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Your Reference: Our Reference: Contact:

KH: RR: mw: 20-03 (FID86086, MCU003-19/20, 15346-50000-000, ID1495112) enquiries@banana.qld.gov.au

17 March 2020

Bulldog Paintball Biloela Neil Gibson PO Box 1073 BILOELA QLD 4715

Dear Sir/Madam

Decision Notice – Approval (Given under section 63 of the Planning Act 2016)

Application Number:	MCU003-19/20
Description:	Material Change of Use - Outdoor Entertainment
	(Paintball Facility)
Level of Assessment:	Code Assessable
Site Address:	123 MEISSNERS ROAD, BILOELA
Lot & Plan Details:	Lot 2 on RP615013

On 13 March 2020, under delegated authority, the above development application was approved in full subject to conditions. The conditions of this approval are set out in Attachment 1. These conditions are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

1. Details of Approval

The following approval is given:

	Planning Regulation 2017 reference	Development Permit	Preliminary Approval
Making a Material Change of Use assessable under the planning scheme		Ø	

2. Approved Plans

The approved plans and/or documents for this development approval are listed in the following table:

Drawing/Report Title	Prepared By	Date
Un numbered	Plan & coordinates indicating Field 1	Received
	and 2	23 August 2019
Un numbered	Plan of Car Park Area	Received
		28 January 2020
Un numbered	Plan indicating access to playing	
	fields	28 January 2020
Un numbered	Shade Cloth Plan	Received
		28 January 2020

3. Further Development Permits

Please be advised that the following development permits are required to be obtained before the development can be carried out:

Building Works

4. Conflict with relevant instrument and reasons for the decision despite the conflict.

The assessment manager does not consider that the assessment manager's decision conflicts with a relevant instrument.

5. Submissions

Not applicable (Public Notification not required)

6. Currency Period for the Approval

This development approval will lapse at the end of the period set out in section 85 of the *Planning Act 2016.*

7. Statement of Reasons

Description of the	Material Change of Use for an Outdoor Entertainment		
development	for the purposes of paintball facility.		
Assessment	Rural Zone Code, Development Standards Code,		
	Commercial Code, Agricultural Land Class Overlay Class A Crop Land, Catchment Overlay - Declared Su Artesian Areas		

Reasons	for Rural Zone Code
Decision	The proposal complies with or has been conditioned to comply with all applicable performance outcomes.
法法律	Development Standards Code
	The proposal complies with or has been conditioned to comply with all applicable performance outcomes.
	Commercial Code The proposal complies with or has been conditioned to comply with all applicable performance outcomes.
	Economic Resources Overlay Code The proposal is consistent with all the Performance Outcomes.
	Natural Features and Conservation Overlay The development complies or has been conditioned to comply with all applicable Performance Outcomes.

8. Appeal rights

The rights of an applicant to appeal to a tribunal or the Planning and Environment Court against a decision about a development application are set out in chapter 6, part 1 of the Planning Act 2016. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the Planning Act 2016).

Appeal by an applicant

An applicant for a development application may appeal to the Planning and Environment Court against the following:

- the refusal of all or part of the development application
- a provision of the development approval
- the decision to give a preliminary approval when a development permit was applied for
- a deemed refusal of the development application.

An applicant may also have a right to appeal to the Development tribunal. For more information, see schedule 1 of the Planning Act 2016.

The timeframes for starting an appeal in the Planning and Environment Court are set out in section 229 of the Planning Act 2016.

Attachment 2 is an extract from the Planning Act 2016 that sets down the applicant's appeal rights and the appeal rights of a submitter.

The Planning and Environment Court appeals database lists all the appeals lodged in the Planning and Environment Court since 15 March 2008, which the department has been notified of. It contains information about the appeal, including the appeal number, site address, local government area, and a copy of the appeal notice, including grounds for the appeal. The appeal database is an easy way for anyone to obtain information about an appeal or check if an appeal has been lodged for a specific development application or approval.

Theappealdatabaseisavailableathttps://planning.dsdmip.qld.gov.au/planning/our-planning-system/dispute-resolution.

