

## RECOMMENDED CONDITIONS

Doc No. #E2022/54860

DA No:	10.2021.683.1
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### SCHEDULE 1. DEFERRED COMMENCEMENT CONDITION PURSUANT TO SECTION 4.16(3)

*The following condition concerns matters as to which the Council must be satisfied before the consent can be issued:*

1. **Deferred Commencement Consent**

This consent does not operate until Council is satisfied as to the following matter:

(a) **Building information certificate**

A Building Information Certificate is required to be issued by Council for the platform structures. Prior to issue of the Building Information Certificate the applicant is to demonstrate to Council's satisfaction with evidence in the form of detailed report/s from suitably qualified and experienced professionals the constructed works satisfies:

1. A land survey from a registered surveyor is required with the Building Information Certificate application identifying all structures located upon the subject property.
2. The below listed Performance Provisions of the Building Code of Australia.
3. Any recommended works identified in this report/s or identified by Council must be completed prior to issue of the Building Information Certificate.

**Performance Requirement of the Building Code of Australia**

P2.1.1 Structural stability and resistance to actions (Must be certified by a Qualified Practising Engineer with Professional Indemnity Insurance)

P2.5.1 Movement to and within a building

P2.5.2 Fall prevention barriers

Evidence is required to be submitted of compliance with the above condition, sufficient to satisfy the Council as to those matters, within 6 months of the date of this Notice of Determination. If satisfactory evidence is produced in accordance with this requirement, the Council will give written notice to the applicant of the date from which this consent commences operation.

If Council has not notified the applicant within a period of 28 days after the applicant's evidence is produced to it, the Council is, for the purposes only of Section 8.7 of the *Environmental Planning and Assessment Act 1979*, taken to have notified the applicant that Council is not satisfied as to those matters on the date on which that 28 day period expires.

### SCHEDULE 2. CONDITIONS OF CONSENT

*Upon satisfaction of the deferred commencement condition/s, the following conditions apply:*

## Parameters of consent

### 1. **Approved plans and supporting documentation**

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No.	Revision No.	Plan Title	Drawn by	Dated
-	-	Zipline Site Plan	-	19/10/2021

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

**Note:** an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

### 2. **Conditions prescribed by the Regulation**

This development consent is subject to the conditions prescribed by the regulations in accordance with subsection 4.17(11) of the Environmental Planning and Assessment Act 1979. Conditions are provided in a **Schedule** of this consent.

### 3. **Use of Zipline**

The zipline is not to be used for any commercial purposes and is only to be used by the occupants of the property.

## The following conditions are to be complied with prior to occupation of the building

### 4. **Works to be completed prior to issue of a Final Occupation Certificate**

Any works indicated on the plans and approved by this consent, including any other consents that are necessary for the completion of this development including approvals issued under the *Local Government Act 1993* and the *Roads Act 1993*, are to be completed and approved by the relevant consent authority/s prior to the issue of a Final Occupation Certificate.

Any Security bond paid for this application will be held until Council is satisfied that no further works are to be carried out that may result in damage to Councils road/footpath reserve.

### 5. **Pre-use certification of zipline**

A detailed report and certification from a suitably qualified and experienced professional must be provided that confirms and demonstrates that the zipline and all associated structures, platforms, anchors, nets and the like are constructed in accordance with relevant Australian Standards and guidelines including, but not limited to:

- a. AS 2316.2.1- 2016 – Flying foxes and challenge ropes courses- Construction and safety requirements ( EN 15567-1:2007, MOD)
- b. AS 2316.2.2- 2016 – Flying foxes and challenge ropes courses- Operation requirements ( EN 15567-2:2007, MOD)

c. NSW Government Code of Practice Safe design of Structures August 2019

6. **Occupation certificate for primitive campground**

Evidence of an occupation certificate for the primitive campground (DA 5.1989.173.1 ) must be provided to Council prior to an occupation certificate being issued for the zipline.

7. **Long Service Levy to be paid**

In accordance with Section 4.68 of the *Environmental Planning and Assessment Act 1979* (as amended), any Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) must be paid (as applicable).

These payments can be made online at [www.longservice.nsw.gov.au](http://www.longservice.nsw.gov.au). Proof of payment is required to be submitted.

For further information regarding the Long Service Payment please refer to the website above.

**The following conditions are to be complied with at all times**

8. **Annual certification of zipline and structures**

The zipline and all associated structures, platforms, anchors, nets and the like must be inspected annually by a suitably qualified and experienced professional and certified as being constructed and maintained in accordance with relevant Australian Standards and guidelines including, but not limited to:

- a. AS 2316.2.1- 2016 – Flying foxes and challenge ropes courses- Construction and safety requirements ( EN 15567-1:2007, MOD)
- b. AS 2316.2.2- 2016 – Flying foxes and challenge ropes courses- Operation requirements ( EN 15567-2:2007, MOD)
- c. NSW Government Code of Practice Safe design of Structures August 2019

Records of inspections must be kept and provided to Council on request.

