

Subordinate Local Law No. 1.7 (Operation of Cane Railways) 2011

Contents

- Part 1 Preliminary.....1**
 - 1 Short title 1
 - 2 Purpose and how it is to be achieved 1
 - 3 Authorising local law 1
 - 4 Definitions 1

- Part 2 Approval for prescribed activity1**
 - 5 Matters regarding the prescribed activity—Authorising local law, ss 6(3), (4), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a)..... 1
 - 6 Approvals that are non-transferable—Authorising local law, s 15(2) 2

- Schedule 1 Operation of cane railways.....3**
- Schedule 2 Categories of approval that are non-transferable5**
- Schedule 3 Dictionary.....6**

Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.7 (Operation of Cane Railways) 2011*.

2 Purpose and how it is to be achieved

- (1) The purpose of this subordinate local law is to supplement *Local Law No. 1 (Administration) 2011* which provides for a legal and procedural framework for the administration, implementation and enforcement of the local government's local laws, subordinate local laws and other regulatory powers, and for miscellaneous administrative matters.
- (2) The purpose is to be achieved by providing for—
 - (a) various matters regarding the granting of approvals for prescribed activities; and
 - (b) further specification of the definitions relevant to various prescribed activities.
- (3) In particular, the purpose of this subordinate local law is to supplement the legal and procedural framework for the prescribed activity named in schedule 1, section 1.

3 Authorising local law

The making of the provisions in this subordinate local law is authorised by *Local Law No. 1 (Administration) 2011* (the **authorising local law**).

4 Definitions

- (1) Particular words used in this subordinate local law have the same meaning as provided for in the authorising local law.
- (2) The dictionary in schedule 3 defines particular words used in this subordinate local law.

Part 2 Approval for prescribed activity

5 Matters regarding the prescribed activity—Authorising local law, ss 6(3), (4), 8(2)(a), 9(1)(d), 10(3), 12, 13(a), 14(1)(a)

- (1) Schedule 1—
 - (a) names a prescribed activity in section 1; and
 - (b) prescribes the matters specified in this section for the prescribed activity.
- (2) For section 6(3) of the authorising local law, it is declared that section 6(2) of the authorising local law does not apply to the particular activities stated in section 2 of schedule 1.

- (3) For section 6(4) of the authorising local law, it is declared that the prescribed activity named in section 1 of the schedule 1 is a category 3 activity.
- (4) For section 8(2)(a) of the authorising local law, the documents and materials that must accompany an application for approval for the prescribed activity are stated in section 3 of schedule 1.
- (5) For section 9(1)(d) of the authorising local law, the local government may only grant an approval for the prescribed activity if it is satisfied the proposed operation and management of the activity would be consistent with the additional criteria prescribed in section 4 of schedule 1.
- (6) For section 10(3) of the authorising local law, the conditions that must be imposed on an approval for the prescribed activity are stated in section 5 of schedule 1.
- (7) For section 10(3) of the authorising local law, the conditions that will ordinarily be imposed on an approval for the prescribed activity are stated in section 6 of schedule 1.
- (8) For section 13(a) of the authorising local law, the term of an approval for the prescribed activity is provided for in section 7 of schedule 1.
- (9) For section 14(1)(a) of the authorising local law, the further term for renewal or extension of an approval for the prescribed activity is provided for in section 8 of schedule 1.
- (10) For section 12 of the authorising local law, in Table 1 of schedule 1—
 - (a) column 1 lists the application requirements for which the local government may accept as evidence the certificate of a third party certifier; and
 - (b) column 2 lists the individuals or organisations that are declared to be third party certifiers for the corresponding application requirement in column 1; and
 - (c) column 3 lists the qualifications that are necessary for an individual or organisation to be a third party certifier for the corresponding application requirement in column 1.

6 Approvals that are non-transferable—Authorising local law, s 15(2)

For section 15(2) of the authorising local law, it is declared that the categories of approval listed in schedule 2 are non-transferable.

Schedule 1 Operation of cane railways

Section 5

1. Prescribed activity

Operation of cane railways.

2. Activities that do not require an approval under the authorising local law

No activities stated.

3. Documents and materials that must accompany an application for an approval

(1) Details of the route of the railway and the railway infrastructure.

(2) A detailed description of the rolling stock to be used.

(3) A detailed statement of—

(a) when and how the railway is to be operated; and

(b) the purpose for which the railway is intended to be used.

4. Additional criteria for the granting of an approval

(1) The operation of the cane railway must not adversely effect traffic flow or be likely to cause a traffic hazard.

(2) The operation of the cane railway must not produce noise emissions or air pollutants which would adversely effect nearby premises used for residential purposes.

(3) The design and construction of the cane railway must be safe and appropriate for the nature of its proposed use.

(4) The operation of the cane railway must not unreasonably detract from the amenity of the area in which it is proposed the cane railway will operate.

5. Conditions that must be imposed on an approval

No conditions stated.

6. Conditions that will ordinarily be imposed on an approval

(1) The approval holder must—

(a) take out and maintain public liability insurance as specified by the local government and produce documentary evidence of the insurance before commencement of the prescribed activity; and

(b) give the local government specified indemnities; and

(c) comply with specified safety requirements; and

- (d) properly maintain the cane railway and other railway infrastructure; and
 - (e) ensure that all road crossings are maintained in a manner specified in the approval; and
 - (f) install traffic control devices at all road crossings as specified in the approval.
- (2) Locomotives and rolling stock must not exceed 20km per hour while crossing a road.

7. Term of an approval

One year from the date the approval is granted.

8. Term of renewal of an approval

A further term equal to the current term of the approval.

Table 1 – Third party certification

Column 1 Application requirement	Column 2 Individuals or organisations that are third party certifiers	Column 3 Qualifications necessary to be a third party certifier
No application requirement stated.		

Schedule 2 Categories of approval that are non-transferable

Section 6

Each approval for the prescribed activity named in schedule 1, section 1 is transferable.

Schedule 3 Dictionary

Section 4

railway infrastructure (for a cane railway) means—

- (a) the track and its supporting and associated structures (including earthworks); and
- (b) all stations and installations for loading or unloading sugar cane, sugar or sugar cane by-products; and
- (c) all crossings, traffic control devices and other installations associated with the railway.

track means a track for the operation of locomotives and other rolling stock.

traffic control device see *Transport Operations (Road Use Management – Road Rules) Regulation 2009*, schedule 5.

This and the preceding 6 pages bearing my initials is a certified copy of *Subordinate Local Law No. 1.7 (Operation of Cane Railways) 2011* made in accordance with the provisions of the *Local Government Act 2009* by Mackay Regional Council by resolution dated the day of **(insert the date of the relevant resolution of Council)** 2011.

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Chief Executive Officer