



City of **HOBART**

## APPLICATION UNDER HOBART INTERIM PLANNING SCHEME 2015

Type of Report:	Committee
Committee:	15 February 2023
Expiry Date:	16 February 2023
Application No:	PLN-22-736
Address:	487 SANDY BAY ROAD , SANDY BAY 489 SANDY BAY ROAD , SANDY BAY
Applicant:	Daniel Cripps (Leary, Cox and Cripps) G04, 40 Molle Street
Proposal:	Subdivision (Boundary Adjustment)
Representations:	None
Performance criteria:	General Residential Zone Development Standards for Subdivision, and Historic Heritage Code

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### 1. Executive Summary

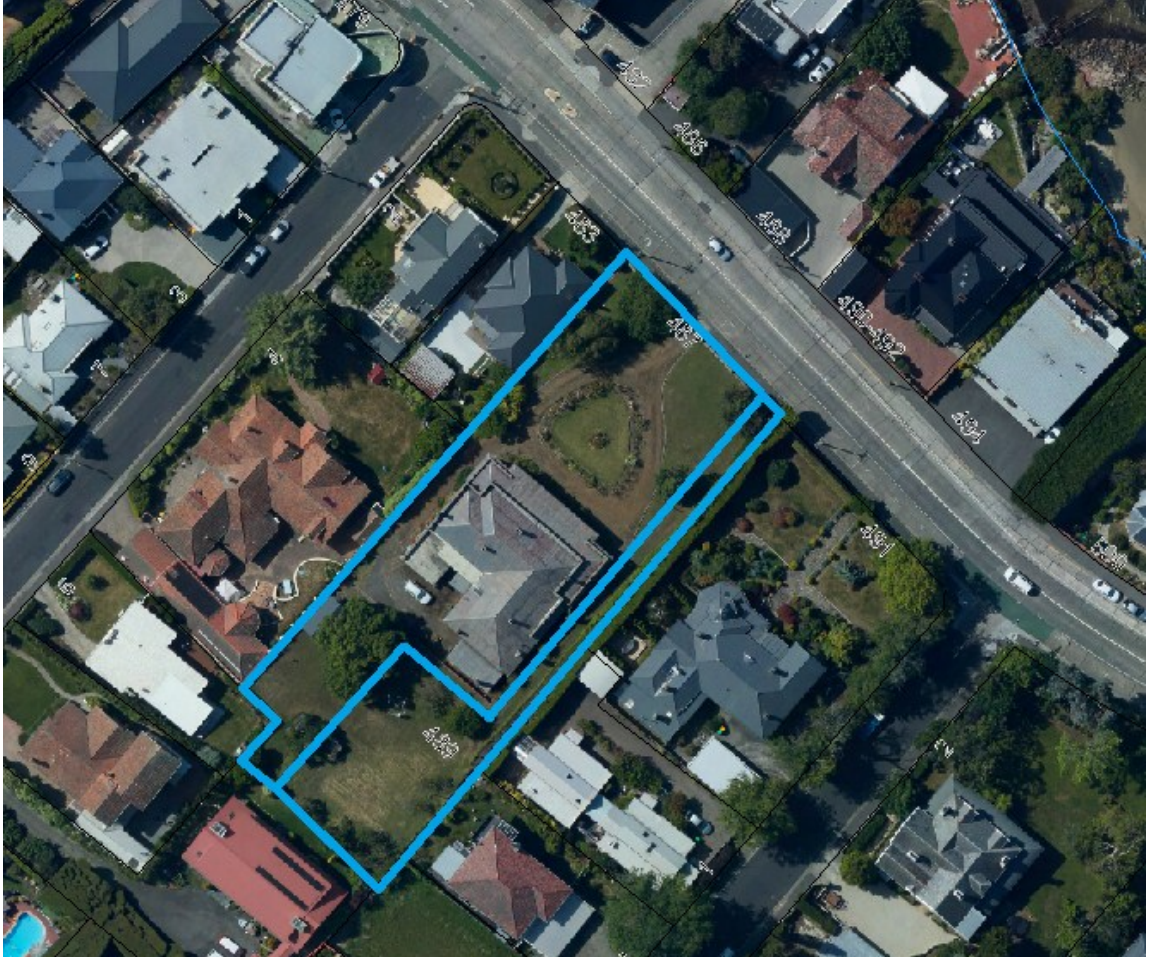
- 1.1 Planning approval is sought for Subdivision (Boundary Adjustment), at 487 and 489 Sandy Bay Road, Sandy Bay.
- 1.2 More specifically the proposal includes:
  - Transferring 352m<sup>2</sup> from the rear of 487 Sandy Bay Road to 489 Sandy Bay Road to make more regular lots.
  - Creating a right of way over the existing driveway for 487 Sandy Bay Road to 489 Sandy Bay Road.
  - Demolition of the carport that is currently within 487 Sandy Bay Road to facilitate the boundary adjustment and new access arrangement.
- 1.3 The proposal relies on performance criteria to satisfy the following standards and codes:
  - 1.3.1 General Residential Zone - Lot Design
  - 1.3.2 Historic Heritage Code - Development Standards for Heritage Places, Development Standards for Heritage Precincts
- 1.4 No representations were received during the statutory advertising period between 15/12/22 and 5/1/23.

