



New South Wales

Sutherland Local Environmental Plan—Menai Town Centre 1992 (Amendment No 2)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the
Environmental Planning and Assessment Act 1979. (S01/02441/S69 Pt 3)

ANDREW REFSHAUGE, M.P.,

Minister for Planning

Schedule 1 Amendments

(Clause 4)

[1] Clause 8

Omit the clause. Insert instead:

8 What uses are allowed in the town centre?

All development requires consent, except for:

- (a) exempt development listed in Schedule 1, that satisfies the requirements of clause 32, and
- (b) urban servicing such as the provision of water, sewerage, electricity, gas, telephone, drainage, telecommunications, roadworks and main roads.

[2] Clause 30 How are trees and bushland vegetation preserved?

Omit “fuel free zone within the meaning of the document entitled *Planning for Bush Fire Protection* published by the Department of Rural Fire Service” from clause 30 (9) (c) (i).

Insert instead “Inner Protection Area within the meaning of the document entitled *Planning for Bushfire Protection* published in December 2001 by the NSW Rural Fire Service in collaboration with Planning NSW, a copy of which is available for inspection at the office of the Council”.

[3] Clauses 31–33 and Schedules 1 and 2

Insert after clause 30:

31 Definitions

For the purposes of clauses 32 and 33:

accredited certifier has the same meaning as in the Act.

advertising means the use of a building or place for the external display of symbols, messages or other devices for promotional purposes, whether or not the display involves the erection of a structure or the carrying out of a work.

complying development has the same meaning as in the Act.

2002 No 780

Sutherland Local Environmental Plan—Menai Town Centre 1992
(Amendment No 2)

Schedule 1 Amendments

community advertising means:

- (a) advertising of community events or community uses, or charity events, or
- (b) display of health or safety notices, or like notices, or
- (c) advertising which is ancillary to the primary legal use of community or recreational land, but is not for the purpose of advertising the sale of a product, or
- (d) display of a notice by a public authority.

demolition means the partial or total destruction, dismantling or moving of a building. It includes decontamination, rehabilitation or remediation of land on which a building has been partially or totally destroyed or dismantled, or from which a building has been removed.

dwelling house means one dwelling on one allotment.

exempt development has the same meaning as in the Act.

ground level is the ground surface of a site as it was prior to any cutting, filling or grading of the site.

home activity means a business that is ancillary to a residential use and is carried out, or partially carried out, in a dwelling or within an allotment which contains a dwelling house or dwellings, but only if:

- (a) that use is undertaken by the permanent residents, and
- (b) not more than two non-residents are employed in it at any one time, and
- (c) the use does not interfere with the amenity of adjoining properties or the locality, whether or not by the generation of vehicular traffic or parking or the emission of noise, vibration, smell or creation of some other nuisance,

but does not include a bed and breakfast establishment.

storey means:

- (a) the space between two floors, or
- (b) the space between any floor and its ceiling or roof above, or

- (c) foundation areas, garages, workshops, storerooms and the like, where the height between ground level and the top of the floor above is 1.5 metres or more.

A storey which exceeds 4.5 metres is considered as two storeys.

subdivision has the same meaning as in the Act.

the Act means the *Environmental Planning and Assessment Act 1979*.

the Regulation means the *Environmental Planning and Assessment Regulation 2000*.

waterbody means:

- (a) a natural waterbody, including
- (i) a lake or lagoon either naturally formed or artificially modified, or
 - (ii) a river or stream, whether perennial or intermittent, flowing in a natural channel with an established bed or in a natural channel artificially modifying the course of the stream, or
 - (iii) tidal waters including any bay, estuary or inlet, or
- (b) an artificial waterbody, including any constructed waterway, canal, inlet, bay, channel, dam, pond or lake, but does not include a dry detention basin or other construction that is only intended to hold water intermittently.

32 What is exempt development?

- (1) Development of minimal environmental impact listed in Schedule 1 is exempt development, subject to subclauses (2) and (3).
- (2) Development is exempt development only if:
- (a) the development is in accordance with the specified predetermined development standards and other requirements identified for that development in Schedule 1, and
 - (b) the development is ancillary to an existing legal use of a property and will be contained wholly within the property, and

2002 No 780

Sutherland Local Environmental Plan—Menai Town Centre 1992
(Amendment No 2)

Schedule 1 Amendments

- (c) the development complies with the deemed-to-satisfy provisions of the *Building Code of Australia (the BCA)* and the standards currently prescribed in the Regulation, and
- (d) the development does not contravene any condition of a development consent applying to the land, and
- (e) the development does not result in removal, pruning or lopping of trees or bushland vegetation which would otherwise require consent or the permission of the Council to remove, prune or lop under the Council's tree and bushland vegetation preservation order, and
- (f) the development does not cause interference with the amenity of the neighbourhood because of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil or otherwise, and
- (g) the development is not carried out within the zone of influence of or over an existing or proposed easement or public sewer main or, if over a sewer main, the proposal complies with the *building over sewer* requirements of Sydney Water Corporation applying to the land, and
- (h) if appropriate, any installation involved is carried out to the manufacturer's specifications and requirements, and
- (i) the development does not restrict any vehicular or pedestrian access to or from the site or reduce the number of car spaces on the site below the minimum required by the Council, and
- (j) the development does not result in the redirection of surface storm water or run off onto adjoining private property, and
- (k) the development does not involve excavation beyond 600 millimetres below natural ground level, and
- (l) it does not involve handling, storing, or using hazardous chemicals or materials otherwise than on a domestic scale (except on farms and at a distance of more than 25 metres from any habitable building), and does not

-
- release any hazardous chemicals or materials or any pollutants into the environment, and
- (m) it is located within a bushfire interface area or bushfire prone area and complies with the Council's construction standards or relevant building standards for buildings in these areas.
- (3) Development is not exempt development if it is carried out on land that:
- (a) is listed as, or contains an item listed as, a heritage item in this plan, or
 - (b) is an Aboriginal place under the *National Parks and Wildlife Act 1974*, or
 - (c) is reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna or geological formations or for other environmental protection purposes, or
 - (d) is a location of an endangered ecological community or critical habitat as identified in the *Threatened Species Conservation Act 1995*, or
 - (e) is within 40 metres of a waterbody where the development requires any excavation.

