



**Cassowary Coast Regional Council
Local Law No. 7
(Human Remains and Cemeteries) 2022**

Cassowary Coast Regional Council

Local Law No. 7 (Human Remains and Cemeteries) 2022

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Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 7 (Human Remains and Cemeteries) 2022*.

2 Purposes and how they are to be achieved

- (1) The purpose of this local law is to regulate the appropriate treatment of **human remains** in a befitting and respectful way.
- (2) The purpose will be achieved by:
 - (a) regulating the handling of human remains through **permits** which can be conditioned to require befitting and respectful treatment of remains; and
 - (b) providing for enforcement action to achieve compliance with the purpose.

3 Relationship with other laws

This local law is:

- (a) to be read in conjunction with *Local Law No.1 (Administration) 2022* which contains provisions and definitions that apply to all local laws;
- (b) is made under the powers in Chapter 3 of the **LGA**; and
- (c) otherwise in addition to, and does not derogate from, laws regulating land use planning and development assessment.

Part 2 Disturbance of human remains buried outside a cemetery

4 Prescribed activity

- (1) **Disturbance of human remains** buried outside a cemetery is a **category 1 activity**.
- (2) To obtain a **permit** an application must be made to **Council** on:
 - (a) [Approved Form 1.7: Application Information \(*What I want*\)](#); and
 - (b) [Approved Form 7.4: Disturbance of Human Remains Outside of a Cemetery](#).

5 Activities that do not require approval

Nil.

6 Additional criteria for the granting of a permit

- (1) The **Council** must assess the application against the additional criteria.
- (2) The additional criteria are:
 - (a) whether the **human remains** have been buried or inurned for not more than three (3) days or not less than twelve (12) months.
 - (b) written agreement of the owner, and anyone else with a registered interest in, the **resting place**;
 - (c) the reasons for the proposed disturbance;
 - (d) the expressed wishes of the deceased and the deceased's family; and
 - (e) how and when the remains are proposed to be disturbed.

7 Conditions that must be imposed on a permit

The following types of conditions must be imposed on a **permit**, where applicable:

- (a) the **disturbance of human remains** must only be carried out by a recognised undertaker;
- (b) stipulate the day on which the **disturbance of human remains** must be performed; and
- (c) stipulate the hours between which the **disturbance of human remains** must be performed.

8 Conditions that will ordinarily be imposed on a permit:

The following types of conditions will ordinarily be imposed on a **permit**:

- (a) give notice to **Council** of the **disturbance of human remains** to enable an **authorised person** to enter the **premises** and inspect the **resting place** at any time either before or after the disturbance;
- (b) if the **human remains** are removed from the **resting place**, remove all markers or means of identification on or around the **resting place** and dispose of them appropriately; and
- (c) provide **Council** with confirmation of the **disturbance of human remains** within 14 days of the event.

9 Spillage of waste, contaminant or other material

- (1) Any spillage of waste, contaminant or other material must:
 - (a) be cleaned up immediately; and
 - (b) not be cleaned up by hosing, sweeping or otherwise releasing the waste, contaminant or material into any stormwater system or other waters.
- (2) The permit holder must take specified measures to:
 - (a) prevent harm to the health or safety of persons who may be involved in, or effected by, the undertaking of the **prescribed activity**; and

- (b) prevent personal injury, property damage or loss of amenity resulting from the undertaking of the **prescribed activity**.

Part 3 Burial or placement of human remains outside a cemetery

10 Prescribed activity

- (1) Burial or placement of **human remains** outside a cemetery is a **category 1 activity**.
- (2) To obtain a **permit** an application must be made to **Council** on:
 - (a) [Approved Form 1.7: Application Information \(*What I want*\)](#); and
 - (b) [Approved Form 7.10: Burial or Placement Outside of a Cemetery](#).

11 Activities that do not require approval

Nil.

