

# TRANSCRIPT OF PROCEEDINGS



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## **SPECIAL COMMISSION OF INQUIRY INTO THE GREYHOUND RACING INDUSTRY IN NEW SOUTH WALES**

**MR MCHUGH: COMMISSIONER MICHAEL McHUGH AC QC**

**SYDNEY**

**10.10 AM, MONDAY, 28 SEPTEMBER 2015**

**PUBLIC HEARING**

MR S RUSHTON SC and MR D KELL assisting the Commissioner.

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MR RUSHTON: It has been said that the greatness of a nation and its moral progress can be judged by the way it treats its animals. They are not my words. They have been attributed to Mahatma Gandhi, who most people would know was a champion of many causes, one being the welfare of animals. He was speaking back in the 1940s.

We are now in the 21st Century. Although many would stop short of accepting that a nation's greatness is to be measured entirely by reference to its application of animal welfare standards, in today's progressive and civilised Australian society, these standards have become increasingly important and are today one important measure of moral progress. Increasingly too, progressive and civilised societies have come to recognise that whether a rabbit or a greyhound, sentient animals experience fear and they experience pain. To intentionally produce those responses or to permit them to come about is regarded by most people in our community as unacceptable.

On 16 February this year, the Australian Broadcasting Corporation broadcast the Four Corners program "Making a Killing". The program exposed the use of small live animals by prominent trainers and other greyhound industry participants in this state and the states of Queensland and Victoria. The small live animals were used to "blood" their greyhounds. The animals used in this way were possums, piglets and rabbits.

The imagery was hideous. The small animals used were clearly terrified and they suffered prolonged trauma. Multiple greyhounds were permitted to maul them and to rip them apart as they were flung around training tracks. Live rabbits were dangled on strings in front of viewing kennels in which greyhounds were confined to tease and excite them, to wind them up before the rabbits were strapped onto an arm. A number of people involved in the process appeared to find it amusing. They thought it was funny.

In making your opening remarks earlier this year, Commissioner, you described the practice of live baiting as "barbaric" and "gruesome". There is no doubt that the imagery provoked the same reaction in the wider Australian community. The program received both national and international coverage in the media. Those who saw the program or read reports of it were sickened. How could they not be? The practice of live baiting was universally condemned.

If the existence of such a practice in Australia was not bad enough, how could it be that the Greyhound Racing Industry and those bodies which regulate it permitted such conduct to occur unchecked? Could it have been that the practice was limited to a small group of individuals who had managed to go undetected or was there something more widespread and deep-rooted which

had been exposed? Since 2009, the controlling body in New South Wales has been Greyhound Racing New South Wales, otherwise known as GRNSW.

5 The government in this state and in the states of Queensland, Victoria and Tasmania responded. Queensland established a Special Commission of Inquiry. Queensland, Victoria and Tasmania established reviews to be conducted by their controlling bodies and chief veterinary officers. Without being at all critical, Commissioner, the terms of reference for these interstate inquiries were limited and focused upon the effectiveness of the regulatory framework and other arrangements for the protection of the welfare of racing dogs, including the extent of live baiting.

15 The government in this State went further. On 4 March 2015 it established this Special Commission of Inquiry pursuant to the *Special Commissions of Inquiry Act 1983*. The Commission's Terms of Reference in their current form are extensive and do not concentrate solely upon the effectiveness of the current regulatory regime. Perhaps most importantly, the Commission is required to identify issues concerning the governance, integrity and animal welfare standards of the greyhound racing industry in this state and to evaluate whether the issues so identified can be appropriately addressed so as to permit the continuation of a greyhound racing industry that is sustainable and which provides an ongoing economic and social contribution.

25 The date upon which the Commission is required to report to government has been extended to 31 March next year. In announcing that extension on 17 September 2015, the Deputy Premier indicated that the government was committed to a thorough a full inquiry and that no stone should be left unturned. Many stones have been turned over so far and what has been found under them is not encouraging.

30 Commissioner, I tender a disc which contains the ABC Four Corners program Making a Killing and I'd ask that it be marked as Exhibit A.

35 **EXHIBIT #A - THE FOUR CORNERS PROGRAM "MAKING A KILLING"**

40 MR RUSHTON: I should point out that following the ABC broadcast the Deputy Premier took immediate steps to remove the Board of GRNSW and its Chief Executive Officer, Mr Brent Hogan. He will be called to give evidence late this week, as will, I anticipate, the first Chairman of the Board Professor Percy Allan. Ms Eve McGregor, the Chairwoman of the Board before its removal and her removal, will be called too. If we have time - which I hope we do - the current CEO, Mr Paul Newson, will be called to give evidence - if not this week, then soon.

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5 The Commission has been carrying out its investigation for a number of months. It has issued many orders to the controlling body GRNSW as well as other bodies and persons. Much information and many documents comprising some 80,000 pages have been provided to the Commission for analysis and consideration. The Commission has also conducted numerous private hearings to further the investigation.

10 Commissioner, the Commission's Terms of Reference acknowledge what might be clear to many, if not most, of the community at large but may still be unclear to many, if not most, participants in the greyhound racing industry. The viability of the industry does not turn upon financial factors only. Just as important, if not more so, the viability of the greyhound racing industry is dependent upon whether the industry has animal welfare standards in place which are acceptable to the community and in which the community has confidence will be applied and maintained. In other words, it is an industry where there must be a continuing social licence to operate.

20 Using animals for entertainment or sport has the capacity to gravely affect their welfare. A sport which utilises animals cannot operate without a social licence. Social licence is the level of acceptance or approval continually granted to an industry's operations by the community and other stakeholders such as government.

25 Internationally there are a number of jurisdictions where greyhound racing has been banned. Australia is one of only eight countries worldwide where commercial dog racing is still permitted. In the United States, 39 states have banned commercial dog racing because it is financially unsustainable and because of serious welfare concerns. The first bans came into place in 1993, some 22 years ago. Commercial dog racing has also ceased in four other states, although they have not yet made dog racing illegal in any statute. As I speak, there are only seven states where commercial dog racing continues but it is about to become six. On 1 January 2016 the Gulf Greyhound Park in La Marque will be closed. It is the last track in Texas. Greyhound racing in Texas will come to an end.

35 The point I am seeking to make, Commissioner, is that in the states I have identified stakeholders in the industry withdrew the industry's social licence to operate and the industry came to an end. Industries that use and might abuse animals require a social licence to operate.

40 The stakeholders in the greyhound racing industry in the State of New South Wales consist of more than the controlling body, industry participants, betting operators and punters.

45 However, Commissioner, the evidence which the Commission has received so

far suggests that this may not have dawned on the industry and profound questions arise, can I say, as to whether it ever will.

5 The importance of other stakeholder and the need for their support was recently addressed by the Working Dog Alliance, a not-for-profit organisation which was retained by GRNSW to review and provide advice on best practice rearing, socialisation, education and training methods for greyhounds which have been purpose bred to race. The Working Dog Alliance noted this, and I quote them:

10 *“The greyhound racing industry has many external stakeholders. Historically, GRNSW has only acknowledged its members and industry participants as stakeholder. Recognising that the general public, animal advocacy groups, animal welfare legislators and media are significant influences on the industry's social licence to operate and therefore future sustainability is an important cultural shift which*  
15 *needs to occur.”*

Commissioner, in my submission, the chances of such a cultural shift occurring are highly questionable. It is not merely GRNSW who has overlooked these  
20 important external stakeholders and their importance to the continuation of the industry. The investigations undertaken by the Commission so far suggest that the culture of many industry participants is that those permit the continuation of the industry's social licence and can bring it to an end just do not count. They never have and likely never will.

25 A very pertinent example, which I will address in detail shortly, is the industry's approach to breeding and its breeding practices. Over and over again the industry has been put on notice that many in the community, many in animal welfare organisations and many in government are deeply concerned  
30 that the industry is breeding too many greyhounds and that too many young, healthy greyhounds are being destroyed. What amounts to, in effect, mass slaughter of healthy dogs is unacceptable.

35 And over and over again the industry has ignored these concerns. The Four Corners program has meant that the spotlight is now well and truly focused on the greyhound racing industry, and not just in relation to live baiting and the dreadful cruelty perpetrated on small animals. No, the focus is now also upon the welfare of the animals which participant in the sport, the greyhounds which the industry breeds to race. It was only following the Four Corners program  
40 that any real steps were taken by GRNSW to address the critical issue of overbreeding. Whether they are adequate remains to be seen, but what we do know is that even at this critical point, a point so critical that the industry may not continue, there remains real industry resistance to any form of breeding restriction. I'll address that shortly.

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So what is the current state of the industry when it comes to animal welfare?

Commissioner, the greyhound racing industry in New South Wales is in  
5 “*crisis*”. Both the national industry body, Greyhounds Australasia, and the  
local controlling body, GRNSW, have recently admitted that this is so.

The Commission has received many submissions and documents which go to  
the question of animal welfare in the greyhound racing industry. It has also  
heard evidence in private hearings, some of which will become public this  
10 week. Not much of that material is positive. Much of it is very negative.

I anticipate, Commissioner, that the evidence which will be given this week  
will very much suggest that the greyhound racing industry in New South Wales  
is in “*crisis*” because of its failure to adopt and maintain acceptable animal  
15 welfare standards. There are three principal reasons which have emerged so  
far. There may be others.

First, the entrenched culture of the industry is such that the welfare of  
greyhounds is not a priority and likely never has been. There are of course  
20 expectations. A number of owners treat their animals well. Some keep their  
dogs when the animals retire from racing, but they seem to be expectations.  
The industry story is a different one. Greyhounds are treated very much as a  
commodity that can be used to make money. The commodity is expendable, as  
are its welfare needs.

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Second, the regulation of the industry by GRNSW has been inadequate. It has  
failed the wider community, it has failed the greyhounds, and it has failed the  
industry too. The investigations undertaken by the Commission so far suggest  
that notwithstanding its recent attempts at improvement, GRNSW has never  
30 come close to discharging its regulatory functions since it was established over  
six years ago. Its regulatory functions include maintaining the integrity of the  
sport. A sport which uses animals for entertainment and financial gain has no  
integrity whatsoever if the welfare of the animals it uses is not maintained. I  
would not be going too far to say, Commissioner, that the investigations  
35 undertaken by the Commission to date suggest that GRNSW has been a failure.  
Not all evidence has been given of course, but the evidence which has been  
received suggests that this is so, and I will be very surprised if the current  
management of GRNSW did not agree. I should point out too, that the  
Commission's investigation has revealed widespread dissatisfaction amongst  
40 industry participants in relation to GRNSW's performance. Many feel that  
GRNSW has not adequately engaged with them and has not sufficiently  
protected their interests. It is likely that in future hearings a number of industry  
participants will give evidence so that these issues can be further assessed.

45 Third, there are inherent in the industry certain practices which, if they

continue, will mean that the industry will never ever achieve welfare standards which are acceptable to the public or in which the public can have any confidence. As I previously indicated, Commissioner, industry practices which concern breeding are a case in point. There are others which are being  
5 investigated by the Commission and may be the subject of further hearings.

During this public hearing, Commissioner, the focus will be on animal welfare, which includes of course the welfare of the thousands of greyhounds which are purpose bred each year to race. There will likely be further public hearings  
10 later this year which will focus on other matters, but during this week it will be animal welfare front and centre.

Now, having said that the focus will be on animal welfare, I should perhaps flag five matters which will be of particular interest this week.  
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The first is live baiting. This will involve an examination of the practice of using live animals and its place in the industry as a training method to “blood” young greyhounds so that they will better chase the lure which is presented to them on track. That is obviously a “red hot” issue, having regard to what was  
20 shown to all of us on the Four Corners program. “Live baiting”, particularly if it is more extensive than the behaviour of a few individuals, provides a window through which an assessment can be made of the attitude of the industry and GRNSW to animal welfare more generally. And I anticipate, Commissioner, that “live baiting” may prove to be just the tip of the iceberg when it comes to  
25 animal welfare.

The second matter which will be of particular interest this week is the fate of the many thousands of healthy greyhounds bred by the industry each year. That includes the many thousands of healthy young greyhounds which each and every year never make it to the track because their performance is not, at  
30 least in the eyes of their owners or trainers, up to scratch. It also includes the fate of the many greyhounds which do make it the track but under perform. Finally, it includes the fate of the many thousands of young greyhounds which retire from racing each year. What happens to them? Commissioner, I do not  
35 say this lightly, but overbreeding and the industry's cavalier and committed attitude to it, raise fairly and squarely the question of whether the greyhound racing industry can or, consistent with contemporary animal welfare standards, should exist at all. Examination of this issue will necessarily raise the question of whether a greyhound industry can be sustained without, in effect, the mass  
40 slaughter of young animals. Does it have an attrition rate which cannot be managed? Moving beyond the aspirational statements of the controlling bodies, including GRNSW, is it really likely that breeding can be controlled on the one hand and a financially viable industry sustained on the other? The  
45 Commission's investigation is not complete, but I have to say, Commissioner, that at this point I cannot take you to any credible evidence which suggests that

GRNSW and the industry will be able to create an acceptable balance if there is one, and there might not be. On the material brought to the Commission's attention so far, I have to say that an acceptable balance is unlikely.

5 Before I move on, I should note, Commissioner, that examination of the greyhound industry's breeding practices will also raise the issue of re-homing, that is, re-homing greyhounds after they have retired from their "racing careers", if they have been lucky enough to have one, or have otherwise been discarded by the industry.

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Rehoming raises some very important questions. They include whether the industry sponsored program Greyhounds as Pets might possibly cope ever with the number of animals discarded by the industry which require new homes. They include the question too, of whether charities such as the RSPCA, the  
15 Animal Welfare League and other animal welfare organisations, which are funded almost entirely by donations from the general public, should be put in a position where they have to manage the consequences of irresponsible industry breeding. One would have thought that they already have enough on their plates.

