

STAFF REPORT

TO: Environment & Planning Committee

FROM: Sonya Leusink-Sladen, Policy Planner

REFERENCE: L329

SUBJECT: **COASTAL TASMAN AREA – RURAL 3 ZONE ISSUES - REPORT EP09/04/06** - Report prepared for meeting of 23 April 2009

1. PURPOSE

The purpose of this report is to introduce Rural 3 Zone practice issues to the Committee, and to gain support for the work necessary to address them.

2. INTRODUCTION

This report comes to the Council under the initiative of staff to address issues relating to the practical implementation of the Rural 3 Zone framework. Staff seek confirmation that Council recognises the issues, and that it supports the work necessary to address them

Following the last five years from the introduction of Variation 32 – “Coastal Tasman Area Rural Residential Development in December 2003” into the TRMP, staff and Councillors have had considerable experience in working with the Objectives, Policies, Rules and Design Guide in the Rural 3 Zone, and in dealing with subdivision and land use applications.

There have been a number of examples where it can be said that overall, the framework can “work well” to achieve good a result.

Examples include the Galeo Estates subdivision off the Coastal Highway (RM050370), the CBH Limited subdivision also off the Coastal Highway (RM030632), and the Tasman Limited subdivision, located at Stringer Road (RM060737).

In these cases, rural productive land and rural landscape and amenity values have been balanced against the provision of rural-residential opportunities to reach a satisfactory outcome. Features held in common between these applications have been a large development site (large parent title) within which there has been a mixture of productive land values, and a varied topography.

However, there have also been cases that have challenged staff and Hearings Committee members in determining what an appropriate outcome might be. These cases have resulted in mixed outcomes, highlighting the need for more guidance and clarity from the Rural 3 zone framework.

The two main issues challenging Council have been:

1. How to appropriately and consistently apply Rural 3 Zone provisions to existing (pre-2003) small allotments subject to application for subdivision (for example, an application to subdivide an existing title of less than 5 hectares into two allotments);
2. Where all or most of the parent title is highly productive land (Class B in the eight classes of productive value of land, and former Rural 1 Zone land), how to find an appropriate balance between policies that require “the protection of land of higher productive values” (e.g. Policy 7.3.3.5) against those which “enable rural-residential development opportunities” (e.g. Policy 7.3.3.7).

In the following sections, these two issues will be explained in more detail.

3. ISSUE 1 - SMALL LOT SUBDIVISION

How to appropriately and consistently apply Rural 3 Zone provisions to existing (pre-2003) small allotments subject to application for subdivision. .

Council has received a number of applications for subdivision consent of existing (created before 2003) smaller sized lots e.g. parent title is less than 5 hectares.

Within these applications, it is commonly argued that:

- i. the land parcel is already “too small” to support any productive end use, therefore further fragmentation would have a negligible effect; and,
- ii. the effects on rural character and amenity values would also be no more than minor, because of the small size of the allotment, its existing use and development, and the rural character and amenity of the surrounding environment which may also be comprised of smaller sized allotments.

In single cases, and in the absence of policy guidance specifically about how to regard small lot situations, staff and Councillors may have difficulty in arguing differently from this logic. As noted by subdivision officer Wayne Horner in a recent application (RM071071 Greenhough).

“Small lot subdivision within the Rural 3 Zone seems destined to create more rural residential development with only some of the Rural 3 concepts able to be applied...”

However, if approvals of small lot “infill” are granted consistently over a large number of smaller allotments, the cumulative effects of small-lot subdivision could well be a significant issue and of concern to Council.

Figure 1 shows the size distribution of allotments within the Rural 3 Zone given by size classes.

