

**From:** Danielle Gray  
**Sent:** 11 Mar 2020 16:46:15 +1100  
**To:** KC Mail  
**Subject:** representation for PSA-2019-1 and DAS-2019-5  
**Attachments:** Representation to Council re PSA\_2019\_1 and DAS\_2019\_5 Thomason  
11.03.2020.pdf

To the attention of the General Manager

Dear Sir

Please find attached a representation from Gray Planning on behalf of Mr Ken Thomason with respect to the currently advertised rezoning and development application at 757 Channel Highway Kingston (Council reference PSA-2019-1 and DAS-2019-5).

Regards

Danielle

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Danielle Gray, Principal Consultant  
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11 March 2020

General Manager  
Kingborough Council  
15 Channel Highway  
KINGSTON TAS 7050

Dear Sir,

I refer to the rezoning and boundary adjustment application (PSA-2019-1 and DAS-2019-5) currently being advertised (8 February 2020 – 11 March 2020) and wish to make representation on behalf of my client Mr Ken Thomason.

Gray Planning is engaged to act on behalf of Mr Ken Thomason who owns the property at 755 Channel Highway which is directly adjacent to the proposed development at 757 Channel Highway. The Thomason dwelling at 755 Channel Highway is located directly adjacent to the proposed building envelope on lot 1 in the development as depicted in the North Barker report dated 20 November 2019.

My client Mr Ken Thomason has no objection to the proposed rezoning and boundary adjustment in and of itself.

However, there is some concern about the placement of the proposed building envelope on lot 1 and the unreasonably restrictive conditions proposed by Council. It is considered that the overly restrictive nature of the conditions proposed by Council will result in lot 1 presenting with significant difficulty in future development complying with both the proposed Part 5 requirements in addition to the applicable Environmental Living zone and Codes use and development standards in the Planning Scheme.

### **Location of the proposed building envelope**

There is disparity between the location of the building envelope originally proposed in the North Barker report dated 17 October 2019 which was located in the north of lot 1 as opposed to the far south east location of the building envelope in the most recent North Barker report dated 20 November 2019.



There appears to be little justification for relocation of the building envelope to a far south easterly location on lot 1 as the original North Barker report dated 17 October 2019 provides adequate justification for the northerly location on environmental grounds. It would appear that this change in location has been made at the request of Council. It is unclear if Council have considered fully the implications of the location of a far south easterly location in terms of providing an adequate and safe access to the south east building envelope which also may require more vegetation clearing to ensure an access onto Channel Highway that achieves safe sight distances under both the Planning Scheme and Australian Standards.

Furthermore, the far south easterly building envelope as contained in the North Barker report dated 20 November 2019 may require bushfire management areas outside title boundaries onto an adjoining property which may present further challenges.

Furthermore, the relocated far south easterly building envelope will result in future development unavoidably requiring discretions with respect to zone and boundary setbacks which is considered to be a poor planning outcome that could be easily avoided without unreasonable environmental impact.

These setback discretions for future development on lot 1 will require assessment under associated Performance Criteria which make reference to visual impact, overlooking and loss of privacy. This is likely to present a challenge for the future developers of lot 1, given future development within a far south easterly building envelope may be located less than 30m from my client's dwelling at 755 Channel Highway, much less the title boundary.

It is considered that the originally proposed northerly building envelope or a relocated south easterly building envelope should be considered rather than the far south east building envelope in the North Barker report dated 20 November which is located with a 0m setback from my client's title boundary.

An amended location for the building envelope on the other hand will enable a future development to comply with all zone and boundary setbacks under clause 14.4.2. This location may also result in less clearing for the location of a safe access onto Channel Highway that avoids cutting across the site parallel to Channel Highway.

Regardless of the building envelope location, both a northern or amended south eastern location will be clustered close to neighbouring properties at 755 and 727 Channel Highway and would still comply with clause 14.5.1.P1(b) which requires clustering of lots, not building areas per se.



### Conditions proposed by Council

It is considered that the conditions proposed by Council on the development are unreasonably onerous and in some cases, are over and above what Council would normally apply in circumstances of greater environmental impact.

Further detail is provided as follows.

### Offset for loss of *Eucalyptus viminalis* in future development

Condition 2(d)(iv) for inclusion within the Part 5 Agreement requires an offset for the loss of *Eucalyptus viminalis* to Council's satisfaction.

There is no specification as to what the offset is likely to be.

Council has Biodiversity Offset Guidelines and a Biodiversity Offset Policy (Policy number 6.10) and the condition should clearly make reference to this policy so the condition and its expectations of a developer are transparent and not open to interpretation by Council.

For example, if the intention of this condition is to require a financial offset, this amount should be specified as outlined in Policy 6.10 or alternatively a biodiversity value should be given for the *E.viminalis* on site which corresponds with replacement ratios in this Policy.