33 What is complying development?

- (1) Development listed in Schedule 2 is complying development, subject to subclauses (2) and (3).
- (2) Development is complying development only if:
 - (a) the development is in accordance with the specified predetermined development standards and other requirements identified for that development in Schedule 2, and
 - (b) the proposed development does not involve a building or a site in or on which an existing use, as defined in section 106 of the Act, is being carried out, and
 - (c) it is consistent with any plan of management approved under *State Environmental Planning Policy No 44—Koala Habitat Protection*, and with any recovery plan or threat abatement plan in force under the *Threatened*

2002 No 780

Sutherland Local Environmental Plan—Menai Town Centre 1992
(Amendment No 2)

Schedule 1 Amendments

- Species Conservation Act 1995* that may apply to the land, and
- (d) it does not contravene any condition of a development consent applying to the land, and
 - (e) the development complies with the deemed-to-satisfy provisions of the *Building Code of Australia (the BCA)* and the standards currently prescribed in the Regulation, and
 - (f) the development does not restrict any vehicular or pedestrian access to or from the site or reduce the number of car spaces on the site below the minimum required by the Council, and
 - (g) the development will not result in removal, pruning or lopping of trees or bushland vegetation which would require the consent or permission of the Council to remove, prune or lop under the Council's tree and bushland vegetation preservation order, and
 - (h) the development is not carried out within the zone of influence of over an existing or proposed easement or public sewer main or, if over a sewer main, the proposal complies with the building over sewer requirements of Sydney Water Corporation applying to the land, and
 - (i) the development will not result in the redirection of surface storm water or run off onto adjoining private property, and
 - (j) the development complies with the provisions of the relevant development control plan for housing in the Residential "B" area for Menai Centre.
- (3) Development is not complying development if it is carried out on land that:
- (a) is identified by the Council as being:
 - (i) within a bushfire interface area, or
 - (ii) subject to flooding, tidal inundation, subsidence or land slip, or
 - (iii) contaminated land, or
 - (b) is listed as, or contains an item listed as, a heritage item in this plan, or is on land that abuts a heritage item, or

-
- (c) is an Aboriginal place under the *National Parks and Wildlife Act 1974*, or
 - (d) is reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna or geological formations or for other environmental protection purposes, or
 - (e) is a location of an endangered ecological community or critical habitat as identified in the *Threatened Species Conservation Act 1995*, or
 - (f) has previously been used as a service station, for intensive agriculture, mining or extractive industry, for waste storage or waste treatment, or for the manufacture of chemicals, asbestos or asbestos products and a notice of completion of remediation work for the proposed use has not been given to the Council in accordance with *State Environmental Planning Policy No 55—Remediation of Land*, or
 - (g) is within 40 metres of a waterbody where the development requires any excavation, or
 - (h) is adjacent to an arterial road or arterial road reservation where the development proposes a new, or alters an existing, vehicular accessway to that road or reservation, or
 - (i) is subject to an interim heritage order under the *Heritage Act 1997* or that is listed on the State Heritage Register under that Act.
- (4) A complying development certificate issued for any such development is to be subject to the conditions for the development specified in any applying development control plan adopted by the Council, as in force when the certificate is issued.

2002 No 780

Sutherland Local Environmental Plan—Menai Town Centre 1992
(Amendment No 2)

Schedule 1 Amendments

Schedule 1 Exempt development

(Clause 32)

Type of activity—development consisting of erection and use or carrying out of the following:

Development standards and other requirements

Access ramps for the disabled

- (a) Maximum height 1m above ground level.
- (b) Maximum grade 1:14 and otherwise in compliance with relevant Australian Standards.
- (c) Must be located a minimum of 1.5 m from site boundaries

Advertising structures

General requirements

- (a) The erection of the advertising structure must comply with all the requirements of the *Building Code of Australia*, including Part B1 (Structural Provisions).
- (b) Signs must not cover mechanical ventilation inlet or outlet vents.
- (c) Advertising structures within a public road reserve must be at least 0.6m from kerb/roadway edge.
- (d) Flashing signs are not exempt in any area.
- (e) No restrictions on advertising where displayed within a building and the advertisement is not visible from a public place, although it may be visible through openings at the ground and first floor levels of business premises, shops, food shops, restaurants, industrial premises, warehouses or bulky goods outlets.

Type of activity—development consisting of erection and use or carrying out of the following:	Development standards and other requirements
1 Street and traffic signs (including street name plates, directional signs, advance traffic warning signs, traffic signs and traffic signal devices)	(a) Construction must be by or on behalf of the Council or the Roads and Traffic Authority. (b) Must be designed, fabricated and installed in accordance with relevant Australian Standards.
2 Business advertising	
(a) Suspended under awning signs	(a) One per premises. (b) Must not exceed 1.5m ² in area and, if over a public road, must be suspended with a clearance of no less than 2.6m above ground or pavement level. (c) Must relate to the use of premises.
(b) Awning fascia signs	(a) Must relate to the use of the premises to which the fascia is attached. (b) Where a development control plan for a business centre applies, the background colour, and all lettering colours and styles on the awning fascia must comply with the requirements of that plan.
(c) Under awning advertising (on building facades)	Must relate to the use of the building.
(d) A-frame signs and shopfront displays	(a) Must comply with the approved development control plan for A-frame advertising boards and shopfront display. (b) A lease or licence for the structure must be obtained from the Council before the sign or shopfront display is erected.

