

TASMANIAN RACING APPEAL BOARD

Appeal No 07 of 2025-26

Panel:	Ms Amber Cohen (Chair) Ms Philippa Morgan (Deputy Chair) Mr Rod Lester (Member)	Appellant:	Mr Shaun Kennedy
Adviser:	N/A	Rules:	AHRR 90. Refusal to grant renewal of licence
Appearances:	Ms Heidi Lester on behalf of Tasmanian Integrity Unit		
Heard at:	Conference Room Prospect Government Offices 171 Westbury Road Prospect TAS	Penalty:	N/A
Date:	16 October 2025	Result:	Varied

REASONS FOR DECISION

1. On 22 August 2025, the Tasracing Integrity Unit (TIU) conducted a licensing panel interview in respect to an application for the renewal of a Grade B Driver license submitted by Mr Shaun Kennedy (the appellant/Mr Kennedy).
2. On 27 August 2025, Ms Lester, Chief Racing Integrity Officer, of TIU wrote to Mr Kennedy with the outcome of his application. The decision of the licensing panel was to downgrade his licence category to a Driver C licence (the decision). The effect of the decision was to refuse the application for a Driver B licence and grant a Driver C licence instead.
3. Mr Kennedy has appealed the decision based on five grounds of appeal, as follows:
 - a. Special circumstances were present but not appropriately taken into account.
 - b. Downgrading of licence level is not within the scope of the Drivers Level of Activity provision, the provision was not appropriately followed and is inconsistent with the precedent of how the policy is generally applied.
 - c. Trackwork was not taken into consideration for activity and granting of a one day Licence upgrade in March 2024 was not considered.
 - d. No pathway to re-gaining Driver B Licence has been provided as the downgrading to Driver C Licence means that the only pathway back under the policies is to complete 20 trials before re-applying. No official documentation has been provided any other path.
 - e. The precedential process departed from is a restriction upon Driver B Licence of required trial drives generally not exceeding 5 trials to regain full Driver B Licence.

4. On 16 October 2025, the Board heard the appeal.
5. The primary issue in contention was whether, in circumstances where Mr Kennedy had not met the minimum requirements for race drives, he should have been granted a licence under an exemption to the minimum requirement on the basis of special circumstances, and if so, on what basis.
6. The TIU “Tasmanian Harness Licence Application Requirements – 2025/2026” provides, at section 6 “Drivers Level of Activity”

For a licence renewal of Driver A or B, must have driven in a minimum of 10 races over the preceding 12 month period, unless special circumstances can be demonstrated to the satisfaction of the Tasracing Integrity Unit.

7. The Board had before it a copy of the transcript of the licensing panel interview conducted on 22 August 2025 with the appellant. At interview, the appellant accepted the minimum ten race drives condition and was invited to provide information as to any special circumstances on which the licensing panel might consider waiving that formal requirement.
8. In summary, Mr Kennedy submitted to the panel that he had been breeding quite a few horses and at the time of that interview, he had a three year old, a “rising” two year old and a foal or a weanling. He explained that he had leased a horse with the intention that it would “bridge the gap to those horses making the races”. That horse had a heart defibrillation the season prior so she was sent back to her owners, which left Mr Kennedy with his three year old (then a two year old) only. That horse was on track to be named as an early three year old but caught a recurring cold and required a nebuliser for a month. The effect of this was that she did not race. Mr Kennedy went on to explain that he has two preferred drivers and when he is unable to have them drive for him, he will drive his horses himself.
9. Mr Kennedy stated that he has a “pretty good record” when he does drive and that in March 2024, he was granted an upgrade of his licence to allow him to drive in a metropolitan race, which he said was an indication that Stewards were quite happy with his manner of driving. Mr Kennedy confirmed, when asked, that he had done zero race or trial drives in the preceding 12 months but added that he does his own trackwork on a daily basis. There was a discussion about a condition on Mr Kennedy’s licence in 2023, to drive five trials before being able to race. Mr Kennedy explained that was difficult to do when he only has two horses, the trials are only once per fortnight, and he is in full time employment. He confirmed, however, that he completed the requirement and since then, he has had four drives. Finally, Mr Kennedy asked that if the panel were to consider a condition of trial drives, that the panel bear in mind that for a person with only one horse, the trial drive condition is onerous. He gave the example that if a condition of five trial drives is imposed, and that is one drive per fortnight for him, which would take ten weeks and by then, it is almost time for that horse to have a rest.

