

REVIEW OF THE RACING REGULATION ACT 2004

Securing the Integrity of the
Tasmanian racing industry



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A. ABBREVIATIONS USED IN REPORT

Director	Director of Racing
Discussion Paper	Review of the <i>Racing Regulation Act 2004</i> , dated 10 November 2021, Issued by the Tasmanian Government
NRE Tas	Department of Natural Resources and Environment Tasmania
ORI	Office of Racing Integrity
PRA	Principal Racing Authority (State Code(s) controlling body)
RCT	Racing Clubs Tasmania
RSPCA	Royal Society for the Prevention of Cruelty to Animals (Tasmania)
Tasacing Act	<i>Racing (Tasracing Pty Ltd) Act 2009</i> , pertaining to Tasracing
Tasracing	Tasracing Pty Ltd, State owned entity and Principal Racing Authority for three (3) racing codes
TasRIC	Tasmanian Racing Integrity Commissioner
2004 Act	<i>Racing Regulation Act 2004</i>
TRAB	Tasmanian Racing Appeals Board
VRIB	Victorian Racing Industry Board
VRIC	Racing Integrity Commissioner (Victoria)

B. TERMS OF REFERENCE FOR INDEPENDENT INQUIRY

Racing Regulation Act 2004

Probity and integrity are critically important in the racing industry and underpins confidence in racing across all three codes in the state – thoroughbred, harness and greyhounds.

Integrity functions are defined in the *Racing Regulation Act 2004* (the Act), which has not been substantively reviewed since its inception.

The Government has appointed an independent expert to undertake a review of the Act, with the aim of ensuring that the governance and integrity model in Tasmania is effective in delivering probity and integrity to support the sustainability of the racing industry in Tasmania.

The separation of integrity functions between the Director of Racing (Director) as supported by the Office of Racing Integrity (ORI) and Tasracing Pty Ltd (Tasracing) is an important characteristic of the current model, and the Government's position is that this separation should be maintained in modernising of The Act. Otherwise, all options for improvement to the governance and integrity model will be considered.

Current Legislative Arrangements

The Racing Regulation Act provides the general powers and functions of the Director of Racing (Part 2) and Tasracing Pty Ltd (Part 3) and outlines the respective roles of Tasracing and the Director of Racing.

The *Racing (Tasracing Pty Ltd) Act 2009* also provides that the objectives of the Company are to "perform its functions and exercise its powers so as to be a successful business by operating in accordance with sound commercial practice as efficiently and effectively as possible; and to perform any functions conferred by the *Racing Regulation Act 2004* and any other Act."

The Scope of the Review

The scope of the Review by the independent expert is to:

1. Consider submissions and feedback on the Review of the *Racing Regulation Act 2004*: Discussion Paper;
2. Review the *Racing Regulation Act 2004* (the Act), considering best practice integrity approaches in other jurisdictions;
3. Consider the governance, powers and functions of Tasracing Pty Ltd and the Director of Racing/ORI;
4. Report to the Minister for Racing with recommendations aimed at modernising the Act, including, but not limited to:

- a. the appropriate model for separation of integrity powers and functions between the integrity body (currently the Director of Racing) and Tasracing Pty Ltd;
- b. improvements to the governance of the integrity body and Tasracing Pty Ltd to support integrity in racing;
- c. whether the integrity body or Tasracing Pty Ltd should deliver non-integrity functions (e.g. – harness, thoroughbred, and greyhound race day management);
- d. what additional integrity powers and functions may need to be included in the Act, such as those relating to animal welfare, and the respective role of the integrity body and Tasracing Pty Ltd; and
- e. any other matters relevant to the above matters.

Issues not within the scope of the review

The Review will not consider funding for the racing industry.

The Review will not consider the management of gaming under the *Gaming Control Act 1993*.

Next Steps

The Government will respond to the Independent Expert Review Report in early 2022.

The Review may result in amendments to the Act, and potentially consequently amendments to the *Racing (Tasracing Pty Ltd) Act 2009*.

There will be subsequent consultation on any legislative changes.

It should be noted that the Report to the Racing Minister was to be delivered by no later than 25 February 2022, but this date was delayed as a consequence of Covid-19 outbreaks in Tasmania in January 2022, with interviews with interested parties in Launceston delayed by three weeks, and with the final date for written submissions extended to 4 February 2022.

C. INVITATION TO COMMENT ISSUED BY THE TASMANIAN GOVERNMENT

A discussion paper, *Review of the Racing Regulation Act 2004* (Discussion Paper), was widely distributed to facilitate comments on how best to improve and strengthen probity and integrity in the Tasmanian racing industry, into the future.

The invitation to comment made the following key observations to guide those wishing to comment:

- The racing industry is an important contributor to the Tasmanian economy, and especially in our regional areas.
- Probity and integrity in the racing industry and among its participants are critically important and underpin confidence in racing across all three codes: thoroughbred, harness and greyhounds.
- The *Racing Regulation Act 2004* provides for integrity in racing. The Act, when introduced, was a leader in Australia in separating integrity and racing functions.
- The Act has not been significantly reviewed since it was enacted.
- Racing is undertaken in an environment of increased scrutiny. There have also been new integrity models introduced in other jurisdictions, from which Tasmania can potentially adopt what best suits our racing industry.
- Mr Dale Monteith, an independent expert with knowledge of racing, will undertake broad consultation with industry, peak groups and the community. He will complete a report and provide recommendations aimed at modernising the Act and our approach to probity and integrity in Tasmania.
- The Discussion Paper suggested a potential new framework for racing integrity which retains a separation of integrity functions from Tasracing.
- Feedback on the proposed framework was encouraged and welcomed. Views were sought on: is the framework fit for purpose? Could the framework be improved? Is there a different integrity framework that could be adopted in Tasmania?
- Thirteen (13) questions were posed by the Discussion Paper to guide responses.

The Discussion Paper made the point that if reforms to support probity and integrity in the racing industry are ultimately supported by Government, there would also be further consultation on any changes to the *Racing Regulation Act 2004* and if consequential amendments are required to the *Racing (Tasracing Pty Ltd) Act 2009*.

