

Subordinate Local Law No. 1.7 (Operation of Cane Railways) 2012

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Part 1 Preliminary

1 Short title

This subordinate local law may be cited as *Subordinate Local Law No. 1.7 (Operation of Cane Railways) 2012*.

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) 2012* 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) 2012* (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 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, this subordinate local law prescribes—
 - (a) the application requirements for which the local government may accept as evidence the certificate of a third party certifier; and
 - (b) the individuals or organisations that are declared to be third party certifiers; and
 - (c) the qualifications that are necessary for an individual or organisation to be a third party certifier.

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; and
 - (c) calculations in support of any proposed drainage structure; and
 - (d) how the applicant proposes to overcome safety issues and ensure that the safety of both cane railway infrastructure and road users is not jeopardised.
- (4) Drawings of all proposed infrastructure (including the upgrading of existing infrastructure) including plans, elevations, long sections and cross sections on either A1 or A3 sheets and suitably scaled.
- (5) If requested, a report, study or certification from a suitably qualified person about—
 - (a) the undertaking of the prescribed activity generally; or
 - (b) a specified aspect of the undertaking of the prescribed activity.

Example – a certificate of a registered professional engineer about the structural adequacy of a structure or improvement to be used in the undertaking of the prescribed activity.

- (6) If the undertaking of the prescribed activity is likely to cause a nuisance, inconvenience or annoyance to the occupier of land—
 - (a) the written consent of the occupier of the land to the undertaking of the prescribed activity at the place proposed by the applicant; or
 - (b) a written statement from the occupier of the land in support of the undertaking of the prescribed activity at the place; or

- (c) if the occupier of the land has refused to give written consent to the undertaking of the prescribed activity or a written statement in support of the undertaking of the prescribed activity at the place—details of each attempt made by the applicant to secure the written consent or written statement and particulars of the grounds for refusal, if grounds were specified by the occupier of the land.

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, for example, the maintenance of sidings and pads so as to ensure that water does not pond on through traffic lanes in a manner which may cause a safety hazard; 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; and
 - (g) ensure that drainage is constructed so as to ensure that water does not pond adjacent to a siding or road for more than 4 hours after the cessation of significant rainfall, provided that this condition shall not apply to ponding caused by downstream drainage interference or inaction by others beyond the control of the holder of the approval; and

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- (h) ensure that the road adjacent to the cane railway is maintained for a distance of not less than 2m from the outer rail on one side to a distance of 2m from the outer rail on the other side; and
 - (i) carry out maintenance as required so as to ensure that—
 - (i) assets of the local government are not damaged or interfered with by the operation of the prescribed activity or any incidental activity; and
 - (ii) culverts, drains and roads are maintained clear of trash and other waste materials; and
 - (j) if, during the currency of the approval, the local government carries out work to upgrade relevant infrastructure of the local government—upgrade the infrastructure of the approval holder at the expense of the approval holder so as to maintain optimal interface between the infrastructure of the approval holder and the upgraded infrastructure of the local government; and
 - (k) ensure that turning, acceleration and deceleration areas and accesses, adjacent to existing asphalt and bitumen roads at sidings, including turnouts which must be asphalt sealed, are designed and constructed in accordance with relevant requirements of the Austroads, Institute Municipal Engineering Association of Queensland Australian Roads Research Board and Main Roads Guides Standards and Specifications; and
 - (l) ensure that all signage and equipment of and incidental to the undertaking of the prescribed activity complies with relevant requirements of the Department of Transport and Main Roads Queensland; and
 - (m) with regard to rolling stock—ensure that all bins have reflectors or reflective material attached on each side; and
 - (n) schedule the movement of bins on the cane railway of the approval holder so as to minimise the disruption of peak hour traffic; and
 - (o) ensure that a train using the cane railway of the approval holder does not block a road crossing, particularly if, and when, any Queensland Government railway line is in use for the transport of bins; and
 - (p) ensure that the undertaking of the prescribed activity is carried out in a manner that ensures the care and safety of all persons; and
 - (q) if the approval holder changes the method of undertaking the prescribed activity during the currency of the approval—ensure that the safety of persons and property is not compromised and take any action reasonably necessary to remedy the situation.
- (2) Locomotives and rolling stock must not exceed 20km per hour while crossing a road.

7. Term of an approval

- (1) The term of an approval must be determined by the local government having regard to the information submitted by the applicant.
- (2) The term of the approval must be specified in the approval.
- (3) An approval may be granted for a term of up to 7 years.

8. Term of renewal of an approval

- (1) The term for which an approval may be renewed or extended must be determined by the local government having regard to the information submitted by the approval holder.
- (2) The term for which an approval may be renewed or extended must not exceed 3 years.
- (3) If the local government grants the application, the local government must specify in the written notice, the term of the renewal or extension.

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 8 pages bearing my initials is a certified copy of *Subordinate Local Law No. 1.7 (Operation of Cane Railways) 2012* made in accordance with the provisions of the *Local Government Act 2009* by Hinchinbrook Shire Council by resolution dated the 14th day of June 2012.

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RW Clark
Chief Executive Officer