12 Additional criteria for the granting of a permit

- (1) **Council** must assess the application against the additional criteria.
- (2) The additional criteria are:
 - (a) evidence of the identity of the deceased person and the applicant's relationship (if any) with the deceased;
 - (b) the expressed wishes of the deceased and the deceased's family;
 - (c) whether there is a special family, personal or historical association between the deceased person and the proposed **resting place**;
 - (d) whether there is written agreement of the owner and anyone else with a registered interest in the **premises** of the proposed **resting place**;
 - (e) how access to and maintenance of the proposed **resting place** is to be legally enforced in the event of a sale of the **premises**;
 - (f) how and when the remains are proposed to be placed or buried; and
 - (g) the nature of the ceremony (if any) to be conducted at the time of the burial or placement.

13 Conditions that must be imposed on permits

- (1) The following types of conditions must be imposed on a **permit** for a burial, where applicable:
 - (a) The **permit holder**, its contractors or agents are required to give notice to the **Council** of the preparation of the grave to enable an **authorised person** to enter the **premises** and inspect the grave before the burial;
 - (b) minimum depth of graves for adults and children;

- (c) minimum length and width of graves for adults and children;
 - (d) minimum depth between the top of a coffin and the surface of the ground;
 - (e) minimum clearance between the sides of a coffin and the sides of a grave;
 - (f) maximum number of bodies which may be buried in a single grave;
 - (g) the name and contact details of the undertaker or other person performing the interment or inurnment;
 - (h) the day on which the interment or inurnment must be performed; and
 - (i) the hours between which the interment or inurnment must be performed.
- (2) The following types of conditions must be imposed on a permit for a placement:
- (a) The **permit holder**, its contractors or agents are required to give notice to the **Council** of the preparation of the placement site to enable an **authorised person** to enter the **premises** and inspect the site before the placement;
 - (b) the name and contact details of the undertaker or other person performing the placement;
 - (c) the day on which the placement must be performed; and
 - (d) the hours between which the placement must be performed.

14 Conditions that will ordinarily be imposed on permits

The following types of conditions will ordinarily be imposed on a **permit**:

- (a) the **permit holder**, its contractors or agents supply the Global Positioning System (G.P.S) coordinates of the grave or placement site to **Council**, so that the details of the deceased person can be placed on the property record; and
- (b) the **permit holder**, its contractors or agents to erect a marker or means of identification on or around the grave or placement site and stipulate the information required to be recorded on it.

Part 4 Disturbance of human remains in a cemetery

15 Prescribed activity

- (1) **Disturbance of human remains** in a cemetery is a **category 1 activity**.
- (2) To obtain a **permit** an application must be made to **Council** on:
 - (a) [Approved Form 1.7: Application Information \(*What I want*\)](#); and
 - (b) [Approved Form 7.15: Disturbance of Human Remains in a Cemetery](#).

16 Activities that do not require approval

Nil.

17 Additional criteria for the granting of a permit

- (1) **Council** must assess the application against the additional criteria.
- (2) The additional criteria are:
 - (a) whether the **human remains** have been buried for not more than three (3) days or not less than twelve (12) months;
 - (b) written agreement of the owner, and anyone else with a registered interest in the **premises** on which the remains are buried or placed;
 - (c) the reasons for the proposed disturbance;
 - (d) the expressed wishes of the deceased and the deceased's family; and
 - (e) how and when the remains are proposed to be disturbed.

18 Conditions that must be imposed on permits

The following types of conditions must be imposed on a **permit**, where applicable:

- (a) remove any monuments on the existing grave or placement and dispose of appropriately;
- (b) ensure that the coffin, body, ashes or other remains disinterred are removed under the supervision and to the satisfaction of **Council**;
- (c) ensure that the grave is opened and closed by **Council**; and
- (d) ensure that exhumation is carried out by a recognised undertaker.

19 Conditions that will ordinarily be imposed on permits

The following types of conditions will ordinarily be imposed on a **permit**, where applicable:

- (a) regulate the manner of preparation of the grave or placement site for the disturbance;
- (b) stipulate the day on which the **disturbance of human remains** may be performed; and
- (c) stipulate the hours between which the **disturbance of human remains** may be performed.

Part 5 Burial or placement of human remains in a cemetery

20 Prescribed activity

- (1) Burial of **human remains** or inurnment in a **Council** cemetery are a **category 1 activity**.
- (2) To obtain a **permit** an application must be made to **Council** on:

- (a) [Approved Form 1.7: Application Information \(What I want\)](#); and
- (b) [Approved Form 7.20: Burial or Disposal of Human Remains in a Cemetery](#).

