



Subordinate Local Law No. 14.1

(Cemeteries) 2011

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This law is a reprint copy that shows the law as made and amended by all amendments that commenced on or before the date of the reprint.

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Chief Executive Officer



Subordinate Local Law No. 14.1 (Cemeteries) 2011

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Logan City Council

Subordinate Local Law No. 14.1

(Cemeteries) 2011

Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 14.1 (Cemeteries) 2011*.

2 Authorising local law

This subordinate local law is made pursuant to *Local Law No. 14 (Cemeteries) 2011*.

3 Object

The object of this subordinate local law is to assist in the implementation of *Local Law No. 14 (Cemeteries) 2011* by ensuring that—

- (a) public health and safety is protected in the disposal of human remains; and
- (b) proper records are kept about the disposal of human remains; and
- (c) publicly acceptable standards are maintained in the conduct of a prescribed activity.

4 Definitions—the dictionary

The dictionary in the Schedule (Dictionary) defines particular words used in this local law.

5 Definition of terms in the local law

For the purposes of Schedule (Dictionary) of *Local Law No. 14 (Cemeteries) 2011*, a prescribed container must—

- (a) be a container which—
 - (i) in the case of cremated human remains that are to be stored in a columbarium or memorial garden—
 - (A) is rigid; and
 - (B) is sealed.

- (ii) in the case of uncremated human remains—
 - (A) is rigid; and
 - (B) is of sufficient strength and integrity to contain the human remains when carried by the handles or other designated lifting points; or
- (iii) is otherwise approved by the cemetery controller (other than a family cemetery controller) or the local government; and
- (b) contain or otherwise have affixed to the container a metal or rigid plastic plaque upon which is engraved or otherwise permanently marked in a manner approved by the local government, the name of the human being whose remains are located within the container.

Part 2 Local government cemeteries

6 Hours of operation

For the purposes of section 10(1) of *Local Law No. 14 (Cemeteries) 2011*—

- (a) a local government cemetery shall be open to the public between 7:00 am and 6:00 pm every day; and
- (b) human remains may be disposed of in a local government cemetery between 7:00 am and 5:00 pm every day; and
- (c) a funeral, commemorative service or other activity of a spiritual, religious or commemorative character may be undertaken in a local government cemetery between 7:00 am and 5:00 pm every day.

7 Prohibition of plants

For the purposes of section 14(1) of *Local Law No. 14 (Cemeteries) 2011*, a prescribed plant is prohibited from being brought into a local government cemetery.

Part 3 Cemeteries generally

8 Disposal of human remains

For the purposes of section 15(2) (Disposal of human remains) of *Local Law No. 14 (Cemeteries) 2011*, the human remains of a person may only be disposed of in a family cemetery if that person—

- (a) is a member of a family and the human remains of other members of the family have been disposed of in the family cemetery; or

- (b) is the spouse or partner of a member of a family and the human remains of other members of the family have been disposed of in the family cemetery; or
- (c) is the spouse or partner of a person whose human remains have been disposed of in the family cemetery; or
- (d) is the first cousin of a person whose human remains have been disposed of in the family cemetery; or
- (e) has a family like relationship approved in writing by the local government with a person whose human remains have been disposed of in the family cemetery.

9 Standards for the disposal of human remains

- (1) For the purposes of section 16 (Standards for the disposal of human remains) of *Local Law No. 14 (Cemeteries) 2011*, a cemetery controller must in relation to the disposal of human remains comply with the following standards—
 - (a) A cemetery controller must not permit the disposal of human remains (other than that of a still born child) without—
 - (i) a certificate of the registration of the death; or
 - (ii) a certificate of the coroner; or
 - (iii) the written authority of a duly qualified medical practitioner; or
 - (iv) in the case of the disposal of human remains which have been exhumed a copy of the approval under which the exhumation was carried out.
 - (b) A cemetery controller must not permit any human remains disposed of within the cemetery to be interfered with without—
 - (i) an approval of the local government; or
 - (ii) an order of a court, coroner or other statutory authority.
 - (c) A cemetery controller must not permit human remains (other than that of a still born child) to be placed in a prescribed container in the cemetery except in the course of an exhumation undertaken pursuant to section 9(1)(b) (Standards for the disposal of human remains) of this subordinate local law.
 - (d) A cemetery controller must not permit a resting place or a memorial within the cemetery to be interfered with without the written approval of the cemetery controller.

