



Paintball Regulation 2024

Regulatory Impact Statement

June 2024

Acknowledgement of Country

The NSW Department of Customer Service acknowledges the Traditional Custodians of the lands where we work and live. We celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of NSW.

We pay our respects to Elders past and present and acknowledge the Aboriginal and Torres Strait Islander people that contributed to the development of this regulatory impact statement.

We advise this resource may contain images, or names of deceased persons in photographs or historical content.

Paintball Regulation 2024

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Information contained in this publication is based on knowledge and understanding at the time of writing, June 2024, and is subject to change.

This publication avoids the use of legal language, with information about the law summarised or expressed in general statements. The information in this document should not be relied upon as a substitute for professional legal advice.

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Glossary of abbreviations and terms

Acronym/term	Definition
Act	<i>Paintball Act 2018</i>
Amendment Act	<i>Paintball Amendment Act 2023</i>
Bill	<i>Paintball Amendment Bill 2023</i>
CPI	Consumer Price Index
Current Regulation	<i>Paintball Regulation 2019</i>
DA	Development Application
Department	Department of Customer Service
Draft Bill	<i>Paintball Amendment (Statutory Review) Bill 2022</i>
Fee unit	A base unit used in the calculation of fees payable. Fee units are adjusted annually to account for the change in CPI. For 2023-24, the value of a fee unit is \$115.29.
Firearms Act	<i>Firearms Act 1996</i>
Minister	Minister for Fair Trading
Nominated venue	A location other than an authorised paintball venue where paintball markers are permitted to be used, with prior authorisation from the Secretary
Paintball marker sharing arrangement	An arrangement where a paintball marker is supplied by the holder of a paintball venue permit to another holder of a paintball venue permit holder in accordance with the Regulation
Proposed Regulation	<i>Paintball Regulation 2024</i>
SL Act	<i>Subordinate Legislation Act 1989</i>
Review	The Statutory Review of the <i>Paintball Act 2018</i>
RIS	Regulatory Impact Statement

Executive Summary

Paintball is a sport that is enjoyed recreationally and competitively by thousands of people in NSW, with approximately 3,020 paintball marker permits and 45 venue permits registered as of 31 May 2024. The sport is governed by the Act and the current Regulation, which set out a modern permit system and regulatory framework for the use of paintball markers and activities in NSW.

In 2022, the Department undertook a review of the Act and made a number of recommendations to improve its operation and effectiveness. These recommendations will be implemented by the Amendment Act which is scheduled to commence on 1 September 2024. The proposed Regulation, which is intended to provide legislative support for the operation of the Amendment Act, is the final step in implementing the recommendations outlined in the review.

The current Regulation will lapse on 1 September 2024 unless the Regulation is remade with or without changes. The Department proposes to remake the Regulation with consequential amendments arising from the Amendment Act as well as changes that would clarify and streamline application and licencing processes and improve overall compliance and enforcement.

Before remaking a lapsing regulation, the SL Act generally requires the preparation of a RIS and a period of public consultation to assess the impacts of the proposed Regulation and consider alternative options. This RIS has been developed for the purposes of public consultation and should be read in conjunction with the proposed Regulation.

The key changes in the proposed Regulation and as outlined in the RIS include:

- setting out a process for applications to seek authorisation and administrative review for using paintball markers outside of authorised paintball venues
- clarifying what information is required to be retained or recorded to identify a paintball marker without a serial number
- defining processes regarding the disposal of paintball markers
- introducing a new ground for the refusal, suspension or cancellation of a permit
- introducing new penalty notice amounts for failure to show or display paintball marker and venue permits, and unlawfully disposing of paintball markers.
- updating fees in line with the CPI.

The RIS also sets out the rationale and objectives of the proposed Regulation and the various options for achieving these and includes discussion points for public comment.

The proposed Regulation will be available for a four-week consultation period. Feedback is invited on any or all matters raised in the RIS and discussion points. The Department also invites feedback on matters not addressed in the RIS. All feedback on the RIS and proposed Regulation will inform the final drafting of the Regulation.

