

## Representation No 44

**From:** [Michelle Schleiger](#)  
**To:** [Break O Day Office Admin](#)  
**Cc:** [James Stewart](#); [Brett Woolcott](#)  
**Subject:** Break O'Day LPS Representation - 105 Seymour Street Fingal  
**Date:** Monday, 13 December 2021 10:39:54 AM  
**Attachments:** [image001.jpg](#)  
[image002.jpg](#)  
[FolioPlan-46572-1.pdf](#)  
[FolioText-46572-1.pdf](#)  
[L210605 - Representation to BODC draft LPS - Wagner.pdf](#)

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Good Morning

Please find the attached representation to the Break O'Day Council Draft Local Provisions Schedule (LPS).

The representation relates to two lots at 105 Seymour Street, Fingal (CT 46572-1) and is lodged on behalf of the property owner.

If you have any questions or require further information, please don't hesitate to let me know.

With Regards

[Michelle Schleiger](#)

Town Planner

M 0477 332 008

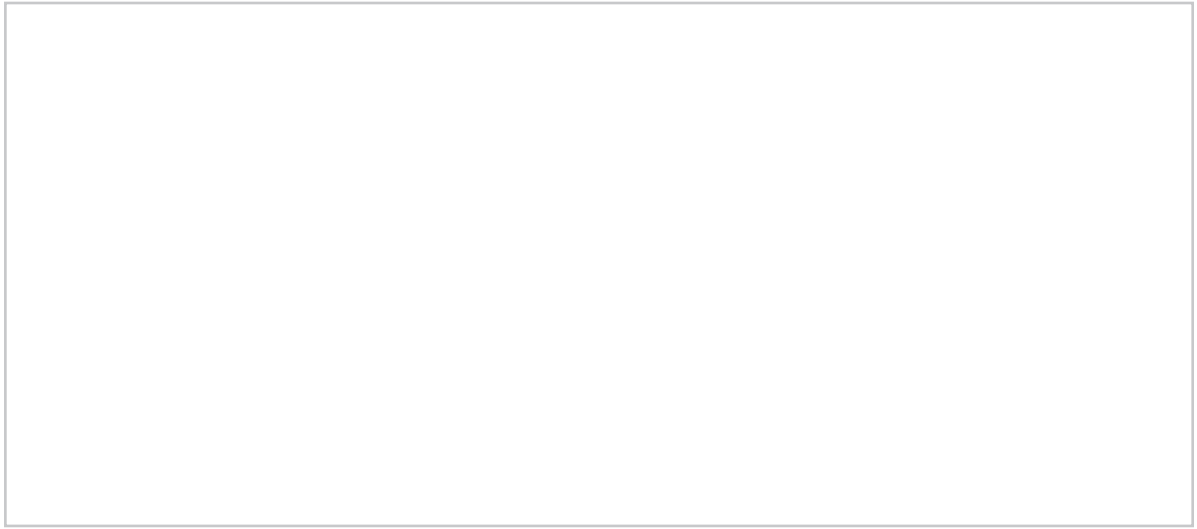
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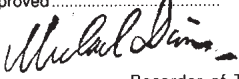
A 10 Goodman Court, Invermay TAS (PO BOX 593, Mowbray Heights TAS 7248)

