

Local Law No. 13

(Cemeteries) 2008

Consolidated version

Reprint No. 1

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Local Law No. 13 (Cemeteries) 2008
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Chief Executive Officer

**Council of the City of Gold Coast
Local Law No. 13
(Cemeteries) 2008**

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Council of the City of Gold Coast Local Law No. 13 (Cemeteries) 2008

Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 13 (Cemeteries) 2008*.

2 Object

The object of this local law is to—

- (a) provide for the proper management and control of a council cemetery; and
- (b) regulate the burial of and disturbance of human remains in the local government area; and
- (c) ensure that proper records are kept about the disposal of human remains within a council cemetery and other cemeteries.

3 Definitions—the dictionary

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

Part 2 Management of council cemeteries

Division 1 Appointment of a sexton

4 Appointment of a sexton

- (1) The local government may appoint a person to be the sexton of a council cemetery.
- (2) The sexton of a council cemetery and any other person employed in a council cemetery must not receive any gratuity for the performance of their duties, unless authorised by the local government.

5 Responsibilities of a sexton

The responsibilities of a sexton include but are not limited to—

- (a) positioning and preparing grave sites;
- (b) conduct of a funeral;
- (c) placement of coffins in grave sites;
- (d) placement of ashes;

- (e) closing of a grave;
- (f) deciding whether a funeral may be conducted due to weather conditions, ground conditions or any other factors that may disturb or prevent the conduct of the funeral;
- (g) verification that a body to be interred is the body interred;
- (h) ensuring that all relevant legislation is complied with during the preparation of grave sites, placement of coffins in grave sites, burial service and the closing of grave sites.

Division 2 Power to set aside portions in council cemeteries

6 Power to set apart portions in council cemeteries

The local government may, from time to time, set apart a portion of a council cemetery as—

- (a) a lawn cemetery; or
- (b) a lawn beam cemetery; or
- (c) a lawn beam monumental cemetery; or
- (d) a columbarium; or
- (e) a garden of remembrance; or
- (f) an ash scattering area; or
- (g) a natural burial area; or
- (h) a monumental cemetery; or
- (i) a mausoleum; or
- (j) an area for cremation or other treatment processes.

7 Portions for religious denominations

- (1) The local government may set apart a portion of a council cemetery for the use and interment of the bodies of deceased members of a religious denomination or communion or a cultural group.
- (2) A portion of a council cemetery which is set apart pursuant to subsection (1) remains subject to the administration and control of the local government.
- (3) The local government may—
 - (a) amend the boundaries of a portion set apart pursuant to subsection (1); and

- (b) undertake works within the portion.
- (4) The local government is not liable for any claim or compensation in respect of an activity carried out pursuant to subsection (3).

Division 3 Prohibited conduct

8 Prohibited conduct

- (1) A person, other than the local government, must not—
 - (a) while in a council cemetery—
 - (i) prepare a grave; or
 - (ii) scatter ashes in an ashes scattering area; or
 - (iii) subject to section 9(1)(a) of this local law, carry on a business; or
 - (iv) take part in a meeting other than a meeting of a religious or commemorative character; or
 - (v) disturb a funeral service which is being carried out in a council cemetery, whether by working in the neighbourhood of the funeral service or otherwise; or
 - (vi) discharge a firearm other than as part of a military funeral; or
 - (vii) interfere with flowers or other tokens placed upon a grave; or
 - (viii) engage in conduct which, in the opinion of an authorised person or sexton, is likely to give rise to—
 - (A) harm to human health or safety or personal injury; or
 - (B) property damage or a loss of amenity; or
 - (C) environmental harm or environmental nuisance; or
 - (D) a nuisance; or
 - (E) harassment or disturbance of a person; or
 - (F) interference with the reasonable use of the council cemetery; or
 - (G) interruption or obstruction of the exercise of the powers of the local government or a sexton; or
 - (H) offence to a person; or