1.5 The proposal is recommended for refusal.

1.6 The final decision is delegated to the Planning Committee because the application is recommended for refusal.

## 2. Site Detail

- 2.1 The application site is comprised of two adjacent titles. The front lot is irregularly shaped, and has a heritage listed single dwelling located toward its rear. The rear lot is a small internal lot, with a long driveway, and very limited area to construct a dwelling.



*Figure 1: The location of the application site is outlined in blue*

## 3. Proposal

- 3.1 Planning approval is sought for Subdivision (Boundary Adjustment), at 487 and 489 Sandy Bay Road, Sandy Bay.

3.2 More specifically the proposal is for:

- Transferring 352m<sup>2</sup> from the rear of 487 Sandy Bay Road to 489 Sandy Bay Road to make more regular lots.
- Creating a right of way over the existing driveway for 487 Sandy Bay Road to 489 Sandy Bay Road.
- Demolition of the carport that is currently within 487 Sandy Bay Road to facilitate the boundary adjustment and new access arrangement.

#### **4. Background**

4.1 The applicant sought pre-application advice from Council regarding the proposed boundary adjustment through PAE-22-260 in October 2022. At this time, heritage advice was provided that a rear boundary for the front, heritage listed, dwelling be located a minimum of approximately 8m from the rear of the building.

4.2 When the application was initially submitted, this reflected the heritage advice provided in PAE-22-260, showing the boundary in the location recommended.



**SUBDIVISION PROPOSAL**  
**Proposed Boundary Layout**  
 Westwood Properties Pty Ltd  
 CT 230771/1 & 197155/1

Scale: 1:300 at A3

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Scale	5 m	Area Code	12810
Date	23 / 05 / 2022	Project Ref	1281001
Sheet	2 of 2	AutoCAD Ref	1281020
Drawn	DC	Scale	GDA2020 (Plane)
Check	XX	Unit	AHD
26/05/2022			