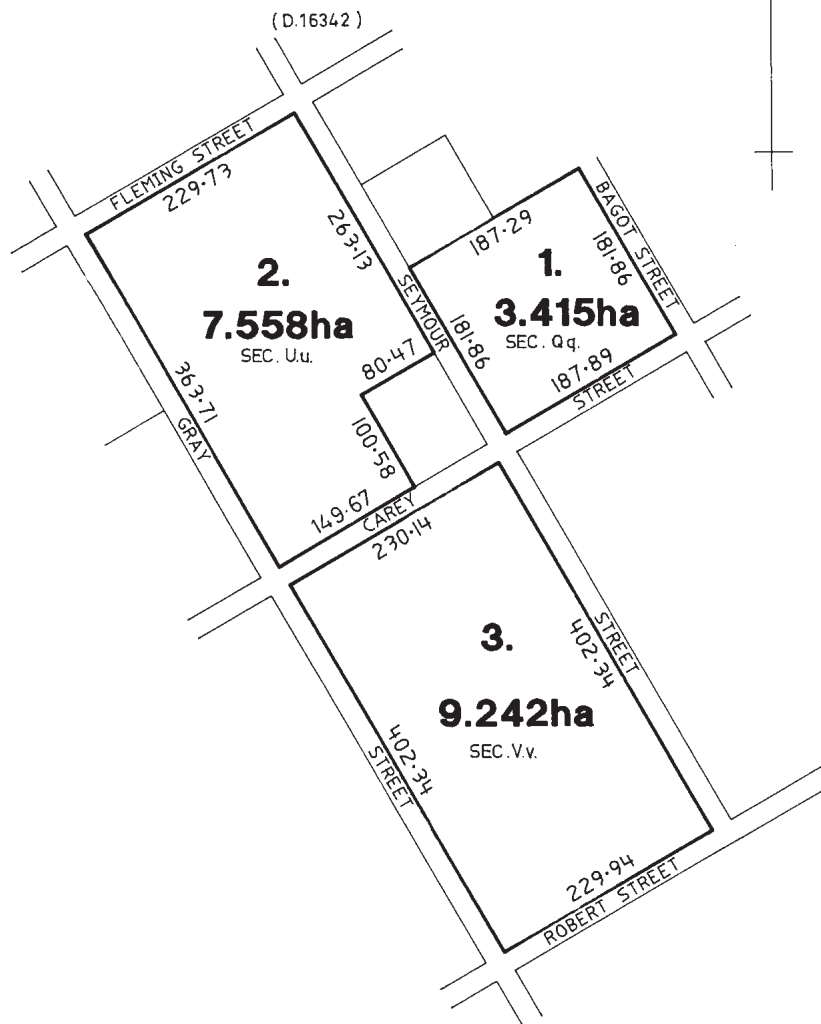




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OS K 3910

Owner:	<b>PLAN OF TITLE</b> of land situated in the  <b>TOWN OF FINGAL</b>  COMPILED FROM.....  SCALE 1: <b>5000</b> MEASUREMENTS IN METRES	Registered Number:  <b>D.46572</b>
Title Reference:    C.T.3193/18		Approved <b>19.8.1993</b> 
Grantee:		Recorder of Titles



1687

NEW SERIES TITLES		
LOT/AREA	VOL.	FOL.
2, 3.	4721	66.

## SEARCH OF TORRENS TITLE

VOLUME 46572	FOLIO 1
EDITION 5	DATE OF ISSUE 06-May-2021

SEARCH DATE : 23-Jul-2021

SEARCH TIME : 11.12 AM

DESCRIPTION OF LAND

Town of FINGAL

Lot 1 on Diagram 46572

Derivation : Whole of Lot 2 (Section Q.q.) Gtd.to J.E. Clarke

Prior CT 3193/18

SCHEDULE 1

M881517 ASSENT to CARL DAVID WAGNER Registered 06-May-2021  
at 12.01 PM

SCHEDULE 2

Reservations and conditions in the Crown Grant if any

UNREGISTERED DEALINGS AND NOTATIONS

No unregistered dealings or other notations



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& LAND PLANNERS

# Submission to the Break O'Day Council draft Local Provisions Schedule

Representation to Rezone 105 Seymour Street, Fingal  
from proposed General Industrial Zone to Rural Living 'B'

**December 2021**

Job Number: L210605  
Prepared by: Michelle Schleiger ([michelle@woolcottsurveys.com.au](mailto:michelle@woolcottsurveys.com.au))  
Town Planner  
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Senior Planner

Rev. no	Description	Date
1	Draft	3 December 2021
2	Final	7 December 2021
3		

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## 1. Introduction

This report has been prepared as a representation to rezone land at 105 Seymour Street, Fingal (the 'subject site'). The representation is lodged under Section 35E of the Land Use Planning and Approval Act 1993 (the Act) in response to Break O'Day Council advertising the Local Provisions Schedule for public consultation.