- (I) an interruption of the exercise of a power under an agreement with the local government or a sexton; or
- (ix) interfere with a plant; or
- (x) carry out an activity specified in a subordinate local law.
- (b) in addition to section 8(1)(a), while in a lawn cemetery, lawn beam cemetery or lawn beam monumental cemetery,—
 - (i) place a vase, receptacle, plant or other object on a grave, fence, vault, monument or other structure, other than—
 - (A) a vase supplied by the local government, provided that vase is placed in the vase hole on a memorial tablet; or
 - (B) cut flowers that are placed in a vase supplied by the local government; or
 - (ii) attach any other item to a memorial without the approval of an authorised person; or
- (c) in addition to sections 8(1)(a) and 8(1)(b), while in a lawn cemetery, attach a portrait or emblem to a memorial tablet if that portrait or emblem would extend more than six millimetres above the surface of the memorial tablet;
- (d) in addition to section 8(1)(a), while in a columbarium or garden of remembrance—
 - (i) deposit an urn containing ashes in a columbarium or garden of remembrance, unless approved by an authorised person; or
 - (ii) attach a portrait or emblem to an inscription plate if the portrait or emblem would extend more than six millimetres above the surface of the inscription plate; or
 - (iii) attach any other item to an inscription plate without the approval of an approved person; or
 - (iv) place a vase, receptacle, plant or other object on a niche or inscription plate other than—
 - (A) a vase supplied by the local government; or
 - (B) cut flowers that are placed in a vase supplied by the local government.

Maximum penalty for subsection (1)—20 penalty units.

- (2) A person must not, without the prior written consent of the local government, carry out development, including erecting a facility in, on, across or over a council cemetery.
- (3) Maximum penalty for subsection (2)—400 penalty units

Division 4 Regulated conduct

9 Regulated conduct

- (1) A person must not, unless authorised by a permit—
 - (a) carry on the business of—
 - (i) a stonemason; or
 - (ii) a funeral director; or
 - (b) interfere with a grave, vault, monument, tombstone, railing or any other structure, fitting or fixture on a council cemetery; or
 - (c) conduct a burial within a council cemetery; or
 - (d) permit an animal other than a guide dog to enter a council cemetery; or
 - (e) subject to section 8 (Prohibited conduct) and section 9 (Regulated conduct) undertake an activity in a council cemetery other than visiting a grave or attending a funeral; or
 - (f) enter into or be in a council cemetery between the hours of 6.00pm and 6.00am; or
 - (g) install, place, erect or construct a structure including a memorial, inscription plate, memorial plaque, monument or vault in a council cemetery; or
 - (h) carry out an activity specified in a subordinate local law.

Maximum penalty—50 penalty units.

- (2) A person must not disturb or interfere with human remains that have been buried or placed within or outside of a council cemetery unless—
 - (a) authorised by a permit; or
 - (b) in accordance with an order of a coroner or other lawful authority.

Maximum penalty—500 penalty units.

Division 5 Graves and vaults

10 Requirements for a grave

- (1) A grave in a council cemetery must comply with the prescribed standards for a grave specified in a subordinate local law.

11 Requirements for a vault

- (1) A body interred in a vault must comply with the prescribed standards specified in a subordinate local law.
- (2) The construction of a vault must comply with the prescribed standards specified in a subordinate local law.

Division 6 Purchase of burial rights or ashes interment rights

12 Request to pre-purchase burial rights for a plot

- (1) A person may make a request to pre-purchase burial rights from the local government for a plot in a council cemetery.
- (2) A request to pre-purchase burial rights for a plot must be—
 - (a) made in the prescribed form; and
 - (b) accompanied by—
 - (i) the prescribed fee; and
 - (ii) such other information and materials as are requested by the local government or specified in a subordinate local law.

13 Grant of request to pre-purchase burial rights for a plot

- (1) The local government may grant a request to pre-purchase burial rights for a plot if satisfied that—
 - (a) there is sufficient land available in the council cemetery; and
 - (b) in the case of a plot in a natural burial area, the grave in the natural burial area will comply with the prescribed standards specified in a subordinate local law.
- (2) A request to pre-purchase burial rights for five or more plots may only be granted by resolution of the local government.
- (3) The local government may grant a request made pursuant to section 12(1) of this local law on such conditions the local government considers appropriate including a limit on the term of the burial right of any plot in a council cemetery.
- (4) If a request to pre-purchase burial rights for a plot is granted by the local government, the person may, at any time during their lifetime, provide a written

notice to the local government nominating the persons whose bodies or ashes may be buried in the plot.

- (5) If no human remains (including cremated remains) are buried or interred in the plot within 25 years after the day the burial right is given, the local government may revoke the burial right.
- (6) If cremated remains remain buried or interred in a plot for 70 years after the day of burial or interment of the ashes, the local government may remove the cremated remains.
- (7) The person may relinquish the burial rights for the plot back to the local government for a price determined by the local government.
- (8) After the death of the person, the local government may permit a descendant or relative of the person, or the ashes of a descendant or relative¹, to be buried in the plot, if there is sufficient room for more than 1 person to be buried in the plot.