Should you require further assistance in relation to this matter, please do not hesitate to contact Council's Development Services section on (07) 4992 9500, quoting you application number of MCU003-19/20.

Yours Sincerely

Keith Halford MANAGER ENVIRONMENT & PLANNING

Enc Attachment 1 – Part A Conditions imposed by the Assessment Manager Attachment 1 – Part B Assessment Manager Notes Attachment 2 – Appeal Rights Attachment 3 – Approved Drawings Attachment 4 – Environmental Obligations

MCU003-19/20 Attachment 1

Part A - Conditions imposed by the Assessment Manager

1 The proposed Material Change of Use is to be completed and carried out generally in accordance with the following approved plans and reports submitted with the Development Application, except where modified by the conditions of this Development Approval –

Plan/Document number	Plan/Document name	Date
Un numbered	Plan & coordinates indicating Field 1 and 2	Received 23 August 2019
Un numbered	Plan of Car Park Area	Received 28 January 2020
Un numbered	Plan indicating access to playing fields	Received 28 January 2020
Un numbered	Shade Cloth Plan	Received 28 January 2020

- 2 Comply with all of the conditions of this Development Approval prior to the commencement of the use, unless otherwise stated within this Decision Notice, and maintain compliance for the duration of the approved use.
- 3 Exercise the approval and complete all associated works, including any relocation or installation of services, at no cost to Council.
- 4 Alterations to public utilities, mains and services made necessary in connection with any of the works arising from this approval including works to restore and reinstate all roads are to be completed at no cost to Council.

Approved use

- 5 The approved use is for an Outdoor Entertainment Paintball Facility as defined under the Banana Shire Planning Scheme 2005.
- 6 A total of one advertising device, having a maximum sign face area of 0.6m2 and not involving illumination or motion or flashing lights may be installed at the premises to advertise the approved use.
- 7 The applicant / developer are to ensure that the paintballs used for the facility are non-hazardous and are bio-degradable, with no adverse impacts to the water course and environment.
- 8 The hours of operation shall be confined to the hours between 8am and 5pm on Saturday and Sunday only.

Crossover and Driveways

- 9 A rural access is to be provided as per the following:
 - Remove all disused vehicle entrances; and
 - The existing access shall comply with the requirements of the Capricorn Municipal Development Guidelines (Standard Drawing CMDG-R-040). Please note that the dimensions listed on this standard drawing are considered the minimum required for compliance.
- 10 The works required for the construction of the proposed rural access are to proceed with a minimal interruption to traffic and any necessary steps for the protection of traffic and the public during construction should be undertaken at no cost to Council.
- 11 The vehicle access is to be constructed in accordance with the layout proposed in the development application and/or subsequent submissions approved by council.
- 12 Contact is to be made with 'Dial Before You Dig' before construction or upgrade of any of the proposed driveways commences in order to determine the location of any underground service utilises in the construction area. Care must be taken to avoid damage to service utilities identified. Any damage to these services must be repaired at no cost to Council.
- 13 Any damage incurred by the existing road surface, services or furniture as a result of the works required for the construction of the access is to be repaired to the pre-existing or better condition at no cost to Council.
- 14 Vehicle access to development is limited to the constructed access only and relocation of this access is prohibited without Council agreement.
- 15 All works required pursuant to these conditions shall be undertaken and completed in accordance with Council's Standards Capricorn Municipal Development Guidelines (www.cmdg.com.au) at the Applicant's expense.

Vehicle Parking and Manoeuvring Areas

- 16 A minimum of (16) sixteen car parking spaces must be provided and marked on the site, and made available and accessible at all times while open for business.
- 17 All car parking areas and access driveways must be maintained exclusively for vehicle parking and manoeuvring and kept in a tidy and safe condition at all times.

- 18 No vehicle storage or parking is permitted on the adjoining road reserve.
- 19 Directional signage must be provided to direct visitors and customers to the car parking spaces provided on site.

Landscaping/Streetscaping

20 Any proposed landscaped/street scaping works within Council's Road Reserve must comply with the requirements of the Capricorn Municipal Development Guidelines (Standard Drawing CMDG-G-016.