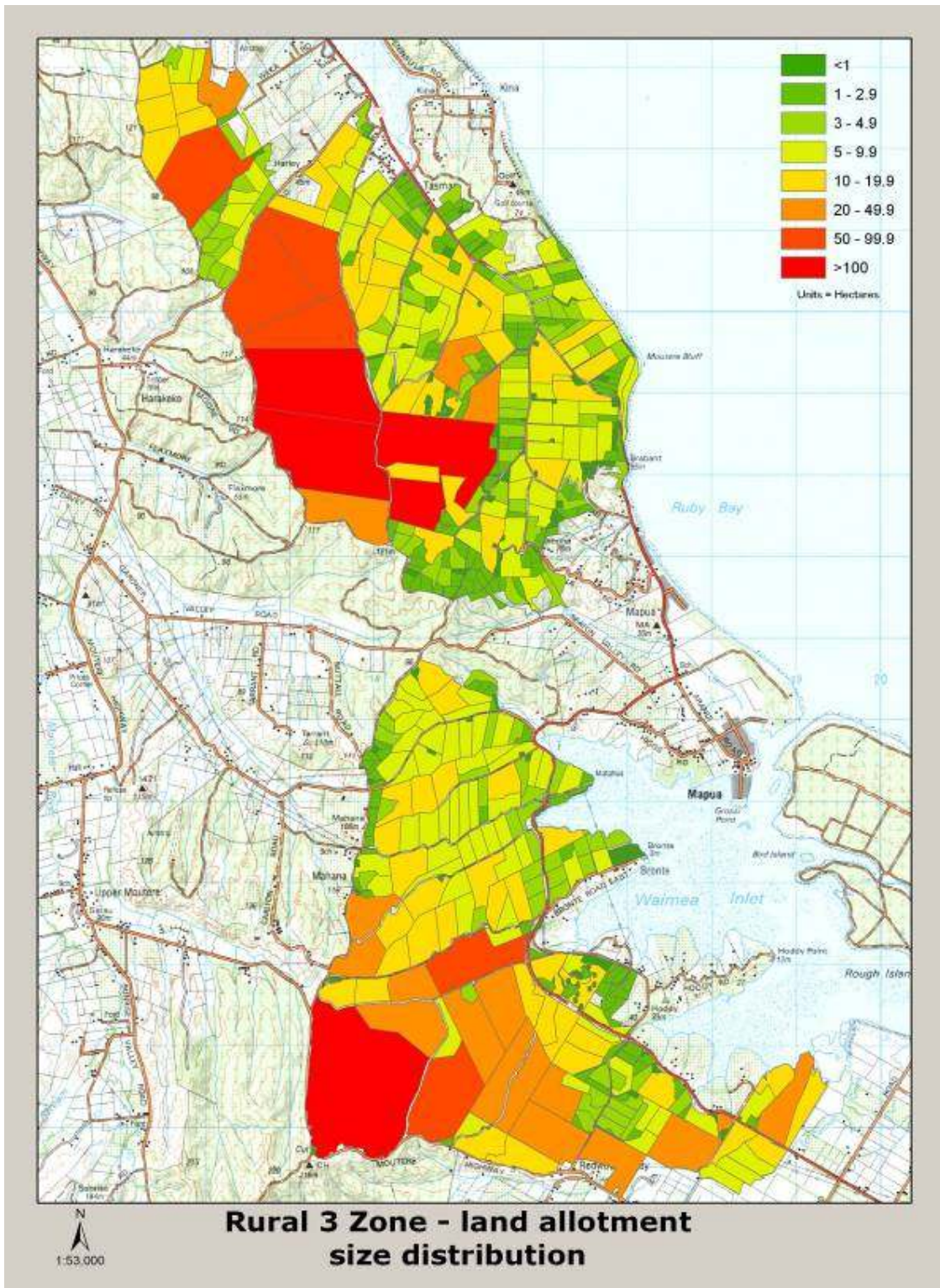


Figure 1: Rural 3 Zone – land allotment size distribution

Council must consider how the landscape may be transformed from being intensively used but still essentially a rural productive landscape, to one which is predominantly rural-residential in character. It must also be aware that cumulatively, there could be a significant compromise of the productive potential of large areas of Class B (formerly Rural 1 Zone) land.

The long-term cumulative effect of multiple approvals of small-lot subdivision, may well compromise the primary objectives and policies of the Rural 3 Zone.

Figure 2 shows an overlay of land productive value classification with allotment size distribution in the coastal Tasman area. It is interesting to note that the majority of smaller-sized allotments coincide with the more versatile Class B land.