Hearing of Appeal

10. At the hearing of this appeal, the appellant maintained and spoke further to his grounds of appeal. He said that there was nothing in the licensing requirements that allows the panel to downgrade or refuse his licence application. As to the issue of there having been no pathway provided for him to re-gain his Driver B licence, he said that whereas the policy provides two separate ways for a trainer to regain a licence, this was not contemplated for a Driver. The Board understood the submission to be that the implication is that a Driver would not be refused a licence, or have it downgraded but rather, would have conditions imposed to address any requirements. Mr Kennedy referred the Board to a letter he had received from the previous Director of Racing on 12 September 2022 following a licensing panel interview of 8 September 2022. A similar issue had arisen on that occasion (with Mr Kennedy not having completed the required number of drives). On that occasion, Mr Kennedy was granted his licence on the condition that he was to complete five satisfactory trial drives prior to returning to race driving. Mr Kennedy submitted that this is always how the policy had been applied in the past. He said

driver level activity requirements were not introduced to the policy as a punitive measure but rather to ensure the competency and safety of all participants in a race.

11. Regarding the special circumstances issue, Mr Kennedy submitted that there is no guidance as to what might constitute special circumstances. He said that the reasons for decision, which he received six weeks after the decision to refuse his licence renewal and grant a downgraded licence, and after his appeal was filed, also did not provide guidance as to what might be considered special circumstances. He submitted that special circumstances might include “extraordinary or unforeseen circumstances outside the control of the individual”. Mr Kennedy referred the Board to the Stewards Report of the Hobart Race Day of 14 April 2024, when the horse he was leasing was stood down after experiencing an atrial fibrillation. He confirmed that after this occurred, the horse was returned to its owner and has not returned to racing since. Mr Kennedy submitted this is not an ordinary or common occurrence. Mr Kennedy also referred the Board to evidence of a veterinary care invoice confirming that his own horse had been treated for the enduring cold he had referred to in the licensing panel interview, submitting this was also not a common or ordinary circumstance and not within his control. He submitted there had also been inadequate consideration given to the regular trackwork he does. He submitted that in the past, as demonstrated from the letter he received from the previous Director of Racing in September 2022, consideration was given to the reasons for a person’s lack of drives, the number of horses in their stable and their intentions to increase the number of drives in their stable or not. He said the decision in this case was in stark contrast to that with no such considerations noted.
12. In reference to the reasons for decision given by TIU, which effectively formed the submissions of TIU for this appeal, Mr Kennedy noted there had been reference made to the past five years of driving activity, whereas the policy only refers to the preceding 12 months. He submitted that the previous Director of Racing had already made past decisions regarding his licence on the basis of assessments of two of those years, with the effect that TIU is now revisiting decisions already made. He noted that the previous Director had granted his licence on condition that he complete five trial drives following that assessment and that it is not open to TIU to revisit that previous driving record again now for the purpose of this decision. He also noted that in the 2023/24 season, Stewards had approved the temporary upgrade of his licence to allow the metropolitan drive. He said Stewards would not have done so if they did not consider him a fit and proper person to hold a licence or were concerned about his driving record.
13. Finally, Mr Kennedy confirmed that he completed trackwork on his own property at home but also at the Brighton complex a minimum of two-three times per week for faster trackwork and hobbling.
14. Ms Lester submitted in response that it is her view that it is, in fact, not open under the policy to impose a restriction on a licence. She also submitted that the fact is that no drives had occurred and the panel did not consider the circumstances Mr Kennedy had outlined, including one horse being injured and another sick, to be “special”. She said Mr Kennedy himself had not been sick, injured, overseas or unavailable to drive for some other reason. She said Mr Kennedy had the option to approach another trainer to arrange the drives to satisfy the ten drive minimum requirement. As to the trackwork Mr Kennedy had referred to, Ms Lester said that driving one or two horses in trackwork daily is not sufficient practice for race day pressure, for which a higher level of competency is required. She said the panel considered that Mr Kennedy had not driven under any competitive conditions for the past 12 months. She said that TIU take a different view to the former Director of Racing, of the then Office of Racing Integrity. TIU are of the view that the 12 month period in which to attain the ten race requirement can be extended but there must be special reasons for doing so. She said that TIU are taking a harder stance and will be holding drivers to account. She said that their view is that the ten drive minimum is necessary for a person to be licensed and that harness racing is not an amateur business, which the Board took to mean is not an amateur sport.
15. Ms Lester submitted further that there has been some allowance made for Mr Kennedy. TIU have informed Mr Kennedy that they will consider a further application once he had completed

ten trial drives, whereas usually the requirement is that new applicants have completed 20 trial drives in the past 12 months. The Board noted this was communicated to Mr Kennedy in an email of 27 August 2025 by a member of the licensing panel, separately to and after the letter advising of the refusal decision, which is the subject of this appeal. Ms Lester explained this allowance has been made based on Mr Kennedy's history in the industry, noting his experience having held a licence for a number of years. TIU believe that ten trials will be sufficient for Mr Kennedy to be considered skilled enough to be able to participate in race driving.

16. Mr Kennedy responded that a requirement for ten trial drives in response to not driving for one season is excessive given the fortnightly frequency of trial drive days and the difficulty involved in Mr Kennedy taking time off work to attend the trial days.

Decision

17. Under section 59 of the *Racing Regulation and Integrity Act 2024*, TIU is responsible for granting licences under the Rules of Racing. The Australian Harness Rules of Racing provide broad powers to the controlling body (in this case, TIU) to grant licences for such periods or upon such terms and conditions as it thinks fit and may refuse a licence without assigning any reason.
18. As the controlling body, TIU has published its Tasmanian Harness Licence Application Requirements for 2025/2026. As has been outlined, that policy states that for a licence renewal application, the person must have driven a minimum of ten races over the preceding twelve months unless special circumstances can be demonstrated to the satisfaction of the TIU. TIU advised Mr Kennedy that it was not satisfied that special circumstances were present. TIU outlined the reasons for their decision on 6 October 2025 (after the appeal had been filed) and maintained those reasons as its response to the appeal. Mr Kennedy submits that TIU gave inadequate consideration to his reasons for not having completed the required trials and to the daily trackwork he undertakes. He also submits the reasons provided demonstrate that TIU inappropriately considered driving activity levels for years already assessed by the previous Office of Racing Integrity under previous applications for renewal, with decisions already having been made in the past about such matters. The Board agrees that it is not open to TIU to revisit decisions already made by previous licensing panels.
19. However, the Board is also mindful of the reason for the policy requiring the minimum race drives. In outlining the reasons for decision, Ms Lester states that a driver's licence is a privilege and not a right, that race driving is inherently dangerous and that "it is essential for drivers to engage in regular race participation to maintain the requisite standard of race driving competence and safety skills". The Board also agrees with this submission and notes that in this case, Mr Kennedy had completed no race drives at all in the relevant period, and no trial drives that would prepare him for competitive race days. The Board accepts that this activity level, when considered in light of the activity level over the past several years, is insufficient to satisfy the minimum requirements necessary to ensure, as far as reasonably possible, the safety and welfare of all participants in harness racing. The Board notes that TIU considered Mr Kennedy to otherwise be a fit and proper person, at least for the purpose of holding a Driver C licence. The Board understands that it is not in contention that Mr Kennedy is a fit and proper person to hold a Driver B, subject to the requirements of TIU for a minimum number of trial or race drives.
20. Contrary to the view of TIU, as stated at paragraph 14 above, the Board considers it is open to impose a condition or restriction upon a licence in appropriate circumstances. The Rules of Racing specifically allows the Controlling Body to issue a licence on terms and conditions it thinks fit¹ and the Tasmanian Harness Licence Application Requirements for 2025/2026 does not prohibit conditions from being placed on a licence.
21. It is finely balanced but in consideration of all of the material before us, the Board has determined that the decision of TIU to refuse the application for renewal of the Driver B licence

¹ Rule 90

and instead issue a Driver C licence, be varied. The purpose of the ten race drive minimum requirement is for persons who are otherwise fit and proper people to hold a licence to be appropriately prepared for the activities they are to be licenced to undertake. The Board has determined that Mr Kennedy is to be issued a Driver B licence on the condition that he complete ten trial drives prior to returning to race driving.

22. The Board is cognisant that this decision is closely aligned with the indication given to Mr Kennedy by TIU that he could re-apply for his licence after completing ten trial drives. The TIU is best placed to determine what is best practice for drivers to be adequately prepared to engage in race drives to ensure the safety and welfare of all participants in races. It is the intention of this Board to reflect in this decision the position expressed by TIU, albeit stated in an email which followed the decision of TIU provided on 27 August 2025 and was therefore not part of the decision itself. The Board's orders give Mr Kennedy clarity as to what is required of him to undertake licenced activities. It is also the intention of the Board to make orders which reflect the intention of the policy to ensure the safety of participants more effectively, rather than to be a punitive measure when the minimum requirements are not met.
23. In accordance with section 99(4) and (5)(d) of the *Racing Regulation and Integrity Act 2024*, 25 percent of the appellant's prescribed deposit is to be forfeited to the Secretary of the Department. The appellant is also ordered to pay 25 percent of the cost incurred in preparation of the transcript in accordance with section 99(8) and (9)(c) of the Act.

DATED: 8 DECEMBER 2025