

This submission takes the broad perspective to your Enquiry

THE RELATIVE COSTS OF DOING BUSINESS IN AUSTRALIA

THE RETAIL TRADE INDUSTRY

Our submission would be unexpected by the industry because, after 3 years, the duopoly would have expected they would have “finished us off” by now. This submission exemplifies the social cost - a cost that sits outside the financial but one that is, increasingly, wreaking untold social and human impact throughout Australia, especially in regional/rural areas.

The retail sector, in all its forms, has representative bodies that are paid to “put their case” – in financial terms. This Enquiry will have all of those submitters, but we are responding to the Commission’s request for further information re planning and zoning issues. It is this regulatory frame-work which the Federal Government can by-pass as “not our responsibility”. It is this regulatory frame-work which State Governments devolve down to Local Government. It is this regulatory frame work which can be, and sometimes is, manipulated – at great human and social cost – by power, money and political pressure - as all levels of Government, yield to the political pressures of the duopoly in their national fight – not for market share – but for market domination.

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

Our submission comprises:-

1. **Our case study.** A complex, but far too common example of the power of the duopoly. Sadly, it is also reflective of how local governments, and, perhaps, State Governments yield to political pressure. It is, it seems, all about:-
 - numbers – dollars and voting power and
 - the power of the media to sway popular opinion, and control outcomes. The advertising dollars of the duopoly, and the changing face of the print media are powerful incentives for media survival.
2. **Our Response to the PC Interim Report**
3. **Conclusions**
4. **Recommendations**

CASE STUDY





24 Scherer Bvd, Kepnock
Bundaberg Q4670
Ph. (07) 4151 4178 mob 0418 887 976
Email: marywalsh6@bigpond.com

Visit us on [facebook.com/kepnock residents action group](https://facebook.com/kepnockresidentsactiongroup)

9 July, 2014

THE RELATIVE COSTS OF DOING BUSINESS IN AUSTRALIA – Retail Trade Industry

We are long-running victims of the national commercial war by the duopoly for market domination of Australia's Home DIY Hardware market. We provide our case study to present the "little people of Australia" response to some of the planning and zoning issues raised, within this Review and similar reviews over the past 3 years.

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

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

The executive of our group has sound business backgrounds, with the chairman and myself having 22 years of practical elected local government experience as the chairs of our City Council Planning and Development Portfolios. Our CV's are separately provided as *appendix 1*. As the secretary, and manager of our Facebook page, I am also a disadvantaged resident, a lifetime community advocate with sound practical and academic business and local government qualifications.

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

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

2nd June, 2011

FROM THE EDITOR'S DESK

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

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

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

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

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

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

But will bigger mean better for Bundy?

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

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

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



CLINT HEATHORN
Deputy Editor

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

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

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

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

FROM THE EDITOR'S DESK

Subdivision plan raises questions on future of land

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

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

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

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



CHRISTINA ONGLEY
Editor

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

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

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

21 September, 2011

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

Kepnock Residents Action Group – Submission to the Productivity Commission

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



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

Our ref: MBN12/563

- 1 NOV 2012

Ms Mary Walsh
24 Scherer Boulevard
Kepnock
BUNDABERG QLD 4670

Level 12 Executive Building
100 George Street Brisbane 4000
PO Box 15009 City East
Queensland 4002 Australia
Telephone +61 07 3224 4600
Facsimile +61 07 3224 4781
Email deputypremier@ministerial.qld.gov.au

Dear Ms Walsh

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

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

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

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

Yours sincerely

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

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

Masters(1) was subsequently refused on solid planning grounds. Residents were vilified as *stopping progress and denying "jobs"*. Our argument then, and now is that Masters should

FROM THE EDITOR'S DESK **NIMBYs must not be allowed to ruin our city's future**

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

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

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

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

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

The obvious benefit is jobs.

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

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



CLINT HEATHORN
Deputy Editor

moment.

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

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

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

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

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

be on an industrial/commercial site, where there would be no loss of benefits and no adverse impacts on the community. The local media christened us "NIMBY's" from the start. This ensured that stigma stifled rational debate.

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

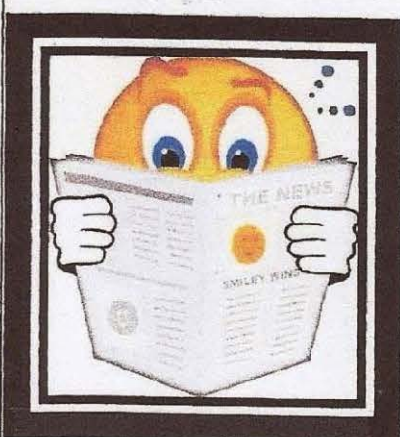
Even now, with Masters(2) now Council approved, but "called-in" by the State Government, the media will not print the over-all site approval map – a formal State Government document, (page 36 of the Council's 57 page approval decision) provided to all submitters. It was referred to by a Councillor during that Council approval meeting and our transcription of that meeting is attached hereunder. Also attached is some media coverage via Letters to the Editor, just after the end of the public consultation period for Masters(2) (2 months prior decision). As an ex-Councillor, our secretary tried to alert the public as to what the future possible scenario of the Masters

18th. February, 2012

saga – and the future of those sites might be. It is relevant to our overall submission and confirms that all processes can be manipulated – and not always in the best interests of the community - which elected persons purport to serve. This letter was a response to some public concerns put forward by members of the public, who did identify themselves, expressing concerns that our residents might be the victims of a conspiracy by the hardware giants in their national commercial war, and all might not be as it seemed. We make no attempt to retain confidentiality of the Council processes. These are elected officials and

this transcript is on our Facebook page. We commend Cr. Rowleson for having a conscience. He is not our divisional representative. Our divisional representative never commented – simply voted.

1



NEWS-MAIL MEDIA – 27 November, 2013

OVER-RIDING THE PLANNING SCHEME

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

Over-riding scheme is road to court

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

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

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

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

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

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

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

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

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

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

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

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

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

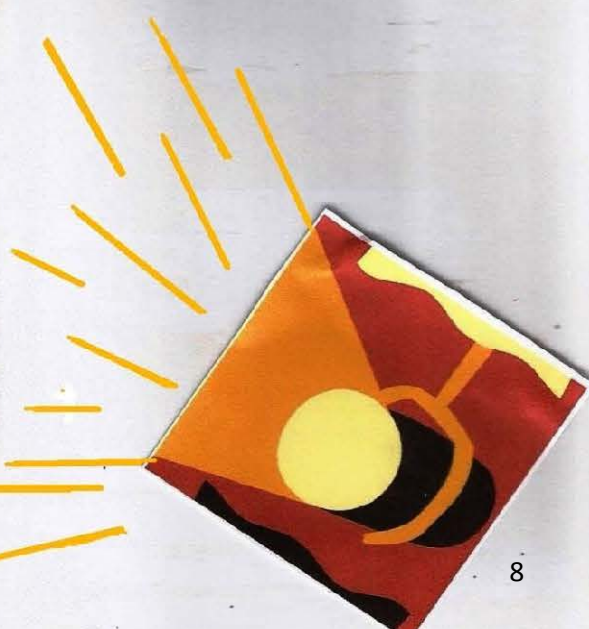
The precedent for the Masters (1) refusal was set by this council. To approve Masters (2) it has to over-ride its own precedent – and the legislated Planning Scheme.

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

ratepayers.

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

MARY WALSH
Kepnock



KEPNOCK RESIDENTS ACTION GROUP ANALYSIS OF

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

Chair: **Cr. Ross Sommerfeld**

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

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

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

Seconded: **Cr. Greg Barnes**

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

"Thank you Mr. Speaker:

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

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

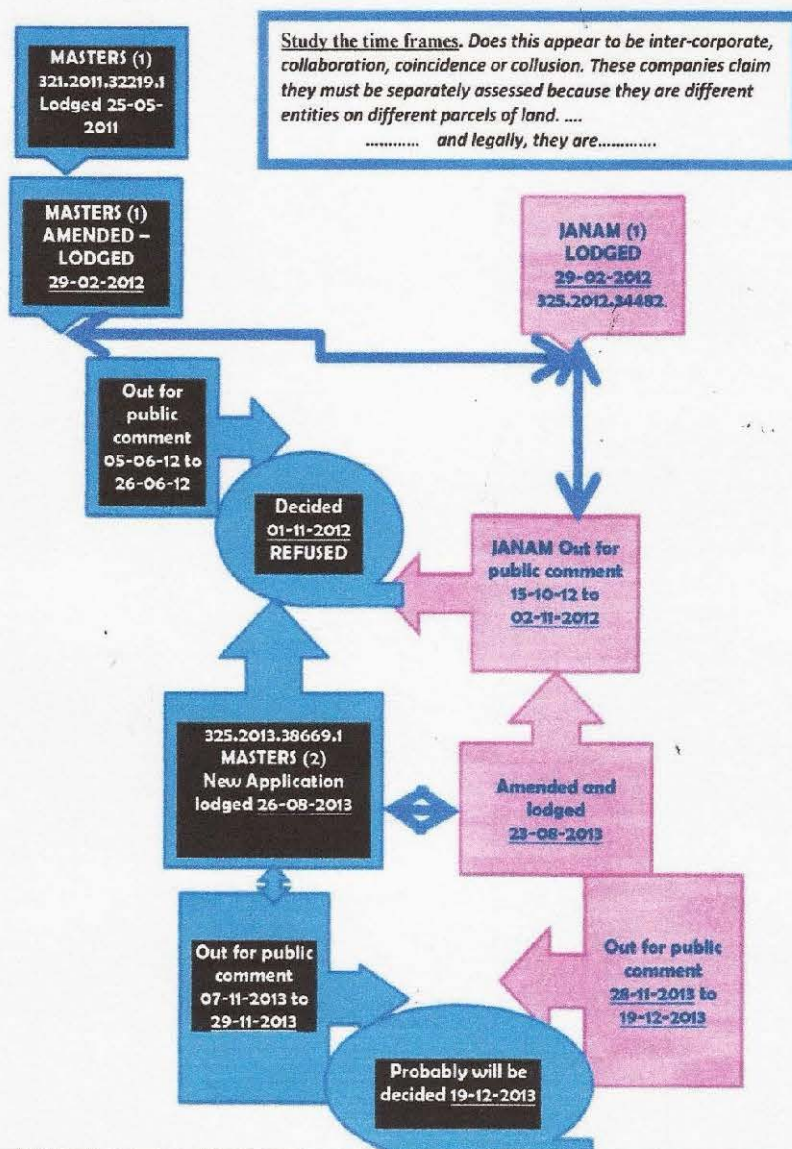
However, I'm concerned about the way that the development has been actually lodged, and I think it would have been more appropriate to have been able to deal with this development and the JANAM development at the same time, so that we could have provided the community with some sort of assurance about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