Stormwater Drainage

- 21 Ponding of stormwater resulting from the development must not occur on adjacent properties.
- 22 The stormwater drainage system serving the site is to be designed so that the development will not make material changes to the pre-development location, duration, frequency or concentration of overland stormwater flow at the point of discharge to all downstream properties including road reserves.
- 23 Stormwater formerly flowing onto the site must not be diverted onto other properties.
- 24 All stormwater being discharged from the site is to meet the requirements of the Capricorn Municipal Development Guidelines and the Queensland Water Quality Guidelines 2009.
 - a. Contaminated water must not be directly or indirectly released from the premises onto the ground or into the groundwater at the premises.
 - b. Releases to stormwater must not cause any visible oil slick or other visible evidence of oil or grease, nor contain visible grease, scum, litter or floating oil.

Water

25 At the time of lodging a building application, documentation is required to be submitted to Council that demonstrates that a reasonable water supply for potable and emergency purposes (including adequate storage for a minimum 47,000 Litre capacity volume) is available for the development in compliance with the requirements of Council's Town Planning Scheme.

Sewerage Infrastructure

25 All sewage waste is to be contained in purpose-built portable devices to be collected by an approved transporter. No discharge to the ground on the site is permitted.

27 The construction of any permanent on-site wastewater facility is to be designed so as to meet the requirements of the Capricorn Municipal Development Guidelines and AS1547.2000.

Rehabilitation

28 Upon cessation of the approved land use, site is to be rehabilitated to pre-development conditions.

Complaints

29 Where a complaint has been received by the applicant about an environmental nuisance, the applicant must keep a record of the complaint, and make available for Council inspection, details of any investigation, monitoring or action undertaken.

Watercourse

- 30 Applicant is to construct a simple fence (rope or simular) for the purpose of:
 - a. Indicating the designated route through the creek from the sheds to the playing fields
 - b. Exclude people from crossing/entering the creek other than via the designated route.
- 31 Site/player inductions are to include discussions in relation to 1a and 1b.

Amenity

32 Noise emissions from the premises must not exceed the limits of the acoustic quality objectives listed in the *Environmental Protection (Noise) Policy* 2019, unless approved by Council.

Waste Management

- 33 All waste must be appropriately contained on site in an appropriate container which is securely covered and maintained in a clean condition prior to removal to an appropriate disposal site.
- 34 Waste must not be burned at the premises.
- 35 Waste must be recycled where recycling services are feasibly available.

A The approved development must also comply with Council's current Local Laws under the Local Government Act 2009.

- B Failure to ensure ongoing compliance with the conditions of this Development Approval including conditions relating to the ongoing use of the premise, and the design and layout of the development may constitute an offence under the Planning Act.
- C The applicant is responsible for ensuring Queensland Fire Services requirements are met with respect to this development which may include but not be limited to the installation/upgrade of holding tanks or pumps as necessary to meet flow and pressure requirements.
- D Where further development is proposed it is the applicant's / developer's responsibility to ensure further approvals are sought as required by the Banana Planning Scheme.
- E In carrying out the activity or works associated with the development, all reasonable and practical measures are to be taken to minimise releases and the likelihood of releases of contaminants to the environment, except as otherwise provided by the conditions of this development approval.
- F The applicant and or owner/s of the land and the person/s responsible for the management of the premise is/are to ensure ongoing compliance with conditions of this Development Permit including Conditions relating to the ongoing use of the premise, and the design and layout of the development.
- G Pursuant to section 75 of the *Local Government Act 2009*, Council's written approval is required to carry out works on a road, or interfere with a road or its operation. This requirement applies to all Council-controlled roads within its local government area. The process for obtaining approval is set out in Council's *Local Law No. 1 (Administration) 2011.* Approval must be obtained prior to the commencement of the works.
- H Any works on roads shall be conducted in accordance with the Queensland Department of Transport and Main Roads, "Manual of Uniform Traffic Control Devices Part 3".
- I All works required pursuant to these conditions shall be undertaken and completed in accordance with Council's Standards Capricorn Municipal Development Guidelines (www.cmdg.com.au) at the Applicant's expense.