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The third matter which will be of particular interest this week will be the performance of GRNSW when it comes to animal welfare. Has it been an effective regulator and if not, why not? As I have indicated, the Commission's investigations so far suggest that GRNSW has, historically at least, been a  
25 failure when it comes to animal welfare and its regulation of the industry. I doubt whether GRNSW will say otherwise. Its Submissions to this inquiry very much suggest it will not contest many of its failures, but we all need to know why it happened.

30 The fourth matter of particular interest this week will be whether recent steps taken by GRNSW which it claims will likely better protect and enhance the welfare of greyhounds will do so in the short, medium or longer term. Can I say, Commissioner, that I anticipate that the answer to this fundamental question will likely be found, at least in part, in the evidence concerning the  
35 next matter which is the industry's culture and approach to animal welfare? I say that because although GRNSW is the controlling body, it is the industry participants who are first and foremost responsible for the welfare of their animals. In an industry which self-regulates it is the behaviour of the participants which is critical to its success or failure. Bad behaviour can only  
40 be controlled or regulated so far.

The fifth matter of particular interest will be the industry's culture and, most importantly, the industry's culture when it concerns animal welfare. Is the culture of this industry such that the public could have any level of confidence  
45 that acceptable animal welfare standards will be met and maintained what the

level of regulation? The Commission's investigation so far suggests that for many, many years the industry has operated with an "us and them" mentality, the "us" being owners, breeders, rearers and trainers, and the "them" being the public, welfare organisations, government and, to an extent, even GRNSW.

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Now, that "us" and "them" culture has had a very unfortunate consequence and one in which GRNSW has been complicit. The industry has had no transparency and, Commissioner, can I suggest that an industry which has no transparency will, more often than not, have something significant to hide.

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For years now the public, welfare organisations and certain members of government have wanted to know what is going on within the industry. That is entirely understandable. How many dogs do you breed? How many go on to race? What happens to them along the way? What happens to them when they retire? Do you regularly inspect kennels to make sure that owners and trainers are looking after their dogs in an acceptable way? I want to know the truth about the animals used in this sport. What can you tell me?

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Well, for most of the time in which GRNSW has been at the helm much of that information has not been accurately recorded and it has not been publicly available. And can I say that this has much suited the industry to keep it that way? And it is not just GRNSW's failure to keep proper records. The industry has shown resistance to providing relevant information to GRNSW and GRNSW did little by way of requiring compliance.

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For many years now, greyhound racing has been criticised for failing to provide the community with sufficient information on the operations of the industry and the management of the animals. Complete life-cycle information is what has been sought and it is that information which has not been made available.

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And it is not just in Australia where this has been a problem, can I say. It's been a problem worldwide. In 2007, Lord Donoughue of Ashton carried out an inquiry into greyhound racing in Great Britain on behalf of the British Greyhound Racing Board and the National Greyhound Racing Club. He noted that the public had made it clear that the industry needed to establish a situation where the whereabouts and status of all greyhounds, preferably from cradle to grave, or certainly from birth to retirement from racing, was known. That was back in 2007. It's now 2015. GRNSW has recently endeavoured to make some improvements and that is a matter which will explore this week.

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And can I say, Commissioner, that the failure to keep and publish records has quite clearly assisted the industry and its participants. It has facilitated the concealment of matters which the industry would not want the public to know. One matter concerns the thousands upon thousands of healthy young

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greyhounds which are destroyed every year for no other reason than that they did not cut the mustard. They did not perform. If the public is to have any measure of confidence at all in the greyhound racing industry, then transparency will likely be critical.

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MR MCHUGH: Have you got any evidence as to the number of greyhounds that are destroyed each year?

MR RUSHTON: I have, Commissioner. I'm going to come to that. I do have their figures and they're very recent.

Now, there are a number of important welfares which have been and will continue to be assessed as the Commission proceeds with its investigation. Some of those matters may be addressed, at least in part, in future public hearings.

Those issues include whether the breeding and rearing practices of the greyhound racing industry are such that young greyhounds are properly socialised and receive sufficient environmental enrichment as would likely be the case for many of them if they were companion animals in the sense of being pets. All dogs, including greyhounds, are highly sociable animals. In the case of greyhounds, the method of rearing can have a dramatic impact on whether or not a dog has any possibility of joining the tiny cohort of the greyhound population which is re-homed each year either through the industry-funded Greyhounds as Pets program or through some other animal welfare agency.

Other welfare issues which the Commission is investigating and which may arise in future hearings are the high injury rates for racing greyhounds, the administration of illicit drugs and banned substances, and the export of young dogs to countries which have no animal welfare standards or have standards which the public would consider unacceptable.

Commissioner, I will shortly address in more detail the questions of live baiting and then overbreeding. However, before I do, I want to say something about myth and reality. The myth is GRNSW's public claims that animal welfare was number one. The reality is what I'm about to draw your attention to.

GRNSW, as currently constituted, was established in 2009. It is independent from government. It is responsible for both the promotion and regulation of the industry which, can I say, is potentially a very dangerous mix. The combination of both commercial functions and the regulation of the sport, including the imposition and maintenance of acceptable standards of animal welfare, creates a substantial risk that those standards will be compromised or

sacrificed to commercial imperatives and for commercial gain.

And that's a matter which, in my submission, should never be overlooked.  
When all is said and done, greyhound racing is conducted for commercial gain.

5 Many people who breed, rear, train and race greyhounds do so in the hope or expectation that they will make money.

Over and over again since 2009, GRNSW has claimed that animal welfare is an absolute priority, it is number one, it is foremost. The same can be said of  
10 industry participants. The Commission has heard evidence to the effect that industry participants love their dogs and that the health of wellbeing of their greyhounds is paramount. It has been said that greyhound owners will go to extreme lengths to protect the welfare of the animals who participate in the sport. Some even suggest that owners and trainers would go without food, if  
15 need be, to ensure that their greyhounds remained healthy and well-nourished. Put the owners and trainers to one side for the moment. Let's look at GRNSW.

Over and over again GRNSW conveyed a message to the public that animal welfare was at the forefront of its operations. There are many examples,  
20 Commissioner, but I'll take you to one. There was evidence given by the former chief executive officer of GRNSW, Mr Brent Hogan, to the Legislative Council Select Committee. At the time the Select Committee was inquiring into the Greyhound Racing Industry New South Wales Mr Hogan had this to say - he said it on 15 November 2013 - these are his words:

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*We consider that the welfare of all animals must be the primary consideration for all participants in the greyhound racing industry and that the industry must continue to improve in this area. We have zero tolerance for participants who do not meet our animal welfare standards and Greyhound Racing New South Wales is rightly proud of the advancements made since it assumed responsibility for these matters from government in 2009.*

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Let me now draw attention to something which casts a very different light. It  
35 also comes from GRNSW. It formed part of the submission which GRNSW provided to the Commission on 24 August. A matter of weeks ago. It was said less than two years after GRNSW's claims before the Select Committee. Unlike the evidence given by Mr Hogan to the Select Committee, it's not so warm and fuzzy; in fact it's appalling.

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I will read onto the record what GRNSW has said to the Commission. It admits in effect that it sacrificed the welfare of the industry's greyhounds. It abandoned them in favour of the commercial interests of the industry. This is what it has said:

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5 *Serious animal welfare challenges confront the greyhound racing industry in New South Wales. The industry is increasingly subject to ongoing scrutiny from the community whose expectations around animal welfare, including racing animals, has changed and will evolve. While GRNSW has made attempts to improve the welfare of greyhounds, it accepts that it has been deficient in aligning with community expectations in this area and has not afforded sufficient resources or priority to welfare outcomes.*

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and this is important -

15 *strategic planning for the industry has historically been weighted towards commercial considerations with animal welfare largely regarded as a hygiene factor.*

20 What does it say in this day and age when an industry which uses animals for entertainment, sport and commercial gain has operated on the basis of strategic plans which put commercial considerations over and above the welfare and of the animals it uses? What does it tell you, Commissioner, about the greyhound industry when “animal welfare” is a matter of mere “hygiene”, a “hygiene factor”, in its strategic plans; the welfare needs of young greyhounds are being met if their kennels are free of faeces and urine?

25 Commissioner, what I've just read to you is not my submission. It's not the submission of some extreme animals rights organisation telling you what it thinks about GRNSW. It is the Controlling Body for the greyhound racing industry in this state talking about itself and its regulation of the welfare standards.

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35 What can I say? What could anyone say in defence of that? If I was conducting a court case, I'd probably sit down now, but I'm not. The Inquiry is trying to get to the bottom of it all. It's trying to ascertain what has been going on since GRNSW was established in 2009. It is seeking to establish whether this industry is, has been, or might ever be viable.

40 Believe it or not, GRNSW has advocated for the continuation of the model where commercial and regulatory functions are combined within the one body. That is in circumstances where it now admits to having failed to meet community expectations in relation to animal welfare and has admitted that its operations were weighted in favour of commercial considerations. That doesn't inspire great confidence.

45 Whilst it is easy to point the finger at GRNSW, many industry participants have been complicit. That is, complicit in the industry's failure to meet animal

welfare standards which meet community expectations. As I have mentioned a little earlier, when all is said and done, it is the participants in the industry - breeders, owners, trainers, rearers, educators, handlers - who have the responsibility to maintain acceptable welfare standards. They have the day-to-day control of the animals. The caveat to that, however, is whether an industry such as this can ever meet standards which would be acceptable to the community at large.

If I could now turn to the question of live baiting. The brutal practice of live baiting was the catalyst of course which led to the establishment of this Commission. Live baiting involves great cruelty to the small animals which are exposed to it. It does not directly involve cruelty to the greyhounds which are permitted and encouraged to respond to it so as to increase their play drive. Unlike the small animals which are subject to this dreadful abuse, it does not affect their welfare in the short-term.

However, the Commission has received submissions to the effect that such a practice can have very great effects upon the prospects of a greyhound which has been retired from racing securing a new home. That is because, it is said, the stimulation of the greyhounds' play drive with small animals may mean that it cannot later be housed in an environment in which there are small animals in close proximity. Animal welfare groups and the industry sponsor greyhounds as pets program carry out a behavioural assessment of every greyhound which is up for adoption. It has been said that if a greyhound has been trained using live baits, then the prospects of it failing the behavioural assessment are enhanced. If it fails the behavioural assessment, then unless the owner takes it back, the dog is destroyed. That is a tragic consequence. The Commission has received many submissions, including from industry participants, which have highlighted the fact - which I accept - that greyhounds are very gentle animals, they make wonderful pets. If properly socialised, they have no difficulty whatsoever managing to fit in with small animals which might be part of their environment.

It has long been unlawful in this state to use live animals in greyhound racing. "Coursing", where dogs, often greyhounds, would chase live hares was banned in the 1950. It is also an offence under the *Prevention of Cruelty to Animals Act* to use an animal as a lure or kill for the purpose of blooding greyhounds or in connection with the trialing, training or racing of any coursing dog. A person who keeps or is in charge of an animal for use as a lure or kill for the purpose of blooding greyhounds or in connection with the trialing, training or racing of any coursing dog is also guilty of an offence. The maximum penalty for an individual is \$22,000 or imprisonment for two years, or both.

The Commission has received submissions from RSPCA Australia pointing out that these offences are notoriously difficult to prove. RSPCA and the Animal

Welfare League are vested with powers of investigation and the power to prosecute offences under the *Prevention of Cruelty to Animals Act*.

5 In relation to the use of animals as a lure, it is obviously very difficult to catch someone in the act, so to speak. As the Four Corners program revealed, the live baiting shown in that program occurred on private property.

10 Further, as currently drafted, the *Prevention of Cruelty to Animals Act* does not create an offence of keeping small animals on a property where greyhounds are kept. It is necessary for the prosecution to prove that the animals are kept for use as a lure or kill for the purpose of blooding greyhounds or are kept in connection with the trialing, training or racing of any coursing dog. There is a statutory presumption that small animals kept on premises used for the purpose of trialing, training or racing greyhounds are being kept for the purpose of live  
15 baiting but it's no more than that. It is a statutory presumption and one which can be rebutted.

20 The Commission has been referred to a number of instances where live rabbits have been kept at the same premises as are used for the purpose of training greyhounds but prosecutions have not proceeded. It is reasonable to infer that they did not proceed because the prosecution was unable to prove beyond reasonable doubt anything, apart from the fact that live rabbits were being kept. That is, there was no direct evidence that the live rabbits had been kept for the  
25 “purpose” of blooding greyhounds or in connection with their training.

There are many, many examples to which the Commission has been referred where industry participants who have small animals on their properties provided excuses which could not be readily rebutted. Common excuses included that they were being kept for food or that they were being kept for  
30 training purposes but they would have their necks broken before that took place. The law doesn't prohibit the humane destruction of rabbits. Another common excuse was that live rabbits were being kept as pets for “the grandchildren”.

35 Commissioner, it's important to place all of this in context. The context is that until April of this year the regulation of the industry by GRNSW facilitated live baiting.

40 Until April 2015 it was not a breach of the rules of racing for dead rabbits to be strapped to a lure for training purposes. Rabbits could be used at every trial track in New South Wales so long as they were dead, and they were used regularly. The use of dead rabbits was a widespread training method. However, until April 2015 the *keeping of live rabbits* at premises used for the training of greyhounds was not even a breach of the rules. Even today it is  
45 permissible.

Let me briefly explain that. On 20 April 2015 a number of rule changes were made by GRNSW in response to the Four Corners program. One rule change was that the keeping of live animals which were capable of being used as live bait is now prohibited at premises where greyhounds being trained, kept or 5 raced. However, that rule is by no means an absolute. It is subject to giving notice and obtaining the approval of GRNSW. With such notice and with approval such animals can be kept at premises where there are greyhounds so long as they are domesticated pets or are kept for rural or agricultural purposes. 10 Well, as I said, Commissioner, a common excuse for keeping rabbits has been that they were pets for grandchildren. Kittens are domestic animals. Apparently they have also been used to live bait greyhounds in the past. Chickens and piglets are farm animals. They too have been used.