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

KRAG COMMENT:

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

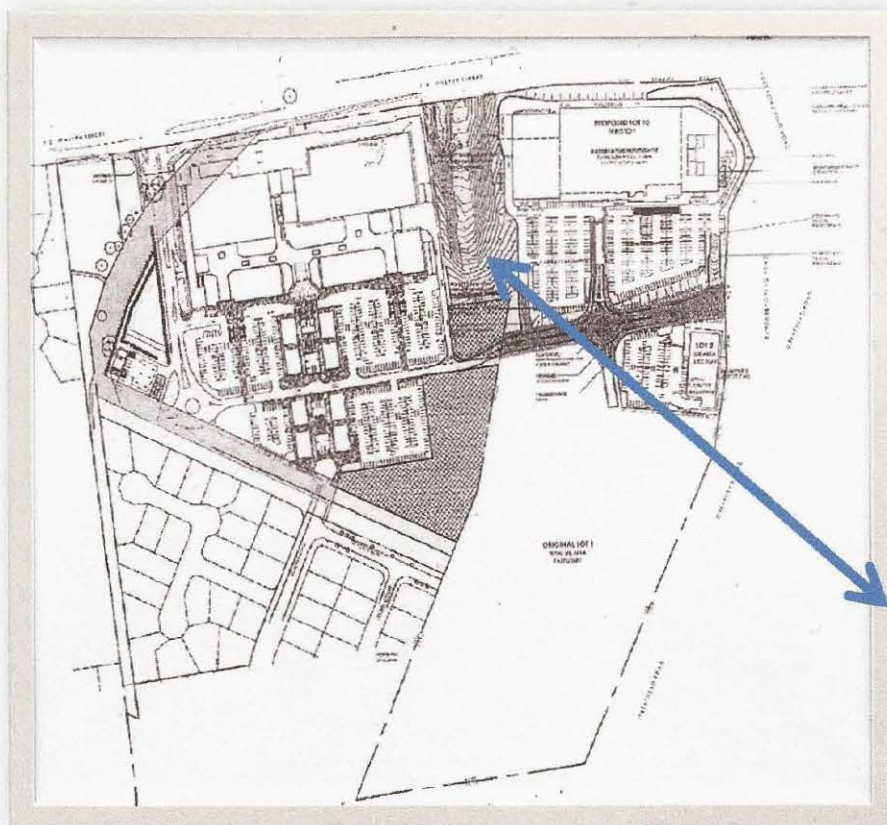
MASTERS – JANAM TIME MATRIX.



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

KRAG COMMENT:

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



Map referred to as Page 103.


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

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

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

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

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



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

KRAG COMMENT:

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

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

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

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

KRAG COMMENT:

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

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

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

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

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

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

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

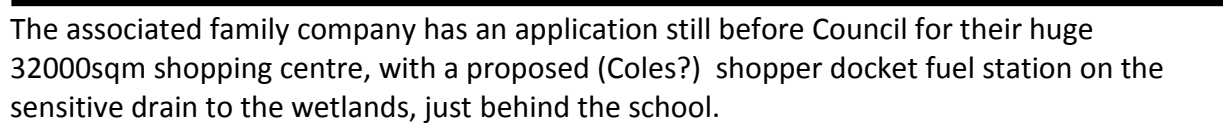
Thank you – and we now move on to Item 2

End of transcript – CD held on file

From this background our case study needs to provide an understanding of the site/s. There are two greenfield, residential A sites owned by the City’s most powerful developer. Parcel



Minister Jeff Seeney, at the request of Council, has now called in the development and will make the final decision. Because it is the duopoly, there is a general expectation that, although the State Government should say “NO” , they will probably also “roll over”. This, as you can see from this formal Council approval overall site-map will sterilize all the remaining residential land from its proper zoned use. Council’s approval includes a huge commercial round-about to commercialise the remaining residential A land . That round-about is being constructed to accommodate Bdoubles. This is Council’s formal flood map. The formal overall site map – which our media won’t print - has been overlaid onto it.



Kepnock Residents Action Group – Submission to the Productivity Commission

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



The Masters(2) site is noted, in this photo, with the proposed shopping centre joining onto it. This is the State's main East-West link and for 4 days during the flood it was impassable.

The Bundaberg region has just been classed as the unemployment capital of the nation, it is socially very vulnerable, with a tag as the obesity capital of the nation. It has a higher than national incidence of disability, the aged and is a "hot-spot" for poker machines. These are social issues which we, as a community must deal with but, it is from this background that we respond to some of the planning and zoning issues raised in your Review.

THERE IS NO SHORTAGE OF APPROPRIATELY ZONED COMMERCIAL/INDUSTRIAL LAND IN THIS CITY. In fact, Council staff (not councillors) have been "secretly" approving large tracts of land in our commercial estate for months to create the Kensington Retail Bulky Goods Precinct. The expanded Bunning is the anchor, but Woolworths have decided they don't want to be near their competition. Appendix 2 provides a similar Western Australia scenario. In this commercial war, Masters have now had a win on res "A" land, so they've publicly "trumped" Bunnings. Both are eligible for the same ratepayer-funded incentive, so "bad corporate behaviour" by Masters gets rewarded.

We base our response to your Enquiry and the following issues on:

1. The availability of alternative sites for Masters, where the appropriate zoning would bring them better long-term commercial benefits with no detrimental impact on our broader community
2. Masters – because it is a destination venue in a regional area of 120,000-140,000 people - will provide the same consumer benefits, create the same jobs, job losses and job transfers in the right zone – it doesn't have to be on residential A land
3. Ours is NOT an isolated example. It shows a national culture of corporate bullying, of exploiting the vulnerable "little people" of Australia, including small business, suppliers, providers. Local Councils, media and State Governments – who have the power to stop it – have deliberately chosen to enable this culture- in the name of "progress".



**RESPONSE TO THE ISSUES PAPER
& REGULATORY ENVIRONMENT**

Issues Paper :

6. The Regulatory Environment:

Rec. 8.1 *Your recommendation states business zonings should be broadened, with reduced prescriptive planning requirements to allow the location of all retail formats in existing business zones, with most business being able to locate in the one business zone.*

We agree – but increasingly these “big box retailers” continue to push the limits. Our example – and there are many others nationally – is one of power, money and populist appeal, with the strong media dollar – not to expand into a business zone, but to retrospectively change a liveable residential community into a huge 18 hour day/365 days a year commercial shopping centre. Our residents didn’t oppose the introduction of the Aldi, as the anchor tenant for a small (13,000 sqm) suburban shopping centre – 10,000 retail, 3,000 non-retail. Existing infrastructure would accommodate that. This is a predominantly single story residential area, and it could be appropriately buffered. Masters(1) was to have a 6m acoustic fence up against the homes, joined to a 5.5m fence to connect to the shopping centre – creating a dead-end street – with all the loading, unloading, car-parking and compactor usage up against the homes. This is a new housing estate that residents of all ages bought into on the security of the Town Plan, the State Regional Plan and State legislation. Councils actively ensure that there is no suburban creep into industrial areas – They should ensure there is also no industrial creep into residential.

Rec 8.2 *Governments should not consider the viability of existing businesses at any stage of planning, rezoning or development assessment processes. Impacts of possible future retail locations on existing activity centres.....*

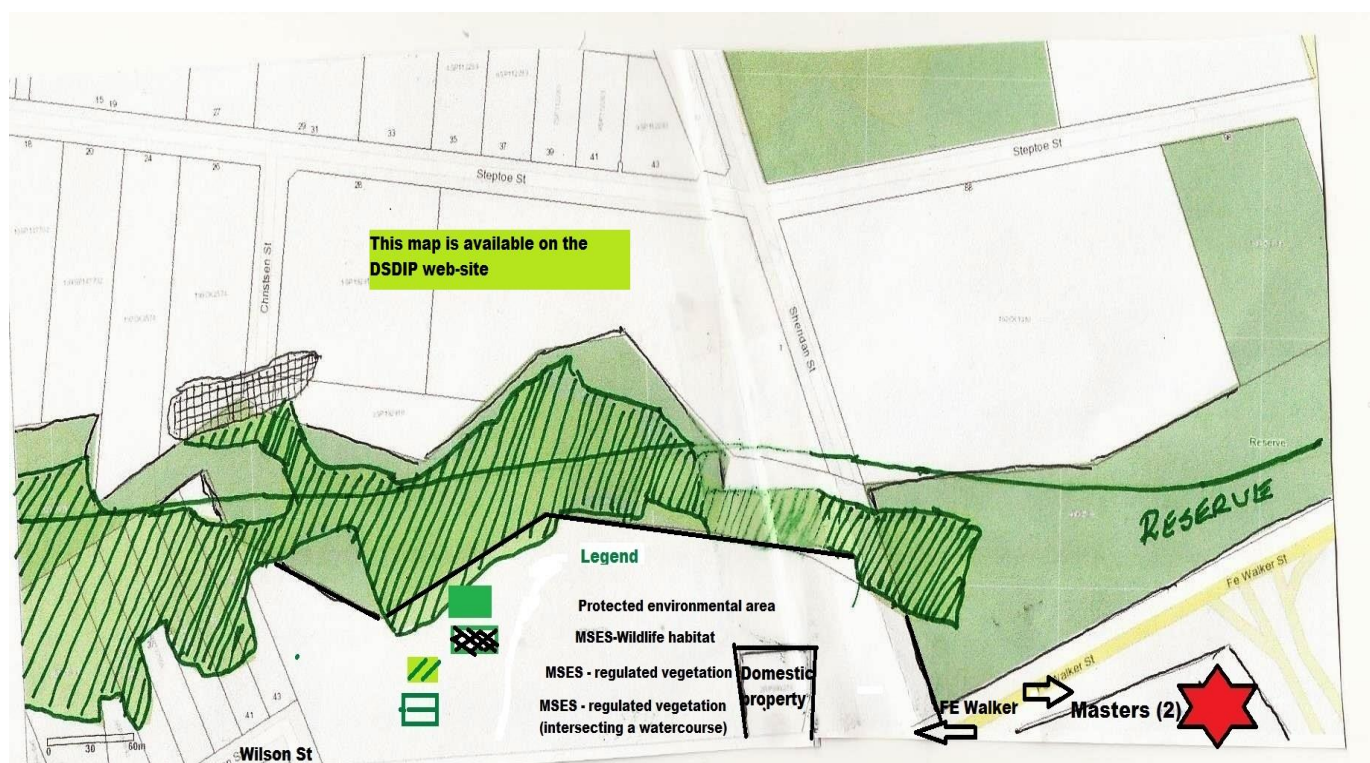
This recommendation assumes that these big retailers are going to do the right thing and lodge applications in “existing activity centres”. That doesn’t always happen in real life, and hasn’t happened here. Just as the general retail trade is hampered by the almighty power of the duopoly, land supply is often held, at least in regional areas, by a small number of powerful land-owners who determine what will be sold, when, to whom and at what price. The proposed shopping centre – (we believe it’s Coles?) is to have a Discount Department Store – which will mean dragging it out of the CBD, or other activity centre. That’s about 10 years too early, but it would be a coup for the duopoly and spell disaster for our CBD. We have a new Town Plan, in draft – and we would be very surprised if that strategic planning doesn’t include a commercial shopping hub further to the east – so - why are they trying to beat the gun? It’s because the land in question is quality, ratepayer funded serviced land for homes. That would reduce their corporate construction costs, even though putting that land under tonnes of concrete spews pollution into the wetlands and deprives our local tradies of about 90 jobs a year for 5 years. But this manoeuvre ensures Woolies have reduced costs – and we lose local jobs. The catch-cry of “jobs, jobs, jobs” is often just hype. The duopoly and the like don’t use much local content, or labour. There’s some exponential accommodation and food costs but, no one is as good at getting rid of jobs with self-serve machines, as Woolworths and Coles