1

Introduction

Introduction

1.1 Requirements of the RIS

Under Section 10(2) of the SL Act, a regulation is automatically repealed after it has been in force for five years. The current Regulation commenced on 1 September 2019 and is therefore set to be repealed on 1 September 2024 unless it is remade.

Section 5 of the SL Act generally requires a RIS to be prepared before a regulation is remade. The RIS must contain substantial background information regarding the proposed regulation and must include the following matters:

- A statement of the objectives sought to be achieved and the reasons for them.
- An identification of the alternative options by which those objectives can be achieved.
- An assessment of the costs and benefits of the proposed statutory rule, including the costs and benefits relating to resource allocation, administration, and compliance.
- An assessment of the costs and benefits of each alternative option to the making of the statutory rule (including the option of not proceeding with any action), including the costs and benefits relating to resource allocation, administration, and compliance.
- An assessment as to which of the alternative options involves the greatest net benefit or the least net cost to the community.
- A statement of the consultation program to be undertaken.

This RIS has been prepared in accordance with the SL Act and is designed to:

- identify and assess the direct and indirect costs and benefits of the proposed Regulation, to ensure that it is necessary, appropriate, and proportionate to risk.
- demonstrate, when compared to alternative options, that it provides the greatest net benefit or the least net cost to the community.
- demonstrate that any regulatory burden or impact on government, industry or the community is justified.

1.2 Objective and Rationale for the Proposed Regulation

Need for Government Action

Government action is necessary as the current Regulation is due for automatic repeal on 1 September 2024 under the SL Act.

Objective

The primary objective of the Regulation is to provide legislative support and administrative detail for the operation of the Act and the Amendment Act. The Regulation is a detailed component of the paintball industry regulatory framework in NSW and forms a critical link between the Act and

monitoring compliance. It is integral to the effective operation and achievement of the Acts objectives.

The objects of the Act are to:

- recognise that paintball markers are not firearms
- remove the regulation of paintball markers from the *Firearms Act 1996*
- establish a system of permits and requirements for the regulation of paintball markers and paintball venues, that:
 - secures the safety and security of paintball players and the community
 - reduces red tape for businesses and
 - provides businesses with enhanced levels of customer service.

The aim of the proposed Regulation is to:

- maintain the integrity of the paintball industry regulatory framework in NSW
- clarify and streamline application and licencing processes
- ensure public safety from any unauthorised use and misuse of paintball markers
- improve compliance and enforcement outcomes.

1.3 Consultation process

Making a submission

Interested organisations and individuals are invited to provide a submission on any or all matters relevant to the proposed Regulation. While the discussion points have been designed to encourage consideration of the key changes in the proposed Regulation, the Department would also like to hear your views on matters that have not been discussed.

Matters covered by the principal Act are not the subject of this consultation process.

You can make a submission by:

- **uploading** a written submission to the NSW Government Have Your Say website <https://www.haveyoursay.nsw.gov.au/should-paintball-regulations-change>
- **emailing** your written submission to: paintballreview@customerservice.nsw.gov.au.

If you choose to email your written submission, the Department requests that any documents provided to us are produced in an “accessible” format. Accessibility is about making documents more easily available to those members of the public who have some form of impairment (visual, physical, cognitive). Further information on how you can make your submission accessible is contained at <http://webaim.org/techniques/word/>.

The closing date for submissions is 30 June 2024

We invite you to read this paper and provide comments. You can download the RIS and the proposed Regulation from www.fairtrading.nsw.gov.au. Printed copies can be requested from NSW Fair Trading by phone on 13 32 20.

Complete the survey

You can also share your views on matters relating to the proposed Regulation by completing the survey on the NSW Government Have Your Say website here:

<https://www.haveyoursay.nsw.gov.au/should-paintball-regulations-change>

Discussion points raised in this RIS reflect the questions in the survey. This option is available if you would like to answer the discussion points raised in this RIS in an alternative form.