### 1.1 Summary

The following is a summary of the representation information:

Address	105 Seymour St, Fingal TAS 7214
Property ID	7298997
Title	46572/1
Part 5 Agreement or Covenants	NIL
Total Site Area	2.049 ha from 3.415ha
Council	Break O'Day Council
Planning Scheme Current	Break O'Day Interim Planning Scheme 2013 (the 'Scheme')
Planning Scheme transition	Tasmanian Planning Scheme – Break O'Day
Zone Current	General Industrial
Overlay/s Current	Bushfire Prone Areas – Whole of site
Zone Proposed TPS	General Industrial
Overlays Proposed TPS	Bushfire Prone Areas Specific Area Plans
Water	TasWater serviced land
Sewer	Not serviced – existing septic and trenches
Stormwater	Not serviced
Electricity	Existing overhead lines
Existing Buildings	Shed for machinery storage and servicing 1 Dwelling with separate garage
Frontage	Seymour Street – 181.86m Bagot Street – 181.86m
Existing Access	From Seymour Street to dwelling From Bagot Street to Shed / machinery storage (east boundary)



Figure 1 Aerial view of the subject site (Source: LISTMap)

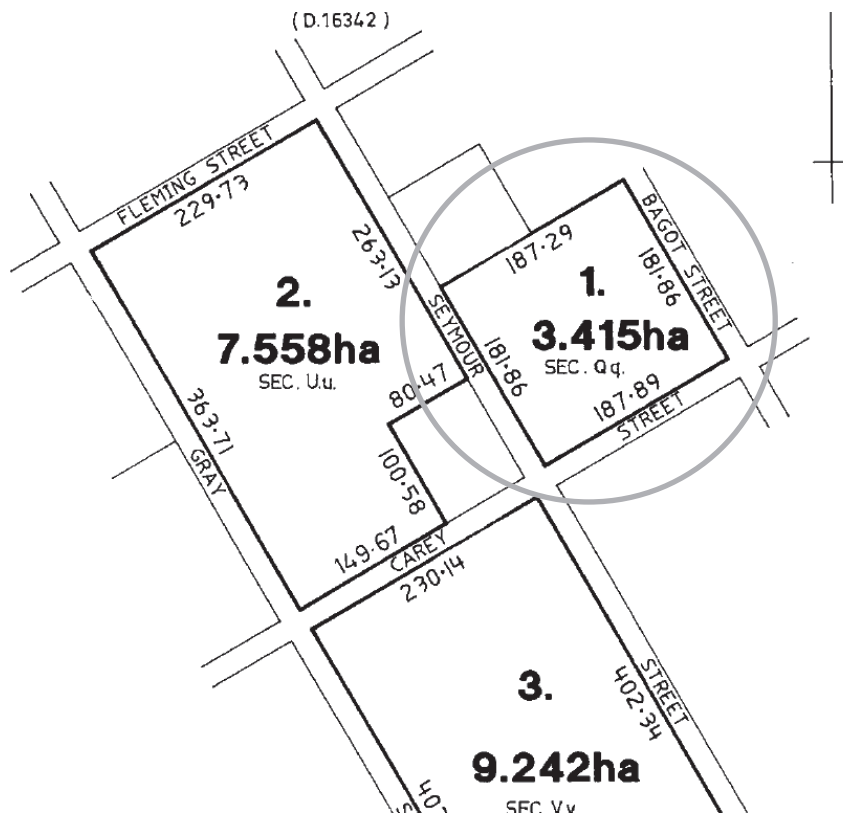


Figure 2 – Subject site – Lot 1; Site dimensions and area according to the Folio Plan Volume 46572 Folio 1

## 1.2 The Proposal

According to the draft Break O'Day draft Local Provisions Schedule, the subject site is to remain under the General Industrial Zone.