Revisions	Date
Additional Notes	26-10-2022

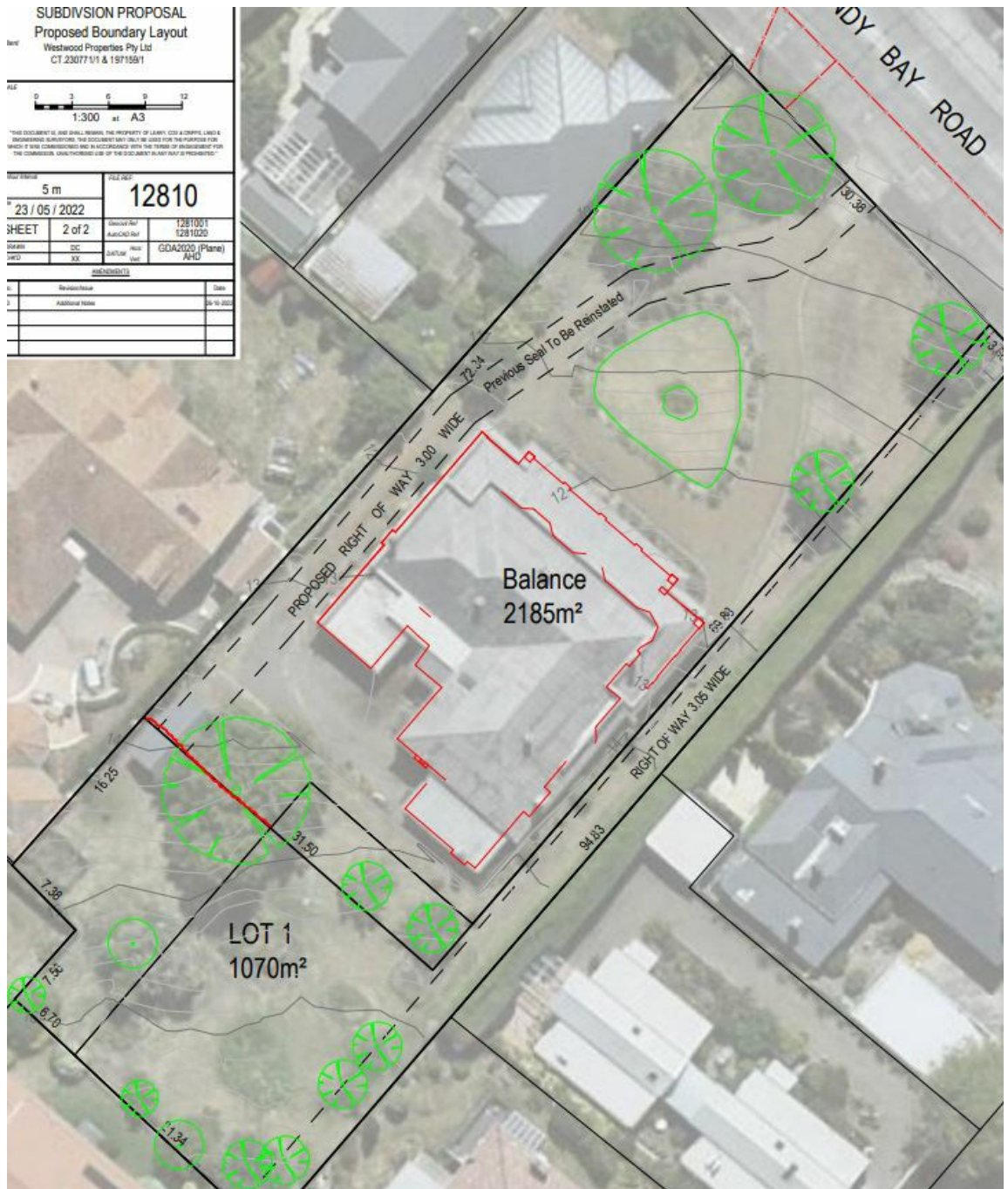


Figure 2: The originally proposed subdivision showing the lot boundary (in red) in line with Council's heritage advice.

- 4.3 An unrelated request for additional information resulted in the location of the boundary being moved 5m closer to the heritage listed dwelling without consultation with Council officers, and the proposed boundary was advertised in this new location.

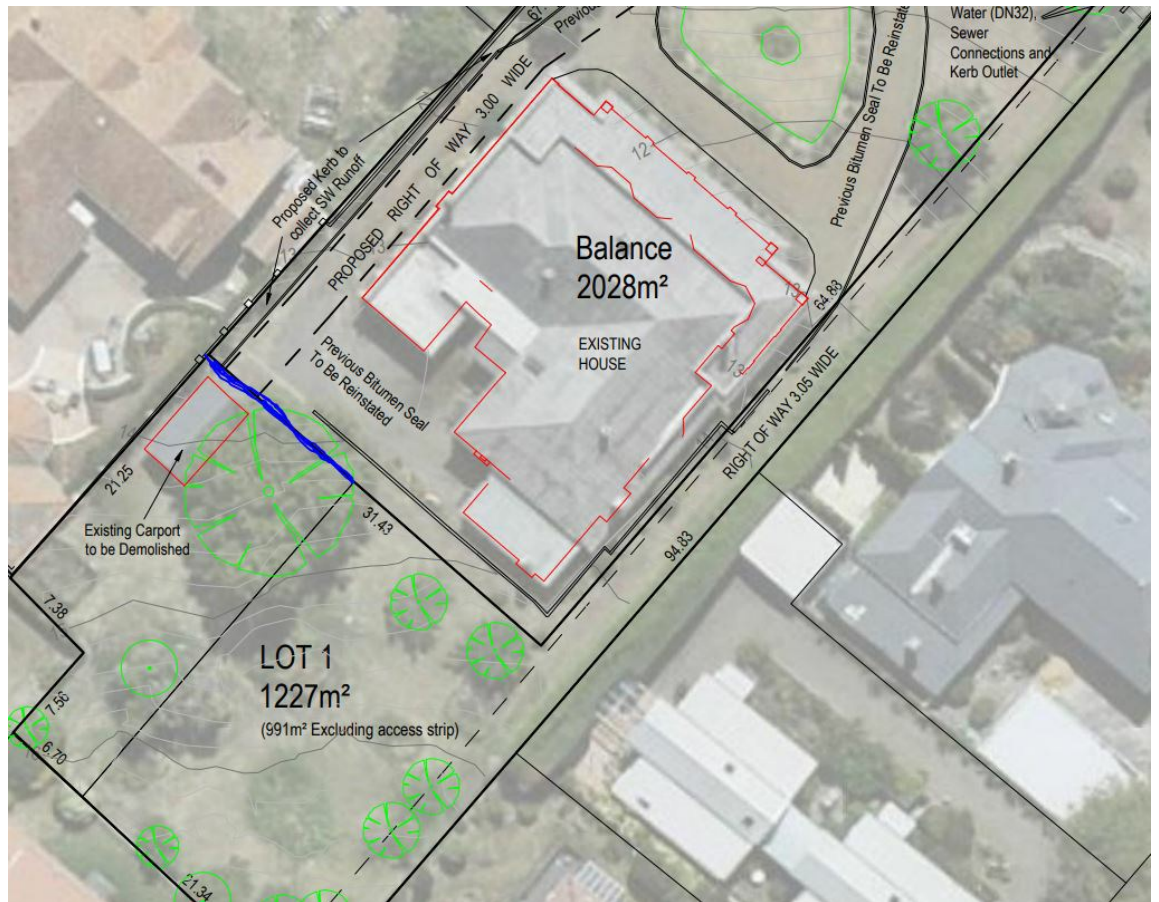


Figure 3: The advertised plan showing the new boundary (in blue), not in accordance with Council's heritage advice.