2002 No 780

Sutherland Local Environmental Plan—Menai Town Centre 1992 (Amendment No 2)

Schedule 1 Amendments

Type of activity—development consisting of erection and use or carrying out of the following:	Development standards and other requirements
3 Industrial advertising	<p>(a) One advertising sign of a maximum of 5m² in area is permitted and it must be fixed flush to the front elevation of the industrial building or industrial unit, to a maximum height of 4.5m above ground level and not project above the parapet of the building or the eaves line where the building has a pitched roof.</p> <p>(b) Freestanding directory boards for multiple occupancy complexes are permitted within the property boundary/premises subject to the total area of the board or boards not exceeding 5m² in area and a maximum height of 4.5m above ground level.</p> <p>(c) All signage must relate to the activity on the site.</p>
4 Temporary signs	
(a) Real estate signs	<p>(a) Must only advertise premises or land for sale or lease</p> <p>(b) One sign per premises and located within property boundaries.</p> <p>(c) Sign must not exceed 2.5m² in area.</p> <p>(d) Not exempt more than 14 days after completion of the sale or granting of the lease.</p>
(b) Construction signs (signs advertising firms involved in construction of a building)	<p>(a) Only during construction of the building.</p> <p>(b) One composite sign per premises only and the sign must be located within the property boundaries.</p>

Type of activity—development consisting of erection and use or carrying out of the following:	Development standards and other requirements
(c) Special event sign	<ul style="list-style-type: none"> (c) Any signage must not exceed 2.5m² in area. (a) Must be displayed only on the property where the special event is to be held. (b) Must be constructed of lightweight, banner type material. (c) Not exempt for more than 14 days before the special event or more than 48 hours after the event is finalised.
(d) Inflatable promotional signs	<ul style="list-style-type: none"> (a) Must be displayed only on the property where the promotion is to be held. (b) Not exempt development if displayed for more than 7 consecutive days, more than 4 times or for a total of more than 28 days in any year or later than 48 hours after the relevant promotion is finalised.
5 Home activity identification signs	<ul style="list-style-type: none"> (a) One per premises. (b) Signs must not exceed 0.5m² in area and be affixed to the dwelling no higher than 3m above ground or pavement level and below the eaves line of the building.
6 Community advertising	<ul style="list-style-type: none"> (a) A permanent fixed sign must not exceed 1.5m² in area and must not be higher than 3m above the ground or pavement level. (b) A temporary sign may not display an advertisement for more than 7 consecutive days or for a total of more than 28 days in any year.

2002 No 780

Sutherland Local Environmental Plan—Menai Town Centre 1992
(Amendment No 2)

Schedule 1 Amendments

Type of activity—development consisting of erection and use or carrying out of the following:	Development standards and other requirements
Aerials/Antennae/Microwave antennae/Satellite dishes	<p>(a) For receiving purposes only.</p> <p>(b) Must not have substantial adverse impact on views enjoyed by adjoining and neighbouring premises.</p> <p>For Satellite dishes only:</p> <p>(a) Maximum diameter 750mm.</p> <p>(b) Maximum height must not exceed the highest point of a pitched roof, or 1m above the highest point of a flat roof, of the building it will serve.</p> <p>(c) Must not be installed forward of the building line or on roof areas visible from the road.</p> <p>(d) Must not be visible from any public place, including roads, public open space, public recreation areas and waterways.</p> <p>(e) The dish and supporting structure must be finished in a non-reflective colour, which blends in with the surrounding environment.</p>
Air conditioning units	<p>(a) External units must not be attached above the second storey on residential buildings, unless located on a balcony where the air conditioning unit is not clearly visible from street level.</p> <p>(b) Roof mounted air conditioning units are permitted on industrial premises only.</p> <p>(c) Must not be located within the street facing elevation or within the front building setback if ground mounted.</p>

Type of activity—development consisting of erection and use or carrying out of the following:	Development standards and other requirements
Awnings, canopies and security/storm blinds or shutters	<ul style="list-style-type: none"> (d) Must be located a minimum of 0.5m from any side or rear boundaries. (e) Any air conditioning unit must not include a cooling tower as part of the system. (f) Any building work must not reduce the structural integrity of the building. (g) Any opening created must be adequately weatherproofed. (h) The noise level generated by the air conditioning unit must not exceed an LAeq of 5 dB(A) above background noise level when measured at the property boundary. Despite this, domestic air conditioning units must not be audible within any room of any adjoining premises, from 10pm to 7am on weekdays or 10pm to 8am on weekends or public holidays. (i) Any noise emitted must not include any tonal, impulsive or intermittent characteristics. (j) Must be maintained and installed in compliance with Australian Standards AS/NZS 1668.1:1998, AS 1668.2—2002, AS/NZS 3666.1:2002, AS/NZS 3666.2:2002 and AS/NZS 3666.3:2000. (a) Must be retractable. Note. See "Pergolas, and fixed awnings etc" for fixed attachments. (b) Must not be installed above the second storey of any building.

