

# Residents for Rural Character

30 March 2009

Libby Cumming

Manager of Planning

Uralla Shire Council

By Email [lcumming@uralla.nsw.gov.au](mailto:lcumming@uralla.nsw.gov.au)

Dear Libby

**Development Notification Application No: DA-1215-2006/A**

**Property: 216 Invergowrie Road, Invergowrie NSW 2350**

The following submission has been prepared on behalf of residents of Invergowrie who attended the Community Meeting held at the Diggings Fire Shed, Invergowrie on Sunday 22 March 2009.

The Community Meeting was attended by 36 residents.

The writer has not, nor has any associate of the writer, made a reportable political donation or gift to a local Councillor or Council employee within the period commencing two years before this submission. The writer is not aware of whether any of the above attendees at the Community Meeting, or their associates, have made such reportable political donations within the period commencing two years before this submission.

Please feel free to contact the writer should you wish to discuss this submission further.

Yours sincerely



**Adam F Blakester | 02 6775 2501 | 0419 808 900**

Media Spokesperson

**Residents for Rural Character**

C/- 16 Adina Road, Invergowrie NSW 2350

[www.invergowrie.org](http://www.invergowrie.org)

# Residents for Rural Character

## Summary

The clear message from the Invergowrie residents who attended the Community Meeting on 22 March 2009 was one of supportiveness for the Development, including the s96 EP&A Act Modification Application, on the condition that a range of important values and characteristics of the Invergowrie area were upheld.

At the same time, most residents were unaware of the DA Modification Application, did not feel they could state that the Modification was “substantially the same” as the standing approval, and a majority of residents were unaware of the previously approved DA. This was the case even though most attendees were long term residents of Invergowrie. In this light there was general appreciation expressed for the Community Meeting as an opportunity to listen and learn more about the Fardell Development as well as raise matters about living at Invergowrie that were of importance and concern.

The values and characteristics which residents wish to see upheld by Council for the Development are detailed more fully below, however the priorities were water management, traffic control, off-road trails, biodiversity impacts, fire risk and sewerage treatment.

Residents would like to see a structured approach to Council upholding these values and the rural character of the area, using a mechanism such as a Planning Agreement, Covenant or Development Control Plan. This structured approach echoes advice received from the Environmental Defenders Office and would substantially address concerns based on negative past experiences with poor planning such as the Pinegrove Road Development (lost water access and unnecessary clearing).

The values and characteristics identified in this submission have a clear alignment with those identified by Invergowrie residents in previous community submissions, strengthening the understanding of community priorities for Invergowrians, namely:

- New England Draft Development Strategy (NEDDS)
- Development Application DA-95-2008: Boarding Kennels and Grooming Service

The consistency of these values is noteworthy given there has been a range of different residents who have attended each Community Meeting convened by the Residents for Rural Character in the last 14 months.

Residents recognised the significance and importance of the Fardell Development – representing some 10% more properties in Invergowrie, around 200 new residents and 100 more cars.

Residents wished to convey their appreciation to Council officers for the one-week extension of time to prepare this submission and enable the Community Meeting, discussion and input to occur.

# Residents for Rural Character

## “Substantially the Same Development” (s96(1A) & s96(2), EP&A Act)

Residents were unable to address the question of whether the s96 EP&A Act Modification Application was “substantially the same development” due to insufficient information. For most residents their first awareness of the Modification Application was the Notice for the Community Meeting, and a majority of residents were unaware of the previous approved DA for the Fadell Development.

The information provided to residents and the Residents for Rural Character by Council regarding the Modification Application was:

- Original and Updated Concept Plans
- Statements that the Updated Concept Plan entails:
  - Realignment of some boundaries;
  - Realignment of southern road;
  - Increase the number lots from 53 to 56 lots; and,
  - Modify the development staging.