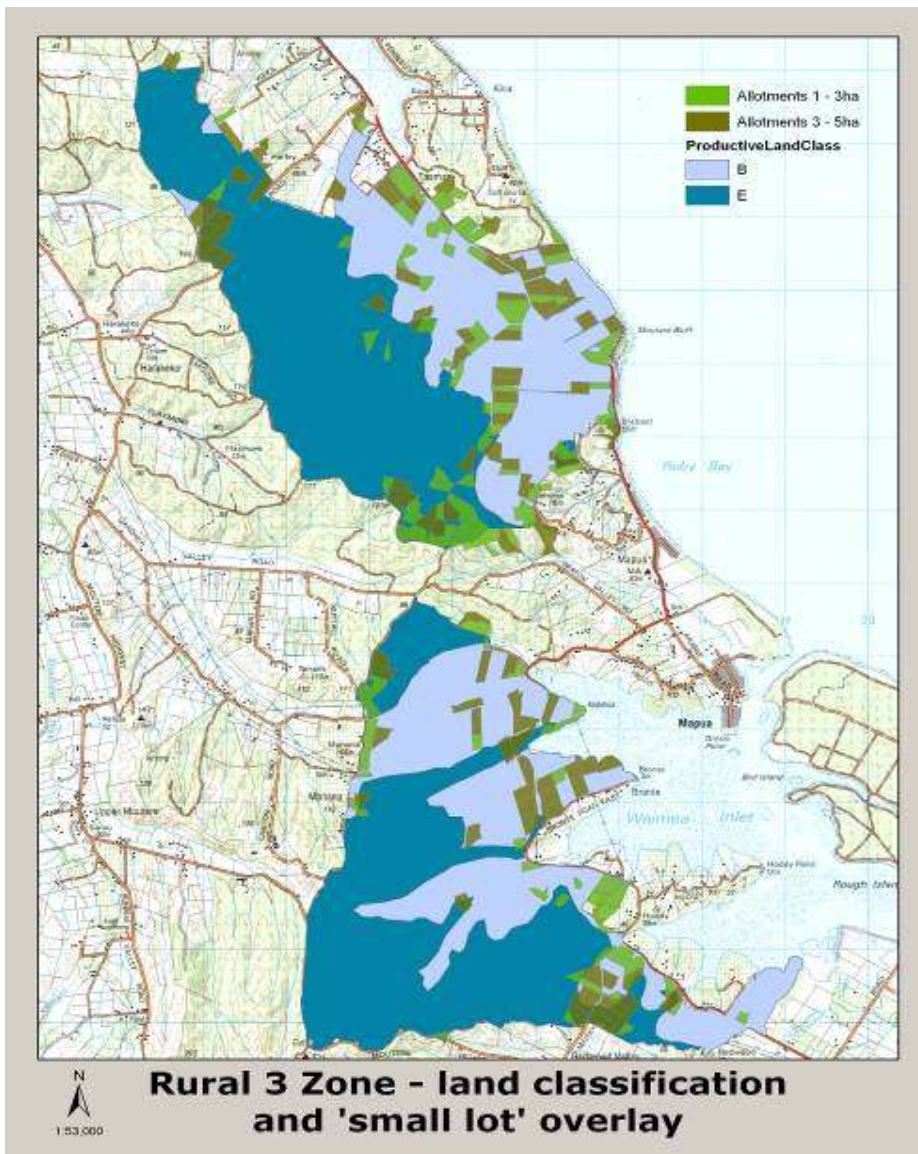


Figure 2: Rural 3 Zone – land classification and ‘small lot’ overlay

4. ISSUE 2 – HIGH PRODUCTIVE VALUE LAND

How to find an appropriate balance between policies that require the protection of land of higher productive value against those which enable rural-residential development opportunities.

This issue relates to higher quality “Class B” productive land (formerly Rural 1 Zone land), now part of the Rural 3 Zone. Within the Rural 3 Zone, the Class B land is not distinguished from less productive Class E land, which used to be part of the Rural 2 Zone.