Rec 8.3. State, territory and local governments should facilitate more as-of-right development processes to reduce business uncertainty and remove the scope for gaming by competitors.

Agree – in principle – sounds good, but that process is being abused by our Council, with the knowledge of both the State Government and the local media. The process also facilitates a lack of accountability and transparency. Our example shows that “as-of-right” processes can, and have, in our instance allowed for “secret” approvals by staff – worth millions of \$’s. to create an appropriate large format precinct in the right zone. But Council wouldn’t want ratepayers to know about that – might legitimise the concerns of those residents who have battled for 3 years to force Woolworths to comply with local laws. (Refer *Appendix 3 – confidential*). That wouldn’t look good for Council and their claims of “progress”.

Rec 8.4: State and Territory governments should ensure third party appeal processes within planning systems include clear identification of appellants and their grounds for appeal, and allow courts and tribunals to award costs against parties found to be appealing for purposes other than planning processes.

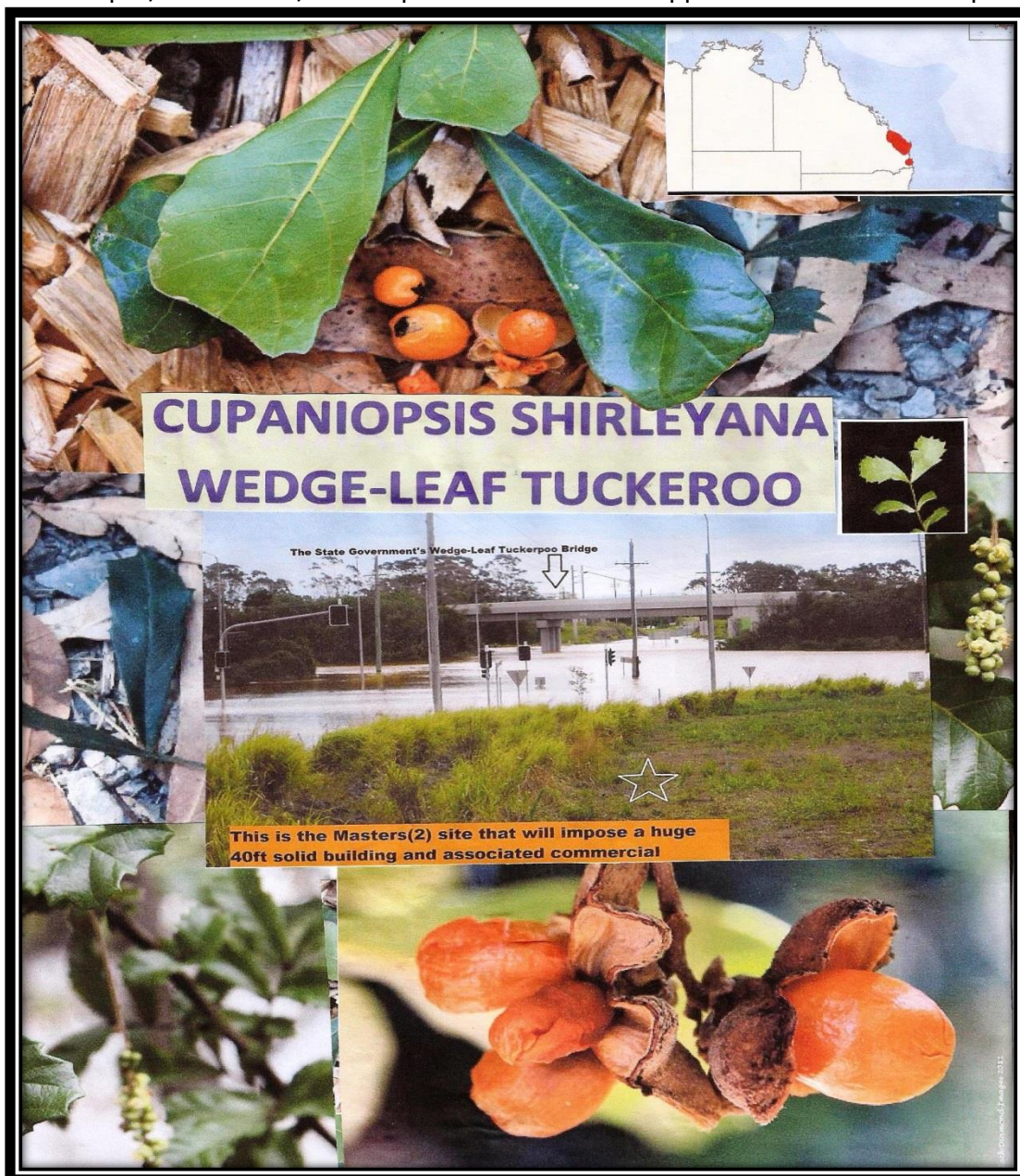
Couldn’t agree more, and the Queensland Government has taken good steps to address this issue. So, why have they let us down – and their own system as well? We were happy to go to court, and would have defended our own case. Even a 1st. year planning student would have to see we have excellent planning grounds, backed up by solid case law. Masters(1) was refused by Council on 13 solid planning grounds. Masters(2) had more. It was the same development application by the same applicant, on the same parcel of land – so those 13 planning grounds still existed. Additionally it was now in a flood hazard zone (the floods intervened), and the approval conditions did not require Masters to do anything more in anti-pollution measures than they would have had to do on an industrial estate. Yet the end recipient of the run-off (now increased from 50% for residential to 95% for commercial) was 50m over the road to the wetlands – depicted here-under



Council pays approximately \$105,000 py in operational costs for the wetlands, it has been a protected environmental area since the 80's, Council is the trustee, and the State Government acknowledges it has "matters of state environmental significance" – a wildlife habitat, regulated vegetation, and regulated vegetation intersecting a watercourse in the wetlands. Masters(2) also sits over the top of the regional aquifer, which is part of the City's underground water supply. Why would you risk salt intrusion due to reduced "percolation" because you allowed it to be covered with concrete? And it's not going to stop at Masters(2) – as the plans clearly demonstrate.

Additionally, as the next photo shows the State Government, when constructing their bridge over the Ring Road named it the "Wedge-leaf Tuckerpo Bridge" – because of the vulnerable vegetation that exists all around it.

So, having changed their state legislation to make it more difficult for appellants against council decisions – which we endorse – to lodge "frivolous and vexatious" appeals, the Minister then calls ours in, and his reasons don't stack up. Effectively the legislation to prevent frivolous appeals has deprived the "little people" of a voice to air the broad picture of developer/consortium/council processes that could appear to have been manipulated.



Kepnock Residents Action Group – Submission to the Productivity Commission

Under Queensland legislation the Minister can only “call in” a development application if there is a “state interest”, or if there are any questions about a lack of accountability or transparency about the process. There were question marks over the Masters(1) developer processes and we requested it be “called-in”. The Minister refused, as previously mentioned, stating there were no State interests – only local impact

It seemed logical to us that, as the Minister stated there were no state interests with Masters(1) – and it was the same application on the same parcel of land - then there could be no state interests with Masters(2). And we stated our case.

The Minister did not accept our case and, under due process, the 81 submitters (76 against and 5 for) were then asked to make representations as to whether or not they (1) supported the development on that site, (2) whether there was a state interest, and (3) whether or not he should exercise his power, call it in and have the state government make the decision.

He then called it in stating that it was a significant investment – post flood – and would encourage economic recovery. We agree it is a significant investment for our region, but it will provide the same economic recovery in a commercial/industrial estate – with no adverse impacts. It doesn't have to be on this particular site. The formal response provided by the Minister is in this excerpt:-

Consideration of call in

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

Written representations

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

Table 1 below provides a summary of the representations received.

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

Table 1: Summary of representations received

Our analysis:-

Respondents opposed to the development on that site. 81%

“Is there a state interest?”	35% said “YES” – 65% said “NO”	The Minister stated “NO” State Interest for Masters(1)
“Do you support calling it in?”	27% said “YES” 73% said “NO”	

That’s called Ministerial privilege, we guess, and that’s our experience with **PC rec 8.4**

Rec.8.5 State, territory and local governments should reduce the compliance costs associated with planning systems and development approvals by implementing the leading practices identified in the Commission’s benchmarking report on planning, zoning and development assessments.

