

Final Report

The independent investigation and review into matters of alleged team driving and/or, race fixing, and animal welfare concerns relating to the harness racing industry and the management of those issues by the Office of Racing Integrity.





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TERMS OF REFERENCE (TOR)

The independent investigation and review into alleged team driving, race fixing and animal welfare concerns, and the management of those issues by the Office of Racing Integrity (ORI), was announced by the Tasmanian Government on 27 March 2023. It followed reports of these issues in the media, as well as concern across the wider community. The full ToR in this independent review are as follows:

1. Conduct an investigation of all circumstances surrounding the races referred to in the ABC media report of 26 March 2023 to determine compliance with the Australian Harness Racing Rules.
2. Conduct an investigation into any other harness races from the past three years that may demonstrate team driving and/or race fixing that have not previously been subject to a decision by the Tasmanian Racing Appeal Board or other independent assessment (e.g. the Tasmanian Ombudsman or Tasmanian Integrity Commission) to determine compliance with the Australian Harness Racing Rules.
3. Conduct an investigation into animal welfare conditions at the Yole Sidmouth racing stables to determine compliance with the Australian Harness Racing Rules.
4. Review the adequacy of the Office of Racing Integrity's management of allegations by industry participants (such as drivers, stable hands and trainers) and a casual steward in 2022 concerning team racing and/or race fixing and any other matters in the ABC media report of 26 March 2023 as the investigator sees fit and make any relevant recommendations.
5. Review the adequacy of complaints management by the Office of Racing Integrity relating to allegations of team driving and/or race fixing in the harness racing industry in the past three years and make any relevant recommendations.
6. Advise on any matters that could be included in the proposed Tasracing Code of Practice for equine welfare and management, and any other opportunities to improve horse welfare. The independent reviewer is to consult with the RSPCA Tasmania, the Chief Veterinary and Animal Welfare Officer at Tasracing and the Chief Veterinary Officer in the Department of Natural Resources and Environment Tasmania in undertaking this review.
7. Advise on any other matter relating to animal welfare, team driving and/or race fixing in the Tasmanian harness racing industry that the independent reviewer determines relevant.



ABBREVIATIONS USED IN THIS REPORT

AHRR: Australian Harness Racing Rules

ARR: Australian Rules of Racing

Code of Practice: Tasracing's draft Code of Practice for equine welfare and management

NR: National Rating

NRE Tas: Department of Natural Resources and Environment Tasmania

ORI: Office of Racing Integrity

PRA: Principal Racing Authority

RSPCA: Royal Society for the Prevention of Cruelty to Animals (Tasmania)

The Sykes Review: Tasracing Animal Welfare Review 2022

Tasracing: Tasracing Pty Ltd, state owned entity and Principal Racing Authority for three racing codes

TasRIC: Tasmanian Racing Integrity Commissioner

The Monteith Review: Review of the Racing Regulation Act 2004: Securing the Integrity of the Tasmanian Racing Industry

The Rules: Australian Harness Rules of Racing and the local rules

TRAB: Tasmanian Racing Appeal Board

DEFINITIONS AND RULES

Team driving

'Team driving' refers to a prohibited race tactic in which drivers, often from the same stable, deliberately sacrifice their individual horse's chances, or block a rival horse, to set up a win for another specific, preselected horse or outcome. The irregular tactics involved in team driving are contrary to the spirit and rules of harness racing because all drivers are required to give their horses every opportunity of winning or finishing in the best possible placing.

It can be difficult to 'prove' team driving in harness racing because runners can genuinely get boxed-in or experience difficulty in circling the field.

Australian Harness Racing Rules (AHRR) 147(1), 148(1) and 149(1) state, relevantly:

147(1) A driver shall race a horse on its merits.

148(1) A person shall not direct, coerce, persuade, or assist a driver to race a horse otherwise than on its merits.



149(1) A driver shall take all reasonable and permissible measures during the course of a race to ensure that the horse driven by that driver is given full opportunity to win or obtain the best possible placing in the field.

Further to this, AHRR 240 states:

A person shall not, whether alone or in an association with others, do, permit or suffer anything before, during or after a race which in the opinion of the Stewards or Controlling Body:-

(a) may cause someone to be:-

- (i) unlawfully advantaged, or*
- (ii) unlawfully disadvantaged...*

Race fixing

Team driving is one form of 'race fixing', which refers to the dishonest act of attempting to manipulate the outcome of what should be a fair and open contest. Race fixing might also manifest in other tactics or strategies and may be done through irregular driving, the administration of prohibited substances, substituting a horse, tampering with gear and so on.

Animal welfare

No other aspect of harness racing is more important than horse welfare, including the care, control and management when preparing and presenting horses for Tasmanian harness race meetings. 'Welfare' includes factors such as a horse's health and physical environment, through to its mental state and nutrition. Community expectations require these needs to be met throughout the lifetime of a harness horse, and there can be no tolerance for any practice that causes suffering, whether it be by mistreatment or by neglect. This proper care is not only important on a humane level but is crucial to the social licence by which the wider community accepts and approves of the sport of harness racing and the industry as a whole.

The *Animal Welfare Act 1993* is the ultimate legislative basis for all animal welfare matters in Tasmania. It is primarily enforced by authorised officers within the NRE Tas, the RSPCA Tasmania and Tasmania Police. Animal welfare is also regulated in the Australian Rules of Racing, which are managed by Tasracing and enforced by ORI stewards, with the principal rule being AHRR 218A(1) and (2).

AHRR 218A states:

(1) A person shall not mistreat a horse.

(2) For the purposes of this rule 'mistreat' means to abuse or treat a horse badly, cruelly or unfairly.

The Office of Racing Integrity (ORI)

ORI is responsible for maintaining the probity and integrity of thoroughbred, harness and greyhound racing in Tasmania. Racing Integrity is a business unit of NRE Tas. The General Manager of ORI is appointed to the statutory role of Director of Racing, which is a role arising under the *Racing Regulation Act 2004*.



ORI's mission statement, as expressed on its website, is to contribute to "a healthy, growing and competitive racing and breeding industry by ensuring that it is safe, fair and credible".

Stewards

Stewards oversee all aspects of harness racing and harness race meetings in Tasmania to ensure that the rules are followed. They have statutory powers conferred by the *Racing Regulation Act 2004* and their responsibilities include: declaring tracks safe for racing; inspecting animals, drivers and equipment; watching all races, and reviewing footage if a breach of the rules is suspected; monitoring wagering; and determining protests. Stewards have powers under AHRR 15 to direct and control, inquire into, hear and determine matters relating to the activities of officials, licenced persons and persons appointed, employed or engaged in any aspect of the harness racing industry, concerning the application of the rules.

Stewards ensure integrity, safety and welfare. They investigate and, if necessary, penalise any proven breaches of the rules by participants. Inquiries draw upon evidence such as race vision, witness accounts, veterinary reports and wagering information. Respondents are given the opportunity to be heard on and defend any charge, and can appeal the final decision (in certain circumstances) to the Tasmanian Racing Appeal Board (TRAB).



BACKGROUND

The independent investigation and review into alleged team driving, race fixing and animal welfare concerns, and the management of those issues by ORI, was announced by the Tasmanian Government on 27 March 2023. It followed reports of these issues in the media, as well as concern across the wider community.

To facilitate the independent investigation of these matters, Ray Murrphy was appointed as a Senior Stipendiary Steward, in accordance with the *Racing Regulation Act 2004*, and invested with the full powers and obligations of that position.

Public submissions were sought between 4 April 2023 and 2 May 2023, and could be lodged via confidential email and postal addresses within NRE Tas. While anonymity was guaranteed to those who requested, every submitter was individually contacted. In total, information was obtained through close to 100 submissions and interviews.

Where a Term of Reference (ToR) requires an investigation or review of a matter “in the past three years”, the investigation or review has been conducted over the period from 1 April 2020 to 31 March 2023, being the period three years prior to the public release of the ToR on 1 April 2023.

It should be noted that an Interim Report to the Tasmanian Government was provided in August 2023 so that many of the recommendations could be considered for inclusion in the Tasracing draft Code of Practice for equine welfare and management. The Interim Report was also delivered so that the Government could consider the recommendations against those made in the Monteith Report, as they traverse similar ground. This Final Report deliberately incorporates matters from the Interim Report in order to maintain a coherent and comprehensive narrative.

The investigation and review is grateful to all who have taken the time to make submissions. Further, it wishes to acknowledge that Tasmanian harness racing has a long and distinguished history of champion horses and horse persons. The findings, advice and recommendations for consideration are made with a view to ensuring those traditions can both continue and flourish.

Scope and limitations of the inquiry

The ToR above sets out the independent investigation into matters of alleged team driving and/or race fixing, and serious animal welfare concerns relating to the harness racing industry. The scope of this investigation is broad. ToR 1 to 3 direct the investigation of certain circumstances and conditions to ‘determine compliance’ with the AHRR. ToR 4 and 5 direct a review into the ORI’s management of allegations and complaints. ToR 6 and 7 seek advice on matters for the Tasracing Code of Practice for equine welfare and management and animal welfare, team driving and/or race fixing generally.

The culmination of the ToR is to provide a report to the Government. This investigation and review was not directed to lay and determine charges in respect of potential instances of non-compliance with the AHRR. The review has therefore not proceeded to determine formal charges and issue penalties.



As noted, ToR 1 to 3 require the conduct of an investigation into those matters to determine compliance with the AHRR. The investigation has been conducted by reviewing extensive race footage, inviting written submissions, conducting oral interviews, studying form histories, examining betting records and treatment records, and conducting a site visit of the Yole Sidmouth property. Where the investigation has made specific allegations against persons, they have been written to, setting out those allegations and requiring them to attend an interview. The investigation has also afforded those persons the further opportunity to make written or verbal submissions following those interviews.

Had ToR 1 to 3 specifically required the exercise of powers to lay and determine formal charges under the AHRR and proceed to issue penalties, a quite separate process to an investigation (for the purpose of preparing a report to the Government) would have been undertaken. If serious charges are laid under the AHRR (such as those relating to race fixing), then before the charges are determined the relevant steward(s) conduct an open hearing to provide the opportunity for the accused to cross-examine the witnesses on which the stewards rely. The accused may call their own witnesses to give evidence. This investigation and review under the ToR had a much broader scope and was not conducted in this way. The determination of charges relating to race fixing can have serious consequences, including disqualification for those concerned. It is important that if charges are to be laid, they are heard and determined in a separate forum to this more general and wide-ranging inquiry.

Giving regard to the ToR, it would not have been practical or appropriate to adopt these hearing procedures in delivering a report to the Government, particularly if it was done alongside a review of the matters required by ToR 4 to 7. As it was, the volume of material received and the issues raised in the course of the investigation were far more broad-ranging and complex than anticipated. It has meant that the review had to seek extensions of time so as to comply with the requirements of natural justice, to ensure participants were afforded procedural fairness as part of this inquiry and to deliver the final report.

Therefore, where this investigation expresses its determinations of non-compliance with the AHRR, it does so on the evidence which it has before it. It does not make positive findings on formal charges. Rather, it makes determinations of non-compliance with the AHRR based on the evidence before it and the inquiries it has made, noting it has afforded those who have faced allegations of non-compliance an opportunity to answer those allegations. These findings are not to be interpreted as positive findings which a steward would make upon the determination of a formal charge and to which penalties and consequences would attach.

Following this report, and noting matters in this report which are of some gravity, the Tasmanian Government may choose to refer these matters to an authorised appointee who is empowered to investigate specific matters and if deemed appropriate, proceed to lay and determine charges.



EXECUTIVE SUMMARY

More than 45 submissions were received and over 50 interviews were conducted as part of this investigation and review, pertaining to the ToR. Specifically addressing ToR 1 and 2, which require an examination of team driving and race fixing, the investigation relied on race footage, the race histories of relevant horses, race betting data, interviews with and submissions from relevant participants, and the betting records of individuals.

It is important to acknowledge the inherent difficulty in proving team driving in harness racing. The investigation scrutinised allegations of team driving and race fixing in the two races mentioned in the ABC media report of 26 March 2023, as well as two additional races selected from more than 50 races from the past three years referred to in submissions. From these four races, two were determined to involve conduct non-compliant with the AHRR, while the remaining two races lacked sufficient evidence to support a non-compliant determination. The specific findings for these four races are detailed in this report. A condensed list of 15 races with questionable race tactics referred to in submissions will be confidentially provided to the Tasmanian Government for consideration of further review by designated appointees.

When determining compliance with AHRR of animal welfare conditions at the Yole Sidmouth property (ToR 3), the investigation adopted a broad perspective that encompassed both the physical environment and potential mistreatment, but also any unlawful or indiscriminate administration of medications and substances, to horses. In reaching a determination of non compliance with five rules namely AHRR 218, 218A(1), 193(3), 196B(1) and 196D(1) these assessments involved interviews with Yole stable employees, interactions with trainer Ben Yole and stable foreman Tim Yole, and an analysis of the trainer's 2023 treatment log.

For reasons set out under 'scope and limitations', this investigation does not make positive findings about non-compliance with the AHRR upon charges and to which penalties and consequences would attach. Charges have not been laid as part of this investigation. Rather, this investigation expresses determinations of non-compliance with the AHRR based on the material before it, noting this investigation has afforded those who have faced allegations of non-compliance an opportunity to answer those allegations.

The findings of non-compliance (findings 1, 5, 6, 7, 8, 9 and 10,) with six rules (240(a)(i) and (ii), 218, 218A(1), 193(3) 196B(1) 196D(1)) with reference to ToR 1, 2 and 3 are matters of some gravity and are referred to the Tasmanian Government for consideration. The Tasmanian Government may choose to refer these matters to an authorised appointee who is empowered to investigate specific matters and if deemed appropriate, proceed to lay and determine charges.