- (e) A cemetery controller must not interfere with a resting place or a memorial without the prior written approval of an authorised person.
- (f) A cemetery controller must comply with any written directions in relation to the disposal of human remains in the cemetery which are provided to the cemetery controller by the local government within the time specified in the directions.
- (g) A cemetery controller must comply with any standards specified by the local government in relation to—
 - (i) the design and construction of a resting place or a memorial; and
 - (ii) any works in relation to a resting place or a memorial.
- (h) A cemetery controller must not sell a resting place intended to accommodate a prescribed container (other than a prescribed container intended for the burial of a still born child) which is less than 2.4 metres by 1.2 metres.
- (i) A cemetery controller must not sell a resting place intended to accommodate a prescribed container intended for the burial of a still born child which is less than 300 millimetres by 600 millimetres.
- (j) A cemetery controller must not permit human remains (other than that of a still born child) to be brought into the cemetery other than in a prescribed container which is sound and water tight.
- (k) A cemetery controller may remove any plant planted on or near a resting place which in the cemetery controller's opinion is injurious, objectionable or inconvenient to the resting place.
- (l) A cemetery controller must not—
 - (i) permit a prescribed container which has been placed into a resting place to be interfered with to facilitate the later disposal of human remains; or
 - (ii) interfere with a resting place containing a prescribed container for the purpose of deepening the resting place to accommodate the prescribed container containing the human remains of another human being.
- (m) A cemetery controller must not within six (6) months of the disposal of human remains reopen a resting place other than for—
 - (i) the later disposal of human remains; or
 - (ii) the exhumation of human remains.

- (n) A cemetery controller must ensure that—
 - (i) any vehicle, equipment, materials, soil, rubbish or thing is not placed on a resting place except so far as may be necessary to carry out work on any adjoining resting place; and
 - (ii) the vehicle, equipment, materials, soil, rubbish or thing is removed from the adjoining resting place immediately on completion of the work; and
 - (iii) the adjoining resting place from which any vehicle, equipment, materials, soil, rubbish or thing has been removed is left in good order and condition.
- (o) A cemetery controller must ensure that a resting place intended to accommodate a prescribed container is constructed such that the resting place is—
 - (i) not less than—
 - (A) 750 millimetres deep if only the human remains of a still born child are to be disposed of in the resting place; otherwise
 - (B) 1.8 metres deep; or
 - (C) 2.1 metres deep if the human remains of more than two human beings are to be disposed of in the resting place; or
 - (D) 1.5 metres deep if the only human remains to be disposed of in the resting place are those of a person who was at the time of death not more than 5 years of age; and
 - (ii) 100 millimetres longer and 100 millimetres wider than the dimensions of the prescribed container (including any attachments) to be placed in the resting place.
- (p) A cemetery controller must ensure that a resting place (other than a resting place for a still born child) is not less than 2.4 metres by 1.2 metres in area.
- (q) A cemetery controller must ensure that a resting place for a still born child is not less than 300 millimetres by 600 millimetres in area.
- (r) A cemetery controller must ensure that in respect of a resting place intended to accommodate a prescribed container that is—

- (i) 1.8 metres deep, the human remains of not more than two adults (and one infant of not more than three years old and approved by an authorised person) is disposed of in the resting place; and
 - (ii) 2.1 metres deep, the human remains of not more than three adults (and one infant of not more than three years old and approved by an authorised person) is disposed of in the resting place.
- (2) For the purposes of section 16 (Standards for the disposal of human remains) of *Local Law No. 14 (Cemeteries) 2011*, a cemetery controller (other than a family cemetery controller) must in relation to the disposal of human remains comply with the following standards—
 - (a) A cemetery controller must not permit a person to place a prescribed plant on or near any resting place within a cemetery.
 - (b) A cemetery controller must not charge a fee for members of the public to enter a cemetery for the purpose of visiting a resting place or participating in the disposal of human remains at a resting place.
 - (c) A cemetery controller must ensure that the cemetery is kept open to the public during the hours specified by the local government.
- (3) For the purposes of section 16 (Standards for the disposal of human remains) of *Local Law No. 14 (Cemeteries) 2011*, a family cemetery controller must in relation to the disposal of human remains comply with the following standards—
 - (a) The operation of the cemetery must not detrimentally affect the amenity of neighbouring premises.
 - (b) The operation of the cemetery including all premises, buildings, structures, vehicles, facilities or equipment must be maintained at all times—
 - (i) in a good working order; and
 - (ii) in a good state of repair; and
 - (iii) in a clean and sanitary condition.
 - (c) The grounds of the cemetery must be maintained in a safe and tidy condition at all times.
 - (d) Contaminants must not be released to the environment as part of the operation of the cemetery where the release may cause environmental harm unless such release is specifically authorised by the *Environmental Protection Act 1994*.