Case law indicates that what is meant by “substantially the same development” is ‘essentially or materially the same as the (currently) approved development’. For example:

*Moto Projects (No 2) Pty Ltd v North Sydney Council (1999) 106 LGERA 298*. In that case, Bignold J stated that “The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted).” [Emphasis added.]

While residents are aware that the withdrawal of the threatened species status of the species of flora *Goodenia Macbarronii* is a change in “context” and has in part triggered the Modification Application, the specific areas of the development that were affected by this change, and the broader environmental impacts that the modifications have on flora and fauna, are not clear.

On the basis of information provided, residents were not able to determine whether the s96 EP&A Act Modification Application is “substantially the same development”.

# Residents for Rural Character

## s79(1)(b) Likely Impacts (Natural and Build Environments, Social and Economic), s79(1)(c) Suitability of the Site for Development & s79(1)(e) The Public Interest

For simplicity the community's views on each of the above Sections is presented in combination. This reflects the way in which the community was asked to present their views which was to say 'how they felt about the amended Fardell Development'.

Residents were informed of the need to focus their comments on the s96 EP&A Act Modification Application however were limited in their ability to do this because:

- Most residents were unaware of the s96 EP&A Act Modification Application and had attended the Community Meeting to listen and learn more about it;
- Insufficient information was available regarding the specific modifications made;
- No Statement of Environmental Effects was available; and,
- A majority of residents were unaware of the existing approved DA to have as a basis to compare the modifications with.

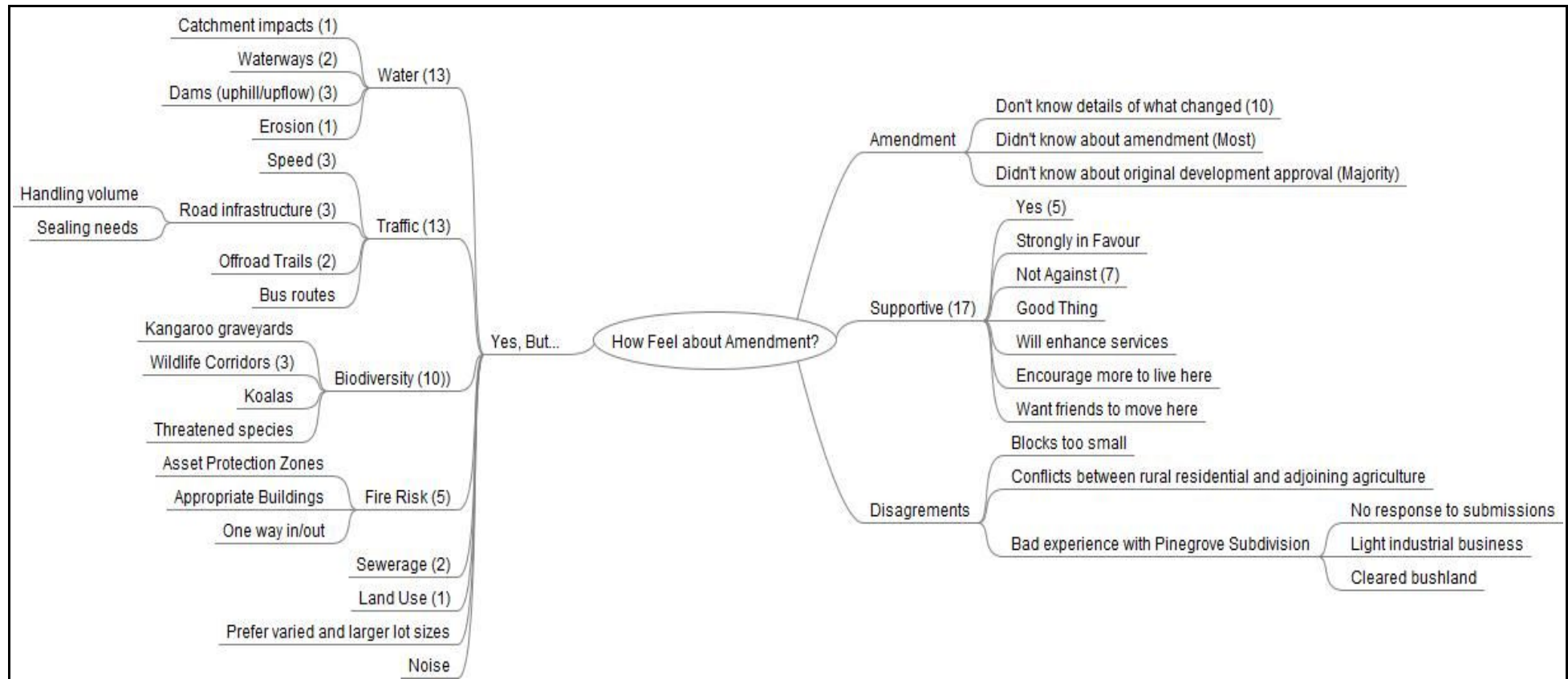
The mind map on the following page details a summary of the comments made by community members, with the numbers in brackets indicating how many residents made the same or similar comments.