The closing date for the survey is 30 June 2024

Important note: release of submissions

All submissions will be made publicly available. If you do not want your personal details or any part of your submission published, please indicate this clearly in your submission together with reasons. Automatically generated confidentiality statements in emails are not sufficient. You should also be aware that, even if you state that you do not wish certain information to be published, there may be circumstances in which the government is required by law to release that information (for example, in accordance with the requirements of the *Government Information (Public Access) Act 2009*). It is also a statutory requirement that all submissions are provided to the Legislation Review Committee of Parliament.

Identified stakeholders

This RIS has been provided directly to some stakeholder organisations.

Evaluation of submissions

All submissions will be considered and assessed. The proposed Regulation will be amended, if necessary, to address issues identified in the consultation process. If further information is required, targeted consultation will be held before the proposed Regulation is finalised.

Commencement of the Regulation

After the Minister has finalised the Regulation, it will be submitted to the Governor for approval.

Once approved by the Governor, the Regulation will be published on the official NSW Government website for online publication of legislation at www.legislation.nsw.gov.au and in the NSW Government Gazette. Information on how to access the Gazette is available on the NSW Parliamentary Counsel's website.

It is proposed the Regulation will commence on **1 September 2024**.

2

Legislative context

Legislative context

2.1 Paintball Act 2018

The Act commenced on 1 July 2019, and removed the regulation of paintball markers and associated activities from the firearms legislation. Instead, it established a separate system of permits for the regulation of paintball markers, venues, and related activities. This new framework made it easier to play paintball and run a paintball business, while maintaining robust public safety.

Prior to the commencement of the Act, paintball markers were classified as prohibited firearms under the Firearms Act, which is administered by the NSW Police Force. This meant that in order to purchase a paintball marker, a person had to apply for and be granted both a firearms licence and a permit to acquire a firearm, as well as complete a firearms safety training course. Once purchased, a paintball marker had to be registered on the Register of Firearms.

The Act removed paintball markers from the list of prohibited firearms in the Firearms Act and reclassified them as sporting devices. The Act also transferred responsibility for the regulation of paintball markers, venues, and related activities from the NSW Police Force to NSW Fair Trading within the Department.

2.2 Paintball Regulation 2019

The current Regulation commenced on 1 July 2019. The purpose of the current Regulation is to provide administrative detail for the practical application and enforcement of the Act, including:

- paintball marker sharing arrangements between venues
- paintball marker register
- training requirements for new permit applicants, as well as for those who supervise the use of paintball markers at paintball venues
- safety requirements on protective clothing and equipment to enter a paintball area
- fees and penalty notice offences
- provides for equivalent interstate paintball marker authorisations to be recognised in NSW.

2.3 The Statutory Review of the Paintball Act 2018

In 2022, the Department conducted a review of the Act to ensure that its policy objectives remained valid and that its terms were appropriate for achieving those objectives. The Review also considered, in light of the policy objectives, whether other Acts (i.e., the *Crimes Act 1900*) continued to deal appropriately with paintball markers.

The Department commenced public consultation with the release a discussion paper in November 2021 to garner public feedback on the effectiveness of the Act. The consultation received 93 written submissions and 81 survey responses, each of which were considered by the Department and contributed to the development of the Review's final recommendations.

The Review found that while the legislation continues to meet its policy objectives and its terms remain largely appropriate for achieving these, it could be improved. The Review made six legislative recommendations intended to:

- strengthen the Act's effectiveness
- create an even playing field for NSW and interstate paintball marker suppliers
- introduce flexibility to allow the use of paintball markers for other uses where the use is genuine and presents a low risk to public safety
- enhance safety provisions and clarify the original intent of the law.

The Review was tabled in August 2022.

2.4 The Paintball Amendment Act 2023

Following the Review, the Department developed the Draft Bill which was designed to implement the recommendations of the Review. The Department undertook public consultation on the Draft Bill from November 2022 to March 2023 and used the feedback from this consultation to develop the final Bill. The Department undertook further consultation on the final Bill which was passed in Parliament on 11 October 2023 and implemented the recommendations of the Review and subsequent consultations.