- 4.4 Following advertising, in the detailed assessment of the proposal, the change to the plans was identified, and the applicant contacted to discuss it and the fact that it rendered the application difficult to support from a heritage perspective.
- 4.5 The applicant considered their options, came up with a potential alternative subdivision design (below) and sought independent heritage advice on this and the advertised design. The amended design gives the access strip from 489 Sandy Bay Road (the rear lot) to 487 Sandy Bay Road (the front lot), retaining it as a service easement for 489 Sandy Bay Road (the rear lot), but critically it does not address the heritage concerns regarding the proximity of the lot boundary to the rear of the heritage listed dwelling on 487 Sandy Bay Road.



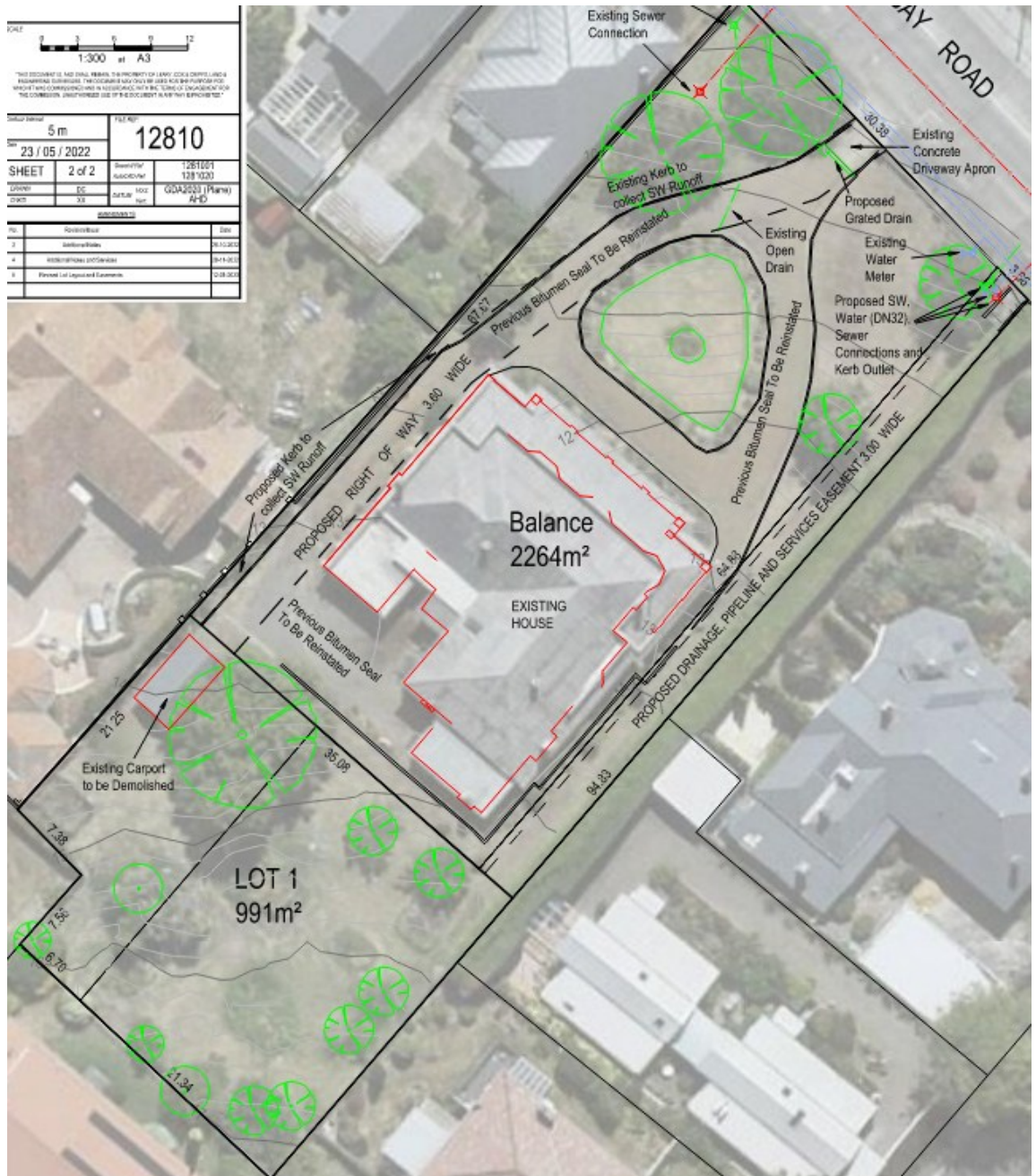


Figure 4: Applicant's post-advertising alternative design which was provided to accompany the post advertising heritage advice.