D. EXECUTIVE SUMMARY

This Review of the *Racing Regulation Act 2004* (2004 Act) - also addressing associated issues relating to the Racing (*Tasracing Pty Ltd*) Act 2009 (Tasracing Act), existing animal welfare arrangements for racing, and the broader expectations of the Tasmanian community - involved significant consultation, both in person with more than 50 individuals (**Attachment 1**) and via the receipt of 31 written submissions (**Attachment 2**) lodged with NRE Tas.

Input received during the review process was largely in response to the Discussion Paper Review of the Racing Regulation Act 2004, dated 10 November 2021. The following is the link to the Discussion Paper: <https://nre.tas.gov.au/Documents/Discussion%20Paper%20-%20Review%20of%20the%20Racing%20Regulation%20Act%202004.pdf>

The consultation process confirmed that there is a significant lack of confidence in the model of regulation of the industry, including concerns about lack of clarity around the functions and powers of and between Tasracing and the Director of Racing (Director)/Office of Racing Integrity (ORI), caused by the current separation of responsibilities between Tasracing and ORI.

The history of the separation of integrity from other Tasmanian racing industry PRA functions had its genesis in the decision by the then Tasmanian Government to combine the then TAB with the racing industry to create Tote Tasmania in 2000. However, the decision to separate Integrity functions out of the newly formed entity, Tote Tasmania, was not taken until the 2004 Act. I can only conclude this decision was taken to address the real need, at that time, for the independence of integrity functions from the significant commercial TAB wagering business.

It is relevant that it was decided the separation of Integrity should continue when the decision was made to sell Tasmanian TAB in 2009. In my view justification for such separation would no longer have been as compelling, and therefore the continued separation of integrity functions should be re-visited.

The review has highlighted a perception of lack of transparency, including the monitoring and accountability of Tasracing and ORI. These concerns were expressed by the wider racing community. Public/community bodies/individuals also expressed this view, but were primarily concerned with the Director/ORI and Tasracing's carriage of animal welfare responsibilities, both in and out of competition. There was a particular focus on Greyhound racing by these groups.

A number of organisations/persons interviewed identified that they lacked confidence and trust in ORI and Tasracing, both individually and combined. Any decision to change existing probity and integrity arrangements needs to address this perceived lack of confidence and trust, by implementing strong governance protocols and principles, primarily within a restructured Tasracing, to ensure the real independence of integrity from Tasracing's commercial and racing functions.

In serving an industry and meeting Government expectations, peak racing bodies such as Tasracing and ORI have a difficult task in dealing with competing expectations. At times it is difficult to satisfy all participants and interested parties, which is exacerbated in Tasmania with the division of responsibilities for the three codes between ORI and Tasracing.

In addition, in most racing constituencies, regardless of whether integrity functions are vested with the Principal Racing Authority (PRA), racing can suffer significant public reputational damage when the

integrity of racing is called into question. PRAs without responsibility for integrity find it very difficult to mitigate such potential damage to the industry, if they do not have carriage of integrity functions.

The current model is also hampered by a lack of confidence by many in the regulation of the industry, unclear functions and powers of Director/ORI and Tasracing, and inefficiencies in the current model caused by separation of responsibilities and of where powers reside.

To address these issues, the 2004 Act should be modernised to provide Government and the Racing Industry with the most effective and fit for purpose model for future integrity functions within Tasmanian racing.

The model recommended will see the creation under the 2004 Act of a new independent statutory role reporting directly to the Racing Minister. This role, of the Tasmanian Racing Integrity Commissioner (TasRIC), will have overarching powers and responsibilities to ensure the independence of integrity functions to be undertaken in future by Tasracing. Tasracing will be also be required under the 2004 Act and/or the Tasracing Act to implement appropriate governance practices by it to also ensure the independence of functions to be undertaken in future.

The recommended new structure will create a clear alignment of responsibilities with powers to implement integrity and welfare policies. There will also be important independent oversight with the proposed statutory appointment of the TasRIC, reporting to the Racing Minister.

Nationally, racing has more recently focused attention on animal welfare, in particular with whole of life traceability of racing horses and greyhounds. Not all codes or states are at the same stage of implementing such systems. In most states, including in Tasmania, the racing populations comprise locally bred horses and greyhounds and also those imported from other states and NZ. This means a simplistic focus solely on locally bred and raced horses/greyhounds will not meet traceability expectations or the needs of racing.

Tasmania particularly relies upon the import of animals to meet the needs of the three codes' racing programs and to sustain the industry. Though not responsible for managing the import of horses and greyhounds, Tasracing is charged with responsibility for setting the industry's animal welfare obligations, including traceability, and for retirement programs.

Simply, the responsibility for animal welfare in the 2004 Act needs to be clearly defined. Tasracing's responsibility for animal welfare policies across the three codes, including financing of such functions, is currently negatively impacted as it does not have substantive powers to implement and police animal welfare standards sets by the Rules of Racing.

Presently, ORI does have such powers, and NRE Tas, through Biosecurity Tasmania, has overarching responsibility for implementing the *Animal Welfare Act 1992*. Tasracings needs to be able to fulfil its obligations to the racing industry and the broader community. At the same time the RSPCA's role under the Animal Welfare Act should be considered to ensure all parties work collaboratively

It should not be underestimated that the lack of powers for the body that has responsibility can lead to an inability to effectively address industry reputational issues, including maintaining racing's important social licence. This is an issue at present for Tasracing with the current model of separation of responsibilities.

Finally, the Review has confirmed that the disconnect caused by the lack of clarity in delivery of racing integrity functions needs to be addressed in the best interests of the Tasmanian racing industry and the broader community. This can be achieved with strong governance principles, supported by legislation for appropriate structures, including TasRIC, to ensure the pre-eminence of both integrity and welfare responsibilities.

E. RACING INDUSTRY BACKGROUND

The racing industry in Tasmania consists of three codes: thoroughbred, harness and greyhound. Combined the three codes generate more than \$185 million a year in economic activity in Tasmania, particularly benefiting rural and regional areas. Prizemoney returns, the lifeblood of the industry, reached \$24.7 million in FY21.

Racing operations, under the control of Tasracing, are dispersed throughout Tasmania. In 2020/21 a total of 2,850 race meetings were conducted by fourteen (14) race clubs, which operate as community associations registered under the *Racing Regulation Act 2004* (2004 Act) by the Office of Racing Integrity (ORI).

Race clubs licensed in Tasmania contribute important social and economic benefits to the fabric of regions in Tasmania. A recent IER Report, commissioned by Tasracing, on the size and scope of the Tasmanian racing industry, established there were 1,341 licensed participants and more than 5,800 people involved in racing, with 63 per cent in regional communities.