14 Request to purchase an ashes interment right

- (1) A person may make a request to the local government to purchase an ashes interment right in a niche in a columbarium or garden of remembrance.
- (2) A request to purchase an ashes interment right in a niche in a columbarium or garden of remembrance must be—
 - (a) made in the prescribed form; and
 - (b) accompanied by—
 - (i) the prescribed fee; and
 - (ii) such other information and materials as are requested by the local government or specified in a subordinate local law.

15 Grant of request to purchase an ashes interment right

- (1) The local government may grant a request made pursuant to section 14(1) of this local law if satisfied that there is a niche available.
- (2) A request to purchase five or more niches in a columbarium or garden of remembrance may only be granted by resolution of the local government.
- (3) The local government may grant a request made pursuant to section 14(1) of this local law on such conditions the local government considers appropriate.

¹ A relative for an adult includes a person's spouse; meaning a husband or wife; or de facto partner, as defined in the *Acts Interpretation Act 1954*.

- (4) The local government is to keep interred the ashes in a niche in a columbarium or garden of remembrance for a period as determined by local government resolution from the date it is first used for the disposal of ashes, after which time—
 - (a) the local government may remove the niche and demolish the columbarium or garden of remembrance; and
 - (b) if the contents of the niche are not claimed by the descendants of the deceased person, the local government may bury the contents of the niche in a garden of remembrance or scatter the ashes in an ash scattering area; and
 - (c) the niche is to revert to the local government.
- (5) If the ashes of a person are at any time removed from a niche by a representative of the deceased person, the niche reverts to the local government.

Division 7 Scattering ashes

16 Request to scatter ashes

- (1) A person may make a request to the local government for the local government to scatter ashes in an ash scattering area.
- (2) A request to scatter ashes in an ash scattering area must be—
 - (a) made in the prescribed form; and
 - (b) accompanied by—
 - (i) the prescribed fee; and
 - (ii) such other information and materials as are requested by the local government or specified in a subordinate local law.

17 Grant of request to scatter ashes

- (1) The request to scatter ashes may be granted on conditions the local government considers appropriate.
- (2) The conditions may require—
 - (a) that the ashes must only be scattered in an ash scattering area; and
 - (b) that the ashes may only be scattered by an authorised person or sexton.
- (3) The local government does not guarantee that ashes scattered will be protected from weather, erosion, other natural causes, landscaping works, maintenance, bush fire management, drainage works, road works, reconstructions, revegetation or other land management needs.

- (4) The local government is not required to identify the exact location within an ash scattering area where ashes have been scattered.

Division 8 Installation of memorials, inscription plates, memorial plaques or monuments

18 Request to install memorials, inscription plates, memorial plaque or monuments

- (1) A person may make a request to the local government for the local government to—
- (a) install a memorial in a lawn cemetery, lawn beam cemetery or a lawn beam monumental cemetery; or
 - (b) install an inscription plate in a columbarium or garden of remembrance; or
 - (c) install a memorial plaque in an ash scattering area; or
 - (d) install a monument in a monumental cemetery.
- (2) A request under subsection (1) must be—
- (a) made in the prescribed form; and
 - (b) accompanied by—
 - (i) the prescribed fee; and
 - (ii) such other information and materials as are requested by the local government or specified in a subordinate local law.

19 Grant of request to install memorials, inscription plates, memorial plaque or monuments

- (1) The local government may grant a request under section 18(1) if satisfied that the subject of that request complies with the prescribed standards specified in a subordinate local law.
- (2) A person to whom a request for the installation of a memorial, inscription plate, memorial plaque or monument has been granted retains—
- (a) the property in the memorial, inscription plate, memorial plaque or monument; and
 - (b) the responsibility for maintenance of the memorial, inscription plate, memorial plaque or monument.

Division 9 Removal of memorials

20 Removal of memorials

- (1) The local government may remove or reposition a memorial in a council cemetery if it has become unsafe or has fallen into a state of disrepair.
- (2) If there is no immediate danger to the public, the local government must, before removing or repositioning a memorial, give members of the deceased's family whose identity and whereabouts are known to the local government, reasonable notice of its intention to remove or reposition the memorial.
- (3) The local government is not obliged to reinstate a memorial which is removed or repositioned.