- J Please note the advice surrounding the applicants 'Environmental Obligations' contained in an attachment to the Decision Notice.
- K The Department of Natural Resources, Mining and Energy (DNRME) shall be notified of any clearing outside of three (3) metres from the edge of the road formation that may be required during the construction of the new access.

Engineering

A The applicant/developer is required to obtain a Minor Works on Road application for the construction of the rural access.

Cultural Heritage

A This development approval does not authorise any activity that may harm Aboriginal cultural heritage. Under the Aboriginal Cultural Heritage Act 2003 you have a duty of care in relation to such heritage. Section 23(1) provides that, "A person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage".

Council does not warrant that the approved development avoids affecting Aboriginal cultural heritage. It may therefore be prudent for you to carry out searches, consultation, or a cultural heritage assessment to ascertain the presence or otherwise of Aboriginal cultural heritage. The Act and the associated duty of care guidelines explain your obligations in more detail and should be consulted before proceeding.

Declared Pests/Plants

A A landowner has an obligation to take reasonable steps to keep their land free of invasive plants and animals in accordance with the Biosecurity Act 2014. Consideration should be given to appropriate treating of invasive plants, where necessary, in the construction and operational phases of the proposed development to meet the obligations under this Act.

General Environmental Duty

A The *Environmental Protection Act 1994* places a general environmental duty on everyone. This means that you must not carry out any activity that causes or is likely to cause environmental harm unless you take all reasonable and practicable measures to prevent or minimise the harm. If you become aware of serious or material environmental harm being caused or threatened by an activity you are involved in you have a duty to report that harm.

Environmental Nuisance

A Under Section 440 of the *Environmental Protection Act 1994* it is an offence to unlawfully, or wilfully and unlawfully, cause an environmental nuisance. Environmental nuisance is a likely or unreasonable interference with an environmental value caused by aerosols, fumes, noise, light, odour, particles or smoke or an unhealthy, offensive or unsightly condition because of contamination.

Discharge from site

- A It is an offence under the *Environmental Protection Act 1994* to discharge sand, silt, mud or gravel and other such prescribed water contaminants to a stormwater drain, roadside gutter or a water course. Provision must be made to ensure that these contaminants do not leave the site or enter a watercourse.
- B It is an offence under the *Environmental Protection Act 1994* to discharge oils, chemicals, cement or concrete, paint, thinner, degreaser, rubbish and other such contaminants to a stormwater drain, roadside gutter or a water course. Therefore it is important to
 - Contain and clean up any spills of oils, paints, chemicals etc as soon as possible
 - Not wash out concrete, paint or thinner waste near a drain or gutter or anywhere waste could end up in a water course appropriate containment and disposal should be used rather than discharging to the ground where possible.

Waste disposal

- A Most of Council's waste facilities are only suitable for receiving domestic quantities of rubbish. Unless otherwise directed by an appropriate officer from Council's Environmental or Commercial Services areas, all waste is to be disposed of at Council's Trap Gully Landfill.
- B Regulated waste (including asbestos) is only to be disposed of at Trap Gully Landfill and an application form must be completed and suitable delivery time is to be arranged with Council. Application forms can be collected from Council offices.
- C It is an offence under the *Environmental Protection Regulation 2008* to fail to comply with signage or directions at a waste facility.

Attachment 2 Planning Act 2016 Extract on Appeal Rights

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

(1) Schedule 1 states-

(a) matters that may be appealed to-

(i) either a tribunal or the P&E Court; or

(ii) only a tribunal; or

(iii) only the P&E Court; and

(b) the person-

(i) who may appeal a matter (the appellant); and

(ii) who is a respondent in an appeal of the matter; and

(iii) who is a co-respondent in an appeal of the matter; and

(iv) who may elect to be a co-respondent in an appeal of the matter.

(2) An appellant may start an appeal within the appeal period.

