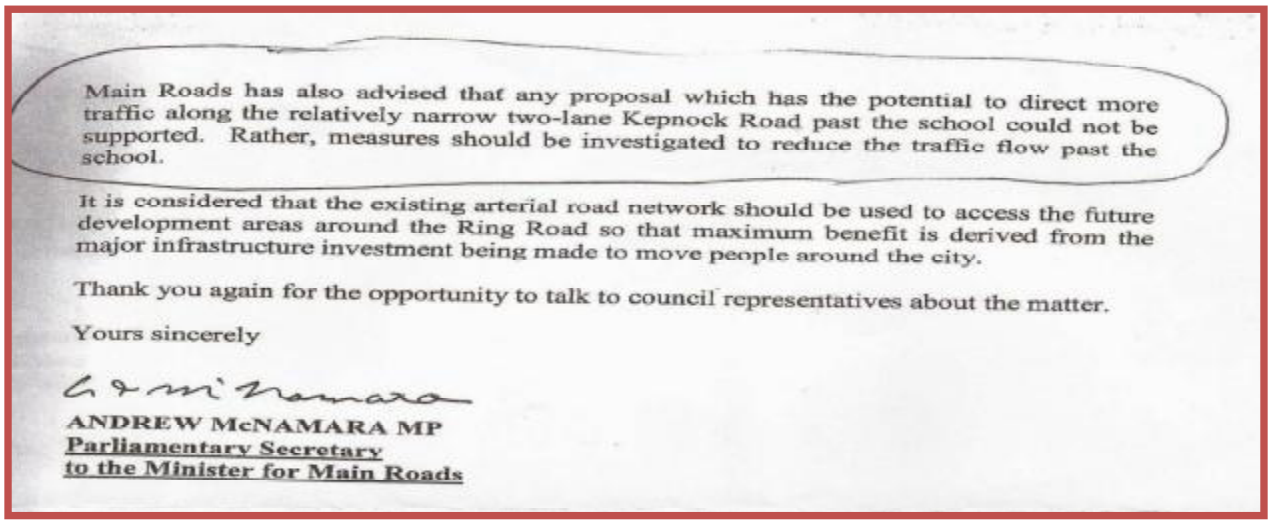
Council determined, very conveniently, that the school would not be adversely impacted by Masters traffic, save for the need of a 3 chord truncation at the corner of Greathead and Kepnock Roads.

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

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.

Page 2 of 13

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.

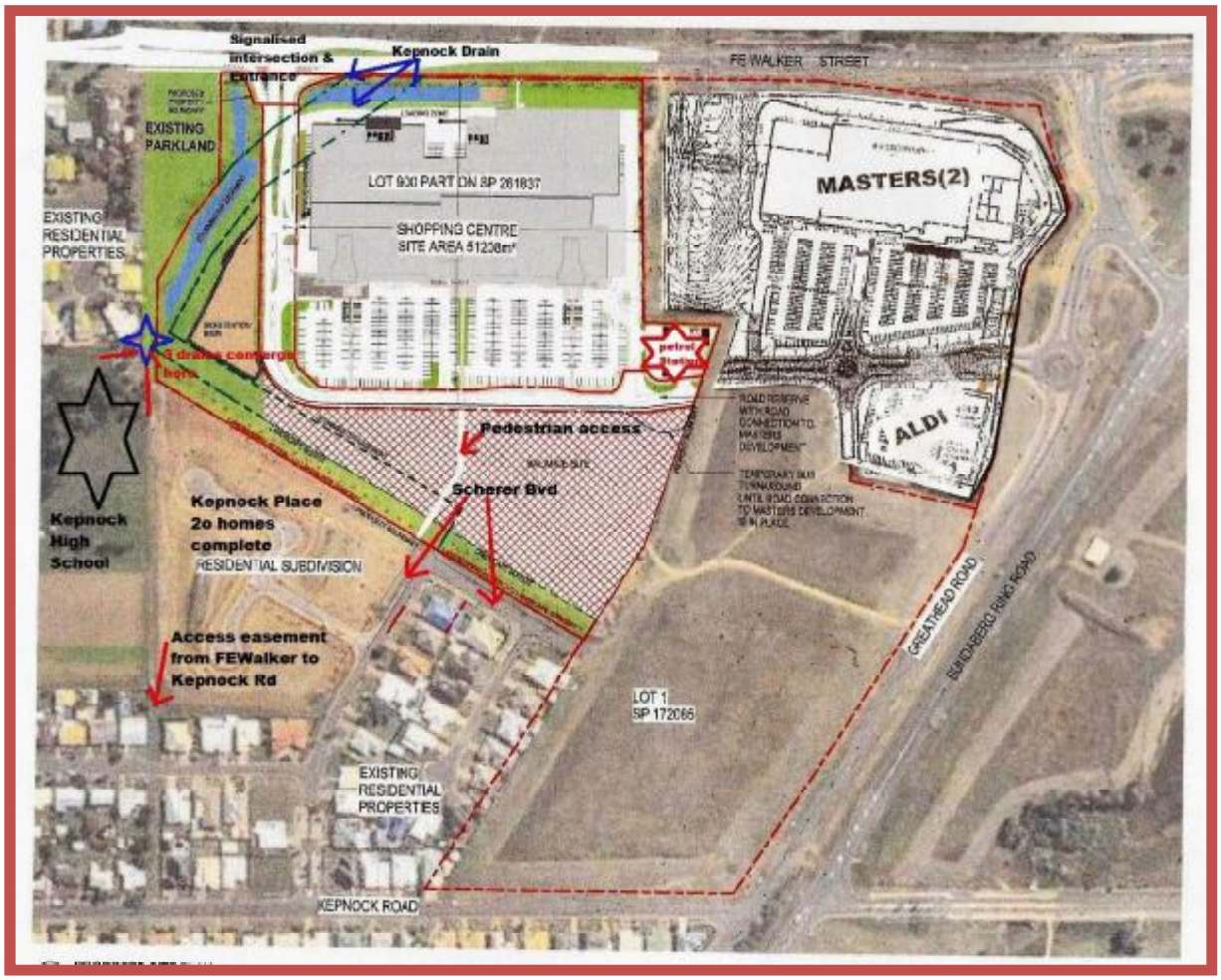
7. DESTROYS RESIDENTIAL AMENITY

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.