The Amendment Act was assented to on 24 October 2023. The Act will commence in line with the Regulation on 1 September 2024, and will make the following amendments to the Act:

- require the holder of a paintball marker permit to show their permit before entering an authorised venue if they wish to use their own marker
- require authorised venues to sight the paintball marker permit of a person who chooses to use their own paintball marker at the venue
- require authorised venues to display their paintball venue permit, or permit number and registered business name, at the paintball venue and on their website or social media platform
- allow paintball markers to be left unattended only if the paintball marker is secured in a locked vehicle
- clarify that a paintball marker permit or an international paintball competitor permit allows for ownership of more than one paintball marker
- allow the Secretary to authorise the use of paintball markers outside paintball venues and provide for the regulations to be made in relation to applications for the authorisation
- allow licenced interstate suppliers to supply paintball markers to NSW consumers via an authorised supplier, and allow the Act to have extraterritorial application to support this
- clarify that if a paintball marker is also an imitation firearm, a person may be required to hold both a paintball marker permit and an imitation firearm permit
- introduce penalties for failure to comply with the display and sighting of permit requirements

2.5 NSW Fair Trading

The Act and the current Regulation are administered and enforced by the Department through NSW Fair Trading. NSW Fair Trading is responsible for the establishment a streamlined permit system for the regulation of paintball markers, venues and related activities.

Specifically, NSW Fair Trading is responsible for the:

- registration of paintball markers
- enforcement of penalty notice offences
- licencing and compliance of permit conditions.

3

Identification of options

Identification of Options

3.1 Option development

Before a regulation can be remade, the SL Act requires that the objectives sought to be achieved by the regulation are evaluated to ensure that they are:

- reasonable and appropriate
- accord with the objectives, principles, spirit and intent of the enabling Act
- not inconsistent with the objectives of other Acts, statutory rules and government policies

Consideration must also be given to alternative options for achieving those objectives as well as the to the costs and benefits expected to arise from each option to ensure that any regulatory burden or impact on government, industry or the community is justified.

3.2 Options for achieving objectives

The primary objective of the proposed Regulation is to ensure the continued operation of the Act as intended and to maintain the integrity of the paintball regulatory framework in NSW. Three options were assessed and are detailed below:

Option 1: Take no action

Taking no action means the current Regulation would lapse on 1 September 2024 and the proposed Regulation would not be made. This would result in no regulation to support the Act.

Options 2: Maintain the status quo

The proposed Regulation would not be made. Instead, the current Regulation would be remade with no changes to existing provisions. Maintaining the status quo would result in fewer benefits for public safety that could otherwise be realised.

Option 3: Make the proposed Regulation

Under the proposed Regulation, existing provisions may be rolled over where relevant and other provisions are updated or inserted to ensure they are consistent with the Amendment Act. This will ensure the safety of the public and maintain the integrity of the paintball regulatory framework.

3.3 Criteria used to assess regulatory options

The following criteria was used to evaluate the three options presented in this RIS:

- the extent to which the option supports the objectives of the Act
- the cost effectiveness of each option, in terms of costs and benefits to industry, consumers and government
- the extent the option contributes to the overall efficiency of the regulatory system.

4

Impact assessment of options

Impact assessment of options

4.1 Option 1: Take no action

This option would mean that the current Regulation lapses under the sunset provision of the SL Act with no replacement.

Under Option 1, the obligations under the Act would remain in force. However, paintball venues and permit holders would have to independently determine how to best comply with those obligations without the administrative guidance and procedures detailed within the Regulation.

The recommendations outlined in the Review would not be enacted resulting in weakened protection for the community and increased administrative burden on paintball venues.

This option is **not preferred**.