(3) The appeal period is-

(a) For an appeal by a building advisory agency-10 business days after a decision notice for the decision is given to the agency; or

(b) For an appeal against a deemed refusal-at any time after the deemed refusal happens; or (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises-20 business days after a notice is published under section 269(3)(a) or (4); or

(d) for an appeal against an infrastructure charges notice-20 business days after the infrastructure charges notice is given to the person; or

(e) for an appeal about a deemed approval of a development application for which a decision notice has not been given–30 business days after the applicant gives the deemed approval notice to the assessment manager; or

(f) for any other appeal–20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person. Note– See the P&E Court Act for the court's power to extend the appeal period.

(4) Each respondent and co-respondent for an appeal may be heard in the appeal.

(5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.

(6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about-

(a) the adopted charge itself; or

(b) for a decision about an offset or refund-

(i) the establishment cost of trunk infrastructure identified in a LGIP; or

(ii) The cost of infrastructure decided using the method included in the local government's charges resolution.

Attachment 3 Approved Drawings



Α	В	С
S24°24.940	S24°24.922	S24°24.913
E150°30.340	E150°30.312	E150°30.317
D	E	F
S24°24.886	S24°24.806	S24°24.870
E150°30.271	E150°30.370	E150°30.425
G	Н	1
S24°24.899	S24°24.871	S24°24.887
E150°30.347	E150°30.385	E150°30.328
J	К	L
S24°24.853	S24°24.879	S24°24.840
E150°30.373	E150°30.315	E150°30.363

Banana Shire Council PLANNING APPROVAL

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Attachment 4 Environmental Obligations

SCHEDULE A – General

- A1 The *Environmental Protection Act 1994* places a general environmental duty on everyone. Activity that causes or is likely to cause environmental harm must not be carried out unless all reasonable and practicable measures are taken to prevent or minimise the harm. Anyone becoming aware of serious or material environmental harm being caused or threatened by an activity they are involved in, has a duty to report that harm.
- A2 It is an offence under the *Environmental Protection Act 1994* to cause environmental nuisance. Environmental nuisance includes unreasonable interference caused by noise, dust, fumes, odour, smoke, aerosols, particles or light.
- A3 All reasonable precautions must be taken to avoid or minimise nuisance to adjacent premises or other property during construction work on the site, to the satisfaction of Council. Such precautions are to be discussed and agreed to by Council prior to construction commencing and will form part of any Construction Site Management Plan.

SCHEDULE B - Noise

B1 Activities must be managed such that noise emissions from the premises do not cause harm or nuisance to adjoining residents and comply with the requirements of the *Environmental Protection Act 1994* and *Environmental Protection (Noise) Policy 2019.*

Noise Source	Allowable Hours	
Building work (Builders and owner-builders, including excavation. For home renovations or other uses refer to regulated devices)	6:30am and 6:30pm Monday to Saturday, excluding public holidays.	
Regulated devices (eg mowers, power tools, compressors, leaf blowers, nail guns etc)	7:00am to 7:00pm Monday to Saturday 8:00am to 7:00pm Sundays and public holidays	
Amplifier devices (other than indoor venues and open air events)	7am to 10pm Business days 8am to 6pm Other days	

B2 Noise must not be emitted outside the hours specified below-

B3 All noise producing machinery and equipment (including air conditioners, compressors and cooling systems) are to be fitted with noise attenuation features so that noise at a sensitive receptor does not exceed the levels indicated in Schedule 1 of the *Environmental Protection (Noise) Policy* 2019 as follows -

Schedule 1 Acoustic quality objectives

Column 1	Column 2	Column 3		
Sensitive receptor	Time of Day	Acoustic quality objectives (measured at the receptor <i>dB(A)</i>		
		LAeq,adj,1hr	LA10,adj,1 hr	LA1,adj,1h
residence (for outdoors)	daytime and evening	50	55	65
residence (for indoors)	daytime and evening	35	40	45
	night-time	30	35	40
library and educational institution (including a school, college and university) (for indoors)	when open for business or when classes are being offered	35		
childcare centre or kindergarten (for indoors)	when open for business, other than when the children usually sleep	35		
childcare centre or kindergarten (for indoors)	when the children usually sleep	30		
school or playground (for outdoors)	when the children usually play outside	55		
hospital, surgery or other medical institution (for indoors)	visiting hours	35		
hospital, surgery or other medical institution (for indoors)	anytime, other than visiting hours	30		
commercial and retail activity (for indoors)	when the activity is open for business	45		
protected area or critical area	anytime	the level of noise that preserves the amenity of the existing area or place		/ of the
marine park	anytime	the level of noise that preserves the amenity of the existing marine park		
park or garden that is open to the public (whether or not on payment of an amount) for use other than for sport or organised entertainment		the level of noise that preserves the amenity of the existing park or garden		

