



New South Wales

## **Queanbeyan Local Environmental Plan 1998 (Amendment No 25)**

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*. (Q98/00037/S69)

ANDREW REFSHAUGE, M.P.,

Minister for Planning

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## Queanbeyan Local Environmental Plan 1998 (Amendment No 25)

### 1 Name of plan

This plan is *Queanbeyan Local Environmental Plan 1998 (Amendment No 25)*.

### 2 Aims of plan

This plan aims:

- (a) to update references to *Development Control Plan No 49 Exempt and Complying Development in Queanbeyan Local Environmental Plan 1991, Yarrowlumla Local Environmental Plan 1993* and *Queanbeyan Local Environmental Plan 1998* following amendments to this development control plan, and
- (b) to insert references to exempt development into the development control tables of *Queanbeyan Local Environmental Plan 1991, Yarrowlumla Local Environmental Plan 1993* and *Queanbeyan Local Environmental Plan 1998*, and
- (c) to alter or repeal certain provisions of *Queanbeyan Local Environmental Plan 1998* as these provisions have been inserted into the provisions in *Development Control Plan No 49 Exempt and Complying Development* for exempt development, and
- (d) to alter or repeal certain provisions of *Queanbeyan Local Environmental Plan 1998* as these provisions have become redundant with the gazettal of *State Environmental Planning Policy No 64—Advertising and Signage*, and
- (e) to insert new provisions which clarify that development consent is not required for certain types of development, and
- (f) to insert new definitions into *Queanbeyan Local Environmental Plan 1991, Yarrowlumla Local Environmental Plan 1993* and *Queanbeyan Local Environmental Plan 1998* which define certain types of exempt development, and
- (g) to broaden the types of development that can be complying development.

**3 Land to which plan applies**

This plan applies to all land within the City of Queanbeyan.

**4 Amendment of environmental planning instruments**

*Queanbeyan Local Environmental Plan 1991, Yarrowlumla Local Environmental Plan 1993 and Queanbeyan Local Environmental Plan 1998* are amended as set out in Schedules 1–3 respectively.

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Schedule 1

Amendment of Queanbeyan Local Environmental Plan 1991

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**Schedule 1 Amendment of Queanbeyan Local Environmental Plan 1991**

(Clause 4)

**[1] Clause 5 Model Provisions**

Insert “*home occupation,*” after “*home industry*”.

**[2] Clause 5A Exempt development**

Omit “Tables 1 to 5 of *Development Control Plan No 49 Exempt and Complying Development* and adopted by the Council on 7 July 1999”.

Insert instead “Tables 1 to 6 of *Development Control Plan No 49 Exempt and Complying Development* as adopted by the Council on 19 September 2001”.

**[3] Clause 5B Complying development**

Omit clause 5B (1) (b). Insert instead:

- (b) the erection or construction and use of barbecues and associated works (unroofed), cabanas, cubby houses, decks, fern houses, garages, gazebos, greenhouses, patios, pergolas, private playground equipment, swimming pools and workshops ancillary to dwelling-houses on land in Zone No 2 (d), and

**[4] Clause 5B (2) (a)**

Omit “Tables 6 to 8 of *Development Control Plan No 49 Exempt and Complying Development* as adopted by the Council on 7 July 1999”.

Insert instead “Tables 7 to 9 of *Development Control Plan No 49 Exempt and Complying Development* as adopted by the Council on 19 September 2001”.

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**[5] Clause 6 Definitions**

Insert in appropriate order in clause 6 (1):

***awning*** means a fixed or retractable canvas or metal roof-like covering to shelter persons or protect parts of a building from the effects of sun or rain, usually erected in front of a window or door, or over a balcony or deck.

***balcony*** means an open or covered elevated horizontal platform attached to the upper floor of a building, projecting from or recessed into the face of the wall, accessible from an adjacent room, and protected by a railing or balustrade.