4.6 Amongst other things, this independent heritage advice confirms Council's Cultural Heritage Officer advice that the boundary location is not appropriate with respect to the heritage listed dwelling. This advice is an attachment to the report. Its concluding paragraph states as follows:

*I do have some concerns that the proposed boundary is too close to the rear of the existing heritage residence. I feel that the place would benefit from a larger rear curtilage (say +4-5m than what is proposed) to allow for retained backyard amenity and to retain some of the backyard setting of the building. That said, the proposal provides less impact upon the curtilage and amenity of the building than the current situation which allows for a driveway very close to the eastern side of the building.*

4.7 This independent heritage advice was discussed with the applicant, but they sought to progress the application regardless, knowing that it would be difficult to support from a heritage perspective.

4.8 Advice provided through PAE-22-260 also indicated that any alteration to the sandstone wall at the front of the property could be problematic given the heritage values of the site and surrounds. In the heritage assessment below under section 6, the Council's Cultural Heritage Officer also advises that:

*It should be noted the consultant contends that the current legal access to the rear lot would require partial demolition of the sandstone wall to provide vehicle access and consequently this would result in more detriment than an insufficient rear boundary. The submitted [advertised] documents do not apply for any demolition or modification of the sandstone wall and as such an argument based on this scenario is not accepted to be a valid consideration.*

4.9 An extension of the statutory timeframe to determine the application was granted to enable the application to be considered at the Planning Committee Meeting.

## **5. Concerns raised by representors**

5.1 No representations were received during the statutory advertising period between 15/12/23 and 5/1/23.

## **6. Assessment**

6.1 The *Hobart Interim Planning Scheme 2015* is a performance based planning scheme. To meet an applicable standard, a proposal must demonstrate compliance with either an acceptable solution or a performance criterion. Where a proposal complies with a standard by relying on one or more performance criteria, the Council may approve or refuse the proposal on that basis. The ability to approve or refuse the proposal relates only to the performance criteria relied on.



- 6.2 The site is located within the General Residential Zone of the *Hobart Interim Planning Scheme 2015*.
- 6.3 There is no proposed change to the existing residential use of the front lot, or vacant rear lot. The application is for an adjustment of their shared boundary. The existing use is a permitted use in the zone.
- 6.4 The proposal has been assessed against:
- 6.4.1 Part D - 10.0 General Residential Zone
  - 6.4.2 Part E - E5.0 Road and Railway Assets Code
  - 6.4.3 Part E - E6.0 Parking and Access Code
  - 6.4.4 Part E - E7.0 Stormwater Management Code
  - 6.4.5 Part E - E13.0 Historic Heritage Code
- 6.5 The proposal relies on the following performance criteria to comply with the applicable standards:
- 6.5.1 General Residential Zone:  
*Lot Design – Part D 10.6.1 P4*
  - 6.5.2 Historic Heritage Code:  
*Development Standards for Heritage Places - Part E E13.7.1 P1, E13.7.3 P1*  
*Development Standards for Heritage Precincts - Part E E13.8.1 P1, E13.8.3 P1*
- 6.6 Each performance criterion is assessed below.
- 6.7 Lot Design – Part D 10.6.1 P4
- 6.7.1 The acceptable solution at clause 10.6.1 A4 requires no lot to be an internal lot.
  - 6.7.2 The proposal includes an internal lot.
  - 6.7.3 The proposal does not comply with the acceptable solution; therefore

assessment against the performance criterion is relied on.

6.7.4 The performance criterion at clause 10.6.1 P4 provides as follows:

*An internal lot must satisfy all of the following:*

*(a) the lot gains access from a road existing prior to the planning scheme coming into effect, unless site constraints make an internal lot configuration the only reasonable option to efficiently utilise land;*

*(b) it is not reasonably possible to provide a new road to create a standard frontage lot;*

*(c) the lot constitutes the only reasonable way to subdivide the rear of an existing lot;*

*(d) the lot will contribute to the more efficient utilisation of residential land and infrastructure;*

*(e) the amenity of neighbouring land is unlikely to be unreasonably affected by subsequent development and use;*

*(f) the lot has access to a road via an access strip, which is part of the lot, or a right-of-way, with a width of no less than 3.6m;*

*(g) passing bays are provided at appropriate distances to service the likely future use of the lot;*

*(h) the access strip is adjacent to or combined with no more than three other internal lot access strips and it is not appropriate to provide access via a public road;*

*(i) a sealed driveway is provided on the access strip prior to the sealing of the final plan.*

*(j) the lot addresses and provides for passive surveillance of public open space and public rights of way if it fronts such public spaces.*

6.7.5 The lot already exists with a 69.8m long, 3.6m wide frontage strip, with no capacity for passing bays within the title boundaries, and no constructed access, wither within the strip or from the road pavement. The application

seeks to provide vehicular access via the existing driveway for the dwelling at 487 Sandy Bay Road.