A substantial number of submissions received by this review pertained to horse welfare conditions at the Yole Sidmouth property. In this context, the review met with the CEO of RSPCA Tasmania on 25 May 2023, who had previously visited the Yole Sidmouth property. Also a site inspection was conducted on 7 June 2023, in the company of the Chief Veterinary Officer for Tasmania, a Senior Inspector for the RSPCA, and the Tasracing Chief Veterinary and Animal Welfare Officer. Past inspections by ORI and RSPCA Tasmania had yielded no findings of non-compliance with the rules or the *Animal Welfare Act 1993*. However, these



“no findings” highlight the deficiencies in regulations governing horse welfare standards at training establishments, specifically that:

- the rules prohibit the mistreatment of horses, however they are deficient in that they do not prescribe what is considered a minimum standard for horses and facilities at training establishments;
- the *Animal Welfare Act 1993* currently has no regulations to prescribe what welfare standards are required to be met for a horse training property; and
- the Tasmanian Equine Welfare Guidelines 2008, which detail the humane treatment and welfare of horses, are not enforceable because they are guidelines and not supported by the force of the rules.

This investigation’s compliance assessment into horse welfare conditions at the Sidmouth training property in accordance with ToR 3 is accordingly inhibited by the absence of existing measurable and enforceable standards. The investigation however shares the concerns expressed publicly by the CEO of RSPCA Tasmania concerning the conditions in which horses are kept on the property and this review identifies deficiencies in stocking density, ground conditions, feeding practices, protection from weather extremes, race day processes and veterinary treatment record keeping.

During the site visit to the Yole Sidmouth property, the review was accompanied by the Tasracing Chief Veterinary and Animal Welfare Officer, being the person responsible for developing the Code of Practice for the care of thoroughbred and harness horses. The review was afforded the opportunity to contribute to the development of minimum standards in the draft code. Pursuant to ToR 6 this report details recommendations for inclusion in the Code of Practice including that the code be linked to the rules so as to ensure enforceability.

ToR 6 also invites the review’s advice on other opportunities to improve horse welfare and this report makes recommendations for the early introduction of rules relative to rehoming and traceability of retired horses, including those horses found not suitable for racing careers. Whilst available statistics indicate that the vast majority of horses are well cared for post their racing career, Tasmania is lagging behind those programmes being progressed in racing jurisdictions in mainland states that require the owner or person responsible to take a “whole of life” approach to ensure the best possible and practical outcome for every horse no longer suitable to pursue a racing career. This must necessarily be accompanied by a robust traceability programme to ensure strict compliance with rehoming rules.

ToR 4 and 5 involved many submissions and interviews raising concerns regarding ORI's management of allegations and ORI’s complaint management related to team driving, race fixing, and other grievances aired in the ABC report of 26 March 2023. The review has not attempted to investigate all those concerns but rather has based its observations on six examples taken from interviews, where the current system has not worked effectively for the best outcome. These concerns echo the observations made in the Monteith and the Sykes reviews, highlighting a lack of confidence and trust in the industry's regulation.

The current system lacks a truly independent avenue for participants to file complaints regarding ORI personnel and their accountability. The Director of Racing's role is perceived as lacking true independence,



as the Director also serves as the General Manager of ORI. Particularly in serious integrity related matters, complaint handling by ORI was found by this review to be somewhat stilted, lacking cohesion and often not attributing the degree of seriousness necessary to the matters before them. What is needed is clear policies and procedures to dictate how complaints are to be made and addressed, with defined timelines for resolution, which should be publicly promoted.

ToR 7 invites advice on other matters concerning team driving and race fixing and very relevantly this investigation makes recommendations on what it observes as a most concerning stifling of on-track competition currently in Tasmanian harness racing, particularly so in the lower class races. As fierce competition on the racetrack is the industry's best safeguard against malpractice, including team driving and race fixing, a major overhaul to the current ratings, programming and balloting model is needed to arrest this decline whereby horses are currently rewarded for poor performance by rapidly descending the ratings ladder. This has the undesirable consequence of Tasmania becoming a last dropping off point for aged horses that are non-competitive in mainland states. Compounding this, one Tasmanian trainer has quite legally taken advantage of this model resulting in his stable gaining a monopolisation and dominance of starters particularly in lower rating races to the degree he often provides every starter in the field. This impacts on competitiveness on the racetrack with a disturbing number of participants either leaving or down-sizing their interests in Tasmanian harness racing.

Further to ToR 7, the review recognises the complex challenges of integrity in today's harness racing industry with support for more formal training opportunities for stewards together with a recommended new approach to intelligence based monitoring, analysis and utilisation of betting data so as regulators may better identify and address vulnerabilities.

The review also recommends the proposed independent Integrity Unit have a heightened focus on auditing therapeutic substances in racing establishments, involving a system of intelligence based unannounced stable visits with audits of medications and scrutiny of treatment records.

In providing the following advice in this report, it is done on the assumption that the Tasmanian Government will implement the recommendations of the Monteith Review through legislative reform, which are fully supported. These reforms provide the pathway forward by, for example, joining together welfare policy and enforcement, with Tasracing assuming the powers of enforcement under the rules, now held by ORI.

These reforms propose the establishment of an independent Integrity Unit in Tasracing, responsible for integrity, investigations, race officials and animal welfare support functions. They also involve the creation of a Tasmanian Racing Integrity Commissioner (TasRIC) to provide oversight, ensuring transparency and accountability. These changes are essential for integrating welfare policy and enforcement, unifying the industry's governance and addressing the rehoming of retired racehorses.



RACE FIXING AND TEAM DRIVING

Term of Reference 1

ToR 1 requires that an investigation be conducted of all circumstances surrounding the two races referred to in an ABC media report of 26 March 2023 to determine compliance with the AHRR. When determining compliance with the AHRR with respect to ToR 1 and also ToR 2, the investigation gave regard to but was not limited to the following material:

- vision of the races
- vision of other relevant races to establish the racing patterns of specific horses
- the race history of relevant horses
- written submissions
- interviews with relevant parties
- scrutiny of race betting data
- scrutiny of the betting records of individuals

Race 2 on 7 October 2022 at Burnie

With respect to race 2, the Find Us On Facebook stakes conducted by Burnie Harness Racing Club on 7 October 2022, the ABC media report of 26 March 2023 quoted trainer Kent Rattray as saying:

“Burnie is a small track. It’s only 600 metres round. Normally the leader will win the race... The fella who led spent the entire back straight looking over his shoulder, looking for something, and it wasn’t long before his [stable mate] rounded up and went outside his wheel. He pulled back and allowed him to go to the front. I thought ‘That’s strange’. You don’t give up the front at Burnie. All I asked for the stewards on that night was to question and to find out why you would hand the front up. It never happened.”

By notice of 4 August 2023, Ben Yole, part owner and trainer of both the third-place getter On My Oath and first-place getter Juniper, and by notice of 7 August 2023, Nathan Ford, driver of Juniper, and Mitch Ford, driver of On My Oath, were required to respond to an allegation that they acted in a manner that by instruction or arrangement may have caused Juniper to be unlawfully advantaged and On My Oath to be unlawfully disadvantaged.

1. With reference to ToR 1, the investigation determined that there has been non-compliance with AHRR 240(a)(i) and (ii) by Ben Yole, Nathan Ford and Mitch Ford, in respect to race 2 the Find Us On Facebook stakes conducted at Burnie on 7 October 2022, in that the evidence supports that they acted in concert with instructions or arrangement that may have caused Juniper to be unlawfully advantaged and On My Oath to be unlawfully disadvantaged.



In reaching that determination the investigation gave regard to but was not limited to the following material:

- Race vision of race 2 at Burnie on 7 October 2022 which displays that On My Oath began very quickly from barrier 4 in the standing start event and quickly established a lead of about 12 metres over the race favourite Juniper.
- Race vision which displays that whilst leading comfortably, On My Oath's driver Mitch Ford, on a number of occasions, turned his head and looked behind in the direction of Juniper, which was running second.
- Race vision which displays that after travelling 300 to 400 metres, Juniper was driven forward and On My Oath was taken hold of by its driver Mitch Ford, which allowed Juniper to cross and assume the lead uncontested.
- The well-known fact that the tight 607 metre Burnie circuit heavily favours front runners and more particularly so over shorter race distances such as the 1,892 metre journey of this race, therefore suggesting that quite compelling reasons would be needed to warrant giving away, without contest, the advantage of leading.
- Race vision, which displays that On My Oath was positioned on the back of Juniper throughout the remainder of the race, was then held up, and unable to be tested in the home straight when finishing in third place.
- Race history of On My Oath, which does not indicate that it would not be advantaged by leading the race.
- Race vision of 28 October 2022 which displays at its next start drawn off the front line On My Oath, at the same track, at the same distance, in the same class of race, with the same driver and from barrier 5 was driven to lead all the way and won by over seven metres.

The investigation considered Ben Yole's evidence in his written submission of 4 October 2023 in which he stated that he did not recall giving any specific driving instructions before the race to any driver (he had six of the 10 starters) and that he did not believe he backed either horse. Similarly, Nathan Ford gave evidence on 14 August 2023 that there were no driving instructions from Ben Yole and no pre-arrangement with his brother, Mitch Ford. He offered the explanation that there "probably might have been a little bit of s... talk during the week saying, like 'It's a moral', like me saying, 'Juniper's going to win', like, and being so short he used his brains and handed it up to me." Further to this, Mitch Ford stated when questioned on 14 August 2023 that there were no driving instructions from Ben Yole and that whilst he lived with his brother for four days each week, that he "... had no interactions with Mr Ford about that race, nor any other drivers".

However giving regard to the vision of the race and the vision of the subsequent win of On My Oath (when it led all the way at Burnie on 28 October 2022), together with the absence of any credible explanation for the actions of and tactics adopted by Mitch Ford in a race conducted on the leader-advantaged Burnie track, it is determined that Mitch Ford acted in concert with Nathan Ford by giving up the lead so as to cause Juniper to be unlawfully advantaged and On My Oath to be unlawfully disadvantaged.



The investigation did not find it credible that Ben Yole gave no instructions to the drivers of his starters. Together with his endorsement, when questioned, of the tactics of Mitch Ford behind On My Oath, it gives rise to a more probable inference that the unlawful advantaging of Juniper and the unlawful disadvantaging of On My Oath was at the instruction of or by arrangement with the trainer.

Race 9 on 22 January 2023 at Burnie

With respect to race 9, the Ladbrokes Pace conducted by Burnie Harness Racing Club on 22 January 2023, the ABC media report of 26 March 2023 cited comments from trainer Kent Rattray, who was quoted as saying: “It appeared there was very little want from the inside horses to hold the front, it (the lead) was sort of handed to Written In Silk”. Kent Rattray was further quoted as saying “It’s not cut and dry that it’s a sting... But why aren’t stewards asking the question?”.

By notice of 4 August 2023, Ben Yole, trainer of Written In Silk, Star Rocker and Be Good Benny, and by notices of 7 August 2023, Nathan Ford, driver of second-place getter Be Good Benny, and Cody Crossland, driver of ninth-place getter Star Rocker, were required to respond to the allegation that they were in contravention of the provisions of AHRR 240(a)(i) and (ii) in that they acted in concert with instructions or arrangements that may have caused Written In Silk to be unlawfully advantaged, and Star Rocker and Be Good Benny to be unlawfully disadvantaged.

2. With reference to ToR 1, the investigation determined that there is insufficient evidence capable of supporting a determination of non-compliance with AHRR 240(a)(i) and (ii) by Ben Yole, Nathan Ford and Cody Crossland. The investigation found no credible basis for an expectation that Be Good Benny, which drew barrier 1, and Star Rocker, which drew barrier 2, would or should have contested the lead.

In reaching that view, the investigation gave regard to but was not limited to the following material:

- Race patterns which indicate that neither Be Good Benny, Star Rocker nor Written In Silk which drew barrier 3 had established records as leaders.
- Statements by Nathan Ford regarding driving instructions, when questioned on 14 August 2023, in which he said, “Ben just said, ‘Just do what I normally do with him and just save him for one last crack at him’, Sir”.
- Nathan Ford’s evidence that Be Good Benny’s established recent racing pattern was, where suitably drawn, to be driven with cover. He stated that “if you go back through this horse’s form, Be Good Benny, it gets driven like that every time with me. I never once held the front...”.
- Be Good Benny’s record which, whilst a consistent place getter, was one of being a non-winner in his stable.
- Ben Yole’s submission of 5 October 2023 stating that Be Good Benny had led on only two occasions whilst in his stable, that being 4 December 2022 and 24 March 2023, in lower-class events, where it raced disappointingly on both occasions.
- Written In Silk’s established pattern of being driven forward when suitably drawn in its races.
- Star Rocker’s lack of recent history of being driven to contest the lead. In the said race it was eased off the starting gate and took up a one-out, one-back position before finishing last, beaten by 18.2



metres. At its most recent win of 27 December 2022 at the same track and distance, when again driven by Cody Crossland, Star Rocker raced three back on the inside from its second-row draw.

- The statement by Cody Crossland, when questioned regarding driving instructions on 14 August 2023, was that there were “No instructions that day, none”.

The investigation considered wagering information which showed that Written In Silk firmed in betting markets from \$23 to \$13.70, principally due to significant betting support on a ‘win and place’ basis by part owner Anthony Bullock. After further scrutiny of betting transactions on the race, scrutiny of the individual betting records of Anthony Bullock, and following an interview of 20 July 2023 with Anthony Bullock, it was established that whilst this level of wagering was towards the upper end of his scale of betting, it was not found to be beyond his established betting pattern. When questioned, both Anthony Bullock and Ben Yole denied having any discussions prior to the race on tactics to be adopted with Yole runners.

The investigation, giving regard to all the evidence, considers that in a race field populated solely by Yole stable horses – and when on balance it was not unreasonable or inconsistent, given recent racing patterns, that horses drawn barrier 1 (Be Good Benny) and barrier 2 (Star Rocker) would not contest the lead – then the balance of evidence required to support a determination for ToR 1 of non-compliance by Nathan Ford, Cody Crossland and Ben Yole of AHRR 240(a)(i) and (ii) could not be made out.

Race 8 on 10 February 2023 at Burnie

The ABC media report of 26 March 2023 referred to race 8, the Ladbrokes Pace conducted by Burnie Harness Racing Club on 10 February 2023, and quoted trainer Kent Rattray as saying in reference to the winner Reds Good To Go, that the horse “hadn’t won a race in almost a year, finished at least 50 metres in front, blitzing the Burnie field at a race mile rate less than a second shy of the Burnie track record”. Kent Rattray was further quoted in the report as saying: “Remarkably, someone backed it. Quite heavily. Somebody should have questioned the improved performance.”