***barbecue*** means an outdoor facility, located in a backyard or courtyard, for domestic cooking.

***cabana*** means a covered structure which is often but not always used as a pool-side shelter or change room or both.

***canopy*** means an ornamental roof-like covering or projection, which may be for the purpose of providing shade or shelter, either suspended or supported on brackets, corbels or columns, over a door, window, niche or balcony.

***carport*** means a roofed, open or semi-enclosed structure for the sheltering of motor vehicles, attached to, adjacent to, or near a dwelling-house.

***cladding*** means the outer non-load bearing covering of the external walls or roof of a framed building or structure, applied for weather-proofing or decorative purposes or both.

***cubby house*** means a small scale replica of a dwelling-house, usually of simple construction and located in the backyard or courtyard, which is used primarily by children for the purposes of play.

***deck*** means a horizontal platform which may or may not be roofed and, usually at or slightly above ground level, attached to, or forming part of, a building.

***driveway*** means a defined area within a property used by vehicles travelling between a carriageway and a property adjacent to or near a road.

***excavation or filling*** means works which alter the ground level.

***garden shed*** means a small building, usually of metal or timber construction, for the storage of garden implements and the like.

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***gazebo*** means a structure, usually roofed, and used for outdoor activities or entertaining, particularly during warm weather.

***greenhouse*** means a building, usually constructed chiefly of glass or other transparent material, for the cultivation or protection of plants that will not survive in outdoor conditions.

***patio*** means a ground level, unroofed paved area, surrounded by portions of a dwelling or building, and forming part of the living area.

***pergola*** means an open-roofed framework over a path, terrace or patio, supported on posts or columns, and sometimes covered with plants trained over members.

***playground equipment*** means equipment such as swings and slides, designed primarily for use by children for the purposes of play.

**[6] Clause 6 (1), definition of “business identification sign”**

Omit the definition. Insert instead:

***business identification sign*** means a sign:

- (a) that indicates:
  - (i) the name of the person, and
  - (ii) the business carried on by the person,at the premises or place at which the sign is displayed, and
- (b) that may include the address of the premises or place and a logo or other symbol that identifies the business,

but that does not include any advertising relating to a person who does not carry on business at the premises or place.

**[7] Clause 6 (1), definition of “home occupation”**

Omit the definition. Insert instead:

***home occupation*** means any occupation or pursuit carried out in a room or a number of rooms forming part of, or within the curtilage of, a dwelling-house on an allotment, or in another building for which consent has been granted situated on the same allotment as a dwelling-house, where:

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- (a) only goods made or produced, or services offered, as a result of the occupation or pursuit are displayed, sold or provided, and
  - (b) the primary use of the dwelling is residential, and
  - (c) the gross floor area where the occupation or pursuit is carried out does not exceed 30 square metres, and
  - (d) the occupation or pursuit does not:
    - (i) interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, or
    - (ii) involve exposure to view from any public place of any matter, or
    - (iii) require the provision of any essential service main of a greater capacity than that available in the locality, or
    - (iv) involve the exhibition of an advertising structure and the display of an advertisement on it or an advertisement that is not an advertising structure other than as exempt development, or
    - (v) involve a change in the appearance of the dwelling-house, or the land on which the dwelling-house is erected, that is, in the opinion of the Council, out of character with the appearance of the adjoining area, or
    - (vi) involve prostitution, and
  - (e) any retail sales are ancillary to the occupation or pursuit.

**[8] Clause 6 (1), definition of “utility undertaking”**

Omit paragraphs (c) and (d) (where secondly occurring) and paragraphs (e)–(h).

**[9] Clause 7A**

Insert after clause 7:

**7A Development that does not require development consent**

- (1) A person may carry out the following development on any land to which this plan applies without development consent:

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- (a) exempt development,
  - (b) development of any description specified in Schedule 1 to the *Environmental Planning and Assessment Model Provisions 1980*,
  - (c) use of existing buildings of the Crown by the Crown.
- (2) Nothing in this plan affects the requirement for determining authorities to consider the impact on the environment of an activity in accordance with Part 5 of the *Environmental Planning and Assessment Act 1979*.