Division 10 Plan of council cemetery

21 Plan of council cemetery

The local government must maintain and keep available for public inspection—

- (a) a plan of a council cemetery, including the position of all of the graves in the council cemetery; and
- (b) a register of plots which have been pre-purchased pursuant to section 13 (Grant of request to pre-purchase burial rights for a plot) of this local law.

Part 3 Other cemeteries

22 Plan of cemetery

The operator of a cemetery that is not a council cemetery must maintain and keep available for public inspection a plan of the cemetery, including the position of all the graves in the cemetery and the names of all persons interred therein.

Maximum penalty—100 penalty units

Part 4 Permits

23 Requirement for a permit

- (1) A person, other than the local government, must not undertake a regulated activity unless authorised by a permit granted pursuant to section 25(1) (Grant of a permit) of this local law.

Maximum penalty for subsection (1)—50 penalty units.

- (2) An application to undertake a regulated activity which is to install, place, erect or construct a memorial, inscription plate, memorial plaque or monument may only be made by the burial rights holder or, if the burial rights holder is deceased, the

next of kin to the deceased and in the case of a grave, the next of kin to the deceased first buried in the grave.

- (3) Notwithstanding subsection (1), a permit is not required under this local law if a subordinate local law specifies that a permit is not required in respect of the undertaking of the regulated activity.

24 Application for a permit

- (1) An application for a permit must be—
- (a) made by the person who will be undertaking the regulated activity; and
 - (b) made in the prescribed form; and
 - (c) accompanied by—
 - (i) the prescribed fee; and
 - (ii) evidence that all approvals under the local government Acts required for the undertaking of the regulated activity have been obtained; and
 - (iii) full details of the undertaking of the regulated activity including plans and specifications unless otherwise required by the local government; and
 - (iv) such other information and materials as are requested by the local government or specified in a subordinate local law.
 - (d) accompanied by the written consent of the owner of premises, if the application for a permit does not relate to a council cemetery and the applicant is not the owner of the premises on which the regulated activity is to be undertaken.
- (2) The local government may waive a requirement of subsection (1)—
- (a) in an emergency; or
 - (b) if there are special reasons for dispensing with the requirement; or
 - (c) in the circumstances specified in a subordinate local law.

25 Grant of a permit

- (1) The local government may grant a permit if satisfied that the operation of the regulated activity —
- (a) will not result in harm to human health or safety or personal injury; and
 - (b) will not result in property damage or a loss of amenity; and

- (c) will not result in environmental harm or environmental nuisance; and
 - (d) will not result in a nuisance; and
 - (e) complies with the provisions of the local government Acts that regulate the undertaking of the regulated activity; and
 - (f) complies with the assessment criteria; and
 - (g) complies with the prescribed criteria.
- (2) Before the local government decides an application for a permit, an authorised person may—
- (a) inspect any premises, vehicle, equipment, animal, plant or thing to be involved in the undertaking of the regulated activity; and
 - (b) measure, weigh, sample, test, photograph, videotape or otherwise examine anything that may be inspected; and
 - (c) request any further information and material which is required to assess the application.
- (3) For the purposes of determining whether the criteria specified in subsection (1) have been satisfied—
- (a) the local government may have regard to the results of any periodic inspection, testing or monitoring program undertaken in respect of the undertaking of the regulated activity; and
 - (b) the local government may have regard to the applicant's antecedence in terms of compliance or otherwise with this local law; and
 - (c) the local government is not obliged to look beyond—
 - (i) any information or material submitted to the local government in respect of the application; and
 - (ii) any other information held by the local government which is relevant to the application.

26 Term of a permit

- (1) A permit granted by the local government is for a term extending from the date of issue until the thirty-first day of the following August unless otherwise specified in the permit or a subordinate local law.
- (2) A permit expires at the end of the day specified in subsection (1).

