

TASMANIAN PLANNING COMMISSION

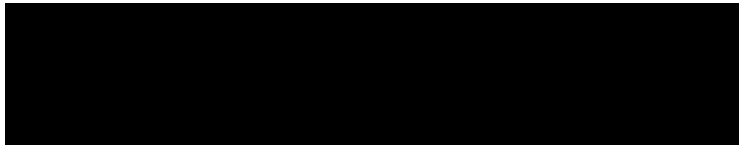


DECISION

Planning scheme	Tasmanian Planning Scheme - Devonport
Amendment	AM2026-01 - rezone 6 Melrose Road Spreyton from Agriculture to General Residential
Planning authority	Devonport City Council
Applicant	Equilibrium Town Planning for M Distill, B and S Langworthy
Date of decision	9 October 2026

Decision

The draft amendment is modified under section 40N(1)(b) of the *Land Use Planning and Approvals Act 1993* as set out in Annexure A and is approved under section 40Q.



Michael Hogan
Delegate (Chair)

Dianne Cowen
Delegate

REASONS FOR DECISION

Background

Amendment

The draft amendment proposes to rezone 6 Melrose Road, Spreyton from Agriculture to General Residential.

Site information

6 Melrose Road, Spreyton (the site) contains one title (folio of the Register 13288/2) and is 6.36ha.

The site is vacant and has previously been used for grazing and cropping (an orchard). The land is located at the southern end of Sheffield and is bordered by Sheffield Road to the west and Tarleton Road to the south.

Surrounding land is zoned General Residential and Agriculture to the north, Rural and Rural Living to the east, Rural Living to the south and Utilities (Sheffield Road) to the west.

The bushfire-prone areas and waterway and coastal protection area overlays apply to the site. An unmapped attenuation area applies to the site for the cidery at 6 Melrose Road, Aberdeen.

The site can be serviced with reticulated sewer and water.

Issues raised in representations

Two representations were received during the exhibition period.

The representation from the Department of Natural Resource and Environment (NRE) provided some general comments in response to the Natural Assets Report in relation to the survey and reporting. NRE also identified that the Central North burrowing crayfish has been recorded within 200m of the site and recommended a targeted survey be undertaken.

The representation from the Department of State Growth (DSG) advised that Sheffield Road is not a public transport route and it would not consider servicing the site for buses. DSG also advised the preferred location for future access to the site and the need for a Traffic Impact Assessment.

The draft amendment was referred to TasWater under sections 56S of the *Water and Sewerage Industry Act 2008*. In response TasWater advised that it does not object to the draft amendment and does not need to attend any hearing.

These issues and any additional matters raised by representors at the hearing are discussed as relevant below.

Planning authority's response to the representations

The planning authority considered the representations and recommended that no modifications to the draft amendment were required.

Date and place of hearing

The hearing was held at the Aberdeen Room, parnaple Convention Centre, 137 Rooke Street, Devonport on 26 August 2026.

Appearances at the hearing

Planning authority: Carolyn Milnes, Senior Town Planner
Applicant: Theresia Williams, Equilibrium Town Planning
Jason Lynch, Pinion Advisory
Michelle Distill

Site Visits

A site visit was undertaken prior to the hearing on 25 August 2026.

Consideration of the draft amendment

Statutory Requirements

1. Under section 40M of the *Land Use Planning and Approvals Act 1993* (the Act), the Commission is required to consider the draft amendment to the Tasmanian Planning Scheme - Devonport Local Provisions Schedule (LPS) and the representations, statements and recommendations contained in the planning authority's section 40K report, any information obtained at a hearing, and any technical matters.
2. A hearing was convened to assist the Commission consider the issues in the representations.
3. The Commission must also consider whether the draft amendment meets the LPS criteria as set out under section 34(2) of the Act:
 - (a) contains all the provisions that the SPPs specify must be contained in an LPS; and
 - (b) is in accordance with section 32; and
 - (c) furthers the objectives set out in Schedule 1; and
 - (d) is consistent with each State policy; and
 - (da) satisfies the relevant criteria in relation to the TPPs; and
 - (e) as far as practicable, is consistent with the regional land use strategy, if any, for the regional area in which is situated the land to which the relevant planning instrument relates; and
 - (f) has regard to the strategic plan, prepared under section 66 of the *Local Government Act 1993*, that applies in relation to the land to which the relevant planning instrument relates; and
 - (g) as far as practicable, is consistent with and co-ordinated with any LPSs that apply to municipal areas that are

adjacent to the municipal area to which the relevant planning instrument relates; and

- (h) has regard to the safety requirements set out in the standards prescribed under the *Gas Safety Act 2019*.

