

PJK/P Kavanagh
F2012/01830

5 February, 2013

Department of Planning and Infrastructure
Central Coast Regional Office
PO Box 1148
GOSFORD NSW 2250

Attention: Mr Michael Leavey

Dear Mr Leavey

Planning Proposal for a Draft Local Environmental Plan to amend Clause 16(1) of the Wyong Local Environmental Plan, 1991.

During its meeting of 14 November, 2012, Council resolved to prepare a Planning Proposal to amend Clause 16(1) of the Wyong Local Environmental Plan (WLEP) 1991.

Council is preparing this draft plan having regard to a decision by the NSW Court of Appeal (*Agostino v Penrith City Council [2010] NSWCA 20*), which has resulted in the development standards in LEPs (e.g., relating to minimum areas for subdivisions and the erection of dwelling houses) now being considered as prohibitions, effectively negating the ability to use SEPP No.1 – Development Standards to vary such provisions where considered reasonable and necessary in the circumstances of the case. This decision has significant ramifications throughout NSW, and it suggested that the Department may also wish to consider a statewide solution.

In the interim, a Planning Proposal has been prepared in accordance with the requirements of s55 of the Environmental Planning and Assessment Act, 1979 (the Act) and the Department of Planning's *Guide to Preparing Planning Proposals*.

In accordance with s56 of the Act, the Planning Proposal is enclosed for consideration by the Regional DoP&I Office, the LEP Review Panel and the Gateway.

Should you require further information regarding the Planning Proposal, please contact Mr Peter Kavanagh on 02 4350 537.

Yours faithfully

P Kavanagh
Senior Planner
Sustainability Unit

Enclosures Planning Proposal