**[10] Clause 9 Zone objectives and development control table**

Omit item 2 of the matter relating to Zone No 1 (a) from the Table to the clause.

Insert instead:

**2 Without development consent**

Development for the purpose of:

Agriculture (other than animal boarding, breeding or training establishments, pig keeping establishments, feed lots or poultry farming establishments); stables.

Exempt development.

**[11] Clause 9, Table**

Omit item 2 of the matter relating to Zones Nos 1 (c1), 2 (a), 2 (b), 2 (c1), 2 (c2), 2 (d), 2 (d1), 6 (b) and 7 (d).

Insert instead:

**2 Without development consent**

Exempt development.

**[12] Clause 9, Table**

Insert “2 or” after “item” wherever occurring in item 4 of the matter relating to Zones Nos 1 (c1), 2 (d1) and 7 (d).



**[13] Clauses 24B and 25**

Omit the clauses. Insert instead:

**24B Advertised development**

- (1) The following development is identified as advertised development:
  - (a) the demolition of a heritage item or a building, work, relic, tree or place in a heritage conservation area,
  - (b) development for the purpose of:
    - (i) utility undertakings within Zone No 1 (c1) or 7 (d), or
    - (ii) home industries, hospitals, places of public worship or residential flat buildings.
- (2) Subclause (1) (a) does not apply to the partial demolition of a heritage item or of a building or work within a heritage conservation area if, in the opinion of the consent authority, the partial demolition will be of a minor nature and will not adversely affect the heritage significance of the heritage item, building or work in relation to the environmental heritage of the land to which this plan applies.

**24C Notification of demolition to the Heritage Council**

Before granting consent for the demolition of a heritage item identified in this plan as being of State significance, the consent authority must notify the Heritage Council about the application and take into consideration any comments received in response within 28 days after the notice is sent.

**[14] Clause 45 Advertisements not requiring development consent**

Omit the clause.

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**[15] Clause 46**

Omit the clause. Insert instead:

**46 Advertising structures and displays requiring development consent**

- (1) Notwithstanding any other clause in this plan, development consent is required for the erection of any advertising structure and the display of an advertisement on it, and for the display of an advertisement that is not on an advertising structure, which:
  - (a) covers any mechanical ventilation inlet or outlet; or
  - (b) is less than 600 millimetres from the kerb or edge of the carriageway of any road.
- (2) Nothing in this plan affects *State Environmental Planning Policy No 64—Advertising and Signage*.

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## Schedule 2 Amendment of Yarrowlumla Local Environmental Plan 1993

(Clause 4)

### [1] Clause 6 Interpretation

Insert the following definitions in appropriate order in clause 6 (1):

***awning*** means a fixed or retractable canvas or metal roof-like covering to shelter persons or protect parts of a building from the effects of sun or rain, usually erected in front of a window or door, or over a balcony or deck.

***balcony*** means an open or covered elevated horizontal platform attached to the upper floor of a building, projecting or recessed into the face of the wall, accessible from an adjacent room, and protected by a railing or balustrade.

***barbecue*** means an outdoor facility, located in a backyard or courtyard, for domestic cooking.

***cabana*** means a covered structure which is often but not always used as a pool side shelter or change room or both.

***canopy*** means an ornamental roof-like covering or projection, which may be for the purpose of providing shade or shelter, either suspended or supported on brackets, corbels or columns, over a door, window, niche or balcony.

***carport*** means a roofed, open or semi-enclosed structure for the sheltering of motor vehicles, attached to, adjacent to, or near a dwelling-house.

***cladding*** means the outer non-load bearing covering of external walls or roof of a framed building or structure, applied for weather-proofing or decorative purposes or both.

***cubby house*** means a small scale replica of a dwelling-house, usually of simple construction and located in the backyard or courtyard, which is used primarily by children for the purposes of play.