### Avoidance of Swift Parrot Collision in future development

Condition 2(d)(v) requires future development not just incorporating design elements contained within the '*Minimising the swift parrot collision threat*' guidelines but goes further and states that future development will pose such a risk unless it additionally complies with any one of three glazing options (which are listed).

This proposed condition to be included within the Part 5 is considered to be over and above what Council have accepted in the recent past.

The approval of the Mary Knoll rezoning and subdivision at 15 Home Avenue was approved with a single condition with respect to minimising bird strike as follows:

*Design of buildings and structures on Lots 3-9, 18, 21 and 22 is to be in accordance with the guideline 'Minimising the swift parrot collision threat. Guidelines and recommendations for parrot-safe building design.' Published April, 2008 by World Wildlife Fund – Australia, or any future revisions of this guideline.*

The Mary Knoll development was for the development of 10 new lots in a coastal setting with the above condition, yet Council is applying a more onerous condition on a single lot that can already be developed without all of the constraints of the proposed Part 5.

It is considered that there is little justification for the overly restrictive wording of the proposed condition 2(d)(v) with respect to minimising Swift Parrot Collision risk.



In the event that the development is approved, a condition in line with that approved for the Mary Knoll subdivision should be likewise applied.

### **Future landscaping of lot 1**

Condition 2(d)(vii) with respect to landscaping of lot 1 to be contained within the proposed Part 5 Agreement states that any landscaping will incorporate native species (preferably Tasmanian endemic species) and not include non-declared priority weeds listed in the Kingborough Weed Management Strategy.

This condition is unreasonably onerous and may be interpreted that any landscaping on lot 1 must be entirely native species.

The site is located close to Kingston CBD, the urban area of Kingston (less than 80m from land zoned General Residential and developed with units) and existing residential development and according to the assessment from North Barker that accompanies the proposal, is hardly pristine. Likewise, properties in the surrounding area are modified and present many exotic species, including weeds.

It is not considered unreasonable to include a condition that all future landscaping of lot 1 must not incorporate either declared weeds or non-declared priority weeds. However, to further restrict all landscaping to only native species has little justification given the context of the site, its condition and surrounding uses and development. This proposed landscaping condition is not only unreasonably restrictive but may also increase fire risk.

### **Building envelope condition 8**

This condition requires that the nominated building envelope for lot 1 must include all future buildings, structures, on-site wastewater and bushfire hazard management areas.

In the absence of any bushfire assessment for a future dwelling to be located within the proposed building envelope, it cannot be determined at this point in time that the building envelope proposed for lot 1 will be able to accommodate all bushfire management areas. Likewise, in the absence of any wastewater assessment for a future development of Lot 1 in the proposed building envelope, it cannot be determined that an on site waste water system including can be wholly located within the proposed building envelope.

There is no objection to all buildings being located within a building envelope as this is the normal expectation for building envelope mechanisms on titles.

However, there is no justification for also requiring all bushfire management areas and on-site wastewater systems to be located within the building envelope, in the absence of any assessments undertaken by either the proponent or Council to determine if it is actually feasible and likely to be able to be accommodated entirely within a nominated building envelope area.



The envelopes proposed and nominated in the Natural Values Assessments dated 17 October 2019 and 20 November 2019 have no dimensions or area of the proposed building envelope but are estimated to be 600sqm or less in total area. This is an extremely restricted area within which to locate all buildings, wastewater system and bushfire management areas and is likely to be problematic especially with respect to accommodating all bushfire management areas (given the extent of vegetation cover on lot and adjoining lots, species present and site gradients).

Failure to do so in accordance with the current wording proposed by Council would render a future proposal effectively prohibited under the Part 5 in the event of non compliance.

In terms of this proposed condition additionally requiring ‘structures’ as well as ‘buildings’ to be located within the proposed building envelope, it is considered unnecessary as the definition of ‘building’ under the Act also makes reference to ‘structures’. The condition should be reworded to make reference to buildings only being required to be located within the proposed building envelope.

To summarise, the proposed condition 8 should be amended to remove references to bushfire management areas, on site wastewater and structures and reference ‘buildings’ only to be contained within the building envelope.

### Summary

In summary, my client supports their neighbour’s proposal to undertake a rezoning and boundary adjustment at 757 Channel Highway, Kingston.

However, as outlined in this letter of representation, the conditions proposed by Council are unreasonably onerous and should be amended as discussed. Likewise, it is considered that the location of the nominated far south eastern building envelope requires further consideration and relocation to achieve not just good environmental outcomes but also good planning outcomes for the future development of lot 1.

If you wish to discuss or require any clarification on the contents of this letter, please do not hesitate to contact the undersigned on 0439 342 696.

Yours faithfully



Danielle Gray B.Env.Des. MTP. MPIA  
Principal Consultant, Gray Planning