4. Where relevant, these matters are discussed in the sections below.

Tasmanian Planning Policies

5. Under the Tasmanian Planning Policies (TPPs), *objectives* set out the aim of the policy and *strategies* identify the ways in which that objective may be achieved. Where a strategy is relevant, the TPPs require that it be considered and implemented in the context of the objective that it is seeking to achieve.
6. Accordingly, the Commission considers it necessary to have regard to the extent to which the draft amendment is consistent with, or departs from, the relevant strategies, as this informs whether the objective is being achieved. This, in turn, informs the Commission's consideration of the TPPs as a whole under the LPS criteria of the Act.

Agriculture

The policy objective for Agriculture is to protect agricultural land and the resources on which agriculture depend to promote a diverse and productive sector.

Strategies that give effect to this objective include:

- protecting land identified as being in the higher classes of agricultural capability (strategy 2)
 - protecting land with significant agricultural capabilities (strategy 4)
 - protecting agricultural land from permanent conversion unless specific conditions exist: a) the land is identified for growth, b) the scale of conversion is minor (strategy 7)
7. Strategy 7 identifies circumstances in which permanent conversion may be considered, but it does not determine that conversion is appropriate. The implementation principles require that strategies are not read in isolation to imply that consequence. Accordingly, the Commission must consider the importance of all relevant strategies related to the Agriculture objective. In the context of a planning scheme amendment, this requires consideration not only of the circumstances of the subject land, but also whether the planning outcome established by the amendment remains consistent with the strategies when applied across land sharing similar characteristics.
8. The Commission accepts that Strategy 7(b) is capable of applying to a planning scheme amendment facilitating urban growth. However, satisfaction of Strategy 7(b) is not considered determinative in and of itself. If it were, the requirement in Strategy 7(a) for land to be strategically identified for growth would have little practical operation, as most conceivable planning scheme amendments for settlement growth would affect only a minor proportion of the regional agricultural resource. Such an interpretation would not give coherent effect to Strategy 7 as a whole, nor to the implementation principle that no strategy is to be read in isolation to imply a particular action or consequence.

9. The land is part of a larger property that is used to produce cider and as an orchard. The land is not irrigated, and it is not suitable for use for perennial horticulture. Currently the land is not actively used as part of the agricultural operation on that property. These factors do not however determine that that land cannot be used within its capability for agricultural purposes or that an enterprise that uses the land will not do so in an efficient and productive manner.
10. Although the area of land affected by the amendment is relatively small, the assessment of agricultural significance is not confined to the size of the individual site and must also have regard to the broader agricultural resource of which the land is part of. The Commission considers that while the agricultural objectives and relevant strategies of the TPPs provide substantial support for the protection of the land this land also needs to be assessed against the merit of the land be used to support urban growth.

Growth

11. The policy objective for Growth is to plan for settlement growth that provides for community needs and establishes a sustainable pattern of development.
12. Strategies that give effect to this objective include:
 - providing at least 15 years of regional supply catering for forecast residential demand (Strategy 1)
 - directing growth to land that can efficiently utilise physical and social infrastructure networks and can integrate with transport systems (Strategy 2[b] and 2[c])
 - discourage growth on agricultural land and particularly higher classes of land (Strategy 2[d][iv])
 - ensuring land identified for growth outside of a growth boundary is strategically justified based on a range of factors including, site suitability, demand and supply analysis and existing physical and social infrastructure and services (Strategy 8)
 - coordinating development sequencing to provide more cost-effective delivery of urban growth (Strategy 11).
13. The Commission notes that the Greater Devonport Residential Growth Strategy broadly identifies two main areas or corridors for potential suburban growth:
 - land to the east of the built-up area of East Devonport
 - land either side of the Sheffield Main Road between Spreyton and Tarlton Road.
14. Both of these areas have access to reticulated urban services such as water and sewerage, are close to the existing public transport network and can provide a connected network of roads and active transport routes.
15. The corridor identified as a potential growth corridor either side of the Sheffield Main Road contains a range of constraints and opportunities.
16. Much of the land in the northern section of the potential growth corridor consists of irrigated agricultural land used for perennial horticulture. During the hearing

the planning authority outlined that land adjacent to McArthur Drive on the western side of the main road was constrained due to its historic use as a coal mine.