21 Activities that do not require a permit

Nil.

22 Additional criteria for the granting of a permit

- (1) **Council** must assess the application against the additional criteria.
- (2) The additional criteria are:
 - (a) evidence of the identity of the deceased person and the applicant's relationship (if any) with the deceased;
 - (b) date of interment or inurnment;
 - (c) cemetery of interment or inurnment;
 - (d) provision of an allocated plot;
 - (e) name and contact details of the recognized undertaker or other person performing the ceremony;
 - (f) who will conduct the burial or inurnment; and
 - (g) details as to how the proposed burial of human remain or, inurnment is to be undertaken.

23 Conditions that must be imposed on permits

The following types of conditions must be imposed on a **permit**, where applicable:

- (a) minimum depth of graves for adults and children;
 - (b) minimum length and width of graves for adults and children;
 - (c) minimum depth between the top of a coffin and the surface of the ground;
 - (d) minimum clearance between the sides of a coffin and the sides of a grave;
 - (e) maximum number of bodies which may be buried in a single grave;
 - (f) the name and contact details of the undertaker or other person performing the interment or inurnment;
 - (g) the cemetery of the interment or inurnment;
 - (h) the allocated plot for the interment or inurnment;
 - (i) the day on which the interment or inurnment must be performed;
 - (j) the hours between which the interment or inurnment must be performed;
- and

- (k) for green cemeteries, that the deceased person must not be embalmed or otherwise treated before burial, the Global Positioning System (G.P.S) coordinates of the resting place are provided and that the casket or shroud in for the burial must be biodegradable.

24 Conditions that will ordinarily be imposed on permits

The following types of conditions will ordinarily be imposed on a **permit**:

- (a) the time and place of service;
- (b) the arrival time at cemetery;
- (c) the dimensions of the coffin or casket; and
- (d) the specifications of the proposed **memorial**

Part 6 Erection of a memorial, vault, columbarium or full grave slab

25 Prescribed activity

- (1) The erection of a **memorial, vault, columbarium or full grave slab** is a **category 1 activity**.
- (2) To obtain a **permit** an application must be made to **Council** on:
 - (a) [Approved Form 1.7: Application Information \(*What I want*\)](#); and
 - (b) [Approved Form 2.25: Erection of a Memorial, Vault, Columbarium or Full Grave Slab](#).
- (3) This Part applies only to **Council** cemeteries identified in Subordinate Local Law No. 4 (Local Government Controlled Areas and Roads) 2022 Schedule 1 (4).

26 Activities that do not require a permit

Nil.

27 Additional criteria for the granting of a permit

- (1) **Council** must assess the application against the additional criteria.
- (2) The additional criteria are:
 - (a) construction details of any **memorial, vault, columbarium or full grave slab** to be erected;
 - (b) planting details of any tree **memorial**;
 - (c) the proposed location of the **memorial, vault, columbarium or full grave slab**;
 - (d) details of the finish proposed to any **memorial, vault, columbarium or full grave slab**, including any words to be used;

- (e) evidence of the applicant's relationship (if any) with the deceased; and
- (f) for a **memorial** whether the ashes or other remains are placed in a **columbarium, vault, grave or full grave slab**.

28 Conditions that must be imposed on permits

- (1) The following types of conditions must be imposed on a **permit**, where applicable:
 - (a) approval of the design and materials of construction of the **memorial, vault, columbarium or full grave slab**;
 - (b) the maintenance and repair of the **memorial, vault, columbarium or full grave slab** by a person other than **Council**;
 - (c) any inscription plate to be erected in a cemetery:
 - (i) be of uniform quality and construction as prescribed by **Council**; and
 - (ii) be supplied by **Council** on payment of the prescribed fee;
 - (d) the demolition and removal of the **memorial, vault, columbarium or full grave slab** by **Council** if it falls into a state of disrepair.
- (2) For **mausoleums** the following types of conditions must be imposed on a **permit**, where applicable:
 - (a) **mausoleums** shall be constructed of clay brick or other like materials; and
 - (b) size shall be restricted to 3.600 metres long x 3.600 metres wide.
- (3) For **vaults** – inground and aboveground the following types of conditions must be imposed on a **permit**, where applicable:
 - (a) **vaults** at **Council** cemeteries identified in Subordinate *Local Law No. 4 (Local Government Controlled Areas and Roads) 2022* Schedule 1(4) shall be constructed to the following dimensions for each site