2002 No 780

Sutherland Local Environmental Plan—Menai Town Centre 1992
(Amendment No 2)

Schedule 1 Amendments

Type of activity—development consisting of erection and use or carrying out of the following:	Development standards and other requirements
Barbecues (portable and fixed structures)	<p>(c) This exemption is not applicable to security blinds or shutters on the street front elevation of business buildings or business shopfront awnings.</p> <p>(a) All barbecues are to be located so that they do not cause a nuisance while being used.</p> <p>(b) Maximum height of fixed structure 2.7m from ground level.</p> <p>(c) Fixed structures must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback.</p> <p>(d) For fixed structures, a minimum 0.5m setback from side or rear boundaries, except where a heat shield is incorporated or adjoins a non-combustible fence.</p> <p>(e) Barbeques must be located so that the risk of the spread of fire from the barbecue to any other structure is minimised.</p>
Bird aviaries and pet animal shelters	<p>(a) Maximum area 10m².</p> <p>(b) Maximum height 2.7m from ground level.</p> <p>(c) Must be located in rear or side yard areas only.</p> <p>(d) Must be located away from the boundary a minimum of 0.5m.</p> <p>(e) Limit of one bird aviary per property.</p>

Type of activity—development consisting of erection and use or carrying out of the following:	Development standards and other requirements
Building alterations (external)	<p>(f) An aviary for fowls (poultry, including domestic fowl, chickens or guinea fowls) and small birds must not be located within 4.5m of a dwelling, public hall, school or premises used for the manufacture, preparation, sale or storage of food.</p> <p>(g) An aviary for poultry (other than fowls) must not be located within 30m of any building referred to in paragraph (f).</p> <p>(h) All poultry or fowls must be kept in accordance with Part 3 of and Division 2 of Schedule 5 to the <i>Local Government (Orders) Regulation 1999</i>.</p> <p>(i) Fowls are limited to a maximum of 20, and other poultry to a maximum of 5.</p> <p>(j) The floors of poultry houses within 15.2m of a dwelling, public hall or school must be paved with concrete or mineral asphalt underneath the roosts or perches, unless situated on clean sand.</p> <p>General requirements</p> <p>(a) Does not apply to:</p> <ul style="list-style-type: none"> (i) residential flats, or (ii) the principal street frontage of buildings in the Business “A”, Business “C” or Services area, or (iii) any development in the Recreation and Community Land area. <p>Note. See Schedule 2 (Complying development) for external building alterations.</p> <p>(b) Work must be non-structural.</p>

2002 No 780

Sutherland Local Environmental Plan—Menai Town Centre 1992
(Amendment No 2)

Schedule 1 Amendments

Type of activity—development consisting of erection and use or carrying out of the following:	Development standards and other requirements
(a) Recladding of roofs or walls	<ul style="list-style-type: none">(c) Applies only to alterations or renovations to previously completed buildings.(d) Works are not to include changes to the footprint or increase floorspace of the buildings or residential use of rooms whether by removal of existing walls, partitions or by other means. This does not exclude bay windows up to 0.3m from the existing alignment of the wall.(e) Works are not to include repositioning or enlarging of windows above ground level.(f) Works are not to cause reduced window arrangements for light and ventilation needs, reduced doorways for egress purposes or involve enclosure of open areas.(g) Any work involving lead paint removal must not cause lead contamination of the air or ground or water.
(b) Skylight roof windows (including solartube or similar type installations and roof ventilators)	<ul style="list-style-type: none">(a) Replacement of existing materials must be with similar materials which do not increase the reflectivity.(b) Recladding not to involve structural alterations, change to roof shape or roof pitch, or brick veneering.(a) The building work must not reduce the structural integrity of the building or involve structural alterations.(b) Any opening created by the installation must be adequately weatherproofed.

Type of activity—development consisting of erection and use or carrying out of the following:	Development standards and other requirements
(c) Windows, glassed areas and external doors	<p>(a) Replacement materials must comply with: Australian Standard AS 1288—1994 <i>Glass in buildings—Selection and installation</i> and AS/NZS 2208:1996 <i>Safety glazing materials in buildings</i>.</p> <p>(b) Opaque or other obscured glazing must be replaced with similar opaque glazing so as not to impact on the privacy of neighbouring properties.</p>
Building alterations (internal)	
(a) Business/Industrial	<p>(a) Does not include alterations to premises for the preparation or storage (or both) of food for sale to the public.</p> <p>(b) Works must be non-structural, such as shelving, displays, benches and partitions that do not provide structural support to any part of the building.</p> <p>(c) Works must not compromise fire safety or affect accessibility to fire exits.</p> <p>(d) Must not increase existing floor area of premises.</p> <p>(e) Must be an alteration to an existing building.</p>
(b) Residential	<p>(a) Works must be non-structural.</p> <p>(b) Applies only to alterations or renovations to previously completed buildings.</p>

2002 No 780

Sutherland Local Environmental Plan—Menai Town Centre 1992
(Amendment No 2)

Schedule 1 Amendments

Type of activity—development consisting of erection and use or carrying out of the following:	Development standards and other requirements
	<ul style="list-style-type: none">(c) Works are not to include changes to the footprint of the dwelling or residential use of rooms whether by removal of existing walls, partitions or by other means.(d) Works may include replacement of internal doors, walls, windows, ceiling or floor linings or deteriorated frame members with equivalent or improved quality materials.(e) Works may include renovation of bathrooms, kitchens, and inclusion of built-in fixtures such as vanities, cupboards and wardrobes.(f) Works are not to cause reduced window arrangements for light and ventilation needs, reduced doorways for egress purposes or involve enclosure of open areas.(g) Works must not increase external size and envelope of the existing building.(h) Works are not to include installation of oil or solid fuel heating appliances.(i) Does not include alterations to premises for the preparation or storage (or both) of food for sale to the public.
Bushfire hazard reduction	Work must be carried out consistent with a bush fire management plan made pursuant to section 52 of the <i>Rural Fires Act 1997</i> .
Cabanas and gazebos	<ul style="list-style-type: none">(a) Maximum area 10m² per structure.(b) The floor must be located at or near ground level.