- 6.7.6 There are no passing bays along the driveway for 487 Sandy Bay Road, however, the proposal to utilise this existing driveway will provide opportunity for a wider driveway than is possible for the access strip that currently exists for 489 Sandy Bay Road, and will remove the need to consider the removal of the sandstone front wall to provide vehicular access to the rear, should it be desired in the future.
- 6.7.7 The right of way is proposed to be re-sealed in bitumen.
- 6.7.8 As the internal lot already exists, the remainder of the assessment criteria under the performance criteria are not relevant.
- 6.7.9 The proposal complies with the performance criterion.
- 6.8 Development Standards for Heritage Places and Precincts - Part E E13.7.1 P1, E13.7.3 P1, E13.8.1 P1, and E13.8.3 P1
- 6.8.1 There are no acceptable solutions for E13.7.1 A1, E13.7.3 A1, E13.8.1 A1, and E13.8.3 A1.
- 6.8.2 The proposal includes the demolition of an outbuilding, and an adjustment of the boundaries between the two properties.
- 6.8.3 There is no acceptable solution; therefore assessment against the performance criterion is relied on.
- 6.8.4 The performance criterion at clauses E13.7.1 P1, E13.7.3 P1, E13.8.1 P1, and E13.8.3 P1 provide as follows:

***E13.7.1 Demolition***

*P1 - Demolition must not result in the loss of significant fabric, form, items, outbuildings or landscape elements that contribute to the historic cultural heritage significance of the place unless all of the following are satisfied;*

*(a) there are, environmental, social, economic or safety reasons of greater value to the community than the historic cultural heritage values of the place;*

*(b) there are no prudent and feasible alternatives;*

*(c) important structural or façade elements that can feasibly be retained and reused in a new structure, are to be retained;*

*(d) significant fabric is documented before demolition.*

### **E13.7.3 Subdivision**

*P1 - A proposed plan of subdivision must show that historic cultural heritage significance is adequately protected by complying with all of the following:*

*(a) ensuring that sufficient curtilage and contributory heritage items (such as outbuildings or significant plantings) are retained as part of any title containing heritage values;*

*(b) ensuring a sympathetic pattern of subdivision;*

*(c) providing a lot size, pattern and configuration with building areas or other development controls that will prevent unsympathetic development on lots adjoining any titles containing heritage values, if required. A proposed plan of subdivision must show that historic cultural heritage significance is adequately protected by complying with all of the following:*

*(a) ensuring that sufficient curtilage and contributory heritage items (such as outbuildings or significant plantings) are retained as part of any title containing heritage values;*

*(b) ensuring a sympathetic pattern of subdivision;*

*(c) providing a lot size, pattern and configuration with building areas or other development controls that will prevent unsympathetic development on lots adjoining any titles containing heritage values, if required.*

### **E13.8.1 Demolition**

*P1 - Demolition must not result in the loss of any of the following:*

*(a) buildings or works that contribute to the historic cultural heritage significance of the precinct;*

*(b) fabric or landscape elements, including plants, trees, fences, paths, outbuildings and other items, that contribute to the historic cultural heritage significance of the precinct;*

*unless all of the following apply;*

*(i) there are, environmental, social, economic or safety reasons of*



*greater value to the community than the historic cultural heritage values of the place;*

*(ii) there are no prudent or feasible alternatives;*

*(iii) opportunity is created for a replacement building that will be more complementary to the heritage values of the precinct.*

### **E13.8.3 Subdivision**

*P1 - Subdivision must not result in any of the following:*

*(a) detriment to the historic cultural heritage significance of the precinct, as listed in Table E13.2;*

*(b) a pattern of subdivision unsympathetic to the historic cultural heritage significance of the precinct;*

*(c) potential for a confused understanding of the development of the precinct;*

*(d) an increased likelihood of future development that is incompatible with the historic cultural heritage significance of the precinct.*

- 6.8.5 The application has been reviewed by Council's Cultural Heritage Officer, who has provided the following assessment:

*Number 487 Sandy Bay Road Preana is an individually Heritage Listed property in Table E13.1 of the Hobart Interim Planning Scheme 2015 and located within the Sandy 12 Heritage Precinct, whilst number 489 Sandy Bay Rd is within the Sandy Bay 12 Precinct. The proposed boundary adjustment must be assessed against E13.7.3 Subdivision for Heritage Places, and E13.8.3 Subdivision for Heritage Precincts. The proposed demolition must be assessed against E13.7.1 Demolition for Heritage Places, and E13.8.1 Demolition for Heritage Precincts.*

#### *Introduction:*

*487 Sandy Bay Road was constructed in 1918 for Mr L E Gibson, and the property remained in the Gibson family until 2020. The house is surrounded by generous grounds and was positioned in what was originally the centre of the large lot, setback from Sandy Bay Road with an imposing street presence. The rear of the property was partially subdivided in c1957 with the rear north western portion of the lot remaining with the residence as a rear*