17. The land directly to the north of the subject site includes land that is actively used for other purposes, or which does not have direct access to Sheffield Main Road. Generally, the pattern of land ownership, existing land uses and access arrangements affecting land to the north of the subject site are considered likely to hinder the delivery of greenfield residential development.

Commission consideration

18. While the subject site is located at the southern end of the corridor identified as having potential for residential growth, the Commission considers that its planned development may have the potential to establish a logical starting point for future residential growth and improve opportunities for the coordinated development of land to the north.
19. More generally the Commission recognises that:
 - many areas around the urban area of Devonport are constrained for a variety of factors such as natural topography, natural values, prime agricultural land, the location of major industry and processing facilities, landslip risk and historical mining activity.
 - that the Cradle Coast Residential Demand and Supply Study 2024 outlines that the greenfield areas of land zoned for residential purposes in the Spreyton area (which includes Stony Rise and Miandetta) has the highest level of ownership concentration across the region with 80% of vacant land held by 2 landowners.
 - a 40 lot suburban subdivision of land off Sheffield Main Road in 2014 was substantially developed for housing over the following year and contained one vacant lot in 2016.
20. The Commission considers that the subject land appears capable of supporting conventional greenfield residential development with comparatively few physical or cost related constraints. While the Commission does not draw conclusions regarding housing affordability, the relative absence of development constraints is a factor supporting the land's potential to contribute to residential land supply within the locality.
21. The Commission considers that the scale of residential development capable of being accommodated on the land is a relevant consideration. The potential to facilitate approximately 60 dwellings may assist in achieving efficiencies in the provision of infrastructure and subdivision works that it likely to be difficult to achieve on smaller development sites.
22. In the absence of an identified urban growth boundary, the Commission considers that the strategic considerations reflected in the TPP provisions relating to land beyond a growth boundary remain relevant. With this perspective in mind, the Commission considers the draft amendment is generally consistent with and supported by the Growth element of the TPPs.
23. The Commission finds that having regard to the TPPs as a whole, the draft amendments consistency with the Growth strategies of the TPPs is a significant

consideration, and the draft amendment is, on balance, consistent with the relevant strategies of the TPPs.

Regional land use strategy

24. The Cradle Coast Regional Land Use Strategy (regional strategy) is Part C of the Cradle Coast Regional Land Use Planning Framework. The regional strategy outlines the roles of policies and supporting principles.
25. In summary, this section outlines that:
 - policies are the aims against which future land use planning proposals are to be considered against
 - planning schemes are to further the policies of the Strategy
 - the Strategy is to be read in its entirety, and all applicable policies are to be applied
 - principles and policies are general requirements and do not specify the detail of assessment requirements for planning schemes.

Agriculture

26. The agricultural policies of the regional strategy begin by establishing the scope of the agricultural resource to which they apply. *Land significant for agriculture* is identified as not less than the entirety of the land currently available to be developed for agriculture within the Region.
27. The Strategy adopts a very broad view of the land that is significant for agriculture and then outlines policies that are directed to the protection of this land for productive use as well as policies that:
 - generally, exclude use and development that has no need to locate on that land
 - outline the basis for considering when conversion to other uses may be suitable.
28. The policies of the regional strategy place significant emphasis on protecting agricultural land for agricultural activity and uses aligned to agriculture. Conversion of land for agriculture to other uses is generally not considered suitable unless there is a need for a proposed use to occur in a specific location, it is consistent with an endorsed settlement strategy, or it provides for an alternative economic use.

Urban Settlement

29. The urban settlement policies of the regional strategy note that the population growth for Devonport is forecast to be between 1000 and 2000 people for the 2008-2032 period.
30. The policies of the regional strategy require the ability to accommodate forecast housing demand for a minimum future period of 10 years including land designated for settlement growth and immediately available for residential development under the planning scheme.