15 For so many years now, the industry and its controlling body have been content to allow circumstances to exist which may have facilitated the cruelty exposed by the Four Corners program. Commissioner, it is only a very small step between having small, live animals on a property and using them as live baits to blood dogs. It was not until there had been public exposure of live baiting and the dreadful cruelty involved that the controlling body, GRNSW, decided 20 to act. More accurately, it decided to react to the public outcry and it changed the racing rules. That of course is something that it could have and should have done years ago, particularly in circumstances where the presence of live rabbits at training facilities would have suggested, even to the most naïve, that 25 they were being used as live baits. The presence of dead rabbits on a property may be one thing, but the tolerance of GRNSW and the industry to the presence of small, live animals at premises used for training says a great deal about the culture of the industry and its approach to animal welfare.

30 Commissioner, I anticipate that evidence will be given this week that live baiting was considered a traditional and necessary method of teaching young greyhounds to chase a lure. I ask you to keep in mind that word "traditional", Commissioner.

35 Not only was it considered a traditional or accepted method of training, the evidence will likely be to the effect that it was a widespread method of training used in this State over many years. In fact, it has likely been a training method used by participants ever since the first greyhound was conducted.

40 There are two types of hound. First, there are scent hounds. They hunt by scent and endurance. Basset hounds and fox hounds are examples. Then there are sight hounds. They hunt primarily by sight and speed. Greyhounds are sight hounds. Their prey drive is principally, although not exclusively, driven by sight. It can be triggered by the sight of small animals. If triggered then the 45 greyhound will chase.

And all greyhound racing is built upon this fundamental aspect of greyhound behaviour: the prey drive is triggered, the greyhound then chases the object which has triggered it.

5

I anticipate, Commissioner, that the evidence will demonstrate a matter which is probably uncontroversial. Rabbit carcasses were used in the industry and sanctioned by GRNSW because with fur and flesh, a dead rabbit which is moving around a track at speed resembles a live animal. They were not used because greyhounds like to chase rabbit meat, or any other meat for that matter. If that was the case, you could probably train a greyhound by using a sausage, a lamp chop or a chicken drumstick.

15 Rightly or wrongly, the industry considered that a moving dead rabbit was a better way to train a young greyhound to chase than using something which was totally artificial. Might I just point out in passing though, Commissioner, that in the report commissioned by GRNSW earlier this year, the Working Dog Alliance has stated that there is simply no evidence to support the widely held belief that it is necessary to use animal-derived products to teach a young  
20 greyhound chase and that the contrary view is largely based upon mythology and hearsay.

However, the contrary view, whether or not based upon hearsay or mythology, was one which seems to have been almost universally held by greyhound  
25 industry participants and it was promoted by GRNSW. A dead rabbit moving around a track at speed looks like escaping prey. The young greyhound will more readily chase it. Even on race day, this illusion is maintained. The lure that flies around the race-day track as greyhounds compete to catch it is meant to simulate escaping prey. As Greyhounds Racing Victoria has explained in  
30 the racing glossary which appears on its website, a "lure" is "The actual item used to entice a greyhound to chase" and "generally consists of an artificial toy designed to resemble a large rabbit or hare."

And by new lure policy introduced by GRNSW in April this year in reaction to  
35 the public outcry which followed the Four Corners program, GRNSW has accepted the view of industry participants that a young greyhound's prey drive can be better mastered and controlled by using animal-derived products. On 20 April 2015 GRNSW banned, for the first time, the use of rabbit carcasses. However it remains lawful to use professionally tanned rabbit skins. At least  
40 for the moment.

Commissioner, it is such a small step between using a dead animal and a live one if it might give the greyhound a competitive edge. It is an even small step if industry participants believe, as they have for so long, that a dog needs to be  
45 blooded to chase competitively. It is a tiny, tiny step, a baby step, if the

industry is one which does not consider animal welfare as particularly relevant, and the evidence will show, I anticipate, that the baby step was one which industry participants regularly took. In the interests of giving their greyhounds a competitive edge, small, live animals were used. The use of small, live  
5 animals was treated as orthodox and acceptable. It was the “traditional” method.

Now, Commissioner, although greyhound racing is conducted in all states and territories, the industry in New South Wales is by far the largest. The  
10 greyhound racing “capital” in New South Wales is Sydney and within Sydney the hub is in west Sydney in suburbs such as Londonderry and Richmond and the suburbs which surround them. A very popular venue is the Richmond Track where greyhounds can be raced or trialed.

15 Witnesses have now given evidence in private hearings. Many, but no means all, were from around the area I just identified.

A number of those witnesses told you that they had been involved in live baiting. They admitted that they had regularly used live baits. It is known that  
20 a number of other trainers and industry participants were observed to be doing likewise. There were particular properties where this occurred. Some of these witnesses will be called to give evidence again this week, others may be called later.

25 A matter which was raised in the private hearings with these witnesses was the extent of the practice as they understood it. Commissioner, you were told that the use of live rabbits was “rampant”. “Rampant”. Estimates were given to the effect that 85 per cent to 90 per cent of those involved in training or breaking in greyhounds used live rabbits or watched as others used them on their behalf. It  
30 was, in the words of one witness, “just the way you did it.” As I recall, another witness informed you that any trainer or educator of greyhounds who denied the use of live rabbits or who denied actual knowledge of the use was quite simply a “liar”. You were told that it was - this is a witness's words, not mine - “either the bunnies or the dogs.” What the witness was endeavouring to  
35 convey was that if live animals are not used, then young greyhounds will not learn to chase them and young greyhounds which will not chase a lure are destroyed. I will come to the industry practice of putting down thousands of young healthy greyhounds every year a little later.

40 The evidence to which I have just referred, Commissioner, is chilling and it is perhaps evidence which is unsurprising. In each state where the matter of live baiting has recently been examined, those investigating have acknowledged that live baiting has been occurring. It is not just New South Wales, however, as I understand it, particular examples were not reported other than those  
45 shown on the Four Corners program.

5 It went just a little further in Queensland. There the former chief executive of the Queensland All Codes Racing Industry Board, Mr Darren Condon, told the Queensland Commission of Inquiry that following the ABC program he had a telephone discussion with Steve Hawkins, a former member of the Queensland Greyhound Racing Board. Mr Hawkins informed Mr Condon that, "I knew they were using possums, but I didn't know anything about pigs."

10 Now, that is what Mr Hawkins allegedly told Mr Condon in his telephone conversation. I should note at this point that there will be evidence given this week of telephone discussions concerning live baiting, unlike the alleged telephone call between Mr Condon and Mr Hawkins in Queensland, the telephone calls which I will take you to, Commissioner, have been recorded.

15 Returning briefly to Queensland, it has been reported in the media that upon being confronted with the alleged admission to Mr Condon that he knew of possums but not pigs, presumably piglets, Mr Hawkins stated that he had no issue with admitting that he knew about live baiting. He further said, "To me, 90 per cent of the industry would have known about it. That doesn't mean  
20 90 per cent of the industry would do it." Now, whether or not what Mr Hawkins described as being the position in Queensland is accurate, it does not appear to have been the position in New South Wales. I anticipate, Commissioner, that the evidence that will be given this week will be to the effect that not only did 90 per cent of the industry know of this barbaric  
25 practice. They engaged in it.

Now, how did the industry get hold of live rabbits.

30 I anticipate, Commissioner, that evidence will be given that sometimes those suppliers were other trainers. However, they were not the only ones. The supply of live rabbits to industry participants was no secret. One witness told you that live rabbits were openly supplied at tracks. This witness said, and I use his words:

35 *They go around to everybody and ask them if they want a rabbit. Right? Not just one, not just me alone. Look, I pull up with a trailer. They automatically think we use dogs, right, but I buy a couple of myself, I buy three for myself, four, five, or whatever. Half the ones I buy they die anyway. Then I probably end up with  
40 one out of five if I'm lucky.*

Now, that particular witness claimed that he purchased live rabbits on track for the purpose of eating them. That's unlikely you might think.

45 Rabbits were found by GRNSW on this trainer's property on a number of

occasions. On the first occasion he had been seen to remove a crate of rabbits from the Appin Greyhound Track. The fact that he could openly pick up a crate of live rabbits from a public track says much about the industry and its culture, the regulator too. The rabbits were subsequently found at his property by GRNSW, there were five of them. They were still alive. He claimed that he, rather than his greyhounds, was going to eat them. Over his protests, RSPCA officers who were at the property with GRNSW removed the rabbits. What did GRNSW do about this? I anticipate the evidence will be that they did nothing. Nothing at all.

Now, it might be put to you, Commissioner, that there was nothing that GRNSW could do back in 2010, that is, it was not a breach of the rules of racing to keep small animals that could be used as live baits at the same premises where greyhounds were kept. It seems that back in 2010 it was a breach of the rules for a person to “keep” or “bring” onto a racecourse or trial track a live animal other than a greyhound. Well, I suppose that strictly speaking this trainer did not “bring” his crate of live rabbits to the Appin Track, he collected them there. He did not “keep” the rabbits at the Appin Track, he kept them at home. However, Commissioner, it was then and still is a breach of the rules of racing to engage in conduct which is in any way detrimental or prejudicial to the interests, welfare, image, control or promotion of greyhound racing. No-one seemed to have turned their minds to this, that is, that the image of greyhound racing might be tarnished somewhat by trainers collecting live rabbits from public racecourses and taking them home to properties on which greyhounds were kept.

So that was back in 2010. Then in June 2014 this particular trainer got “pinged” again. This time GRNSW found a rabbit in a rabbit cage on his property. A single, solitary rabbit. A single, solitary rabbit in a very large rabbit cage and he told GRNSW that it was not his rabbit. This was not for his greyhounds. This one was not for the table. It was his grand-daughter's rabbit. And it was such a special rabbit, Commissioner, that he bought it a very special cage which he purchased for some \$700. In fact, perhaps I could tender a copy of the photograph of the cage which was taken by GRNSW officers when they attended this trainer's property in June 2014. Could I ask that that exhibit be marked Exhibit B, Commissioner.

MR MCHUGH: Yes, well, it's certainly a very big cage for a single rabbit.

**40 EXHIBIT #B - PHOTOGRAPH TAKEN IN JUNE 2014 OF CAGE**

MR RUSHTON: Commissioner, as I understand it, this cage is located next to a “bullring” on the property, and a bull ring is where dogs can chase a lure on the arm around a small track. In fact, we saw one on the Four Corners program, it was being used to train greyhounds with live rabbits being the lure.

Now, Commissioner, you mentioned the fact that it's a big cage. It's fairly extravagant accommodation for a single rabbit, it could probably comfortably accommodate 20 rabbits. That cage, might I say, is interesting for another reason. Its precise dimensions are unknown, although there seems to be a  
5      lawnmower under it which allowed you to get some idea. The minimum standard which GRNSW has prescribed for kennels is three square metres, let's say 1.5 metres by 2 metres. Now, this extravagant sole occupancy rabbit accommodation is pretty close to the prescribed kennel size. Now, we probably won't go into it this week, but it is in a kennel of this size, that is, 2  
10     metres by 1.5 metres, that many young greyhounds spend most of their lives. And, like grand-daughter's rabbit, they very often spend it alone.

Now, as I have said, this cage and the solitary rabbit were found in 2014. The crate of rabbits from Appin Race Tracing having been found at the same  
15     property in 2010, so what happened on this occasion? Well, I anticipate that the witness will tell you that again nothing happened, he was not required to remove the special rabbit and he was not asked to remove his extravagant rabbit accommodation, it was still there when the Four Corners program was broadcast on 16 February 2015. Again, no-one seems to have considered that  
20     having a live rabbit in a large cage next to a bull ring might harm the image of greyhound racing if it became known.

Well, live rabbits became a bit of a problem after the Four Corners program. So two days later, namely on 18 February 2015, a GRNSW steward went out to  
25     this property again, the property with the big rabbit case. Presumably somebody finally woke up to the fact that if this particular trainer still had rabbits on the property and it became known, it would not be a good look, it might further tarnish the image of greyhound racing, although it's hard to imagine, it has to be said, what further damage could have been done to the  
30     image having regard to the contents of the Four Corners program. Now, the further trip to this trainer's property seems to have been a "special operation". The steward went out there with three other GRNSW officers as "backup" to have another look at grand-daughter's rabbit and its big rabbit cage. For  
35     whatever reason the Steward decided that an element of surprise was not necessary, a telephone call should be made. So the trainer received a call from the steward, some time later the steward and his men were led in through the front gate and they carried out an inspection. Unsurprisingly, it might be thought, there were no rabbits, however, the big cage had a great deal of rabbit droppings under it. Then someone noticed that there was another rabbit cage,  
40     this time in a galloping paddock, an area where young greyhounds in training can have a bit of fun. No rabbits there either.

Whilst at this property the steward and his men discovered something else of interest, they opened a cabinet door and on the inside of the door someone had  
45     written the words, "Jeff, the Rabbit Man," and there was a telephone number.

5 So what happened? Commissioner, I anticipate that this trainer will tell you that nothing happened in relation to the cages or the evidence concerning the presence of rabbits on this property, and again no suggestion was made to him to get rid of the big cage, it may still be there, I will have to ask him when he gives evidence. I should point out that this trainer was suspended following the inspection on 18 February, that is because a number of bottles and vials were found which were suspected of containing banned substances which may have been administered to his greyhounds. That suspension was subsequently lifted because the items to which I have referred did not contain any banned substances at all.

Would that be a convenient time, Commissioner, to take a short break?

15 MR MCHUGH: Yes, if it's convenient for you. Yes. How long would you like?

MR RUSHTON: 10 minutes, perhaps. Would that be appropriate?