Nearly all residents in attendance stated that they were supportive and/or generally in favour of the Fardell Development. At the same time however a range of community and environmental values were identified as being important and conditions of this supportiveness, particularly to maintain and enhance the rural character of the area.

Specifically the community and environmental values identified, in order of importance, were:

- **Water.** This included references to maintaining water quality of water courses and wetlands; minimising sewerage and waste affects on water quality; ensuring the impact of installed water capture (dams, tanks, etc) was fair on other water users down stream or down flow; minimising the impact of the development on environmental flows into water courses, wetlands and catchment areas; addressing erosion control and risks in the development; upholding practices with bush corridors and ground cover that hold water in the environment to reduce fire risk and increase drought tolerance.

## Residents for Rural Character



- Traffic.** The Fardell Development is a major development which will increase the size and population of Invergowrie by some 10%, including a likely 100-plus more vehicles. Traffic management is already a significant issue for Invergowrie with walkers, bike and horse riders having to take risk with 100km/h traffic on roads as the only practical area for travel since there are no 'off-road' trails. Residents expressed concerns about 100km/h speed limits applying to roads within the Fardell Development and wanted to make sure that the road infrastructure of the Development and surrounding areas could handle the increased traffic.

## Residents for Rural Character

- Biodiversity. The rural character, natural outlook, wildlife and relatively private and secluded lifestyle of Invergowrie are significant qualities of the area valued by residents. Matters of biodiversity impacts are strongly linked with water-related issues (noted above) and need to be integrated with fire risk management (noted below). The likely impacts on the natural environment of this Amended Development are more broad and not limited to threatened species alone. Concerns were raised about the need to maintain wildlife corridors, wetland habitat, riparian and water course quality. Species of flora – including undergrowth – and fauna – including koalas, birdlife, echidnas, wallabies and kangaroos – were all mentioned, prompting the need to balance the Development and related clearing of landscape. One resident spoke of kangaroo graveyards in the development area highlighting the need for professional environmental audits and planning, including a Statement of Environmental Effects.
- Fire Risk. Invergowrie is noted as one of the highest fire risk areas in the New England, though many believe this is due to the existence of remnant bushland which is one of the features of the area most residents value for its rural character, natural outlook and amenity. Issues raised included establishing appropriate fire protection zones for assets (homes, sheds, etc), ensuring that building requirements were suitable to the local conditions (ie. not permitting types of housing that have low fire resistance or are fire prone that would require larger areas of clearing for asset protection) and dealing with road access issues for emergency access and exit. With regards to road access for fire risk management two questions were raised:
  - Will the Development have access through to Budumba Road? While Bryce Fardell, the Developer, indicated this would be the case, the Concept Plans both seem to indicate the Development Road does not join with Budumba. One resident understood this area to be a Travelling Stock Route rather than a road.
  - What is the appropriate standard for clearing of habitat either side of roads for fire management? One resident expressed concern that many roads in Invergowrie have habitat growing too close to the road and creating the risk of fire blocking exit by vehicle.
- Sewerage. Treatment of waste was highlighted as important to ensure ongoing improvement in the standards of self sufficiency and sustainability for the Invergowrie area, particularly since Invergowrie is self sufficient for sewerage and water, and sewerage treatment systems can impact on water usage and water quality issues. Fully self contained sewerage treatment has been identified as the best practice and most appropriate for Invergowrie.
- Other. Several other matters were raised including: possible tensions in different land use with rural residential land being alongside working agricultural land (such as impacts of roo culling and spraying);