***deck*** means a horizontal platform which may or may not be roofed and, usually at or slightly above ground level, attached to, or forming part of, a building.

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***driveway*** means a defined area within a property used by vehicles travelling between a carriageway and a property adjacent to or near a road.

***excavation or filling*** means works which alter the ground level.

***garden shed*** means a small building, usually of metal or timber construction, for the storage of garden implements and the like.

***gazebo*** means a structure, usually roofed, and used for outdoor activities or entertaining, particularly during warm weather.

***greenhouse*** means a building, usually constructed chiefly of glass or other transparent material, for the cultivation or protection of plants that will not survive in outdoor conditions.

***home occupation*** means any occupation or pursuit carried out in a room or a number of rooms forming part of, or within the curtilage of, a dwelling-house on an allotment, or in another building for which consent has been granted situated on the same allotment as a dwelling-house, where:

- (a) only goods made or produced, or services offered, as a result of the occupation or pursuit are displayed, sold or provided, and
- (b) the primary use of the dwelling is residential, and
- (c) the gross floor area where the occupation or pursuit is carried out does not exceed 30 square metres, and
- (d) the occupation or pursuit does not:
  - (i) interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, or
  - (ii) involve exposure to view from any public place of any matter, or
  - (iii) require the provision of any essential service main of a greater capacity than that available in the locality, or
  - (iv) involve the exhibition of an advertising structure and the display of an advertisement on it or an advertisement that is not an advertising structure other than as exempt development, or

- (v) involve a change in the appearance of the dwelling-house, or the land on which the dwelling-house is erected, that is, in the opinion of the Council, out of character with the appearance of the adjoining area, or
- (vi) involve prostitution, and
- (e) any retail sales are ancillary to the occupation or pursuit.

**patio** means a ground level, unroofed paved area, surrounded by portions of a dwelling or building, and forming part of the living area.

**pergola** means an open-roofed framework over a path, terrace or patio, supported on posts or columns, and sometimes covered with plants trained over members.

**playground equipment** means equipment such as swings and slides, designed primarily for use by children for the purposes of play.

**[2] Clause 6A Exempt development**

Omit “Tables 1 to 5 of *Development Control Plan No 49 Exempt and Complying Development* as adopted by the Council on 7 July 1999”.

Insert instead “Tables 1 to 6 of *Development Control Plan No 49 Exempt and Complying Development* as adopted by the Council on 19 September 2001”.

**[3] Clause 6B Complying development**

Omit clause 6B (1) (b). Insert instead:

- (b) the erection or construction and use of barbecues and associated works (unroofed), cabanas, cubby houses, decks, fern houses, garages, gazebos, greenhouses, patios, pergolas, private playground equipment, swimming pools and workshops ancillary to dwelling-houses in Zone No 1 (a) or 1 (d), and

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### [4] Clause 6B (2) (a)

Omit “Tables 6 to 8 of *Development Control Plan No 49 Exempt and Complying Development* as adopted by the Council on 7 July 1999”.

Insert instead “Tables 7 to 9 of *Development Control Plan No 49 Exempt and Complying Development* as adopted by the Council on 19 September 2001”.

### [5] Clause 7 Adoption of 1980 Model Provisions

Insert “*home occupation*,” after “*general store*,”.

### [6] Clause 8A

Insert after clause 8:

#### **8A Development that does not require development consent**

- (1) A person may carry out the following development on any land to which this plan applies without development consent:
  - (a) exempt development,
  - (b) development of any description specified in Schedule 1 to the *Environmental Planning and Assessment Model Provisions 1980*,
  - (c) use of existing buildings of the Crown by the Crown.
- (2) Nothing in this plan affects the requirement for determining authorities to consider the impact on the environment of an activity in accordance with Part 5 of the *Environmental Planning and Assessment Act 1979*.