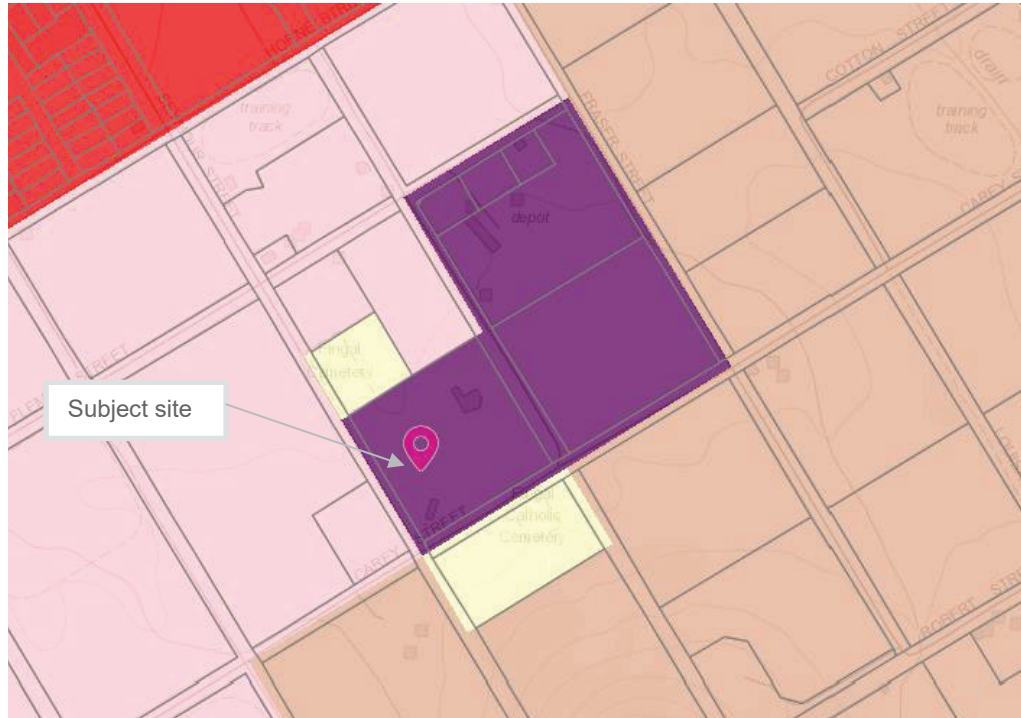


Figure 3 Proposed zoning for the subject site under the TPS (Source: Insight GIS the LIST; State of Tasmania)

The site has recently been approved for subdivision to excise the existing dwelling from the industrial use. (DA237-2021). This representation requests that the new lot that will contain the dwelling be rezoned to Rural Living 'B' in accordance with the size of the new lot.

The remainder of the land would remain as General Industrial and continue to operate as a Contractors Depot.





Figure 4 Approved subdivision for 105 Seymour Street Fingal DA237-2021

### 1.3 Context – current zones and overlays

The subject site is currently zoned General Industrial. The site adjoins Rural living sites to the west and community purpose zoned sites (cemeteries) to the north and south.