27 Conditions of a permit

- (1) A permit may be granted by the local government on conditions the local government considers appropriate.
- (2) The conditions of a permit may require—
 - (a) the holder of the permit to take specified measures to—
 - (i) prevent harm to the human health or safety of persons who may be involved in or affected by the undertaking of the regulated activity; and
 - (ii) prevent personal injury, property damage or a loss of amenity resulting from the undertaking of the regulated activity; and
 - (iii) ensure that the undertaking of the regulated activity does not cause environmental harm or environmental nuisance; and
 - (iv) ensure that there is compliance with the provisions of the local government Acts that regulate the undertaking of the regulated activity; and
 - (v) ensure that the undertaking of the regulated activity complies with the prescribed criteria; and
 - (vi) ensure that the undertaking of the regulated activity complies with the assessment criteria; and
 - (b) the holder of the permit to notify the local government within a period specified in the permit that the holder of the permit is no longer undertaking the regulated activity or is undertaking the regulated activity other than in accordance with the permit; and
 - (c) the certification by a person specified by the local government of a vehicle, equipment, animal, plant or other thing involved in the operation of the regulated activity; and
 - (d) the giving of a security or bond to secure compliance with the permit and the provisions of this local law; and
 - (e) the person operating the regulated activity to hold a broadform public liability insurance policy on those terms and conditions as regulated by Council from time to time; and
 - (f) records to be kept at a place and for a time specified in the permit or a subordinate local law; and
 - (g) the holder of the permit to prepare, provide, undertake or comply with a periodic inspection, monitoring or management program in respect of the undertaking of the regulated activity; and

- (h) the number of persons involved in the undertaking of the regulated activity not to exceed a number specified by the local government.
- (3) The local government may specify in a subordinate local law, the conditions that must be imposed in a permit or that will ordinarily be imposed in a permit for the undertaking of a regulated activity.

28 Power to change the conditions of a permit

- (1) The local government may change a condition of a permit when²—
 - (a) the holder of the permit agrees to the proposed change; or
 - (b) the change is necessary to prevent—
 - (i) harm to human health or safety or personal injury; or
 - (ii) property damage or a loss of amenity; or
 - (iii) environmental harm or environmental nuisance; or
 - (iv) a nuisance; or
 - (c) the change is necessary to ensure that the undertaking of the regulated activity complies with the prescribed criteria.
- (2) If the local government is satisfied it is necessary to change a condition of a permit, the local government must—
 - (a) give the holder of the permit a written notice stating—
 - (i) the proposed change and the reason for the change; and
 - (ii) that the holder of the permit may make written representations to the local government about the proposed change; and
 - (iii) the time (at least 15 business days after the written notice is given to the holder of the licence) within which the written representations may be made; and
 - (b) consider any representations made by the holder of the permit within the time stated in the written notice.
- (3) After considering any written representations made by the holder of the permit, the local government must give to the holder of the permit—
 - (a) if the local government is not satisfied the change is necessary - a written notice stating that it has decided not to change the condition; or

² A change to a condition of a permit includes a change by omission, substitution, exception or addition (see section 36 (Meaning of commonly used words and expressions) of the *Acts Interpretation Act 1954*).

- (b) if the local government is satisfied that the change is necessary - a written notice stating that it has decided to change the condition including details of the changed condition.
- (4) The changed condition takes effect from the day the notice was given to the holder of the permit—
 - (a) under subsection (2)(a), if no written representations are made by the holder of the permit within the time stated in the written notice; or
 - (b) under subsection (3)(b), if written representations are made by the holder of the permit within the time state in the written notice and the local government decides that the change is necessary.

29 Amendment, renewal or transfer of a permit

- (1) The holder of a permit may make an application to the local government to—
 - (a) amend the permit; or
 - (b) renew the permit; or
 - (c) transfer the permit to another person.
- (2) An application to amend, renew or transfer a permit must be—
 - (a) made by the holder of the permit; and
 - (b) made in the prescribed form; and
 - (c) accompanied by the prescribed fee and such other information as is requested by the local government; and
 - (d) accompanied by, in the case of a transfer of the permit—
 - (i) the written consent of the person to whom the permit will be transferred; and
 - (ii) the written consent of the owner of the premises on which the regulated activity is or is to be undertaken.
- (3) The local government may renew or transfer a permit—
 - (a) if the undertaking of the regulated activity complies with the conditions of the permit and the provisions of this local law; and
 - (b) subject to such conditions the local government considers appropriate.
- (4) The local government may amend a permit—
 - (a) if the undertaking of the regulated activity complies with the criteria specified in section 25(1) of this local law; and

- (b) subject to such conditions the local government considers appropriate.
- (5) The local government must not amend a permit that has been granted for a specific location if the amendment is to the location at which the regulated activity is to be undertaken.
- (6) For the purposes of determining whether the criteria specified in subsections (3) and (4) have been satisfied, the local government is not obliged to look beyond—
 - (a) any information or materials submitted to the local government in respect of the application; and
 - (b) any other information held by the local government which is relevant to the application.