	Industry	Public	Government
Costs	Cost of determining how to meet the Act requirements Confusion and disruption	Weakened protection for individuals at paintball venues	Cost of assessing paintball venue compliance with the Act Likelihood of increased consumer complaints regarding paintball venue compliance and safety Unable to implement the recommendations of the Review
Benefits	Savings from fees outlined in the Regulation	No identifiable benefits	Administrative savings from not having to review and remake Regulation in the future

4.2 Option 2: Maintain the status quo

This option would mean that the proposed Regulation is not implemented and instead the current Regulation is remade without any changes.

Under Option 2, the current Regulation would be remade and will continue to regulate paintball venues through their current obligations.

The recommendations outlined in the Review would not be enacted resulting in reduced protection for the community in paintball venues.

This option is **not preferred**.

	Industry	Public	Government
Costs	Likelihood of cost incurred due to non-compliance of new penalty notice offences outlined in the Amendment Act	Weakened protection for individuals at paintball venues	Opportunity loss from not having a more effective and robust compliance framework Unable to implement the recommendations of the Review
Benefits	No requirement to update existing policies, processes, and systems to meets the needs of new Regulation No increase in compliance costs	No identifiable benefits	Guidance and advice materials for paintball venues would not need to be updated or remade

4.3 Option 3: Make the proposed Regulation

This option would mean that the proposed Regulation with amendments would be made to repeal the current regulation when it lapses on 1 September 2024.

Under Option 3, the proposed Regulation will provide an updated regulatory framework reflecting increased consumer safety and streamlined administrative processes. It will replace or remove any outdated provisions and provide greater flexibility for operators.

The recommendations outlined in the Review would be enacted to meet the objectives of the principal Act.

This is the preferred option.

	Industry	Public	Government
Costs	Cost of updating existing policies, processes, and systems to meets the needs of new Regulation	No identifiable costs	Guidance and advice materials for paintball venues would need to be updated or remade Operational staff would need to be retrained
Benefits	Improvements in administrative efficiency Greater flexibility for use of paintball markers outside authorised paintball venues Consistent application and improved compliance and enforcement outcomes	Increased protection for individuals at paintball venues Continued public confidence in sector	Updated and modern regulatory scheme which is more effective Decrease in enquiries relating to requirements needed before paintball venue and marker permits are issued Likelihood of reduced complaints resulting in saving time and money

Preferred Option

Option 3 is the preferred option.

Remaking the current Regulation with amendments will best support the objectives of the Act and maintain the benefits of the current Regulation while providing additional improvements. The proposed changes to the current regulatory framework include exemptions for the use of paintball markers outside authorised paintball venues, streamlined administrative processes, and the promotion of a stronger compliance and enforcement framework.

Options		Costs	Benefits	Overall benefit
1	Take no action	High	Low	Negative
2	Maintain the status quo	Low	Low	Neutral
3	Make the proposed Regulation	Low	High	Positive

5

Discussion of the proposed Regulation

Discussion of the proposed Regulation

The Department welcomes submissions on any aspect of the Regulation, including issues that have not been addressed in the RIS. To assist with making a submission, the Department has developed the following discussion points. These points provide further context regarding the proposed Regulation and outline how the proposed amendments will improve the regulation of Paintball.

5.1 Date of commencement

The current Regulation is set to be repealed on 1 September 2024. The proposed Regulation will replace the current Regulation on 1 September 2024.

A number of proposed amendments have licencing impacts that will require updates to our digital platforms. If the systems are not prepared ahead of the 1 September 2024 commencement date, these provisions will commence on proclamation.

5.2 Use of paintball markers other than at authorised paintball venues

The Act currently prohibits the use of paintball markers outside of authorised paintball venues. The Amendment Act which commences on 1 September 2024 will introduce changes that will enable the Secretary to authorise the use of paintball markers at places other than authorised paintball venues (the nominated venue) in special circumstances. For example, the Secretary may authorise the use of paintball markers in university settings to conduct research into eye and face protection.

The proposed Regulation prescribes matters in relation to applications for authorisation.