We agree with the principle enumerating the need for governments to provide for the *“health, safety and general well - being of those who use the areas”* and for processes to *“ensure orderly and efficient use of land”*. We also accept that land-use planning is NOT static. We are the “victims” of gross commercial greed, media hype and the power and money of the duopoly. We have always been prepared to compromise for efficient use of that portion of this land which fronts the Main Road, even though its only entrance/exit is off a narrow council local road that services our High School and a growing residential development. That’s why ALDI is there, even though that land abuts a vulnerable eco-system, whose existence this Council has now chosen to ignore. Appropriate commercial use of that land – no further west than the Kepnock drain, and no further south than the ALDI - would provide car-parking fronting FEWalker Street – thus providing natural flood mitigation. This is a predominantly single storey designated local residential area, Masters(2) and the shopping centre are not projects that could be designated as having an “over-riding need”, and there are many other appropriate industrial/commercial sites available. They are just determined to have THIS site for a public win in their national war. The developers want a commercial wind-fall, but surely 1/3 of the cake, for a net community benefit has to be better than ALL of the cake for the developer/duopoly but resulting in a net community detriment – when we consider social capital, environmental, residential and infrastructure impacts. Compliance costs for ordinary developments are rigidly enforced – to the nth. degree – just try and erect a lawn locker or add something to a existing structure. There has to be RULES, and those RULES must apply to all. Whilst those RULES need constant revision, forward strategic planning and good economic development analysis – economic development should not occur in isolation from community development. And that’s what’s happening here. Whilst the overall costs of doing business in the retail trade in Australia continue to rise, the biggest dis-incentive of wages applies to ALL business – and the duopoly have the greatest capacity to cross-subsidise their segmented market enterprises to “get-around” that – despite their public calls to the contrary.

PC Information Request 4.1 – page 14 PC “Key Points”. “The Commission is seeking further information on the impacts of planning and zoning laws on retailer’s occupancy costs...To what extent are occupancy costs also influenced by the behaviour of retail property owners?

We are not in a position to comment on the commercial aspect, but increasing technology, on-line trading, increased introduction of self-serve - especially by the larger retail consortiums - does herald a need for reviewing the typical “shopping centre concept”. The CBD is the heart of regional Australia and the retention of its vibrancy is crucial, especially when regions like Bundaberg are the hub of a much larger regional catchment. Yet, this has not been a consideration with all the drama here because the developer/duopoly consortium expected to be able to “wear us down” – just like they have done in many other parts of Australia – for purely commercial gain. And, you know, maybe they **will** win – if the State Government capitulates due to political pressure.

Business in Australia is in transition, recovering from the GFC, globalising, becoming tech savvy and all are subject to the burden of high wage costs, because of our standard of living. The retail industry has to drive down costs to dominate their competitors - that’s business, but they cannot expect to do it retrospectively. There are many vacant shops in our local shopping centres – just as there are in CBD’s throughout Australia.

PC Information Request 4.2 -

How can State and local Governments most efficiently accommodate the interests of both retailers and residents in mixed development in relation to noise and other issues (congestion and safety for example)?

Increasingly residents are reverting to a re-introduction of fencing around residential properties. In the 60’s, with its more relaxed life-style, people started to do away with fences. Now they are on their way back – they are taller, solid and aimed at security in an increasing need for security of person and property. It’s also an exclusion tool from the impact of community, traffic, privacy and public scrutiny on ordinary lives.

The very public commercial war of Bunnings/Masters in their fight for market domination – not market share – has provided some lessons which, we believe are important to your request on the impact of mixed developments.

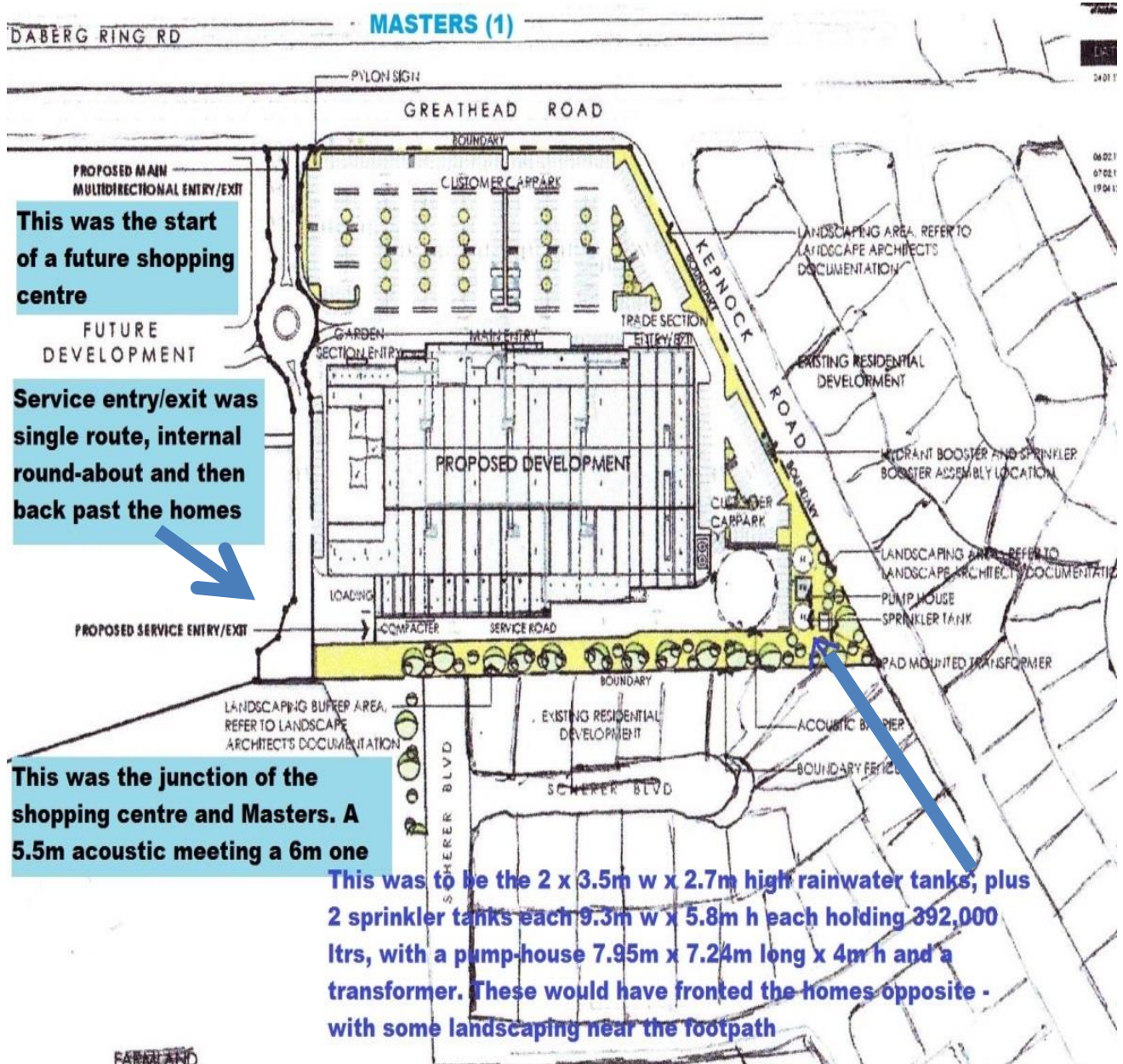
The end conclusion from the Victorian “*Report of the Advisory Committee Pursuant to Section 151 of the Act*” on Master’s entry into the Australian market to take over the DIY hardware market from their competitors – Bunnings – was then known as the **Woolworths “Oxygen” Proposals**. It was delivered on 25 August, 2010. It covered 11 separate development applications for their standard “big box retail outlets for bulky goods” in that State. Some of these were “mixed developments” – some were not. None was a blatant “grab for prestige location land” with, perhaps the exclusion of North Geelong, which was called in by the Victorian Government and refused. The other 10 were approved. The

Kepnock Residents Action Group – Submission to the Productivity Commission

common problems with the Woolworths attack on the Australian market were three-fold – with “mixed developments”:-

1. An over-reliance on acoustic fencing to manage the residential interface
2. Fleet management to over-come delivery/loading issues
3. A reluctance to alter their configuration of the building plans for assimilation onto specific sites – where this was required.

This was the Bundaberg Masters(1) proposal – which was defeated by only 1 vote



In our experience this corporate culture to drive the development onto a selected site – at the lowest possible corporate cost- has not waned. In fact it has gained momentum here in Kepnock, Bundaberg. Site selection has been one of Master’s downfalls. These comparisons

with Masters(1) and Masters(2) allow for personal reader objective analysis. This is all prime Res A land in a new housing estate, with new homes still being built.

THE DRAWING AND DESIGN IS SUBJECT TO COMMENT AND MAY NOT BE REPRODUCED WITHOUT THE WRITTEN CONSENT OF LEFFLER SIMES ARCHITECTS