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.

- 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 it's "(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

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)	**$32,341**
	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

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.

<u>Out-of-centre development</u> 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.*

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

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**

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.

STRENGTHS - APPROVAL	WEAKNESSES - APPROVAL
1 Provides convenience shopping for residents to the East and the growing Eastern corridor **2 Provides consumer choice for residents in the East** **3 Provides competitive shopping choices for residents in the East** **4 Reduces travel costs for individual shoppers in the East and the south-west - i.e Walkervale, Thabeban, Avenell Heights, Kepnock .** **5 Provides windfall financial returns to the developer and the duopoly** _____ **BLANK**	**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, Bargara 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.**

OPPORTUNITIES APPROVAL	THREATS - APPROVAL
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. ---------- BLANK	1. Sets unacceptable legal precedence by over-riding 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

BLANK	**THREATS – APPROVAL (Cont'd)** **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. Condones 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.**

STRENGTHS – REFUSAL	WEAKNESSES - REFUSAL
A refusal restores confidence in Council decision-making – not duopoly/developer manipulation **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**	**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.** **BLANK**

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**	**BLANK**

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** _____	**BLANK**

OPPORTUNITIES – REFUSAL	THREATS – REFUSAL
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 "*lacking consistency, accountability and transparency*" – *Productivity Commission Report into Retail Trade – September, 2014.*** **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**	**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** **BLANK**

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.

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.

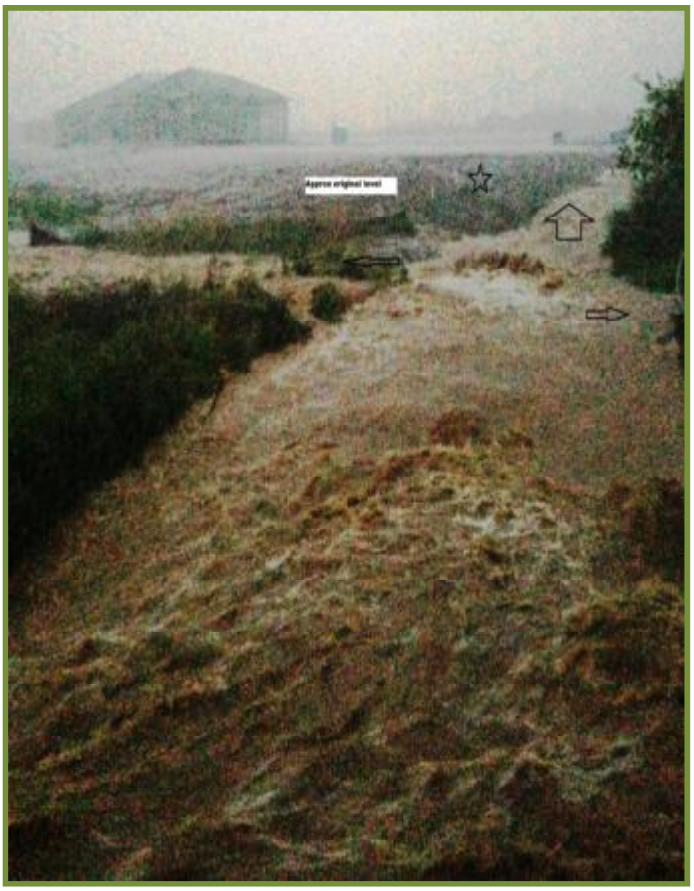
Yet – this Council has dismissed such concerns as not a matter for this Council to consider.

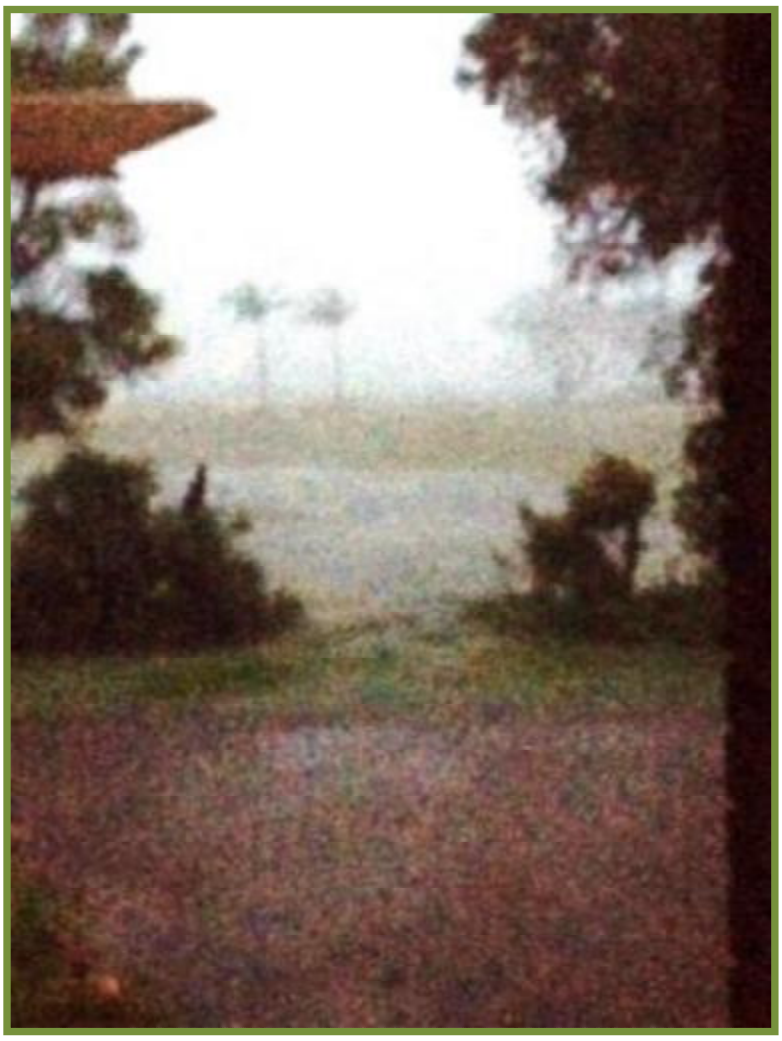
This application requires the "loan" of Council's Kepnock Drain which is, in reality a "creek" – a tributary of the nearby Bundaberg Creek- part of the Baldwin Wetlands into which the water discharges. This is the extent of the open waterway involved. These photos show the extent of the open channel, 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.