Confidence in the probity and integrity of the racing industry, both in Tasmania and nationally, supports engagement with Tasmania's racing codes, through industry participation, public attendance at race meetings in Tasmania, and wagering. National wagering turnover on Tasmanian thoroughbred, harness and greyhound racing totalled \$799 million in FY21. Of this amount \$194 million (25%) was wagered in Tasmania by Tasmanians and \$605 million (75%) was wagered by those domiciled in other States, Territories and overseas.

Additional Tasracing revenue streams available to the industry include racefields fee income, which increased by \$8.8 million to \$22.2 million in FY21. This revenue is from commercial product fee arrangements with approved wagering service providers, largely in other states of Australia. Also, in FY21 \$2.57 million was generated from the sharing of the Government introduced Point of Consumption Tax. This was an important new revenue stream for racing. Combined these revenues, on top of agreed annual Government funding, provide both Government and Tasracing with the ability to increase returns to participants through prizemoney and to fund Tasracing's animal welfare initiatives.

Tasracing, a state-owned company, was established in 2009 under the Tasracing Act as a State owned company also subject to the commonwealth *Corporations Act 2001*, to provide strategic direction for racing. However, Section 11 of the 2004 Act summarises Tasracing's core responsibilities.

The Director is appointed by the Governor and can be a State Service officer/employee' they provide advice to the Racing Minister on racing integrity, including recommendations on policies for the development of racing. The Director is supported by ORI which is a division of NRE Tas and the position undertakes statutory functions independent of the NRE Tas Secretary.

It is vital for the Tasmanian Government, the racing industry and the public in general that confidence is maintained in Tasmanian racing, by ensuring the ongoing probity and integrity of this important state industry.

F. RECOMMENDATIONS

It is recommended that the 2004 Act should be modernised to provide Government and the Racing Industry with the most effective and fit for purpose model for integrity functions in Tasmanian racing.

From the Review it is clear that the separation of integrity functions in the existing model was primarily created in 2004 to specifically address the 2000 decision to move the operations of the then Tasmanian TAB into then peak racing body Tote Tasmania. The influence of the TAB on integrity arrangements is no longer relevant as it was sold in 2012, and the separation which was maintained is not serving the Tasmanian Government's or racing's best interests.

The model recommended will see the creation under the 2004 Act, or a new Act, of a new independent statutory role reporting directly to the Racing Minister. This role, TasRIC, will have overarching powers and responsibilities to ensure the independence of integrity functions to be undertaken in future by Tasracing. Tasracing will also be required, under the 2004 Act and/or the Tasracing Act, to implement appropriate Governance practices to ensure the independence of integrity functions that it will undertake.

The Terms of Reference required a Report to the Minister for Racing with recommendations aimed at modernising the 2004 Act, including, but not limited to:

- a. the appropriate model for separation of integrity powers and functions between the integrity body (currently the Director of Racing) and Tasracing;
- b. improvements to the governance of the integrity body and Tasracing to support integrity in racing;
- c. whether the integrity body or Tasracing should deliver non-integrity functions (e.g. – harness, thoroughbred and greyhound raceday management);
- d. what additional integrity powers and functions may need to be included in the Act, such as those relating to animal welfare, and the respective roles of the integrity body and Tasracing; and
- e. any other matters relevant to the above matters.

1. ORI and Director of Racing

- i) The *Racing Regulation Act 2004* be amended to remove the roles of the Director and ORI, with all current functions and powers to be transferred to TasRIC and the proposed newly created Tasracing Integrity Unit, as detailed below.
- ii) That appropriate funding, from existing ORI and Director of Racing budgets, be provided by Government to meet the recommended integrity arrangements detailed in the report.

2. Tasmanian Racing Integrity Commissioner (TasRIC)

This will be a new independent statutory role, to be created under the 2004 Act or a new Act, to report directly to the Racing Minister. The powers and responsibilities of TasRIC to include but not be limited to, the following:

- i) TasRIC to replace the current Director role.
- ii) TasRIC be authorised to act independently in relation to the performance of the roles and functions specified, subject to the 2004 Act (to be amended) and any other laws. The functions of the TasRIC would include:
 1. Requiring an annual Integrity Plan including budgets, for each of the three codes, from Tasracing.
 2. Requiring an Animal Welfare plan and budgets, from Tasracing, for each of the three codes.
 3. Facilitating co-operation between Tasracing, NRE Tas (Biosecurity Tasmania) and RSPCA on the co-ordination and reporting on animal welfare initiatives.
 4. Creation of Industry Integrity and Welfare Standards.
 5. Regular review and assessment of compliance including the integrity of participants and practices in the racing industry, on the Commissioner's own initiative or at the request of the Minister.
 6. Undertaking at the request of the Minister or Tasracing, or instigating at their own motion, integrity and animal welfare investigations.
 7. Advice to the Minister on the Rules of Racing and final approval of Tasracing Board recommended adoption of racing rules, both national and local.
 8. Advice to the Minister on Tasracing's integrity and animal welfare policies and their implementation and compliance.
 9. Audit of integrity and animal welfare processes and systems.
 10. Audit of Clubs' governance and finances.
 11. Considering complaints by industry stakeholders and participants and other persons and/or bodies with respect to Tasracing and its officers in the exercise of its powers and duties.
 12. Promotion of compliance, integrity and animal welfare through the provision of information and education for stewards and participants.
 13. Creation of mandated Integrity Standards, with provision for the Minister to request development of Standards. These Standards would include, but not be limited to:
 - a. Licensing of participants for the racing codes on the recommendation of the Tasracing Integrity Director/Unit
 - b. Testing requirements and approval of budgets for both animals and humans, both in-competition and out of competition.
 - c. Oversight of Tasracing's animal welfare inspections, including stable/kennel inspections.