- (e) The cemetery (including all fixtures, fittings, equipment and facilities) must be maintained in a clean, tidy, sanitary and hygienic condition.
- (f) All waste (including waste water) generated as part of the operation of the cemetery must be disposed of in a safe and sanitary manner and in accordance with the *Environmental Protection Act 1994* and the *Plumbing and Drainage Act 2002*.
- (g) All waste generated as part of the operation of the cemetery must be disposed of in a manner which maintains the operation of the cemetery and its surrounds in a clean, tidy, sanitary and hygienic condition.
- (h) Waste generated as part of the operation of the cemetery must be kept so as not to attract pests.
- (i) Waste from the operation of the cemetery must not be disposed of into the stormwater system, waters or a watercourse.
- (j) The operation of the cemetery must comply with the *Environmental Protection Act 1994*, *Environmental Protection (Water) Policy 2009*, *Environmental Protection (Noise) Policy 2008*, *Environmental Protection (Air) Policy 2008* and the *Environmental Protection Regulation 2008*.
- (k) The operation of the cemetery must not breach a provision of a local law or a local law policy.
- (l) The operation of the cemetery must comply with—
 - (i) any relevant development approval; and
 - (ii) the provisions of the planning scheme and any relevant planning scheme policy.
- (m) The cemetery controller of a local government cemetery or family cemetery must provide to the local government prior to the disposal of human remains in a cemetery, a written statement containing details of—
 - (i) the names of all persons whose human remains are to be disposed of in the cemetery; and
 - (ii) the date of the proposed disposal of human remains in the cemetery; and
 - (iii) the relationship between the deceased person and a person whose human remains have been disposed of in the family cemetery for the purposes of satisfying section 15(2) (Disposal of human remains) of *Local Law No. 14 (Cemeteries) 2011*.

- (n) The cemetery controller of a local government cemetery or family cemetery must provide to the local government within 20 business days of the disposal of human remains in a cemetery or as required by an authorised person, a written statement containing details of—
 - (i) the names of all persons whose human remains have been disposed of in the cemetery; and
 - (ii) the date of the disposal of the human remains in the cemetery; and
 - (iii) the resting place where the human remains of each person have been disposed of in the cemetery by means of a plan containing numerical notations in respect of each resting place.
- (4) The local government may request from a cemetery controller of a private cemetery a written statement containing details of—
 - (a) the names of all persons whose human remains have been disposed of in the cemetery; and
 - (b) the date of the disposal of the human remains in the cemetery; and
 - (c) the resting place where the human remains of each person have been disposed of in the cemetery by means of a plan containing numerical notations in respect of each resting place.
- (5) A written statement requested by the local government under section 9(4) of this subordinate local law must be provided to the local government within 20 business days of the receipt of the request.

10 Records to be kept

- (1) For the purposes of section 17(1)(e) (Records to be kept) of *Local Law No. 14 (Cemeteries) 2011*, the records that must be kept by the cemetery controller must contain details of—
 - (a) the date of birth and death of the persons whose human remains have been disposed of in the cemetery; and
 - (b) a record of any monuments erected on any resting place; and
 - (c) the name, address and telephone number of the next of kin of the deceased person.

- (2) For the purposes of section 17(2)(e) (Records to be kept) of *Local Law No. 14 (Cemeteries) 2011* the records that must be kept by the undertaker must contain details of—
 - (a) the date of birth and death of the persons whose human remains have been disposed of in the cemetery; and
 - (b) a record of any monuments erected on any resting place if erected by the undertaker; and
 - (c) the name, address and telephone number of the next of kin of the deceased person.
- (3) For the purposes of section 17(3) (Records to be kept) of *Local Law No. 14 (Cemeteries) 2011* the records required to be kept pursuant to sections 17(1) and (2) (Records to be kept) of *Local Law No. 14 (Cemeteries) 2011* must—
 - (a) be kept in a fire proof facility unless the local government agrees in writing to accept a copy of the records; and
 - (b) be kept in the case of—
 - (i) a cemetery controller – permanently;
 - (ii) an undertaker – for a period of not less than seven (7) years; and
- (4) the information specified in sections 10(2)(a) and (b) of this subordinate local law, be made available by a cemetery controller for inspection by members of the public between 8.30 am and 4.30 pm each business day.

11 Memorials on a public place

For the purposes of section 22 (Memorials on a public place) of *Local Law No. 14 (Cemeteries) 2011*, a person may erect a memorial on a public place if—

- (a) the memorial is limited to a small symbol of cultural significance to the deceased person, not higher than 750 millimetres together with flowers and wreaths; and
- (b) the memorial is erected for a period which is no longer than two (2) years from the date of death of the person to whom the memorial is erected; and
- (c) the memorial is not within 1200 millimetres of a carriageway; and
- (d) the memorial does not interfere with the safe movement of the traffic or the safe use of a footpath and surrounding space; and

- (e) all adjoining or adjacent landowners have provided written consent to the erection of the memorial.

