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 For

Clerk of the Parliaments

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## PAINTBALL AMENDMENT BILL 2023

### Statement of Public Interest

#### **Need: Why is the policy needed, based on factual evidence and stakeholder input?**

The Paintball Amendment Bill 2023 (the Bill) is the result of the Statutory Review of the *Paintball Act 2018* (the Review), which was tabled in the NSW Parliament in June 2022.

The *Paintball Act 2018* (the Act) sets out a modern permit system and regulatory framework for paintball markers and activities, removing red tape for paintball businesses and making it easier for the people of NSW to play paintball in a safe and controlled environment.

The Review was required under section 81 of the Act, to ensure the policy objectives of the Act remain valid, and the terms of the Act remain appropriate for securing those objectives.

Stakeholder views were essential to the formation of the Review's recommendation and implement and design of the Bill. During the two rounds of consultation, 375 responses were received.

The Review and Bill also took into consideration the advice from the NSW Police, the Department of Communities and Justice and the Premiers' Department and the Cabinet Office.

#### **Objectives: What is the policy's objective, couched in terms of the public interest?**

The Bill seeks to make improvements to the regulation of paintball markers and venues by:

- enhancing the safety provisions to ensure public and user safety;
- introducing flexibility into the Act by providing the Secretary of the Department of Customer Service with the power to authorise the use of paintball markers outside of authorised venues, under certain circumstances;
- recognise licensed interstate paintball marker suppliers under the Act (i.e. suppliers that hold equivalent firearms dealer licences or weapons dealer permits in their own jurisdiction) and allow those suppliers to sell to NSW consumers only via an authorised NSW supplier. This will ensure public safety, as only those persons who have already been assessed in their own jurisdictions as appropriate to sell firearms, can sell into NSW. These transactions will also be recorded on the paintball register to ensure the integrity of the tracking system for paintball markers and ensure public and consumer safety;
- clarifying the interaction of the Act with certain other legislation, including the *Firearms Act 1996* and the *Crimes Act 1900*, to clarify the law to the public; and
- imposing appropriate penalties for breaches of the new amendments to ensure compliance and promote consumer safety.

There has been extensive targeted and public consultation in the development of the Bill. The amendments therefore reflect current industry and community attitudes and expectations on the regulation of paintball markers and venues.

The Bill seeks to serve the interests of the public, individuals and businesses alike, by improving consumer safety while also balancing the needs of NSW businesses to drive business growth and competition in the industry.

#### **Options: What alternative policies and mechanisms were considered in advance of the bill?**

Based on stakeholder feedback, the Review made 6 recommendations, all of which required an amendment to the Act.

Following consultation, the Department proposed additional amendments, one of which departed from the original Review recommendations. This is captured in Schedule 1 [3] of the Bill. It proposes requiring interstate suppliers to supply paintball markers into NSW via a NSW authorised supplier, where the Review had recommended allowing interstate suppliers to supply directly to NSW consumers. This alternative was proposed as a result of stakeholder feedback and additional policy development, which found other States and Territories had similar arrangements. This amendment would create a level playing field for industry.

Alternative policies to amending the Act were considered, but involved costs compared to amending the Act. See below for details.

**Analysis: What were the pros/cons and benefits/costs of each option considered?**

Maintaining the status quo of the Act could provide certainty for stakeholders by maintaining the existing regulatory framework. However, this would entrench existing disadvantages, compared to if the Act were amended. These include:

- reduced clarity in the Act, due to the lack of provisions regarding how many paintball markers may be owned under a single paintball marker permit
- reduced consumer and public safety, due to the lack of provisions requiring display of venue permits and sighting of paintball marker permits
- reduced flexibility in the Act, due to the lack of provisions allowing the Secretary to authorise use of paintball markers outside of authorised venues in certain circumstances
- disadvantaging NSW paintball businesses and lesser public protections, due to the lack of provisions requiring paintball markers from interstate suppliers to be supplied via a NSW authorised supplier, as is the case in other jurisdictions. The current Act also doesn't allow for the tracking of paintball markers that are supplied directly to consumers across interstate borders.

The preferred option is to amend the Act, to realise the benefits of increased clarity and flexibility in the Act, and benefits to both consumers, the public and businesses.

**Pathway: What are the timetable and steps for the policy's rollout and who will administer it?**

The Minister for Better Regulation and Fair Trading is responsible for administering the Act being amended, with support from the Department of Customer Service (the Department).

The Bill should be introduced into Parliament in September 2023, to allow the Bill to pass with sufficient time to remake the *Paintball Regulation 2019* with amendments, as the regulation is due to be automatically repealed on 1 September 2024 under the *Subordinate Legislation Act 1989*.

**Consultation: Were the views of affected stakeholders sought and considered in making the policy?**

Public and industry stakeholder consultation feedback and views were vital in development of the Review's recommendations and the subsequent drafting of the Bill.

Consultation for the Review commenced with the release of a Discussion Paper to seek feedback on the regulation of the paintball industry in NSW and on other general matters relevant to improving the industry. Prior to the consultation, the Department held a stakeholder roundtable to ensure all matters were canvassed in the Discussion Paper. The consultation was held for 4 weeks between November and December 2021, during which the Department received 93 written submissions and 81 survey responses. The final report on the Review was tabled in Parliament on 30 June 2022, and a previous version of the bill was drafted based on these recommendations.

Public consultation on that draft bill was conducted between November 2022 and February 2023, and additional consultation with industry was undertaken in March 2023.

During the two rounds of consultation on the draft Bill over 2022-2023, 375 responses were received from a variety of stakeholders and interested parties. Overall, stakeholders generally supported the Bill and most survey respondents agreed with the proposed amendments.

Key industry stakeholders were briefed on the current draft of the Bill, prior to introduction to Parliament, and they were generally supportive of the proposals.