# Residents for Rural Character

the need to uphold appropriate standards for economic and business activities (that maintain and enhance the rural character, natural and quiet setting); and a preference that larger and more varied lot sizes were made available in the Development.

## Recommendations to Council

The most significant recommendation and request for Council's consideration in regards to the Fardell Development is to create a set of 'development-wide guidelines' to apply to each of the 53 or 56 lots in the sub-division. Many residents referred to the precedent of the covenant applying to the original Invergowrie sub-division, though independent advice from the Environmental Defenders Office indicates that a Planning Agreement or Development Control Plan would be more effective and appropriate mechanisms.

The mind map on the following page details a summary of the recommendations made by community members, with the numbers in brackets indicating how many residents made the same or similar comments.

Residents requested an opportunity to present these recommendations to Council's 'Have Your Say' session.

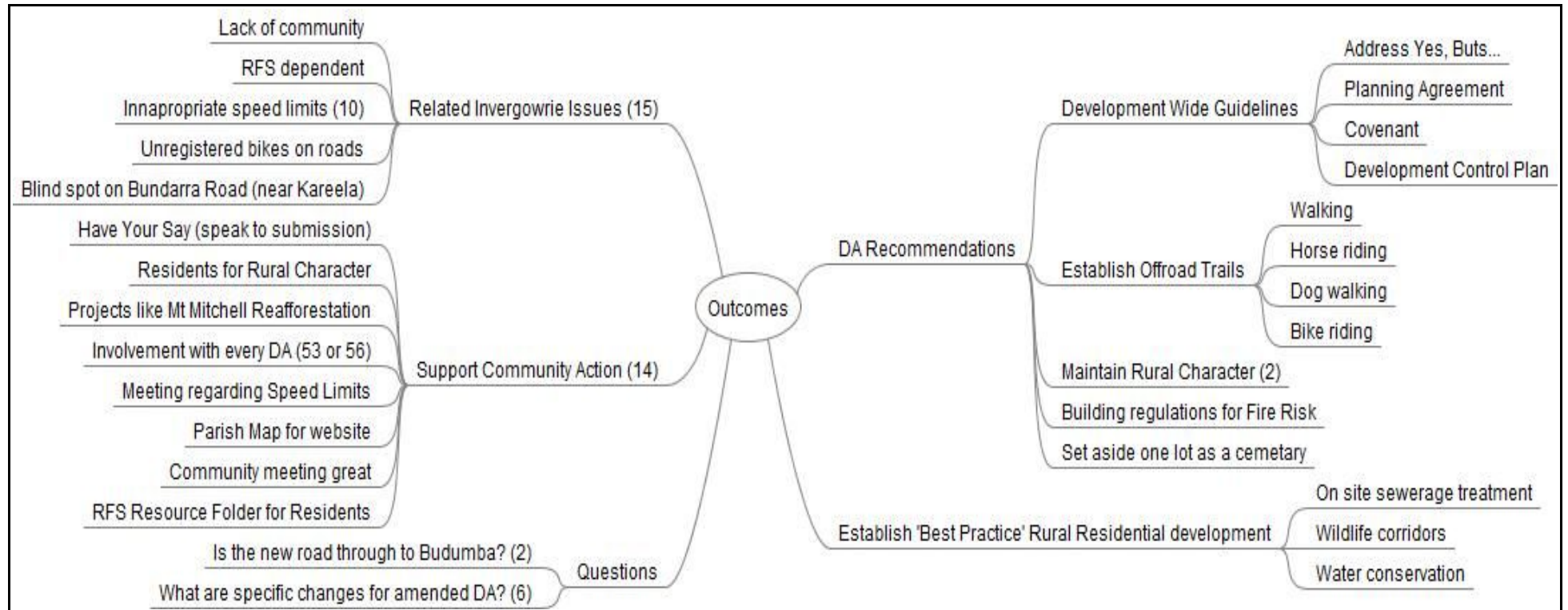
Residents in principle support for the Fardell Development is worthy of being repeated at this point. Several residents believe that this Development provides an opportunity for Council to showcase its environmental and community leadership through establishing best practice planning for rural residential development and integrate fire resistant construction, off-road trails, wildlife conservation and corridors, on-site sewerage treatment and water sensitive development.