Type of activity—development consisting of erection and use or carrying out of the following:	Development standards and other requirements
<p>Changes of use (Different use resulting from change of use of:</p> <ul style="list-style-type: none"> (a) business premises, shop, restaurant, food shop or sex shop to business premises, or (b) business premises, shop, restaurant, food shop or sex shop to shop or different kind of shop, or (c) food shop to different kind of food shop, or (d) restaurant to a different kind of restaurant, or (e) bulky goods outlet to different kind of bulky goods outlet, or (f) industry to different kind of industry, or (g) warehouse to different kind of warehouse.) 	<ul style="list-style-type: none"> (c) Maximum height of 4.0m from ground level. (d) Must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback. (e) Structures must be sited a minimum of 1.5m from side and rear boundaries. (f) Limit of one of each structure for each premises. (g) Maximum total floorspace of combined structures in this category is 40m². (a) Does not include a change of use to a sex shop. (b) Hours of operation are limited generally to between 6am and 9pm daily for all uses except industrial uses where the hours of operation are limited to between 6am and 7pm Monday to Saturday with no use on Sundays or public holidays. (c) The change of use is not to include any change to existing floorspace, parking, landscaping or waste facilities approved for the development.
<p>Clothes hoists/lines</p>	<ul style="list-style-type: none"> (a) Must be installed at ground level. (b) Must be located behind the building or in the side or rear yard.

2002 No 780

Sutherland Local Environmental Plan—Menai Town Centre 1992
(Amendment No 2)

Schedule 1 Amendments

Type of activity—development consisting of erection and use or carrying out of the following:	Development standards and other requirements
Decks and patios	<ul style="list-style-type: none">(c) Must not be located on balconies or elevated decks.(a) The finished surface level must not be greater than 1m above ground level.(b) The structure must not exceed an area of 20m².(c) The structure must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback.(d) Sufficient step down is to be provided to prevent the entry of water into any associated dwelling.(e) Must be located a minimum of 1.5m from side and rear boundaries.
Demolition of a structure	<ul style="list-style-type: none">(a) Demolition of a structure is only exempt development if erection of that structure would be exempt development, or where an order to demolish has been issued by the Council under the <i>Environmental Planning and Assessment Act 1979</i>.(b) Does not apply to demolition of a structural retaining wall.(c) Does not apply to the decontamination, rehabilitation or remediation of contaminated land.(d) Demolition must be carried out in accordance with Australian Standard AS 2601—2001 <i>Demolition of structures</i>.

Type of activity—development consisting of erection and use or carrying out of the following:	Development standards and other requirements
Driveways and pathways	<ul style="list-style-type: none"> (a) Does not apply to works on public land except for driveways or pathways constructed by or on behalf of the Council. (b) Must be structurally sound and of stable construction. (c) Must not be elevated or suspended above ground level or involve excavation greater than 0.6m. (d) Driveway or access gradients must be designed to align with footpath crossing levels issued by the Council and must comply with the access gradient requirements of Australian Standard AS 2890.1—1993 <i>Parking facilities, Part 1: Off-street car parking</i>. (e) Must be graded and drained so as not to cause a drainage nuisance to adjoining property or footpath area.
Fences and gates (including replacement of existing fences or gates)	<p data-bbox="858 1357 1114 1391">General requirements</p> <ul style="list-style-type: none"> (a) Does not apply to fences required by the <i>Swimming Pools Act 1992</i>. (b) Does not apply to fencing of street frontages of land occupied by dual occupancies, townhouses or villas. (c) Does not apply to fences or gates for residential flats. (d) All fences are to be constructed so as not to create a drainage nuisance. (e) Does not apply to fencing along the street boundary of land occupied by dual occupancies, townhouses or villas.

2002 No 780

Sutherland Local Environmental Plan—Menai Town Centre 1992
(Amendment No 2)

Schedule 1 Amendments

Type of activity—development consisting of erection and use or carrying out of the following:	Development standards and other requirements
(a) Front fences (including side fences between the building line and the street or any other public place)	(a) Does not apply to front fences where covenants apply to the land that restrict erection of front fencing. (b) Does not apply to commercial premises. (c) A maximum height of 1m. (d) An open form front fence, to a maximum height of 2.5m, is permitted on industrial premises but only where set behind existing landscaping carried out with consent.
(b) Side fences and rear fences (fences behind the building line)	(a) Maximum height of 1.8m if constructed of timber, metal or lightweight materials, all other materials maximum height of 1.0m. (b) Open form fencing to a maximum height of 2.5m is permitted on industrial premises.
Flagpoles	(a) Maximum height 6.0m above ground level. (b) Must not project beyond property boundaries. (c) Limit of one flagpole per property. (d) Not used to display flag larger than 1m ² . (e) Not used to display flags for advertising purposes.
Greenhouses, garden sheds, studios, cubby houses and playground equipment	(a) Maximum area 10m ² per structure. (b) The floor must be located at or near ground level. (c) Maximum height of 4.0m from ground level.

Type of activity—development consisting of erection and use or carrying out of the following:	Development standards and other requirements
Home activities	<ul style="list-style-type: none"> (d) Must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback. (e) Structures must be sited a minimum of 1.5m from side and rear boundaries. (f) Limit of one of each structure for each premises. (g) Maximum total floorspace of combined structures in this category is 40m². (h) Maximum area and height requirements do not apply where the structures are located on land within the Recreation and Community Land area. (a) The activity must not interfere with the amenity of the area by reason of such things as vehicular traffic, parking, noise, vibration, smell, fumes, smoke, water or other waste products. (b) Any sound producing plant, equipment, machinery or fittings associated with or forming part of a mechanical ventilation system or refrigeration system, which is installed as part of a home activity, must be sound insulated or isolated (or both).