Kepnock Drain facing FEWalker St. Exit under road is marked

Kepnock Drain facing Kepnock Road (south)

Three drains
converge here
Kepnock Drain facing south showing
convergance site of other 3 channels
Kepnock Drain - facing Kepnock Road (south)





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

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

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 728 200.

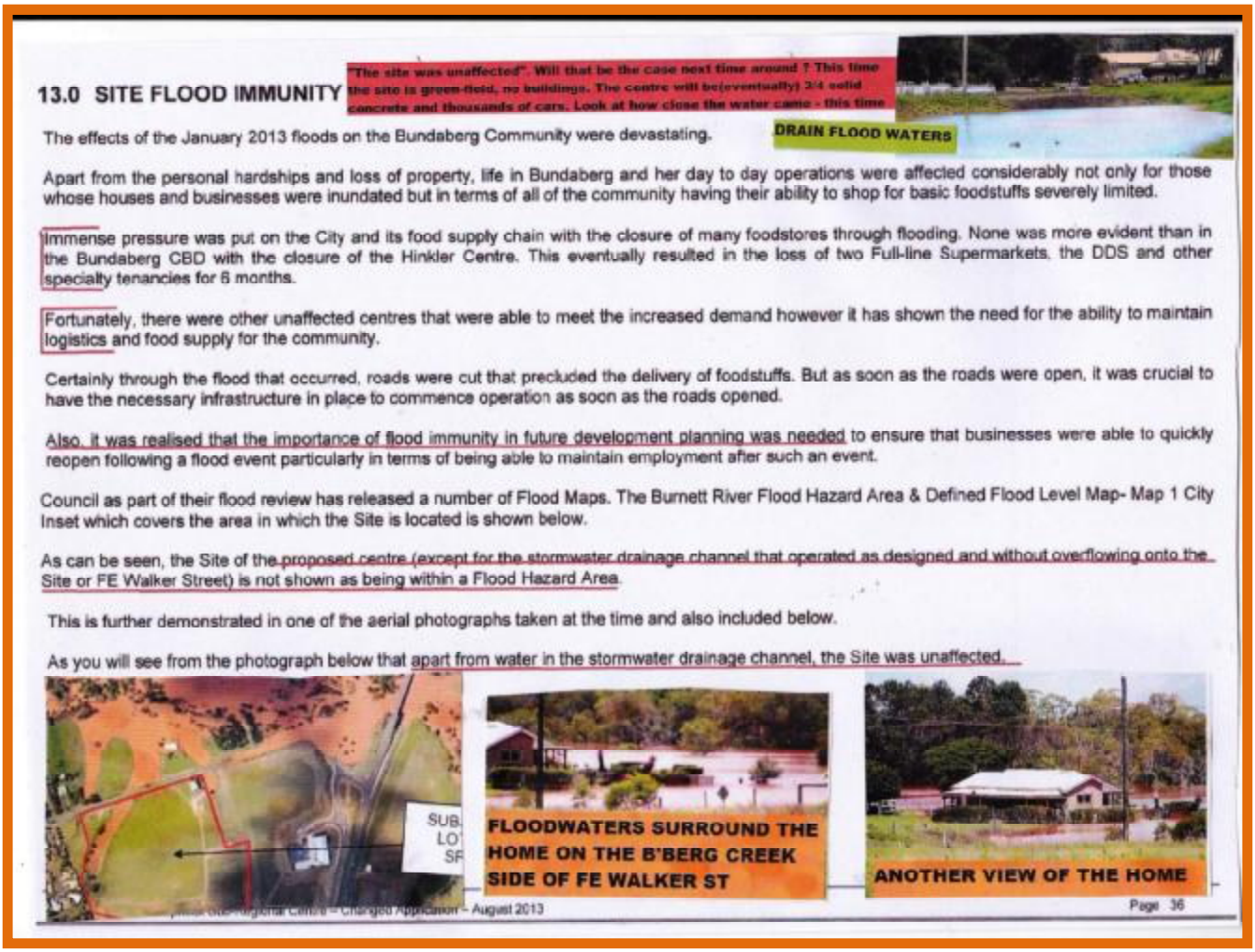
DRAIN DRAMA: Residents on Walker St aren't happy with the amount of debris that blocks the drain every time it rains.

PHOTO: ZACH HOGG

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



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

DRAIN FLOOD WATERS

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.

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

ANOTHER VIEW OF THE HOME

August 2013

Page 36

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:-

a. The site has a 1 in 40 grade to the receiving waters of the Baldwin Wetlands under FEWalker Street. Visible in the previous photo is the velocity created by the gradient of the fall as the water flows north
b. 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
c. The development fronting FEWalker 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.*