30 Cancellation of a permit

- (1) The local government may cancel a permit if—
 - (a) the holder of the permit agrees to the cancellation; or
 - (b) the cancellation is necessary to prevent—
 - (i) harm to human health or safety or personal injury; or
 - (ii) property damage or a loss of amenity; or
 - (iii) environmental harm or environmental nuisance; or
 - (iv) a nuisance; or
 - (c) the holder of the permit contravenes—
 - (i) this local law; or
 - (ii) a condition of a permit; or
 - (iii) a requirement of a compliance notice or a stop order; or
 - (d) the undertaking of the regulated activity does not comply with—
 - (i) the provisions of the local government Acts that regulate the undertaking of the regulated activity; or
 - (ii) the prescribed criteria; or
 - (e) the permit was granted on false, misleading or incomplete information; or
 - (f) changes in circumstances since the permit was granted make the continued operation of the permit inappropriate.

- (2) The local government may specify in a subordinate local law the changes in circumstances since a permit was granted that makes the continued operation of the permit inappropriate.
- (3) If the local government is satisfied it is necessary to cancel a permit, the local government must—
 - (a) give the holder of the permit a written notice stating—
 - (i) the reason for the proposed cancellation; and
 - (ii) that the holder of the permit may make written representations to the local government about the proposed cancellation; and
 - (iii) the time (at least 15 business days after the written notice is given to the holder of the permit) within which written representations may be made; and
 - (b) consider any written representations made by the holder of the permit within the time stated in the written notice.
- (4) After considering any written representations made by the holder of the permit the local government must give to the holder of the permit—
 - (a) if the local government is not satisfied that the cancellation is necessary - a written notice stating it has decided not to cancel the permit; or
 - (b) if the local government is satisfied that the cancellation is necessary - a written notice stating it has decided to cancel the permit.
- (5) Before the local government cancels a permit under subsection (4), the local government must consider the impact of the cancellation of the permit, other than a financial impact on the holder of the permit, on those persons who would be affected by the regulated activity ceasing to be operated.
- (6) The cancellation of the permit takes effect from the day the written notice was given to the holder of the permit—
 - (a) under subsection (3)(a), if no written representations are made by the holder of the permit within the time stated in the written notice; or
 - (b) under subsection (4)(b), if written representations are made by the holder of the permit within the time stated in the written notice and the local government decides that the cancellation is necessary.
- (7) If the local government has cancelled a permit, the holder of the permit must cease to undertake the regulated activity immediately.

Maximum penalty for subsection (7)—50 penalty units.

31 General compliance provision

- (1) The holder of a permit must ensure that the conditions of the permit are complied with.

Maximum penalty for subsection (1)—50 penalty units.

- (2) The holder of a permit and any person undertaking a regulated activity must ensure that the undertaking of the regulated activity —
- (a) does not result in harm to human health or safety or personal injury; and
 - (b) does not result in property damage or a loss of amenity; and
 - (c) does not result in environmental harm or environmental nuisance; and
 - (d) does not result in a nuisance; and
 - (e) complies with the prescribed criteria.

Maximum penalty for subsection (2)—50 penalty units.

Part 5 Enforcement

32 Records to be kept

A subordinate local law may specify any records that are required to be kept for the undertaking of the regulated activity.

33 Inspection, monitoring or management program

A subordinate local law may specify any inspection, monitoring or management program required to be kept for the undertaking of the regulated activity.

Part 6 Subordinate local laws

34 Subordinate local laws

The local government may specify in a subordinate local law—

- (a) the assessment criteria for deciding an application for a permit for the undertaking of a regulated activity pursuant to Schedule 2 (Dictionary) of this local law; and
- (b) a thing as a structure pursuant to the Schedule (Dictionary) of this local law; and
- (c) prescribed criteria pursuant to the Schedule (Dictionary) of this local law; and
- (d) the person to be appointed as sexton of a council cemetery; and