2002 No 780

Sutherland Local Environmental Plan—Menai Town Centre 1992
(Amendment No 2)

Schedule 1 Amendments

Type of activity—development consisting of erection and use or carrying out of the following:	Development standards and other requirements
Letter box	(c) Noise emitted must not exceed an LAeq of 5dB(A) above the background level in any octave band from 63.0 Hz centre frequencies inclusive at the boundary of the site. The method of measurement of sound must be carried out in accordance with Australian Standard AS 1055.1—1997 <i>Acoustics—Description and measurement of environmental noise—General procedures.</i> (d) Any noise emitted must not include any tonal, impulsive or intermittent characteristics. (e) Hours of operation for the activity are limited to between 8am and 6pm Monday to Saturday.
Outdoor eating areas	Must not exceed a maximum height of 1.2m above ground level. (a) Must comply with the approved development control plan for outdoor eating areas. (b) A licence for the activity must be obtained from the Council before any outdoor eating activities are undertaken.
Pergolas, and fixed awnings, shade structures/sunshades at ground floor level or over an existing first floor deck	(a) Maximum area 20m ² per structure. (b) Maximum height 2.7m above ground level where proposed at ground floor level. (c) Maximum height 2.7m above existing first floor or deck level where proposed over an existing elevated deck.

Type of activity—development consisting of erection and use or carrying out of the following:	Development standards and other requirements
<p>Public facilities and amenities (new construction and use) (includes such things as playground equipment, public toilet facilities, staircases, recreational, sporting, entertainment and cultural activities, works for the purpose of landscaping, gardening, lighting and night-time activities, traffic management facilities, public transport facilities, street furniture, security equipment or devices, goal posts, sight screens and similar ancillary sporting structures)</p>	<ul style="list-style-type: none"> (d) Must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback. (e) Must be located a minimum of 1.5m from side and rear boundaries. (f) Does not apply to business shopfront awnings. (g) Maximum area and height requirements do not apply where the structures are located on land within the Recreation and Community Land area. (a) Approved by the Council and undertaken by or on behalf of the Council, or if on Crown land where consultation with the Department of Land and Water Conservation has occurred or, in the case of traffic management facilities, must be undertaken by or on behalf of the Roads and Traffic Authority. (b) Works must be located on land under the control of the Council or the Roads and Traffic Authority. (c) Must be designed, fabricated and installed in accordance with any relevant Australian Standards and the <i>Building Code of Australia</i>.

2002 No 780

Sutherland Local Environmental Plan—Menai Town Centre 1992
(Amendment No 2)

Schedule 1 Amendments

Type of activity—development consisting of erection and use or carrying out of the following:	Development standards and other requirements
Retaining walls	<ul style="list-style-type: none">(d) Bus shelters and seats with ancillary advertising must comply with the requirements of the development control plan for bus shelters and seats.(e) Park and street furniture (for example, seats, bins, picnic tables, barbecues etc) must comply with the requirements of any applicable development control plan or adopted plan of management.(f) The following works or uses may only be exempt if in accordance with an adopted plan of management:<ul style="list-style-type: none">(i) temporary uses, such as markets, concerts, fetes etc,(ii) public toilet facilities,(iii) installation of lighting to enable the night use of recreational facilities.(a) Not if any site filling or raising of site levels greater than 0.3m will occur within 1.5m of side or rear boundaries.(b) Maximum height 0.6m.(c) Masonry walls to comply with Australian Standards AS 3700—2001 <i>Masonry structures</i>, AS 3600—1994 <i>Concrete structures</i> and AS/NZS 1170.0:2002, AS/NZS 1170.1:2002, AS/NZS 1170.2:2002 and AS 1170.4—1993 <i>Structural design actions</i> and <i>Minimum design loads on structures</i>.

Type of activity—development consisting of erection and use or carrying out of the following:	Development standards and other requirements
<p>Water heaters (includes heat pump hot water heaters and solar water heaters)</p>	<ul style="list-style-type: none"> (d) Timber walls to comply with Australian Standards AS 1720.1—1997, AS 1720.2—1990 and AS 1720.4—1990 <i>Timber structures</i> and AS/NZS 1170.0:2002, AS/NZS 1170.1:2002, AS/NZS 1170.2:2002 and AS 1170.4—1993 <i>Structural design actions</i> and <i>Minimum design loads on structures</i>. (e) All retaining walls are to be constructed so as not to cause a drainage nuisance. (f) Maximum length of 20 lineal metres of retaining wall per property. (g) Not if there are two or more wall rises or drops in succession. (a) Must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback. (b) The installation must not reduce the structural integrity of the building or involve structural alterations. (c) The development must comply with the provisions of the <i>Building Code of Australia</i> for fire separation if in multi-unit housing.

2002 No 780

Sutherland Local Environmental Plan—Menai Town Centre 1992
(Amendment No 2)

Schedule 1 Amendments

Type of activity—development consisting of erection and use or carrying out of the following:	Development standards and other requirements
Water tanks	<ul style="list-style-type: none">(d) The noise level generated must not exceed an LAeq of 5 dB(A) above background noise level when measured at the property boundary. Despite this, domestic water heaters must not be audible within any room of any adjoining premises, from 8pm to 7am on weekdays and 10pm to 8am on weekends or public holidays.(e) Maximum height must not exceed the highest point of a pitched roof, or 1m above the highest point of a flat roof, of the building it will serve.(f) Trees must not be lopped in order to achieve solar access for solar water heaters.(a) Not if a below ground tank or on land that requires excavation.(b) Maximum height 2.4m from ground level.(c) Must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback.(d) Tanks must be located a minimum of 0.6m from side and rear boundaries.(e) Maximum capacity of 1,600 litres.(f) Suitable proofing for the prevention of mosquito breeding must be provided.(g) Rainwater tank overflows must be connected to an approved stormwater system.