20 MR MCHUGH: Yes. We'll adjourn then for 10 minutes.

MR RUSHTON: Thank you, Commissioner.

25 **ADJOURNED** [11.12 am]

**RESUMED** [11.22 am]

MR MCHUGH: Yes, Mr Rushton.

30 MR RUSHTON: Thank you, Commissioner. Commissioner, I was dealing with the live baiting and supply of rabbits and some evidence that you could get them at tracks. Now, I mentioned also that live baiting was considered to be an accepted or orthodox method of training. "Traditional" no less. Now, that raises two important questions and they are questions which I'm sure the public would like answered. First, what did the regulator, GRNSW, know of  
35 the practice? Second, what did GRNSW and, just as importantly, the industry do to stop it?

40 There have been claims that prior to the Four Corners program GRNSW did not know that live baiting was taking place.

45 Upon the establishment of GRNSW, the Board comprised six members. They were nominees from the NSW National Coursing Association, the NSW Greyhound Breeders, Owners and Trainers Association, the TAB clubs, the Country Clubs and industry participants. The first Chairman of the Board was

Professor Percy Allan AM. He was at the helm until 10 February 2012 when he retired.

5 On 20 May 2015, that is, this year, Professor Allan provided a submission to this Commission.

I propose to tender it and then direct your attention, Commissioner, to what Professor Allan has told us about live baiting. The document contains two Annexures. They are Annexures A and B and I ask that they be included in the  
10 the same exhibit, and the exhibit should be Exhibit C.

**EXHIBIT #C - SUBMISSION TO THE SPECIAL COMMISSION OF INQUIRY BY PROF PERCY ALLAN DATED 20/5/2015**

15 MR RUSHTON: Thank you, Commissioner. Commissioner, can I draw your attention to what Professor Allan says at the top of page 2 of his submission? You'll see down the bottom of page 1 there's a heading "Animal Welfare".

MR MCHUGH: Yes.  
20

MR RUSHTON: And then he deals with live baiting at the top of page 2, and I'll just read onto the record what he says:

25 *Given our special attention to animal welfare, I was deeply disturbed to learn that live baiting was happening at private training tracks. Immediately after the Four Corners program I sent an email to former board members and friends in the sport, which is attached as appendix B. Several responded to my email agreeing with my sentiments.*

30 *I hope your Inquiry gets to the bottom of this cruelty, because whenever live baiting was discussed in the sport (in the context of animal welfare agenda items) the answer from participants was always the same; "It used to happen in the old days but is no longer practised."*

35 *Indeed, in my time as Chair there was never a rumour, let alone an allegation, of live baiting that came to my attention. If there had been, the board of GRNSW would have acted swiftly to stamp it out as I am a longstanding supporter of organisations such as Voiceless, Animals Australia and the RSPCA in ending factory farming, live animal exports and other cruel practices to animals. But I was not alone.*

45 And then, Commissioner, for completeness can I take you to Professor Allan's email at Attachment B?

MR MCHUGH: Yes.

MR RUSHTON: I'll just read that onto the record too.

5

*Dear friends*

*Most of the program focused on Queensland and Victoria, but no jurisdiction will escape the wrath of animal lovers everywhere.*

10

*The pain and cruelty inflicted to bound, struggling and screaming piglets, possums and rabbits to the glee of the perpetrators was gruesome and distressing to watch. Their blatant lies made it worse.*

15

*Their illegal activities will set back the sport for honest owners and trainers because many punters will now refuse to bet on dogs. It raises two questions:*

20

*1. Why did law-abiding participants not report anything to greyhound authorities?*

*2. How come official stewards and compliance officers knew nothing about it?*

25

*Live baiting should have been stamped out by the sport itself when we introduced strict animal welfare policies a decade ago.*

30

*Anyhow congratulations to Lynne White and her team for exposing it. I hope the criminals involved are successfully prosecuted. They have brought shame on the sport.*

*Regards  
Percy*

35

As I said, Commissioner, Professor Allan was chairman of the Board from the time at which GRNSW was established in 2009, until 10 February 2012. And he will be called later this week.

40

I have previously mentioned the Chief Executive Officer, Mr Brent Hogan. He was CEO from the time at which GRNSW was established until he was removed by the deputy premier following the ABC's Four Corners program. Immediately before his removal from office, he issued a number of media statements in response to the program in which he condemned the practice of live baiting and suggested, in substance, that the practice was confined to a few individuals. Let me give you an example. It is a statement made by Mr Hogan

45

immediately following the program. After painting out that it was “deeply unfortunate” that the actions of a minority have put the great sport of greyhound racing in such a negative light, Mr Hogan said this, and these are his words:

5

*Tonight's Four Corners program did not reflect the actions of the majority involved in the sport and the tremendous progress the industry has made in the areas of animal welfare, integrity and eradicating animal cruelty in recent years.*

10

*We need to stamp out live baiting once and for all. Not only is it illegal, but it is sickening and we are disgusted with what we have witnessed on air.*

15 Well, let me tell you, Commissioner, that the reality was something quite different.

I anticipate that the evidence will be that GRNSW knew right from the “get go” that live baiting was - and I'll now use its words - a “traditional” form of training for young greyhounds and that it was being practised by industry participants. There is nothing in the evidence I'm about to draw to your attention, Commissioner, suggesting that it was limited to a small group of reprobates. GRNSW also knew that live rabbits were being kept for the purpose of this dreadful practice. And by September 2009, a matter of months after its establishment, GRNSW recognised that the practice was likely to raise a few eyebrows.

25

Now, as I've said, GRNSW was established in 2009, in July 2009 to be precise.

30 Its predecessor, at least in relation to regulation of the industry was the Greyhound and Harness Racing Regulatory Authority. From 2006, the Greyhound and Harness Racing Regulatory Authority had in place an animal welfare policy. It would seem that upon the establishment of GRNSW in 2009, as the industry regulator, it became concerned that its predecessor's animal welfare strategy was not up to scratch.

35

On 15 September 2009, the Board met. It was the third regulatory Board meeting since its establishment. Professor Allan was present, so to was Mr Hogan. At that meeting, the Board directed that the General Manager, Racing and Integrity, review the animal welfare policy. GRNSW's documents suggest that this action was taken because it recognised there was a growing awareness within our community, of serious welfare issues in the greyhound industry, which needed to be managed.

40

45 In the months that followed, the manager of integrity and racing, that is the

months that followed that Board meeting, the Manager of Integrity and Racing, the Chief Steward and the Racing Manager, and the coordinator of the Greyhounds as Pets Program developed a project to address these issues.

5 In January 2010, a mere six months after the creation of GRNSW, it launched, with great fanfare “Project Welfare”. The launch was by way of a number of industry forums, at which industry participants attended. Documents which the Commission has obtained from GRNSW, as a consequence of one of the many Orders issued by you, Commissioner, suggest that at the time, GRNSW  
10 portrayed “Project Welfare” to be, and I’ll use its exact words:

*The first step in the implementation of a long term welfare policy, aimed at driving welfare improvement and cultural change within the NSW greyhound racing industry.*

15 Now, I mentioned a moment ago Commissioner, that you issued an order, one of many, requiring GRNSW to produce documents. In that very same order, you directed GRNSW to inform you of the steps it had taken since 2009, to protect and enhance the welfare of greyhounds in the industry. In response,  
20 GRNSW put forward “Project Welfare” as one of the centrepieces of its animal welfare strategy. In a moment, I will tender a series of PowerPoint slides and other documents, which show what “Project Welfare” was all about. Before I do, I should make a number of further observations.

25 First, many of the welfare issues which were to be addressed by “Project Welfare” remained in the industry, right up to the beginning of this year, that is, 2015. On any view, “Project Welfare” failed. The industry is very much where it was in 2009, and probably for many, many years before that. In saying that, I am conscious that there are “strategies” put forward by GRNSW  
30 between 2010 and 2015, however they were largely aspirational and will be further examined in the evidence this week, or in future hearings.

In fact, “Project Welfare”, itself, also largely comprised aspirational statements. The Project’s proponents claimed that it was more than a  
35 “talkfest”. It was not. To the extent that any concrete and practical steps were envisaged by the project, the industry never embraced most of them. Regrettably, that remains the case today.

40 At some point this week, Commissioner, I will tender the written submissions which GRNSW recently made to the Commission, in support of its continuation as regulator, and in support of the continued existence of the greyhound racing industry. Many of the submissions made to the Commission concern steps which will be taken, moving forward, to protect the welfare of the industry’s greyhounds. Many of the proposed steps are, once more,  
45 aspirational. Carefully analysed, they are unlikely to make much practical

difference to the lot of greyhounds, in the short, medium or even the longer term. Sadly, many say, in different words, what has been said in the past.

5 Now, turning back to “Project Welfare”, live baiting was identified as an issue. It was listed in the Project Welfare presentation to industry participants as one of a number of “other issues”.

10 Let me take you, Commissioner, to the “Project Welfare Slides”. I will take you to the findings which were ultimately made; I’ll take you first to the Project Welfare slides. I tender the slides, and might they be marked as Exhibit D?

**EXHIBIT #D – POWER POINT SLIDES OF PROJECT WELFARE**

15 MR MCHUGH: Yes, Mr Rushton?

MR RUSHTON: You’ll see Commissioner, that on page 3, there’s a secondary cover sheet which talks about the fact that it’s a presentation to industry forums between 20 January and 25 March 2010.

20 MR MCHUGH: Yes.

MR RUSHTON: I then take you to page 5, it’s headed “Greyhound Welfare Forum and Discussion”, and I’ll just read this onto the record,

25 *This is your opportunity to contribute to the future direction of your greyhound industry.*

30 *If you have any ideas and suggestions regarding the industry direction, NOW is the time to speak up.*

*This is not just a talkfest! We will be taking your views, ideas and concerns back with us and developing policies and strategies based on it.*

35 Now, it looks like a call to arms, one which, might I say, failed.

If I could then take you, Commissioner, to page 16? Can you see there’s a heading there – “Greyhound Welfare”?

40 MR MCHUGH: Yes.

MR RUSHTON: Then it says, "Other issues, and there are a number of bullet points. I’ll read those onto the record; I’ll read this onto the record as well, then I will draw your attention to some matters. It notes this:

*Other Issues:*

- *Over-racing.*
- *Kennel facilities.*
- 5     • *Traditional training methods.*
  - *Illegal keeping of European rabbits, illegal use of live animals, eg cats, possums, chickens etc*
  - *Arm trials*
  - *Opportunities for change*
- 10    • *Community perception*

Now, Commissioner, we're not talking about GRNSW's knowledge, or the knowledge of the industry following the Four Corners program, we're talking about what is revealed in a series of presentations given between 20 January and 25 March 2010. That's over five years ago.

We're not talking about a presentation prepared or given by some outsider, based upon suspicion or innuendo. This is a presentation prepared and given by an insider, the *regulator*, no less. It was given by the then General Manager, Integrity and Racing, who, until a matter of weeks ago, had virtually the same role in GRNSW. It was given by the Chief Steward who, as I understand it, is still the Chief Steward. It was also given by the GRNSW Racing Manager.

And just as the presentation was not being given by outsiders, it was not being given to outsiders. It is a presentation given to industry participants about their industry, an industry which, as a matter of "tradition", used live animals - rabbits, "cats, possums, chickens, etc."

There are a further two bullet points. Apart from the keeping of rabbits and the use of live animals, the slide refers to "Arm trials", that is, arm trials using this "traditional" method of training. Commissioner, an "arm trial" is where a greyhound is allowed to catch and grab a lure to finish on once the dog has run a certain distance. What is being addressed in this slide is precisely what we all saw on the Four Corners program- greyhounds being released from the starting box to chase a small live animal partly around the track. The arm to which the live animal was strapped, would then be stopped and the small live animal would be grabbed by the greyhound and ripped to pieces.

What's this nonsense Commissioner about "Opportunities for Change"? GRNSW and industry participants are consulting about a "traditional" training method which on any view involved conduct constituting one of the most serious welfare offences on the statute book. One of the most serious offences of all - "aggravated cruelty". Conduct which could see you off to the choky for two years. And GRNSW and industry participants are having a "talkfest" about

5 seeking out “Opportunities for Change”. Opportunities for change? What's going down here? What planet are we living on and in what century? If conduct is seriously criminal, you stop it. If you are a regulator, you prohibit it. What sort of message was this sending to attendees? The “Opportunities” never presented themselves. No one took the initiative. No one did anything.

10 But what does it say, Commissioner, about the culture of this industry and the conduct of its regulator? Most people would say that an industry which has to look for “opportunities” to stamp out serious criminal conduct is bad enough, but one which has thereafter effectively allowed the practice to continue until exposed to the broader community five years later? What can be said, if anything, which is favourable about that state of affairs? I suspect that some in the wider community might have a simple message to government and it would be this: Shut it down. Just shut the joint down. Now.

15 What should be made of the last bullet point concerning “Community Perception”? Surely that is recognition of the fact that the industry's use of live rabbits, kittens, chickens and possums might just look a little out of touch with modern welfare standards.

20 Why not just stamp out the live baiting conduct so that there will never be a problem with community perceptions? Why not just do what GRNSW did so very recently in April 2015 and change the rules to impose a minimum period of suspension of 10 years for keeping small animals which might be used as live baits? I anticipate that the answer may well be that live baiting was so entrenched in the industry that to get rid of the proponents of it might not have left too many people standing.

30 As I have previously indicated, in April 2015 GRNSW banned the use of rabbit carcasses and, pending further research by the Working Dog Alliance, stipulated that “professionally tanned skins” had to be used. If it took GRNSW five years to come up with that “complex” solution and only in circumstances where the industry's live baiting had been exposed. What does it say about the industry restoring public confidence to a level where this sport should continue? That is a matter which, in my submission, needs to be carefully considered.

I will move on.

40 What findings did GRNSW make following the “Project Welfare” industry forums in relation to live baiting? Let me take you to those, Commissioner.