2006 MON 15:15 FAX +61 : **deleted**

WEST OF MASTERS

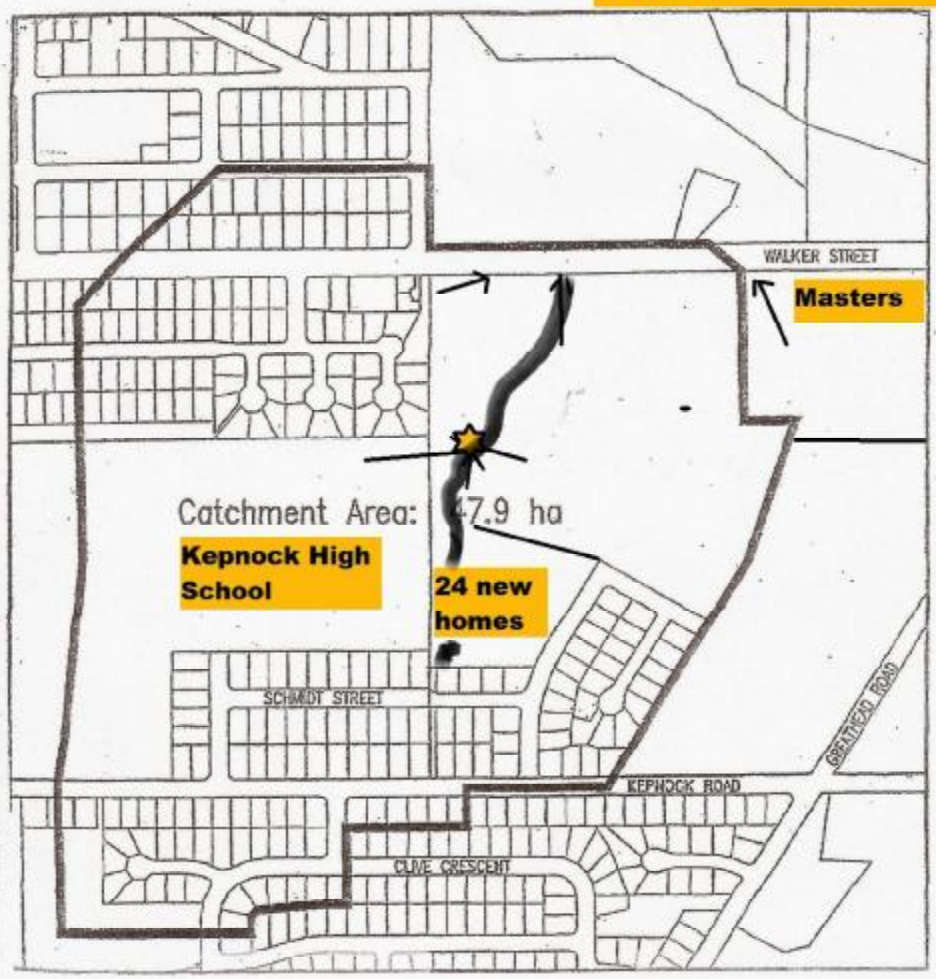
QUEENSLAND LAND REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

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 develc is re-profiling the eastern side of the Kepnoc A local downpour in November, 2013 cut FE Street and flooded outbuildings near the dra

DEVELOPED CATCHMENT PLAN
WALKER STREET CULVERT
KEPNOCK, BUNDABERG

Existing infrastructure and the topography v never designed for intense commercialisatic at the base of a geographical basin

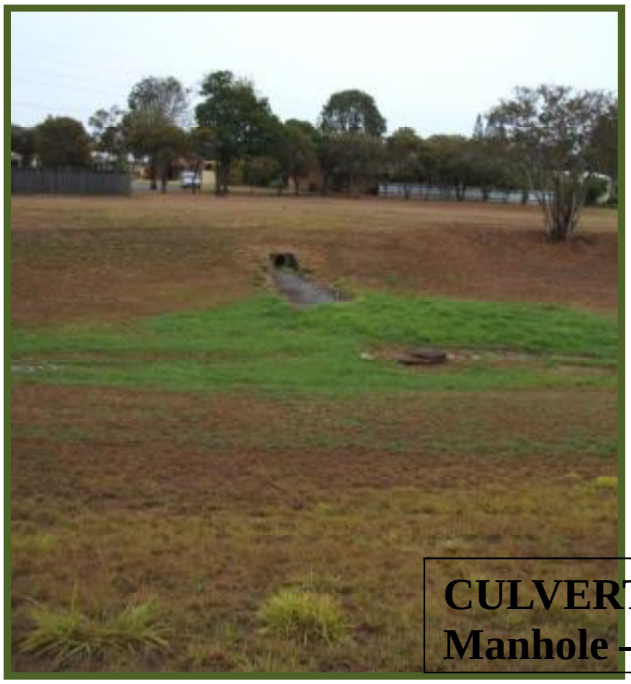
There is "*an overland flow channel"* – (the Kepnock Drain). Approximately *"half of the existing site discharges north-west to this channel",* Opus identified 3 separate drainage systems – culverts A,B & C.

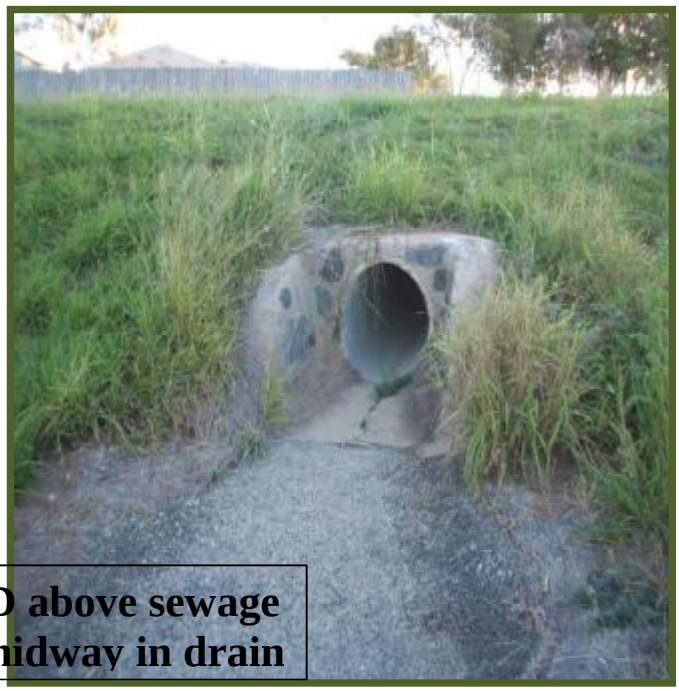
I. This is ***Culvert A*** – which was only inches short of over-topping in the 2013 flood. This is where the water flows under FE Walker – or overtops if the depth and flow- through rate can't be catered for by these pipes. Documentation states it has "*two 900mm diameter RCP culverts*"- *pg 2.* It 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

