

It has been noted by the Byron Shire Council that the DA submitted for a zipline requires a variation to the 9m statutory limit for structures as defined by clause 64A of BLEP 1988. Such a variation is being sought, for the reasons described below, for the zipline to exceed this limit by a total 2.2m.

Our arborist, Oliver Bamford, determined that the safest place, by a significant margin, for the high point of the zip was over the branch where it is placed. This particular branch is strong and sturdy and will not break or fail. At lower levels there were not branches that provided the same level of strength and the same factor of safety. The other option was to mechanically provide a join to the tree by way of attaching some type of metal bracket which would have resulted in reduced strength and safety. Also at this height there is a significant clearance above the ground ensuring zipline user safety. Placing the zipline high point at a point where it complied with the statutory 9m would have reduced the safety margins of the ride significantly by reducing the clearance with the ground level.

Thus strict compliance with the standard, in this particular case, would be both unreasonable and unnecessary as in the first instance strict compliance would lead to a substantive reduction in the margin of safety for users of the zipline.

The zipline elevation diagram provided with the DA submission shows that the high point of the zipline is 11.2 meters above the ground level. In a very practical sense, it is difficult to envisage that exceeding the statutory limit of 9m by 2.2m (approx 25%) is meaningful in any real world sense. Any reasonable person could only conclude that in this particular instance any contravention of the 9m limit is irrelevant.

At an environmental level, whether zipline is at 9m or 11.2m there is absolutely and indisputably no discernable or detrimental environmental effect. Neither flora, nor fauna, nor neighbours, nor traffic flow, nor noise nor any other yardstick or measure will in any way be negatively impacted in any manner whatsoever by allowing the height of the zipline to exceed the statutory allowed height of 9m by 2.2m.

A lower height would also be undesirable as it would detract from the novelty, excitement and enjoyment of the ride.