Part 4 Permits

12 Application for a permit

For the purposes of section 24(1)(c)(iv) (Application for a permit) of *Local Law No. 14 (Cemeteries) 2011*, an application for a prescribed activity being—

- (a) the disposal of human remains must (unless otherwise required by the local government) be accompanied by—
 - (i) the full name of the deceased person; and
 - (ii) the date of birth and date of death of the deceased person; and
 - (iii) the last known place of residence of the deceased person; and
 - (iv) in the case of the disposal of human remains not being cremated human remains—
 - (A) a certificate of the registration of the death; or
 - (B) a certificate of the coroner; or
 - (C) the written authority of a duly qualified medical practitioner; or
 - (D) in the case of the disposal of human remains which have been exhumed, a copy of the approval under which the exhumation was carried out; and
 - (v) the name, address and telephone number of the next of kin of the deceased person; and
 - (vi) the name, address and telephone number of the undertaker; and
 - (vii) the location of any reserved resting place if known; and
 - (viii) the dimensions of a prescribed container; and
 - (ix) the date and time of the funeral, commemorative service or other activity of a spiritual, religious or commemorative character relating to the deceased person; and
 - (x) any special requirements or information which may affect the operations of the cemetery controller; and

- (b) the erection of a memorial must (unless otherwise required by the local government) be accompanied by—
 - (i) the full name of the deceased person; and
 - (ii) the date of birth and date of death of the deceased person; and
 - (iii) the last known place of residence of the deceased person; and
 - (iv) the name, address and telephone number of the next of kin of the deceased person; and
 - (v) the location of any reserved resting place if known; and
 - (vi) any special requirements or information which may affect the operations of the cemetery controller; and
 - (vii) the name, address and telephone number of the person undertaking the work; and
 - (viii) a site plan and specifications of the memorial including details of its dimensions, structural detail, construction materials and workings.

Schedule Dictionary

section 4

adult means a person on or over eighteen (18) years of age.

carriageway means that part of a road which is constructed for use by vehicles.

contaminant has the meaning given in the *Environmental Protection Act 1994*.

development approval has the meaning given in the *Sustainable Planning Act 2009*.

environment has the meaning given in the *Sustainable Planning Act 2009*.

fire proof facility means a storage facility impervious to fire and excessive heat.

footpath has the meaning given in *Local Law No. 11 (Roads) 1999*.

pest includes vermin and insects.

planning scheme policy has the meaning given in the *Sustainable Planning Act 2009*.

prescribed plant means a plant, other than a plant which is—

- (a) a cut flower or an associated decorative plant; and
- (b) placed so as not to take root and grow.

stormwater system means—

- (a) a roadside gutter; or
- (b) a storm water drain; or
- (c) surface water (being water other than ground water); or
- (d) any other land or structure that is used to convey or store stormwater.

traffic has the meaning given in *Local Law No. 11 (Roads) 1999*.

vermin has the meaning given in *Local Law No. 10 (Public Health) 1999*.

waste has the meaning given in the *Environmental Protection Act 1994* and includes those matter specified in a subordinate local law.

waste water means a liquid waste.

watercourse has the meaning given in the *Water Act 2000*.

waters include—

- (a) surface waters (including water flowing in a watercourse); and
- (b) ground waters; and
- (c) the bed and banks of waters.

Endnotes

1 Index to Endnotes

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2 Date to which amendments incorporated

This reprint includes all amendments that commenced operation on or before the 17 March 2017.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation
amd	= amended
ch	= chapter
def	= definition
div	= division
hdg	= heading
ins	= inserted
om	= omitted
p	= page
pt	= part
renum	= renumbered
rep	= repealed
s	= section
sch	= schedule
sdiv	= subdivision

4 Table of reprints

A reprint is issued upon the commencement of an amending instrument. A reprint is given the date of commencement of the amending instrument.

Table of reprints of this subordinate local law

Reprint No.	Amendments included	Reprint date
1	<i>Amending Subordinate Local Law No. 1 (Miscellaneous Subordinate Local Laws) 2017</i>	17 March 2017

5 List of legislation

Original Local Law

Local Law No. 14 (Cemeteries) 2011
date of gazettal 16 December 2011

Amending Local Laws

Amending Local Law No. 1 (Miscellaneous Local Laws) 2017
date of gazettal 17 March 2017

Original Subordinate Local Law

Subordinate Local Law No. 14.1 (Cemeteries) 2011
date of public notice 16 December 2011

Amending Subordinate Local Laws

Amending Subordinate Law No. 1 (Miscellaneous Local Laws) 2017
date of public notice 17 March 2017

6 List of annotations

PART 3—CEMETERIES GENERALLY

Standards for the disposal of human remains

s 9 amd Amending Subordinate Local Law No. 1 (Miscellaneous
Subordinate Local Laws) 2017 s 38