### [7] Clause 10 Zone objectives and development control table

Omit item 2 of the matter relating to Zone No 1 (a) from the Table to the clause. Insert instead:

#### **2 Without development consent**

Development for the purpose of:

Agriculture (other than animal boarding establishments, animal breeding or training establishments or intensive livestock keeping establishments); forestry; tree farming.

Exempt development.

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**[8] Clause 10, Table**

Omit item 2 of the matter relating to Zone No 1 (d). Insert instead:

**2 Without development consent**

Development for the purpose of:

Agriculture (other than intensive livestock keeping establishments); home occupations; tree farming.

Exempt development.

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**Schedule 3 Amendment of Queanbeyan Local Environmental Plan 1998**

(Clause 4)

**[1] Clause 6A**

Insert after clause 6:

**6A Development that does not require development consent**

- (1) A person may carry out the following development on any land to which this plan applies without development consent:
  - (a) exempt development,
  - (b) development of any description specified in Schedule 1 to the *Environmental Planning and Assessment Model Provisions 1980*,
  - (c) use of existing buildings of the Crown by the Crown.
- (2) Nothing in this plan affects the requirement for determining authorities to consider the impact on the environment of an activity in accordance with Part 5 of the *Environmental Planning and Assessment Act 1979*.

**[2] Clause 7A Exempt development**

Omit “Tables 1 to 5 of *Development Control Plan No 49 Exempt and Complying Development* as adopted by the Council on 7 July 1999”.

Instead insert “Tables 1 to 6 of *Development Control Plan No 49 Exempt and Complying Development* as adopted by the Council on 19 September 2001”.



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**[3] Clause 7B Complying development**

Omit clause 7B (1) (b). Insert instead:

- (b) the erection or construction and use of barbecues and associated works (unroofed), cabanas, cubby houses, decks, fern houses, garages, gazebos, greenhouses, patios, pergolas, private playground equipment, swimming pools and workshops ancillary to dwelling-houses in Zones Nos 2 (a), 2 (b), 2 (c) and 2 (d), and

**[4] Clause 7B (2) (a)**

Omit “Tables 6 to 8 of *Development Control Plan No 49 Exempt and Complying Development* as adopted by the Council on 7 July 1999”.

Insert instead “Tables 7 to 9 of *Development Control Plan No 49 Exempt and Complying Development* as adopted by the Council on 19 September 2001”.

**[5] Clause 9 Temporary use of land**

Omit the clause.

**[6] Clauses 14, 15, 16, 19, 20, 21, 22, 27, 28, 29, 34, 35, 40, 42, 43, 44, 45, 48 and 49**

Omit subclause (2) from each clause. Insert instead:

- (2) **Development allowed without development consent**  
Exempt development.

**[7] Clauses 14, 15, and 16**

Insert “(2) or” after “subclause” wherever occurring in subclause (4).

**[8] Clauses 27, 28, 29 and 35**

Insert “(2) or” after “subclause” wherever occurring in subclause (3).

**[9] Clause 34 General development controls—Zone 4 (a) Industrial A**

Insert “not included in subclause (2)” after “development” in clause 34 (3).

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**[10] Clause 41 Use of schools, tertiary Institutions and other community facilities for community purposes**

Omit the clause.

**[11] Clause 50 Advertising structures and displays not requiring development consent**

Omit the clause.

**[12] Clause 51**

Omit the clause. Insert instead:

**51 Advertising structures and displays requiring development consent**

- (1) Regardless of any other clause in this plan, development consent is required for the erection of any advertising structure and the display of an advertisement on it, and for the display of an advertisement that is not on an advertising structure, which:
  - (a) covers any mechanical ventilation inlet or outlet; or
  - (b) is less than 600 millimetres from the kerb or edge of the carriageway of any road.
- (2) Nothing in this plan affects *State Environmental Planning Policy No 64—Advertising and Signage*.

**[13] Clause 57 Development of heritage items or development within a heritage conservation area requiring development consent**

Omit “within a heritage conservation area” from paragraph (c).

**[14] Clause 59 Development of heritage items or development within a heritage conservation area not requiring development consent**

Omit the clause.