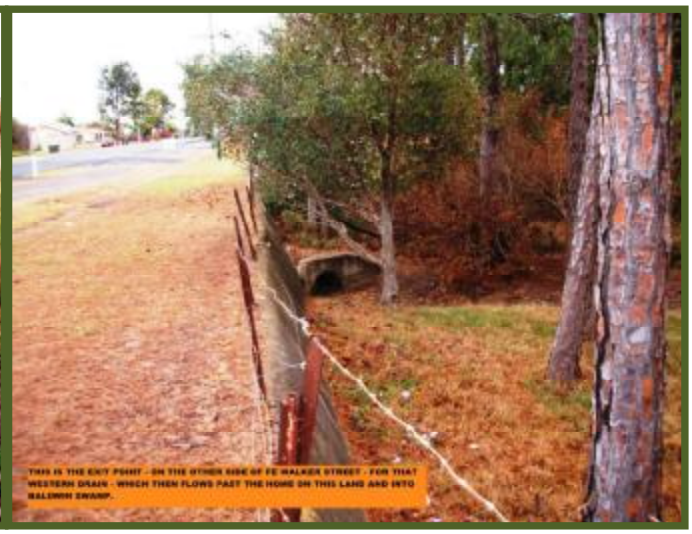




CULVERT D above sewage Manhole – midway in drain

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

Submission to 325.2012.34482.1 – JANAM(3)

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:-

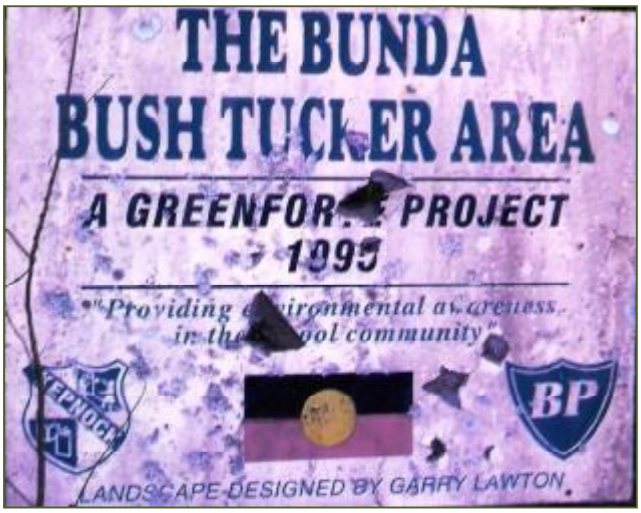
1. **There are more than 2x900 RCPS at Culvert A. Incorrect pipe sizes invalidate the results.**
2. **There is an unidentified 550 RCP – in the middle of the Kepnock Drain/Waterway. We have named it Culvert "D"**
3. **There is an unidentified drainage inlet which has, historically overflowed in a heavy 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.**

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

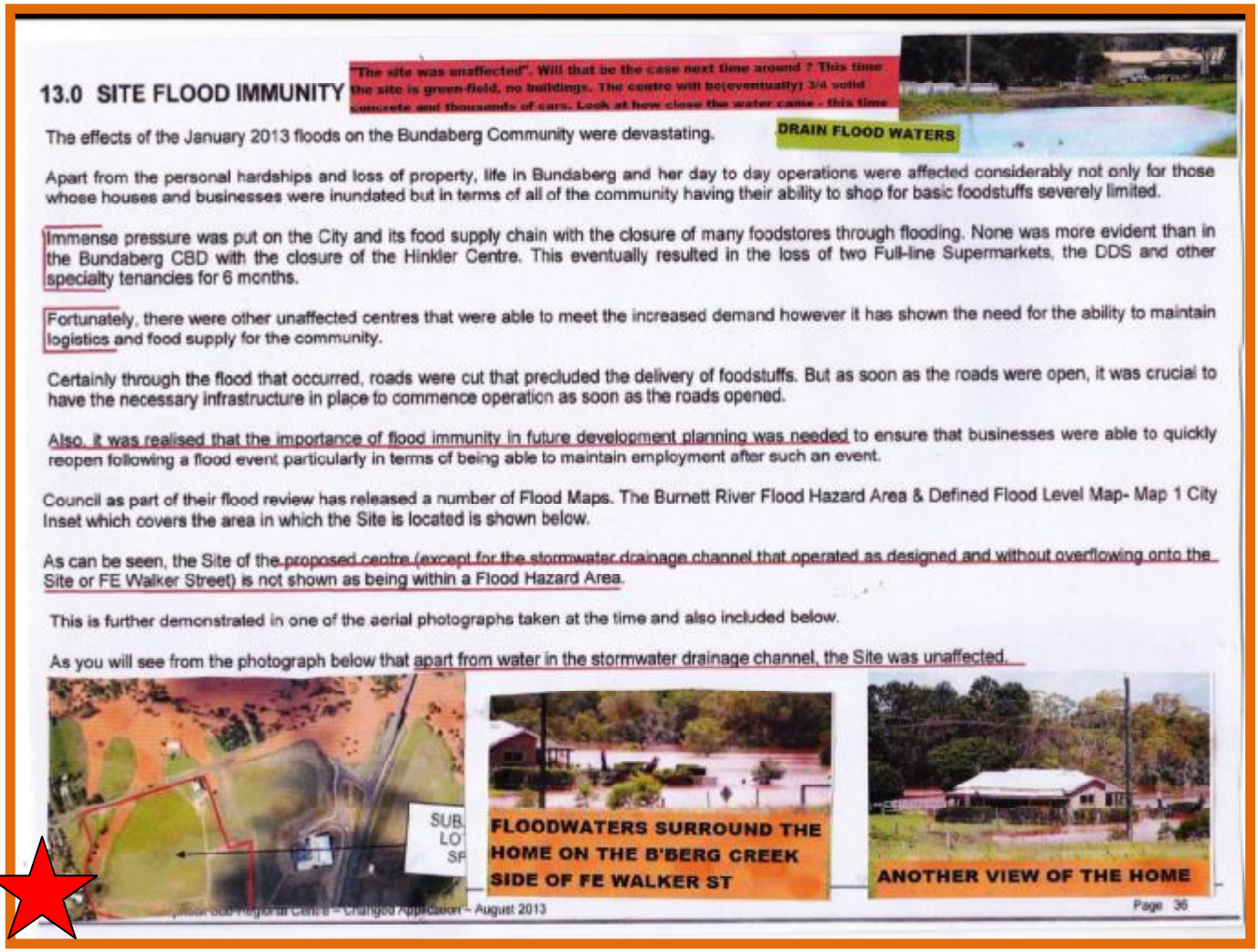
As can be seen from the photos of the deluge last November, the torrent of water coming from the south comes from 3 separate drainage systems – one behind the Kepnock High School, one from Kepnock Road and one from Scherer Bvd – all meeting at that one point. The run-off is torrential and the drainage 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

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?