LAYOUT	must be able to be constructed in the plot or plots identified by Council .
WALLS	minimum of 150mm concrete blocks or similar material with steel reinforcement placed at 600mm centres for vaults cast in-situ, or 100mm thick concrete for an approved pre-cast vault design.
FLOOR	minimum of 150mm thick concrete with steel reinforcement for vaults cast in-situ, or 100mm thick concrete for an approved pre-cast vault design.
LID	minimum of 100mm of concrete in thickness with steel reinforcement.

- (b) for **vaults** cast in-situ, all inside surfaces shall be plastered prior to any coffin being placed therein, and all external surfaces above ground are to be plastered after interment. For pre-cast commercially manufactured **vaults**, openings for placement of the coffin shall be appropriately sealed or plastered after interment;
 - (c) all **vaults** shall incorporate a concrete skirt of no less than 75mm thickness, graded towards the adjacent ground so as to prevent the burrowing of vermin beneath the **vault**;
 - (d) where a **vault** is constructed immediately adjacent to an existing **vault**, the area between both shall be joined by concrete of no less than 75mm in thickness;
 - (e) plot number as detailed by **Council** shall be inscribed at the foot, right hand corner of the concrete skirt;
 - (f) double above ground **vaults** are permitted only in the designated **vault** section. Any existing **vault** must have engineering certification to ensure it is capable of being extended vertically, prior to approval of any application to install a second **vault**; and
 - (g) plaques affixed to **vaults** may be of any type of material.
- (4) For **full grave slab** the following types of conditions must be imposed on a **permit**, where applicable:
- (a) slab Dimension for a single grave shall be 1200mm wide x 2400mm long overall to tiles or any other surface finish. The slab shall be constructed horizontally with the maximum dimension above ground level of 400mm. A concrete skirt 200mm wide, together with a minimum thickness of 75mm, shall be constructed around the total perimeter of the slab to facilitate mowing. The total width of the slab shall not exceed 1600mm. Where the slab adjoins an existing slab, the skirt will be adjusted, extended or otherwise as necessary to join to the skirt of the existing slab;
 - (b) headstones may be erected on the slab. Plaques affixed to a grave slab or headstone may be of any type of material;
 - (c) plot number as detailed by **Council** shall be inscribed at the foot, right hand corner of the concrete skirt;
 - (d) slabs shall be constructed within eighteen (18) months of the interment; and
 - (e) a two metre wide access strip will be incorporated between **full grave slab sites**.
- (5) For **columbarium** the following types of conditions must be imposed on a **permit**, where applicable:
- (a) bronze plaques only will be permitted in the **Columbarium** to ensure that quality standard is maintained;

- (b) ashes must be contained in urns of no greater dimension than 120 x 85 x 220mm;
 - (c) however, if placing ashes in the xxx Columbarium Wall the niche box is to be no bigger than 180 x 110 x 75mm;
 - (d) The size of plaques vary in each cemetery as follows:
Cardwell, Innisfail and Tully:
 - (i) Single: 205mm x 160mm;
 - (ii) Double: 165mm x 229mm; and
 - (iii) Detachable Niche Plate: 140mm x 70mm.
- (6) For green cemeteries:
- (a) the species of any tree to be planted; and
 - (b) the Global Positioning System (G.P.S) coordinates of the resting place.

29 Conditions that will ordinarily be imposed on permits

The following types of conditions will ordinarily be imposed on a **permit**:

- (a) ashes or other remains must not be placed in a **columbarium**, **vault** or grave unless contained in a sealed receptacle;
- (b) ashes or other remains in a **columbarium** or **vault** must have a **memorial** identifying the deceased affixed to or adjacent to the niche in which they are placed; and
- (c) the placing of flowers and tokens on graves or **memorials** and the prohibition of artificial flowers.

Part 7 Cemeteries

30 Application of this part

This part applies to all cemeteries unless otherwise stated.

31 Preparation of graves by Council

- (1) When an application under section 20 has been approved, **Council** must use its best endeavours to have the required grave dug and available for use at the required time.
- (2) Notwithstanding subsection (1), **Council** may, at the time of receipt of the application or at any later time, advise the **permit holder** that, by reason of weather, ground condition, difficulty of excavation or any other reason:
 - (a) the grave will not be ready until a later hour in the day proposed for the burial or a day later than that proposed for the burial; or
 - (b) the burial must take place in another grave plot or at another **Council** cemetery.

32 Transport of human remains

A person must not bring **human remains** into a cemetery for burial or inurnment unless they are:

- (a) brought in for the purpose of burial or inurnment pursuant to a **permit** under this local law; and
- (b) contained in a:
 - (i) coffin of sound construction with an identifying name plate;
 - (ii) a shroud suitable for a green cemetery with appropriate identification; or
 - (iii) an urn of suitable dimensions with appropriate identification.

33 Funerals to be conducted by an undertaker

- (1) All funerals in a cemetery must be conducted by an undertaker or as stated in a **permit**.
- (2) The **permit holder** must ensure that subsection (1) is complied with.

34 Records to be maintained

- (1) In respect of every cemetery, there must be made and retained records of:
 - (a) the names of all deceased persons buried or interred in the cemetery;
 - (b) the date of interment;
 - (c) the specific place of interment within the cemetery; and
 - (d) any dealing with the **human remains** after interment, including disinterment.
- (2) Records made and retained pursuant to subsection (1) must:
 - (a) not be destroyed or otherwise disposed of without the written approval of **Council**;
 - (b) be kept at:
 - (i) some part of the cemetery to which they relate; or
 - (ii) another specified place approved by **Council**; and
 - (c) be open to inspection by the public on payment of a prescribed fee at all times when the place at which the records are kept is attended by some person.
- (3) The owner of **premises** used as a cemetery, other than a **Council** cemetery, must ensure that this section is complied with.

Maximum Penalty - 50 penalty units.

35 Closure of cemetery

Council may close a **Council** cemetery to further burials or interment.

36 Maintenance

Council may maintain a **Council** cemetery including all **resting places** therein in such manner and to such extent as it thinks fit.

37 Repairs or removal by Council

- (1) **Council** may repair or remove any **resting place**:
 - (a) if the repair or removal is necessary for public health or safety;
 - (b) which in the opinion of **Council** is in a state of disrepair; or
 - (c) which in the case of a **memorial** has been placed on the wrong **resting place**.
- (2) **Council** may:
 - (a) replace or reinstate a **resting place**; and
 - (b) place a **memorial** removed under subsection (1) on the correct resting place.
- (3) If there is no immediate danger to the public, **Council** must, before removal of a memorial under subsection (1), give reasonable notice of its intention to remove the **memorial** to members of the deceased's family whose identity and whereabouts are known to **Council**.

38 Conduct in a Council cemetery

A person in a **Council** cemetery must comply with:

- (a) a reasonable direction given by an **authorised person**; and
- (b) an **official sign**.

Maximum Penalty - 20 penalty units.

39 Removal of persons

- (1) An **authorised person** may direct any person found committing an offence against the local laws in the cemetery to leave a **Council** cemetery forthwith.
- (2) Failure to comply with a direction given under subsection (1) is an offence.

Maximum Penalty - 20 penalty units.

CERTIFICATION

This and the preceding 12 pages bearing my initials is a certified copy of Cassowary Coast Regional Council *Local Law No. 7 (Human Remains and Cemeteries) 2022* made in accordance with the provisions of the *Local Government Act 2009*, by Cassowary Coast Regional Council by resolution dated 28 July 2022.

A handwritten signature in black ink, appearing to read 'Andrew Graffen', is positioned above the printed name.

Andrew Graffen
Chief Executive Officer
Cassowary Coast Regional Council