45 I will take you to a document which is headed “Project Welfare Consultation Findings”. I tender them as Exhibit E. They are undated but it's pretty apparent from what I'm about to say that they were created in early 2010.

**EXHIBIT #E - DOCUMENT HEADED "PROJECT WELFARE  
CONSULTATION FINDINGS"**

5 MR RUSHTON: Can I say that the findings cover a range of welfare issues  
which, in my submission, were not addressed at least in any meaningful sense  
and they are of course the subject of investigation by the Commission and that  
will continue to be the case. I will draw your attention to some of those in a  
moment. At this point I wish to draw your attention, Commissioner, to the use  
10 of live animals to bait greyhounds. The findings in relation to that matter are  
set out in paragraph 4 on page 3. There's a paragraph 4 which I will read onto  
the record. It's got a large heading

**"USE OF ANIMALS ON TRIAL TRACKS – Arm Trials."**

15 That's obviously a reference back to what was in the slides I've just taken you  
to.

20 *Participants advised mix responses in relation to the use of  
"rabbits" during arm trials at public tracks and the continued use  
of traditional training methods. Several clubs indicated a  
procedure in ordering fresh gutted carcasses, unskinned, from  
local butchers, whilst there is still evidence of rabbits being self-  
procured.*

25 There are a number of matters to be noted in relation to these "Project Welfare  
Findings".

30 First, it is clear in my submission that GRNSW was not talking about a "mixed  
response" from industry participants in relation to the use of dead rabbits.  
There was never any suggestion then or until recently that dead rabbits could  
not be used. Commissioner, what I have drawn your attention to is referring to  
the use of "**animals on tracks**". That's what the heading says. They are the  
rabbits, cats, chickens and possums referred to in the presentation slides. And,  
35 as we know, piglets too. The word "rabbits" has been placed in inverted  
commas. It is likely, can I suggest, that this method of expression was used  
because it is referring to *live* rabbits. It cannot mean anything else. You will  
see that again a reference is made to "traditional training methods" and their  
"continued use".

40 The second point is, the passage I have just taken you to suggests that those  
same live rabbits are being used during "arm trials at public tracks". What was  
shown on the ABC program in respect of activities on private property was, it  
would seem, also taking place on public trial tracks. That is how brazen the  
45 industry was about the matter in 2010. It should be kept in mind here that

although described as “public”, they were tracks used for trialing greyhounds. The only members of the “public” who would be interested in that would be, can I suggest, other industry participants. Can I remind you, Commissioner, that in private hearings evidence was taken that until the Four Corners program  
5 live rabbits were being used at one particular trial track. I anticipate that that evidence will be given again this week. All of this has been conveyed openly, it would seem, by industry participants to the regulator. They could do that, can I suggest, because they knew that GRNSW understood that live baiting was an accepted “traditional” industry practice; it was well aware. The fact that there  
10 had been a “mixed response” by participants to any move away from live baiting tells us that some industry participants - perhaps many industry participants - did not want to change. As we now know, they did not change.

The third point is, the passage I've just taken you to notes that there was still  
15 evidence that rabbits were being “self-procured”. Of course they were, you might think. There was not much point turning up to one of the “several” clubs who could give you a dead rabbit if you wanted to use a live one on track.

Commissioner, you will see that the document then notes on the bottom of the  
20 page that RSPCA has advised GRNSW that it is an offence under the Prevention of Cruelty to Animals Act to live bait a dog. It says much about GRNSW if it did not know that. It obviously did. The evidence suggests that this was a message which had been repeated over and over and over again by RSPCA to the industry but it was ignored.

25  
MR MCHUGH: The fact that they set out the section of the Act dealing with the use of live baiting, blooding greyhounds, does seem to indicate that when they were talking about the use of traditional training methods; that they were talking about live animals.

30  
MR RUSHTON: Yes. If one puts that in the context of there never being any controversy about using dead rabbits, it wouldn't have even been a subject of discussion. This is back in 2010. You will note that the document continues over the page, and I will read it onto the record as well:

35  
*Participants were mindful of the potential negative impact to the industry of such activities with an increasing number of trainers indicating the use of squeakers for educating greyhounds.*

40 Now, Commissioner, as I understand it, squeakers and squawkers are rubber toys which, if you are lucky, might excite young greyhounds to chase. But what does that statement really tell us? It seems to be acknowledgment that many, if not all, trainers had been using live baits but an increasing number did not want to run the risk of damaging the industry if the dreadful secret was  
45 exposed.

Now, finally, the document goes on to set out what GRNSW regards as the next step and it notes - I will read this onto the record too. It notes that:

5            *Stewards to develop a policy and procedure for the purchase and use of rabbit carcasses. Greyhound Racing Rules to be updated for Board approval to ensure compliance with relevant legislation.*

Commissioner, as far as I am aware, no policy was developed for the purchase  
10 and use of rabbit carcasses. As I understand it, you could source them from anywhere. And right up until April 2015 there was no prohibition on their use, as I have said. Can I note again, Commissioner, that right up until 2015 the rules of racing were not amended to truly reflect the offences created by the *Prevention of Cruelty to Animals Act*. Up until April 2015 it was not a breach  
15 of the racing rules to keep on your property small live animals such as rabbits, chickens, piglets and kittens. The change only came after the Four Corners program.

Can I just briefly draw your attention before I move on from that document to  
20 some other matters of welfare which are flagged in it and they, like live baiting, just seem to disappear off the radar. I won't refer to all of them at this point.

But could I take you briefly, Commissioner, to reporting of injuries which is at  
page 3. Reporting of injuries, in fact, that's been a matter of very grave  
25 concern for so many years. The investigations undertaken by the Commission so far suggest that race track injuries are frequent and they can have significant impacts upon the welfare of an animal in both the short and longer term. They are under reported and historically GRNSW's records have been such that the nature and extent of injuries cannot be reliably ascertained. Not only that, but  
30 GRNSW is not required to and does not publicly report the full figures. Now, that remains a problem. A significant one. And it is perhaps symptomatic of a wider problem which I will come to in a moment. In short, the lack of transparency meant that the life cycle of any greyhound and its ultimate fate could not be tracked. Now, GRNSW has recently flagged steps to address this  
35 and they are under consideration.

The second matter which I should briefly draw attention to is licensing and regulation at page 5. There are a number of matters here which remained significant problems right through the period 2010 to 2015. They include ad  
40 hoc and under resourced kennel inspections. Until October last year, as I understand it, there were but two full-time GRNSW compliance officers who conducted kennel inspections across the state. By and large they worked out of the back of their cars. Their records were substandard, the records kept by head office were worse, and many properties were not inspected simply  
45 because the owners were not at home. For many industry participants, their

properties had never been inspected, at least prior to the Four Corners program. And some of those have told you, Commissioner, that they have been in the industry for 30 years plus and have never had an inspection.

5 The third matter concerns breeding, and that's at page 8, paragraph 11. I will come back to breeding in a moment. It is, as I've said, an issue which has the greatest capacity to bring this industry to an end. As far back as 2010 GRNSW considered it to be an issue too. Breeding was unregulated. The document notes that to be so. It suggested the licensing of breeders and a Code of Practice  
10 which would set minimum standards to young pups and their mothers. Well, nothing happened on that score until July 2015 apart from further aspirational statements that something would be done. It was not until 1 July 2015, a couple of months ago, that GRNSW first introduced breeder licensing, a Code of Practice and litter restrictions.

15

The fourth matter is at page 8 and it concerns life cycle tracking. Do you have that, Commissioner?

MR MCHUGH: Yes.

20

*MR RUSHTON:* As I have said, the public and animal welfare agencies have long wanted to know what has happened to the thousands of greyhounds who every year seemingly disappear. As I mentioned earlier, it is an issue which has plagued greyhound industries. That is, the  
25 Australian industry and those small number of greyhound industries which continue to operate in other jurisdictions. "Cradle to grave" tracking was acknowledged to be a matter of real concern to external stakeholders in the 2007 report of Lord Donoughue. And you will see, Commissioner, that in paragraph 10 of page 8 GRNSW have noted that  
30 in 2010 Local Racing 105 was introduced. That particular Rule of Racing required the breeder or owner to notify GRNSW if a greyhound was transferred to another, had been retired as a pet, had become a breeding greyhound, had been rehomed, exported or humanely euthanised. Commissioner, you will see at about point 5 on the page that  
35 GRNSW has noted that- and I use its words: "*The information gathered will eventually enable GRNSW to monitor potential welfare issues as well as being able to be proactive with participants in facilitating change.*"

40 MR MCHUGH: "Cultural" change.

MR RUSHTON: Yes, "*cultural change*". Now, Local Rule 105 is now Rule 106. Commissioner, why is it that despite that rule no-one has been able to get a handle on just how many greyhounds go missing and what happens to them?  
45 Well, in response to one of your orders, Commissioner, GRNSW informed the

Commission that compliance by industry participants with these obligations was poor and that GRNSW did not take adequate steps to encourage or enforce compliance. So although we had the rule, it didn't really amount to a bean, the rule wasn't enforced. In other words, GRNSW was, in effect, complicit in  
5 concealing from the public what was going down here. Just how many dogs do not make the grade, how many get destroyed? Now, Commissioner, I mentioned that this was the position until recently, that is, that there was no compliance or no transparency. We now have some recent figures which I am going to take you to very shortly and they are, quite frankly, horrifying.

10

Anyway, before I get to that can I just move briefly back to “live baiting”.

So what happened to those “Project Welfare Findings”? Where did they go? They went into another GRNSW strategy, this one was called the “Project  
15 Welfare Implementation Plan” and like so many of GRNSW's plans many matters in it were not adequately addressed or addressed at all other than by way of aspirational statements.

So let's have a look at the “Project Welfare Implementation Plan Board  
20 Report” which I will tender and ask, Commissioner, that you mark as Exhibit F. I should note, Commissioner, that although I have referred to it as being a “Board Report”, it's not described in that way, but it is pretty clear that it is when you go to the second page and you will see “Recommendations”.

25 **EXHIBIT #F - DOCUMENT HEADED PROJECT WELFARE IMPLEMENTATION PLAN**

MR RUSHTON: The evidence will show, Commissioner, that this is a document which went right up to the Board, as did the” Project Welfare  
30 Findings” that I have just taken you to which were attached to it. The Board of GRNSW considered this material at a meeting held on 27 April 2010. Those at the meeting included its chairman, Professor Percy Allan, and its Chief Executive Officer, Mr Brent Hogan. I've already referred to Professor Allan's submission to this Commission and Mr Hogan's press statement which  
35 reflected their responses to the Four Corners program. No knowledge of live baiting, they said. A dreadful practice, so they said.

There cannot be any doubt that the Board considered the use of “live baiting” and its prevalence in the greyhound racing industry as a “traditional” and  
40 accepted method of training. It is there in black and white, and I propose to read it onto the record. I will do that because I would like you to compare what I'm about to say, which was what was brought to the Board's attention, which was subsequently brought to the public's attention. There's a very interesting comparison. The relevant part of the Report or the welfare implementation  
45 plan is at point 7 on the first page. I'll read it onto the record.

5                    *As directed by the Board, Management has conducted extensive consultation with members and interest groups and have formulated the attached Consultation Findings as a precursor to formal development of a revised welfare policy. It aims to significantly address the concerns of members and provides greater regulatory control of sections of the industry previously unregulated. The consultation phase has seen management make 11 presentations to a wide and various (sic) cross-section of industry participants. In general, there was an overwhelming endorsement for the need for change.*

15                    *Eleven key areas were identified as critical in the development of an ongoing welfare policy.*

Critical, and then they're listed as bullet points.

- *Education*
- *Track preparation*
- 20                    • *Reporting of injuries*
- *Use of 'live' animals in training*
- *Race programming*
- *Licensing and registration of breeders, rearers and educators*
- *Transport*
- 25                    • *GAP*

That's Greyhounds as Pets.

- *Race day and club welfare policies.*
- 30                    • *Life cycle tracking*
- *Responsible breeding*

35                    *Welfare is a living issue requiring extensive cultural change within the greyhound industry to meet the growing community expectations in relation to the use of animals in sport. We are mindful of the growing welfare extremists who have been successful in utilising modern media to force closure or change in all three racing codes throughout the world.*

40                    Well, there you have it, Commissioner. Management has identified the “use of live animals in training” not just an issue, but one which is “critical”, critical to the “development of an ongoing welfare policy”. And what does management do? It brings this “critical” welfare issue to the attention of the Board. And what does the Board and Management do to address this “critical” issue  
45                    between 2010 and the Four Corners program in 2015? Nothing. Absolutely

nothing.

MR MCHUGH: Nothing? Is there any minutes or evidence or the relevant meeting? After all, Professor Allan is a distinguished public servant. He was  
5 Secretary of the Treasury. I noticed in his submission to us that he pointed out that Ms Joyce Alamanga was a passionate campaigner for animal welfare and a strong voice for the greyhound. What happened? Is there any discussion of what went on at the Board?

10 MR RUSHTON: What happened is, what the Board papers actually reflect, is that after this particular issue came up at a Board meeting it was dropped off the items. And the other items that are listed there became the subject of discussion at subsequent Board meetings, but the one issue - in fact there were three issues. The most important one for my purpose at the moment was live  
15 baiting. It just wasn't covered again. It just wasn't covered again.

MR MCHUGH: Yes.

MR RUSHTON: I said that Management and the Board did nothing to deal  
20 with it. But that's not to say that the Board and Management did nothing with the information which they had received, that is, the information that there was a "critical" welfare issue of the use of live animals. They did. The evidence will suggest, I anticipate, Commissioner, that they kept this "critical" welfare issue a secret. I'll come to the evidence which demonstrates that in a moment,  
25 but before I do that I should point out what may already be obvious from the document. It provides a significant clue to the reason why this "critical" welfare issue of the use of live animals was not made known to anyone outside the industry. The reason quite simply seems to have been a fear that if there was exposure, then there might be calls from a growing number of "welfare  
30 extremists" for the government to bring this industry to an end and to do it pronto.