Commission consideration

31. The Commission considers that the draft amendment is consistent with the growth and settlement policies of the regional strategy as it will provide for housing in an existing residential area that has access to services. The site is separated from agricultural uses to the south by Tarleton Road and will provide a southern border for the Spreyton township.
32. Following its consideration of the draft LPS amendment in relation to the relevant policies and process of the regional strategy the Commission finds that the draft amendment is, as far as practicable, consistent with the regional strategy.

Suitability of General Residential Zone

33. The site is located at the end of Sheffield Road on the southern edge of the Devonport Municipality, bordering Kentish Council to the south and Latrobe Council to the east.
34. Land to the north of the site remains in agricultural zoning, and the planning authority advised at the hearing that there have been discussions with the owners to also rezone these properties.
35. The applicant's planning report noted that the land to the west, across Sheffield Road, contains an existing apple orchard and associated business operations. The planning report noted that the site already directly adjoins land within the General Residential zone.
36. The planning report did not consider that the proposed zoning would result in any significant land use conflict.
37. At the hearing, Michelle Distill for the applicant stated that the lack of access to water made it difficult to maintain the orchards. Ms Distill advised that both sides of the road originally contained apple trees, but once weather patterns changed, they were no longer able to maintain the trees without a water source. She confirmed that the cidery has a bore available.
38. Ms Distill advised that the apple trees on the cidery site form an incidental part of the spreyton cider operation, with their main purpose being that visitors get a feeling of being in a working agricultural environment.
39. The land has been identified as being within and adjacent to an 'urban growth investigation area' within the Greater Devonport Residential Growth Strategy 2021 - 2034. The land is capable of being supplied with water, sewer and electrical services and is adjacent to a route on the area's regular public bus network.

Commission consideration

40. The Commission considers that the sites location at the southern boundary of Spreyton and its access to services required in a residential area, is suitable for General Residential zoning.

Attenuation Area

41. C9.5.2 P1 of the Attenuation Code requires that sensitive use within an attenuation area, must not interfere with or constrain an existing activity listed in Tables C9.1 or C9.2, having regard to a number of matters.
42. Table C9.1 Attenuation Distances applies an attenuation distance of 500m for cidery production facilities - emissions such as odour and noise.
43. At the hearing, the Commission discussed the application of the attenuation area to the spreyton cidery at 6 Melrose Road, Aberdeen, noting that the attenuation area would cover most of the site. The Commission queried whether a mapped area for the cidery could be applied instead of the default 500m in the Attenuation Code that starts at the boundary of the site.
44. Ms Distill provided some background on the cidery, noting that it is small scale and produces no noxious odours and not a great deal of noise. She advised that most of the work that goes into turning the apple juice into cider happens inside the cidery itself, so there is no noise and no smell. The cidery operates in normal office hours 7.30am to 5pm Monday to Friday, aside from the cellar door/restaurant which is open on weekends. Ms Distill submitted that 500m would be excessive as the cidery is a small-scale operation.
45. Ms Carolyn Milne advised that the Council has not received any noise or smell complaints for the cidery.
46. The planning authority agreed that a mapped attenuation area 100m from the centre of the cidery building would be appropriate and will allow for residential use and development to be no permit required under the planning scheme.
47. The planning authority's and applicant's joint submission dated 2 October 2026 submitted that the cidery produces, on average, 1,100L/day over a five day week, with no production on weekends.
48. The 2025 Victorian EPA guidance on separation distances for a cidery producing less than 2,000L per day, specifies no separation distances and EPA Victoria, 'recommends there is no visible discharge of dust or emissions of odours offensive to the senses of human beings, beyond the boundary of the premises'. The submission noted that the current operations sit significantly below the trigger within the Victoria standards for a specified separation distance.
49. The submission considered that based on there being no visible discharges of dust or emissions of odours offensive to the senses of human beings on the site from the cidery, that a mapped attenuation area of approximately 100m from the processing shed up to the limits of the property boundaries is appropriate. This was supported by Council's Environmental Health Officers in the submission.

Commission consideration

50. The Commission accepts the submission from the applicant and planning authority that a mapped 100m attenuation area is appropriate on the cidery site.
51. The Commission is satisfied that the draft amendment should be modified to include an attenuation area on 6 Melrose Road, Aberdeen (folio of the Register

101127/1). The attenuation area should extend 120m from the centre of the cidery building. This reflects the 100m attenuation distance together with an additional 20m to account for the extent of the existing cidery development area.

