17 July 2020

General Manager
Byron Shire Council
Mullumbimby, NSW 2482

Emailed to: submissions@byron.nsw.gov.au

Attn: Alex Caras

Submission Byron Shire Affordable Housing Contribution Policy

Introduction

The basic tenent of affordable housing is the provision of micro apartments with a low minimum floor area however the amenity of such apartments is a subject of ongoing debate. There is a general view that micro apartments often cause an erosion of amenity standards, becoming especially acute in regional areas where public transport is minimal. The SEPP 70 affordable housing code permits high density living to achieve affordability, but the associated consequences are unacceptable in regional areas and need to be addressed within the policy framework.

Comments in this submission align with the structure of the Byron Shire exhibition document.

Objectives

The final two objectives Byron Shire Affordable Housing Contribution Policy (ACHP) refer to the opportunity for community participation in the type, standard, location and preferences related to the provision of affordable housing. This is a welcome initiative as it is increasingly clear that SEPP 70 developments by private developers invariably produce disappointing outcomes. Unfortunately, private development activity momentum in this space appears to be increasing due to the lucrative investment returns available. These developments fail because regional variation has not been considered in SEPP 70 legislation.

- The underlying intent of housing is to act in the public interest and it is recognised that
 affordable houses need proximity to amenities, vibrant public spaces and bus stops, but SEPP 70
 make no provision for regional adoption. Regional variations are clearly needed, supported by
 state-based funding models.
- There is strong community interest in establishing a more proactive approach towards the
 implementation of the ancillary infrastructure needed to make affordable housing more tenable
 in regional areas. This includes the provision of pathways, cycleways and peripheral parking
 areas to allow safe access and provide parking relief.

BANGALOW PROGRESS ASSOCIATION

- 3. The design of this ancillary infrastructure could be considered as part of a place planning process with the Bangalow Village Plan and Byron Pedestrian Access and Movement Plan (PAMP) being used as reference documents.
- 4. The absence of R1 zoning throughout Byron Shire and the common use of R2 zones in residential areas allows high density development on any lot size above 1000sqm. The introduction of multi dwelling housing with attached houses produces high density developments from which even Heritage Conservation Areas are not immune. The much-anticipated update to the Bangalow Chapter of DCP 2014 would provide better protection of our heritage area and work on this update should commence immediately, as directed by Byron Council.

Operational Framework

The BPA supports the basic intentions of the operational framework but there are issues around data accuracy and timeliness while the Residential Strategy remains a work in progress.

- 1. We support the Future Investigation Areas shown in Appendix 4 of the Residential Strategy. We also support the assessment outcomes for the Bangalow Investigation Areas reported to Council at a Planning meeting on 18/06/20 (Item 13.2) and note that the Residential Strategy will be updated accordingly.
- 2. We request that the formal classification of Bangalow heritage buildings be updated by an independent authority so that the special character of the Bangalow Heritage Conservation Area is thoroughly documented, thereby increasing the probability of preservation.
- 3. That SEPP 70 developments create serious parking overflow issues is an extreme community concern that has been noted by Council. An intention to remediate this concern could be included in the operational framework as an integral component of affordable housing provisions. In addition to peripheral parking areas, parking permits would help to manage parking issues.
- **4.** The hugely disruptive impact of Airbnb short term rental accommodation (STRA) in Byron Shire exacerbates the non-availability of accessible housing. We fully support Byron Council efforts to limit supply of the total housing stock in use as non-hosted STRA.

Procedures

As a general observation, minimum contribution rates of 20% seem high for greenfield investigation areas, especially when applied to developable areas. As a recent example, a 2000 sqm lot on Lismore Road Bangalow yielded 15 affordable dwellings, made possible by distributing 15 attached dwellings across 4 individual buildings. Dwellings sizes range from 32 sqm (5 studios), 52 sqm (4 row houses) and 93 sqm (6 terraces). If the same yield were extrapolated to 20% of the 3.5 ha of vacant R2 zoned land on Rankine Drive, affordable housing yield would exceed 50 dwellings, a grossly excessive number for a single location.