SCHEDULE C – Air and Light

C1 Air and light emissions must be appropriately managed to prevent environmental nuisance beyond the boundaries of the property during all stages of the development including earthworks and construction.

- C2 Suitable dust suppression should be used and/or screens or barriers should be erected, where required during excavation and building works, to reduce the emission of dust or other such emissions from the site.
- C3 All artificial illumination is to be designed and installed so as not to cause a nuisance to occupants of nearby premises and any passing traffic. Security and flood lighting is to be directed away from adjacent premises to minimise the protrusion of light outside the site.
- C4 Development shall comply with the applicable requirements of the *Environmental Protection (Air) Policy 2019*.

SCHEDULE D – Water and Stormwater

- D1 It is an offence under the *Environmental Protection Act 1994* to discharge sand, silt, mud and other such contaminants to a stormwater drain, roadside gutter or a water course.
- D2 During construction, stockpiles and areas of bare soil or earth that are likely to become eroded must be adequately protected by upslope surface water diversion, downslope sediment fencing and/or temporary surface coverings.
- D3 It is an offence under the *Environmental Protection Act 1994* to discharge oils, chemicals, cement or concrete, paint, thinner, degreaser, rubbish and other such contaminants to a stormwater drain, roadside gutter or a water course.
- D4 Any spills of oils, paints, chemicals etc must be contained and cleaned up as soon as possible.
- D5 Concrete, paint or thinner waste must not be washed out near a drain, gutter or anywhere waste could end up in a water course appropriate containment and disposal should be used rather than discharging to the ground.
- D6 Development shall comply with the applicable requirements of the *Environmental Protection (Water and Wetland Biodiversity) Policy 2019.*

SCHEDULE E – Waste Management

- E1 It is an offence under the *Waste Reduction and Recycling Act 2011* to leave litter behind or allow litter to blow from site. All waste must be appropriately contained on site prior to removal.
- E2 All waste should be collected by a licensed contractor and taken to an approved waste disposal facility by an approved transporter.
- E3 Trap Gully Landfill is the only approved waste facility within the Banana Shire for the disposal of commercial waste. No commercial waste is to be

deposited at other Banana Shire landfills or transfer stations without prior written approval from Council.

- E4 It is an offence under the *Environmental Protection Regulation 2019* to fail to comply with signage or directions at a waste facility.
- E5 Any building repairs involving asbestos material must be undertaken in accordance with Workplace Health and Safety requirements.
- E6 Regulated waste (including asbestos) is only to be disposed of at Trap Gully Landfill and an application form must be completed and approved prior to disposal.
- E7 Council will not enter onto private property to service wheelie bins, any bins to be serviced by Council will be required to be placed at the kerbside for collection.

SCHEDULE F – Land

- F1 Section 23 of the *Biosecurity Act 2014* outlines the General Biosecurity Obligation. All landowners have a General Biosecurity Obligation (GBO) for managing biosecurity risks that are under their control and that they know about or should reasonably be expected to know about. All individuals and organisations whose activities pose or is likely to pose a biosecurity risk must:
 - take all reasonable and practical measures to prevent or minimise the biosecurity risk
 - minimise the likelihood of causing a biosecurity event and limit the consequences if such an event occurs
 - prevent or minimise the harmful effects a biosecurity risk could have
 - not do anything that might make any harmful effects of a biosecurity risk worse

A biosecurity risk exists when you deal with any pest, disease, weed or contaminant. This includes moving an animal, plant, turf, soil, machinery and/or equipment that could carry a pest, disease, weed or contaminant.