

# LOCAL GOVERNMENT LAW JOURNAL

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## ARTICLES

### **Put That (Amber) Light Out! Some Comments on the Process for Amending Development Applications and Plans in Class 1 Development Appeals in the Land and Environment Court – *Guy Dwyer and Tristan Orgill***

For over a decade, numerous commissioners of the Land and Environment Court (LEC) have applied the “amber light” approach to the determination of development appeals in Class 1 of the LEC’s jurisdiction (Class 1 appeals). In *Ku-ring-gai Council v Bunnings Properties Pty Ltd*, the Court of Appeal expressed significant doubts about that approach. There was also a fundamental split between Preston CJ of LEC and Basten JA (in dissent) on two issues: (1) from which statutory provision/s does the LEC source its power to allow amendments to a development application (DA) and its accompanying plans during a Class 1 appeal? and (2) how and when may the power to allow amendments to a DA and its accompanying plans be exercised during a Class 1 appeal? The purpose of this article is to consider the differences of opinion expressed by Preston CJ of LEC and Basten JA on these two issues. .... 127

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