



New South Wales

Sutherland Local Environmental Plan—Menai Town Centre 1992 (Amendment No 1)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Urban Affairs and Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.
(S01/00333/S69)

ANDREW REFSHAUGE, M.P.,

Minister for Urban Affairs and Planning

2001 No 559

Clause 1 Sutherland Local Environmental Plan—Menai Town Centre 1992
(Amendment No 1)

Sutherland Local Environmental Plan—Menai Town Centre 1992 (Amendment No 1)

1 Name of plan

This plan is *Sutherland Local Environmental Plan—Menai Town Centre 1992 (Amendment No 1)*.

2 Aims of plan

This plan aims:

- (a) to delete any reference to “tree lopping or removal” from the land use table in *Sutherland Local Environmental Plan—Menai Town Centre 1992*, and
- (b) to insert a provision in that plan to allow the Council of the Sutherland Shire to make tree and bushland vegetation preservation orders for the land to which that plan applies.

3 Land to which plan applies

This plan applies to land at Menai to which *Sutherland Local Environmental Plan—Menai Town Centre 1992* applies.

4 Amendment of Sutherland Local Environmental Plan—Menai Town Centre 1992

The *Sutherland Local Environmental Plan—Menai Town Centre 1992* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 4)

[1] Clause 9 Land use table

Omit the matter relating to tree lopping or removal from the Table to the clause.

[2] Clause 30

Insert after clause 29:

30 How are trees and bushland vegetation preserved?

(1) For the purposes of this clause:

bushland vegetation means vegetation that is either a remnant of the natural vegetation of land, or if altered, is still representative of the structure and floristics of the natural vegetation.

(2) The objective of this clause is the preservation of valuable trees and bushland vegetation in the Sutherland Shire.

(3) Where it appears to the Council of the Sutherland Shire that it is expedient for the purpose of preserving or securing trees and bushland vegetation in order to ensure the integrity of the natural environment for both residents of and visitors to Sutherland Shire it may make a tree and bushland vegetation preservation order.

(4) A tree and bushland vegetation preservation order may prohibit the ringbarking, cutting down, topping, lopping, pruning, removing, injuring or wilful destruction of any bushland vegetation, tree or trees specified in the order except with development consent or the permission of the Council of the Sutherland Shire.

(5) A tree and bushland vegetation preservation order made in accordance with this clause may apply to any tree or trees, or to any specified class, type or description of trees or to bushland vegetation described in the order.

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Schedule 1 Amendments

- (6) A tree and bushland vegetation preservation order may exempt any tree or any specified class, type or description of trees or bushland vegetation upon land described in the order.
- (7) A tree and bushland vegetation preservation order, and an amendment or repeal of any such order, has effect only when it has been published in the Gazette and in a local newspaper.
- (8) A person must not contravene, or cause or permit the contravention of, a tree and bushland vegetation preservation order that is in force.
- (9) It is a sufficient defence to a prosecution for an offence under this clause if the accused establishes:
 - (a) that the tree or bushland vegetation concerned was dying or dead or had become dangerous, or
 - (b) that taking the action alleged to comprise the offence was reasonably necessary to protect human life, buildings or other property from imminent danger from a bush fire burning in the vicinity of the land on which the tree or bushland vegetation was situated, or
 - (c) that written notice about proposed action to remove trees or bushland vegetation that pose or poses a fire hazard was given to the Council of Sutherland Shire, and the Council, before the action alleged to comprise the offence was taken, confirmed in writing:
 - (i) that the tree or bushland vegetation concerned was in a fuel free zone within the meaning of the document entitled *Planning for Bush Fire Protection* published by the Department of Rural Fire Service, or
 - (ii) that the tree or bushland vegetation concerned was of a species classified by the Council as being likely to present a significant fire hazard, or
 - (d) that written notice about the proposed action alleged to comprise the offence was given to the Council, a period of not less than 14 days occurred after the notice was given (and before the action was taken) and the Council did not advise the person during that period that it opposed the action being taken.

In this subclause, *notice* means a notice that includes the name and address of the person who gives it and that explains that a tree of a named species or bushland vegetation situated in a specified position on land described in the notice is intended to be ringbarked, cut down, topped, lopped, removed, injured or wilfully destroyed for the purpose of bush fire hazard reduction.

- (10) The provisions of a tree and bushland vegetation preservation order do not apply to activities lawfully conducted in accordance with the *Telecommunications Act 1992* of the Commonwealth, the *Roads Act 1993*, the *Rural Fires Act 1997*, the *Local Government Act 1993* or the *Environmental Planning and Assessment Act 1979*.