Residents stated that they would like further opportunity to inform in the creation of these development guidelines, however their initial thoughts on what they should cover and address reflect the issues stated early in this submission, namely: water, traffic, biodiversity, fire risk and sewerage. These guidelines were seen as essential to maintain the rural character and qualities of Invergowrie.

It is useful to include reference to the recommendations that were made in the Community Submission to the New England Draft Development Strategy (NEDDS) that are also of relevance to the Fardell Development:

- An Invergowrie Development Control Plan be developed with the purpose of articulating, promoting and maintaining the unique character of the area (and so perpetuate the intentions of existing Covenants), particularly to maintain and enhance the natural bushland setting and semi-rural character of Invergowrie.
- Recognise the need for enhanced broadband, mobile telecommunications coverage and good quality roads to support further development of sustainable economic opportunities at Invergowrie.

## Residents for Rural Character



- Explicitly recognise the need for social and economic activity in the Invergowrie area to maintain and enhance the peaceful, quiet and natural qualities of the area. This particularly means that all future development does not generate dust, noise, vibration, nor significant resource use (electricity, water) or traffic volumes. Construction, including fencing, must maintain habitat (flora and fauna) and natural visual amenity.
- An environmental survey be undertaken to identify existing, and potential, natural resources within the Invergowrie area to ensure such natural resources are maintained and enhanced. This survey particularly should record habitat, flora and fauna types, water systems, soil retention, wildlife corridors and bush fire risk.

## Residents for Rural Character

- Incorporate the development of a network of eco-trails for walking and bike riding throughout Invergowrie, and so leverage the benefits from existing natural assets, such as bush habitats, look-outs and wetland areas.

The significant size of the Fardell Development – reflecting around a 10% increase in the number of dwellings, population and vehicles for Invergowrie – also prompts the need for broader planning considerations for Council. As reflected in the above mind map residents again stated their desire to see the community of Invergowrie strengthened, particularly through support for the Residents for Rural Character community group and community actions like the Mt Mitchell reforestation works.

Again it is useful to include reference to the recommendations that were made in the Community Submission to the New England Draft Development Strategy (NEDDS) that are relevant to the broader planning implications of the Fardell Development:

- Council allow for appropriately zoned land on Invergowrie Road in the area of The Invergowrie Store for a commercial facility such as a cafe, restaurant or produce outlet.
- Reviewed to ensure sufficient 4-40 hectare productive agriculture landholdings are available to meet market demands and needs, particularly in the area surrounding the village of Invergowrie.
- Improvements be made to the Diggings Fire Shed to allow for dual community use, including an external bio-toilet.
- Council allow for appropriately zoned land on Invergowrie Road in the area of The Invergowrie Store for a future youth facility.
- Council ensure consistency of this Development with the Climate Change Consensus Commitments and the New England Sustainability Strategy.