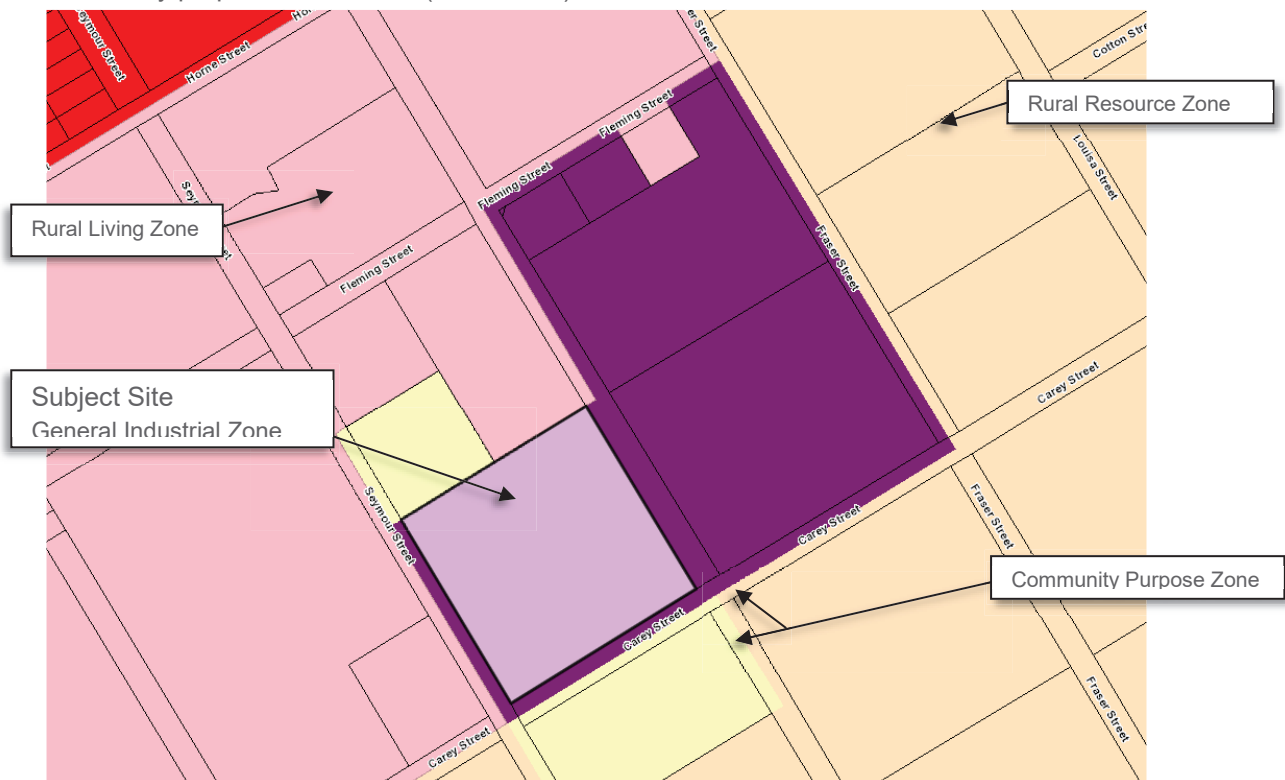


Figure 5 The subject site and surrounding area zoning (Source: LISTMap)

The subject site is affected by the Bushfire Prone Area Overlay.



Figure 6 The subject site and relevant overlays (Source: LISTMap).

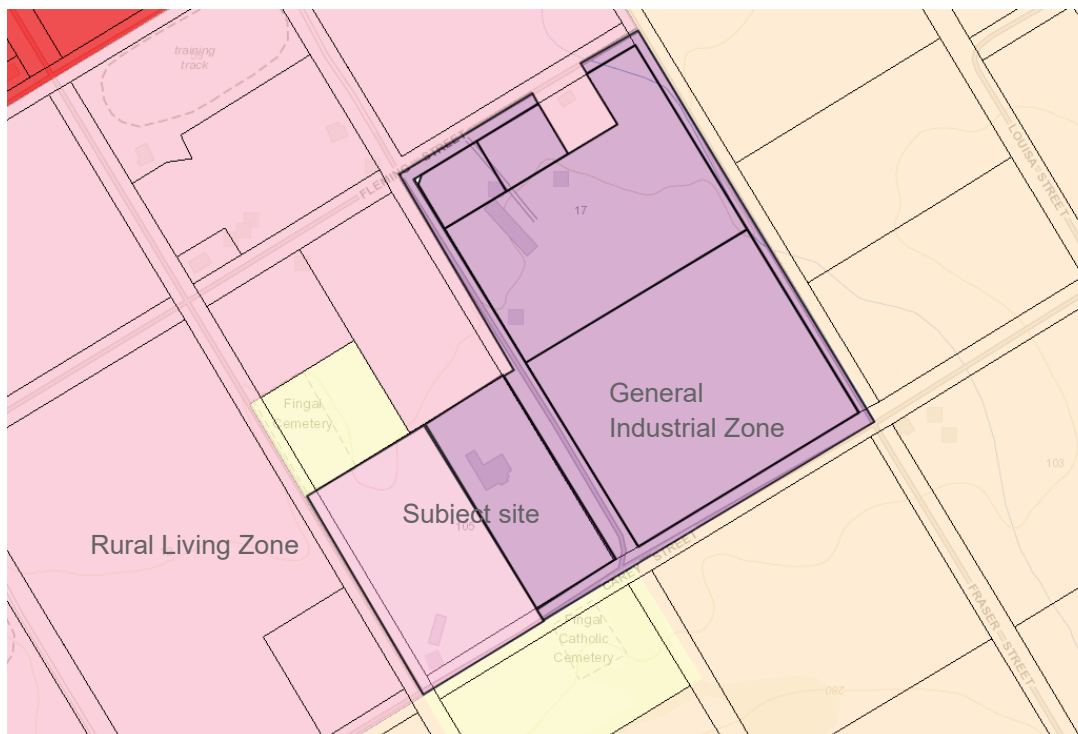


Figure 7 Potential zoning of the subject site (illustration only).