3. The investigation has considered the race relating to “Reds Good to Go” under ToR 4 “adequacy of ORI management”, under the heading “Form Reversal of Reds Good to Go.”

Term of Reference 2

ToR 2 requires that an investigation be conducted into any other harness races from the past three years that may demonstrate team driving and/or race fixing to determine compliance with the AHRR.

During the course of this investigation and review, submissions from and interviews with participants put forward some 50 races as examples of alleged team driving and/or race fixing. The investigation, due to time and resource constraints, identified two of these races for closer examination. A condensed list of a further 15 races was compiled and will be confidentially provided to Government for such further scrutiny as is deemed appropriate.

Race 7 on 15 April 2022 at Hobart

With respect to race 7, the Ladbrokes Pace conducted at Hobart on 15 April 2022, the investigation required Ben Yole, trainer, and Mark Yole, driver of Life’s a Jungle, by notices of 4 August 2023 and 7 August 2023 respectively, to respond to the allegation that by instruction to or arrangement with Kaleb



Williams, driver of Bettor Sport, they were in contravention of AHRR 240(a)(i) and (ii) in that they acted or permitted others to act in a manner that may have caused Life's a Jungle to be unlawfully advantaged and Bettor Sport, driven by Kaleb Williams, to be unlawfully disadvantaged.

4. With reference to ToR 2, the investigation has determined that there is insufficient evidence capable of supporting a determination of non-compliance with AHRR 240(a)(i) and (ii) by Ben Yole and Mark Yole.

In reaching that view, the investigation gave regard to but was not limited to the following material:

- The evidence of 25 May 2023 from Kaleb Williams, the driver of Bettor Sport (which was also trained by Ben Yole and which was drawn in barrier 2). When questioned Kaleb Williams stated that “my instructions were just to sit outside the leader and look after him”, and “See you outside the leader and walk”, and “I think Life's a Jungle drew 4, if I remember correctly, and he told me it was crossing.”
- The 14 August 2023 observation in evidence upon viewing the race vision by Mark Yole, the driver of Life's A Jungle, “Oh, it looks to me like he's (Kaleb Williams) driving out to try to stop me from crossing, but I just have too much gate speed”.
- Race vision which displays that Kaleb Williams, on Bettor Sport, actually contested the lead when Life's a Jungle, from barrier position 4, crossed to the rails in the early stages of the race.
- Race vision which displays that whilst Bettor Sport led the one-out line at all relevant times, it travelled one to two lengths back off the leader, Life's a Jungle, and was not positioned so as to influence the pace of the race or to protect the leader.
- Ben Yole's further submission that contrary to the evidence of Kaleb Williams, Life's a Jungle set too fast a pace early, which ultimately resulted in that horse tiring into ninth position (beaten by 14.7 metres) and Bettor Sport finishing 11th (beaten by 18.9 metres).

If the investigation was satisfied that the words of the trainer as reported by the driver were actually said, then they would constitute race fixing tactics. However, given the lack of corroborative evidence, and particularly the actual conduct of the race, there was insufficient evidence capable of making a finding of non-compliance with AHRR 240(a)(i) and (ii).

Race 3 on 19 August 2022 at Launceston

With respect to race 3, the Bevan Lee's Butchery stakes conducted by the Launceston Pacing Club on 19 August 2022, the investigation required Ben Yole, trainer of Southshore (NZ), and Nathan Ford, driver of Eippermill, by notices of 4 August 2023 and 7 August 2023 respectively, to respond to the allegation of non-compliance with AHRR 240(a)(i) and (ii) in that they acted in a manner, whether by instruction or arrangement, which may have unlawfully advantaged Eippermill and unlawfully disadvantaged Southshore (NZ) in the said race.

5. With reference to ToR 2, the investigation has determined that there has been non-compliance by Ben Yole and Nathan Ford with AHRR 240(a)(i) and (ii) in that the evidence supports that in concert with Nathan Ford, Ben Yole gave driving instructions to Corey Bell driver of Southshore (NZ) that may have unlawfully advantaged Eippermill and unlawfully disadvantaged Southshore (NZ) in the said race.



In reaching that determination, the investigation gave regard to but was not limited to the following material:

- A 9 June 2023 interview with Corey Bell, the driver of Southshore (NZ), in which he offered evidence that trainer Ben Yole gave him instructions that “I just need you to do this for me because Nathan’s – you know, I don’t want to lose Nathan as a driver or you know, a mate,” and “we’ve just got to hand up to him because he reckons he can win.”
- Race vision from 19 August 2022 which confirms that Eippermill, from barrier 6, was able to cross Southshore (NZ) (barrier 1), and lead in the run to the first turn without contest from Southshore (NZ).
- The evidence of Corey Bell that Eippermill “obviously wouldn’t have been able to cross me” because Southshore (NZ) had the early pace to lead and to hold out Eippermill.
- The evidence of Corey Bell that once crossed, he was never going to get a run positioned on the back of Eippermill because there is not a sprint lane at Launceston. Corey Bell was asked the question, “Did he (Ben Yole) indicate he wanted Nathan Ford’s horse to win the race?”. Corey Bell answered, “Oh yes because there was no sprint lane, so I was never going to get a run”.
- The race history of Southshore (NZ), which confirms its gate speed, winning on four occasions when leading from its next eight race starts.
- Race histories indicate in three of its four races prior to 19 August 2022, Southshore (NZ) led, including at its most recent start at Launceston on 7 August 2022, when it finished in third placing.
- Race vision displays on the home turn, when being strongly restrained and held-up on the back of the leader Eippermill, Southshore (NZ) struck that horse’s sulky wheel and galloped when Eippermill hung out.

The investigation considered an interview of 14 August 2023 with Nathan Ford, the driver of Eippermill (trained by his partner), in which he stated that he did not speak to Ben Yole regarding the race. “We have a chat at the races, but never about, we never talk about when I’ve put another horse in the race, that never crosses my mind”. Further to this trainer Ben Yole, when interviewed on 4 October 2023, denied instructing Corey Bell to hand-up the lead to Nathan Ford: “The horse is trained by his [Nathan Ford’s] partner, Sir. Yeah, I don’t do favours for anyone, Sir”.

Circumstances, as well as the material identified, raise a more probable inference in favour of finding that the unlawful disadvantaging of Southshore (NZ) and the unlawful advantaging of Eippermill was at the instruction of trainer Ben Yole.

The above two instances (findings 1 and 5) of non-compliance by parties with AHRR 240(a)(i) and (ii) on the available evidence in ToR 1 and 2 are matters of some gravity and are referred to the Tasmanian Government for consideration who may choose to refer these matters to an authorised appointee who is empowered to investigate specific matters and if deemed appropriate, proceed to lay and determine charges.



ANIMAL WELFARE

In Tasmania, the *Animal Welfare Act 1993* is the primary legislative basis for all animal welfare matters. While this Act contains provisions to prevent the neglect of and cruelty to animals to ensure their welfare across the state, it lacks regulations to prescribe what welfare standards are required to be met for a horse training property.

The AHRR are nationally consistent and managed by Tasracing, but enforced by stewards (currently working within ORI). This structure is unwieldy, not conducive to good outcomes or to satisfying community expectations, which in recent times have heightened focus in regards to the whole of life treatment of horses. Under the *Racing Regulation Act 2004*, Tasracing is responsible for animal welfare policy but has no substantive powers of implementation. This governance structure has resulted in Tasmania not comparing favourably with the significant progress in implementing welfare best practice by many other codes in mainland states, which include a mandatory regulated path for horses that no longer have racing careers. The Tasmanian local harness rules are silent on the subject of horse welfare.

The Monteith recommendations provide a clear path forward towards strong governance protocols with the transfer of welfare enforceability to Tasracing and the creation of TasRIC. TasRIC will have mandatory oversight of Tasracing's animal welfare responsibilities and will have the power to implement welfare standards. The proposals include a Tasracing Integrity Unit, bringing together stewards, investigators and animal welfare functions to provide an effective welfare enforcement entity. Tasracing's Chief Veterinary and Animal Welfare Officer will work alongside the new Racing Integrity Unit, providing a cohesive management of animal welfare within that entity.

Consequently, the review fully supports the Monteith recommendations as they apply to horse welfare with the proposed transfer of enforcement to Tasracing and the creation of TasRIC as an oversight body. This matches industry-best practice and the models that are in place in other jurisdictions in Australia, whereby both policy and enforcement are housed in the one structure, as proposed in this jurisdiction to be within Tasracing.

Term of Reference 3

ToR 3 requires an investigation into animal welfare conditions at the Yole Sidmouth property to determine compliance with the AHRR.

The investigation takes a broad view that the term animal welfare conditions includes not only the physical environment and treatment of horses paddock trained at the Yole Sidmouth property, but includes any unlawful and/or indiscriminate use of medications and substances that may constitute non-compliance with AHRR (while also possibly having race fixing implications).

With respect to determining compliance or non-compliance of animal welfare conditions with the AHRR, it firstly should be clarified that there is no harness rule of racing that sets out minimum standards for training properties. The Tasmanian Equine Welfare Guidelines 2008 are only indicative standards and as such are not enforceable. Also, it should be clarified that there are no stables at the Yole Sidmouth



property but rather horses are trained out of paddocks primarily located within an 800 metre circumference training track. The physical layout, designated by electric fencing, includes two larger and a number of smaller paddocks within the training track circuit, plus a number of small yards on the outside perimeter of the track. Between 120 to 160 horses have been trained from this complex in recent times.

By correspondence of 4 and 11 August 2023, Ben Yole was placed on notice of equine welfare and management matters pertaining to his Sidmouth property that may be the subject of the investigation report.

The investigation into welfare conditions gave regard to but was not limited to the following material:

- Interviews of 4 and 5 October 2023 with, and written submissions of 21 August 2023 from trainer Ben Yole.
- Interview with and submissions of 4 October 2023 from foreman Tim Yole.
- An interview with Jan Davis, the CEO of the RSPCA Tasmania, of 24 May 2023.
- A site visit of 7 June 2023 to the Yole Sidmouth property in the company of a Senior Inspector from RSPCA Tasmania, the Chief Veterinary and Animal Welfare Officer for Tasracing, and the Chief Veterinary Officer for Tasmania.
- Submissions from and interviews with Yole employees.

The report sets out in more detail its findings concerning animal welfare conditions at the training establishment when discussing recommendations for the proposed Tasracing Code of Practice for equine welfare and management (ToR 6). However, in brief, the following deficiencies were identified:

- **Stocking density.** The property is clearly overstocked with the number of horses for its size and facilities, and accordingly it exhibits barren paddocks completely devoid of pasture.
- **Ground conditions.** Drainage is deficient, with substantial areas being waterlogged and muddy in wet conditions, and subject to a high level of dust in dry and windy summer conditions. The waterlogged conditions underfoot, with horses standing in mud (combined with horse manure), pose sanitary issues, particularly if they have open wounds which do occur particularly when horses are exercised behind multi berth joggers.
- **Feeding regime.** The feed was of good quality and there are sufficient feed and water receptacles, however the feeding system does not satisfactorily address the inevitable horse behaviour pattern of bullying by dominant horses, which can result in less-dominant horses being forced away from grouped feed bins and therefore not receiving sufficient nutrition.
- **Protection from weather extremes.** Shelter and shade provisions, which primarily are recently introduced shade cloth, are insufficient and inadequate, and do not provide acceptable protection for all horses against the weather elements.
- **Veterinary treatment records.** AHRR 190B requires trainers to keep a log book listing all therapeutic substances held in their possession and to each day record full details of all treatments to horses in their care. During an interview on 4 October 2023, the investigation requested the presentation of the Yole stable treatment log book. The treatment log book for 2023 was produced by Ben Yole the following day. The investigation found the entries not to be a credible or accurate



record, being quite superficial and not reflective of the level of treatments anticipated of a training establishment of this size.

- **Race day practices.** Horses on race day are either tied up at race meetings or on stationary horse transports for unduly long periods, due to staff and transport limitations. For Hobart meetings, including transportation times, this can extend from 9am until after 1am the following morning.

Welfare of two-year-old gelding Blings on Fire

A notice of 4 August 2023 required Ben Yole to answer an allegation that as the owner and trainer of the two-year-old pacer Blings on Fire, and having responsibility for its welfare under AHRR 218, he failed to properly care for that gelding in that he started Blings on Fire in race 1, the \$26,000 Cavalor Equine 2YO Colts & Geldings Sweepstakes Final at Hobart on 3 September 2022, when a tongue tie had not been removed for some four days following its race start at Launceston on 28 August 2022. Such occurrence resulted in Blings on Fire not being able to eat during that period and accordingly not being in an acceptable condition to race on 3 September 2022.

AHRR 218 states:

A person having responsibility for the welfare of a horse shall not fail to care for it properly.

6. With reference to ToR 3, the investigation determined that there has been non-compliance by trainer Ben Yole with AHRR 218 in that the evidence supports that as the trainer of Blings on Fire during the period 28 August 2022 and 3 September 2022, he failed to comply with his responsibilities to properly care for the welfare of that two-year-old.

In reaching that determination the investigation gave regard to but was not limited to the following material:

- On 21 August 2022 at Hobart, Blings on Fire racing first up from a spell finished fourth of four starters (beaten 17.4 metres) in a heat of the Cavalor Equine 2YO Colts & Geldings Sweepstakes and in so doing, qualified to run in the Final on 3 September 2022.
- On 28 August 2022 Blings on Fire competed in, and finished second (beaten 1.6 metres) in race 2, the Launceston Veterinary Group Two Year Old, over 1,680 metres.
- An interview on 9 June 2023 in which a former Ben Yole stable employee and driver, gave evidence that on or about 1 September 2022 it was discovered by stable employees that a tongue tie in the form of a rubber band had not been removed from Blings on Fire subsequent to its race of 28 August 2022. The former employee and driver stated “there was another horse there, it was called Blings on Fire, and it was a two year old, so it raced in a race and then it came home and they forgot to take the tongue tie off it. And the tongue tie got left on for four days...”.
- Further, the former employee and driver gave evidence regarding the condition of the two year old and stated, “they took the tongue tie off and it looked like it was going to die and it wouldn’t eat, like it was really skinny, and its tongue was obviously sore”.
- The former employee and driver gave evidence that they brought the matter to the attention of stable foreman Tim Yole and said, “this horse looks disgusting, it can’t go to the races”.