And that is clear, can I suggest, from the final paragraph to which I have just drawn your attention. I'll just read it again.

35

*Welfare is a living issue requiring extensive cultural change within the greyhound industry to meet the growing community expectations in relation to the use of animals in sport. We are mindful of the growing welfare extremists who have been successful in utilising modern  
40 media to force closure or change in all three racing codes throughout the world.*

What an extraordinary statement. Welfare is a living issue, that's for sure, but the small, vulnerable animals which were being used to "blood" the dogs were  
45 living too. Any person who reacted to such brutal behaviour could hardly be

described as a “welfare extremist” who might unfairly manipulate the media.

Now, Commissioner, annual reports are not merely important documents. They are critical documents. Sometimes they are the only means by which members of the public can get any insight into the body which publishes them. If they have been properly prepared and are accurate they will usually achieve that object.

Let me now take you to the annual report of GRNSW of 2009 - 2010. It was its very first Annual Report. I tender the Annual Report and it should be marked, Commissioner, as Exhibit G.

**EXHIBIT #G - GREYHOUND RACING NEW SOUTH WALES  
ANNUAL REPORT FOR 2009-2010**

MR MCHUGH: Yes, Mr Rushton.

MR RUSHTON: Now, Commissioner, I take you to what appears at page 10 of the Report. You'll see there that page 10 has got a little photograph down in the corner of two people and a pet greyhound.

MR MCHUGH: Yes.

MR RUSHTON: You'll see that that is all under the “Operations Review”, Growth and Sustainability. Commissioner, if you go down to about point 9 on the left-hand side, there's a heading “Project Welfare”.

MR MCHUGH: Yes.

MR RUSHTON:

*In January 2010, GRNSW commenced the development of Project Welfare as a first step in the implementation of a long-term policy aimed at driving welfare improvement and cultural change within the sport.*

And then if you then go to about point 4 in the right hand column, you'll see a sentence beginning, "A number of key issues ...".

MR MCHUGH: Yes.

MR RUSHTON: I'll just read that onto the record.

*A number of key issues and areas were identified during Project Welfare consultations and stakeholder feedback provided the basis of*

*the welfare strategies outlined in GRNSW's strategic plan Chasing 2020. As part of the ongoing implementation of the plan, GRNSW will develop policies and practices in the following areas to achieve best practice standards in greyhound welfare:*

5

- *Improve licensing and regulation of breeders, trainers and rearing establishments;*

10

- *Improve track preparation;*

- *Race programming that nationalises the racing life of greyhounds;*

15

- *Increased re-homing of greyhounds;*

- *Introduction of race day and club welfare policies;*

- *Improve life cycle tracking;*

20

- *Encouraging responsible breeding practices.*

Now, the wording of what I just read and the list of welfare issues which were reported to the public in the annual report of 2009 - 2010 might sound very much the same as the wording of the "project implementation plan, which is Exhibit F, to which I took you a moment ago. They were the issues that were considered to be critical by management at the time.

But there were 11 "critical" welfare issues identified in the "Project Welfare Implementation Plan" which is Exhibit F. However, there are only seven that are disclosed in the Annual Report. One of the critical welfare issues that was omitted from the Annual Report was the use of live animals in training: the rabbits, the kittens, the possums and the chickens.

Can I say that the failure to disclose to the public such a "critical" welfare issue - the "traditional" training method to get young dogs to chase was perhaps unsurprising. GRNSW no doubt understood that the practice was one which had been utilised for centuries. Perhaps it believed too that the practice was so embedded in greyhound racing culture that it would never be abandoned by many industry participants whatever steps it took. But one thing is certain, it would have well-understood the likely implications if word got out. The practice would likely bring the industry to an end. Whatever way you cut it, there is an inference available which is a particularly negative one. In the pursuit of commercial gain, GRNSW and the industry were prepared to abandon the most fundamental animal welfare standards imaginable. They were prepared to profit from acts of unspeakable cruelty perpetrated upon

small vulnerable animals.

As I've pointed out, the 11 "critical" issues which had been identified in the "Project Welfare Implementation Plan" were reduced to 7 in the annual report.

5 I've dealt with one; that's the use of live animals. There were 3 other critical issues which did not find their way into the report either and I'll deal briefly with those now.

10 The first was that there was to be compulsory education of a number of industry participants. That was mentioned as a critical issue in the "Project Welfare Implementation Plan", Exhibit F, but didn't find its way into the annual report. It's only recently that GRNSW has introduced compulsory education, and only in respect of one aspect of the industry. It's done that in relation to breeders. From 1 July breeders must complete the "Breeder's  
15 Education Package" before obtaining a licence. It's not known why GRNSW did not consider it to be in the interests to publish the fact that it considered education to be a critical issue in developing welfare strategies moving forward. One possibility is it recognised that there would be great industry resistance and so did not want to put it out there.

20

The second "critical" issue which had been identified in the "Project Welfare Implementation Board Report" which did not find its way into the Annual Report was the reporting of injuries. I've already noted that there have been grave concerns for many years that controlling bodies have failed to keep and  
25 publish comprehensive injury reports and statistics. Concerns have been expressed not only in Australia but in the United Kingdom and in the USA. As I indicated when I began this address, most track injuries are a matter which will likely be covered in later hearings. Can I say though that, recently, RSPCA informed the Commission that based upon the limited data available to it derived principally from Stewards' reports it estimated that more than 600  
30 greyhounds every month were injured in races across Australia. The injuries include serious bone fractures and other musculoskeletal injuries. RSPCA informed the Commission of its view that injuries were a major cause of "wastage", something which I will return to shortly. It seems the GRNSW did not want to expose this "critical" welfare issue to the public either. Reporting  
35 of injuries never made its way into the Annual Report.

40 The third and final "critical" issue which did not find its way into the Annual Report was Transport. The "Project Welfare Findings" had recommended that GRNSW develop and implement a minimum standard in relation to trailer transport, which included ventilation and air conditioning, insulation and noise reduction, minimum size requirements, access to food and water, and the minimisation of stress for the animals.

45 MR MCHUGH: Were any regulations ever brought into existence concerning

transportation?

MR RUSHTON: From GRNSW's point of view I don't think so. What I do think may have happened though is that there may have been a Code of Practice introduced by the state government in consultation with the Animal Welfare League and the Animals Advisory Council. I will have to check that. But certainly as I understand it there was not a policy in place at that time.

There is one matter I should note. It is going to be necessary for me to take you back to Exhibit F briefly, Commissioner, which is the Project Welfare Implementation Plan. On the second page of that document you will notice that recommendations were made and I will read those on to the record too:

*Recommendation:*

1. *The Board note the receipt of the report*
2. *The Board directs management to draft a revised Greyhound Welfare Policy for consideration of the Board*
3. *The Board directs management to develop strategies to address the issues highlighted during the consultative process as part of the sustainability pillar of the strategic plan.*

Whatever one makes of this mumbo-jumbo, one “critical” issue which had been highlighted during the consultative process and had been the subject of “findings” was the use of small live animals. It was never addressed by the Board. It never appears to have found its way into any “sustainability pillar”, whatever that might mean. The recommendations were approved by the Board. That occurred at the meeting of 27 April 2010 to which I have already referred and I will tender the minutes of that meeting and that should be marked as Exhibit H.

**EXHIBIT #H - MINUTES FOR GREYHOUND RACING NEW SOUTH WALES BOARD MEETING HELD ON 27/4/2010**

MR RUSHTON: Thank you, Commissioner. If you look at the top of the first page of the Minutes you will see the persons who are present in attendance, including Professor Allan and Mr Hogan. If you go to page 5 of that document you will see that the recommendations I took you to a moment ago were approved by a resolution which was carried.

MR MCHUGH: Yes.

MR RUSHTON: Finally, as a formal matter, I should just tender the Agenda or that part of the Agenda for the meeting which concerned “Project Welfare”. So this is the material that was provided to the members of the Board prior to the meeting and that should be marked as Exhibit I.

**EXHIBIT #I - AGENDA FOR GREYHOUND RACING NEW SOUTH WALES BOARD MEETING HELD ON 27/4/2010**

5 MR RUSHTON: The present management of GRNSW has acknowledged to the Commission that it should have done more in relation to live baiting. I will read onto the record what it has said in its recent Submission. I use its words:

10 *GRNSW acknowledges that it failed to adequately monitor and engage with participants and that its inaction and ineffective oversight arrangements facilitated an environment where welfare considerations received limited priority and serious misconduct went unmonitored.*

15 That may be putting a bit of a spin on things, because “ineffective oversight arrangements” might provide some sort of an excuse absent actual knowledge, but that doesn’t seem to be the case here. GRNSW did know about live baiting. It permitted it to continue. It failed to stamp it out.

20 Before I move on to the question of overbreeding, I should perhaps flag now that there may be another reason why GRNSW had difficulty in getting on top of serious welfare issues such as live baiting. Why it was simply put to one side. Can I say a number of other integrity issues were put to one side too, which we’ll have to come to in further hearings.

25 The evidence will likely suggest that the integrity of GRNSW was liable to be compromised from the very start. It was populated by staff who maintained connections with the industry. That was because they were themselves owners or trainers and remained so, or because partners, husbands, wives or other  
30 family members were owners or trainers. So it may be that that was an issue which created some difficulties within GRNSW in getting on top of some of these welfare issues, particularly, most importantly for present purposes, the issue of live baiting.

35 Now, I’ll move on now to overbreeding and wastage. Can I say, Commissioner, that this particular issue is challenging and is not only challenging for the industry, but it is challenging in the sense that many who are unfamiliar with what I am about to say will likely be appalled.

40 Commissioner, if this is an industry which uses small, live animals to bait its young dogs in the pursuit of commercial gain, there is a question that might be asked. And in fact it should be asked. And it should be answered. Why would it bat an eyelid at breeding an excess of young greyhounds to achieve its commercial objects? Why would it care at all?

45

Well, the issue I'm about to address concerns the life cycle of young greyhounds. It's a bit odd, I know, to talk about a life cycle which is limited by the word "young". But regrettably, the life cycle of most greyhounds which are purpose-bred to race ends very quickly. Either as a pup, as a young animal, and usually by around 42 months or thereabouts. That is, three and a half years. Their life cycle comes to an end, and that's in circumstances where the normal life cycle of a greyhound would be between 10 and 12 years.

Now, there are exceptions to this, Commissioner. Some dogs will go on to breed. And whilst I'm on that subject, I should point out that the average litter size to greyhounds is about 6.5 puppies. With the potential of those sorts of numbers, it's not hard to see that uncontrolled and irresponsible breeding would lead to the birth of many animals excess to the needs of the industry.

And until 1 July 2015 breeding was uncontrolled. Anyone could do it and many did. On 1 July 2015 GRNSW introduced a breeding registration system, and I'll come back to that in a moment.

And I should point out too, Commissioner, before I move on, that the investigations which the Commission has undertaken so far suggest that there are a number, perhaps many, individual owners and trainers who have never put down one of the animals under their care or control absent injury or disease. But the Commission is not looking at the individual practices of particular owners or the individual practices of particular trainers and other industry participants. It is looking at the industry in New South Wales. That is what the Commission is required to examine and investigate, and the industry picture tells a very different story. A truly ugly story.

Let me start with some figures, and they are figures which are largely unrelated to greyhounds.

As we all know, the RSPCA is a charitable organisation. The country's largest when it comes to animal welfare. It is not an industry organisation. The public fund it by and large. It has a number of divisions and New South Wales is one of them.

In 2014 the RSPCA received a large number of dogs into its shelters. It also received many other animals, but dogs are what I want to talk about, and the dogs which were received into RSPCA shelters in Australia would've included greyhounds. But I'll put that to one side for the moment. What is important are two figures: the number of total dogs received by RSPCA Australia and the number of dogs put down.

RSPCA Australia publishes a report every year on animal welfare outcomes from its shelters and its care and adoption figures and the report is available

online.

From 2013 to 2014, the RSPCA received 45,954 dogs into its care. Its euthanasia rate was 15.9 per cent. That means that approximately 7,307  
5 animals were put down by the RSPCA across all states and territories. And those figures cover all breeds and crossbreeds which make up the dog population in Australia. Some of the dogs would have been greyhounds, but if the New South Wales figures are any kind, then the number is likely to have been small. The RSPCA has not been able to provide the numbers of  
10 greyhounds in the figure of 45,954, however in response to an Order issued by you, Commissioner, RSPCA New South Wales informed the Commission that during the period 1 July 2009 through to 7 May 2015 only 410 greyhounds were received into its care, that is, 410 greyhounds were received into its care in New South Wales over a six-year period. That's a very small number. It's  
15 less than 70 greyhounds per year. There's no reason to believe that the figures would be any greater in other States and Territories.

So we have 45,954 dogs received Australia-wide by the RSPCA. We have  
20 7,307 which were euthanised.

Let's now turn to the greyhound racing industry. What I'm about to draw your attention, Commissioner, will likely give us all an insight into where the industry is at in terms of managing the breeding of animals to participate in the sport. In fact, what I am about to cover may well tell us where we will likely  
25 be in the future if this industry continues.

Currently, it is not unlawful to put down a dog provided it is down humanely. In fact, arguably it's not currently unlawful to put down 100 dogs at about the same time provided it is done humanely and, sadly, animal welfare  
30 organisations such as the RSPCA put down many dogs and other animals each year. I've drawn your attention to some of the figures.

However, matters which are lawful may nevertheless be regarded as unacceptable to the wider community and again, that raises the question of  
35 such licence.

This industry's breeding practices are such that thousands and thousands of puppies are born each year that either at birth or at some point up to about the age of 42 months are or become excess to the industry's requirements. With  
40 the exception of a small number kept by industry participants or re-homed, these dogs are killed. They are destroyed. This is what is euphemistically known as "wastage".

Commissioner, as I've already said, for many years now the greyhound racing  
45 industry has been less than transparent. It has resisted calls to keep accurate

records of various matters which might reflect adversely on the industry's approach to animal welfare.

5 The question of overbreeding and wastage of healthy animals is a case in point. Overbreeding and wastage were matters which the Upper House Select Committee sought to unravel and assess during the course of its inquiry. However, GRNSW was unable to provide any reliable assistance concerning levels of wastage in the industry and what happened to the dogs which were purpose-bred to race but did not make the grade. Figures were provided, but they seemed to be little more than conservative “guesstimates”.

15 And those “guesstimates” were based upon a very narrow view of “wastage”, it has to be said. Wastage concerns the number of individual animals bred for the purpose of greyhound racing which are subsequently discarded for various reasons, including a failure to perform, being excess to a participant's needs or having no home available to take them in.

20 GRNSW and the industry in this State seem to have a unique, if not peculiar, understanding of “wastage”. Recently the Commission was informed by the GRNSW that - and I use its words:

*Within the industry, “wastage” is a term with a narrower meaning, specifically referring to greyhound pups which are whelped but never registered to race and officially known.*

25 To define “wastage” in that way has permitted the industry to disguise the true extent of the crisis which it has created and the true numbers of healthy greyhounds put down each year.

30 Well, Commissioner, to use the words of one animal welfare organisation, young greyhounds are literally “running for their lives”. And the Commission has received what appears to be reliable evidence to prove it.

35 The Commission has now obtained access to a document which was prepared very recently by Greyhounds Australasia and Greyhound Racing South Australia, which is the controlling body in that state. For convenience, I will refer to it as Greyhound Australasia’s document. After all Greyhounds Australasia is the national body which represents the industry. The document purports to be “Strictly Confidential”, and no wonder. Its contents are frightening. It is in this document that Greyhounds Australasia admits that the greyhound racing industry is in “crisis”. Few could disagree.

45 Commissioner, I tender a strictly confidential memorandum of 23 April 2015. The title of the document is, “Crisis to Recovery Program – Framework for Achieving Zero Euthanasia.” The document should be marked as Exhibit J.

MR MCHUGH: Do you want any specific orders made about the confidentiality of it?

5 MR RUSHTON: I don't. I've been informed recently by GRNSW that no claim for confidentiality is pressed. It formed part of GRNSW's submissions to the Commission and, might I say, that the approach taken is a responsible one to take. The public really need to know these numbers, it's not before time.

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MR MCHUGH: All right. Well, the document headed, "Crisis to Recovery Program," under the logo of Greyhounds Australasia and the logo of Greyhound Racing SA, dated 23 April 2015 will become Exhibit #J.

15 **EXHIBIT # J – GREYHOUNDS AUSTRALASIA DOCUMENT  
HEADED CRISIS TO RECOVERY PROGRAM DATED 23/4/2015**

MR RUSHTON: Thank you, Commissioner. Now, what is contained in this particular document is testimony, in my submission, to the industry's culture when it comes to animal welfare. It's damning testimony, I have to say.

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And you'll note Commissioner, that the authors of this document, that is the CEO of Greyhounds Australasia and the CEO of Greyhound Racing South Australia put forward a recovery program which is designed to achieve zero euthanasia, the goal being to build trust in the greyhound racing industry.

25

What the document shows is that nationally, there are approximately 17,500 greyhound pups born each year - and that figure is an extrapolation from the fact that they note there, Commissioner, that 7,000 greyhounds a year do not make it to the track, that's 40 per cent. So if 7,000 is 40 per cent, one hundred per cent is 17,500.

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So it shows that there are approximately 17,500 greyhound pups born each year; that's a large number. And it might be a national figure, can I say, but NSW is the biggest contributor by a very large margin. Recently, GRNSW informed the Commission that the number of pups born last year in NSW was approximately 8000.

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MR MCHUGH: So that means, if that 40 per cent figure applies in NSW, then 3,200 don't make it to the track.

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MR RUSHTON: Correct.

MR MCHUGH: And what happens to them?

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MR RUSHTON: I can deal with that now. In fact, the authors of this document dealt with it. You'll see in the first bullet point, there are a number of bullet points, and the first, as I've noted, they record that 7,000 greyhounds a year don't make it to the track. 17,500 pups are born, but 7,000 will never  
5 make it to the track. That figure represents nationally, 40 per cent of all greyhounds born.

In the second bullet point, Greyhounds Australasia note that the industry Greyhounds as Pets Program rehome only around 6 per cent of all pre-raced  
10 and retired greyhounds. On these figures, that means just 600 animals nationally, 600. That is 600 animals each year, when the number of pups born is 17,500. GRNSW, have informed us that in NSW, only 141, 141, greyhounds were rehomed last year, through the GAP program. 141, when 8,000 pups  
15 were born last year and, as you would know, Commissioner, only 3,200 of that number will ever make it to the track. Now, there are programs other than GAP which try and assist the animals which are the product of the industry's breeding "crisis". However again, the numbers are likely to be small. I  
20 mentioned a moment ago that during the previous 6 years, RSPCA received a mere 410 greyhounds. It has informed the Commission that over that period, that is a 6-year period, it managed to secure homes for 154. Over a 6 year period.

Can I then move on to the third bullet point. There you'll see that Greyhounds Australasia acknowledges that, and these are its words: "...this industry is  
25 responsible for the *unnecessary deaths of anywhere between 13,000 and 17,000 healthy greyhounds a year*. Now, that figure does not include animals that are re-homed by other welfare organisations, or individual animals which might be kept by owners or trainers. As I've indicated however, the numbers rehomed by other welfare agencies are small, minuscule, perhaps. The  
30 numbers retained by individual owners and trainers is unlikely to be statistically significant, and Greyhounds Australasia does not suggest otherwise.

These figures, Commissioner, are a terrible indictment of this industry.  
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MR MCHUGH: Well, the peak body of greyhound racing in Australia, Greyhounds Australasia, in this document, says the industry is responsible for the unnecessary deaths of between 13,000 and 17,000 health greyhounds.

40 MR RUSHTON: Yes.

MR MCHUGH: It really is appalling.

45 MR RUSHTON: It's dreadful, and we're not talking about animals which are put down because they've been injured or diseased. As you rightly pointed out

Commissioner, these are, in their own words, healthy dogs that have been put down unnecessarily.

5 And what those figures mean, their figures mean that between 74 per cent and 96 per cent of young, healthy, greyhounds will be put down at some point, either prior to, or on retirement, if they are lucky enough to have made it that far. As little as 4, 4 in every 100 greyhounds born each year will make it beyond fully two months of age. As many as 96 in every 100 healthy young greyhounds born each year, will be destroyed by the industry which bred them.  
10 Now, before I move on - - -

MR MCHUGH: I noticed that in that same document, it says:

15 *The culture of the industry is defined by animal deaths being acceptable and necessary, and where profits come before welfare.*

MR RUSHTON: I don't put this into evidence now, but I will take you to a document during the course of the hearing submission where, this, of course is very recent, this is a document created in 2015, but there are Board records of  
20 Greyhounds Australasia where it has indicated as far back as 2013, that the industry's position on breeding was, to use its word, "indefensible."  
Indefensible. And now, we're two years down the track. Just compare those figures with the RSPCA figures that I raised a little while ago. Of all dogs, all breeds, all cross-breeds and across all states and territories, RSPCA put down  
25 7307 dogs last year. Many of those, of course, would've been aged, and many would have been ill. RSPCA puts down 7,307 dogs nationwide, and this industry puts down between 13,000 and 17,000 of one breed. RSPCA has a euthanasia rate of 15.9 per cent, this industry has a euthanasia rate of between 74 per cent and 96 per cent.

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MR MCHUGH: Is euthanasia an appropriate term to be using in this situation?

MR RUSHTON: It's not. It's not. On paper, on the one hand - I have to be a  
35 little careful here - I can understand why a welfare organisation would use that term, because it is putting down dogs that have been stranded. But for an industry to use a euphemism, it's mass slaughter. It's a euphemism for mass slaughter. I won't say anything further about that point.

40 You've drawn attention, Commissioner, to the national body's own comments about its culture. It's noted in the fourth bullet point, Commissioner, again using its words, "*assuming the industry survives the current inquires in four states, its greatest challenge to short, medium and long-term sustainability remains this disturbing reality.*" That is, the disturbing reality of multiple or  
45 mass killings of young dogs. There can be no doubt about that. Overbreeding

is just out of control and has been for many, many years. The real question is whether the Commission could possibly be confident that there are means available to control this problem and, even if there are, whether it is likely an industry with this sort of culture will embrace those measures.

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You will see too that at the fifth bullet point Greyhounds Australasia notes that nationally there are currently 3800 active breeders. In other words, breeder numbers are out of control too. GRNSW has recently sought to introduce some measures to address this, and we will have to come back to that. It may be way too little and way too late.

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At the sixth bullet point Greyhounds Australasia notes that 80 per cent of the 3800 active breeders breed just one or two litters every year. That means, according to - - -

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MR MCHUGH: Every three years, wasn't it?

MR RUSHTON: Every three years. It seems that what Greyhounds Australasia is putting forward here is that even if you reduce the breeders and litter numbers it's not going to make a great deal of difference. We then, in the seventh bullet point, have the point that you made, Commissioner, in relation to the national body's recognition that: "*The culture of the industry is defined by animal deaths being acceptable and necessary and where profits come before welfare.*" That's clearly right on the money, in my submission. What Greyhounds Australasia has said reflects what many have believed for so long but have been unable to prove. There it is from the national body. An industry culture defined by animal deaths; an industry culture which considers this to be necessary; an industry culture which considers this to be acceptable; and an industry culture which puts profit before animal welfare.

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At the eighth bullet point Greyhounds Australasia notes that: "*...the industry has done a poor job in understanding the nature and depths of the fundamental problem and has done very little to find a genuine solution.*" What Greyhounds Australasia has said there raises a point of some importance. To speak of a "genuine solution" which should have been embraced by the industry assumes that there is one. A solution where overbreeding is no longer a feature of the industry on the one hand; and the industry is financially sustainable on the other. I have not seen one piece of credible evidence in the vast volumes of material received by the Commission so far that there is a solution which would work or which would be embraced by the industry.

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That is very much highlighted by this 40 per cent attrition rate. If 40 per cent of young dogs will never make it to the track because they are not sufficiently competitive then even if the yearly deluge of pups was to be reduced to 10,000, then 4000 would never run a race. A high attrition rate of young animals

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seems to be a given in this industry. Cutting the number of races or closing tracks might have some impact but the Commission has not received any material indicating that to take these steps would have a significant impact upon the underlying problem. Indeed, Greyhounds Australasia does not put these matters forward as being a solution in this document. It doesn't mention them. Those young animals that don't make it to the track will continue to be destroyed. On the basis of past history and perceived current attitudes, most of the rest of the cohort would be punted off this mortal coil too, either during their racing careers, if they fail to perform, or upon retirement.

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In the ninth and final bullet point Greyhounds Australasia goes on to note that: *“Stakeholders, in particular the public and government, will not accept the status quo approach.”* If this document reflects the current state of the industry and the culture of many of its participants, then stakeholders would not, I anticipate, accept the status quo and nor should they. They would likely want to see the industry shut down.

15

Greyhounds Australasia goes on to consider a number of strategies which it considers might address the problems it has identified. Can I suggest that they are largely aspirational. The aim is to reduce the number of greyhounds bred to approximately 10,000 per year. Not now, not next year, not the year after, but by 2018. If the industry truly recognised the significance of this breeding crisis, why would it take so long? And why does the document go on to describe as an outstanding issue "defining zero euthanasia". Call me old-fashioned but isn't that one pretty obvious - no destruction of healthy young greyhounds merely because they do not perform and are surplus to the industry's needs. How is all this going to be achieved? Apparently by two measures.

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First, by reducing the number of breeders and having those breeders who remain in the industry agree with Animals Australia on a breeding “target”. How realistic is that? What if no agreement can be reached? I don't know whether Animals Australia has even been approached on this but it just might be the case that it doesn't want to become responsible for setting breeding numbers in an industry which it does not support. It looks very much like window-dressing.

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The second measure which is to be utilised to deal with the breeding crisis is increasing the number of greyhounds that will be rehomed nationally under the GAP program by 1,500 per year so that by 2020 the annual re-homing rate will be 7,500 greyhounds per year. How realistic is that? RSPCA has reported that of the 45,954 dogs that it took into its care last year, it was able to re-home 37.1 per cent. That is, approximately 17,000 were rehomed across all breeds across the country by RSPCA. How plausible is it that the greyhound racing industry will be able to rehome 7,500 greyhounds each and every year. It is

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5 totally implausible if history is any guide. Nationally GAP rehomes approximately 600 animals. Greyhounds, Commissioner, might be lovely animals but these figures seem to contemplate that sooner or later every family in Australia will have a greyhound within their home which has been discarded by the industry.

10 And in all of this Greyhounds Australasia accepts that there will remain a substantial number of animals which will be surplus to the industry's needs. It sees the number of puppies born annually reducing to approximately 10,000 by 2018. It sees the number of greyhounds re-homed increasing to 7,500 each year by 2020. 10,000 born and 7,500 re-homed each year. 7,500 greyhounds will need to be re-homed because they will be surplus to industry needs. If the re-homing target is not met, those discarded animals will simply be destroyed.

15 I should say, Commissioner, that overbreeding and wastage is not a unique feature of the greyhound industry in this state or, can I say, in Australia. Other jurisdictions where greyhound racing has taken place in the past, or is currently lawful, have identified the destruction of young greyhounds as a major welfare issue. Some of the examples where it has come to light have created  
20 considerable controversy.

By way of example, in 2002 a former Pensacola security guard working at a Florida track in the United States admitted to receiving thousands of unwanted dogs over the years, shooting them in the head and burying them on his  
25 Alabama farm. His attorney was reported as having said:

*If there's anybody to be indicted here, it's the industry because this is what they're doing to these animals. The misery begins the day they're born. The misery ends when my client gets hold of them and puts a bullet in their head.*  
30

Similar problems have arisen in the United Kingdom.

35 On 16 July 2006 the "Sunday Times" reported that for 15 years one David Smith, a builder's merchant, had been killing healthy greyhounds no longer considered by their trainers to be fast enough to race. The article suggested that there could have been up to 10,000 dogs buried at Mr Smith's house in Seaham, County Durham. It included disturbing photographs; one of two greyhounds being held on a lead by Mr Smith and another of Mr Smith  
40 returning with the dogs' bodies in a wheelbarrow.

That article provoked a national outcry and led to the greyhound industry setting up its own inquiry into its regulation. I've already referred to that inquiry. It was the one chaired by Lord Donoughue on behalf of the British  
45 Racing Board and the National Greyhound Racing Club. Referring to a report

in the same year, that is, in 2007, by the Associate Parliamentary Group for Animal Welfare, Lord Donoughue had this to say:

5           *One of the main welfare issues which bedevils the greyhound racing industry is the number of dogs which go missing either before, during or after their racing careers. Estimates vary as to the numbers involved and the Associate Parliamentary Group for Animal Welfare report made a number of helpful estimates and assumptions in this respect. We have no reason to doubt or challenge their finding. The important point, however, is that we do not know what the numbers actually are and that state of affairs is unacceptable to the general public. The objective for the whole industry, therefore, should be to institute a regime whereby, through registration, record keeping and tracking, the identity and location of a greyhound is known from birth until retirement, including what happens to each greyhound at the point of retirement.*

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Well, Commissioner, we now have the figures from Greyhound Racing Australasia.

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I anticipate, Commissioner, that you will hear evidence that since the Four Corners program GRNSW has taken none of the steps to address overbreeding in the industry. Previously in New South Wales any person who was licensed with GRNSW as an owner or trainer was permitted to breed.

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I've indicated that, since July 2015, GRNSW have required all persons wishing to breed greyhounds to hold a breeder's licence. Failure to hold a licence now amounts to a contravention of the rules and there have been restrictions placed upon the number of litters which a breeding female can have. The restriction though, is subject to one qualification: that is that approval for a further litter can be obtained from GRNSW.

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Persons applying for a breeder's licence are now required to successfully complete the breeder's education pack and complete a questionnaire. Once received, GRNSW inspect the breeding facility and a licence is granted. One matter which the Commission will need to consider is whether the breeder's education pack will likely have any measurable impact upon overbreeding within the industry. On one view, it has the capacity to increase the number of purpose bred dogs.

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Finally, it should also be noted that GRNSW has now introduced a Code of Practice for breeding, rearing and education which provides an overarching framework for breeders, rearers and educators, and specifies a minimum standard of accommodation, management and care. The adequacy of that particular Code will also be a matter which may be explored this week or in

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later hearings.

5 Before I move on, I should briefly note one matter. Although, like trainers, breeders are now required to be licensed, there remain participants in the industry who have the care and control of greyhounds and responsibility for their welfare during particular periods of their licence who, even today, are not required to be registered with or licensed by GRNSW. They include rearers, educators, and pre-trainers. As I understand it, an educator is a person who breaks in greyhounds, that is, gets them accustomed to be being handled and to  
10 chase a lure. Many educators are also trainers and registered as such, but they do not have to be. GRNSW has acknowledged in its submissions to the Commission that the actions of these people who are unlicensed have the capacity to impact upon the welfare of the animals.

15 Let me return briefly to breeders. Commissioner, the Commission is likely to receive evidence this week which suggests that the industry has not responded well to GRNSW's endeavours, such as they are, to deal with wastage and the destruction of young, healthy greyhounds. The problem of overbreeding was raised with a number of trainers in private hearings. By and large, the response  
20 was that overbreeding was not an issue and GRNSW's policies might lead to a shortage of racing greyhounds. One witness, who told you that it was "pot luck" whether a litter could produce any successful greyhounds, said this, and I quote that witness:

25 *I think you should be able to breed if that is what you want to do.*

Well, that simplistic view of the world and the fact that it does not quite accord with modern animal welfare standards is one which is not only held by trainers, but also, it would seem, the industry representative body.

30 Under the *Greyhound Racing Act 2009*, GRNSW is required to consult with a body which represents participants in the greyhound racing industry. It is called the Greyhound Racing Industry Consultation Group or GRICG. The current membership of GRICG includes a Country Club representative, two  
35 representatives of the NSW Greyhound Breeders, Owners and Trainers Association, a TAB Club representative, a bookmaker's representative, and a representative of the Registered Greyhounds Participants Association.

40 Well, Commissioner, very recently, namely, on 4 August 2015, GRICG met. The minutes of the meeting reveal that the new breeding restrictions were not well received. I will tender those minutes. Those should be marked as Exhibit K.

45 **EXHIBIT #K - MINUTES OF THE MEETING OF THE GREYHOUND RACING INDUSTRY CONSULTATION GROUP ON 4/8/2015**

MR RUSHTON: Thank you, Commissioner, and if I could just draw your attention to business arising from correspondence and you'll see there is a heading at about point 7 on the page.

5

MR MCHUGH: Yes.

MR RUSHTON: One of the items in paragraph number (b) is:

10 *Code of Practice for New Breeding Policy. GRICG concerned about the new policy providing the following uses: No allowance to "passive breeders", restriction of trade, and size of litters. Resolved that we correspond with GRNSW with concerns on the new policy. A copy of this correspondence will be included with the minutes.*

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That was carried, and then under General Business there are number of points. Point number 3 is this:

20 ***Breeding Cycle** - GRICG is concerned that with the breeding numbers at a low, has GRNSW (or TABCORP) conducted any modelling on the possible numbers required in two years' time. GRICG will deal with how the industry may face issues providing sufficient numbers.*

25 Well, if the figures of the national body, Greyhounds Australasia, are correct, breeding figures are not low. They are close to an all-time high. The statistics kept by Greyhounds Australasia reveal that in 2014 there were 1,503 litters which were registered in New South Wales. Since 2003 there have only been two years where a marginally greater number of litters were bred. In 2005 there were 1,540 litters registered. In 2006 there were 1,625. Now, those

30 numbers can be found online.

GRNSW has recently provided the Commission with numbers which vary a little from those which are held by Greyhounds Australasia, but the difference is relatively small and may be explicable. I mentioned one of those figures a

35 moment ago. It was the 8,000 figure. The figures that GRNSW have provided to the Commission are from natural services and do not include litters produced by artificial insemination. Those figures show that in 2014 there were 1,248 litters registered which produced 8,058 pups. So far this year, that is, in 2015, there have been 1,225 litters registered which have been produced by natural

40 services and so far 7,964 pups have born. Well, whatever way you look at it, it is just not the case that the numbers are at a low.

Now, I mentioned that meeting. As foreshadowed at that meeting, the GRICG did correspond with Greyhounds New South Wales. On 10 August 2015 it sent

45 a letter to the current chief executive officer of the GRNSW which I tender.

It's a letter dated 10 August and it should be marked Exhibit L.

**EXHIBIT #L - LETTER DATED 10/8/2015 SIGNED BY MR WAYNE  
BILLET ON BEHALF OF GREYHOUND RACING INDUSTRY  
CONSULTATION GROUP**

MR RUSHTON: Thank you, Commissioner. Yes. You will see it's really points (a), (b) and (c) on the first page:

10            *(a) Under the new policy there have been no considerations given  
to what is deemed as passive breeders, that is people who have a  
genuine interest in our industry and like to breed. However they  
utilise the services of professionals within our sport to do the  
breeding, rearing, and training on their behalf. Can GRNSW  
15            implement a tiered approach for different levels of breeders?*

*(b) Members of the greyhound industry have received advice that  
the new policy is actually a restriction of trade. Has GRNSW  
received legal advice on the possible impacts of this policy and  
20            does it meet with legal requirements?*

*(c) Has consideration been given to the policy for the size of litters  
that bitches have whelped previously in assessing the ongoing  
viability of the bitch being able to have subsequent litters. For  
25            example, the bitch may only have one to two pups in the litter -*

and so on and so forth.

30            None of that provides particularly encouraging signs, Commissioner, in terms  
of the culture of the industry and whether there is any realistic prospect of  
change. Where you have an industry where you have a problem such as I have  
just identified that is absolutely chronic and absolutely critical to the industry  
survival it is not - can I suggest - anything other than worrying when you see  
responses such as what I've just taken you to.

35            There's one final matter which should be noted, Commissioner. In its  
submissions to the Commission, GRNSW has addressed the question of  
overbreeding and has pointed to the measures which have been put in place  
since 1 July 2015. However, it has also flagged a qualification. It is a  
40            qualification which suggests that the nature of this industry is such that it will  
likely always need to breed excess greyhounds if it is to be a sustainable  
industry. For completeness I will read that submission on to the record and I  
quote GRNSW.

45            *GRNSW recognises that any breeding restrictions placed on industry*

5 participants need to be measured to ensure that the racing industry is sustainable and there is an adequate supply of greyhounds that participate in the sport. As the biggest exporter of greyhounds to other states, GRNSW and other controlling bodies have recognised that the imposition of breeding restrictions will have a flow-on effect to the greyhound racing industry in other states.

10 As such Greyhounds Australasia is in the process of engaging specialist assistance to develop a methodology to analyse the flow of greyhounds through the Australian greyhound industry and identify the options available to support an industry that can thrive while meeting the community's animal welfare expectations. Broadly, the task will involve scenario-based modelling with greyhound breeding, the impact on commercial arrangements, policy and reform, including an analysis of the number of greyhounds required to support the number of races that are required to be run (under contractual arrangements) around Australia.

20 Once completed this report will inform GRNSW's thinking on the development of evidence-based policies to regulate breeding activity in New South Wales.

25 That submission, Commissioner, suggests that even at this point and after so many years during which chronic overbreeding has been raised by so many as an issue which might threaten the industry's continued existence, the industry is still unable to tell us what can be done which might be consistent with the "community's animal welfare expectations". Well, Commissioner, time is fast running out.

30 I commenced this part of my address by positing the question. There was a question which should be answered. Why would an industry which is prepared to use small, vulnerable helpless animals to blood its young greyhounds in pursuit of money care at all whether it bred too many animals? Why would it care if the animals which were surplus to industry needs were simply destroyed?

40 And conversely would an industry which kills thousands of young greyhounds every year, without really batting an eyelid, care one jot about using live baits to train their dogs, be that rabbits, possums, piglets, kittens or chickens.

45 Would people who engage in those sorts of behaviours be capable of maintaining a viable industry which adopts and adheres to acceptable animal welfare standards? Some might say it is doubtful. The problem is not just the recalcitrant attitude of many to adopting acceptable standards of animal welfare. The problem runs deeper than that. There are issues such as

overbreeding which may be incapable of resolution in a way where there could be a sustainable industry; one which the wider community is prepared to convey. And so far no-one has suggested realistic and credible solutions to those matters which cause the community most concern. That includes  
5 GRNSW. Some measures have been taken since the Four Corners program. And that is a start. But by and large the regulator has advanced little more than aspirational statements; things that might be achieved in the future.

Now, what I have just said, Commissioner, is not evidence - of course not. My  
10 comments and submissions reflect no more than my preliminary views, as Counsel Assisting, based upon the investigations undertaken and material received so far.

However, I do wish to put on the record that the industry and GRNSW should  
15 get their running shoes on. Some might say that they - rather the greyhounds - are now "running for their lives". On so many occasions they have been called upon to demonstrate that they understand community concerns and will address them. They have failed. I am convinced, Commissioner, that the wider stakeholders in this industry are not interested in token measures, aspirations,  
20 gripes or the recent full-page promotional spreads in major metropolitan newspapers. What is needed is concrete and credible measures which demonstrate that this industry can adopt, has adopted and will maintain animal welfare standards which are consistent with the expectations of 21st century Australians. That may not be possible. I doubt that it is possible. If it is not,  
25 then in my submission, Commissioner, you would in due course recommend to government that it close the industry down.

MR MCHUGH: Does that mean that unless there is evidence that the industry  
30 can develop, adopt and maintain animal welfare's standards which meet community expectations, your final submission to me - the conclusion - will be that this industry should be closed down in New South Wales?

MR RUSHTON: I can flag my submission to you now that, if that is the state  
35 of the evidence, that will be my submission to you. It's time for the industry and the GRNSW to demonstrate how it can do it, if it can. If it can't - and obviously overbreeding is the critical issue - how are you going to control this? How are you going to stop it?

MR MCHUGH: Well, what will you be saying about the economic aspect of it  
40 which is so much relied on; and that there are 1500-odd people employed in this industry; that State Revenue get something like \$30 million a year and it's said that something like 300 million goes to the general economy of New South Wales. How do they - or how are they to be taken into account?

45 MR RUSHTON: I started my submission, Commissioner, by saying - talking

about viability - and there is no doubt that they are matters which should be taken into account - but financial factors are not the only factors, particularly in this day and age. If we continue to have a situation where the figures that I have just shown you cannot be managed, and in a way we view and the community would have an expectation that they would be managed, going forward, then the only responsible submission I could put to you is that this industry cannot continue.

MR MCHUGH: Yes. Yes, thank you. Does that conclude your opening?

MR RUSHTON: It does, Commissioner. Thank you.

MR MCHUGH: Well, it's after 5 past 1. We might adjourn.

MR RUSHTON: Thank you, Commissioner.

MR MCHUGH: Come back at 2.00 o'clock?

MR RUSHTON: Yes, thank you.

MR MCHUGH: Yes, thank you.

**ADJOURNED**

**[1.10 pm]**