9. **Annual report by arborist**

Trees being used, or potentially affected, by the zipline must be inspected annually by a suitably qualified and experienced arborist to confirm that:

- a. the trees remain adequate and suitable in terms of their use for the zipline; and
- b. the use of the trees for the zipline is not resulting in any adverse impacts on the health of the trees.

Records of arborist inspections must be kept and provided to Council on request.

**SCHEDULE 3. PRESCRIBED CONDITIONS**

**The prescribed conditions in accordance with Part 6 Division 8A of the Environmental Planning and Assessment Regulation as at the date of this development consent as are of relevance to this development must be complied with:**

- Clause 98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989
- Clause 98A Erection of signs
- Clause 98B Notification of Home Building Act 1989 requirements
- Clause 98C Conditions relating to entertainment venues
- Clause 98D Condition relating to maximum capacity signage
- Clause 98E Condition relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Part 6 Division 8A of the [Environmental Planning and Assessment Regulation 2000](http://www.legislation.nsw.gov.au). This can be accessed at <http://www.legislation.nsw.gov.au>.

**SCHEDULE 4. REASONS FOR DECISION, HOW COMMUNITY VIEWS WERE ADDRESSED**

*Note: From July 1 2018, Council's are required to give and publicly notify reasons for a range of planning decisions where they are deciding if development should proceed to help community members to see how their views have been taken into account and improve accountability to stakeholders. A statement of reasons for the determination of this application is provided below.*

<b>Statement of Reasons</b>
The proposed modifications were minor and substantially the same as the original development approval with no detrimental environmental impacts.
The proposed development complies with the provisions of Byron Local Environmental Plan 1988.
The proposed development complies with the provisions of Byron Local Environmental Plan 2014.
The proposed development complies with relevant State Environmental Planning Policies
The proposed development complies with relevant provisions of Development Control Plan 2014
The proposed development complies with relevant provisions of Development Control Plan 2010
The proposed development complies with Environmental Planning & Assessment Regulation 2000 considerations.
The proposed development will not have significant adverse impact on the natural, built or social environment or economic impacts on the locality.
The proposed development is considered suitable for the proposed site.
The development application was notified/advertised in accordance with Council's Community Participation Plan. Issues raised in the submissions have been addressed during assessment of the application.
The proposed development is unlikely to prejudice or compromise the public interest.
The proposed development will not have a detrimental impact on the heritage character of the precinct or the buildings contained on the site. It is considered consistent with the heritage provisions contained within Clause 5.10 of Local Environmental Plan 2014.

The proposed development will not have a detrimental impact on the heritage character of the precinct or the buildings contained on the site. It is considered consistent with the heritage provisions contained within Development Control Plan 2014.

#### How community views were addressed

The DA did not require advertising or notification as per Council's Community Participation Plan.

The DA was notified/advertised in accordance with Council's Community Participation Plan. No submissions were received.

The DA was advertised in accordance with Council's Community Participation Plan. The submissions received were considered on merit and addressed during assessment of the application.

To view the considerations, please contact Council to view a copy of the assessment report relating to this DA.

## SCHEDULE 5. NOTES

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### Construction Certificate required:

This development consent is issued under the Environmental Planning and Assessment Act 1979 and does not relate to structural aspects or specifications of the building under the Building Code of Australia. All buildings and alterations require the issue of a Construction Certificate prior to works commencing. Application forms are available from the customer services counter or Council's website [www.byron.nsw.gov.au](http://www.byron.nsw.gov.au)

### Principal Certifying Authority:

Work must not commence until the applicant has:-

- a. appointed a Principal Certifying Authority (if the Council is not the PCA); and
- b. given Council at least two days notice of the intention to commence the erection of the building. Notice must be given by using the prescribed 'Form 7'.
- c. notified the Principal Certifying Authority of the Compliance with Part 6 of the Home Building Act 1989.

### Occupation Certificate required:

The building must not be occupied until the Principal Certifying Authority has issued an Occupation Certificate.

### Protection of the Environment Operations Act 1997:

It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ("on-the-spot fine") or prosecution.

### Penalties apply for failure to comply with development consents

Failure to comply with conditions of development consent may lead to an on the spot fine being issued pursuant to section 4.2(1) of the Environmental Planning & Assessment Act 1979 or prosecution pursuant to section 9.50 of the Environmental Planning & Assessment Act 1979

**Relics Provisions- Advice**

Attention is directed to the NSW Heritage Act 1977 and the provisions of the Act in relation to the exposure of relics. The Act requires that if:

- a) a relic is suspected, or there are reasonable grounds to suspect a relic in ground, that is likely to be disturbed damaged or destroyed by excavation; and/or
- b) any relic is discovered in the course of excavation that will be disturbed, damaged or destroyed by further excavation;

Those responsible for the discovery must notify nominated management personnel who will in turn notify the Heritage Council of New South Wales or its delegate, the Office of Environment and Heritage, NSW Heritage Branch, and suspend work that might have the effect of disturbing, damaging or destroying such relic until the requirements of the NSW Heritage Council have been satisfied (ss139, 146).