## 4. Zone Assessment

### 11.0 Rural Living Zone

#### Zone Application Guidelines

RL1	<p>The Rural Living Zone should be applied to:</p> <ul style="list-style-type: none"> <li>a. residential areas with larger lots, where existing and intended use is a mix between residential and lower order rural activities (e.g., hobby farming), but priority is given to the protection of residential amenity; or</li> <li>b. land that is currently a Rural Living Zone within an interim planning scheme or a section 29 planning scheme,</li> </ul> <p>unless RLZ 4 below applies.</p>
RL2	<p>The Rural Living Zone should not be applied to land that is not currently within an interim planning scheme Rural Living Zone, unless:</p> <ul style="list-style-type: none"> <li>a. consistent with the relevant regional land use strategy, or supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council; or</li> <li>b. the land is within the Environmental Living Zone in an interim planning scheme and the primary strategic intention is for residential use and development within a rural setting and a similar minimum allowable lot size is being applied, such as, applying the Rural Living Zone D where the minimum lot size is 10 ha or greater.</li> </ul>
RL3	<p>The differentiation between Rural Living Zone A, Rural Living Zone B, Rural Living Zone C or Rural Living Zone D should be based on:</p> <ul style="list-style-type: none"> <li>a. a reflection of the existing pattern and density of development within the rural living area; or</li> <li>b. further strategic justification to support the chosen minimum lot sizes consistent with the relevant regional land use strategy, or supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council.</li> </ul>
RL4	<p>The Rural Living Zone should not be applied to land that:</p> <ul style="list-style-type: none"> <li>a. is suitable and targeted for future greenfield urban development;</li> <li>b. contains important landscape values that are identified for protection and conservation, such as bushland areas, large areas of native vegetation, or areas of important scenic values (see Landscape Conservation Zone), unless the values can be appropriately managed through the application and operation of the relevant codes; or</li> <li>c. is identified in the 'Land Potentially Suitable for Agriculture Zone' available on the LIST (see Agriculture Zone), unless the Rural Living Zone can be justified in accordance with the relevant regional land use strategy, or supported by more detailed local strategic analysis consistent with the relevant regional land use strategy and endorsed by the relevant council.</li> </ul>

#### Response:

RL1	The existing use of the land is in accordance with RLZ1 a); the subject site is a larger lot with the existing use demonstrated to be residential and lower order rural activities (occasional grazing and land management).
RL2	<p>a) The land is proposed to be zoned General Industrial based on the current zoning. The subject site is more suited to Rural Living Zone due to the existing dwelling and recent subdivision. The subject site area is not included in the Regional Land Use Strategy or covered by any other strategic plans. It is submitted that the land belongs to the adjoining Rural Living Zone as it is compatible by adjoining and existing use.</p> <p>b) does not apply.</p>
RL3	The subject site is suited to be made Rural Living 'B' (minimum 2ha) in accordance with the lot size. The surrounding land is proposed to be Rural Living C, although there is variation in existing lot size, many lots under 5ha.



RL4 The land is not targeted for future greenfield development. It is primarily used for residential purposes. This use has been existing for at least 30 years.

## Zone Purpose

The purpose of the Rural Living Zone is:

Provision		Response
11.1.1	To provide for residential use or development in a rural setting where: a. services are limited; or b. existing natural and landscape values are to be retained.	The subject site is being used for residential purpose with limited services.
11.1.2	To provide for compatible agricultural use and development that does not adversely impact on residential amenity.	The subject site has adequate land size to allow for buffers to adjoining agricultural use, primarily plantation timber. The site can be used for lower order agricultural activities, such as occasional grazing.
11.1.3	To provide for other use or development that does not cause an unreasonable loss of amenity, through noise, scale, intensity, traffic generation and movement, or other off site impacts.	Loss of amenity to adjoining sites is not anticipated as the subject site is being used in a similar fashion to the adjoining. No future development that creates a conflict is proposed.
11.1.4	To provide for Visitor Accommodation that is compatible with residential character.	Not proposed at this time.

### Response

The subject site is suited to the purpose of the Rural Living zone and its existing use is in accordance with this.

Under the General Industrial Zone, the residential use is prohibited. Bringing the use into line with the zone would allow for sustainable and sensible development, normal to a dwelling without relying on existing use rights.

## 5. Summary

The subject site is better suited to the Rural Living Zone than for the General Industrial Zone. The site has been used for both residential and industrial uses for many years and now will be subdivided according to the approved plans. The dwelling is not associated or subservient to the industrial use but the previous concurrent uses on the site demonstrate that there is no detriment from one use to the other and the rezone would only reflect the longstanding use of the land.



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