Schedule 2 Complying development—general provisions

(Clause 33)

Part 1 Complying development in the following areas:

Residential “B” area

Residential “C” area

Development consisting of the erection or carrying out of the following:	Development standards and other requirements
Building alterations (internal)	<ul style="list-style-type: none"> (a) Work must not reduce fire safety or accessibility to a fire exit. (b) Applies only to alterations or renovations to previously completed buildings. (c) Works must not include installation of oil or solid fuel heating appliances. (d) Work on that part of residential premises used for the purpose of preparation or storage (or both) of food for sale to the public as part of a home activity use, must comply with the <i>Food Regulation 2001</i>, the Council’s <i>Code for Food Premises</i>, and <i>Code for Commercial Home Catering</i>. Work does not include installation of any commercial mechanical exhaust ventilation system.
Cabanas and gazebos	<ul style="list-style-type: none"> (a) Maximum area of 40m² per structure. (b) Maximum height of 4.0m from ground level for all structures.

2002 No 780

Sutherland Local Environmental Plan—Menai Town Centre 1992
(Amendment No 2)

Schedule 1 Amendments

Development consisting of the erection or carrying out of the following:	Development standards and other requirements
	<ul style="list-style-type: none">(c) Must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback.(d) Must be located a minimum of 1.5m off side and rear boundaries.(e) The finished floor level must be no more than 1.0m above ground level at any point.
Decks and Patios	<ul style="list-style-type: none">(a) The finished surface level must not be greater than 1m above ground level.(b) The structure must not exceed an area of 40m².(c) The structure must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback.(d) Sufficient step down is to be provided to prevent the entry of water into any associated dwelling.(e) Must be located a minimum of 1.5m from side and rear boundaries.
Demolition	<ul style="list-style-type: none">(a) Not including decontamination, rehabilitation or remediation of a contaminated site.(b) Demolition must be in accordance with any relevant Australian Standards.
Fences, Gates and Retaining Walls	<ul style="list-style-type: none">(a) Not within the front building line setback.

Development consisting of the erection or carrying out of the following:	Development standards and other requirements
Garages	<ul style="list-style-type: none"> (b) Front fences within the front building line must not exceed a maximum height of 1.0m above ground level. (c) Side or rear fences must not exceed a maximum height of 1.8m above ground level. (d) Retaining walls: <ul style="list-style-type: none"> (i) must be located a minimum of 0.5m from a boundary line, and (ii) must not exceed a maximum height of 1.0m above ground level, and (iii) maximum length of 20 lineal metres of retaining wall per property. (e) Does not apply to fencing along the street boundary of land occupied by dual occupancies, townhouses or villas. (a) Maximum gross floor area of 40m² per structure. (b) Maximum height 4.0m from ground level for all structures. (c) Must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback. (d) Must be located a minimum of 1.5m off side boundaries. (e) The finished floor level must be no more than 1.0m above ground level at any point.

2002 No 780

Sutherland Local Environmental Plan—Menai Town Centre 1992
(Amendment No 2)

Schedule 1 Amendments

Development consisting of the erection or carrying out of the following:	Development standards and other requirements
Greenhouses, garden sheds, studios, cubby houses	<ul style="list-style-type: none">(a) Maximum gross floor area of 40m² per structure.(b) Maximum height 4.0m from ground level for all structures.(c) Must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback.(d) Must be located in rear or side yards.(e) Must be located a minimum of 1.5m off side boundaries.(f) The finished floor level must be no more than 1.0m above ground level at any point.
Pergolas, awnings, shade structures/sunshades, carports	<ul style="list-style-type: none">(a) Maximum area of 40m² per structure.(b) Maximum height of 4.0m from ground level for all structures.(c) Must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback.(d) Must be located a minimum of 1.5m off side and rear boundaries.(e) The finished floor level must be no more than 1.0m above ground level at any point.
Single storey single dwelling houses and ground floor single storey additions or alterations to single dwelling houses	<ul style="list-style-type: none">(a) Maximum height of 5.4m from ground level to the highest point of the roof.

Development consisting of the erection or carrying out of the following:	Development standards and other requirements
	<ul style="list-style-type: none"> (b) Must be located a minimum of 1.5m off side boundaries. (c) Must be located a minimum of 4.5m from rear boundaries. (d) Must be located behind the building line of the property or no further forward than the alignment of any existing building on any adjoining property, whichever is the greater setback. (e) The maximum amount of cut or fill is restricted to 0.6m and the cut must not extend further than 0.9m beyond the perimeter of the building. (f) All fill must be retained within the perimeter of the buildings. (g) For new dwellings, two car parking spaces must be provided behind the building line. (h) Any car spaces and access provided must comply with the requirements of Australian Standard AS 2890.1—1993 <i>Parking facilities, Part 1: Off-street car parking</i>. (i) Any driveways provided must be designed to align with footpath crossing levels issued by the Council. (j) New dwellings must be entitled to at least a 3.5 star rating under the <i>National House Energy Rating Scheme</i> (NatHERS). (k) Alterations or additions must comply with the energy efficiency standards in the applicable development control plan.

2002 No 780

Sutherland Local Environmental Plan—Menai Town Centre 1992
(Amendment No 2)

Schedule 1 Amendments

Development consisting of the erection or carrying out of the following:

Development standards and other requirements

- (l) Works are not to include installation of oil or solid fuel heating appliances.
- (m) Must comply with Council's construction standards for buildings located in bushfire prone areas or any relevant Council building standards.
- (n) Work on that part of residential premises used for the purpose of preparation or storage (or both) of food for sale to the public as part of a home activity use, must comply with the *Food Regulation 2001*, the Council's *Code for Food Premises* and *Code for Commercial Home Catering*. Work does not include any commercial mechanical exhaust ventilation system.
- (o) Minimum landscaped area is 45% of the site area.