- On 3 September 2022 Blings on Fire was started in race 1, the \$26,000 Cavalor Equine 2YO Colts & Geldings Sweepstakes Final at Hobart by trainer Ben Yole, where it finished last. It was beaten by 211 metres but earned \$260 in prize money.
- An examination by the race club veterinarian was ordered by the stewards, which did not report any abnormality.

The investigation considered the evidence given on 4 October 2023 by Tim Yole, stable foreman of 10 years standing and the brother of Ben Yole, who said: “I reckon that would be very unlikely that would have happened, but like I said, I definitely don’t remember him ever coming to me about that. Ben never mentioned it to me.”

Ben Yole, in his submission of 4 October 2023, stated that “I find it inconceivable that a horse could have a tongue tie on for three days and no person remove it”. He stated that after a race a horse passes through the hands of its strapper, the float driver and whoever unloads it off the float. Further, in his interview of 4 October 2023, Ben Yole was asked whether the foreman would refer to the trainer any decision of fitness to race, to which he answered, “He would Sir, yes”.

The investigation, in determining non-compliance by Ben Yole with AHRR 218, prefers the evidence of the former employee/driver, which it finds credible. That evidence is supported by the absence of any other credible explanation for the subsequent poor race performance of Blings on Fire, which was beaten by the huge margin of 211 metres in the Final at Hobart on 3 September 2022 and was found to be sound upon examination subsequent to the race by the Club’s Veterinary Surgeon.

Mistreatment of horses in the wash bay on race day

A notice of 4 August 2023 required Ben Yole, and a notice of 7 August 2023 required Tim Yole, to answer an allegation of the mistreatment of horses in their care between 1 April 2020 and 1 April 2023, in contravention of AHRR 218A(1) and (2), in that they systematically arranged for a selected number of horses to be brought to the wash bay area at the Yole Sidmouth property prior to such horses being loaded onto horse transports to race at Tasmanian harness race meetings. Further, that the horses were tied up and fitted with blinds and earplugs, whereby Tim Yole and Ben Yole deployed physical and vocal abuse including making loud and excessive noises to frighten and/or terrorise such horses. This practice involved pulling down the blinds and earplugs and using a harness whip, encased in a plastic bag to exacerbate the noise, to wave around the said horses and/or to strike them in the region of the rump and hind legs whilst loudly shouting at them.

AHRR 218A states:

- (1) *A person shall not mistreat a horse,*
- (2) *For the purposes of this rule “mistreat” means to abuse or treat a horse badly, cruelly or unfairly.*

7. With reference to ToR 3, the investigation determined that there has been non-compliance with AHRR 218A(1) by trainer Ben Yole and the stable foreman Tim Yole in that the evidence supports that by this practice (regardless of whether the whip came into contact with the horses) they mistreated horses.



In reaching that determination the investigation gave regard to but was not limited to evidence given by seven former stable employees, of race day practices involving horses in the wash bay area at the Yole Sidmouth property namely:

- Immediately prior to horses being loaded onto horse transports at the Sidmouth training property to be taken to compete at race meetings in Tasmania, Ben Yole, in concert with Tim Yole, systematically arranged for a number of horses to be firstly brought to the wash bay.
- While in the wash bay, horses were tied up and fitted with blinds and/or earplugs.
- As the blinds and earplugs were removed a harness whip, encased in a plastic bag to exacerbate the noise levels, was used by Ben Yole and Tim Yole to deploy physical abuse, whilst also making loud and excessive noise, including shouting, to frighten and terrorise the horse.
- The whip made contact with the rump, hind legs and/or rug of the horse.
- Such actions were directed by Ben Yole and Tim Yole to broadly simulate conditions in the latter stages of a race, when a driver asks the horse for maximum effort.

In written and verbal submissions of 4 October 2023, Ben Yole and Tim Yole admitted to the practice described by stable employees but with the distinction that it occurred about once a month, that being less often than alleged, lasted five to 10 seconds in duration, and that no physical contact was made by the whip encased in the plastic bag with the horse, but rather the contact was with the wall of the wash bay. They also stated that the practice was discontinued at least 12 months ago.

Tim Yole submitted that he so acted “with Ben Yole or on his instructions”.

The investigation has determined that the actions as described by Ben Yole and Tim Yole, on their evidence alone, would constitute ‘mistreatment’ of a horse, which is defined in the rules as to “abuse or treat a horse badly, cruelly or unfairly”. The investigation rejects the submissions of Ben Yole that it can be condoned as being seen to be equivalent to the actions of a driver towards a horse in the latter stages of a race. Such an analogy between what may be permissible under the rules in a race does not always extend to what is permissible outside the parameters of the track. The investigation, in determining non-compliance with AHRR 218A(1), prefers the corroborative first-hand accounts of seven stable employees as to the scale, duration and means employed by Ben Yole and Tim Yole. Whilst the investigation prefers the evidence of three stable employees who witnessed and gave evidence they saw that contact was actually made with the whip to the horse, it finds that regardless of whether contact was made, such actions were directed primarily at frightening and terrorising the horses so as to induce a superior performance that race day and as such constituted mistreatment.

Race day administration of medication

A notice of 4 August 2023 required Ben Yole, and a notice of 7 August 2023 required Tim Yole, to answer an allegation that between 1 April 2020 and 1 April 2023 they administered or caused to be administered medications to multiple horses on race day prior to such horses running in races, contrary to AHRR 193(3), (7) and (8).



AHRR 193(3), (7) and (8) state:

(3) A person shall not administer or allow or cause to be administered any medication to a horse on race day prior to such horse running in a race.

(7) For the purposes of this Rule, medication means any treatment with drugs or other substances.

(8) A person shall not allow or permit another person to attempt to perform or perform any of the actions prohibited by sub-rules (1), (2), (3) or (6).

8. With reference to ToR 3, the investigation determined that there has been non-compliance with AHRR 193(3) and (8) by trainer Ben Yole, and stable foreman Tim Yole, in that the evidence supports that they systematically administered, or caused to be administered by stable employees, medication in the form of oral pastes, given over the tongue to multiple horses prior to their loading onto the horse transports to be taken to race that day at Tasmanian harness race meetings.

In reaching that determination the investigation relied on but was not limited to the evidence given by seven former stable employees, of race day treatment practices at the Yole Sidmouth property namely:

- Prior to being loaded onto horse transports to be taken to race at harness race meetings in Tasmania, Ben Yole and Tim Yole systematically arranged for horses to be brought by stable employees to the barn area.
- In the open barn area Ben Yole and/or Tim Yole systematically administered or caused stable employees to administer oral pastes over the tongue to multiple horses prior to them being loaded onto horse transports to be taken to race at Tasmanian harness race meetings.

When questioned on 4 October 2023, Ben Yole and Tim Yole gave evidence that whilst it was a stable practice to give multiple pastes to all horses racing, such oral medications were not given on race morning. When asked to respond, in an interview of 4 October 2023, to witness accounts that oral pastes were given to horses on race morning, Tim Yole gave evidence, “Oh, they have been misunderstood about of where they were talking about, like I said horses that were racing on the Sunday were treated on the Friday.” Ben Yole submitted when questioned on 4 October 2023 that he gave “Zero treatments race day, Sir”.

In submissions of 4 October 2023, Ben Yole and Tim Yole in respect to answering matters under AHRR 193(3) and also matters under AHRR 196B(1) each raised the difficulty of advancing evidence in the absence of particularisation of dates and horses “As the allegations are broad and vague and lack in any real details (that is to a particular date and horse) it is difficult for me to advance any evidence that stands apart from my own testimony”.

The investigation was not able to find that oral medications were administered on specific dates to specific horses. However, in determining non-compliance by Ben Yole and Tim Yole with AHRR 193(3) and (8) it prefers the evidence of first-hand witness accounts of seven employees who were present on the Yole Sidmouth property within the specified three year period, and who gave evidence of witnessing and/or assisting Ben Yole and Tim Yole in administering oral medications routinely and systematically to multiple horses prior to them being loaded onto horse transports every race day.



Administration of injections to horses within one clear day of the race

A notice of 4 August 2023 required Ben Yole, and a notice of 7 August 2023 required Tim Yole, to answer an allegation that between 1 April 2020 and 1 April 2023, without the permission of stewards, Ben Yole administered and caused to be administered by Tim Yole, and Tim Yole administered, intravenous injections to horses nominated to race within one clear day of such race, contrary to the provisions of AHRR 196B.

AHRR 196B(1) and (2) (a) and (b) state:

(1) A person shall not without the permission of the Stewards within one (1) clear day of the commencement of a race administer, attempt to administer or cause to be administered an injection to a horse nominated for that race.

(2) For the purposes of this Rule –

(a) Administering an injection to a horse means the use of a hypodermic needle or other instrument to introduce or extract any substance from the horse;

(b) It is not necessary to establish whether any substance was injected or the nature of the substance injected.

The AHRR Dictionary states that “one clear day” means the 24 hour period from 12.01am to midnight.

9. With reference to ToR 3, the investigation determined that there has been non-compliance with AHRR 196B(1) by trainer Ben Yole, and stable foreman Tim Yole, in that the evidence supports that they both did systematically administer, and Ben Yole caused Tim Yole to administer, intravenous injections to horses nominated to race either on race day and/or within one clear day of a race.

In reaching that determination the investigation gave regard to, but was not limited to the evidence given by eight former stable employees, of a practice of the administration of intravenous injections to horses nominated to race within one clear day of the race namely:

- Prior to horses being loaded onto horse transports on race day, to be taken to race at harness race meetings in Tasmania, Ben Yole selected, and Tim Yole and Ben Yole arranged, for horses to be brought to the open barn area at the Yole Sidmouth property, whereby Ben Yole administered, or caused to be administered by foreman Tim Yole, intravenous injections to such horses.
- After horses were nominated to race at Tasmanian harness race meetings, and the day before such races, Ben Yole selected a number of horses to be brought to the barn area of the Yole Sidmouth property, whereby he administered or caused to be administered by foreman Tim Yole, intravenous injections to those horses.

When questioned on 4 October 2023, Ben Yole gave evidence that “Zero injectables on race day” had been given, and added, “Zero on the day prior, Sir”. Moreover when witness accounts were put to Tim Yole on 4 October 2023 he responded by stating that, “Yep that wasn't given to horses that were racing on race day, it was given to other horses that were racing in two days' time”.



Ben Yole further gave evidence that all horses in his stable get two injectable substances two days prior to racing, and that “not very often” selected horses get a further injectable substance three days prior to racing. The stable treatment log – which the investigation directed be produced by Ben Yole on 5 October 2023, and which for the year 2023 showed a series of entries of injections outside the one clear day margin, excepting for Friday 3 March 2023. The entry on that day read “All in Friday” and indicated that all horses received three injectable substances of 30ml Recuperate, 10ml Hemoplex and 10ml of Potassium/CophusB on a race day. The Yole stable had multiple starters and seven of the eight winners at the Burnie meeting held on Friday 3 March 2023. Further, no specific entry of a separate injection three days prior to racing for any horse appears in the 2023 log. Little or no weight was placed by the investigation on the treatment log information as it was not found to be a credible or accurate record of all trainer treatments.

In submissions of 4 October 2023, Ben Yole and Tim Yole (as detailed above in their responses to AHRR 193(3)) each raised the difficulty of advancing evidence standing apart from their own testimony in the absence of particularisation of dates and horses.

The investigation whilst not able to find that intravenous injections were given to specific horses on specific dates however in determining non compliance of Ben Yole and Tim Yole with AHRR 196B(1) it finds credible the first hand corroborative witness accounts of eight stable employees who were present at the Yole Sidmouth property within the three year period. They gave evidence that they routinely held horses and/or witnessed horses given intravenous injections by Ben Yole or Tim Yole that were to race that day or alternatively were to race the following day. Such administrations therefore being given within “one clear day” of the race within the meaning of the rules.

Administration of intra-articular injections to horses within eight clear days of the race

A notice of 4 August 2023 required Ben Yole to answer an allegation that between 4 November 2020 and 1 April 2023 he administered intra-articular injections to horses nominated to race within eight clear days of the commencement of their races, contrary to AHRR 196D(1).

AHRR 196D(1) states:

A person shall not within eight (8) clear days of the commencement of a race administer, attempt to administer or cause to be administered an intra-articular injection to a horse nominated for that race.

10. With reference to ToR 3, the investigation determined that there has been non-compliance with AHRR 196D(1) by trainer Ben Yole in that the evidence supports that he did administer intra-articular injections to horses nominated to race within eight clear days of the commencement of their races.

In reaching that determination the investigation relied on but was not limited to the evidence, given by three former stable employees, of witnessing Ben Yole administering intra-articular injections to horses nominated to race, within eight clear days of the commencement of their race namely:

- Within a period of eight clear days of their races, Ben Yole systematically selected a number of horses that were nominated to race at Tasmanian harness race meetings and had them brought to



the barn area at the Yole Sidmouth property by stable employees, whereby he administered intra-articular injections into the joints of such horses.

The investigation considered Ben Yole's submissions of 4 October 2023 in which he stated that, "I do intra-articular injections regularly, but never within eight clear days of a race." When questioned on 4 October 2023 as to how often intra-articular injections took place, Ben Yole stated that he "Probably picked out one or two (horses) a week that were sore that it, that showed me signs of, after I flexed them up, trotted them up." When further questioned regarding how far out from a race the intra-articular injections were given, Ben Yole replied, "Ten days, 11 days, 12 days".

In submissions of 4 October 2023, Ben Yole raised the difficulty in advancing evidence that stands apart from his own testimony, in the absence of particularisation of dates and horses. The evidence of one of the stable employees identified two horses which were said to have been given intra-articular injections. Their stable names were "Aha" and "Kiwi". In denying these allegations, Ben Yole was able to identify these horses and stated that "Aha" was a sound horse, never needing an intra-articular injection. He said it raced 43 times last season and 24 times this season. He also stated that "Kiwi" had a particular knee injury for which intra-articular therapy was not an appropriate treatment.