The distribution of Class B and E lands in the Rural 3 Zone is shown in *Figure 2*.

A brief history of the Rural 3 Zone and land-use considerations is relevant to a complete understanding of the emergence of this issue:

- When Variation 32 was initially notified, the distinction between the two key land types was maintained, with a Rural 3A Zone covering the former Rural 1 Zone, Class B land.
- The land affected by the Rural 3A Zone was explicitly recognised for its higher productive versatility, through specific references in the policy framework.
- In the former Rural 3A zone, additional development restrictions applied to subdivision opportunity in the form of a new subdivision rule. The Rural 3A subdivision rule allowed for the creation of 3 additional rural-residential allotments no larger than 5000m² “in exchange for” the indefinite protection of a 12 hectare allotment that had high productive values.
- There was much opposition to this rule, and it was seen as not being an appropriate effects-based approach to the management of high productive land values. It was considered that it did not reflect the Rural 3 Zone philosophy, which sought a balance between competing values of “productive land”, “rural and coastal landscape amenity and character” and “rural residential lifestyle opportunity”.
- The Council upheld submissions requests that opposed the Rural 3A framework through the Variation 32 decisions, and the Rural 3 Zone framework was applied to the Class B land area.
- Council relied on the assessment of productive values on a case by case basis, against the policies and objectives of the Rural 3 Zone, in place of the Rural 3A subdivision rule.

In practice, concerns have been raised by staff about how an appropriate balance can be reached between policies that require “the protection of land of higher productive values” (e.g. Policy 7.3.3.5) and those which “enable rural-residential development opportunities” (e.g. Policy 7.3.3.7). The current Rural 3 Zone policies under 7.3 do not provide guidance on how much highly productive land loss is an acceptable compromise for the enabling of rural residential lifestyle allotments.

And while policy 7.3.3.7 refers to a ratio of developed to unbuilt open space “...that generally reflects a ratio of 25% developed area to a 75% open-space or unbuilt area across the total of both these Zones”, this policy is not (and was never intended to be) relevant to the assessment of productive land values on a single site basis.

In the absence of any other guidance to what might be an appropriate level of development of land that has high productive values, this policy has been used by applicants as justification for a 25% loss of Class B (former Rural 1 Zone) land.

5. OPTIONS TO ADDRESS ISSUES

Subdivision and policy officers have discussed the above issues at length. The following actions to address the two issues are suggested:

Review of Section 7.3 and its policies and applicable objectives

The goal of the review would be to provide greater clarity of Council’s policy position regarding subdivision in the Rural 3 Zone only*.

Specifically, Council can guide staff in drafting appropriate policies that articulate its position on the matter of “further fragmentation of smaller sized allotments”, and what Council regards as “an appropriate balance between subdivision opportunity and the protection of highly productive land”.

Staff propose undertaking an initial review, with draft ideas for changes to 7.3 and its policies, and using this as the basis for discussion with the Committee in a workshop late in the year.

*[The project commencing this year to review certain rural policy issues will be addressing district-wide issues relating to rural land management, including the protection of productive values of land. A recommended scope of work in that project is to be put to the Committee later this year].

Review of Chapter 16.3 Subdivision Rules

Following the Rural 3 zone policy review, it may be appropriate to consider additional regulatory options within the subdivision rules.

Clearer outcomes, cased in carefully worded subdivision standards, will provide more certainty to applicants who may be considering application for subdivision consent. Greater certainty can help to reduce delays in consents processing as associated costs. It will also result in more consistent decisions being made across a range of applications.

The form and method of Committee involvement in assisting staff to formulate clearer subdivision standards, will be dependent on the outcomes of the suggested policy review.

6. RECOMMENDATIONS

It is recommended that the Committee:

1. **Agrees** that a review of the policy framework for the Rural 3 zone is necessary and timely
2. **Directs** the preparation of advice on the Rural 3 Zone objectives and policies to address the issues raised in this report
3. **Notes** that a District-wide review of rural policies to cover the protection of productive land values is programmed to commence this year and that this work will add context to the Rural 3 zone issues.

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