5.2.1 Applications for the use of paintball markers other than at authorised venues

Section 4 of the proposed Regulation outlines the process for making an application to the Secretary to use a paintball marker at a nominated venue. The application must:

- Be made to the Secretary
- Be made in the form approved by the Secretary
- Include any information that the Secretary may require to assess the application
- Be accompanied by the specified fee.

5.2.2 Deciding applications and considerations for deciding applications

Under Section 5 of the proposed Regulation, the Secretary may grant or refuse an application for an authorisation to use a paintball marker at a nominated venue. The Secretary may grant an authorisation either with or without conditions.

The proposed Regulation outlines the factors the Secretary must consider when deciding whether to grant or refuse an application. Section 6 prescribes that the Secretary must take into account:

- Information provided by the applicant in the approved application form
- Whether the applicant has been the subject of any disciplinary action under the Act.

- Suitability of the proposed location
- Whether the applicant's proposed use of the paintball marker can be accommodated by an authorised paintball venue
- Whether the applicants proposed use of the nominated venue poses a risk to public safety
- Public interest.

The purpose of this section is to provide greater transparency and clarity about applicant eligibility to use paintball markers at a nominated venue. It also ensures that the Secretary's authorisation is subject to limitations and is used only in special circumstances.

5.2.3 Review of determination of application

Section 5(3)(e) of the Amendment Act will allow the Regulation to prescribe the process for applications to the Civil and Administrative Tribunal for administrative review under the *Administrative Decisions Review Act 1997*.

Section 7 of the proposed Regulation gives effect to Section 5(3)(e) of the Act by outlining that an applicant can apply to the Tribunal for an administrative review of a decision made by the Secretary under Section 5 to either grant or refuse an application for an authorisation to use a paintball marker at a nominated venue.

5.2.4 Fees for an application to use a paintball marker outside an authorised venue

Under the proposed Regulation, applications to the Secretary for authorisation to use a paintball marker at a place other than an authorised paintball venue will be subject to a fee. The Department has determined the fee of 0.95 fee units. This is consistent with fees applied in other Regulations for applications that require Secretary approval.

Schedule 1, Part 1 of the proposed Regulation prescribes this fee for the purpose of offsetting the administrative costs related to processing the application.

1. Are the suggested factors that the Secretary must consider when approving the use of paintball markers outside authorised paintball venues appropriate? If not, why?
2. Are there any additional factors that the Secretary should consider when approving an application to use paintball markers outside authorised paintball venues?
3. Is the proposed fee for applications to use paintball markers outside authorised paintball venues appropriate and reasonable?

5.3 Information to identify a paintball marker without a serial number

5.3.1 Record keeping for paintball marker sharing arrangements

Under the current Regulation, the supplier of a paintball marker under a paintball marker sharing arrangement is exempt from the requirement to notify the Secretary of the supply, if the paintball marker is returned within 14 days. The supplier and the recipient must, however, comply with the record keeping requirements as prescribed by Section 6(4) of the current Regulation.

Section 6(4)(b) of the current Regulation requires that the supplier and recipient of the paintball marker retain a record specifying, *“the serial number of the paintball marker, or for a paintball marker that has no serial number, information that the Secretary considers sufficient to enable the paintball marker to be identified”*.

There is currently no guidance as to what constitutes “sufficient information” for the purpose of keeping a record of the supply of a paintball marker that does not have a serial number. Section 8(4)(c) of the proposed Regulation seeks to rectify this by providing the following as examples of information:

- the maker of the marker
- the colour or unique marking on the marker

This amendment ensures that paintball venue permit holders are aware of information that should be retained for paintball marker without serial numbers, should such information be required for inspection.

5.3.2 Information to be included in the Register of paintball markers

As required by Section 65 of the Act, the Secretary is to compile and maintain a Register of paintball markers. The Register is designed to provide NSW Fair Trading with necessary information regarding the possession and location of paintball markers across NSW.

Section 9 of current Regulation outlines the information that is required to be included in the Register of paintball markers. Subsection (a) requires that *“for a paintball marker that has no serial number, information that the Secretary considers sufficient to enable the paintball marker to be identified”*.