BANGALOW PROGRESS ASSOCIATION

- 1. Although not currently a consideration in Bangalow, there is also a need to show due caution when large investigation areas are proposed for upzoning via a planning agreement. The most controversial example of this scenario is West Byron where affordable housing has become a sideshow in a mega development that would have very damaging consequences.
- 2. Table 1, "Investigation areas affordable housing yields", shows a total of 190 dwellings, thereby comfortably exceeding the aspirational target of 140 dwellings set by Council. This estimate is based on average yields and does not consider the increased yield possible from multidwellings. We therefore recommend the ongoing review of contribution rates and procedures to ensure that appropriate balances are maintained.

Conclusion

The AHCP is a commendable strategy for addressing the pressing need for permanent affordable housing in Byron Shire and has BPA support but there are many challenges along the policy pathway. At best, AHCP may become a catalyst for adding the infrastructure needed to maintain community amenity despite SEPP 70 consequences, but considerable work at the state political level would be required to get relief. The idea of a waiver has much appeal but is probably not realistic.

Bangalow remains one of the best examples of a of a heritage village in NSW but this tenuous and valuable connection to the past could be irrevocably weakened by SEPP 70. Strong collaboration between Council and community will be needed to meet the challenge.

Signed

Ian Holmes
President, Bangalow Progress Association

Submission on Draft Affordable Housing Contributions Policy (AHCP)

by Kathryn McConnochie Date 17-7-20

General Manager Byron Shire Council Mullumbimby, NSW 2482

Attn: Alex Caras

Dear Sir,

There is a well recognised need for Affordable Housing in Byron Shire. I fully understand that this is a pressing issue, considering the real estate prices are now the highest in NSW. Younger generations than mine are unable to purchase a first home in the Shire due to the excessive prices for land and houses.

I am writing a submission on this policy as I have seen the massive disadvantages and damage caused to neighbourhoods by development arising from the 'SEPP for Affordable Rental Housing' (ARH SEPP), 'Part 2. New Affordable Rental Housing'. This SEPP has been foisted onto Byron Shire by the State Government, overriding local planning controls. If there are controls that Byron Shire Council can enact to limit the negative impacts of Affordable Housing developments, then these need to be fully enacted at the earliest stage possible.

All sections quoted below from the Draft AHCP, Procedures to accompany the draft Policy and the Affordable Housing SEPP etc are in italics.

Housing supply in Byron Shire

Before commenting on the draft AHCP, I want to note that approval has been given by Council for a 90-day cap on short term holiday letting (STHL) in Byron Shire. It is currently going through approval processes by the State Government

Over the past 8 years Air BnB and Stayz have taken 17.6% of rental properties off the market, (Australian Coastal Councils Association). According to Byron Shire Council figures, one in 6 properties in the Shire are holiday lets. There were 4,237 properties listed with Air BnB on 1-11-19. (The Byron Shire Echo, 26/2/20).

When the 90-day cap on holiday letting is legislated, it will release thousands of rental properties onto the market & drastically reduce the need for Affordable rental housing in Byron Shire.

Objectives of the AHCP

Point 2 of the Objectives of the Draft Affordable Housing Contributions Policy (AHCP) states:

ii. encourage and adopt innovative and flexible approaches to the provision of affordable housing in a manner that is consistent with Byron Shire Council's strategic and infrastructure plans and as so enabled under the Act.

I recommend that the AHCP must require all future development under this policy to fully comply with Byron Council's LEP and DCP.

iv. give local communities greater clarity about affordable rental housing planned for their local area.

All of the residents within the immediate zoning for these developments need to be informed of Development Applications for Affordable Housing in their neighbourhood (not just the immediate neighbours) & their rights in objecting or supporting the DA outlined for them.

vi. identify the circumstances in which Council will and those where Council will not consider entering a Planning Agreement for affordable housing contributions and the scope of contributions acceptable to Council.

The following conditions must be stipulated:

That Council must not enter into planning agreements unless the development is compatible with the character of the local area.

Council should not enter into Planning Agreements for Multi – dwelling housing, consisting of more than 2 residences on one block in R2 Low Rise Medium Density Residential Zonings, regardless of how close to B2 and B4 Zonings they are proposed to be. The minimum block size for Low Density zoning is one dwelling per 600m2. This must be maintained to honour the basis on which residents have previously purchased houses and land in this zoning.

viii. give all stakeholders in the development greater involvement in determining the type, standard and location of affordable housing.

Adjacent Landowners and those in the immediate affected area must be given the rights to demand that the minimum requirements of Byron Shire Council's DCP & LEP and the Seniors Living Policy: Urban Design for Infill Development, are met. There must be adequate off-street parking provided for each dwelling and for visitors to alleviate parking congestion and overload in the surrounding streets

Statement of Intent and Policy Items in Draft AHCP

SEPP 70 Affordable Housing Contribution Scheme for lands that undergo an upzoning.

<u>Item 3.</u> Council commits to examining scope for the application of a SEPP 70 Housing Contribution Scheme clause as part of any upzoning initiated by Council such as a change in floor space ratio or zone.

It is imperative for Council to show caution when large investigation areas are proposed for upzoning via a planning agreement. For example, the West Byron development exemplifies what can go wrong with upzoning. Affordable housing has become a ticket to a mega development there that will have extremely negative environmental and social consequences in the surrounding area. It has not been approved by Byron Shire Council, however it is still being fought in the courts.

Item 4. Council favours affordable housing contributions that improve the supply of smaller dwellings (1- 2 bedroom) such as self-contained units in retirement villages, residential flat buildings and multidwelling housing suited to smaller households.

There have been major negative consequences as a result of these kinds of developments built by the ARH SEPP. This ARH SEPP is suited to city suburbs with access to regular public transport, such as trains, buses & ferries. Byron Shire and most rural areas do not have this, there are only private bus companies with limited services in the Shire and no services to Tweed Heads or Lismore. Therefore, there is a need for each working person and parent to own a car. Parking chaos has occurred in the Sunrise Boulevard area of Sunrise Beach near Boarding houses & multi dwelling housing as a result of inadequate off-street parking for the residents.

Refer to the ARH SEPP, the "Standards that cannot be used to refuse consent" at point 14, (2), (ii). Only .5 of a parking space is required for each 1 bedroom dwelling, 1 parking space for each 2 bedroom dwelling and 1.5 parking spaces for each 3 bedroom dwelling. This level of off-street parking is totally inadequate in Byron Shire, where high rents mean that there are potentially 2 people requiring cars in each bedroom of a dwelling.

Higher density Affordable Housing areas must include peripheral parking areas linked to the housing by walk and or cycle paths and bus routes, to help ameliorate congestion caused by this lack of offstreet parking. If State Govt regulations do not provide adequate off-street parking, then the State must take some responsibility in funding appropriate infrastructure for parking. Parking permits issued to owners in these areas would also help to alleviate these issues.

Neighbourhood Character has been severely impacted in areas where developments have gone ahead under the ARH SEPP: buildings that dominate the block with inadequate common landscaped areas; loss of privacy for neighbours; removal of trees within the blocks and on the Council verge; overcrowding in dwellings with no constraints enforced if applicable on the number of occupants allowed; above market rents charged, noise issues etc. etc. All of these impacts must be taken into consideration, and steps taken to offset them, so that higher density affordable housing does not end up creating ghettos in Byron Shire

The design requirements of the "Seniors Living Policy: Urban Design for Infill Development" must be made mandatory before any developments are approved.

Private and Common Landscaped areas must comply with the Landscaping requirements of the current Byron Shire Council DCP.

Inclusivity of all community members must be provided for in Affordable Housing. There is a well recognised need by the Council & various community services for affordable housing for the elderly in Byron Shire. Ground level units must be provided for the accessibility of elderly and disabled community members.

A restriction must be placed on all dwellings built for Affordable Housing to prevent them being rented out as short term holiday rentals.

Item 9. Council supports a target of up to 140 rental units for very low to moderate income households via development affordable housing contribution schemes in the urban areas over the next 15 to 20 years.

Procedures to accompany the draft Policy, Table 1, Pg. 2, "Investigation areas affordable housing yields", gives a total of 190 dwellings, this well exceeds the target of 140 dwellings set by Council above. This number does not take into account the increased yield from Multi Dwellings. This number of 190 dwellings and the target of 20% of Greenfield private land areas needs to be reevaluated and scaled down.

Item 10. Council supports engaging with developers on Planning Agreements for the provision of affordable housing however, acceptance of an offer to enter into a Planning Agreement is at the absolute discretion of Council.

Council needs to exert extreme caution in approving Planning Agreements. See my comments on Objective vi) and Policy Item 4. above. Council must enforce standards to prevent substandard affordable housing that negatively impacts on the rest of the community.

If high density affordable Housing is allowed it must be accompanied by adequate open spaces provided by the developer, either as common landscaped area within the lot or if this cannot be enforced due to constraints by State legislation, then a pro rata percentage of parkland and open space must be provided in the neighbourhood for the community.

Item 12. Council commits as part of the Residential Strategy monitoring and review ongoing research, analysis and monitoring of local needs for affordable housing in the Shire.

I am in total agreement with this item. Ongoing monitoring of this Policy is vital.

Item 14. Council guides the Residential Strategy to set a minimum affordable housing contribution rate for areas based on Council's understanding of development feasibility.

The minimum contribution rate of 20% for Greenfield land areas needs to be reviewed as it would produce a far greater density of dwellings than would be desirable.

SEPP No. 70 - Affordable Housing

Additionally, I want to comment on the <u>SEPP No. 70 Affordable Housing Policy</u> that underpins the Draft Affordable Housing Contributions Policy.

My comments on some of the Principles of this SEPP are below:

4

Affordable housing is to be rented to appropriately qualified tenants and at an appropriate rate of gross household income.

There is a major flaw in this principle, in that new multiple dwelling housing that is approved under the Affordable Rental Housing (ARH) SEPP 2009, only provides 20% of the dwellings at an Affordable Rental rate. This means that the developers can charge above market rental rates for the remaining 80% of dwellings. This has occurred at many of the recent developments approved under the ARH SEPP in Byron Shire.

7

Rental from affordable housing, after deduction of normal landlord's expenses (including management and maintenance costs and all rates and taxes payable in connection with the dwellings), is generally to be used for the purpose of improving or replacing affordable housing or for providing additional affordable housing.

Under the legislation for Affordable Rental Housing (ARH) SEPP 2009, dwellings are only required to be rented at an affordable rate for 10 years from the date of an occupation certificate being issued. They do not provide long term affordable rental in the Shire. High densities of multiple dwellings are being built under legislation that overrides local planning controls, only to be sold after 10 years at an

inflated profit. These buildings would not otherwise be approved for construction by Council. The developers are taking advantage of this legislation under the ARH SEPP to bypass local planning controls for profit & are not contributing to the sustainability of low cost rental housing in the Shire. They are also destroying the character of established neighbourhoods in the process of making their profits.

8

Affordable housing is to consist of dwellings constructed to a standard that, in the opinion of the consent authority, is consistent with other dwellings in the vicinity.

Please see my comments on Objective vi) and Policy Item 4 and 10 above. Construction of Affordable Rental Housing to date in Byron Shire, has not been to a standard regarding character, environmental and social amenity that is consistent with other dwellings in the vicinity that they were constructed in.

Conclusion

My hope is that by pointing out the negative impacts and issues arising from Affordable Rental Housing constructed in Byron Shire to date, that future Affordable Housing can be built under a policy that is more in keeping with the values of the Shire. These values include care for the social and natural environment, sustainability and the well-being of residents. They are values that Byron Shire has been built on and which make it a desirable place to live.

Council's consideration of this submission in the assessment of the Draft Affordable Housing Policy is appreciated.

Kathryn McConnochie

To: Byron Shire Council,

From: Mullumbimby Residents Association,

17th July 2020,

Re: Submission Affordable Housing Contribution Policy,



Mullumbimby Residents Association

Mullumbimby Residents Association (MRA) appreciates the opportunity to comment on the **Draft Byron Shire Affordable Housing Contribution Policy** and values the commitment of council in attempting to broaden the scope and hopefully quality of future affordable housing built under the influence of this initiative. We have two key concerns.

Firstly, we recognise that in creating desirable opportunities for affordable housing key aspects include easy access to commercial and medical services, transport hubs, educational opportunities and so on. The absences of any of these services creates problems for residents of all ages and needs. Above all, however, *residents look for and want and need to be safe.*

Consistently, MRA has raised concerns in various submissions over including land for future residential development that is seriously flood prone. In a recent submission on the Draft Byron Shire Local Strategic Planning Statement (LSPS) we requested that the following statement be included and it is appropriate that, at the very least, the same statement is included in the Affordable Housing Contribution Policy. It follows:

'Not all land identified within the growth areas can be developed for urban uses. All sites will be subject to more detailed investigations to determine capability and future yield. Land that is subject to significant natural hazards and/or environmental constraints will be excluded from development. (NCRP, p65)'

Residents of Mullumbimby are, of course, very concerned that flood prone land, if designated for development, dose not impact in any way on existing homes and businesses.

The expansion of Mullumbimby for any purpose must take into account the effect of flooding. The North Byron Floodplain Risk Management Study and Draft Plan, April 2020 includes the following:

'The Mullumbimby Land Release Assessment looked at five potential sites proposed for future development in response to the housing affordability priority identified in the Residential Strategy. This assessment determined that due to the flood exposure of these sites, significant fill and some channel works would be required. It should be noted that this does not include the details drainage works included in the Mullumbimby Land Release Assessment.' (WMA Water p61, 8.1.2.2)."

This reference is useful because it acknowledges flooding issues in Mullumbimby but refers to solutions that may impact adversely on additional areas. This is a timely reminder because it appears that in preparing the *Affordable Housing Contribution Policy*, council is readying itself

to engage in Affordable Housing development proposals. As there is a depth of concerns in the community regarding future flooding and possible impact of future development MRA requests that the North Byron Floodplain Risk Management study and Draft Plan is finalised and the South Mullumbimby Precinct Independent Flood Study has been through a community assessment process and finalised before locations for affordable housing are finalised.

Secondly, as well as being concerned about safety many residents in Mullumbimby want to live in an inclusive community which is demonstrated daily in many ways. There is a concern, however, that the needs of disabled people, older people and/or families with very young children have not been factored in in the designs for affordable housing built in Mullumbimby so far. MRA requests council to ensure that, at the very least, a Policy statement is inserted in the Byron Shire DCP 2014 Chapter D1 Residential Accommodation in Urban, Village and Special Purpose Zones, and elsewhere as appropriate, that encourage inclusivity.

Dr. Sonia Laverty,

Convener MRA,

SOUTH GOLDEN BEACH COMMUNITY ASSOCIATION INC.

web: www.southgoldenbeach.com



To: Byron Shire Council

From: South Golden Beach Community Association

RE: Submission in Response to Affordable Housing Contribution Policy (AHCP)

Date: 17 July 2020

As a community that will be affected by the impacts of the AHCP, we have given the published documents careful consideration, and we have these concerns about the draft policy:

- 1. The reliance on the SEPP 70 Affordable Housing Contribution Scheme is questionable, given that SEPP 70 does not acknowledge the need for local policies that accommodate to specific regional situations. What might make sense for affordable housing in a high-density urban area like Sydney is almost always not appropriate for the communities in our shire.
- 2. R2 zones are very common in Byron Shire, allowing high-density development on lots larger than 1000m². This allows multiple dwellings to be built on lots that were not created or intended for that purpose. We have noted with concern the wedging of extra structures onto existing blocks in our area, along with new high-density developments on modestly large blocks. Both kinds of development aim to cover as much of a block as possible with structures (main dwelling, secondary dwelling, two-car garage, shed, studio, etc.). This trend is not aligned with the character of our area and is already having negative impacts on our residential amenity. We object to any further increased density of existing residential neighbourhoods in the name of affordable housing. Without firm Council control, we will see steady declines in existing residential amenity.
- **3.** Related to increased densities are significant consequences that accompany developments that are proposed purportedly to provide affordable housing. Of greatest concern to us:
 - a. Developments adhering to SEPP 70 inevitably result in increased parking issues because inhabitants don't give up their vehicles when they move into smaller, high-density units. We are already seeing parking stress in our area, with cars lining streets that were not designed to accommodate vehicles moving in both directions between cars parked on either side of the street, and we have seen new developments crammed so tightly onto blocks that dedicated parking is minimal to non-existent. We do not want to see overflow parking increase still further throughout the shire because dedicated parking areas are not part of proposals for new high-density developments.

- b. Other ancillary development also has to be part of any plan to increase density in any area to accommodate affordable housing. For example, additional footpaths need to be provided and provisions for generous natural light and vegetation also need to be part of any proposed development. We are already seeing new developments that pack multiple structures so tightly onto a block that little room is left for landscaping, sunlight, and air. The more this is allowed in the shire, the more existing residential amenity is reduced. Planners need to consider the impact on the surrounding areas when they are determining a DA instead of looking only at what is proposed to be built on the block itself.
- c. Increasing density in the name of affordable housing makes sense only if access to convenient public transport is available, and public transport is clearly inadequate throughout most of the shire. Cramming more people into an area without adequate public transport means that more vehicles will inevitably become part of the scene, with attendant safety and parking issues that we are already experiencing in our area.
- d. We know many landowners have added secondary dwellings to their properties expressly for the purpose of using them for short-term holiday letting. AirBNB has had devastating impacts in our area, and we are very concerned that this will continue, and increase, in the disguise of so-called affordable housing. We strongly support Council making affordable housing a priority but we do not want to see continued abusive use of real estate in meeting that priority.

We applaud the last two objectives of Byron Shire's ACHP with their focus on allowing community input into the type, standard, location, and preferences related to affordable housing. We urge Council to be vigilant in overseeing DAs that purport to provide affordable housing because we know that developers too often place profitable returns on investment over enhancing the environment and contributing positively to the existing character of the community. In particular, we question the formulas that are used to determine how many dwellings can reasonably be put onto an existing block. On the 2000m² lot on Lismore Road in Bangalow, the minimum contribution rate of 20% resulted in 15 dwellings being categorised as "affordable" (including studios, row houses, and terrace houses). If the same level of density were to be used in developments on much larger lots, the number of dwellings would be, for this area, over the top. So, we question the use of 20% as a standard for density used to increase affordable housing. Table 1, which shows 190 possible dwellings, far exceeds the target of 140 that Council set. This suggests that contribution rates should be considered modifiable and subject to ongoing reviews rather than set in stone.

In conclusion, we note that Council has many challenges to face before having an affordable housing strategy that actually meets local needs in ways that do not simultaneously destroy existing residential amenity.

Sincerely yours Angela Dunlop Secretary, SGBCA

RAY DARNEY TOWN PLANNING

15 Mia Court Ocean Shores NSW 2483

ABN: 52 659 945 593

22nd July, 2020

General Manager Byron Shire Council PO Box 219 MULLUMBIMBY 2482

Subject: Draft Policy Affordable Housing Contributions 2020

Thank you for the opportunity to comment on this Draft Policy and the accompanying Procedure.

As you are aware, I have two clients who are proceeding in good faith to provide an Affordable Housing component in their rezoning proposals that are currently in the process of being developed.

- *Mr Wes Arthur Mullumbimby
- *Mr Max Campbell Bangalow

We therefore agree with the Policy and the Objectives except for **Objective vii** which states:

"vii supplement, but not replace, or be in lieu of the application to the development of the Byron Shire Developer Contributions Plan established under the Act".

When considering Section 5.3 of the Policy it is not clear whether relief from Developer Contributions will be automatic for the Affordable Housing component of a residential subdivision and clearly this should be articulated. That is the Policy should clearly state that no Developer Contributions, nor Water/Sewer Contributions will be levied on the Affordable Housing Lots/area granted to Council.

The other main concern within the Policy is set out at:

2. Affordable Housing Contributions Rates

For Mullumbimby and Bangalow the contribution is 20% of the additional lots or developable area, whichever is greater.

Whilst both clients are intent on providing Affordable Housing, Council has provided no justification at all for a 20% contribution, and in particular the provision of 20% of area if that is greater than 20% of lots simply will not work for either of my clients who intend to have both conventional residential lots, as well as small lots for Affordable Housing. Generally the small housing will be 1 to 2 bedrooms and within a strata.

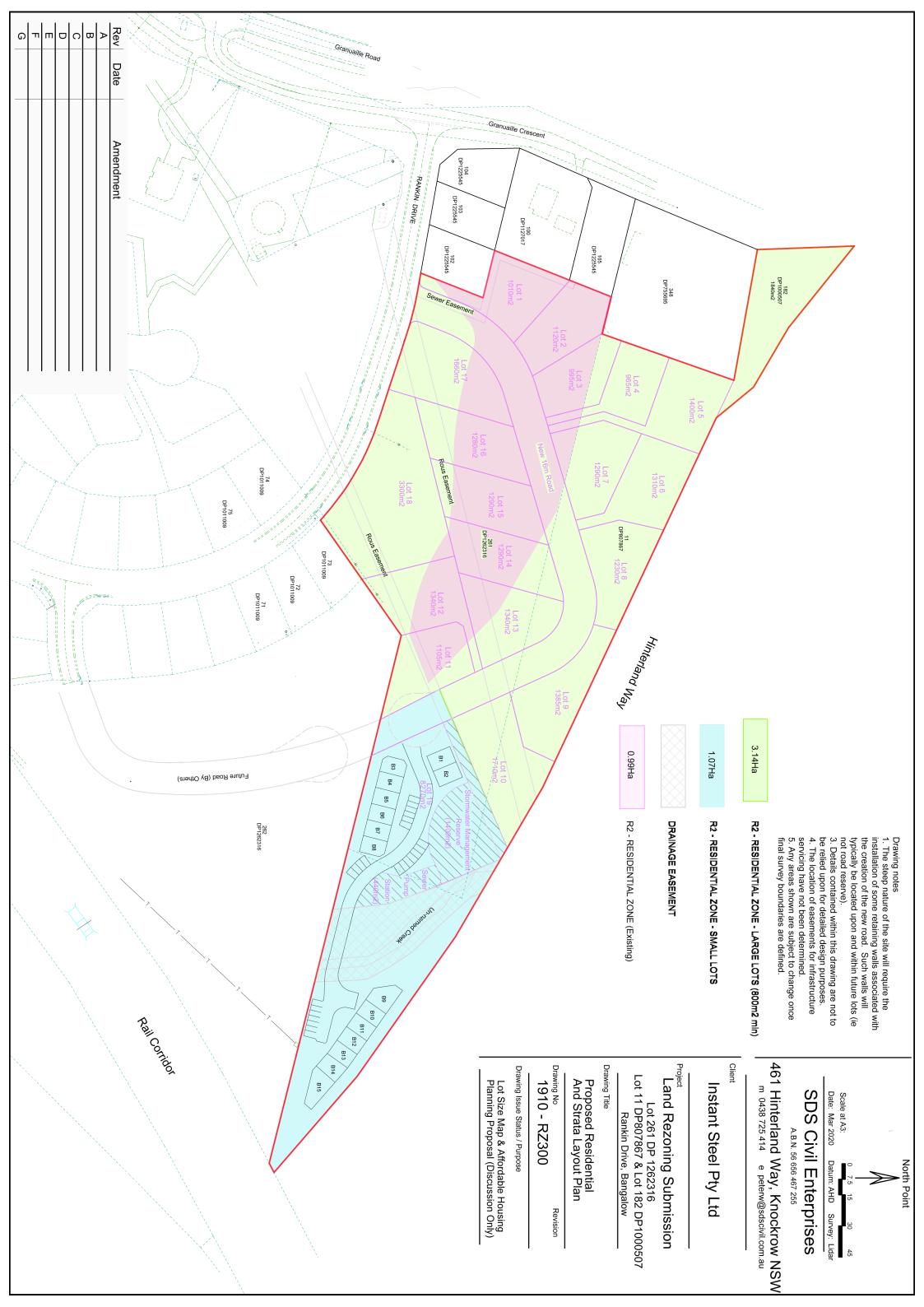
Therefore, when considering small lots subdivided, ready for development or strata, the 20% can be viable, however if you use the development area being greater the development will become unviable.

It is therefore recommended to Council:

That the Affordable Housing Contribution for both Bangalow and Mullumbimby Greenfields site be a minimum of 10% of lots or developable area and

It be clearly set out in the Policy that no Developer Contributions nor Water/Sewer contributions be levied on the Affordable Housing component.

Yours sincerely Ray Darney







1660 Coolamon Scenic Drive - Lot 23 DP1089627 **Affordable Housing Scheme EOI**

Social Habitat Housing
Unit 9 - CLIC Business Centre,
6-8 Burringbar St Mullumbimby
Contact 04 10623348
email:malcolm@socialhabitat.com.au