The investigation on 5 October 2023 examined the stable treatment log book of Ben Yole, however contrary to Ben Yole's evidence that he gives intra-articular injections to horses on a weekly basis, the log failed to detail any entries of intra-articular injections being given to horses at the property in the current calendar year. Little or no weight was placed on the log information as the investigation found the treatment entries not to be a credible or accurate record of all Yole horse treatments.

The investigation whilst not able to find that intra-articular injections were given to specific horses on specific dates, nevertheless, in determining non-compliance of Ben Yole with AHRR 196(1) it found credible the first-hand corroborative witness accounts of the three employees that were present at the Yole Sidmouth property within the period 4 November 2020 and 1 April 2023, that intra-articular injections were given by Ben Yole to horses nominated to race and that such injections were given within eight clear days of such horses racing.

These findings of non-compliance (findings 6, 7, 8, 9 and 10) with AHRR 218, 218A(1) and (2), 193(3), 196B(1) and 196D(1) on the available evidence are matters of some gravity and are referred to the Tasmanian Government who may choose to refer these matters to an authorised appointee who is empowered to investigate specific matters and if deemed appropriate, proceed to lay and determine charges.

Terms of Reference 3 and 6

For the purpose of this report, the investigation intends to further discuss ToR 3 in combination with ToR 6. ToR 3 requires an investigation into animal welfare conditions at the Yole Sidmouth stable to determine compliance with the rules. ToR 6 invites advice on opportunities to improve horse welfare for inclusion in the draft Tasracing Code of Practice for equine welfare and management.



In consideration of animal welfare conditions at the Yole Sidmouth training establishment, the investigation not only received multiple submissions, but conducted a site visit to the property. The party was accompanied by owner/operator Ben Yole. Further, the investigation invited and considered from Ben Yole a written submission of 14 August 2023 and oral submissions of 4 and 5 October 2023. The investigation also had the benefit of discussions with Jan Davis, the CEO of RSPCA Tasmania, who has personally inspected the Yole Sidmouth property.

Pertinent to animal welfare with regard to a trainer, AHRR 218 states that “*A person having responsibility for the welfare of a horse shall not fail to care for it properly*”.

ORI advised that their officials inspected the Yole Sidmouth property approximately every fortnight but found no welfare breaches of the rules. Media reports indicate that RSPCA Tasmania had inspected the Yole Sidmouth property 13 times in 2022 and did not find any breaches of the *Animal Welfare Act 1993*. Significantly, however, the CEO of RSPCA Tasmania, when interviewed by this investigation on 25 May 2023, said: “The issue we are dealing with here is not so much the condition of the animals but the conditions in which the animals are kept. And nobody that’s seen the place would think that these are appropriate conditions for animals to be in.” The CEO had previously been quoted in the media as saying that the RSPCA was limited by the state’s animal welfare legislation. She categorised this as a failure of the rules of racing and the *Animal Welfare Act 1993*. The review notes the *Animal Welfare Act 1993* currently has no regulations to prescribe what welfare standards are required to be met for a horse training property.

In the investigation's view the CEO of RSPCA Tasmania was correct in identifying that the rules are deficient as they fail to prescribe what welfare standards are applicable to a harness training establishment. With respect to training establishments, whether it be stables, yards or paddocks, there is nothing whatsoever prescribed in the rules that allow compliance to be measurable.

Currently there are two key documents that give a level of detail regarding the humane treatment and welfare of harness horses: the *Harness Racing Australia Equine Health and Welfare Statement (updated 2019)*; and the *Tasmanian Equine Welfare Guidelines (2008)*. However, importantly, the provisions of these guidelines are not enforceable as they are only indicative standards. There is not a link between these guidelines and the AHRR, which would allow officials to enforce these standards. Many other racing jurisdictions and codes have developed enforceable animal welfare codes, policies and rules. In the investigation's view, there is a quite urgent need to develop enforceable minimum standards in respect to horse welfare conditions at training and racing establishments.

Minimum standards are the minimum requirements to meet the basic welfare needs of horses.

Guidelines are recommended practices to achieve desirable welfare outcomes.

The starting point of this process would require a new AHRR, or a Tasmanian local rule, providing the necessary powers to penalise anyone found in breach of a minimum standard in a code of practice. Such disciplinary action should include the powers to withdraw a licence until the requirements of the code are met.



Guidance is given in the thoroughbred rule AR 16 in the AHRR, which states:

AR 16: Without limiting any other PRA (Principal Racing Authority) powers, a PRA has the following powers in relation to disciplining and/or penalising a person...:

[b] to penalise:

(iv) any person who breaches a Code of Practice.

Currently the Director of Racing has the function of regulating and controlling racing, yet somewhat curiously it is another body, Tasracing, that is responsible for drawing up local rules and adopting the ARR. This anomaly has been addressed in the Monteith recommendations.

Meanwhile, as referenced previously, Tasracing is developing a draft Code of Practice that will set minimum standards for the management and care of thoroughbred and harness horses in Tasmania. Additionally the proposed Monteith reforms, as laid out in the draft Bill, will require Tasracing to develop an annual integrity and animal welfare plan. This Code of Practice document, will include minimum standards for training properties, and will form part of this task. Whilst formulating its recommendations with respect to ToR 6, the review has had the opportunity of input into the draft Code of Practice in discussions with its author. The following recommendations refer to the minimum standards that should, in the investigation's view be included and enforced within this proposed Code of Practice. In some instances for the purposes of this report, these recommendations are taken alongside concerns identified at the Sidmouth training property so as to demonstrate how an enforceable code will impose measurable standards.

The review fully supports the development of Tasracing's Code of Practice for equine welfare and management, and sees it as being a pivotal document that will set minimum standards for the care, management and training of horses in Tasmania. The review's support is contingent upon the Code of Practice being linked to the rules.

Advice for inclusion in Tasracing Code of Practice

On 7 June 2023 the review attended the Yole harness racing property in Sidmouth, Tasmania, accompanied by the Chief Veterinary Officer for Tasmania and a Senior Inspector from RSPCA Tasmania. Also attending was the Chief Veterinary and Animal Welfare Officer for Tasracing. This advice for inclusion in the Code of Practice focuses largely on observations from the site visit, discussions with the attending personnel, submissions received and interviews conducted by the investigation, and a submission of 21 August 2023 from and interviews of 4 and 5 October 2023 with trainer Ben Yole. In addition, the reviewer relies on 50 years experience as a steward in assessing training establishments across Australian states and territories.

Stocking density

The physical layout of the Yole training establishment covers a series of paddocks each enclosed by an electric fence within an 800 metre training circuit, plus a number of smaller yards on the outside perimeter. There are two larger paddocks and a series of smaller paddocks within the training track circuit. Up to 160 horses at a particular point in time have been trained out of the location and although the number was approximately 120 horses at the time of the site visit. The investigation finds the property is



clearly overstocked for its size and facilities. So much so that the larger 'paddocks', one of which has held up to 50 horses, have effectively become barren 'yards' in that they do not have any discernible pasture available to horses. Photographic evidence presented in ABC online reports is consistent with those observations. Ben Yole responded that he does not want his horses eating grass all day and that his horses are not reliant on nutrition from pasture as they are suitably hand fed, including hay twice a week. He advised that accordingly he can accommodate a higher capacity of horses in paddocks.

11 (i). This investigation supports minimum standards that set a stocking rate for paddock-trained horses that is as prescriptive as is possible so as to ensure there is sufficient space for each horse to have ample area of its own. This is particularly so, given regard to the expected competition for feed and the inevitable bullying by dominant horses of subordinate horses. It supports that in paddock situations, a measure of that area required is that horses have access to sufficient pasture, supplemented by fibrous feed such as hay. Furthermore, it supports that the physical layout should include an adequate number of paddocks and yards to permit animals of a similar age, sex, size and compatible temperament to be grouped together.

Ground conditions

At the Yole Sidmouth property, drainage of the paddocks is deficient in that substantial areas can be seen to become muddy and water-logged in wet weather. Horses can be observed standing hoof to fetlock deep in mud, which, together with horse manure, presents a sanitary risk, particularly when horses have open wounds or injuries which is unavoidable when they are exercised behind multi-berth horse joggers. The review also received submissions and photographs to indicate that in the dry summer months, with the absence of any pasture, the level of dust in windy conditions presents potential respiratory issues for horses. Subsequent to the site visit Ben Yole advised that he is now utilising wood chips to raise poorly-drained areas, and employs a system of rotation of stock to avoid heavy traffic in water-logged areas.

11 (ii). Whilst recognising that wet conditions and horse movement in paddocks inevitably create muddy conditions underfoot, this investigation supports the minimum requirement that provides for horses to have ample access to firm conditions underfoot. This access for horses to areas of higher ground should include sufficient area of their own, where they have access to both feed bins and water receptacles, access to shade and shelter, and where they are not subject to bullying from dominant horses. The minimum requirements should also provide for the regular removal of manure which, in wet and muddy conditions, exacerbates sanitary issues, particularly if a horse has an open wound.

Feeding regime

The feeding arrangements at the Yole Sidmouth property provide ample access to water receptacles. A separate feed bin is provided for each horse and the grain mix being fed was of good quality. However, the large numbers of feed bins grouped together can promote bullying by dominant horses, resulting in subordinate horses potentially missing out on sufficient feed. Media reports have cited accounts of groups of horses foraging in manure piles for nutrition. Ben Yole advised that the horses pushed away by dominant horses find another available feeder, and that staff are required to monitor the adequacies of the feeding regime and relocate horses, where appropriate.



11 (iii). This investigation supports the minimum requirement that stocking densities must be adjusted to ensure a system of paddock management that recognises the effect of behaviour patterns, such as bullying by dominant horses, so as to ensure all horses receive sufficient nutrition. Also, stocking density must be adjusted from time to time on seasonal grounds to ensure there is sufficient pasture for horses to graze, or to have access on a regular basis to a supplementary fibrous feed such as good quality hay. A further minimum requirement be that feed and water bins be suitably spaced and positioned on higher ground in each paddock, or alternately a raised area be developed using materials such as crusher dust, so that underfoot conditions are not muddy and waterlogged.

Protection from weather extremes

The shelter and shade provisions at the Yole Sidmouth property are minimal, having only in recent times been supplemented by the inclusion of shade cloth, which in the local climatic conditions has not proven to be effective. Ben Yole advised that he employs the use of horse rugs as a primary protection against the elements. This is both insufficient and inadequate, giving regard to prevailing adverse weather conditions.

11 (iv). The investigation supports the proposed minimum standard in the draft Code of Practice for the requirement of adequate shade and shelter, and other reasonable protection from the weather elements, to be available to all horses in paddock-training establishments.

Husbandry

11 (v). The investigation supports the proposed minimum standards and guidelines in the draft Code of Practice that are designed to meet basic welfare needs for horses. These include mandatory provision of regular stomach ulcer treatment regimes, dental care, worming treatments and hoof care. Such husbandry measures to be recorded in the stable treatment log and be available for inspection.

Race day practices

It has been submitted that Yole stable horses, on race days, can be required to stand on horse floats and/or be tied up for an extended period of time of up to 16 hours. For example, for a Hobart race meeting, it has been submitted that horses are often loaded at around 9am, transported to the racetrack, race, and then are not unloaded and fed back at the Yole Sidmouth property until around 1am to 2am the following morning. Particularly so when the driver of the first transport does not have the capability to unload horses or horses are unloaded but still remain tied up until race staff arrive. Ben Yole responded that staff rest periods must be factored into any overall time, which is reasonable, and that he is working with ORI to reduce the overall period the horses are on course.

Whilst hours incurred in transportation of horses to and from training establishments to racetracks is unavoidable, this period of time horses from the Yole stable are tied up on race day, is excessive and needs to be further reduced by addressing what are principally staffing and transportation issues.

11 (vi). The investigation supports minimum standards in the draft Code of Practice to minimise the time horses on race day are tied up or held on transports both at the track and at training properties by ensuring that horses are not brought to the track unduly early, and are then returned, unloaded, watered and fed as soon as is practicable after their races.



Stable veterinary treatment records

During an inspection at the site visit and again on 5 October 2023, when presentation by Ben Yole was requested, the investigation found the entries in the 2023 stable treatment log to be superficial and not at all accurate or reflective of the volume and detail of entries expected in regards to a stable of this number of horses.

11 (vii). Provision is already made in AHRR 190B requiring trainers to keep and update each day a log book “recording all details of therapeutic substances in their possession and recording of all treatments administered to any horse in his or her care...”. Further, AHRR 194 prescribes the medications and substances that may be held at a training establishment. As indiscriminate administration of medications and drugs to horses is a welfare issue for the industry, the investigation recommends that the minimum standards emphasise in greater detail treatment record-keeping and medication possession responsibilities of trainers.

Further, this investigation finds that all stewards would benefit from veterinary tuition so that every stable visit includes informed scrutiny of treatment records and veterinary storages.

Term of Reference 6

Opportunities to improve horse welfare

The investigation has been asked in ToR 6 to advise on opportunities to improve horse welfare and accordingly, the following advice is put forward on the subject of rehoming and traceability.

Disturbing images that have appeared in media reports depicting the slaughter of an unidentified horse on a Tasmanian property are an affront to most fair-minded community members. Whilst the review’s observation of this practice is not directed at any one particular party, the images, which are quite dated, nevertheless are upsetting, particularly where they involve horses that have finished their racing careers only days earlier. This, on the available statistics, is not representative of the fate of the vast majority of retired horses in Tasmania, which continue to be well cared for by their owners or are suitably rehomed.

The review acknowledges that Tasracing has taken some significant steps with its ‘Off the Track’ programme, which incentivises owners to endeavour to rehome those horses not suitable for racing, or those horses at the end of their racing careers. Meanwhile AHRR 96A and B were introduced in November 2020 which require an owner, or person responsible, to notify when a horse is retired, or sent to stud or is deceased. However it is still solely the decision of the owner or the person responsible to progress a horse into the breeding arena, or rehome it, or send a horse to a knackery, or employ any other method of slaughter/euthanasia. The review is advised that in Tasmania the current legislation, rules and policies do not preclude or prevent the owner of a horse from sending such a horse to a knackery or having it disposed of by a person suitably licenced to use a firearm. In some other codes and jurisdictions the rules create an offence for a horse to be sent to a livestock auction or to be sent to a knackery or to be without permission, euthanised. In these jurisdictions provision is made in emergency situations, on welfare grounds, for horses to be euthanised following certification by a veterinary surgeon or permission received from a controlling body. Although earlier data is limited, examination of the available records since the introduction of mandatory reporting of horses’ retirements and deaths in November 2020 does not



indicate that horses from the Yole stable are over represented with respect to deceased horse figures, particularly after giving regard to the humane euthanasia of horses reported as suffering catastrophic injuries. When questioned on 20 July 2023, Anthony Bullock, who was quoted in ABC media reports as agreeing he was a person who slaughtered horses for greyhound meat, advised this investigation, “I don’t do lists, I don’t ask for names of horses”. Further he said, “I do four to six horses for Ben Yole a year”, and “95 per cent of them are injured”. What the available figures do indicate is that, with mandatory reporting, there has been a significant decline in the number of horses that are reported as deceased.

Whilst it is recognised that a small percentage of horses, because of temperament issues, will not be suitable for rehoming, rules and policies need to be developed in Tasmania to regulate when, how and in what circumstances a retired horse, or a horse not undertaking a racing career, can be put down. In the investigation's view the harness racing industry must be predicated on the basis that wherever possible and practical, there will be a good and humane post-racing outcome for every horse. The owner of a horse must be compelled to take responsibility for the whole of life experience of that horse, and not just for its racing career.

The investigation acknowledges and supports the ground covered in the Sykes Review regarding rehoming provisions. The National Horse Traceability Working Group, presided over by Agriculture Ministers, is looking at a system of whole of life traceability for all horses. This however will take time to implement and should not inhibit Tasmania from introducing its own measures to ensure the best outcomes for retired horses. Whilst the investigation is mindful that significant funding is required in implementing rehoming regimes, some other jurisdictions have introduced provisions whereby a small percentage of winning prize monies is set aside to fund these important welfare considerations.

12. Acting on the assumption that the Monteith recommendations are to be implemented, this investigation recommends that as an early priority TasRIC and Tasracing investigate and introduce rehoming and traceability rules.

As a starting point, it recommends that local rules be introduced firstly to require specific permission before a retired horse may be transferred (including interstate), sold or gifted. A rule is required to provide for a mandatory and timely assessment by a competent and independent person so authorised under the rules, as to the retraining and rehoming potential of each and every horse at the end of its racing career. Further, it is recommended that a local rule be invoked compelling the owner of a horse to firstly obtain the express permission of the Tasracing Chief Veterinary and Animal Welfare Officer (or other designated and suitably qualified official) before any decision can be made for a horse to be put down upon retirement. Factors that would necessarily weigh upon that decision would include the outcome of the suitability for rehoming and retraining assessment and also how exhaustive the efforts have been for such horse to be successfully re-trained and rehomed.

Although it is not suggested that a subject as broad as the rehoming of horses can be detailed in the draft Code of Practice, nevertheless the ‘Euthanasia and Slaughter’ section of the Code should clearly outline that owners and persons responsible for a horse are subject to the provisions of the Australian and local rules in regards to the rehoming of both retired horses, and those horses not deemed suitable for a racing career.



Further it is recommended that a robust traceability system be put in place, including a welfare hotline facility as suggested in the Sykes Review whereby members of the public can report welfare breaches. Also provisions be put in place for spot checks by the new Integrity Unit, to audit and ensure strict adherence to rehoming provisions.

Guidance in developing rules and policies can be achieved by studying rehoming procedures already successfully operating in other codes in mainland states.



ENFORCEMENT AND COMPLAINTS MANAGEMENT

Terms of Reference 4 and 5

ORI is responsible for maintaining the probity and integrity of all three racing codes in Tasmania by ensuring that they are safe, fair and credible. ORI, which is a business unit of NRE Tas and is headed by the Director of Racing, regulates the industry through licensing, registration, education, investigation and stewarding.

It is the adequacy of ORI's management of complaints with regard to claims of team driving and/or race fixing that are the focus of ToR 4 and 5, specifically those grievances broadcast "in the ABC media report of 26 March 2023", as well as the handling of similar "allegations of team driving and/or race fixing in the harness racing industry in the past three years".

This report into the adequacy of ORI's complaint management is issued on the assumption that the recommendations of the Monteith Review will be implemented by the Tasmanian Government. Following on from the review relative to ToR 4 and 5, this report fully supports the adoption of the Monteith Review's recommendations, which, in a practical sense, provide a remedy for the many complaints fielded regarding the current structure and personnel performance. As a consequence, it would not be productive for this report to, in detail, endeavour to determine the merits of every criticism, particularly since the proposed Monteith measures provide that ORI and the position of Director of Racing will no longer exist. Suffice to say that it joins the sentiments aired in the Monteith and the Sykes reviews, and echo their observations regarding a lack of confidence and trust in the regulation of the harness industry. As previously mentioned, the post-Monteith transfer of welfare enforceability to Tasracing and the creation of the TasRIC will provide strong governance protocols.

In the current system, the review finds an absence of any truly independent avenue to which to complain regarding matters involving ORI personnel, performance and accountability. This is a structural issue because of the way that ORI sits in the legislative regime. The current avenue for complaint is through the Director of Racing. This is not seen by participants as passing the test of independence because the Director invariably informs himself by going back to the parties – for example, its stewards, who made the original decision. The Director of Racing himself is the General Manager of ORI. Again, this is a structural issue arising under the current legislation. The current Director advised that in investigating complaints against stewards, he informs himself by seeking the views of stewards who were not part of the original decision, but that still fails to fully satisfy the true test of independence.

In forming its views the review has given regard to an interview on 19 July 2023 with the current Director of Racing and General Manager of ORI, and his subsequent written submissions, which were detailed and comprehensive, of 24 July, 25 August and 13 October 2023. In addition, on 19 July 2023, the review interviewed the Principal Stipendiary Steward, the Chief Steward of Harness Racing, and a Stipendiary Steward, and further received written submissions from the Principal Stipendiary Steward of 19 and 26



September 2023, from the Chief Steward of Harness Racing of 28 July 2023, and from the Stipendiary Steward of 12 October 2023.

The appointment of the Director, facilitated under *Racing Regulation Act 2004*, occurs under section 5 of this Act. The functions of the Director are set out under section 6 and the powers of the Director are set out under section 7. The current Director stated that his dual roles as the Director of Racing and General Manager of ORI are not well understood in the industry, and this is a matter upon which the review concurs. He explained that the Director, for example, cannot overrule stewards' decisions nor replace the stewards' decisions with other decisions. However, the functions of Director notably do include a responsibility for regulating and controlling racing to ensure that it is conducted with integrity. The Director is also accountable for researching and investigating racing integrity and, under section 7(2), the Director is vested with the power to hold inquiries. A pathway, however, for lodging a complaint regarding the exercise of powers or treatment by the Director is not clear. Accordingly, the review finds there are accountability gaps in the current legislative structure.

In forming the following views, the review has considered the submissions received and the interviews conducted, which are relevant to the adequacy of complaints management at ORI. At the outset it should be clarified that whilst the period of review goes back three years, the current Director did not take office until 20 September 2021.

The adequacy of ORI integrity management

As a general comment, the review found ORI's approach to handling complaints from participants, particularly those regarding serious integrity matters, to be somewhat stilted, lacking in cohesion, and often not attributed with the importance or urgency that is warranted. This is particularly so when one gives regard to the overall size of the Tasmanian harness racing industry, as compared to its interstate counterparts.

13. There needs to be in place clear policies and procedures that dictate how complaints should be made and the times in which they should be dealt – both of which should be publicly promoted. These are key features of other administrative processes but are somehow lacking here. Any revised system needs to be clearly supported by written policies and procedures for stewards to follow. Particularly in the case of serious complaints, it is expected that procedures are clear, consistent and consistently followed in a timely manner.

In respect to complaints lodgement, both the Director of Racing and the Principal Stipendiary Steward advised, when interviewed on 19 July 2023, that ORI requires persons seeking to lodge complaints to provide a written version of events. Such an approach in regulating a racing code, is counterproductive because it inhibits the person making the complaint and has the undesired effect of limiting the scope of information reaching the regulator. Indeed in many other jurisdictions, 'hot line' facilities are made available to encourage industry participants and the general public to make anonymous or confidential complaints or submissions. Intelligence-based stewarding includes the harvesting of information from the broadest scope of sources, even including social media, so that stewards may be seen as proactive and to be asking informed questions.



In his submission of 13 October 2023, the Director of Racing rejected that all complaints must be formal and asserted that ORI maintains “constant surveillance over circumstances occurring within and adjacent to the industry”. He further stated, “This includes undertaking investigations in instances where formal complaints are received as well as recording matters for intelligence and analysing such intelligence”.

However, the Director of Racing conceded that in the area of ORI’s handling of complaints, that there is “room for improvement” and that “an improved process could be implemented to enable more informal methods of complaint to be utilised, and that there is a need for more comprehensive and robust complaints handling policy”. To this end, ORI has recently taken steps to make the complaints process clearer and more accessible, including the creation of a plain English complaints guide and an anonymous complaint portal.

This, to the review, appears a knee-jerk reaction, borne out of a light now being shone on issues that should have been identified and addressed some time ago.

Below includes six examples, based on observations from interviews, of where the current system has not worked efficiently to obtain the best outcome.

Allegations of team driving and race fixing reported by a part-time steward

ToR 4 requires a review of the adequacy of ORI’s management of allegations relating to team driving that were reported by a part-time steward. This part-time steward, employed with ORI, had a conversation with a harness driver at a thoroughbred race meeting in Devonport on 1 May 2022, whereby the part-time steward was told of instances of team driving and race fixing occurring in Tasmanian harness racing. Later, on 10 May 2022, the part-time steward reported that conversation to ORI officials, and again raised that matter when the Director of Racing and the Principal Stipendiary Steward visited her property on 6 July 2022.

The particular driver, in an interview with this investigation on 25 May 2023, confirmed a conversation with the part-time steward and confirmed that there was not any approach or questions asked by any ORI official of the driver about this matter until after the ABC report became public. In explanation as to why such a serious matter of alleged team driving was not given a greater degree of urgency, the Director of Racing stated that he was of the belief the Principal Stipendiary Steward had spoken to the particular driver at his behest and advised that the person did not wish to make a formal statement. No audio or written record has been provided of any such interview, and the Principal Stipendiary Steward conceded that although he had spoken to the driver about “a few different things”, he did not recollect speaking with the driver about race fixing claims. The Principal Stipendiary Steward, when interviewed on 19 July 2023, stated that “in all honesty, it slipped past me doing that”. The Director of Racing tendered to the review his email of 26 March 2023 at 12.31pm (date of the ABC media report) to the Harness Racing Chief Steward and the Principal Stipendiary Steward, whereby they were requested to make a second approach to the driver and “get [the driver] on the record in terms of [their] views”. Again, there is no audio recording of the subsequent interview between the Harness Racing Chief Steward and the driver, which took place at a race meeting, nor is there any note or record relative to it.



The Director of Racing, in his response of 13 October 2023, asserted his recollection that the Principal Stipendiary Steward spoke to the driver and subsequently to him, in or around May 2022, but conceded that no record exists of those conversations.

The Director of Racing agreed that this demonstrated there is a need for ORI “to strengthen its complaints handling and record keeping practices and policies” and pointed to the recent ORI acquisition of an investigation management system.

13 (i). On balance, the review finds the evidence of the driver credible and the evidence of officials unconvincing, and is satisfied that the allegations raised by the part time steward in May 2022 were not taken up by ORI officials for more than 10 months – and not until the current Chief Steward called the driver, without notice, to the stewards’ room on 26 March 2023 (the date of the ABC media report), after receiving a direction to do so from the Director of Racing.

This review recommends that any policies and procedures should include, where possible, an investigation framework, such as a matrix, which will assist the regulator to identify the threshold at which complaints should be investigated by stewards. Policies should also give guidance on the discretion to be exercised where a matter is unclear and, importantly, there should be detailed record keeping and reporting policies.

Conflict of interest with a race starter

A matter that was the subject of media reports and review submissions was that of a race starter, employed by Tasracing, who officiated at harness race meetings under ORI control whilst also a paid employee of a leading trainer (employed to drive the trainer’s horse transport to race meetings, at which he then officiated as the starter). This quite obvious conflict of interest was brought to the attention of stewards by industry participants in February 2023. The Director of Racing advised that he raised the issue with the starters’ employer at Tasracing, and he tendered a copy of correspondence to the Tasracing CEO dated 27 March 2023. In that correspondence the Director, in relation to the starter, stated that he “was provided guidance at that time in relation to managing the perception that he is conflicted in his relationships with participants”. In his 13 October 2023 response to the investigation, the Director of Racing advised that his power to remove an official under AHRR 38(1) is discretionary and that in the absence of a rule that mandates that the official be immediately removed for a perceived or actual conflict of interest, he acted appropriately to manage the situation.

A further complaint was then received on 29 March 2023 from a participant claiming that the race starter drove the trainer’s horse transport to a race meeting on 26 March 2023. The Director, on 30 March 2023, contacted Tasracing to advise that approval of the starter to act at harness meetings would be rescinded unless Tasracing took action to resolve the conflict. The Director contended that he acted in a procedurally responsible manner in dealing with this situation.

13 (ii). AHRR 40(1)(b) provides that an official shall not discharge any official function that may give rise to a conflict of interest.

The review finds more decisive action was required so that the official, whose performance may have been compromised by the conflict of interest, did not continue to act in the pivotal role as a starter at



harness race meetings. With employment of officials and enforcement in two different structures, this provides another example of the benefit of the Monteith proposal for the Integrity Unit and stewards being within Tasracing, and thereby a single entity.

A dispute with a trainer/driver regarding an inquiry transcript

On 19 December 2020 at the Launceston racetrack, ORI stewards held an inquiry at which a driver was ultimately penalised \$1,000 for failing to carry a whip in races. An appeal was instituted, however, when a transcript was requested by the driver he was advised that due to a technical issue there was no recording available of the steward's inquiry. The appeal was ultimately settled on 13 April 2021 after a protracted and expensive legal process (in excess of \$10,000) for the licensee. The driver has alleged that he was treated unfairly as part of this process and stated that he wrote to the Director of Racing on 1 August 2022 to complain that he felt he had been treated unfairly by a steward. He asserted that the Director of Racing did not respond for a period of nine days and when he did, he asked to be contacted by telephone. The matter was discussed via telephone on 9 August 2022 and the Director of Racing said that he would conduct an investigation. The driver asserted that he did not hear from the Director of Racing again on the issue.

The Director of Racing, in his response of 13 October 2023, advised that he did not recall a telephone conversation whereby he advised the driver that he would investigate a complaint that related to the steward, but that on 9 August 2022 he responded to the driver's emails of 1 and 8 August 2022 relative to a quite separate subject, after making inquiries into the matters raised. The Director of Racing agreed that an improved process could be implemented to enable more informal methods of complaint to be utilised, and that there is a need for a more comprehensive and robust complaints handling system.

13 (iii). The review finds this distress of, and costs incurred by, the participant could have been avoided had ORI in place a proper system of keeping recordings of its inquiries. Also, the Director of Racing's request to deal with the driver's complaints over the phone is at odds with his previous assertions that ORI will only deal with formal, written complaints. An integrity office needs clear policies and procedures in relation to the keeping of records and also the making of complaints, and how they will be dealt with, including policies and procedures on how information is to be stored and dealt with.

Complaint regarding tactics of the driver of Priddy Sublime

On or about 27 February 2023, following race 9 at the Launceston Pacing Club on 26 February 2023, the Director of Racing was made aware of a complaint by a participant concerning an allegation of team driving involving the driver of a horse named Priddy Sublime. No inquiry was instigated by the stewards at the race meeting but after receiving the complaint, the Director of Racing subsequently, via the Principal Stipendiary Steward, encouraged stewards to review the incident. The Director of Racing then received a steward's report on or about 2 March 2023 which detailed that an inquiry would be held into Priddy Sublime "shifting up the track at the 500 metres...." Despite this, ORI stewards failed to conduct an inquiry into the driving tactics of the driver of Priddy Sublime until 7 May 2023 and then did so in the absence of the driver of the other horse involved.



By his response of 12 October 2023 to an email of 4 October 2023 from the investigation, the steward in charge of the meeting advised that he was on leave after the meeting until 23 March 2023 and, upon returning to work, had “forgotten about the inquiry as I considered it to be a very low priority at the time and there was minimal interference and the allegation of race fixing was not mentioned to me”. This seems to this review, to be somewhat at odds with the steward’s report of 7 May 2023, which detailed that the purpose of the inquiry was integrity based “into the driving tactics adopted by N Ford on Priddy Sublime”. A viewing by the review of the race footage displayed that the \$5 race favourite, because of the interference at the 500 metres, was taken back from its fourth position, one out and one back, to last in the field before finishing 10th, beaten by 57.4 metres.

13 (iv). The review recommends any policies and procedures should include, where possible, an investigation framework such as a matrix, which will assist the regulator identify the threshold at which complaints should be investigated by stewards. When matters are raised of a serious nature relative to the integrity of the race, such as the driving tactics adopted by a driver, there is a need for such matters to be dealt with in a far more expedient manner, and one that includes the attendance of any disadvantaged party, particularly so when a horse from the same stable goes on to win the race. Again, in the opinion of the review, this demonstrates that there needs to be in place clear policies and practices that dictate the timeline in which a complaint should be dealt with. Particularly in the case of serious integrity complaints, it is expected that policies are clear and consistently followed.

Form reversal of Reds Good To Go

An ABC report of 26 March 2023 cited a participant’s concern regarding alleged inaction by stewards in what was perceived as a ‘form reversal’ by the winner, Reds Good To Go, in race 8 the Ladbrokes Pace at the Burnie Track on 10 February 2023. Form reversals whether they be a marked improvement in race performance or a marked poor race performance impact upon integrity and are typically investigated by stewards under the powers of AHRR 63(1) and (2).

AHRR 63(1) and (2) state:

- (1) The Stewards may review the racing performance of a horse.
- (2) If the Stewards are satisfied that the racing performance of a horse is inconsistent or otherwise unsatisfactory they may declare it ineligible to race for such period as they think fit.

Sub rules (5) and (6) of AHRR 63 create an offence if a trainer does not take all reasonable measures to ensure that the racing performance of a horse is consistent.

The Chief Steward in charge of the Burnie race meeting, when interviewed on 19 July 2023, stated that Reds Good To Go was a six-year-old gelding that had run fourth in its two previous starts at Hobart and, as such, no form reversal inquiry was in his view warranted.

The investigation also considered evidence in a 12 October 2023 submission from the race meeting Chief Steward, which stated that “When circumstances of the race were taken into account, I don’t agree with your opinion that an inquiry into the horse’s alleged form reversal was necessary”. He cited that Reds Good To Go over-raced and contacted the sulky it was trailing, and concluded, “This resulted in the horse



almost bolting when it secured a clear run and, with the calibre of horses chasing it, was able to maintain a big margin on the rest of the field”.

The race meeting Chief Steward, in responding to a question as to whether additional swabbing measures (over and above the obligatory, routine swab from each winner) were contemplated, he replied that as “the horse was on course for a minimum of seven hours under supervision, and holding it back would seem pointless”. Stewards are afforded wide powers under AHRR 189 to carry out tests and examinations to determine whether a prohibited substance was or is in a horse, which may be one possible factor for exploration in any form improvement inquiry.

The review found the performance of Reds Good to Go clearly met the bar of a form reversal that should have been investigated by stewards. Reds Good To Go’s form prior to its Burnie win was moderate at best, having been 27 starts since its last race win, placed only once in its 20 prior starts and, pertinently, it was beaten by margins of 9.6 and 21.5 metres in the cited two races at Hobart. Further, its win at Burnie, without being tested by its driver, was by a margin of more than 70 metres and was in fast time, being within a second of the track record. Additionally, Reds Good To Go firmed in the betting market from an opening price of \$19, out to \$20 and then shortened to start at \$7.50. Betting support can flag to stewards that an improved performance was anticipated, thus providing a further basis for scrutiny of performance.

The explanation of the stewards as to why they did not contemplate more rigorous sampling measures is not found to be plausible by this investigation. It is known that Yole horses typically arrive early to the races and are on course for extended periods of time. This should not be used as a reason not to conduct any additional sampling of horses.

13 (v). The review finds this is a clear case in which ORI, through its stewards, should have instigated a formal form reversal inquiry and considered invoking additional sampling measures. The matter indicates a lack of direction from and proactivity by ORI stewards. Any policies and procedures should include, wherever possible, a threshold as to which cases should be investigated by stewards and guidance given where discretion is to be exercised, when a matter is unclear.

Complaint from participant over conduct of ORI steward

On 13 April 2023, the review received a complaint that was referred by the Tasmanian Integrity Commission. The complaint, dated 31 March 2023, was from a harness racing participant whose wife owns and races harness horses.

The complaint alleged that at the Launceston harness race meeting on Friday 19 March 2023 a steward officiating at that meeting acted unprofessionally by twice saying to the participant, “[Participant], shut your mouth, I’m sick of the bullshit coming out of it”. This was in response to horse welfare and work health safety concerns raised by the participant, when stewards at that harness race meeting permitted horses to enter the track via the car park so as to avoid an ABC camera crew.

The participant alleged that he telephoned the ORI Principal Stipendiary Steward the following Monday, 22 March 2023, to complain about the steward’s behaviour. The participant alleged that the Principal Stipendiary Steward returned his call on Tuesday 23 March 2023, whereby the participant reported the



behaviour of the steward and named a witness to the incident. The participant said that he has heard nothing since from the ORI official.

When interviewed on 19 July 2023, the Principal Stipendiary Steward initially told the investigation that he could not recall the participant's complaint. However, in response to further questions put to him in written form on 5 and 19 September 2023, he advised that he did now recall a telephone conversation with the participant in which the participant reported that the steward had spoken to him inappropriately. The Principal Stipendiary Steward advised that he had formed the view that the participant did not wish to escalate the complaint but rather simply wanted his concerns heard. The Principal Stipendiary Steward further advised, in correspondence of 19 September 2023, that he subsequently spoke to the steward concerned on 28 March 2023, "who acknowledged he spoke with (the participant) but strenuously denied any impropriety on his part". The Principal Stipendiary Steward, in correspondence of 26 September 2023, advised that he did not formally record this conversation.

The Director of Racing, in his response of 13 October 2023, clarified that he was not aware at the time of the complaint of the participant, but that the Principal Stipendiary Steward, by instrument of appointment, has the function to take appropriate management actions in relation to allegations of inappropriate language by stewards.

13 (vi). The handling of the participant's complaint is an example of ORI not dealing with complaints in a consistent and documented manner that promotes both transparency and accountability. The process for the handling of a complaint regarding the conduct of an ORI official should, in the opinion of the investigation, be on the record and at least overseen if not conducted by the Director of Racing.

Promoting transparency and Accountability—The way forward

The current governance model fails to deliver adequately on transparency, accountability and performance. The pathway forward is detailed in the Monteith Review, whereby enforcement and policy are housed together and the necessary safeguards put in place. The Monteith recommendations provide for the role of TasRIC, which involves mandatory oversight of welfare and integrity functions. TasRIC will provide an ombudsman-type role for fielding complaints regarding integrity performance. A Tasracing Integrity Unit, which includes stewards and investigators, is to be overseen by a suitably-qualified Tasracing Integrity Director, reporting to an independent Tasracing Integrity Committee.



OTHER MATTERS

Term of Reference 7

Competitiveness of Racing

The final Term of Reference (ToR 7) provides opportunity to advise on other matters relevant to horse welfare, team driving and race fixing. On the basis of relevancy, this review believes that fierce competition on the racetrack is the industry's best safeguard against team driving and race fixing. Therefore this review would be remiss not to raise what it observes as a stifling of competition, particularly in the lower-class races, brought about by the current Tasmanian racing model. The current national rating system, current programming and current balloting provisions have the unintended consequence of promoting lower-class racing to the detriment of the quality of the overall racing programme. With some 90 per cent of wagering by Tasmanian residents taking place on mainland racing, there is a need for a racing model that promotes interest in local racing over and above being just another product upon which to bet.

If one was to draw up Tasmania's horse population by ratings, the structure would take the appearance of a pyramid. Every handicapping/rating system should be targeted at promoting horses from the larger pool of lower-rating horses at the bottom of the pyramid up to the top, with the aim to have available a bank of horses for higher-class racing. The current rating system, as it works in Tasmanian harness racing, appears to do quite the opposite. It rewards horses racing below their best and it promotes the race as one to get to the bottom of the pool, where a horse becomes most competitive.

The national rating system provides for horses to lose a rating point when they finish in sixth or lower placing. For races with a stake of up to \$4,500 (to the winner), the first placed horse gains two ratings points, for races in which the stake is between \$4,501 and \$6,999, the first place getter gains three ratings points, and for races in which the stake is between \$7,000 to \$9,999, the first place getter gains four points. With lower-class races in Tasmania inevitably having full fields (12 starters), what follows is that one horse, the winner, will gain three or four ratings points, and seven horses from that race each lose one rating point. So there is a situation in which more points are lost than are gained, and accordingly more horses are descending the pyramid rather than progressing through to higher classes. Even the winner, accruing ratings points, can quickly descend back down the ratings scale by finishing sixth or worse at its next three or four starts, and again become eligible for the same class of race in which it was successful. All of this is achievable within a period of about two weeks.

Then, because of the expanding horse pool with big numbers nominated in the lower ratings band, those races are programmed and invariably divided when an additional race is required at acceptance time. Thus, the situation of too many members of the horse population being in the lower-rating bands is self-perpetuating. This is the converse of what a handicapping system should seek to achieve. Examples have been given questioning the fairness of the rating system whereby a younger horse with no or minimal wins is pitted against older, more seasoned horses with far superior lifetime racetrack performances. For example, at Launceston on 18 August 2023, in an up to 44 NR event, Jedi Mind, with 31 wins and \$317,000 in prize money, raced against Baldasarre, which had only one win involving \$11,000 stakes. Another example of the unfairness of the ratings as it applies to Tasmanian harness racing is that a three-year-old is



allotted a 50NR and then, as an unraced four-year-old, is not even eligible to compete in the lower-rating races, in which the performed horses, such as Jedi Mind, can compete.

Quite within the rules, the Yole Sidmouth racing stable has acquired a number of older, moderately performed horses from mainland states to be trained in Tasmania whereby, within the ratings, programming and balloting systems, they can again become productive. This training model has been successful to the degree that Yole stable runners monopolise and dominate particularly lower-rating races. Currently the stable provides in the order of 60 percent of runners for race meetings, having had some 4,250 starters last season, which is almost 4,000 more than his nearest Tasmanian competitor (Australian Harness Racing Council statistics). The stable often provides every starter in the lower-rating races. Measures to limit the proliferation in races of horses from the one stable have not been successful as balloting clauses are framed ultimately to give emphasis to maximising field sizes and thus turnover.

14. Assuming the Monteith recommendations are adopted, it is recommended that one of the first tasks of the new governance should be to address the absence of the necessary level of competitiveness in Tasmanian harness racing. Whilst inevitably it will mean short-term pain involving smaller fields and even reduced race programmes, the current model is not sustainable, with the numbers of participants and/or their degree of involvement in the industry waning. The answers are not simple but changes do need to be made to ratings and also programming and balloting, with the long-term object of engendering more competitiveness by encouraging new investment and participation. It is acknowledged that Tasracing is active in making programming and balloting changes, but the national rating system, as it works in the Tasmanian model, will continue to expand the number of horses eligible for the lower rating races to the detriment of better-class racing.

Ratings

The ratings system is a national one, adopted by all but one state in Australia. However, with Tasmania having larger race fields and usually only racing two race dates per week, the ratings system is not conducive to the best outcome for competitive racing. Tasmanian handicap conditions need to effect changes that incentivise winning and discourage the quest for shedding rating points, which creates an unhealthy race to the bottom.

14 (i). With a local handicapping system, measures could for example be introduced requiring that a horse have six consecutive unplaced starts before dropping a rating point, and as such horses will take much longer to drop down the rating scale. The provision to do this is already available at 13.1 and 13.2 of the Australian Handicapping Rules. Adopting, managing and implementing a local ratings system will require additional resources.

Programming

An innovative big-picture approach to programming is required to encourage competitiveness and participation. Tasracing consults broadly with industry on programming but also, understandably, is mindful that smaller race fields mean less betting turnover and less industry funding. Currently some conditioned events are programmed based on the number of race wins and/or prize monies won, either in the horse's lifetime career or over a specified period, but more innovative programming is needed.



14 (ii). There needs to be a more concerted move away from a ratings-based programme to include more conditioned events, which aim to bring together horses of similar abilities and records. More, not fewer, encouragement races for trainers who have trained only a specified number of winners over a specific period (for example, five wins in the past 12 months) should be programmed to nurture smaller stables. Also more maiden races and standing-start claiming races (with set claiming prices) should be considered to encourage new investment. The above suggestions are not at all meant to be exhaustive but rather are put forward to promote discussion of movement away from a prevalence of ratings-based race programmes that cater for the poorer class of horses at the bottom of the pool.

Balloting

Balloting and current race division policies need to complement changes to rating and programming in order to enliven broader interest in participation and investment, and to provide a more competitive racing product. Monopolisation by any one stable is anti-competitive and is not sustainable. Incentives introduced by Tasracing of ballot preferences for 'Tasbred' horses, preferential barrier draws and restricting the number of ballots that can be accumulated within the period of a calendar month are worthwhile initiatives.

14 (iii). The Tasmanian racing model requires a major overhaul so as to actively encourage opportunities for investment in young horses with racing potential. This in turn will serve to stimulate the breeding industry and encourage new owners. Importantly, the changes will arrest the trend of participants either leaving or downgrading their interest in Tasmanian harness racing, and will enhance competition out on the racetrack.

Resourcing and Training of stewards

Another matter imperative to ensuring integrity in harness racing is the recognition that today's integrity challenges require a more balanced intelligence-based approach by stewards. In Tasmania, for example, the monitoring, gathering, analysis and utilisation of local betting data is ad-hoc at best. This does not allow stewards to act in an informed way when identifying vulnerabilities. The review is aware of a current proposal by ORI to employ a Tasmanian base betting analyst.

15. (i) The review is of the view that utilising one of the well established bet-monitoring and analysis units already operating in racing codes on the mainland would provide for far better value, deliver in real time and give local stewards access to betting intelligence on an Australia-wide basis not current accessible.

An adequately resourced and well trained stewards' panel is fundamental to the effective performance of the proposed Tasracing Integrity Unit. Monteith specifically proposes better formal training for stewards and cited the Victorian Racing Integrity Board course, being developed in conjunction with a Victorian University. In addition, the reviewer contributed this year to the accredited Harness Racing New South Wales (HRNSW) Stewards Training Programme, which includes 18 units of competency and a HRNSW Stewards Manual.

15 (ii) Utilising the online delivery of an established training course should be a priority, along with the enhancement of expertise among Tasmanian stewards through measures such as short-term personnel exchanges with stewards from mainland states.



15 (iii) The review recommends increased focus by the new Integrity Unit regarding medications in the possession of trainers and to include regular auditing of treatment records with all such stable inspections/audits to be an unannounced intelligence based strategy.



SUMMARY LIST OF FINDINGS AND RECOMMENDATIONS

ALLEGATIONS OF RACE FIXING AND TEAM DRIVING

ToR 1 – Races referred to in the ABC media report of 26 March 2023

1. Race 2 on 7 October 2022 at Burnie: The investigation determined that there has been non-compliance with AHRR 240 (a)(i) and (ii) by Ben Yole, Nathan Ford and Mitch Ford, in respect to race 2 The Find Us On Facebook stakes conducted at Burnie on 7 October 2022, in that the evidence supports that they acted in concert with instructions or arrangement that may have caused Juniper to be unlawfully advantaged and On My Oath to be unlawfully disadvantaged.

2. Race 9 on 22 January 2023 at Burnie: The investigation determined that there is insufficient evidence capable of supporting a determination of non-compliance with AHRR 240 (a)(i) and (ii) by Ben Yole, Nathan Ford and Cody Crossland. The investigation, having examined recent race patterns found no credible basis for an expectation that Be Good Benny, which drew barrier 1, and Star Rocker, which drew barrier 2, would or should have contested the lead.

3. Race 8 on 10 February 2023 at Burnie: The investigation has considered the race relating to “Reds Good to Go” under ToR 4 “adequacy of ORI management”, under the heading “Form Reversal of Reds Good to Go.”

ToR 2 – Races from the past three years

4. Race 7 on 15 April 2022 at Hobart: The investigation determined that there is insufficient evidence capable of supporting a determination of non-compliance with AHRR 240(a)(i) and (ii) by Ben Yole trainer of Lifes a Jungle and Bettor Sport and Mark Yole driver of Lifes a Jungle.

5. Race 3 on 19 August 2022 at Launceston: The investigation determined that there has been non-compliance by Ben Yole and Nathan Ford with AHRR 240(a)(i) and (ii) in that the evidence supports that in concert with Nathan Ford, Ben Yole gave instructions to Corey Bell driver of Southshore (NZ) that may have unlawfully advantaged Eippermill and unlawfully disadvantaged Southshore (NZ).

ANIMAL WELFARE

ToR 3 – Breaches of rules re Animal Welfare conditions

6. Failure to care for two-year-old gelding Blings on Fire: The investigation determined that there has been non-compliance by trainer Ben Yole with AHRR 218 in that the evidence supports that as the trainer of Blings on Fire during the period 28 August 2022 and 3 September 2022, he failed to comply with his responsibilities to properly care for the welfare of that two-year-old.

7. Mistreatment of horses in the wash bay on race days at Yole Sidmouth property: The investigation determined that there has been non-compliance with AHRR 218A(1) by trainer Ben Yole and



the stable foreman Tim Yole in that the evidence supports that they mistreated horses in the wash bay at the Sidmouth property on race mornings regardless of whether the horses were actually contacted with the whip.

8. Race day administration of medication: The investigation determined that there has been non-compliance with AHRR 193(3) and (8) by trainer Ben Yole, and stable foreman Tim Yole, in that the evidence supports a finding that they systematically administered, or caused to be administered by stable employees, medication in the form of oral pastes, given over the tongue to multiple horses prior to their loading onto the horse transports to be taken to race that day at Tasmanian harness race meetings.

9. Administration of injections to horses within one clear day of the race: The investigation determined that there has been non-compliance with AHRR 196B(1) by trainer Ben Yole, and stable foreman Tim Yole, in that the evidence supports a finding they both did systematically administer, and Ben Yole caused Tim Yole to administer, intravenous injections to horses nominated to race either on race day and/or within one clear day of such race.

10. Administration of intra-articular injections to horses within eight clear days of the race: The investigation determined that there has been non-compliance with AHRR 196D(1) by trainer Ben Yole in that the evidence supports that he did administer intra-articular injections to horses nominated to race within eight clear days of the commencement of their races.

Where findings of non-compliance with AHRR have been made at points 1, 5, 6, 7, 8, 9 and 10, they are matters of some gravity and are referred to the Tasmanian Government who may choose to refer these matters to an authorised appointee who is empowered to investigate specific matters and if deemed appropriate, proceed to lay and determine charges.

ToR 3 – Investigation into conditions at the Yole Sidmouth property

There are currently no harness rules setting measurable minimum standards for stables and training properties, and the Tasmanian Equine Welfare Guidelines 2008 are only indicative standards and are not enforceable.

The investigation, however, identifies the following shortcomings in the welfare conditions for horses in training at the Yole Sidmouth property:

- **Stocking density.** Between 120 to 160 horses are paddock trained from an area primarily located within an 800 metre training circuit, but including some small yards on the outside of the track perimeter. The property is determined to be clearly overstocked for its size and facilities.
- **Ground conditions.** Drainage is deficient, with substantial areas being waterlogged and muddy in winter, and subject to a high level of dust in dry and windy summer conditions.
- **Feeding regime.** Although good quality grain mix is fed and there are sufficient feed and water receptacles for the number of horses, the feeding system does not, however, adequately address the predictable horse behaviour pattern of bullying by dominant horses, which can result in less-dominant horses not receiving sufficient nutrition.



- **Protection from weather extremes.** Shelter and shade provisions in the form of shade cloth are insufficient and inadequate, and do not provide acceptable protection for all horses against the weather elements.
- **Veterinary treatment records.** The investigation found entries to the treatment log book to be quite superficial, not an accurate record and not being reflective of the level of treatment entries expected of a training establishment of this size.
- **Race day practices.** Horses on race day are either tied up at race meetings or held on stationary horse transports for unduly long periods, which including travel is of up to 16 hours for Hobart meetings, due principally to staff and transport limitations.

ToR 6 – Advice for inclusion in Tasracing Code of Practice

11. Measurable minimum standards: Recommendations are made in this report for inclusion as measurable minimum standards for harness training properties in the Code of Practice being developed by Tasracing. Many recommendations will address those animal welfare conditions currently found of concern with respect to the Sidmouth training property. Recommendations of this report include that the minimum standards be given the full authority of the rules so that they are enforceable.

ToR 6 – Opportunities to improve horse welfare

12. Rehoming, euthanasia and slaughter of horses: Acting on the assumption that the Monteith recommendations are to be implemented, this investigation recommends that as an early priority TasRIC and Tasracing investigate and introduce rehoming and traceability rules.

As a starting point, it recommends that local rules be introduced firstly to require specific permission before a retired horse may be transferred (including interstate), sold or gifted. A rule is required to provide for a mandatory and timely assessment by a competent and independent person so authorised under the rules, as to the retraining and rehoming potential of each and every horse at the end of its racing career. Further, it is recommended that a local rule be invoked compelling the owner of a horse to firstly obtain the express permission of the Tasracing Chief Veterinary and Animal Welfare Officer (or other designated and suitably qualified official) before any decision can be made for a horse to be put down upon retirement. Factors that would necessarily weigh upon that decision would include the outcome of the suitability for rehoming and retraining assessment and also how exhaustive the efforts have been for such horse to be successfully re-trained and rehomed.

Although it is not suggested that a subject as broad as the rehoming of horses can be detailed in the draft Code of Practice, nevertheless the ‘Euthanasia and Slaughter’ section of the Code should clearly outline that owners and persons responsible for a horse are subject to the provisions of the Australian and local rules in regards to the rehoming of both retired horses, and those horses not deemed suitable for a racing career.

Further it is recommended that a robust traceability system be put in place, including a welfare hotline facility as suggested in Sykes whereby members of the public can report welfare breaches. Also provisions be put in place for spot checks by the new Integrity Unit, to audit and ensure strict adherence to rehoming provisions.



ENFORCEMENT AND COMPLAINTS MANAGEMENT

ToR 4 and 5 – The adequacy of ORI integrity management

13. Complaints Management systems: The review found the current management system to be lacking in a truly independent avenue for filing complaints regarding ORI personnel and their accountability. Further ORI's approach to handling complaints from participants, particularly those regarding serious integrity matters, was found to be somewhat stilted, lacking in cohesion and often not attributed with the importance nor urgency that is warranted.

The Review condensed to six examples, based on interviews and observations, where the current system has not worked effectively to obtain the best outcome:

- 13 (i). May 2022 Allegations of team driving and race fixing reported by a part-time steward
- (ii). February 2023 Conflict of interest with a race starter
- (iii). December 2020 A dispute with a trainer/driver regarding an inquiry transcript
- (iv). February 2023 Complaint regarding tactics of driver of Priddy Sublime
- (v). February 2023 Burnie form reversal of Reds Good To Go
- (vi). March 2023 Complaint from participant over conduct of ORI steward.

There needs to be in place clear policies and procedures that dictate how complaints should be made and the times in which they should be dealt – both of which should be publicly promoted. Any revised system needs to be clearly supported by written policies and procedures for stewards to follow. Particularly in the case of serious complaints, it is expected that procedures are clear, consistent and consistently followed in a timely and documented manner which promotes both transparency and accountability.

This review recommends that any policies and procedures should include, where possible, an investigation framework, such as a matrix, which will assist the regulator identify the threshold at which complaints should be investigated by stewards. Policies should also give guidance on the discretion to be exercised where a matter is unclear and, importantly, there should be detailed record keeping and reporting policies.

An integrity office needs clear policies and procedures in relation to the keeping of records and also the making of complaints, and how they will be dealt with, including policies and procedures on how information is to be stored and dealt with.

OTHER MATTERS

ToR 7 – Competitiveness in Tasmanian harness racing

14. Competition on the racetrack: The racing model itself requires a major overhaul to improve competition on the racetrack as fierce competition in races is the industry's best safeguard against team driving and race fixing.



Changes are recommended to ratings, programming and balloting systems, with a big picture objective of engendering more competitiveness, encouraging new investment and participation and arresting the most undesirable trend of Tasmania being a last stopping off point for aged non-competitive mainland horses.

ToR 7 – Education of Stewards

15 Resourcing and training of Stewards:

- (i). This review identifies opportunities to enhance training for stewards by utilising online delivery of established stewards training courses and short-term personnel exchanges with stewards from mainland states.
- (ii). The review identifies the monitoring, gathering, analysis and utilisation of betting data in Tasmania to be currently ad-hoc at best which does not allow stewards to take a balanced intelligence based approach or act in an informed way when identifying vulnerabilities. The new Integrity Unit requires resourcing with access to one of the mainland's well established bet-monitoring and analysis units, thus making available value added betting data, delivered in real time and with the advantage of insight into betting intelligence gathered on an Australia-wide basis.
- (iii) The review recommends increased focus by the new Integrity Unit regarding medications in the possession of trainers and to include regular auditing of treatment records with all such stable inspections/audits to be on an unannounced intelligence based strategy.