DATE: 10/10/10
DRAWN: J. S. S.
CHECKED: J. S. S.
SCALE: 1:500

REVISIONS:
1. 10/10/10
2. 10/10/10
3. 10/10/10
4. 10/10/10
5. 10/10/10
6. 10/10/10
7. 10/10/10
8. 10/10/10
9. 10/10/10
10. 10/10/10
11. 10/10/10
12. 10/10/10
13. 10/10/10
14. 10/10/10
15. 10/10/10
16. 10/10/10
17. 10/10/10
18. 10/10/10
19. 10/10/10
20. 10/10/10
21. 10/10/10
22. 10/10/10
23. 10/10/10
24. 10/10/10
25. 10/10/10
26. 10/10/10
27. 10/10/10
28. 10/10/10
29. 10/10/10
30. 10/10/10
31. 10/10/10
32. 10/10/10
33. 10/10/10
34. 10/10/10
35. 10/10/10
36. 10/10/10
37. 10/10/10
38. 10/10/10
39. 10/10/10
40. 10/10/10
41. 10/10/10
42. 10/10/10
43. 10/10/10
44. 10/10/10
45. 10/10/10
46. 10/10/10
47. 10/10/10
48. 10/10/10
49. 10/10/10
50. 10/10/10
51. 10/10/10
52. 10/10/10
53. 10/10/10
54. 10/10/10
55. 10/10/10
56. 10/10/10
57. 10/10/10
58. 10/10/10
59. 10/10/10
60. 10/10/10
61. 10/10/10
62. 10/10/10
63. 10/10/10
64. 10/10/10
65. 10/10/10
66. 10/10/10
67. 10/10/10
68. 10/10/10
69. 10/10/10
70. 10/10/10
71. 10/10/10
72. 10/10/10
73. 10/10/10
74. 10/10/10
75. 10/10/10
76. 10/10/10
77. 10/10/10
78. 10/10/10
79. 10/10/10
80. 10/10/10
81. 10/10/10
82. 10/10/10
83. 10/10/10
84. 10/10/10
85. 10/10/10
86. 10/10/10
87. 10/10/10
88. 10/10/10
89. 10/10/10
90. 10/10/10
91. 10/10/10
92. 10/10/10
93. 10/10/10
94. 10/10/10
95. 10/10/10
96. 10/10/10
97. 10/10/10
98. 10/10/10
99. 10/10/10
100. 10/10/10
101. 10/10/10
102. 10/10/10
103. 10/10/10
104. 10/10/10
105. 10/10/10
106. 10/10/10
107. 10/10/10
108. 10/10/10
109. 10/10/10
110. 10/10/10
111. 10/10/10
112. 10/10/10
113. 10/10/10
114. 10/10/10
115. 10/10/10
116. 10/10/10
117. 10/10/10
118. 10/10/10
119. 10/10/10
120. 10/10/10
121. 10/10/10
122. 10/10/10
123. 10/10/10
124. 10/10/10
125. 10/10/10
126. 10/10/10
127. 10/10/10
128. 10/10/10
129. 10/10/10
130. 10/10/10
131. 10/10/10
132. 10/10/10
133. 10/10/10
134. 10/10/10
135. 10/10/10
136. 10/10/10
137. 10/10/10
138. 10/10/10
139. 10/10/10
140. 10/10/10
141. 10/10/10
142. 10/10/10
143. 10/10/10
144. 10/10/10
145. 10/10/10
146. 10/10/10
147. 10/10/10
148. 10/10/10
149. 10/10/10
150. 10/10/10
151. 10/10/10
152. 10/10/10
153. 10/10/10
154. 10/10/10
155. 10/10/10
156. 10/10/10
157. 10/10/10
158. 10/10/10
159. 10/10/10
160. 10/10/10
161. 10/10/10
162. 10/10/10
163. 10/10/10
164. 10/10/10
165. 10/10/10
166. 10/10/10
167. 10/10/10
168. 10/10/10
169. 10/10/10
170. 10/10/10
171. 10/10/10
172. 10/10/10
173. 10/10/10
174. 10/10/10
175. 10/10/10
176. 10/10/10
177. 10/10/10
178. 10/10/10
179. 10/10/10
180. 10/10/10
181. 10/10/10
182. 10/10/10
183. 10/10/10
184. 10/10/10
185. 10/10/10
186. 10/10/10
187. 10/10/10
188. 10/10/10
189. 10/10/10
190. 10/10/10
191. 10/10/10
192. 10/10/10
193. 10/10/10
194. 10/10/10
195. 10/10/10
196. 10/10/10
197. 10/10/10
198. 10/10/10
199. 10/10/10
200. 10/10/10
201. 10/10/10
202. 10/10/10
203. 10/10/10
204. 10/10/10
205. 10/10/10
206. 10/10/10
207. 10/10/10
208. 10/10/10
209. 10/10/10
210. 10/10/10
211. 10/10/10
212. 10/10/10
213. 10/10/10
214. 10/10/10
215. 10/10/10
216. 10/10/10
217. 10/10/10
218. 10/10/10
219. 10/10/10
220. 10/10/10
221. 10/10/10
222. 10/10/10
223. 10/10/10
224. 10/10/10
225. 10/10/10
226. 10/10/10
227. 10/10/10
228. 10/10/10
229. 10/10/10
230. 10/10/10
231. 10/10/10
232. 10/10/10
233. 10/10/10
234. 10/10/10
235. 10/10/10
236. 10/10/10
237. 10/10/10
238. 10/10/10
239. 10/10/10
240. 10/10/10
241. 10/10/10
242. 10/10/10
243. 10/10/10
244. 10/10/10
245. 10/10/10
246. 10/10/10
247. 10/10/10
248. 10/10/10
249. 10/10/10
250. 10/10/10
251. 10/10/10
252. 10/10/10
253. 10/10/10
254. 10/10/10
255. 10/10/10
256. 10/10/10
257. 10/10/10
258. 10/10/10
259. 10/10/10
260. 10/10/10
261. 10/10/10
262. 10/10/10
263. 10/10/10
264. 10/10/10
265. 10/10/10
266. 10/10

1. This * marks the “round-about being constructed to take B doubles”
2. The huge water tanks now are the entry statement from the East – The Coast.
3. The “drainage easement” in yellow to the left is where Cr. Rowleson reckons they just have to lodge a new application and we could end up with a “Dan Murphy’s”
4. The loading and unloading now fronts Walker Street, with the 11m frontage and car parking now joining the ALDI car-park, and fronting the new homes to the south.
5. There is NO acoustic fencing. Not needed – No homes nearby – they state.
6. The shopping centre will link to Masters with the B-double round-about, and this will then reach up to the old Masters(1) site.

So this is Masters idea of a “mixed development” and they want an 18hour trading day – with no restrictions.

A very determined Council/media/developer/duopoly consortium campaign has been employed against our resident group to vilify us for “*daring to halt progress*” and “stop jobs”.

The Bundaberg community has already lived through all this with the current Bunnings business – approved, contra to Council and over-ridden, (10 years ago) by the then State Government. It's a long story with the same message. It didn't work for Bunnings, who had a single entry/exit off a 4 lane State Highway, for all the reasons of traffic, congestion, etc. – it was also next to homes. Now, 10 years later Bunnings have accepted they need to relocate to the industrial/commercial estate where they should have gone in the first place. And as that is happening with Bunnings, Masters are determined to win the local war – at whatever cost. It's also perceived by them as a win against Bunnings in the national war.

This 3 year duopoly drama, as evidenced here, has taken a huge toll on the health of the residents and created unnecessary community angst. But, when a Councillor – objecting to the motion for approval - for all the right reasons, states he has concerns for the future of the area – and then votes **FOR** it - that says it all. The residents are caught in the duopoly march for market domination. For Woolworths - securing their development on prime res A land, next to an environmental wetlands, and riding rough-shod over vulnerable residents- - and their business rival - would be celebrated in their board-room with much “popping of champagne corks”. It's a competitive commercial strategy which “takes no prisoners”.

But this sets a dangerous precedent for future corporate behaviour and future council approvals. In recent weeks, a dog/car wash has now been approved by Council right next door to homes in a North Bundaberg res A area....and this is covered in our Facebook page.

There is a place for mixed development, but it takes good forward planning, and we believe our approach to ALDi is a good example of that. It was based on independent advice from a \$43,000 ratepayer funded report. ALDI is low in stature, the traffic infrastructure is manageable, even though problematic at school peak-times. Add a few specialist shops, some non- retail community services, there's a nearby school, good transport infrastructure, the nearby environmental park could be linked in and you would have a good mixed development. It is flood free if you use car-parking to provide a natural water retention basin, and treat this smaller commercialisation with sound environmental measures, working with the local environmental movement to contain pollution and contaminant run-off.

Deliveries for something like a small neighbourhood shopping centre to service the growing region – NOT a huge regional destination for Masters with their 35,000 commercial /bulky goods and industrial inventory – are manageable. It can be appropriately buffered and residential development next to it would be with the knowledge of what currently exists.

You cannot ameliorate the impacts of something like Masters, in an existing res A area – especially when it is to be the door for what is intended as the City's biggest regional shopping centre. They know it, we know it, but the next step in the local “war” is the shopping centre – supposedly a Coles enterprise. It has a Coles shopper docket fuel station behind the State High school, which will tower over new homes – nowhere near a main road. This application has been out to public notification twice – and the decision-making process has now been halted whilst the outcome of Masters is determined – although the formal reason is far more obscure than that. If approved, and council is indicating it will be, it will also be appealed. It has 4 commercial objectors as well as 65 residents, including us.

The Minister's refusal to allow residents to use their collective legal rights, robs us of the benefit of case-law to ensure the State assessment is based on "whole of site" – not just Masters. There's a reason for that – it makes it easier to approve.

So our case study IS relevant to your "information request". It depicts, in real life what is required to have a good mixed development outcome – with strategic forward planning, but also depicts the horrors of a mixed development application, retrospectively, - based on power, corporate bullying, media hype and Council co-operation – for all the wrong reasons.

Whilst Masters have been trying to win this Kepnock, Bundaberg manoeuvre in their national war, our Council has been busily – and "secretly" - approving a large bulky goods retail development precinct – with an expanded Bunnings as the anchor tenant. "Delegated authority" and "as-of-right" processes are handy, when you don't want the community to get the overall picture.

PC Information Request 5.5.

What are the anticipated benefits and costs of specific reforms for individual businesses, the retail industry and the community?

As "victims" of corporate bullying, Council, developer, media manipulation and the powerful march of the duopoly – with their hold on some 80% of the Australian market- we believe that the specific reform required for Business Australia is for the Federal Government to stop pussy-footing around and give all business a level playing field. We would question whether any country- other than Australia and New Zealand – would allow the market domination that Business Australia now has to deal with.

Your own statistics confirm that the biggest barrier for business is wages – which are the highest in the world. Yet, Australia has a tyranny of distance that increases expenses. We cannot compare like-for-like with international competitors- nor even with urban and regional/rural. No one-size-fits-all, and reforms need to provide the flexibility for different areas, with different needs to deal with their own regional issues.

We can skirt around the electronic age, on-line sales and self-serve destruction of jobs by the big cartels, but there are large areas of regional Australia who still do NOT have good internet coverage. And Bundaberg is still one of those areas.

If small to medium business raise a voice of protest, they are drowned out by the big national retailer bodies but, as some businesses exit the market place - forever – the value of competition is being controlled by fewer and fewer businesses.

Control of competition, be it in land, shopping centres, or markets - should not be vested in the few – but the many. This will not happen until the duopoly's control of Australia's market is put into a fairer ratio. We should learn from international mistakes – not repeat them.

Progress on implementing recommendations and comment on state planning and zoning changes since 2011 - from the Large Format Retailers Association (formerly bulky goods) - page 95 (progress since 2011)

Qld – LFRA commentthe LFRA is encouraged by the recent progress and direction of planning reform in Queensland.

Our case study is self-evident, and we certainly don't endorse the LFRA comments. Queensland reform has returned ultimate power to the Council. That's fine provided processes are accountable and transparent. But, this can also broaden the opportunity for developers, especially where you are dealing with a lot of power and money in the hands of a few, to manipulate the system and achieve the dilemma confronting us for the past 3 years

Planning laws in Queensland only allow assessment based on individual development applications – already in the system – not what might be coming, not what they suspect might be the ultimate motivation – but the application under assessment. Our debacle owes its origins to the control of land in the hands of a few, to their ability to manipulate the planning system by using incremental applications to ensure that the results of one assessment process cannot be fed into the assessment process of the other. Known as “drip-feeding” it also capitalises on regional parochialism with an undertone – that if this development isn't approved then we'll take it to another town – and you will miss out on this “significant investment” in YOUR city. We make no assertions, but the culture exists – as the development industry well knows. They invented it.

Our earlier upload in our transcription of the Council approval of Masters(2) is an excellent example of how this process works. You finish one round of public notification for project 1 before you open the round for project (2) and, if there is an over-run, because of the time factor – it will be minimal. But that window of opportunity for the community – must be kept narrow.

Here we have Masters(2) approved nearly 6 months ago, yet the formal map, which links it to the shopping centre has only ever been re-produced on our Facebook page. Don't want the public to know too much. The local media won't print it – people might understand our dilemma, and we all know how print media is supported by the duopoly.

But the local script didn't run true to time, with Christmas holidays intervening. The Masters(2) decision couldn't be made on 19th. December – so Council called a special meeting as early as possible in January. That date then clashed with the legislative time frame for the decision on the shopping centre. Some delay-tactics, extensions etc. and now we have the shopping centre on hold while the developers await the Master(2) outcome. Same family companies – so they work together, under different names. The following gives a clearer picture:-

A Facebook upload showing both PN's - on the same block of Janam land

Surely it isn't - But YES it is - These are the MASTERS(2) and JANAM(2) Public notices. But, no one can make an assessment on the impact of the two combined - different companies, different properties - but both linked by internal road systems and stated determination to expand further south

- 1-Kepnock Place Residential Development
2. JANAM (2) - Shopping Centre
3. MASTERS(2)

The land parcels are owned by members of the same family – but under different names. This photo confirms that the Masters(2) public notification signed was placed on the wrong block of land. This land is JANAM's land (parcel 2) – the Masters (Santalucia) land (parcel 1) commences about 6 metres to the right of this photo. The contractors erecting it were told by us at the time – but would not change it. It was due to be removed on the 29th. December, but was taken down 24 hours early – on 28 December, 2014. Again the contractors were told this was wrong but they proceeded to dismantle it anyway. The JANAM shopping centre public notification period commenced on 28 December, and Council was immediately advised of the discrepancies. They admitted the non-compliance, but stated it was immaterial. This photo also depicts the junction of the two parcels of land relevant to Masters(1). The Masters (1) 6m acoustic fence would have joined a 5.5m one for the shopping centre on this corner. What a disgraceful example of a mixed development, but it nearly got through. Right is not always popular, but popularity doesn't always mean it's right, either.

Additionally, 2 of the submissions against Masters(2) went “missing”. Our investigations led to them being “found”. They were “*mis-filed*.”



TIME LINE

MASTERS- BUNDABERG

Date	Action	Information
21.02.2011	Santalucia lodges Lot reconfiguration (Appl No 24594)	States for residential
25-05.2011	Santalucia changes application –(still residential)	
25-05-2011	Masters(1) is lodged(Appl 32219)	
18-08-2011	Santalucia is given an extension of time	
20 09-2011	Santalucia’s RAL is refused by Council	
30-09-2011	Santalucia lodges P&E appeal against Council’s refusal (38/11)	
23-11-2011	Santalucia withdraws P&E Appeal	
12-12-2011	Masters request extension of time	
09-02-2012	Change to application – Council refused Kepnock Rd access	
29-02-2012	Masters lodges amended application	
29-02-2012	JANAM lodges shopping centre application(App 34482)	
03-05-2012	Santalucia lodges new RAL application (App 34980)	
27-09-2012	Masters request extension	
08-10-2012	Santalucia requests extension of time	
10-10-2012	Masters request suspension of decision making period	
01-11-2012	Council refuses RAL	
01-11-2012	Council refuses Masters(1)	
01-11-2012	Public notification for shopping centre closes	
	Australia Day week-end – 2013 Floods hit Bundaberg	
26-08-2013	Amended application lodged for JANAM shopping centre	
26-08-2013	New application lodged for Masters – FEWalker St –(App 38669)	
04-09-2013	Amendment to Masters(2) plan	
07-11-2013	Public notification Masters(2)	
21-11-2013	Minor amendment – JANAM shopping centre	
28-11-2013	Public notification – JANAM(2) commences	
29-11-2013	Public notification Masters(2) closes.	
10-01-2014	Request for extension of time –Masters(2)	
23-01-2014	Masters(2) approved by Council	
30-01-2014	Extension of time JANAM(2)	
20-02-2014	Further RFI from Council for JANAM (2)- Extension granted	
20-03-2014	3 appeals against Masters(2) lodged in P&E Court	
16-04-2014	Minister announces proposed call-in of Masters(2) application	
12-05-2014	End of Ministerial representation period for Masters(2)	
06-06-2014	Application “called-in” by Minister. New decision date 04-08-2014.	

Council is now responsible for much of what was, previously, concurrence agency approvals. Whilst the establishment of the one State concurrence agency (SARA) has been a massive improvement, it has allowed Council to dismiss concerns about the regional aquifer (***“there’s no requirement for us to consider that under State legislation”***)

The State Government previously considered matters of environmental significance, but that passed to Council on 1 July, 2013, and Masters(2) was lodged August, 2013. Even though the wetlands is a Council responsibility, is protected and has matters of state significance, Council dismissed the wetlands with a statement that no important eco-systems abutted the Masters(2) site. It has been separated from the neighbouring res A land for the last century by FEWalker Street, but the res A zoning protected the wetlands with the least possible contaminating run-off.

IN CONCLUSION WE PROVIDE THE FOLLOWING COMMENTS TO SOME OF THE SUBMISSIONS IN THE EARLIER REVIEW PROCESSES – AS PROVIDED ON THE WEB-SITE

LFRA – page 9. There is a “common need to reduce the quantum and impact of restrictions in planning legislation”..... ..”Large Format retailing is a permissible and encouraged land use on lower order Business and Commercial zoned land and, in some cases, industrial land” .

Comment: - This type of retailing, by its very nature :-

1. Is auto centric and creates logistic issues with deliveries and pick-ups
2. requires effective road systems, to deal with the heavy articulated trucks that are an essential part of its business.
3. Has its own guidelines, to ensure it doesn’t dominate the landscape of the selected site/s, but self-regulation can, and often is, manipulated.

It is questionable that LFRA business has a place in mixed developments, especially retrospectively. Pro-active strategic planning for the future is encouraged – and should be based on the premise that “if those making the decisions would not like it next to THEIR homes – then that’s a good litmus test for everyone else.”

ARA – page 25.(1) “take into consideration the social and economic impact of “dead centres” when local government undertakes assessment of new “out-of-centre” planning proposals. The ARA would support this if part of that assessment would be to still allow rejuvenation projects in existing retail areas. It is also important to consider “out of centre” developments which are beneficial to the community such as outlying areas”

Comment – Totally agree. This is the final analysis of our group’s physical count of vacant shops in our area, including the CBD and shopping centres. The working papers have been confidentially supplied (*Appendix 4*). During the flood two of our shopping centres were inoperative for 5 months, as were the two CBD hardware suppliers. Our city coped with the reduced supply. No one starved, the remaining businesses did well and, while we welcomed back these stores after refurbishment – they were missed, but we coped. There is only so much money to spend. The Council had two independent reports (\$78,000) which stated that no out-of-centre development should be considered, and a small shopping centre in Kepnock would

accommodate future growth in Bundaberg's eastern corridor. Council ignored this as well as all the planning instruments and legislation. Our mitre10 hardware store – not in a flood prone zone – is still closed – after more than 3 years

BUNDABERG EMPTY SHOPS REPORT SUMMARY

This Report is backed by source documents which form part of this Report. A map of the areas researched by members of the KRAG team is also part of this report

Bundaberg

Page 1	85
2	12
3	12
4	<u>46</u>

Total Empty Shops	155	155
--------------------------	------------	------------

Burnett Heads	9	
----------------------	----------	--

Bargara	<u>10</u>	<u>19</u>
----------------	------------------	------------------

<u>Total City & Coast</u>	<u>174</u>	
--------------------------------------	-------------------	--

**Do we need more when there are
already so many empty?**

The Masters(2) land is owned by the developer who previously owned the City's largest shopping centre – to the west (Sugarland). The Master's proposal- aligned to the subsidiary family's proposed shopping centre- and the proposed future commercialisation of the entire site would create, in time, a huge regional shopping centre. Is the timing right, has the new electronic technology been factored in, is the existing residential infrastructure appropriate, how has this been factored into future strategic planning? Legitimate community questions. Well, these sites only have the owner's master plans – and no one knows what they are, so Cr. Rowleson was right in raising those issues. So have we?

ARA – (2) “Costs be awarded against vexatious planning appeals would, in all reason, reduce compliance costs, time and funding costs for retail developments”

Comment. – Agreed in principle. It takes a lot of courage for “little people” to take on – the Council, the duopoly, the City's most powerful developer and the State Government in a Court appeal, after the State Government has changed the legislation to ensure that all parties carry their own costs and vexatious appeals could have costs awarded against them. But we had to risk our life's assets to do that, knowing we could only use our own resources to fund an appeal, so we would be doing it all ourselves. We did not know whether there would be any other appellants, but we had to take that action. Our community deserved it and we will have to do the same if Council approve the shopping centre. This is wrong, wrong, wrong. Now we have been denied our legal rights to put this case study on public display, and test it on the basis of planning law – not power, not might, not the duopoly, not money, not the jobs hype and not media manipulation – just FACT. What the Queensland legislation has done is provide a disincentive for the “little people” to have a voice. Many are watching, with interest, the outcome of Bundaberg Masters(2) – not least the associated family shopping centre proposal – which is the next one off the line.

ANRA – page 9

2.15 – “Members also report the continued application of inconsistent and binding local government constraints on time-frames and vehicles for making deliveries to and from stores. “

Comment:

Transport logistics mean transport deliveries cannot be organised within acceptable lifestyle time-frames, especially if the goods have had long distances to travel. Would the directors of ANRA approve large trucks, and fork lifts only metres from their OWN homes. The comment is valid, provided the stores are located in appropriately zoned areas. Ours is probably the only case study that presents the other side of the argument – from a non-commercial “victim” perspective. The system is designed to ensure the “victims” go under and are never heard in the public forum.

ANRA – page 12. Planning and Zoning

“Covers concerns about regional planning schemes, zoning, definitions, development approvals, design requirements, land-owner consents, prescriptive controls, state agency conditions, community consultation requirements, infrastructure charges and contributions.”

Comment

It is all well and good to talk about “restrictive retail provisions as part of planning schemes amidst broader desired community outcomes” on one hand, and then encourage an “18hour economy” on the other. The incorporation of residential use into retail proposals is only valid if it is incorporated into the strategic planning stage – not a greedy, retrospective and opportunistic commercial grab for a developer/duopoly windfall at someone else’s cost – as we are experiencing here. Desired community outcomes, properly planned, subjected to the “net community benefit” test – based on local data –not manufactured from a city-based “cut and paste” desktop program, are a valid part of any retail proposal – but it must have local and site specific content.

Our own case study on community consultation also shows how some retail developers and land-owners can and do manipulate that.

WOOLWORTHS:

Their submission covered “trading hours restrictions, the imposition of red tape, and state levied fees and charges to create significant cost differences between states and territories. Sadly this is the cost of doing business for everyone. Woolworths are not alone. They are a multi-national business, but not everyone wants unrestricted trading hours – Australia wide. However, it would seem that, unlike many other Australian SME businesses – they can cross-subsidize – thus diluting the over-all costs. .

Woolworths have hardly covered themselves with glory in the cost management exercise here. Masters(1) would never have worked on time-management principles, alone – even if Council had approved it. We would have appealed it – with a strong likelihood of winning that appeal. A single entry/egress local road- that requires “doubling-up” by large vehicles is not cost-effective. That was a problem for Masters(1) and it’s the same for Masters(2).

Masters(2) has seen further resources poured into their second application. Even if the Minister now endorses the Council approval – we now have no right of appeal- the site is too restrictive, with no guarantee the shopping centre will be approved, so they have, in the short term only one entry/exit off a small Council road. This is yet another example of poor site selection –for market domination – not market share – with poor community outcomes

There have always been alternative, available, commercial sites – as confirmed by Cr. Rowleson during the Council meeting. Masters could have been up and running 18 months ago, if common sense and sound business logic had prevailed. But it didn’t, and still hasn’t.

COLES: - page 12

2.7 Transport Restrictions: “Extended time deliveries are a practical example of how retailers could maximise benefits and reduce costs related to time of transportation restrictions. This would ultimately increase the operational efficiency of their transport and logistics network.”

Comment

Agreed in principle, provided they are in the appropriately zoned area. Their local example of a shopper docket fuel station towering over new homes, behind a high school is not consistent with good practice. Neither would their delivery trucks grinding up a 4m gradient

next to homes be considered best practice – but that’s still before Council, so time will tell on that one.

3.1 – Recommendation by COLES

“that operational issues not be included by local government in either a planning permit or development consent due to the fact they are fundamentally not building or planning issues”

COMMENT

Coles state they “understand the aim of a restriction is to protect the amenity of the local area, but certain restrictions are unworkable.....”. However, Coles is usually a part of a larger shopping centre. That is their ultimate aim here in Kepnock. Not very often do they trade in solitary isolation. Someone has to have oversight of their daily compliance with local issues of delivery, parking etc. Or, are they requesting an exemption from the RULES that apply to everyone else. Yes they are a big player, but they are part of a whole community. The RULES should be fair and reasonable, and they should apply to everyone

3.3– Recommendation by COLES

‘The “night-time” hours during which commercial businesses must be entirely silent should be re-defined to midnight to 6.am. Noise standards could be provided for business operations during sensitive “evening” and “morning” periods.’

COMMENT:

In the real world this would become 1am as staff would need to remain to do all the necessary opening and slamming of doors, motors could be left running, brakes and fork lifts would be needed, perhaps gantries for heavier loads. If it’s frozen freight there could be refrigeration plants still running, especially if the delivery has another stop to make. Surely COLES do not think that the current 10pm to 6am curfew is adhered to. Anyone living near a shopping centre would confirm it isn’t. Yet, we are facing a COLES venture on prime res A land, next to homes. It’s a res A zone – and now they want midnight to 6am – make that 1am to 5am in reality time. Would the industry noise standard be signage to avoid slamming doors, reversing “quietly”, no braking and no forklifts. This was the recommendation for fleet management for Bundaberg’s Masters(1). How do you ensure all delivery trucks have no reverse “beepers”? Some staff have to remain and “night-filling” the shelves is standard business practice.... Self- regulation seldom produces the desired results

3.4 – Recommendation by COLES

“ Coles believes local government should be provided with specific guidance for legislative responses to issues around misappropriated and abandoned trolleys to ensure national consistency across LGA’s”

Comment:

Yes we agree. What’s more we recommend that there be a legislative requirement to use the coin deposit system. This would protect the retailer’s investment, reduce council officer frustration and the number of abandoned trolleys littering City’s streets. Bundaberg’s Kepnock ALDI is about 500 metres from residents – shopping trolley are not a problem – but they certainly will be if the proposed shopping centre is approved. Self- serve technology is not “customer- friendly” either, especially for the “elderly or parents” for whom COLES

Kepnock Residents Action Group – Submission to the Productivity Commission

show so much concern about implementing a coin deposit trolley system. The duopoly's self-serve technology destroys many job opportunities and reduces corporate overheads. The loss of trolley boy jobs would be miniscule in comparison to the self-serve job losses – which will continue to grow as people are forced to adapt. None of these trolleys are anywhere near a shopping centre



Again the usual RULES apply – if it's YOUR property it's YOUR responsibility

Our concluding input into this submission is the issue of jobs, jobs and jobs – constantly put forward by the duopoly as the reason Councils should approve their developments, irrespective of planning legislation. And often supported by State decisions.

We make the following points:- It is not a criticism – it is a fact of doing business in to-day's large format retail business. You need speed, expertise and someone who understands your buildings and requirements- from architecture down to landscaping and fit-outs.

1. The jobs hype is just that - hype
2. The permanent jobs supposedly created – because it is retail - are at the loss or transfer from existing businesses – often small local business.
3. The construction phase provides little local employment, because their formats are standard – with most of the materials and expertise sourced elsewhere

4. Cement dries quickly so it might be a beneficiary of their local requirements, although most of their framework is pre-constructed. Crane hire could be a beneficiary.

The list is endless, but the necessary point of this conclusion is that the duopoly's march onto this res A precinct will destroy some of, if not, the best quality residential land in the region. Good residential land is now at a premium following the floods and the permanent loss of so many homes over North. Local builders confirm that the nearby alternative residential land is basalt rock based and they would rather spend more to buy a lot here than anywhere else in the eastern growth corridor.

The nearby residential estate (by the same developers) went onto the market in September – 24 lots. Now – only 9 months later only 5 lots remain unsold and 19 homes are in various stages of construction and/or completion.

Commercialisation of this entire precinct will rob our City of \$131m in investment value, and rob our local tradies of the opportunity for 90 permanent jobs a year – for 5 years. It will deprive our Council of approximately \$800,000 py in yearly rate income – forever. *Appendix 5* - is an in depth local analysis with the working papers provided confidentially to the Commission - as they have been to the Minister - to assist in their deliberations.

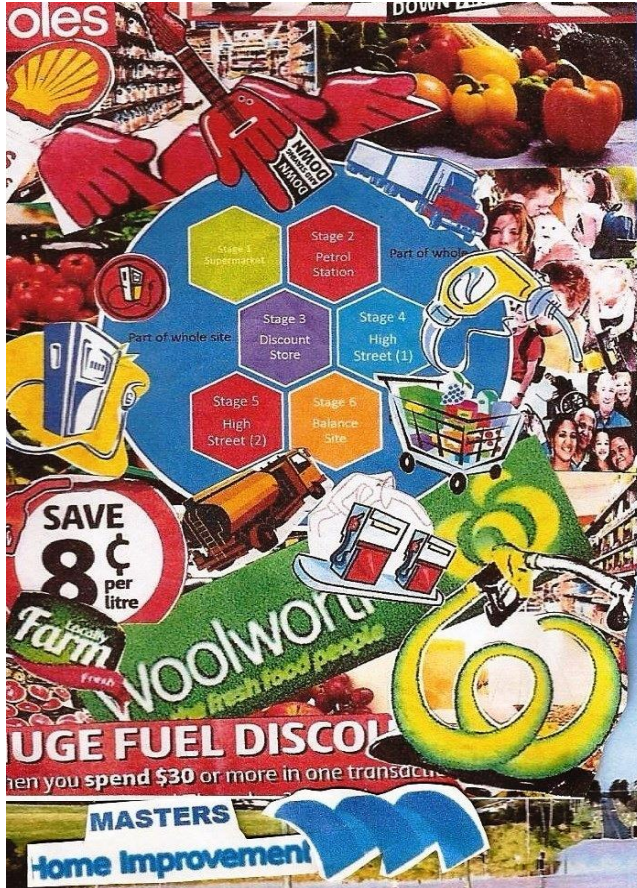
The retail sector is an important part of our community fabric – but we do not need to destroy local job opportunity and create future environmental, educational, drainage, traffic and residential amenity problems, if the same community benefit can be achieved on a more appropriate site, without any detriment. Masters will provide the same economic and consumer benefits in the right zone – it does not have to be on res A land, creating adverse impact

We make no apology for our frank comments but trust they will be accepted in the vein of genuine input with which they are tendered. They do sit outside the strict terms of reference, other than planning and zoning, but this problem exists, because our Council has ignored their own precedents, Town Plan, State Regional Plan – and ordinary common sense. Our case study is a valid example for consideration by all.

Our community values our local businesses, and appreciate the opportunities and choices provided by big national investors like those who have contributed to this review – thus far. Our 3 year drama has impacted on all of our lives - and it has all been unnecessary. We all want a Masters store, and more convenient shopping. But they can be built on appropriate land with no detrimental impact.