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

DRAIN FLOOD WATERS

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.

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

ANOTHER VIEW OF THE HOME

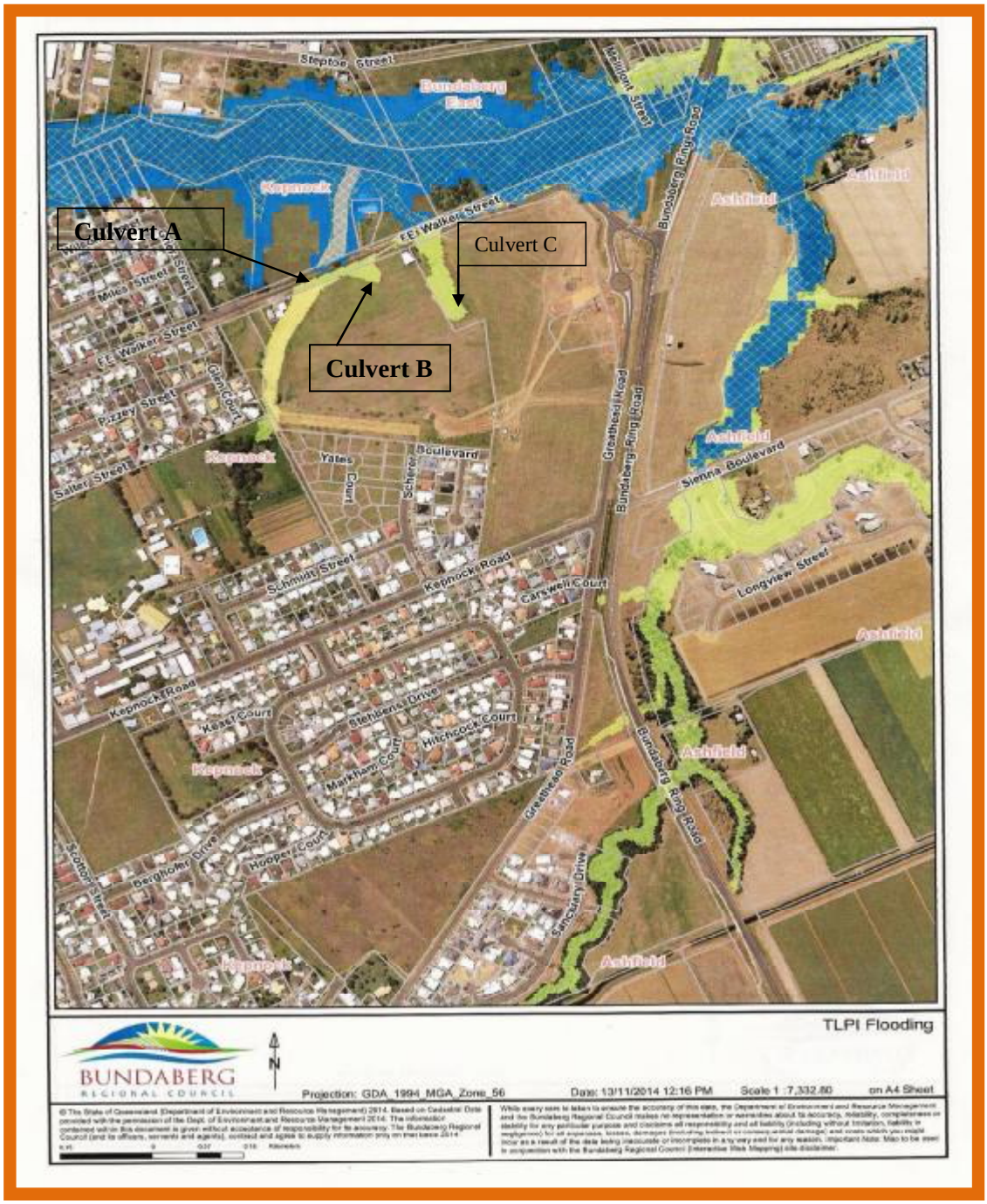
August 2013

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.