There is currently no guidance as to what constitutes “sufficient information” for the purposes of identifying a paintball marker that does not have a serial number. Section 13(a) of the proposed Regulation seeks to rectify this by providing the following as examples of information:

- the maker of the marker
- the colour or unique marking on the marker

This amendment ensures that paintball markers recorded on the Register of paintball markers can be identified without a serial number, using the information provided under the proposed Section 13(a).

4. Are the examples of information required to be retained or recorded for the purposes of identifying a paintball marker without a serial number clear? If not, how can we make this clearer?
5. Are there any other identifying features of a paintball marker that should be included for the purpose of identifying a paintball marker without a serial number?

5.4 Disposal of paintball markers

Under section 35 of the Act, the regulation may set out requirements regarding the maintenance, repair, and disposal of paintball markers. However, the current Regulation does not outline a process for disposing of paintball markers.

Section 15 of the proposed Regulation defines the process of disposing paintball markers as:

- the severing of the chassis of the marker to make the marker permanently inoperable
- the destruction of the serial number
- the metal parts of the inoperable marker must be sent to a scrap metal dealer

A maximum penalty of 50 penalty units will apply to authorised suppliers who do not dispose of a paintball marker in accordance with Section 15 of the Regulation.

The purpose of this provision is to provide clarity for authorised suppliers who are responsible for disposing of paintball markers and to ensure that all paintball markers that are no longer in use are disposed of in a safe and appropriate way.

6. Does the proposed process make it clear to authorised suppliers as to the correct way of disposing of paintball marker? If not, why?
7. If you are an authorised supplier, what is the current process of disposal you are following?
8. Are there any other considerations to strengthen the process of disposing of paintball markers?

5.5 Grounds for refusal of paintball related permits

When assessing an application for a paintball venue permit, the Department considers whether the applicant has Council DA approval to operate a paintball venue. The requirement to provide evidence of DA approval is publicised on the NSW Fair Trading website. However, at this stage, the paintball venue permit application form does not include this requirement

To clarify existing NSW Fair Trading application processes, section 16 of the proposed Regulation introduces a new ground for the refusal of a paintball venue permit where the applicant does not provide information demonstrating that they have been granted approval under the *Environmental Planning and Assessment Act 1979* to use of the premises as a paintball venue.

9. Does the proposed change clarify existing NSW Fair Trading application processes? If not, how can we make this clearer?

5.6 Penalty notice offences

Schedule 2 of the Regulation specifies the penalty notice amounts for a contravention of offences as prescribed by the Act and the Regulation. The proposed Regulation will update Schedule 2 to include the penalty notice amounts for a contravention of the following offences that will be introduced by the Amendment Act and the proposed Regulation:

- **Section 36A of the Amendment Act** which requires the holder of a paintball venue permit to display a copy of their permit at the venue, and on any public websites or social media accounts. A contravention of Section 36A will incur a penalty notice amount of \$1,320 for corporations and \$330 for individuals.
- **Section 36B of the Amendment Act** which requires the holder of a paintball venue permit to ensure that a person does not use their own paintball marker at the paintball venue unless the person's paintball marker permit has been shown. A contravention of Section 36B will incur a penalty notice amount of \$3,600 for corporations and \$720 for individuals
- **Section 15 of the proposed Regulation** which requires an authorised supplier to dispose of a paintball marker in accordance with the process prescribed by the Section. A contravention of Section 15 will incur a penalty notice amount of \$3,000 for corporations and \$600 for individuals.

10. Do you support the proposed penalty notice amounts for these new offences? If not, why?

5.7 Adjustment of fees for inflation

Each year, fees for services provided by NSW Fair Trading are updated according to CPI increases. This ensures that consumers are charged for the real cost of processing applications and the provision of related services.

Fee adjustments occur at the start of each financial year on 1 July. The fees under the current Regulation are therefore due to increase on 1 July 2024.