We trust our case study will be helpful in assisting the retail sector to move forward in analysing and addressing the relative costs of doing business in Australia, and we thank the Productivity Commission for providing us with this opportunity for input.

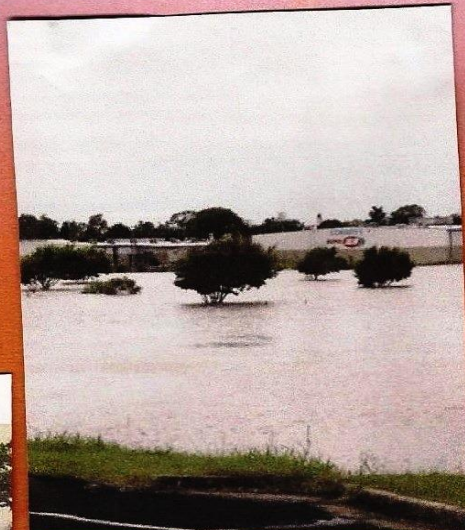
Should further clarification of any of the points be required we could arrange to meet with the Commission



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

CONCLUSIONS

Hinkler Central was above the Defined Flood Level, when constructed



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



Queensland's wonderful wetlands

Based on our case study, and responses to this Enquiry we conclude that:-

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

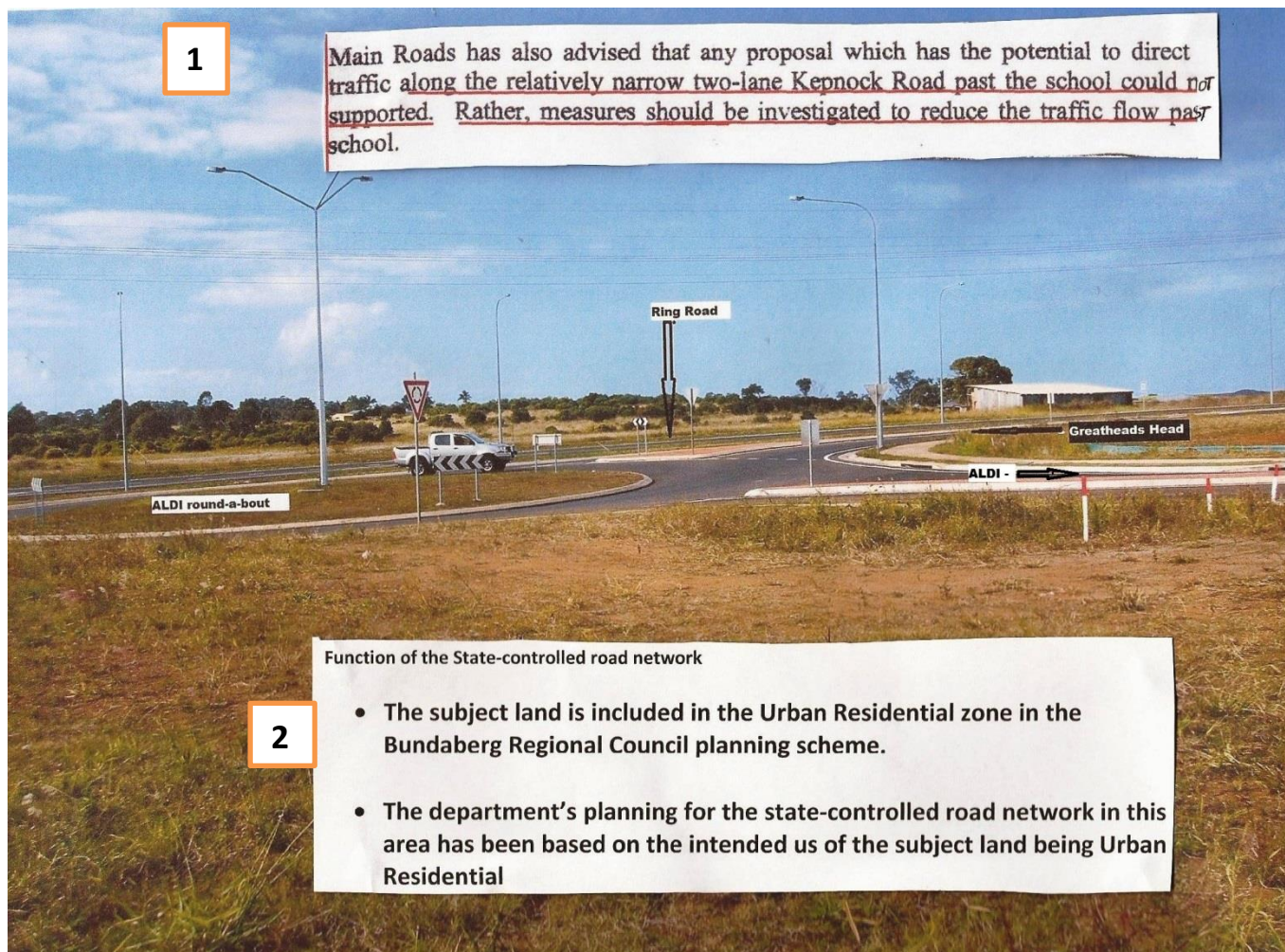
13. The march of the duopoly and their ever-increasing grip on a wider variety of market types should be sending warning signals to all levels of government in Australia.. Our case study is not an Australian one-off, but a victory for the duopoly here in Kepnock, Bundaberg will set dangerous precedents – nationally. This is totally res A – and has been for 30 years – so that’s how the infrastructure has been developed.
14. The use of ratepayer serviced residential land is less costly for the duopoly, in our case study, than another greenfield site, owned by the same developer consortium – only 800m further to the east – where there is, as yet, no residential development – but, also, no infrastructure. Developers claim commercial competition should not govern development approvals – a principle which the Productivity Commission endorses, in principle. Neither should developers expect their costs of development should be reduced simply because they do not want to locate in proximity to their commercial competition. There is a serviced, growing Bulky Goods Retail Precinct near Bunnings, which still has plenty of available land. Masters want to locate away from there, near the Ring Road – despite the site impediments – but don’t want the increased infrastructure costs of lodging their development on the alternate green-field site. If they insist this eastern location is the ONLY one that suits their marketing strategy, and gives them the competitive edge of LOCATION - then their insistence that commercial competition should not govern development approvals also extends to site selection and the extra developer costs of choice– not just commercial competitor costs. There is abundant case-law to confirm that – just as commercial competition should not govern approvals – neither should the added developer cost of infrastructure govern a development approval - if the applicant selects a serviced residential site to reduce their own development cost.
15. Governments should neither assist nor condone big business in abusing the system. This leads to a development at any cost mentality
16. The “little people” of Australia should not be forced into David and Goliath battles when there is no over-riding need and alternative business options exist.
17. Appellants against Government decisions – when there is a proven case of land-use planning issues – should not be denied their collective rights to have their case decided by an independent judge – based on law.
18. Planning and zoning laws should be allowed an “en-globo” assessment when obvious manipulation by the developer results in incremental applications that ensure the developer wins.
19. Just as the laws should not allow “frivolous and vexatious” appeals against planning decisions by disadvantaged ratepayers and/or commercial competition, so too the laws should not allow Councils to “pass the responsibility for contentious decisions” back to the State. This is dereliction of duty and Councils who do that, without just cause and reasonable transparency, should be penalised.

RECOMMENDATIONS

Based on these conclusions, the issues raised by the Enquiry thus far, and responses from submitters, we recommend that:-

1. Planning and zoning should remain the responsibility of local Councils, with oversight from the other tiers of Government, where applicable.
2. Equally, Councils should be penalised for abusing the system, and reneging on their decision-making responsibility. Using their collective vote and abusing planning legislation to force State Government intervention for contentious decisions should become a code of conduct issue for Councillors. The current system encourages Councils to garner populist support and increase their own re-election chances - at a detriment to their communities and successive councils.
3. The night-time hours during which commercial businesses must be entirely silent should NOT be extended, especially when there is a residential interface.
4. There should be some national legislation for the control of shopping trolleys in suburbia. Shopping trolley are owned by business. They are **their** property, and should be **their** responsibility
5. Extended time deliveries for the retail sector should not maximise benefits to business at a cost to liveable communities.
6. Governments should ensure there are robust laws and processes to reduce vexatious planning appeals but, they should also ensure that, where those robust laws exist, then Ministerial intervention should not rob those appellants of their collective right of appeal, unless there is an over-riding need. Due process must be followed.
7. Consideration of harmonisation of 24hour trading for the retail sector must recognise the specific needs of specific regions, and the importance of maintaining the CBD as the heart of community. There is nothing more “off-putting” to a prospective investor, or the community at large, than a “dead-centre”. Countless examples of those are evident in regional Australia and this must be addressed.
8. “Out-of-centre” developments should not be a commercial, opportunistic “grab for land” that fails to recognise the impact on existing land use and rightful land-users.
9. Existing “guidelines” for large format retailing developments, have no teeth, and should be incorporated into planning and zoning laws. The existing requirements are obviously ineffective when their intrusion onto prime res A land, using incremental development applications allows them to manipulate and abuse the existing “guidelines” and legislative planning processes.
10. Approval processes should not factor in commercial impact on existing business ventures. Neither should development approvals factor in reduced costs for the





Ours is a very “liveable community” – where residents have made their lifetime investment in their homes. This is the round-about, leading to a small Council road, that then leads to our High School. The turn-off on the right will lead to the proposed Masters with their thousands of cars. This is then proposed to link, via an internal round-about, (approved by Council in their Masters(2) approval) being built to “take B Doubles” to a huge regional shopping centre on land parcel (2) – the associated family company’s res A land.

1. The documented State Government policies and planning for the school –(top) were prior to the State Government decision to include Grade 7’s in the High School regime. That will be an extra 250/300 students next year – when Masters is due to be operational.
2. This one is the State Government position – dated May, 2012 – re access to their Main Road. The State Government might be able to widen their roads – but local Council roads – especially the one past the school – CANNOT be widened. Neither can those that have been created for residential development. Like the State Government – the Council’s planning for their local roads in this area ***“has been based on the intended use of the subject land being urban residential”***.

This submission has been compiled by Mary Walsh OAM, CPA, AIFS, JP(Q) – Secretary – Kepnock Residents Action Group.