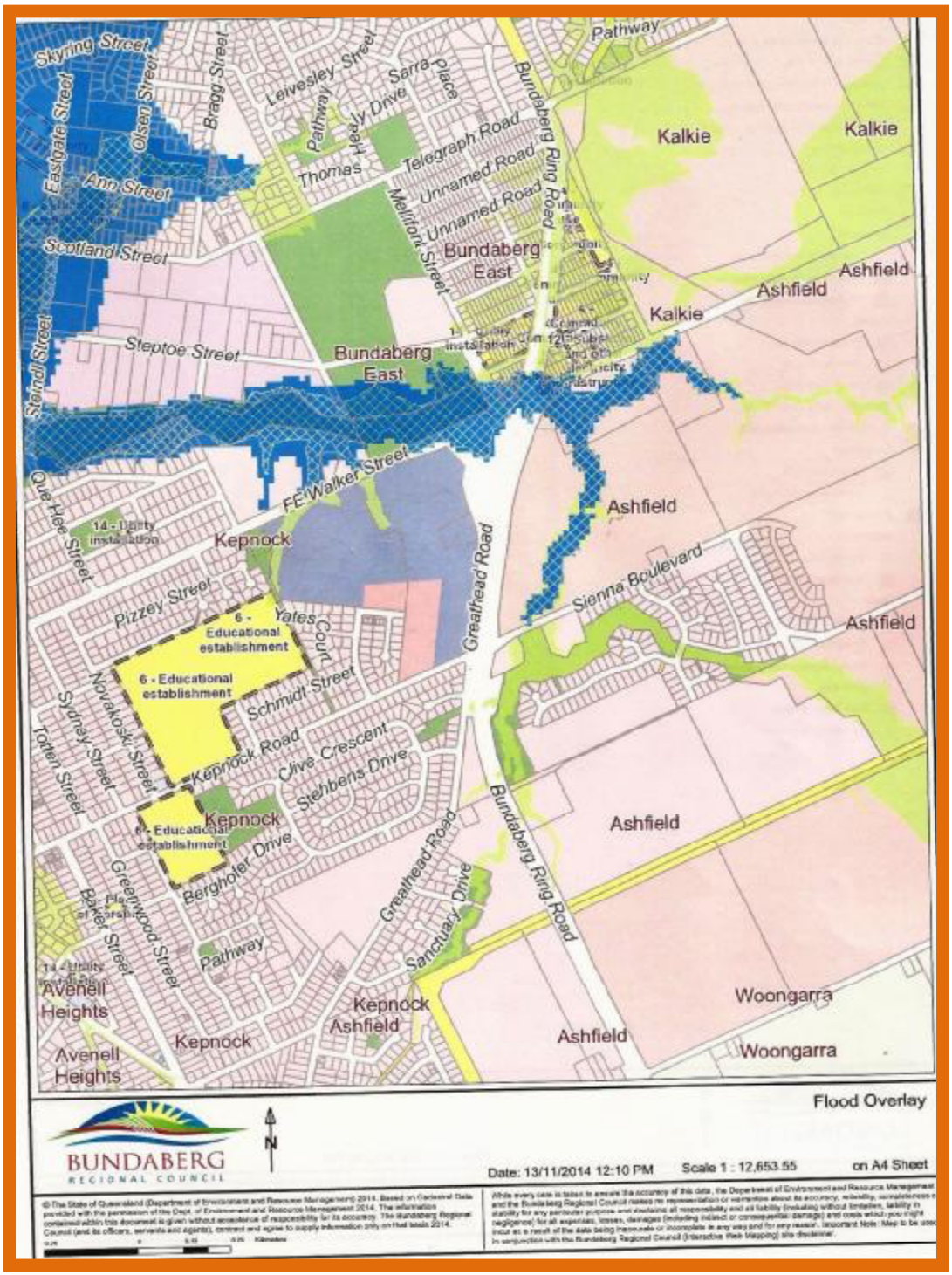
★ Flood levels are evident in the above photo, submitted by the applicants for a "*SUB-REGIONAL*" (not a *DISTRICT)* shopping centre,. It is the Bundaberg Regional Council official Flood Map and shows the Kepnock Drain inundated with flood-waters. To the residents whose homes abutted that waterway – 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



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

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 FEWalker 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. .



This photo is of the Scherer Farm bore – which sits over the aquifer fronting FEWalker 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 (70years) 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*".

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 Jocumsen 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**. <u>If the current proposal does not proceed – where was Council going to require the additional storage to be provided by the upstream developer</u>**?

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.

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**

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

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 '<u>ACTIONABLE NUISANCE'</u> as "Anything injurious to health, or indecent, or offensive to the senses, or an <u>obstruction</u> to the free use of property so as to interfere with the comfortable enjoyment of life or property. *Code Civ. L'roc.Cal*

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.

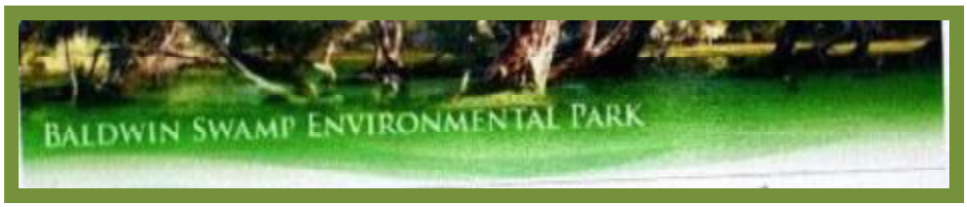
This development cannot increase post development flows to the neighbouring property downstream of this development, so the size of Culverts under FEWalker Street cannot be increased. The water will be dammed into the detention basin by re-profiling the open drain where it meets the western access drive-way 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".*