The final Regulation may differ from the proposed Regulation. It is likely that Schedule 1, Part 2, Clause 2(1)(a) will be updated to reflect the fee amount for the 2024-2025 financial year. This removes the need for the table in the editorial note. This is merely an administrative amendment and will not impact the fee structure or the operation of the Regulation.

6

Appendices

6.1 Regulation making powers

Section	Regulation making power under the Act	Scope of the proposed regulation
5(3)	Permits the Regulation to prescribe matters in relation to applications for authorisation from the Secretary.	<p>Section 4</p> <p>Outlines the application a person may make to the Secretary to use a paintball marker outside an authorised venue.</p> <p>Section 6</p> <p>Outlines the factors the Secretary must take in account when deciding whether to grant or refuse an application to use a paintball marker other than at an authorised venue.</p> <p>Section 7</p> <p>Outlines the process for applications to the Civil and Administrative Tribunal for administrative review for applications to use a paintball marker other than at an authorised venue.</p> <p>Schedule 1, Part 1, Item 6</p> <p>Prescribes the fee payable for an application to use a paintball marker at a place other than an authorised venue.</p>
11(1)(d)	Permits the Regulation to prescribe matters relating to the supply of paintball markers under a paintball marker sharing arrangement	<p>Section 8</p> <p>Provides examples of information that should be retained for the purpose of keeping a record of the supply of a paintball marker that does not have a serial number.</p>
65(6)	Prescribes that the Regulations may make provisions with respect to the Register of paintball markers	<p>Section 13</p> <p>Provides examples of information that should be recorded on the Register of paintball markers so that a paintball marker without a serial number can be identified.</p>
35	Permits the Regulation to set out requirements for or with respect to the maintenance, repair and disposal of paintball markers.	<p>Section 15</p> <p>Defines the process for disposing of paintball markers</p>
17(2)	Permits the Regulation to set out any grounds that the Secretary may refuse a permit.	<p>Section 16</p> <p>Sets out the ground that the Secretary may refuse a paintball venue permit if the applicant does not provide evidence of Council approval of a DA.</p>
74	Permits the Regulation to set out a penalty notice offence and the amount payable under penalty notice	<p>Schedule 2</p> <p>Specifies the penalty notice amounts for a contravention of new provisions introduced by</p>

Section	Regulation making power under the Act	Scope of the proposed regulation
		the Amendment Act and the proposed Regulation.

6.2 List of question from the RIS

Focus Questions
<p>Use of paintball markers outside a paintball venue (Section 4)</p> <ol style="list-style-type: none"> 1. Are the suggested factors that the Secretary must consider when approving the use of paintball markers outside authorised paintball venues appropriate? If not, why? 2. Are there any additional factors that the Secretary should consider when approving an application to use paintball markers outside authorised paintball venues? 3. Is the proposed fee for applications to use paintball markers outside authorised paintball venues appropriate and reasonable?
<p>Information to identify a paintball marker without a serial number (Sections 8 and 13)</p> <ol style="list-style-type: none"> 4. Are the examples of information required to be retained or recorded for the purposes of identifying a paintball marker without a serial number clear? If not, how can we make this clearer? 5. Are there any other identifying features of a paintball marker that should be included for the purpose of identifying a paintball marker without a serial number?
<p>Disposal of paintball markers (Section 15)</p> <ol style="list-style-type: none"> 6. Does the proposed process make it clear to authorised suppliers as to the correct way of disposing of paintball marker? If not, why? 7. If you are an authorised supplier, what is the current process of disposal you are following 8. Are there any other considerations to strengthen the process of disposing of paintball markers?
<p>Grounds for refusal of paintball related permits (Section 16)</p> <ol style="list-style-type: none"> 9. Does the proposed change clarify the grounds to which the Secretary can refuse a permit?
<p>Penalty notice offences (Schedule 2)</p> <ol style="list-style-type: none"> 10. Do you support the proposed penalty notice amounts for these new offences? If not, why?

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