Subdivision for one or more of the following purposes only:

- (a) widening of a public road by a public authority, or
- (b) adjusting a boundary between allotments, but only if the new lots comply with this plan. The subdivision must not result in an increased number of lots, the re-orientation of the existing allotments or redefinition of the Mean High Water Mark, or
- (c) correcting an encroachment on an allotment, but only if the new lots comply with this plan, or

Development consisting of the erection or carrying out of the following:**Development standards and other requirements**

- (d) strata subdivision of any building, except dual occupancy housing, approved and constructed after 1 July 1988, subject to the development conforming with all conditions of any applicable development consent, or
- (e) consolidation of allotments, if it is development, or
- (f) the creation of an allotment for public reserve purposes but only where the residue lot or lots comply with the minimum size standards of this plan.

Swimming pools, spas and safety fencing

- (a) Must be located in the rear or side yard.
- (b) Minimum 1.0m distance from side or rear boundaries to the water.
- (c) Pools (including in-ground or above-ground) must not exceed 1.0m above ground level with no attached decking within 1.5m of side and rear boundaries (refer to Decks and Patios).
- (d) Safety fencing must comply with the *Swimming Pools Act 1992* and Australian Standard AS 1926.2—1995 *Swimming pool safety*, Part 2: *Location of fencing for private swimming pools*.

2002 No 780

Sutherland Local Environmental Plan—Menai Town Centre 1992
(Amendment No 2)

Schedule 1 Amendments

Development consisting of the erection or carrying out of the following:	Development standards and other requirements
	(e) Swimming pool/spa pump and associated equipment must be sound insulated or isolated (or both) so that the noise emitted does not exceed an LAeq of 5 dB(A) above background noise level in any octave band from 63.0 Hz centre frequencies inclusive at the property boundary, measured in accordance with Australian Standard AS 1055.1—1997 <i>Acoustics—Description and measurement of environmental noise—General procedures.</i>

Part 2 Complying development in the following areas:

Business “A” area

Business “B” area

Services area

Recreation and Community Land area

Development consisting of the erection or carrying out of the following:	Development standards and other requirements
Building alterations (external)	(a) Building must be an existing building authorised by a consent. (b) Only where there is an applicable development control plan or plan of management that specifies standards for the external treatment or appearance of the building and only where the development complies with the requirements of the applicable development control plan or plan of management.

Development consisting of the erection or carrying out of the following:	Development standards and other requirements
Building alterations (internal)	<ul style="list-style-type: none"> (c) Work must not reduce fire safety or accessibility to a fire exit. (d) Work must not contravene any conditions of any development consent applicable to the building or its use. (a) Building must be an existing building authorised by a consent. (b) Work must not reduce fire safety or accessibility to a fire exit. (c) Work must not increase the existing gross floor area of industrial premises except where it is an internal mezzanine floor, where that area may be increased by up to a maximum floor area of 50m² but only for the purpose of storage or amenities. (d) Work must not increase existing gross floor area of business premises, including extensions within pedestrian arcades. (e) Work on that part of residential premises used for the purpose of preparation or storage (or both) of food for sale to the public as part of a home activity use, must comply with the <i>Food Regulation 2001</i>, the Council's <i>Code for Food Premises</i> and <i>Code for Commercial Home Catering</i>. Work does not include any commercial mechanical exhaust ventilation systems.

2002 No 780

Sutherland Local Environmental Plan—Menai Town Centre 1992
(Amendment No 2)

Schedule 1 Amendments

Development consisting of the erection or carrying out of the following:	Development standards and other requirements
	<p>(f) Work on food shops or restaurants must comply with the <i>Food Regulation 2001</i>, the Council's <i>Code for Food Premises</i>, the <i>Clean Air (Plant and Equipment) Regulation 1997</i>, the <i>Protection of the Environment Operations Act 1997</i>, AS/NZS 1668.1:1998 and AS 1668.2—2002. Alterations to an existing food shop or restaurant do not include the construction or installation of an externally mounted or located exhaust duct, fan or refrigeration unit.</p> <p>(g) Work on hairdressers, beauty salons or skin penetration premises must comply with the <i>Public Health Act 1991</i> and Regulations under that Act, the NSW Health Department's <i>Skin Penetration Guidelines</i>, published in July 1999 (if appropriate) and the <i>Local Government (Orders) Regulation 1999</i>.</p> <p>(h) Existing sound producing machinery or fittings associated with or forming part of the existing mechanical ventilation system or refrigeration system, must be sound insulated or isolated (or both) so that the noise emitted does not exceed an LAeq of 5 dB(A) above the background level in any octave band from 63.0 Hz centre frequencies inclusive at the boundary of the site (in accordance with any relevant Australian Standards). Any noise emitted must not include any tonal, impulsive or intermittent characteristics.</p>

Development consisting of the erection or carrying out of the following:	Development standards and other requirements
Demolition	<ul style="list-style-type: none"> (a) Demolition is only permitted of a building the erection of which is identified in this Schedule as complying development. (b) Not including decontamination, rehabilitation or remediation of a contaminated site. (c) Demolition must be carried out in accordance with any relevant Australian Standards.
Subdivision for one or more of the following purposes only:	
<ul style="list-style-type: none"> (a) widening of a public road by a public authority, (b) adjusting a boundary between allotments, but only if the new lots comply with this plan. The subdivision must not result in an increased number of lots, the re-orientation of the existing allotments or redefinition of the Mean High Water Mark, (c) correcting an encroachment on an allotment, but only if the new lots comply with this plan, (d) strata subdivision of any building, except dual occupancy housing, approved and constructed after 1 July 1988 subject to the development conforming with all conditions of any applicable development consent, (e) consolidating allotments, if it is development, 	

2002 No 780

Sutherland Local Environmental Plan—Menai Town Centre 1992
(Amendment No 2)

Schedule 1 Amendments

**Development consisting of the
erection or carrying out of the
following:**

**Development standards and other
requirements**

- (f) the creation of an allotment for public reserve purposes but only where the residue lot or lots comply with the minimum size standards of this plan.
-

BY AUTHORITY