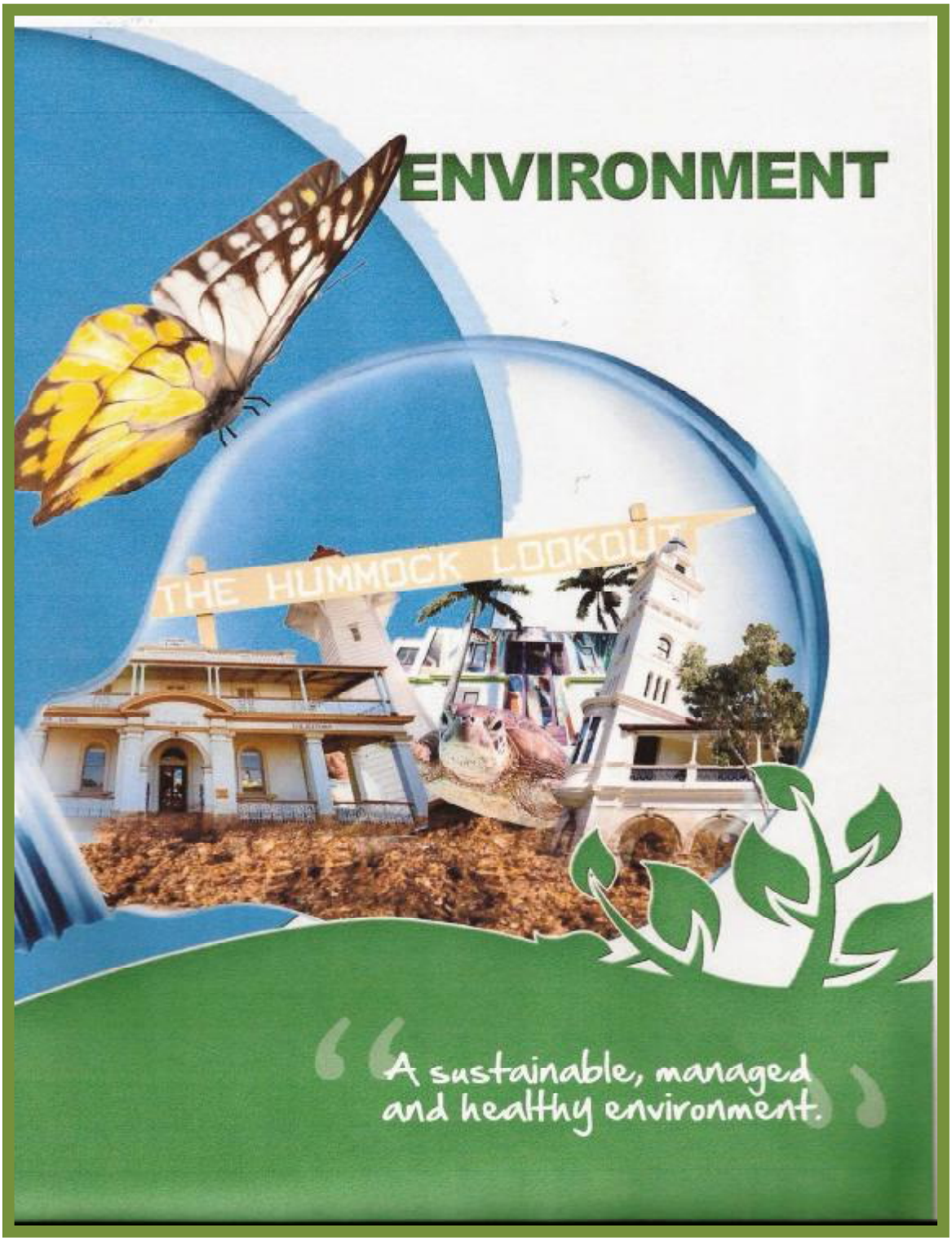


This was because FEWalker Street separates Masters (50m) – and now the shopping centre (150m) from the wetlands. However, this is tantamount to saying that the Mon Repos Turtles and the beaches don't exist and shouldn't be protected, because there is a road on the foreshores that separates them from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

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.**



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

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.

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.

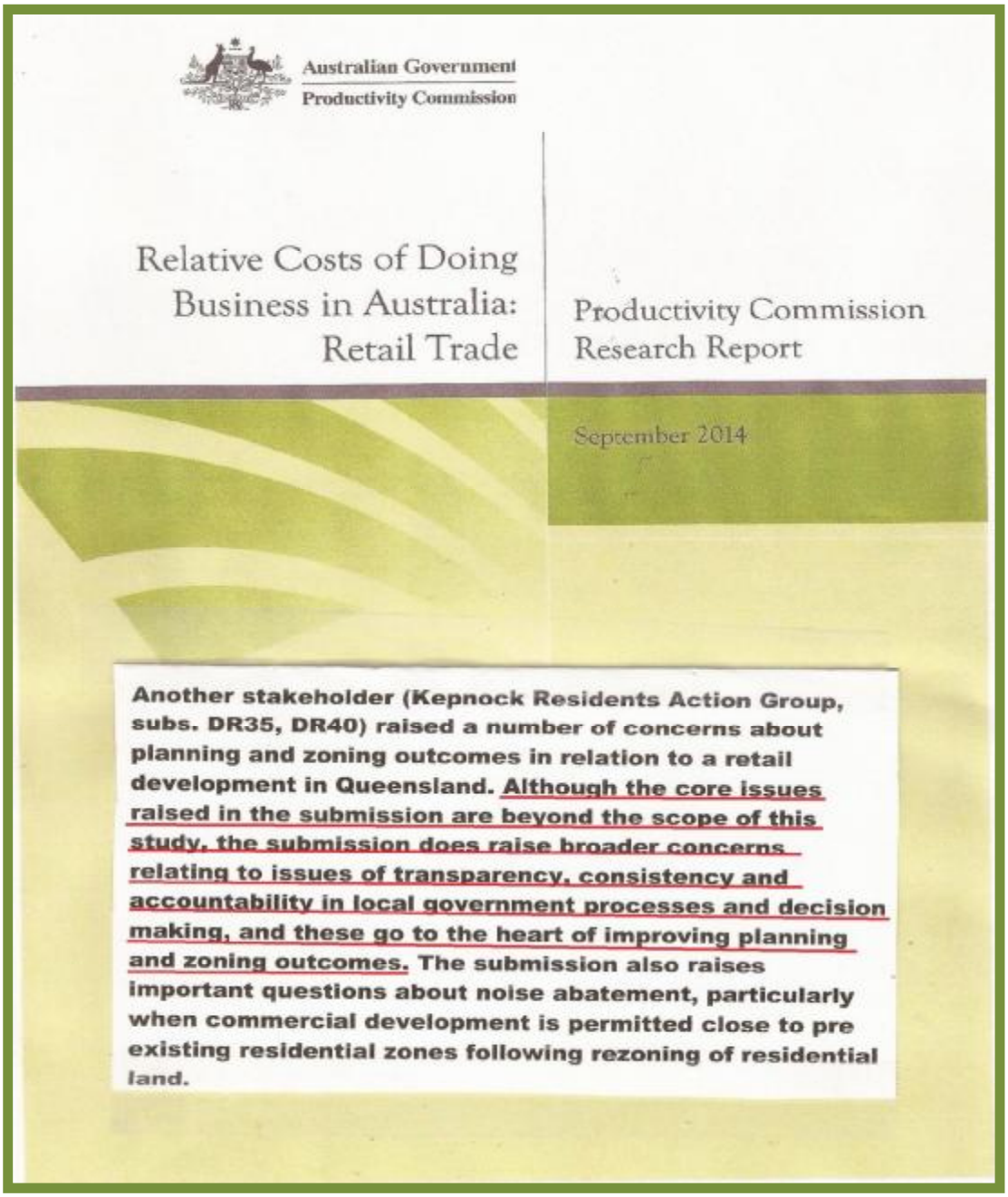
When the major beneficiaries of this scheme would have continued with their marketing thrust, nationally, without these incentives, and contribute little towards local employment- long term. They are more about job transfer – not job creation.

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

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.



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.

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

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 Jocumsen 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**