- d. Oversight and approval of Tasracing's administration, licensing and regulation of the operations of Tasmanian on-course bookmakers.
 - e. Powers to hold Inquiries to ensure probity and integrity.
 - f. Investigatory powers.
 - g. Approval of warning off notices.
 - h. Approval of show cause notices.
 - i. The review of a person's suitability to be licensed. This would be for new applicants and for a person(s) returning from a period of disqualification, with a fit and proper person test to apply.
14. TasRIC's jurisdiction not be limited to alleged breaches of the Rules of Racing and would include other general matters concerning possible breaches of integrity principles in the racing industry. Integrity related information may include a wide array of behaviours that may or may not be considered criminal or corrupt.
 15. TasRIC to have power to require both licensed and non-licensed persons to give evidence, under oath, with respect to Inquiries and/or investigations undertaken by TasRIC.
 16. TasRIC be able to disclose integrity related information, as appropriate, to agencies, such as Tasmania Police and the Tasmanian Integrity Commission.
 17. TasRIC be supported by an organisational structure to manage the core functions as determined in the final model adopted by Government.
 18. TasRIC to encompass the role of Ombudsman for the Tasmanian Racing Industry, with all the powers and responsibilities attached, comparable to the Ombudsman's roles within the Tasmanian Government.
 19. TasRIC to approve steward, investigation and appeals process training for Tasracing Integrity Unit personnel.
 20. TasRIC office to support TRAB administrative functions
- iii) Consideration be given to combining the 2004 Act and the Tasracing Act to deal with all racing, integrity, probity and racing animal welfare matters and arrangements.
 - iv) Consideration be given to where the office of TasRIC should be situated. The Department of Justice is considered to be an option.

3. Tasracing

- i) The 2004 Act be amended to empower Tasracing, under S 11, subject to the powers and responsibilities of TasRIC, with responsibility for policing of integrity and animal welfare in Tasmanian racing.
- ii) Tasracing to establish clear governance guidelines to ensure the independence of racing integrity and animal welfare functions. These shall include:
 - 1. Tasracing to establish an independent Integrity Committee, including two independent persons approved by the Racing Minister, one of whom shall Chair the Integrity Committee. Two Tasracing Directors, with appropriate skills, shall also be approved by the Minister, to serve on the Integrity Committee.
 - 2. The Integrity Committee will make recommendations to the Tasracing Board for consideration and adoption, subject to the final approval of TasRIC.
 - 3. TasRIC to have mandated oversight of Tasracing's Integrity and animal welfare functions including the right, at TasRIC's discretion, to direct Tasracing in all such matters.
 - 4. Tasracing to establish an independent Integrity Unit. The following functions and officers to transfer from ORI: raceday stewards, non-raceday investigations officers and animal welfare functions, including veterinary officer.
 - 5. The role of Tasracing Integrity Director be created. This role to report directly to the Tasracing Integrity Committee.
 - 6. The Integrity Director to only report to the Tasracing CEO with respect to administrative functions.
 - 7. Existing Tasracing animal welfare functions and animal re-homing be incorporated within Tasracing Integrity.
 - 8. Tasracing Integrity be responsible for recommending licensing for participants and including those seeking Bookmaker licences. Recommendations to be considered by the Integrity Committee, with final approval by TasRIC.
 - 9. A Show Cause Committee be created by Tasracing to consider licence applications (both new and for re-licensing), with a fit and proper person test being established for all such applications. TasRIC to have oversight over show cause policies and procedures.
 - 10. The Tasracing Director of Integrity to formulate policies and procedures to establish clear guidelines for Tasracing's Integrity and animal welfare functions, for consideration by the Integrity Committee and the Tasracing Board, and for final approval by TasRIC.
 - 11. Tasracing to assume full responsibility for all non-integrity racing services previously provided by the Director of Racing/ORI for the three racing codes.
 - a. Specifically Harness and Greyhound functions to transfer to Tasracing, including: race nominations, eligibility checks, gradings, field selections, handicapping, barrier and box draws and scratchings; produce and distribute racefields; and process all race and trial results.
 - b. As for Thoroughbreds, Tasracing may choose to outsource such functions to other state or national code bodies performing these like functions.
 - 12. Tasracing to employ/contract all raceday stewards/officials currently employed by ORI and/or the codes or the race clubs. This is to include raceday vets, barrier attendants and clerks of course to allow for a more efficient application of resources on racedays.

4. Tasmanian Racing Appeals Board (TRAB)

- i. TRAB remain as the primary body for industry participants to lodge appeals for specified decisions.
- ii. TRAB be provided with administrative support by the office of TasRIC.
- iii. Consideration be given to expanding the number TRAB members to assist in overcoming time delays with appeals being heard and determined.
- iv. TRAB Chair to provide TasRIC and Tasracing Integrity with recommendations to improve stewards' advocacy skills at appeals and the conduct of stewards' inquiries, including reporting, to assist with the Appeals process.
- v. The 2004 Act be reviewed (sections 33 and 34) to remove any ambiguity, to provide racing participants with the right to seek and be granted a stay of penalty by TRAB, pending appeal, to enable participants to fulfil pre-existing riding and driving engagements.

5. Animal Welfare and RSPCA

- i. The Act, be amended to provide for RSPCA to have a role with animal welfare in the racing industry.
- ii. RSPCA to represent registered community groups involved with animal welfare matters relating to racing.
- iii. TasRIC to chair bi-annual consultative meetings with NRE Tas (Biosecurity Tasmania), RSPCA and Tasracing (including Tasracing Integrity).
- iv. Consideration be given as to whether the general functions and powers of Tasracing (currently described in S 11 of the 2004 Act) should be expanded to incorporate consultation with RSPCA, in addition to current requirement for its adherence to the Rules of Racing
- v. Government to consider RSPCA's role and powers under the Tasmanian *Animal Welfare Act 1993* to investigate all issues within the racing industry.

6. Other matters relevant to the above recommendations.

Transitional funding arrangements

- i. That appropriate funding be provided by Government to meet the recommended integrity arrangements detailed in the report, including:
 - i. ORI output budget, currently \$5.6m pa, to be allocated based on functions transferred between Tasracing and TasRIC.
 - ii. Any efficiencies achieved by Tasracing be applied to supplement Tasracing integrity, probity and animal welfare responsibilities.
 - iii. Funding currently provided separately for the Director and administrative support for that role be applied to TasRIC.
 - iv. TasRIC to be provided with initial permanent support including a policy officer, an Investigator and an administrative support officer. Upon review, at an appropriate time, consideration should be given to TasRIC engaging additional resources in future on a contract basis.