*garden.*

*Background:*

*Pre Application Enquiry – 2022*

*The applicant sought pre-application advice from Council regarding the proposed boundary adjustment. At this time, it was advised by the Heritage Officer that; it is recommended to avoid moving the boundary closer to the house on 487, the boundary should provide the heritage listed residence 487 with a sufficient rear garden setting and curtilage.*

*Development Application – 2022*

*When the application was initially submitted, it reflected the earlier heritage advice, showing the boundary in the location recommended with sufficient rear setting. An unrelated request for additional information saw the location of the boundary adjustment moved without consultation with Council Officers, and the application was advertised with the boundary in this new location. Following advertising, in the final detailed assessment, this unspecified change to the plans was identified, and the applicant contacted to discuss the change and the fact that it rendered the application unsupportable from a cultural heritage perspective. The applicant sought advice from a heritage consultant. The consultant report makes comments on a range of heritage outcomes in relation to the boundary adjustment, the heritage consultant advice confirms Council's Cultural Heritage Officer advice that the boundary location at the rear of the listed property is not appropriate, this has been summarised in the assessment below, and the heritage consultant advice in full is in the application documents attached.*

*Proposal:*

- Boundary adjustment to existing subdivision dating from c1957.*
- Demolition of c1998 carport.*

*Statements of significance for 487 Sandy Bay Road:*

*(a)-Historical:*

*The house is of cultural heritage significance because it demonstrates the growing popularity of Lower Sandy Bay as a residential suburb in the twentieth century.*

*(d)-Representative of:*

*The house is of cultural heritage significance because it*

*demonstrates the principle characteristics of a substantial Inter War Georgian Revival residence in an imposing setting.*

*Sandy Bay 12 Heritage Precincts is significant for reasons including:*

- 1. The key historical role of the road in the development of the precinct and the buildings and features that demonstrate that history.*
- 2. The large number of exceptionally fine residences dating from 1830 through to the present day.*
- 3. The small number of commercial buildings creating a village character including some which are of individual heritage significance.*
- 4. The very fine groups of residential buildings representing varying phases of development and demonstrating attitudes to subdivision, styles of building, landscaping and the social importance of properties with high levels of exposure.*

*Assessment:*

*E13.7.1 Demolition for Heritage Places, and E13.8.1 Demolition for Heritage Precincts*

*Objective:*

*To ensure that demolition in whole or part of a heritage place / precinct does not result in the loss of historic cultural heritage values unless there are exceptional circumstances.*

*Performance Criteria 1*

*Demolition must not result in the loss of significant fabric, form, items, outbuildings or landscape elements that contribute to the historic cultural heritage significance of the place unless all of the following are satisfied;*

- (a) there are, environmental, social, economic or safety reasons of greater value to the community than the historic cultural heritage values of the place;*
- (b) there are no prudent and feasible alternatives;*
- (c) important structural or façade elements that can feasibly be retained and reused in a new structure, are to be retained;*
- (d) significant fabric is documented before demolition.*

*The proposal includes the demolition of the existing carport structure, the carport was constructed in c1998 and is not of any heritage value. It is considered that the demolition works will not*

*result in the loss of historic cultural heritage values of the precinct. The proposed works therefore satisfy the Performance Criteria 1 of E13.7.1 and E13.8.1.*

### *E13.7.3 Subdivision*

#### *Objective:*

*To ensure that subdivision of part of a heritage place maintains cohesion between the elements that collectively contribute to an understanding of historic cultural heritage values, and protects those elements from future incompatible development.*

#### *Performance Criteria 1*

*A proposed plan of subdivision must show that historic cultural heritage significance is adequately protected by complying with all of the following:*

- (a) ensuring that sufficient curtilage and contributory heritage items (such as outbuildings or significant plantings) are retained as part of any title containing heritage values;*
- (b) ensuring a sympathetic pattern of subdivision;*
- (c) providing a lot size, pattern and configuration with building areas or other development controls that will prevent unsympathetic development on lots adjoining any titles containing heritage values, if required.*

*Performance Criteria 1 is not met as the proposed subdivision boundary would have an unacceptable impact on the heritage significance of the place and its setting. The property is described in the Heritage Data Sheet 'as a substantial Inter War Georgian Revival residence in an imposing setting' imposing meaning grand and impressive, and setting referring to the residence's surroundings and environment, i.e. the garden and open space surrounding the house. The architectural ideals of a substantial dwelling of this period and style was to be set within a generous sized garden that was intended to complement and provide a backdrop to the architectural character of the residence. In the widely referenced text *Identifying Australian Architecture, Styles and Terms from 1788 to Present*; the setting for a Inter-War Georgian Revival residence such as Preana is described as 'free standing in formal garden settings'.*

*The curtilage of the dwelling would be significantly reduced by the proposed subdivision and it is considered to be insufficient. The proposal will diminish the significance and setting of the residence*



*as identified in the statements of significance. The subdivision is a clear separation of the dwelling from its original setting providing little to no rear curtilage or garden setting. The proposed rear setback from the residence of only 2.7m, this is considered inadequate and will not prevent unsympathetic development on lots adjoining any titles containing heritage values. The heritage consultant engaged by the applicant shares these concerns “I do have concerns that the proposed boundary is too close to the rear of the existing heritage residence. I feel that the place would benefit from a larger rear curtilage (say +4-5m than what is proposed) to allow for retained backyard amenity and to retain some of the backyard setting of the building”.*

*It should be noted the consultant contends that the current legal access to the rear lot would require partial demolition of the sandstone wall to provide vehicle access and consequently this would result in more detriment than an insufficient rear boundary. The submitted documents do not apply for any demolition or modification of the sandstone wall and as such an argument based on this scenario is not accepted to be a valid consideration.*

*The proposal is not consistent with the Objective or Performance Criteria of E13.7.3. Performance Criteria 1 is not satisfied.*

#### *E13.8.3 Subdivision*

##### *Objective:*

*To ensure that subdivision within a Heritage Precinct is consistent with historic patterns of development and does not create potential for future incompatible development.*

##### *Performance Criteria 1*

*Subdivision must not result in any of the following:*

- (a) detriment to the historic cultural heritage significance of the precinct, as listed in Table E13.2;*
- (b) a pattern of subdivision unsympathetic to the historic cultural heritage significance of the precinct;*
- (c) potential for a confused understanding of the development of the precinct;*
- (d) an increased likelihood of future development that is incompatible with the historic cultural heritage significance of the precinct.*

*The statements of significance within the heritage code state that*

*the precinct is significant for the following reason: 4. The very fine groups of residential buildings representing varying phases of development and demonstrating attitudes to subdivision, styles of building, landscaping, and the social importance of properties with high levels of exposure.*

*Preana at 487 Sandy Bay Road accurately reflects the above statement of significance, as a fine residential building, in a landscaped setting, with a high level of exposure. The residence demonstrates the attitude to subdivision at the time of construction which was large residences with generous garden settings. Although the c1957 subdivision altered this configuration it does still provide the residence with sufficient rear setting, unlike the proposed boundary.*

*The proposed boundary adjustment is considered to result in a subdivision that is unsympathetic to the heritage significance of the precinct, and an increased likelihood of future development that is incompatible with the heritage significance of the precinct. Performance Criteria 1 is not satisfied.*

*In conclusion the proposal is unacceptable and fails to satisfy the Performance Criteria 1 of E13.7.3 and Performance Criteria 1 of E13.8.3.*

6.8.6 The proposal does not comply with the performance criterion.

## **7. Discussion**

- 7.1 Planning approval is sought for Subdivision (Boundary Adjustment), at 487 and 489 Sandy Bay Road, Sandy Bay.
- 7.2 The application was advertised and no representations were received.
- 7.3 The proposal has been assessed against the relevant provisions of the planning scheme and is not considered to perform well.

- 7.4 The proposal has been assessed by other Council officers, including the Council's Development Engineer, Cultural Heritage Officer, Stormwater Engineer and Surveyor. The engineering officers have raised no objection to the proposal, subject to conditions. The Cultural Heritage Officer has raised objection to the proposal and recommends refusal of the application.
- 7.5 The proposal is recommended for refusal.

## **8. Conclusion**

- 8.1 The proposed Subdivision (Boundary Adjustment), at 487 and 489 Sandy Bay Road, Sandy Bay does not satisfy the relevant provisions of the *Hobart Interim Planning Scheme 2015*, and as such is recommended for refusal.

## 9. Recommendations

That: Pursuant to the *Hobart Interim Planning Scheme 2015*, the Planning Committee, in accordance with the delegations contained in its terms of reference, refuses the application for Subdivision (Boundary Adjustment), at 487 and 489 Sandy Bay Road, Sandy Bay for the following reasons:

- 1 The proposal does not meet the acceptable solution of the performance criterion with respect to clause E13.7.3 P1 (a), (b) or (c) of the Hobart Interim Planning Scheme 2015 because it will not ensure that sufficient curtilage is retained as part of any title containing heritage values; does not ensure a sympathetic pattern of subdivision; and does not provide a lot size, pattern and configuration with building areas or other development controls that will prevent unsympathetic development on lots adjoining any titles containing heritage values.
- 2 The proposal does not meet the acceptable solution or the performance criterion with respect to clause E13.8.3 P1 (a) and (b) of the Hobart Interim Planning Scheme 2015 because the subdivision proposal will result in detriment to the historic cultural heritage significance of the precinct as described in Table E13.2 and a pattern of subdivision that is unsympathetic.





(Helen Ayers)

**Development Appraisal Planner**

*As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.*



(Ben Ikin)

**Senior Statutory Planner**

*As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.*

Date of Report: 6 February 2023

**Attachment(s):**

Attachment B - Planning Committee Agenda Documents

Attachment C - Planning Referral Officer Cultural Heritage Report

Attachment D - Post Advertising Applicant Heritage Submission