State Policies

State Policy on the Protection of Agricultural Land 2009

52. Based on the agricultural assessment report provided, although the land is currently only used to bale pasture, the site is agricultural land for the purpose of the *State Policy on the Protection of Agricultural Land 2009* (PAL Policy) as it has the potential for agriculture use.
53. The land is part of a property that is used for cider production and an orchard. The landowners are directors of Spreyton Fresh who own and operate the cidery who also own and operate agricultural and food production activities on other properties near the site. The owners of the land removed an orchard some decades earlier and consider that the land is not suitable to be used as an orchard primarily as the land does not have access to a water supply. The agricultural report provided sited the absence of irrigation water as a major constraint to the current and future use of the land.

Commission consideration

54. The Commission accepts the evidence presented on the capability of land and its soil classes which demonstrate that the site consists of non-prime agricultural land and is primarily capable for livestock production and pastoral based agriculture.
55. The Commission considers that a "constraint" on agricultural use is generally a factor that materially reduces the ability of the land to be used in accordance with its existing agricultural capability and characteristics. Accordingly, the Commission does not regard the absence of irrigation water as a constraint, but rather as a characteristic of the land that informs the range of agricultural activities it may support, as distinct from a factor that acts to reduce its agricultural use.
56. While that land is relatively small in area, the agricultural report states that the land is capable for agricultural use. At the hearing opinions were expressed that the land could not in itself support a commercial livestock operation. The Commission considers that that attribute is not a core factor of the Policy. Rather, the Commission considers that the PAL Policy acts to ensure that land is capable of being used for agricultural purposes and is not lost to productive use, recognising that individual titles will often not provide sufficient economies of scale to support a stand-alone commercial enterprise. No evidence was provided that would lead the Commission to consider that in the long-term normal market processes would not be capable of enabling agricultural use to occur in an economically efficient manner.
57. The Commission considers that, having regard to its characteristics and locational attributes, the subject land can reasonably be considered to form part of a locally and regionally significant agricultural resource. The significance of the land arises not from the individual parcel in isolation, but from its

contribution to a broader category of agricultural land that supports the sustainable development of agriculture within the locality and region.

58. The Commission considers that Principle 7 of the PAL Policy is directed towards determining the significance of non-prime agricultural land for agricultural use and, in doing so, the weight that should be afforded to its protection. However, the Policy does not establish an absolute prohibition on the conversion of significant non-prime agricultural land. This is consistent with the objectives of the PAL Policy, which seek to minimise, rather than prevent, the conversion of agricultural land to non-agricultural uses.
59. The conversion of the land to uses permissible under the General Residential zone is not considered likely to:
- constrain or fetter existing agricultural activities in the area; or
 - limit the future scope of the agricultural activities on the property which is it a part of.
60. While the proposed zoning would result in the loss of land forming part of a locally and regionally significant agricultural resource, the Commission considers that the planning benefits associated with the amendment is sufficient to ensure that the policy objective of minimising the conversion of agricultural land to non-agricultural uses is achieved.
61. Accordingly, the Commission finds that the draft amendment is consistent with the PAL Policy.

State Coastal Policy 1996

62. The Commission finds that due to the location of the site, the *State Coastal Policy 1996* is not relevant to the draft amendment.

State Policy on Water Quality Management 1997

63. The Commission finds that water quality management measures can be required where appropriate to potential future development. The Commission finds that the draft amendment is consistent with the *State Policy on Water Quality Management 1997*.

Schedule 1 Objectives of the Act

64. The Commission finds the proposal facilitates residential development that both supports and facilitates sound and order strategic planning and finds that the draft amendment seeks to further the objectives of the Resource Management and Planning System at Schedule 1 of the Act.

Modifications required to draft amendment

65. Under section 40M of the Act, the Commission must consider whether modifications to a draft amendment of an LPS ought to be made.
66. In addition to the mapped attenuation area discussed above, the Commission also considers the draft amendment should be modified to rezone the adjacent Jowetts Lane to the road centreline in accordance with the Commission's Practice Note 7.

Decision on draft amendment

67. Subject to the modifications described above, the Commission is satisfied that the draft amendment meets the LPS criteria and gives its approval.