- (e) an activity which is prohibited conduct pursuant to section 8(a)(1)(x) of this local law; and
- (f) an activity which is regulated conduct pursuant to section 9(1)(h) of this local law; and
- (g) the prescribed standards for a grave pursuant to section 10 of this local law; and
- (h) the prescribed standards for a body interred in a vault and the construction of a vault pursuant to section 11 (Requirements for a vault) of this local law; and
- (i) the information that must accompany a request to pre-purchase burial rights for a plot pursuant to section 12(2)(b)(ii) of this local law; and
- (j) the prescribed standards for a grave in a natural burial area pursuant to section 13(1)(b) of this local law; and
- (k) the information that must accompany a request to purchase an ashes interment right pursuant to section 14(2)(b)(ii) of this local law; and
- (l) the information that must accompany a request to scatter ashes in an ash scattering area pursuant to section 16(2)(b)(ii) of this local law; and
- (m) the information that must accompany a request to install a memorial, inscription plate, memorial plaque or monument pursuant to section 18(2)(b)(ii) of this local law; and
- (n) the prescribed standards for a memorial, inscription plate, memorial plaque or monument pursuant to section 19(1) of this local law; and
- (o) a regulated activity in respect of the operation of which a person is not required to hold a permit pursuant to section 23(3) of this local law; and
- (p) the information that must accompany an application for a permit pursuant to section 24(1)(c)(iv) of this local law; and
- (q) the circumstances in which the local government may waive the requirements of section 24 (Application for a permit) of this local law pursuant to section 24(2)(c) of this local law; and
- (r) the term of the permit pursuant to section 26(1) of this local law; and
- (s) the records that must be kept, the place at which those records must be kept and the period for which those records must be kept pursuant to section 27(2)(f) (Conditions of a permit) of this local law; and
- (t) the conditions that must be imposed in a permit or that will ordinarily be imposed in a permit pursuant to section 27(3) of this local law; and

- (u) the changes in circumstances since a permit was granted that make the continued operation of the permit inappropriate pursuant to section 30(2) of this local law; and
- (v) the records that are required to be kept pursuant to section 32 (Records to be kept) of this local law; and
- (w) the terms of a periodic inspection, monitoring or management program in respect of the operation of a regulated activity pursuant to section 33 (Inspection, monitoring or management program) of this local law; and
- (x) such other matters as are provided for in this local law.

Part 7 Application of Local Law No. 3 (Administration) 2008

35 Application of Local Law No. 3 (Administration) 2008 to this local law

- (1) To avoid any doubt, the provisions of *Local Law No. 3 (Administration) 2008* apply to this local law, including (but not limited to) the following parts of *Local Law No. 3 (Administration) 2008*—
 - (a) Part 7 (Enforcement); and
 - (b) Part 8 (Administration).

Note—

Part 7 (Enforcement) of *Local Law No. 3 (Administration) 2008* sets out the powers of the local government to deal with a contravention of a local law (including this local law) and the steps that the local government may take to remedy any non-compliance.

Part 8 (Administration) of *Local Law No. 3 (Administration) 2008* contains a number of provisions which clarify the liability of persons for actions taken contrary to a local law (including this local law).

This local law must be read with any relevant provisions of *Local Law No. 3 (Administration) 2008*.

- (2) If there is a conflict between a provision of this local law and *Local Law No. 3 (Administration) 2008*, the provision in this local law will prevail to the extent of any inconsistency.

Schedule Dictionary

section 3

advertisement has the meaning given in *Local Law No. 16 (Licensing) 2008*.

advertising includes the use of any fixed or moveable device, design, writing, structure, erection, publication, placard, signboard or sign of any kind whatsoever for the sale or exposing for sale of a good, a service or a vehicle.

animal has the meaning given in *Local Law No. 12 (Keeping and Control of Animals) Law*.

approval means a consent, permit, licence, authorisation, registration, membership or approval under a local government Act or a local law and includes all the conditions of a consent, permit, licence, authorisation, registration, membership or approval.

ash scattering area means that portion of a council cemetery set aside as an ash scattering area pursuant to section 6(f) of this local law.

assessment criteria means the criteria specified in a subordinate local law for deciding an application for a permit for the undertaking of a regulated activity.

authorised person means a person authorised by the local government pursuant to *Local Law No. 3 (Administration) 2008* to exercise the powers of an authorised person under this local law.³

building has the meaning given in the *Building Act 1975*.

burial rights means a right of burial in a burial place.

business means the supply of goods or services and includes—

- (a) the display of a good; and
- (b) the sale of a good or service; and
- (c) engaging in any trade or business; and
- (d) distributing a business advertising publication; and
- (e) touting; and
- (f) advertising a good or service; and

³ Section 21 (Appointment) of *Local Law No. 3 (Administration) 2008* provides for the local government to appoint a person to a position provided for under a local law and authorises a person appointed by the local government to a position provided for under a local law to exercise the powers attaching to that position under the local law unless otherwise stated in the appointment.