**[15] Clause 75 Clearing, excavation or filling**

Omit the clause.

**[16] Schedule 1 Dictionary**

Insert in appropriate order:

***awning*** means a fixed or retractable canvas or metal roof-like covering to shelter persons or protect parts of a building from the effects of sun or rain, usually erected in front of a window or door, or over a balcony or deck.

***balcony*** means an open or covered elevated horizontal platform attached to the upper floor of a building, projecting or recessed into the face of the wall, accessible from an adjacent room, and protected by a railing or balustrade.

***barbecue*** means an outdoor facility, located in a backyard or courtyard, for domestic cooking.

***cabana*** means a covered structure which is often but not always used as a pool side shelter or change room or both.

***canopy*** means an ornamental roof-like covering or projection, which may be for the purpose of providing shade or shelter, either suspended or supported on brackets, corbels or columns, over a door, window, niche or balcony.

***carport*** means a roofed, open or semi-enclosed structure for the sheltering of motor vehicles, attached to, adjacent to, or near a dwelling-house.

***cladding*** means the outer non-load bearing covering of external walls or roof of a framed building or structure, applied for weather-proofing or decorative purposes or both.

***cubby house*** means a small scale replica of a dwelling-house, usually of simple construction and located in the backyard or courtyard, which is used primarily by children for the purposes of play.

***deck*** means a horizontal platform which may or may not be roofed and, usually at or slightly above ground level, attached to, or forming part of, a building.

***driveway*** means a defined area within a property used by vehicles travelling between a carriageway and a property adjacent to or near a road.

***garden shed*** means a small building, usually of metal or timber construction, for the storage of garden implements and the like.

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***gazebo*** means a structure, usually roofed, and used for outdoor activities or entertaining, particularly during warm weather.

***greenhouse*** means a building, usually constructed chiefly of glass or other transparent material, for the cultivation or protection of plants that will not survive in outdoor conditions.

***home occupation*** means any occupation or pursuit carried out in a room or a number of rooms forming part of, or within the curtilage of, a dwelling-house on an allotment, or in another building for which consent has been granted situated on the same allotment as a dwelling-house, where:

- (a) only goods made or produced, or services offered, as a result of the occupation or pursuit are displayed, sold or provided, and
- (b) the primary use of the dwelling is residential, and
- (c) the gross floor area where the occupation or pursuit is carried out does not exceed 30 square metres, and
- (d) the occupation or pursuit does not:
  - (i) interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, or
  - (ii) involve exposure to view from any public place of any matter, or
  - (iii) require the provision of any essential service main of a greater capacity than that available in the locality, or
  - (iv) involve the exhibition of an advertising structure and the display of an advertisement on it or an advertisement that is not an advertising structure other than as exempt development, or
  - (v) involve a change in the appearance of the dwelling-house, or the land on which the dwelling-house is erected, that is, in the opinion of the Council, out of character with the appearance of the adjoining area, or
  - (vi) involve prostitution, and
- (e) any retail sales are ancillary to the occupation or pursuit.

*patio* means a ground level, unroofed paved area, surrounded by portions of a dwelling or building, and forming part of the living area.

*pergola* means an open-roofed framework over a path, terrace or patio, supported on posts or columns, and sometimes covered with plants trained over members.

*playground equipment* means equipment such as swings and slides, designed primarily for use by children for the purposes of play.

**[17] Schedule 1, definition of “business identification sign”**

Omit the definition. Insert instead:

*business identification sign* means a sign:

- (a) that indicates:
    - (i) the name of the person, and
    - (ii) the business carried on by the person,at the premises or place at which the sign is displayed, and
  - (b) that may include the address of the premises or place and a logo or other symbol that identifies the business,
- but that does not include any advertising relating to a person who does not carry on business at the premises or place.

**[18] Schedule 1, definition of “excavation” or “filling”**

Omit the definition. Insert instead:

*excavation* or *filling* means works which alter the ground level.