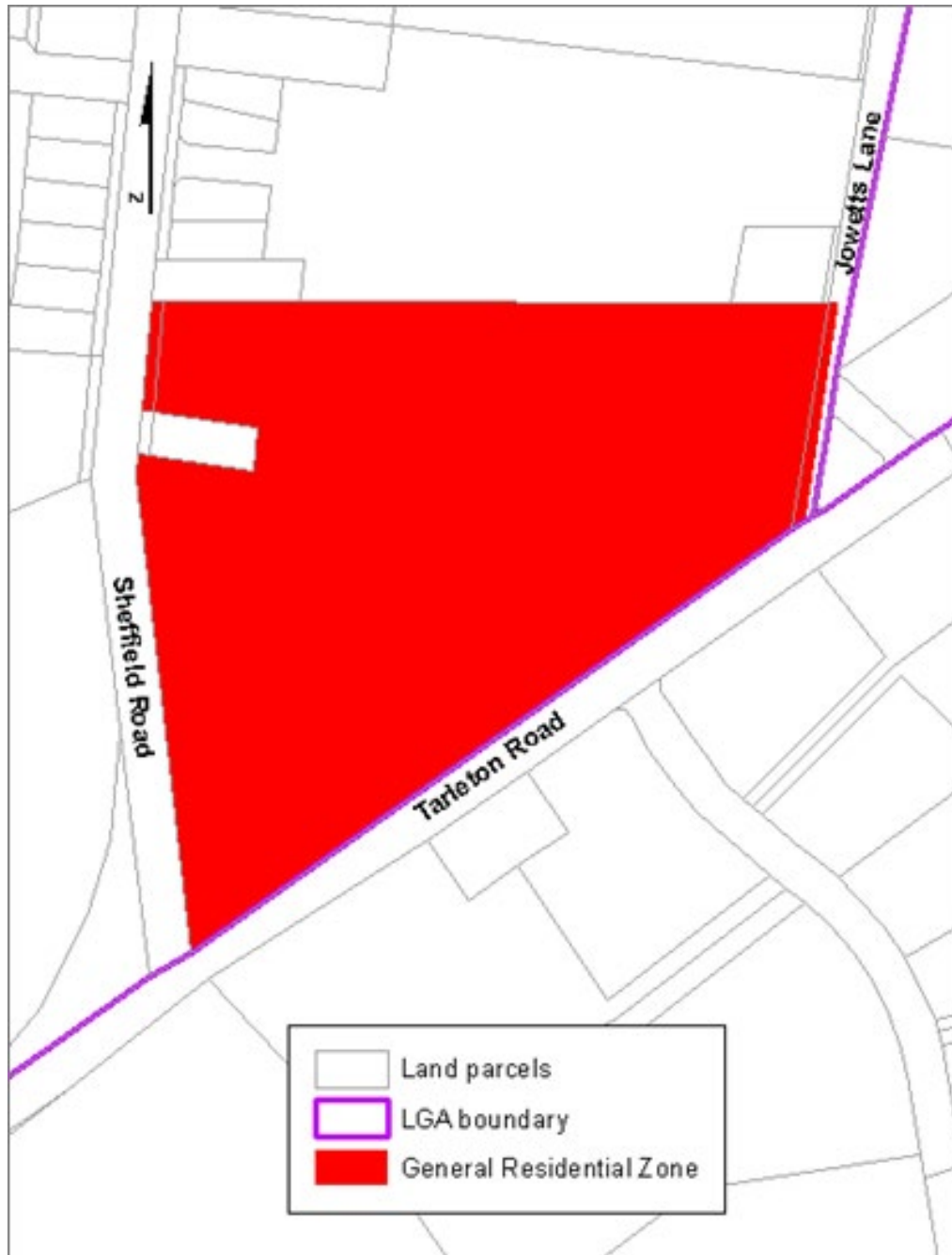
Attachments

Annexure A - modified amendment

Annexure A

Modified amendment AM2026-01, Tasmanian Planning Scheme - Devonport

1. Rezone 6 Melrose Road, Spreyton (folio of the Register 13288/2) and the adjacent road reserves on Jowetts Lane to the centreline from Agriculture to General Residential, as shown below:



2. Apply the attenuation area overlay to 6 Melrose Road, Aberdeen (folio of the Register 101127/1), as shown below:

