

**NSW GOVERNMENT RESPONSE
TO THE “SELECT COMMITTEE
ON GREYHOUND RACING
IN NSW FIRST REPORT”**



**NSW Government Response to the
“Select Committee on Greyhound Racing in NSW First Report”**

TABLE OF CONTENTS

| | |
|---|----|
| INTRODUCTION | 1 |
| SUMMARY OF RECOMMENDATIONS AND GOVERNMENT RESPONSE | 3 |
| Theme 1: Management and Operational Model | 5 |
| Recommendation 2 | 5 |
| Recommendation 3 | 7 |
| Theme 2 Rules and Penalties | 8 |
| Recommendation 5 | 8 |
| Recommendation 6 | 10 |
| Theme 3 Industry Consultation | 11 |
| Recommendation 7 | 11 |
| Theme 4 Standards and Integrity | 11 |
| Recommendation 4 | 11 |
| Recommendation 8 | 13 |
| Recommendation 9 | 14 |
| Recommendation 11 | 15 |
| Recommendation 12 | 15 |
| Recommendation 13 | 15 |
| Recommendation 16 | 17 |
| Theme 5 Animal Welfare | 17 |
| Recommendation 10 | 18 |
| Recommendation 14 | 19 |
| Recommendation 15 | 20 |
| Recommendation 17 | 21 |
| Recommendation 18 | 21 |

INTRODUCTION

The NSW Government welcomes the First Report of the Legislative Council Select Committee on Greyhound Racing in NSW.

The Government recognises the importance of the racing industry to the social and economic fabric of the State and is focused on the long term viability of the three codes of racing in NSW. Racing is an industry that relies heavily on its integrity and public confidence, which are paramount in securing its future development. The Select Committee is to be commended for its efforts to these outcomes for the State's greyhound racing industry.

About this response

The First Report made eighteen recommendations dealing with a variety of matters. This response deals with Recommendations 2 to 18. Recommendation 1, namely - *“That the Treasurer provide financial modelling of the economic impact on state revenue and the greyhound industry of a number of scenarios, or combinations that best reflect optimum outcomes for the future of the greyhound racing industry and the racing industry overall”* - will be the subject of a second report by the Committee. Following the release and consideration of the second report the Government may provide a further response.

The First Report and its Recommendations 2-18 of the First Report can be conveniently broken down into several themes. For ease of reference this response groups the recommendations and the NSW Government position along the following lines:

- Theme 1: Management and Operational Model
Recommendations 2 and 3
- Theme 2: Rules and Penalties
Recommendations 5 and 6
- Theme 3: Industry Consultation
Recommendation 7
- Theme 4: Standards and Integrity
Recommendations 4, 8, 9, 11, 12, 13 and 16
- Theme 5: Animal Welfare
Recommendations 10, 14, 15, 17 and 18

The response examines the context in which each recommendation has been made and any relevant policy issues are discussed. Where a recommendation is supported (either in-total or in-principle) the next steps and the implementation action currently being taken or proposed to be taken by the Government and/or Greyhound Racing NSW is outlined and a timeline provided.

The implementation of the majority of recommendations is the responsibility of Greyhound Racing NSW, which will be required to report back to the Government on the progress of initiatives relating to those recommendations. The Government considers that twelve months from the date of tabling of this response is sufficient time to allow for the implementation of those reforms.

Greyhound Racing NSW will be asked to provide a report on the outcomes of implementing various reforms and initiatives within six months of the twelve month implementation period. The Government will continue to work with Greyhound Racing NSW around the implementation of the reforms and will monitor their effectiveness.

Separate to this process the five year statutory review of the *Greyhound Racing Act 2009* will shortly commence to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate to achieve those objectives.

The review, which is to report to both Houses of the Parliament by 15 May 2015, is an appropriate mechanism to undertake a substantial review of the management and operational model under which the industry operates, as envisaged by the Committee in its key findings.

Background

On 27 August 2013 a Motion by the Hon Dr John Kaye MLC was passed in the Legislative Council to appoint a Select Committee to inquire into and report on greyhound racing in New South Wales. The terms of reference for the inquiry were:

- (a) The economic viability of the greyhound racing industry in NSW.
- (b) The financial performance and conduct of the industry and of Greyhound Racing NSW including a comparison to other States.
- (c) Government initiatives and assistance measures to support the industry and comparison of assistance to other racing codes.
- (d) The effectiveness of current industry regulation, including the level of autonomy of Greyhound Racing NSW.
- (e) The selection process for the board of Greyhound Racing NSW.
- (f) The effectiveness and accountability of the board and management of Greyhound Racing NSW.
- (g) The effectiveness of the current arrangements for, and the role of, the Integrity Auditor of Greyhound Racing NSW.
- (h) The capability and performance of Greyhound Racing NSW and governance of the industry.
- (i) The incidence of drug administration and doping in the industry and the efficacy of Greyhound Racing NSW's control and testing process.
- (j) Sale and breeding of greyhounds including the market conditions and welfare of animals.
- (k) The welfare of animals in the industry and the role of Greyhound Racing NSW in establishing and enforcing standards of treatment of animals.
- (l) Financial incentives for reducing euthanasia and prosecutions for animal mistreatment.
- (m) The adequacy and integrity of data collection in the industry, including the number of pups born, the number of dogs euthanized and injury rates.
- (n) Any other related matter.

The Committee invited submissions from stakeholders and interested persons, and held public hearings on 15 November 2013, 5 February 2014 and 6 February 2014. The Committee released its First Report on 28 March 2014 which provided two key findings which can be summarised as follows:

- 1 with its current structure and sources of revenue the greyhound racing industry in NSW may be unsustainable, and
- 2 the current management and operational model under which the industry operates needs substantial review and restructure.

The following table is a summary of the Committee's recommendations and the Government's response to those recommendations.

| SUMMARY OF RECOMMENDATIONS AND GOVERNMENT RESPONSE | |
|---|-------------------------------|
| Theme 1: Management and operational model | |
| Recommendation 2 Review the selection process for and composition of Greyhound Racing NSW | Supported in Principle |
| Recommendation 3 Increased commitment to consultation by Greyhound Racing NSW | Supported |
| Theme 2: Rules and penalties | |
| Recommendation 5 That Greyhound Racing Rule 86(q) be repealed | Not Supported |
| Recommendation 6 That Greyhound Racing NSW ensure fair and consistent application of the Rules and imposition of penalties | Supported |
| Theme 3: Consultation with Greyhound Racing NSW | |
| Recommendation 7 That the Minister for Hospitality, Gaming and Racing confer with Greyhound Racing NSW regarding implementation of recommendations | Supported |
| Theme 4: Standards and integrity | |
| Recommendation 4 That the Government consider placing the racing industry under the jurisdiction of ICAC | Supported in Principle |
| Recommendation 8 That greyhound Racing NSW increase the number of drug swabs | Supported |
| Recommendation 9 That Greyhound Racing NSW publish information about therapeutic substances | Supported in Principle |
| Recommendation 11 & 12 That the integrity roles of the three racing codes be reviewed and that a single Racing Integrity Commissioner with specific powers be established | Supported in Principle |
| Recommendation 13 That the Greyhound Racing Integrity Auditor be replaced with a Greyhound Racing Integrity Commissioner who will have specific powers | Supported in Principle |
| Recommendation 16 That Greyhound Racing NSW develop and implement industry standards for track design and maintenance, and for the provision of veterinary services | Supported |
| Theme 5: Animal Welfare | |
| Recommendation 10 That kennel inspections are conducted once every two years | Supported |
| Recommendation 14 That there be an independent inquiry into aspects of greyhound breeding | Not Supported |
| Recommendation 15 That Greyhound Racing NSW review best practice regarding the socialization of greyhounds | Supported |
| Recommendation 17 That section 21 of the <i>Prevention of Cruelty to Animals Act 1979</i> be reviewed | Supported |
| Recommendation 18 That Greyhound Racing NSW and/or the Government commit greater resources to greyhound re-homing | Supported |

This page is intentionally blank

Theme 1: Management and Operational Model

Recommendation 2:

That the NSW Government review the selection process of the members of Greyhound Racing NSW and consider adding two members, with these additional positions to be elected by licensed greyhound racing industry participants.

Response: Supported in Principle

On 27 March 2014 the report of a review by the Office of Liquor, Gaming and Racing of the appointment process for Greyhound Racing NSW and Harness Racing NSW was tabled in Parliament. This was a specific purpose statutory review and was a requirement additional to the five year statutory reviews provided for elsewhere in the *Greyhound Racing Act 2009* and *Harness Racing Act 2009*.

The provisions of both Acts were reviewed together as there are significant common elements of purpose, Government racing policy, and legislative structure. Both Acts provide for members of the boards to be appointed by the Minister on the recommendation of a Selection Panel (established by the Minister) assisted by a probity adviser. Selection is on the basis of merit, with merit to be determined on the basis of a candidate's abilities, qualifications, experience and personal qualities that are relevant to the performance of the duties of membership of the controlling body.

The Acts stipulate that a person is not eligible for appointment if they are a member of a racing club; a member of the governing body of a racing club or eligible industry body; or a registered participant in any of the three NSW codes of racing. The disclosure of interest provisions in the Acts are limited to the requirement that a member must disclose a pecuniary interest in any matter under consideration by the board, and that the board is to determine whether the member may take part in the deliberation and decision making in respect of the matter.

The review was undertaken whilst acknowledging that the current provisions (introduced in July 2009 but not exercised until February 2012) were developed as an interim measure. Commencing in November 2009, this review had the benefit of receiving submissions in relation to the current appointments process as set out in the legislation; of examining the reforms to the appointment process for the thoroughbred racing industry (September 2011); of monitoring the appointment of the current boards of Greyhound Racing NSW and Harness Racing NSW under the existing arrangements in February 2012; and of observing the performance of those boards since their appointment.

The conclusion of the review was that the policy objectives in regard to the appointments process of the two Acts remained valid and that the terms of the legislation are appropriate – with enhancements – for securing these objectives. The enhancements recommended by the review include strengthening the eligibility and disclosure of interest requirements in the legislation.

Additionally, a five year statutory review of the *Thoroughbred Racing Act 1996* was recently completed and the review report was tabled in the Parliament on 6 August 2014. The thoroughbred legislation review supports the continuation of the current provisions for the appointment of members of Racing NSW and recommended that consideration should be given in the future to aligning the appointment processes of Racing NSW, Harness Racing NSW and Greyhound Racing NSW.

This review also noted that the provisions in the *Thoroughbred Racing Act 1996* that deal with conflicts of interest at the time of appointment (and arising after appointment) of members of Racing NSW were strengthened in 2011. The review report recommended that it would, as a matter of good governance, be appropriate for similar strengthening of the conflict of interest provisions in relation to the Acts that establish Greyhound Racing NSW and Harness Racing NSW.

These two reports build on the findings of the Five Year Review of the *Greyhound Racing Act 2002* and *Harness Racing Act 2002* and the Malcolm Scott Independent Review of the Regulatory Oversight of the NSW Racing Industry which were released in June 2008. The recommendations of these reports led to the enactment of the current legislation which provides for the composition of Greyhound Racing NSW and the selection process for the appointment of members.

The Five Year Review report proposed improvements based on significant reforms and changes in policy about what constitutes best practice in terms of the governance arrangements for the Australian racing industry. This included the trend to independent racing controlling boards whose membership is appointed on merit in accordance with skills based criteria. At the same time, the Five Year Review found that there was also a strengthening of the recognition that the racing industry should manage its affairs independently of government, particularly as it is self funding. An independent board structure provides a suitable basis to assume responsibility for both regulatory and commercial governance responsibilities.

The shift to an independent board model in 2009 was considered best practice at that time. This reform was aimed at removing questions around a representative member's ability to manage real and perceived conflicts of interest between their duty to the board and to the NSW greyhound industry as a whole, as opposed to the interests of the stakeholder group or race club by whom they were nominated/elected for appointment.

The Government notes the criticisms submitted to the Committee by certain stakeholders regarding both the structure of the board of Greyhound Racing NSW and the selection/appointment process. There clearly remains a diversity of opinion among greyhound racing industry stakeholders regarding the merits of the 'independent' board model, with some support for the inclusion of stakeholder and/or race club nominees on the board.

The Government proposes a closer examination of the structure of Greyhound Racing NSW and whether its composition is conducive to stakeholder consultation and participation in the formulation of industry policy during the five year statutory review of the *Greyhound Racing Act 2009*.

Next Steps:

- (a) The five year statutory review of the *Greyhound Racing Act 2009* will commence with the release of a Discussion Paper which will form the basis for submissions to the review and for consultation with stakeholders.
- (b) The work of this review will assist in informing consideration of aligning the appointment processes of Racing NSW, Harness Racing NSW and Greyhound Racing NSW as recommended by the thoroughbred legislation review.

Timeframe:

- (a) Discussion Paper 0 to 6 months
- (b) Statutory review 6 to 12 months

Recommendation 3:

That the board and management of Greyhound Racing NSW increase their commitment to effective consultation with the greyhound racing industry, and meet with industry stakeholders in both regional and metropolitan areas on a regular basis.

Response: Supported

Greyhound Racing NSW has informed the Minister for Hospitality, Gaming and Racing that a key component of its new strategic plan, which is currently being developed, is the requirement for Board members and senior management to stage scheduled, regular and effective consultation with industry stakeholders across NSW. This will include:

- Half yearly ‘Chairman & CEO meetings’ of all TAB Clubs and Greyhound Racing NSW executive;
- Half yearly TAB Club seminars;
- Yearly meeting of the Greyhound Racing NSW Board with the Greyhound Racing Clubs Association;
- Quarterly Racing Planning & Programming meetings;
- Half yearly meetings of the Greyhound Racing NSW Board with the Greyhound Racing Industry Consultation Group (“GRICG”), with the Chief Executive or Chairman to meet with GRICG bi-monthly;
- Three regionally held Greyhound Racing NSW Board meetings and regional consultation meetings open to participants per year based on the Government’s community cabinet model.

In addition Greyhound Racing NSW has undertaken to maintain regular consultation with industry stakeholders on specific policy and operational matters as and when they arise.

Greyhound Racing NSW contends that the above program will improve the efficacy of its consultation program by providing a formal and transparent consultation schedule. This will enable stakeholders to contribute to key policy and strategy issues.

The *Greyhound Racing Act 2009* requires that Greyhound Racing NSW is to undertake formal consultation on a regular basis with GRICG and other greyhound racing industry stakeholders in connection with the initiation, development and implementation of policies for the promotion, strategic development and welfare of the greyhound racing industry. The legislation also requires that Greyhound Racing NSW must consult with GRICG and other industry stakeholders in the preparation of its strategic plan.

It would appear that the statutory requirements for Greyhound Racing NSW to meet with GRICG have been met. In addition the controlling body has in the past released its draft strategic plan for comment and from time-to-time has conducted ‘industry forums’.

While Greyhound Racing NSW participates in consultation with greyhound racing clubs and industry participants on an ad hoc basis, there has not been a formal consultation program as is now proposed.

The Government notes the concerns expressed by industry participants that Greyhound Racing NSW does not effectively communicate its decisions or engage in consultation. The lack of a structured approach to stakeholder consultation by Greyhound Racing NSW in the past has no doubt contributed to this perception.

Greyhound Racing NSW is committed to the above formal program of consultation to remedy perceived deficiencies in the existing consultation process. However, the Government is of the view that further consideration of the overall issue of consultation and communication is warranted to ensure that Greyhound Racing NSW meets its statutory obligations and the needs of its stakeholders.

Implementation:

- (a) The consultation requirement provisions of the *Greyhound Racing Act 2009* will be considered as to their effectiveness during the five year statutory review of the Act.
- (b) The implementation of Greyhound Racing NSW's proposed program will be monitored and Greyhound Racing NSW will be expected to provide a report to the Government on the implementation and effectiveness of its reforms. In order to provide appropriate consideration of the new program, a minimum of 12 months should be allowed for the consultation program to run prior to submission of the report to government.

Timeframe:

- (a) Statutory review 6 to 12 months.
- (b) Greyhound Racing NSW to take immediate action and report > 12 months

Theme 2: Rules and Penalties

Recommendation 5:

That Greyhound Racing NSW delete Greyhound Racing Rule 86 (q), which reads 'A person (including an official) shall be guilty of an offence if the person commits or omits to do any act or engages in conduct which is in any way detrimental or prejudicial to the interest, welfare, image, control or promotion of greyhound racing'.

Response: Not Supported

The Committee's report has highlighted three cases as instances where a person has voiced their concerns regarding the greyhound racing industry and has been requested to attend a show cause hearing in respect of their actions.

The Government notes that this recommendation arises from the perception that the Rules can be used by officials to intimidate or punish 'whistleblowers'. However, the Government considers that simply repealing the rule may not be the appropriate response to this issue.

Greyhound Racing NSW has pointed out that Greyhound Racing Rule 86(q) is a national rule under the auspices of Greyhounds Australasia that is in place as a protective measure aimed at discouraging unproven allegations being made in the public domain by a registered person or an official. The intent of the rule is enshrined in the rules of all codes of racing:

Greyhound Racing Rule 86(q) – A person (including an official) shall be guilty of an offence if the person commits or omits to do any act or engages in conduct which is any way detrimental or prejudicial to the interest, welfare, image, control or promotion of greyhound racing.

Australian Harness Racing Rule 243 – A person employed, engaged or participating in the harness racing industry shall not behave in a way which is prejudicial or detrimental to the industry.

Australian Rule of Racing 175A – Any person bound by these Rules who either within a racecourse or elsewhere in the opinion of the Committee of any Club or the Stewards has been guilty of conduct prejudicial to the image, or interests, or welfare of racing may be penalised.

Similar provisions appear in the rules/codes of conduct for participants of many prominent sporting bodies such as the National Rugby League. Such rules confirm the responsibility of the controlling body to uphold the best interests of the code of racing or sport. Greyhound Racing NSW maintains that all registered participants carry with them the responsibility to act in a manner that does not harm the interests of the industry.

The Government accepts Greyhound Racing NSW's position on this recommendation and is of the view that the aims and intent of Rule 86(q), and equivalent rules in the other racing codes, are appropriate for the good governance of and maintaining public confidence in the NSW racing industry.

The Government notes the evidence presented to the Committee and the Committee's concern that there is a perception that the Rules are being unfairly used in some instances. The Government is of the view that rather than removing the rule, a better outcome could be achieved through strengthening the governance around its application.

The Committee's findings and recommendations in respect of this mechanism are further discussed below at Recommendations 11, 12 and 13. In addition, the question of bringing Greyhound Racing NSW under the purview of ICAC is also discussed below at Recommendation 4.

The Government considers that it is also important to note that provision exists for a person aggrieved by a decision of Greyhound Racing NSW, a decision of a steward or a decision of a greyhound racing club may appeal to the independent Racing Appeals Tribunal. Contrary to the belief of some industry participants, the Tribunal is neither appointed nor employed by Greyhound Racing NSW. The Tribunal is a qualified person appointed by the Minister for Hospitality, Gaming and Racing on the recommendation of the Attorney General.

It may be more appropriate that consideration be given to providing an exception to the rule in cases where a complaint is made or concerns are expressed, and the person does so in good faith. Any proposal in this regard should be considered in parallel with Recommendations 4, 11, 12 and 13 and in consultation with Greyhound Racing NSW.

Next Steps

The proposed Working Party to be established to examine the anti corruption and integrity arrangements for the NSW racing industry will be asked to examine the question of protection for 'whistleblowers' within the industry.

Timeframe

Working Party & Report 6 to 12 months

Recommendation 6:

That Greyhound Racing NSW ensure that the Greyhound Racing Rules, and penalties for breaches of those rules, are applied in a fair and consistent manner.

Response: Supported

The Government notes the Committee's observation that, while concerns were expressed by some stakeholders regarding inconsistency in applying penalties for drug offences, Greyhound Racing NSW's reforms in this area have included a defined penalty system. The following outlines the current mechanisms for ensuring that penalties are applied in a fair and consistent manner.

Inquiries in respect of an alleged breach of the Greyhound Racing Rules are chaired by a senior member of the Greyhound Racing NSW integrity team. Greyhound Racing NSW has advised that these racing officials have extensive experience in the conduct of inquiries and are provided with periodic training and revision in the principles and application of administrative law.

When determining penalties for breaches of the Greyhound Racing Rules, Greyhound Racing NSW Stewards are guided by precedents determined by the independent Racing Appeals Tribunal across all three codes and by precedents in other jurisdictions.

In respect of penalties for breaches of the Greyhound Racing Rules which relate to prohibited substances, Greyhound Racing NSW (with the expert advice of its own Greyhound Welfare and Veterinary Services Unit) has determined and published penalty guidelines for such breaches.

Stewards dealing with a prohibited substance case are guided by a penalty table when determining what penalty should be made for certain infringements. A key aspect of the penalty table is the placing of common prohibited substances into five distinct categories, based on their severity.

The penalty guidelines and the category of prohibited substances are publicly available on the Greyhound Racing NSW website www.thedogs.com.au. In the interests of transparency, Greyhound Racing NSW also publishes the results of all inquiries and decisions of the Racing Appeals Tribunal on its website.

The Government agrees with the Committee that in the interests of transparency and to demonstrate consistency in applying penalties, Greyhound Racing NSW should consider referring specifically to the relevant penalty tables and how they apply to a particular case when publishing the outcomes of hearings.

Implementation:

- (a) The existing mechanisms will be monitored and Greyhound Racing NSW will be expected to provide a report to the Government on their continued implementation and effectiveness.
- (b) Greyhound Racing NSW will be asked to consider publishing specific references to the relevant penalty tables and how they apply to a particular case when publishing the outcomes of hearings.

Timeframe:

Greyhound Racing NSW to take immediate action and report > 12 months

Theme 3: Industry Consultation

Recommendation 7:

That the Minister for Hospitality, Gaming and Racing confer with Greyhound Racing NSW regarding the implementation of Recommendations 3, 5, 6, 8, 9, 10, 15, 16 and 18; and that the Government response to this report include a statement on the outcomes of any such discussions.

Response: Supported

The Government notes that Greyhound Racing NSW engages with the Minister and with the Office of Liquor, Gaming and Racing on an ongoing basis on a variety of issues that may arise from time-to-time.

The Minister for Hospitality, Gaming and Racing met with the Chairperson and Chief Executive of Greyhound Racing NSW on 11 June 2014 to discuss among other things the Recommendations of the Select Committee. Discussions have continued between Greyhound Racing NSW and both the Minister's Office and the Office of Liquor, Gaming and Racing. The Government response reflects the outcomes of those discussions, and supporting information provided by Greyhound Racing NSW.

As previously mentioned, Greyhound Racing NSW will be expected to report back to the Government on the progress and effectiveness of initiatives relating to several recommendations.

Implementation:

The Minister and the Office of Liquor, Gaming and Racing will continue to confer with Greyhound Racing NSW regarding the implementation of the reforms arising from the recommendations of the Select Committee's First report.

Timeframe:

Ongoing

Theme 4: Standards and Integrity

Recommendation 4:

That the NSW Government consider amending the *Independent Commission Against Corruption Act 1988* so that the racing industry is brought within the jurisdiction of the Independent Commission Against Corruption.

Response: Supported in Principle

The Committee's findings indicate that there is criticism of the autonomy, and attendant perceived lack of accountability, of Greyhound Racing NSW and of its status of a self-regulating entity, independent of government control. The Committee is of the view that the autonomy of Greyhound Racing NSW should be balanced by greater accountability mechanisms than those currently provided (ie the role of the Greyhound Racing Integrity Auditor which is discussed at Recommendations 11 and 12) which are not considered effective.

It is noted that the controlling bodies for the other two codes of racing, Racing NSW and Harness Racing NSW are also established as bodies independent of government control. The three controlling bodies have similar powers and functions, and share similar accountability mechanisms.

The principle functions of the Independent Commission Against Corruption (ICAC) are set out in the *Independent Commission Against Corruption Act 1988* (the ICAC Act). In summary, they are:

- to investigate and expose corrupt conduct in the NSW public sector
- to actively prevent corruption through advice and assistance, and
- to educate the NSW community and public sector about corruption and its effects.

The jurisdiction of the ICAC extends to all NSW public sector agencies (except the NSW Police Force) and employees, including government departments, local councils, members of Parliament, ministers, the judiciary and the governor. The ICAC's jurisdiction also extends to those performing public official functions.

The controlling bodies for racing in this state, Greyhound Racing NSW, Harness Racing NSW and Racing NSW are established by statute as independent corporate bodies that do not represent the Crown and are not subject to the direction or control of the Government. The relevant statutes are the *Greyhound Racing Act 2009*, *Harness Racing Act 2009* and *Thoroughbred Racing Act 1996*.

By virtue of the provisions of those Acts Greyhound Racing NSW, Harness Racing NSW and Racing NSW are not 'public authorities' for the purposes of the ICAC Act. However the ICAC Act does provide for a body to be declared a 'public authority' by way of the regulations to that Act.

The NSW racing industry makes a significant contribution to the State's economy, estimated to be in the order of \$1 billion annually. The industry is a major employer and contributes approximately \$160 million each year to the State through wagering taxes. Public confidence in the integrity of the racing industry and associated wagering is vital to the future development and sustainability of the racing industry.

The Government agrees that there is a need to balance the autonomy of the three controlling bodies with appropriate accountability mechanisms. Therefore, consideration should be given to bringing the racing controlling bodies under the purview of the ICAC. However it should be recognised that any such action would require significant reform.

Next Steps:

It is proposed that a working party be established during the first half of 2015 comprising representatives of the Department of Premier and Cabinet, Office of Liquor, Gaming and Racing, the Department of Attorney General and Justice, the three controlling bodies of racing, registered racing clubs and racing industry participant groups.

The working party will examine the current corruption prevention and detection arrangements for the racing industry and the merits or otherwise of having Greyhound Racing NSW, Harness Racing NSW and Racing NSW declared public authorities for the purposes of the *Independent Commission Against Corruption Act 1988*.

It is also proposed that the working party will review the overall integrity arrangements for the NSW racing industry as suggested by Recommendations 11, 12 and 13, and report to the Government on the outcome of its review.

Timeframe:

Working Party & Report 6 to 12 months

Recommendation 8:

That Greyhound Racing NSW increase the number of drug swabs collected and allocate a proportion of drug swabs to a random sample of starters.

Response: Supported

The Government notes that Greyhound Racing NSW conducts the highest level of sampling of any greyhound racing jurisdiction in Australia.

While this is commendable, the following table that appears in the First Report and contains figures sourced from the 2012/2013 annual reports of the controlling bodies (Table 11) shows that Greyhound Racing NSW swabs a significantly less percentage of starters as compared to the horse racing controlling bodies in this state.

| | Samples Tested | Percentage of starters tested | Declared positives | % of positives swabs |
|--------------------|-----------------------|--------------------------------------|---------------------------|-----------------------------|
| NSW Greyhounds | 5,562 | 5.5% | 19 | 0.62% |
| NSW Harness Racing | 8,181 | 22.7% | 19 | 0.23% |
| NSW Thoroughbreds | 15,561 | 28.7% | 18 | 0.11% |

The Government appreciates that the Australian Racing Forensic Laboratory which undertakes the testing of swab samples across the three NSW codes (and for other Australian and overseas jurisdictions in certain cases) is an arm of the integrity department of Racing NSW. Both Greyhound Racing NSW and Harness Racing NSW pay to use this service.

Greyhound Racing NSW has estimated that to achieve a percentage of starters tested comparable with the horse racing codes of around 20%, it would involve an additional 19,000 swabs across all categories of race meetings. Greyhound Racing NSW estimates that on a recurrent basis the cost of the analysis of swabs alone would be up to \$4 million per annum.

In addition to this fundamental cost, a significant capital works project would be required to increase the capacity of racecourse infrastructure (ie secure kennel blocks and swabbing bays) and additional resources would be required to undertake the swabbing and the processing of each swab.

Greyhound Racing NSW has budgeted \$1.2m for drug detection sampling in 2014/15, which is a small increase from \$1.1m budgeted in 2013/14. This will provide for a similarly modest increase in swabbing activity. Greyhound Racing NSW is committed to increasing the number of swabs collected, however contends that the additional cost to the industry is a major factor preventing this from occurring.

The Government notes that Greyhound Racing NSW asserts that its current risk based swabbing policy meets with greyhound racing industry best practice internationally. The policy sets out Greyhound Racing NSW's approach to swabbing including factors relating to performance, status of the race and the level of prize money that automatically requires a greyhound to be swabbed.

Greyhound Racing NSW considers intelligence based swabbing to be best practice across all three racing codes in Australia.

The Government also notes that certain industry participants support the reintroduction of a 'red marble' or lottery type system of swabbing whereby a greyhound is randomly selected for swabbing as occurs at non-TAB race meetings. The current swabbing policy applied by Greyhound Racing NSW at TAB race meetings is in line with modern practices. It allows for both systematic and discretionary swabbing.

Nevertheless the Government notes that overall Greyhound Racing NSW tests the least number of starters compared to the other codes, but has the highest percentage of positive swabs recorded. The Government considers that this discrepancy should be examined further, with a view to increasing the proportion of samples taken.

Implementation:

Greyhound Racing NSW will be asked to review its drug detection practices (and the cost involved) in comparison with the horse racing codes to give a better understanding of the reasons for the discrepancy in positive swabs between the codes and to inform the development of future integrity programs.

Timeframe:

Greyhound Racing NSW to take immediate action and report > 12 months

Recommendation 9:

That Greyhound Racing NSW publish information about therapeutic substances that are permitted for treating greyhounds, including their withholding periods.

Response: Supported in principle

The use of therapeutic substances is permitted within the greyhound racing industry. Many of the myriad of therapeutic tonics, pills and lotions which may be used to treat injury and illness, or improve the wellbeing of a greyhound, contain substances which are prohibited from being within the system of a greyhound when it is presented to race.

The Government notes that trainers of racing animals, whether greyhound or equine, are significantly challenged in ensuring that any treatment is ceased in sufficient time for the animal to be presented for racing 'drug free'. Apart from questions around alleged deliberate performance impacts, the presence of a prohibited substance within a racing animal's system (that has been administered as a treatment for an injury or illness) raises welfare questions regarding the animal being presented to race when unfit to do so.

The Government agrees with Greyhound Racing NSW that it is not the role of the controlling body to provide information to participants about the administration of therapeutic substances to their greyhounds. The effects of therapeutic substances and their withholding periods may vary immensely between individual greyhounds and industry participants should consult a veterinarian on the use of such substances.

The Government also understands that if Greyhound Racing NSW was to adopt this recommendation, it would require extensive administration trials to be conducted by accredited laboratories with appropriate ethics approvals in place to ensure that any information published was current, accurate and correct. The recurrent cost of such an initiative is presently beyond the capacity of Greyhound Racing NSW.

Greyhound Racing NSW currently publishes a list of prohibited substances and the category into which they fall for the purposes of penalty if found in a greyhound's system when presented for racing.

While this provides participants with some guidance, the Government considers that Greyhound Racing NSW should also regularly publish updates and reminders about the use of common therapeutic substances. However industry participants should note that the information is for guidance only and, to avoid any doubt industry participants should seek advice from their veterinarian.

Next Steps:

Greyhound Racing NSW will be asked to amend its practices to include the publication of information about therapeutic and other substances so as to better inform industry participants.

Timeframe:

Greyhound Racing NSW to take immediate action and report > 12 months

Recommendation 11:

That the Minister for Tourism, Major Events, Hospitality and Racing review the integrity roles of the three racing codes, with the aim to establish a single Racing Integrity Commissioner to oversee thoroughbred racing, harness racing and greyhound racing.

Recommendation 12:

That the Minister for Tourism, Major Events, Hospitality and Racing ensure that the Racing Integrity Commissioner has the following powers over each racing body:

- to conduct annual audits of the internal integrity processes and systems;
- to investigate complaints made about the integrity processes and systems;
- to conduct own motion inquiries that do not relate to any specific complaint and may include an investigation into systematic issues in racing;
- to facilitate the exchange of information between the controlling bodies, the NSW Police and other law enforcement agencies, as appropriate;

and that it be funded by the State Government and independent of the controlling bodies.

Recommendation 13:

That if the Minister for Tourism, Major Events, Hospitality and Racing does not implement Recommendation 11, then the greyhound racing Integrity Auditor be replaced with a Greyhound Racing Integrity Commissioner with the same powers and funding as Recommendation 12.

Response: **Supported in Principle**

The provisions of the *Greyhound Racing Act 2009* which establish the Greyhound Racing Integrity Auditor should be read in conjunction with the specific powers and functions of Greyhound Racing NSW as set out in the Act.

The intention of the legislation is that the role of the Integrity Auditor is essentially complaint/referral based. The Integrity Auditor is responsible for receiving and investigating complaints about the conduct of racing officials in relation to their responsibilities and obligations under the legislation, and also under Greyhound Racing NSW's code of conduct for officials. In addition, Greyhound Racing NSW may request advice from the Integrity Auditor on specific matters, e.g. settling the code of conduct for officials.

The legislative framework is identical for Harness Racing NSW and provides that the same person may be appointed as Greyhound Racing Integrity Auditor and as Harness Racing Integrity Auditor. This is currently the case as the incumbent Integrity Auditor was appointed to both roles by the two controlling bodies, with the agreement of the Minister of the day.

The arrangements for the thoroughbred racing industry differ in that the *Thoroughbred Racing Act 1996* provides for an Integrity Assurance Committee established by Racing NSW. It might be noted that Racing NSW determines the qualifications, and disqualifications, for membership of the Committee and there is no requirement for Ministerial agreement to an appointment.

The role and functions of the Integrity Auditors and the Integrity Assurance Committee as provided for by the legislation are almost identical.

The Government notes that the concerns expressed to the Committee by industry participants regarding the office of Greyhound Racing Integrity Auditor relate to the independence of the role. The Government is unaware of similar concerns within the thoroughbred and harness racing industry with respect to the role of the Integrity Assurance Committee and Harness Racing Integrity Auditor.

The Government is of the view that public confidence in the integrity of the racing industry is vital to the future development and sustainability of the industry as a whole. Having regard to the important contribution that the racing industry makes to the economic and social fabric of the state, it is considered that there should be from time to time a review of the integrity assurance arrangements for the industry to ensure that they reflect best practice.

Next Steps:

- (a) It is proposed that the working party to be established in respect of Recommendation 4 will also review the overall integrity arrangements for the NSW racing industry.
- (b) At the same time the five year statutory reviews of the *Greyhound Racing Act 2009* and *Harness Racing Act 2009* will examine the effectiveness of the current legislation with respect to the independence of the role and functions of the Integrity Auditor.

Timeframe:

- (a) Working Party & Report 6 to 12 months
- (b) Statutory review 6 to 12 months

Recommendation 16:

That Greyhound Racing NSW develop and implement industry standards for best practice for race track design and maintenance and the provision of veterinary services.

Response: Supported

The Government notes that Greyhound Racing NSW has implemented a number of reforms and initiatives in these areas which are outlined below.

The Government understands that after consultation with the TAB Clubs, Greyhound Racing NSW is currently recruiting a Track Maintenance Manager to contribute to the ongoing safety and maintenance of all NSW TAB tracks and be responsible for developing best practices across the industry. This position will work closely with Track Curators in the areas of track preparation and preventative maintenance to ensure consistency amongst all racetracks.

Greyhound Racing NSW assumed responsibility for animal welfare in the NSW greyhound racing industry from 1 July 2009. After assuming responsibility it commenced a review of the existing policies and practices of the previous controlling body and lead to reforms.

To assist in the ongoing development of animal welfare strategies for the industry and to ensure the availability of expert veterinary services and advice, in July 2011 Greyhound Racing NSW established its own Greyhound Welfare and Veterinary Services Unit. This resulted in Greyhound Racing NSW assuming responsibility for the provision of on-course veterinarians at all TAB race meetings. A veterinary surgeon is also required to be in attendance at all non-TAB race meetings.

It is the responsibility of non-TAB clubs to manage administration costs and racing activity, including the cost of retaining an on-course veterinarian for race meetings, within the funding allocated to them by Greyhound Racing NSW.

Greyhound Racing NSW's commitment to ensuring the provision of veterinary services is demonstrated by strictly enforcing its policy that a race meeting cannot proceed unless a veterinarian is present.

Implementation:

Greyhound Racing NSW will be asked to provide a report on the outcome of its race track design and maintenance reforms.

Timeframe:

Greyhound Racing NSW to take immediate action and report > 12 months

Theme 5: Animal welfare

The Government notes that a National Greyhound Welfare Strategy, announced in February 2014, is being led by Greyhound Racing NSW and Greyhound Racing Victoria.

The Strategy recognises that the welfare of racing animals is of paramount importance and is aimed at establishing standards of animal welfare excellence in the greyhound racing industry which are nationally accepted and consistent.

The Welfare Strategy includes the following initiatives:

- Ensuring that greyhounds are under the care of a registered participant at all times in their life cycle, unless retired as a pet.
- The introduction of a national approach to breeding to further reduce the number of unsuitable greyhounds being bred, and to ensure the decision to breed a litter of greyhounds is a considered one.
- Maximising opportunities for all greyhounds to reach their full potential.
- Maximising racing opportunities for all greyhounds.
- The provision of end of career opportunities.
- Development of a national approach to greyhound racing industry education.
- Establishing more appropriate registration and licensing regimes.
- Establishing a nationally consistent kennel/training facility inspection and compliance regime.

The Government notes that the National Greyhound Welfare Strategy concept has been welcomed across all jurisdictions and that a number of initiatives have since received national acceptance and support.

Recommendation 10:

That Greyhound Racing NSW ensure that kennel inspections are conducted at least once every two years for all licensed premises.

Response: Supported

The Government notes the Committee's comments on this issue and agrees that, historically in NSW, kennel inspections were not regularly conducted by the then greyhound racing controlling body. Greyhound Racing NSW's target of all kennels being inspected at least once every two years was a relatively recent initiative, given that Greyhound Racing NSW only assumed responsibility for such matters on 1 July 2009.

Greyhound Racing NSW has since refined its kennel inspection policy and its implementation. The Committee's recommendation is consistent with Greyhound Racing NSW's (now) formal policy and the National Greyhound Welfare Strategy regarding regular kennel inspections that has been adopted by all greyhound racing jurisdictions in Australia.

To assist in the ongoing promotion of animal welfare practices, Greyhound Racing NSW has established a discreet Welfare and Compliance unit tasked with ensuring the kennels of all licensed persons are inspected at least every two years. The unit is also charged with providing assistance and advice to trainers to meet required minimum standards. Separately, kennel inspections are conducted jointly with RSPCA NSW in response to any specific welfare concerns or complaints received.

Implementation:

Greyhound Racing NSW will be asked to provide advice on the number of kennel inspections undertaken each financial year, and whether it is on track to meet its policy target.

Timeframe:

Greyhound Racing NSW to take immediate action and report > 12 months

Recommendation 14:

That the Minister for Primary Industries appoint an independent inquiry to conduct an investigation into the frequency and number of litters permitted for each breeding female in the greyhound industry.

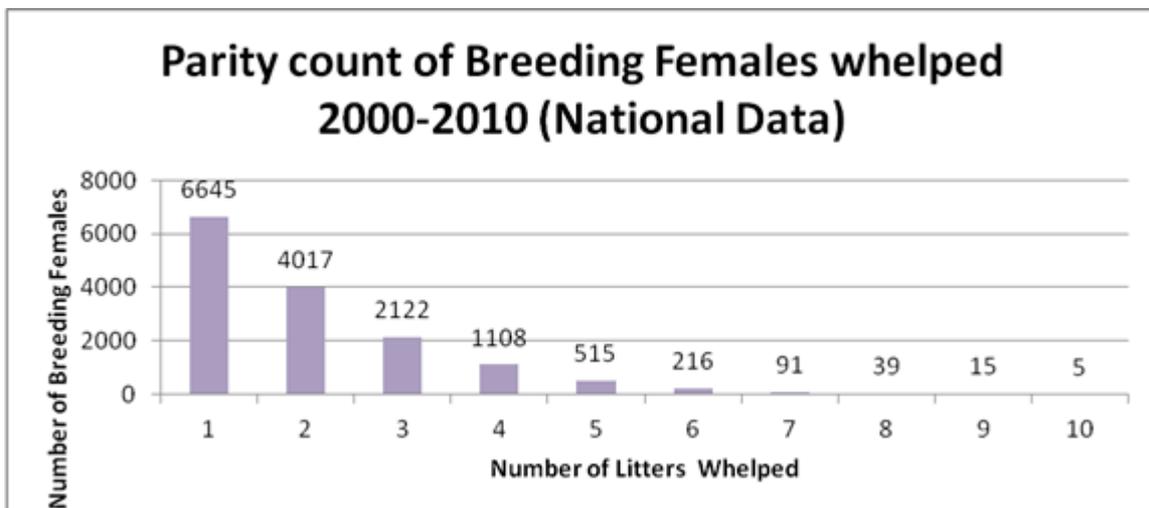
Response: Not Supported

The Minister for Primary Industries overlooks animal welfare generally in this state as the Minister responsible for the *Prevention of Cruelty to Animals Act 1979*. The Minister is not responsible for the oversight of the administration or regulation of the NSW greyhound racing industry. This is the statutory role of Greyhound Racing NSW.

An Animal Welfare Code of Practice is in place under the *Prevention of Cruelty to Animals Act 1979* for those breeding dogs for sale, including greyhounds.

The Government notes however that this does not address the breeding of greyhounds other than for sale, which appears to be a significant proportion of greyhound puppies whelped.

The following table (provided by Greyhound Racing NSW) indicates that of the 14,773 breeding female greyhounds nationally between 2000 and 2010 – approximately 45% had only one litter, 27% had two litters, 14% had three litters, 7.5% had four litters and only 6% had five or more litters.



These figures show that the number and frequency of litters per breeding female is not as significant an issue as is the breeding of poor quality racing animals and the relatively short racing career of a greyhound.

The Government notes that a key element of the National Greyhound Welfare Strategy is the introduction of national initiatives to capture data on breeding and to reduce breeding of unsuitable greyhounds.

These initiatives include the introduction of competency based licensing of participants involved across the lifecycle of the greyhound that factors in breeding, registration of breeding females and capture of breeding information. It also includes an intent-to-breed process which is aimed at educating breeders to consider and plan their breeding, and to discourage the breeding of unsuccessful animals.

The Government understands that Greyhound Racing NSW and Greyhound Racing Victoria are aiming towards implementing the proposed new licensing system on 1 July 2015, subject to obtaining national agreement on its adoption.

The Welfare Strategy also includes initiatives aimed at maximising opportunities for all greyhounds to reach their full potential as a racing animal and for providing increased racing opportunities for greyhounds of all ages and abilities.

The Government also notes that Greyhound Racing NSW's OzChase system is now operational and will allow the collation and monitoring of national data regarding greyhounds at each stage of their lifecycle, including retirement and euthanasia statistics, so that the success of various strategies can be assessed.

The generation of greyhounds that are now registered with Greyhound Racing NSW will be the first to be tracked across their lifecycle.

Next Steps:

The Government proposes to monitor the implementation of these reforms and initiatives and to this end Greyhound Racing NSW will be asked to provide a quarterly report to government on the roll out of the National Greyhound Welfare Strategy and in particular, its application to the NSW greyhound racing industry.

Timeframe:

Reports to commence 3 to 6 months

Recommendation 15:

That Greyhound Racing NSW review best practice regarding the socialisation of greyhounds with the view to including socialisation in its animal welfare strategy.

Response: Supported

The Minister for Hospitality, Gaming and Racing has been informed by Greyhound Racing NSW that it intends having socialisation included as a key performance indicator for the registration of whelping and rearing properties as part of the new licensing system, which is being developed under the National Greyhound Welfare Strategy being led by Greyhound Racing NSW and Greyhound Racing Victoria. As mentioned above at Recommendation 14, it is anticipated that the new licensing system will commence on 1 July 2015, subject to obtaining national agreement on its adoption.

The Government also notes the existing "Greenhounds" program which is a greyhound socialisation initiative of the NSW Government and Greyhound Racing NSW that was launched in October 2011.

The NSW *Companion Animals Act 1998* requires that all greyhounds must wear a muzzle when in a public place. During 2010 Greyhound Racing NSW worked closely with the Department of Local Government to develop a socialisation program which would allow pet and retired racing greyhounds to be taken about in public without a muzzle.

In February 2011 the NSW *Companion Animals Regulation 2008* was amended to provide an exemption to pet and retired racing greyhounds that have successfully completed an approved greyhound re-training program and passed the required assessment.

Such a greyhound is referred to as a Greenhound. These greyhounds do not have to wear a muzzle when in public whilst under the control of a responsible person but must wear a special Greenhound collar to identify them as muzzle exempt.

Over 350 greyhounds have successfully passed through the socialisation program since its commencement less than three years ago.

The Government considers that it is important that industry stakeholders and other interested parties are kept informed of developments in Greyhound Racing NSW's animal welfare strategy.

Implementation:

Greyhound Racing NSW will be asked to publish on its website regular reports and updates on the roll out of the National Greyhound Welfare Strategy and in particular, its application to the NSW greyhound racing industry.

Timeframe:

Reports to commence 3 to 6 months.

Recommendation 17:

That the NSW Government review section 21 of the *Prevention of Cruelty to Animals Act 1979*, to include 'kennels' to ensure allegations of live baiting can be properly investigated.

Response: Supported

The Government recognises that there may be an issue with the construction of section 21 and its application, particularly in respect of enforcement proceedings.

Implementation:

The Department of Primary Industries will progress the review of section 21 of the *Prevention of Cruelty to Animals Act 1979* in consultation with enforcement agencies and Greyhound Racing NSW.

Timeframe:

Review 6 to 12 months.

Recommendation 18:

That Greyhound Racing NSW and/or the NSW Government commit greater resources for greyhound re-homing, including allocating funding, for greyhound adoption centres.

Response: Supported

It is noted that the Government provides annual grants of \$424,000 are provided to RSPCA NSW and \$75,000 to Animal Welfare League NSW. Both of these organisations re-home dogs, including greyhounds.

In addition to this financial assistance, the Government provided a special one off grant of \$7.5 million to RSPCA NSW towards refurbishment of the Sydney shelter at Yagoona. This grant was paid in two equal instalments during the 2012 and 2013 financial years.

The success of the Greenhounds greyhound socialisation program (noted at Recommendation 15 above) continues to enhance the re-homing opportunities for pet and retired racing greyhounds.

Greyhound Racing NSW's 'Greyhounds As Pets' program has a long standing partnership with Corrective Services NSW at the Dillwynia Correctional Centre at Berkshire Park in Western Sydney. There are six kennels within the facility, as well as a fully-fenced, grassed day yard complete with sandpit, a kitchen/food preparation room and a custom built greyhound bathing area. At any one time, two female inmates can be working with up to six retired greyhounds through their foster program. The greyhounds have the opportunity to be well socialised with many different people on an everyday basis, undertake basic training, as well as the experience of sharing the living quarters with the inmates which prepares them for life as a pet at the time of adoption.

Implementation:

The Government will continue to support existing greyhound re-homing and adoption programs, including:

- the annual grants program for RSPCA NSW and Animal Welfare League NSW,
- the Greenhounds greyhound socialisation program, and
- the Dillwynia Correctional Centre inmate training and greyhound socialisation program.

The Committee might also note that Greyhound Racing NSW has recently acquired a 3.5 acre property at Wyee which will expand the capacity of its Greyhounds As Pets program.

The \$1.4 million Wyee facility, which operates as a boarding establishment, can house 120 dogs of which approximately one-third will be greyhounds at any point in time. The facility was launched on 15 July 2014 and the Government understands that it is already housing greyhounds and will be expected to reach the target of 40 greyhounds at any one time by year end.

The Government considers that the acquisition of the facility and the ongoing work of the Greyhounds As Pets program demonstrates Greyhound Racing NSW's continued commitment to greyhound re-homing in NSW.

Timeframe:

Ongoing.