- (g) a fete, market or stall; and
- (h) the exhibition of an advertisement; and
- (i) the exhibition of a sign.

business advertising publication has the meaning given in *Local Law No. 5 (Distribution of Business Advertising Publications and Touting) 2008*.

cemetery has the meaning given in the local government's planning scheme and does not include a council cemetery.

columbarium means that portion of a council cemetery set aside as a columbarium pursuant to section 6(d) of this local law.

council cemetery means a reserve or other land under the control of the local government which is or has been used as a council cemetery.

direction means a written or oral direction given by an authorised person pursuant to this local law.

environmental harm has the meaning given in the *Environmental Protection Act 1994*.

environmental nuisance has the meaning given in the *Environmental Protection Act 1994*.

exhibit includes in relation to a sign the painting, writing, drawing, depiction, making, erection, affixing, putting up, operation or transport of a sign.

garden of remembrance means that portion of a council cemetery set aside as a garden of remembrance pursuant to section 6(e) of this local law.

guide dog has the meaning given in the *Guide, Hearing and Assistance Dogs Act 2009*.

human remains means a human being who is deceased and includes part of a human being who is deceased, but does not include cremated human remains.

interference includes any damage, destruction, tampering, removal, alteration, defacement, change, or inappropriate use and ***interfere*** has the corresponding meaning.

knowledge includes actual or constructive knowledge.

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

lawn beam cemetery means that portion of a council cemetery set aside as a lawn beam cemetery pursuant to section 6(b) of this local law.

lawn beam monumental cemetery means that portion of a council cemetery set aside as a lawn beam monumental cemetery pursuant to section 6(c) of this local law.

lawn cemetery means that part of a council cemetery set aside as a lawn cemetery pursuant to section 6(a) of this local law.

local government area has the meaning in the *Local Government Act 2009*.⁴

local law includes any subordinate local laws and all approvals granted pursuant to this local law.

monumental cemetery means that portion of a council cemetery set aside as a monumental cemetery pursuant to section 6(h) of this local law.

natural burial area means that portion of a council cemetery set aside as a natural burial area pursuant to section 6(g) of this local law.

nuisance has the meaning given in *Local Law No. 8 (Public Health, Safety and Amenity) 2008*.

occupier of premises means the person who has the control or management of the premises and includes a person in charge of the operation of the regulated activity on the premises.

operating a regulated activity includes carrying out, providing, performing, undertaking or otherwise engaging in any activity in respect of the regulated activity.

owner of premises means the person for the time being entitled to receive the rent for the premises or would be entitled to receive the rent for if it were let to a tenant at a rent.

permit means a permit which has been granted pursuant to section 25 (Grant of a permit) of this local law or amended, renewed or transferred pursuant to section 29 (Amendment, renewal or transfer of a permit) of this local law which—

- (a) has not expired pursuant to section 26(2) of this local law; and
- (b) has not been cancelled pursuant to section 30 (Cancellation of a permit) of this local law.

plant means any tree, bush, shrub, grass, fungi, algae or other thing terrestrial or aquatic including all natural parts of it or things naturally produced of, by or from it.

⁴ ***Local government area*** is defined in section 8(2) of the *Local Government Act 2009* as a part of Queensland that is governed by a local government.

prescribed criteria means the criteria specified in a subordinate local law with which the undertaking of a regulated activity must comply.

prescribed form means the form prescribed by the local government.

publicise means to draw to the attention of, make known, advertise or promote and ***publicises*** has the corresponding meaning.

regulated activity means an activity regulated by section 9 (Regulated conduct) of this local law.

sale includes—

- (a) to sell; or
- (b) sell for resale; or
- (c) intend for sale; or
- (d) offer or expose for sale; or
- (e) agree or attempt to sell; or
- (f) receive, keep or have in possession for sale; or
- (g) cause or permit to be sold or offered or exposed for sale; or
- (h) send, forward for sale or deliver for sale; or
- (i) provide a sample; or
- (j) barter; or
- (k) auction; or
- (l) supply or have available for supply; or
- (m) already sold or supplied; or
- (n) provide for analysis; or
- (o) authorise, direct, cause, suffer or permit any of the above acts.

sexton means a person appointed by the local government to act as the sexton of a council cemetery.

sign means a device that publicises a matter.

structure has the meaning given in the *Local Government Act 2009* and includes a structure as defined in the *Building Act 1975* and any other thing specified in a subordinate local law.

tout has the meaning given in *Local Law No. 5 (Distribution of Business Advertising Publications and Touting) 2008*.

vault means a burial structure either above ground or below ground and includes a crypt and a mausoleum.

vehicle has the meaning given in the *Transport Operations (Road Use Management) Act 1995* and includes anything specified as a vehicle in a subordinate local law.