G. TERMS OF REFERENCE REQUIREMENTS

1. CONSIDER SUBMISSIONS AND FEEDBACK ON THE REVIEW OF THE *RACING REGULATION ACT 2004*: DISCUSSION PAPER

As required by the Government, significant consultation occurred before formulating recommendations. This included meetings with a total of 52 individuals in Hobart, in December 2021, and in Launceston, in January/February 2022. Importantly the Review also considered 31 written submissions, which were received by NRE Tas before the closing date, 4 February 2022.

A Discussion Paper, "*Review of the Racing Regulation Act, 2004*", dated 10 November 2021, was widely circulated both within the racing industry and the broader community in general.

The Discussion Paper should be read in conjunction with this review as it set clear guidelines for responses by all interested persons. The Discussion Paper was facilitated by significant feedback received by the then Racing Minister, since taking office in January 2020.

During the review process those interviewed were encouraged to lodge formal submissions to place on record their views and to avoid any misunderstandings or incorrect reporting of their views.

Integrity and Probity

A wide range of views were expressed, both verbal and written. The key learnings from the process can best be summarised as lack of trust and confidence in the regulation of the industry; unclear functions and powers of Director/ORI and Tasracing; and inefficiencies in the current model caused by separation of responsibilities and uncertainty about where powers reside. The perception of a lack of monitoring, transparency and accountability, on the part of both Tasracing and the Director/ORI, was also highlighted.

Most acknowledged the inefficiencies/duplications in the current model as specified under The Act and which included:

- Tasracing has responsibility under the Act for field controls for thoroughbreds and undertakes race programming.
- ORI has responsibility under the Act for Harness code and Greyhounds code race field creation but Tasracing undertakes race programming.
- Tasracing sets licensing and registration standards having regard to recommendations of the Director of Racing. The Director of Racing then has responsibility for the considering and granting of licences.

- The Australian Rules of Racing are applied in Tasmania by the Tasracing Board having regard to the Director of Racing, and in consultation with industry. Tasracing can also draw up its own local rules (also in consultation with industry) and policies. The Director of Racing, through the ORI, then enforces these rules.
- Track Stewards are employed by Tasracing to oversee training and safety and are not allocated the same powers as Stewards under the Act. For incidents and investigations ORI Stewards must become involved.
- Regulation of Publication of Race Field Information includes powers for Tasracing, with Integrity Conditions applied under s. 54B(2)(a) of the 2004 Act by the Director of Racing.
- The Director advises the Minister for Racing on racing integrity and related matters, and makes appropriate policy recommendations for the development of racing. Tasracing also has responsibility to provide advice to the Minister and making appropriate policy recommendations for the development of racing. Ultimately the Tasracing Board approves any policy recommendations.
- Licensing of on-course bookmakers is dealt with differently than with all other gaming and wagering licence holders within Tasmania, which are regulated under the *Gaming Control Act 1993* and the *TT-Line Gaming Act 1993*.

A number of non-racing contributors to the Review, rather than focusing on the model and system and its operation, wanted to delve into the reasons behind a number of recent staff departures and cultural issue involving the Director(s) and ORI. As these are employee relation matters for the Secretary NRE Tas they are outside the purview of my commission.

There was significant support for the revised integrity and probity arrangements as proposed in the *Racing Regulation Act 2004*, Discussion Paper, dated 11 November 2021.

During the Review I had added cause to question the continuance of the current integrity arrangements, which are based on a 2000 Government decision to merge the then TAB into racing industry functions, with the creation of Tote Tasmania. At that time the independence of Integrity arrangements from Tote Tasmania's significant commercial wagering business, was not questioned. This changed with 2004 Act, which provided for separation and the creation of ORI and the Director of Racing role. It must be remembered Tasmania was the first state TAB to be incorporated into a peak industry regulatory body.

However, when the TAB was sold in 2012 for \$103 million to Tatts, the need for continuing the separation established when Tasracing was created, did not exist to anywhere near the same extent.

The current issues caused by the separation of integrity, without TAB involvement in the business model, are alone good reason for existing arrangements to be re-visited.

Rules of Racing – National and Local

The review revealed a considerable lack of knowledge and understanding of the Rules of Racing and how they are promulgated and also the extent of the powers available under the Rules. This was particularly the case with non-industry contributors to the review.

In essence all licensed participants enter into a contract with their state controlling body (PRA) to abide by the Rules of Racing, which are far reaching, to ensure fairness and equity in racing. Ultimately for serious infractions of the Rules licensed persons can be disqualified and lose their and their families' livelihood(s), and also the enjoyment associated with being involved with racing.

National Rules, which predominate, are approved by the peak national bodies for the three (3) racing codes, to ensure that racing in all states and territories of Australia is conducted according to the same general practices, conditions and integrity. The PRAs in each state can also promulgate local Rules which apply with respect to specific circumstances in their state. Generally local rules are avoided if at all possible.

Attachment 5 provides an insight into how Harness Racing Australia, together with Harness PRA's in all states and territories, promulgate changes or create new Australian Rules. The Process is similar for Racing Australia (Thoroughbreds) and Greyhounds Australia.

Animal Welfare

Considerable attention was given to animal welfare as a racing integrity matter, or at least of equal importance with integrity. Industry participants, public organisations and individuals were critical of the Director/ORI and Tasracing in terms of the fulfilment of racing's obligations both under the Rules of Racing and in relation to community standards/expectations.

The management of animal welfare in the greyhound industry in Tasmania was a focus for many people. Industry participants felt let down by the division of responsibilities for management of welfare issues. Community groups called for more scrutiny than is provided for under the Rules of Racing for those participants not meeting community standards.

Most community groups and non-racing contributors did not support a role for Tasracing with integrity functions, and one group suggested that integrity for greyhounds should be separated altogether from the other two codes' integrity functions, as in New South Wales (NSW).

The scale of Tasmanian racing and each of the three codes, compared to that of NSW, together with likely inefficient duplication of resources applied to integrity and welfare, makes such a proposition questionable for an industry the size of Tasmanian racing. I am of the view that there should be one consistent model across the three codes of racing in Tasmania.

It is clear that trust, both ways, is an issue between RSPCA and animal welfare community groups on one side and ORI/Director and Tasracing on the other. Therefore, measures need to be adopted to improve trust between the parties in future. I can only draw from experience with Harness Racing Victoria which has a very good working relationship with the Victorian RSPCA CEO, who annually attends HRV's Integrity Sub Committee. RSPCA(V) is also regularly consulted by HRV's GM Integrity on welfare matters.

NRE Tas, through the Director of Biosecurity Operations and the Chief Veterinary Officer, provided valuable insight into RSPCA's current powers under the relevant Act and suggestions to improve collaboration between RSPCA and Tasracing and the proposed TasRIC.

It is noted that the RSPCA Tas (RSPCA) operates under the Animal Welfare Act and RSPCA officers are authorised officers under the Act. In addition RSPCA operates under a Service Level Agreement (SLA) with NRE Tas and the following Administrative Arrangements, which are specific to racing animals, are in place:

- The Director of Racing is the principal point of contact regarding animal welfare matters in relation to registered horses and greyhounds.
- Where ORI Stewards determine during an investigation that there may be a breach of requirements under the *Animal Welfare Act 1993*, the matter will be reported to RSPCA.
- The communications channel on such matters will be between the Director of Racing (or their nominee) and the Inspectorate Manager, RSPCA.
- Any investigation conducted by either NRE Tas or RSPCA Animal Welfare Officers in relation to animals involved in thoroughbred, harness and greyhound racing will not prevent ORI Stewards from conducting their own inquiries into animal welfare/cruelty matters involving persons licensed or registered under the Rules of Racing, and imposing penalties under those Rules.

My assessment is that RSPCA has significant reach in terms of being able to act in matters involving animal welfare in racing. It will be important that under the new Integrity model this reach is not diminished but improved.

I note that the former Racing Minister's office organised three meetings of the parties between July and December 2021 in an endeavour to improve relationships. Additionally, I understand that the CEO of RSPCA Tas and the current Director, act cooperatively.

I believe that the overlaying of an independent office of TasRIC, on the proposed Tasmanian racing integrity and welfare structure, will lead to improved welfare outcomes and working relationships.

Consideration could be given to legislating for an RSPCA role in racing animal welfare matters. At a minimum there should be a requirement for TasRIC and Tasracing to consult with RSPCA, representing all other horse/greyhound welfare bodies. TasRIC should chair such meetings.

The Review has confirmed it is in the best interests of the Tasmanian racing industry and the broader community that integrity and welfare improvements are implemented, to ensure continued Government support for the conduct of racing in Tasmania, including the industry's social licence.

2. REVIEW THE *RACING REGULATION ACT 2004* (THE ACT), CONSIDERING BEST PRACTICE INTEGRITY APPROACHES IN OTHER JURISDICTIONS;

The Discussion Paper, on pages 6 – 9, provided a concise summary of current arrangements for the regulation of the Tasmanian racing industry including the:

- History of integrity governance from 1999 to present, including key milestones
- Establishment of Tasracing in 2009, with its current limited responsibilities
- Role and responsibilities of ORI and the Director, including integrity services, animal welfare and the provision of racing services to the three racing codes.

The paper (pages 11 to 13) also provided guidance for the Review, by summarising probity and integrity management in other states and countries. Specifically, it focused on Victoria and Queensland models and also provided commentary on Britain and New Zealand. There is also commentary on Sport Integrity arrangements in Australia. **Attachment 3**, which was appended to the Discussion Paper, provides an excellent summary of arrangements in each state and territory of Australia.

Arrangements in Western Australia – where Racing and Wagering Western Australia (RWWA) is the Principal Racing Authority for the three racing codes and is also responsible for integrity, notwithstanding RWWA also has control of significant WA TAB operations – also needs to be acknowledged. Interestingly the WA Government is currently considering the sale of the WA TAB out of RWWA. With this successful WA model, it was determined not to separate integrity functions, compared with the 2004 decision to separate such functions from TOTE Tasmania.

Consideration was also given at a high level to probity and integrity arrangements for racing in Japan and Hong Kong, probably the two most regulated international racing jurisdictions, recognised for their commitment to integrity to safeguard wagering confidence in their racing product.

In both jurisdictions the regulatory bodies, as in WA, are fully responsible for wagering, racing and integrity. Throughout my career I have dealt closely with both organisations.

The Discussion Paper and the consultation process, supported by experience in both the Thoroughbred and Harness industries in Victoria and Australia in general, assisted in forming the platform for my recommendations.

During the review process valuable commentary was provided in the Racing Clubs Tasmania (RCT) submission relating to the current Integrity model and in particular the separation which now exists, which had its genesis in 1999.

I believe Mr Terry Clarke, former CEO TOTE Tasmania, has provided this background, which is most insightful as it explains the basis for the current model when it was proposed that the Tasmanian TAB was to be merged with Racing Tasmania (Commercial and Racing/Integrity – now Tasracing Pty Ltd). At that time no other Australian TAB had been merged into a State PRA with racing and integrity responsibilities.

The RTC submission stated:

“The current governance model for managing the probity and integrity of the Tasmanian Racing Industry has its genesis in the report of the Racing Industry Taskforce issued in April 1999, which provided the then government with the options for merging Racing Tasmania with the Tasmanian TAB.

That report stated, at page 24, “having regard to the critical nature of managing the responsibilities (probity and integrity) the Taskforce concluded a separate probity unit should be established and staffed by individuals who are not dependent in any way on the performance of the merged body.”

“... neither the then TAB, nor Tote Tasmania which merged the TAB and Racing Tasmania, ever had the responsibility for probity and integrity services in Tasmania ...”

Therefore the question must be asked - what has fundamentally changed since the 2004 separation of Integrity and probity? The obvious answer is control/responsibility for the Tasmanian TAB, which was sold in 2011/12 for \$103 million to Tatts. With the sale, the primary reason for the separation of Integrity and Probity no longer existed. It is therefore now appropriate to consider a more suitable model, as proposed in the Discussion Paper, or a variation thereof.

As previously referred to, after the Tasmanian decision, the WA Government decided to merge WA TAB into the Racing industry, with the creation of RWWA, also the WA three code PRA. Importantly for comparison purposes integrity and probity functions have been retained within RWWA, notwithstanding it controls the operation of the WA TAB.

Tasracing, like other PRAs that have carriage of integrity included in their functions and responsibilities, also has the same basic interest in focusing on integrity to drive positive industry outcomes. Successful racing constituencies are founded on doing everything possible to instil public confidence in integrity arrangements, to drive both participation and wagering, based upon fairness and equity. This is a core Tasracing principle, albeit Tasracing presently has limited carriage of integrity in Tasmania.

In this regard Tasracing's wagering/sponsorship partners TABCORP and LADBROKES both advised they believe integrity arrangements underpin wagering customer confidence in the Tasmanian racing product. National racing integrity is also vital to Tasmanian racing and in this regard it is interesting to note that it has been estimated nearly 90% of racing wagering in Tasmania by local residents is on interstate/overseas racing product.

In my view Tasmanian racing requires scaled and fit for purpose probity and integrity arrangements, properly funded, including animal welfare responsibilities. The cost of providing these services has grown over the past decade, particularly with respect to animal welfare obligations. Importantly costs cannot be used as a reason to limit spend on strategic integrity or welfare initiatives. At the same time a scattergun approach can prove cost prohibitive as well as counterproductive. TasRIC and Tasracing should be able to develop appropriate strategic budgets for integrity and welfare.

The recommended model has primarily relied upon a variation of the Victorian Integrity model. Victoria's current model evolved as follows:

- i. Following the wide-ranging 2010 Lewis Review, the Victorian Government legislated for the appointment of a Racing Integrity Commissioner (VRIC). This role is an independent statutory officer, reporting to the Racing Minister, under the *Racing Act 1958 (Vic)*.

The role has been a very important addition to integrity and probity oversight and annual reporting on integrity matters in Victoria. The role has been embraced by the racing codes, as supporting integrity in Racing.

The powers, functions and responsibilities of VRIC have provided guidance for the proposed TasRIC role. Links which summarise VRIC arrangements are as follows:

<https://racingintegrity.vic.gov.au/about-the-office/Our-Office>

<https://racingintegrity.vic.gov.au/about-the-office/our-role>

<https://racingintegrity.vic.gov.au/about-the-office/our-functions>

<https://racingintegrity.vic.gov.au/about-the-office/our-powers>

Current VRIC, Mr Sean Carroll, shared his insights after 11 months in that role. Previously, as HRV Chair, I worked closely with the former VRIC, Mr Sal Perna, 2016 - 2021. Accordingly I have a very good understanding of the value and importance of a VRIC, who can also act as an Ombudsman for the racing industry, to provide participants and interested parties with the opportunity to raise concerns with any aspect of governance and integrity, including animal welfare. Such a role does not presently exist within Tasmanian racing.

- ii. In 2018, the Victorian integrity model was further supplemented, following the Bittar Review, with legislation under the *Racing Act 1958 (Vic)*, to create the Victorian Racing Integrity Board (VRIB).

VRIB has oversight, powers and responsibilities with respect to delivery of integrity functions by each of the three Victorian codes and to ensure the highest standards. In many respects the powers and functions of VRIB were intended to complement those of the code controlling bodies, racing stewards and the VRIC. **Attachment 5** summarises VRIB's role.

<https://djpr.vic.gov.au/victorian-racing-integrity-board>

<https://djpr.vic.gov.au/victorian-racing-integrity-board/about-the-board>

I do not consider it necessary for a VRIB type body to be created in Tasmania, as I believe TasRIC should be imbued with all of the combined powers and responsibilities of the two current independent Victorian bodies.

I support the proposal in the Discussion Paper, that existing budgets associated with ORI (\$5.6 million in FY21) and the Director, which currently sit within NRE Tas, be utilised to meet the cost of new arrangements for TasRIC and Tasracing.

3. CONSIDER THE GOVERNANCE, POWERS AND FUNCTIONS OF TASRACING PTY LTD AND THE DIRECTOR OF RACING/ORI

General

I have considered the current regulation of the Tasmanian racing industry (Discussion Paper, pages 6 -9) which has led to the need for this review.

More importantly my focus has been on the proposed framework to improve and strengthen probity and integrity within Tasmanian racing (Discussion Paper, pages 16 – 18). Feedback from the consultation process was important in assisting with the formulation of recommendations.

The creation of TasRIC, to counterbalance the transfer of integrity functions to Tasracing, would mean that both the Director and ORI, for all intents and purposes, would cease to exist.

The Director role would be replaced by the TasRIC role with additional wide ranging powers and responsibilities including the ultimate oversight of the proposed new integrity arrangements. All of ORI's functions would be absorbed in the new TasRIC/Tasracing integrity structure.

The Discussion Paper (pages 8 – 9) made particular note of racing administration functions currently performed by ORI mostly for harness and greyhounds. It makes no sense that such functions should remain with ORI or transfer to a new Integrity body (TasRIC). They are operational and should rightly be undertaken by Tasracing, as it does for thoroughbreds.

The Discussion Paper did not make any suggestions as to how Tasracing might structure its Governance arrangements to satisfy the Government's desire to maintain the independence of integrity and probity functions. Tasracing and all those interviewed were challenged to consider and suggest a governance model for Tasracing which would meet the Tasmanian Government's independence requirements. A number responded with their views on possible options including some who would otherwise prefer Tasracing did not assume integrity and probity functions.

As existing integrity and probity arrangements have led to a lack of both confidence in the model of regulation of the industry, and clarity around the functions and powers of Tasracing and the Director of Racing/ORI, mandated governance arrangements will need to be established to ensure confidence and trust going forward.

a. Tasracing

i) Tasracing is not presently equipped to ensure separation of integrity responsibilities.

For this to occur will require a new governance model to be mandated for adoption by TasRacing so that it can be entrusted with raceday and out of competition probity, integrity and animal welfare functions, powers and policing. The internal separation of these functions from Tasracing's racing and commercial roles and responsibilities, as occurs with the three Victorian codes, will be critical.

ii) The model must have independent oversight and control.

The creation of TasRIC, with legislated oversight of Tasracing integrity arrangements, will create this separation and will include the power to direct Tasracing on Integrity, probity and animal welfare matters.

It follows that Tasracing and TasRIC will need to work collaboratively on integrity, probity and animal welfare matters.

iii) Tasracing's integrity governance model

A new Tasracing Integrity Committee would be established with two independent and two nominated Tasracing Board members. The Chair of the Integrity Committee would be one of the two independent appointees approved by the Racing Minister.

iv) Tasracing, Director of Integrity

With the transfer of stewards to Tasracing the role of Director of Integrity would be created. The role would oversee each of the three codes' Chairman of Stewards, raceday stewards panels and non-raceday investigative stewards, as well as animal welfare officers and all veterinarians engaged/contracted to service racing.

Critically this role would report to the new Tasracing Integrity Committee on all integrity and animal welfare related matters. Importantly, the position would report to the Tasracing CEO only with respect to administrative functions to support the independent Integrity Unit.

Initially, apart from co-ordinating the transition of stewarding functions, the Director of Integrity would, as a matter of priority, undertake to recommend policies and guidelines for integrity, probity and animal welfare, for the Integrity Committee's consideration, prior to making recommendations to Tasracing Board and TasRIC.

By way of example, Harness Racing Victoria's Integrity Department has 52 such policies covering a wide range of integrity, probity and animal welfare matters, to ensure all issues are appropriately and consistently dealt with. I am certain that the Director of Integrity could use interstate experience to quickly develop policy templates for approval of Tasracing Integrity Committee and TasRIC.

v) Non-Raceday and Investigative Stewards

The Discussion Paper in proposing the transfer of raceday stewards to Tasracing did not suggest what should happen with non-raceday investigative stewards and where they should be placed. The alternatives are either with TasRIC or Tasracing. There is a compelling case, if Tasracing be fully responsible for animal welfare, for non raceday investigative stewards to reside within a new Tasracing Integrity Unit. As discussed previously, TasRIC would however have oversight of all integrity and animal welfare functions.

I also believe that the TasRIC role should not be operational.

vi) Independence

The recommended Tasracing governance model would be further strengthened with the creation of TasRIC, which would have the power to direct Tasracing on integrity, probity and welfare matters. These arrangements replicate those in Victoria (VRIC and VRIB combined) for each of the three racing codes.

vii) Racing administration

Tasracing to assume full responsibility for delivery of racing services, currently provided by the Director / ORI, to the three (3) racing codes.

viii) Elimination of inefficiencies and duplication

The new model must lead to the elimination of inefficiencies and duplications caused by the separation of integrity functions, provided the independence of integrity is ensured.

The following duplications will be addressed by the recommended model:

1. Tasracing has responsibility under the Act for field controls and undertakes race programming for Thoroughbreds but ORI has responsibility under the Act for Harness code and Greyhounds code racefield creation but Tasracing undertakes race programming.
2. Tasracing sets licensing and registration standards having regard to recommendations of the Director and then the Director has responsibility for considering and granting of licences.
3. The Australian Rules of Racing are applied in Tasmania by the Tasracing Board having regard to the Director of Racing, and in consultation with industry. Tasracing can also draw up its own local rules and policies, also in consultation with industry. The Director through ORI then enforces these rules.
4. Track Stewards are employed by Tasracing to oversee training and safety and are not allocated the same powers as Stewards under the Act. ORI Stewards have powers to investigate incidents.
5. Regulation of Publication of Race Field Information includes powers for Tasracing, with Integrity Conditions applied under s. 54B(2)(a) by the Director.

b. Animal Welfare

The alternatives for where animal welfare responsibilities should lie are either with TasRIC or Tasracing. Tasracing is currently responsible but does not have any powers to effectively regulate/police animal welfare issues under the Rules of Racing. There is a compelling case, if Tasracing is to have full responsibility for animal welfare, for non-raceday investigative stewards to reside within a new Tasracing Integrity Unit. TasRIC would have full oversight of these Tasracing functions.

Tasracing Integrity Committee should meet regularly with racing industry bodies and with RSPCA, representing all Tasmania's animal welfare bodies with an interest in racing, to discuss and share integrity and animal welfare policies and information.

TasRIC, with a reporting responsibility to the Racing Minister, should chair such meetings to ensure a collaborative approach to racing's animal welfare framework.

RSPCA raised the issue of real time traceability being a requirement in future. With respect to horses I am aware that a National Horse Racing Traceability Working Party is formulating recommendations for an Agriculture Ministers meeting, both Federal and state in mid-2022. This will be a very important initiative which Tasmania could not undertake on its own. The recommendations will in fact apply to all breeds of horses not just racehorses.

Greyhound Australia is also undertaking a similar exercise on a national basis. However, I note in 2020 Victoria introduced a new code of practice for keeping racing greyhounds which covers the whole life cycle from breeding and whelping through to training, racing, retirement and re-homing. It was a result of 1,300 public submissions and extensive stakeholder consultation, and resulted in a fit-for-purpose Code that prioritises animal welfare.

An interesting initiative by the Irish greyhound racing authority recently saw the introduction of an App to track greyhounds through all stages of their lives.

Tasracing with TasRIC should prioritise the roll out of traceability initiatives when available.

It is noted that Tasracing annually publishes data on animals in the racing industry for each of the codes. This includes information on breeding, reasons for retirement of horses and greyhounds, re-homing including GAP and track injury data for greyhounds.

c. Director/ORI

Many of those interviewed voiced concerns with the operations of the Director/ORI in terms of their carriage of Integrity and probity functions, particularly over the past 5 years. This included a perceived lack of transparency and oversight, and of ability for participants to question the decisions and actions of ORI. Instability at ORI, due to the number of persons serving as Director in the past four years, together with staff leaving and cultural issues, were highlighted by a number of people.

It was acknowledged there were capable stewards in each of the codes but retaining them was a real challenge. Tasmanian racing was often referred to as a breeding ground for good stewards to then move to the mainland. In turn the inability to “meet the market” on pay rates, currently based upon state public service mandates, has made it difficult to attract retain stewards. Many said this needed to change and supported the move of raceday stewards to Tasracing.

The lack of formal training for stewards was highlighted by most as a serious shortcoming with current arrangements. This must be addressed by the proposed transfer of stewards to Tasracing and with TasRIC involvement.

The lack of adequate training and education for stewards is an issue not just confined to Tasmania; it’s a national issue. In a positive move in Victoria, VRIB – supported by the three codes – is moving to establish a TAFE course for race stewarding which could then provide online training for stewards nationally.

Another matter raised during the Review was that there is no evident provision under the 2004 Act for lodging a complaint relating to the exercise of powers or treatment by the Director or ORI. TasRIC could fulfil this role under new integrity arrangements, as racing’s quasi-Ombudsman.

The creation of TasRIC, combined with the transfer of integrity functions to Tasracing, would see ORI, for all intents and purposes, cease to exist. The Director role would be replaced by the TasRIC who would have ultimate oversight of the proposed new integrity arrangements. All of ORI’s powers and responsibilities under the 2004 Act would devolve to the proposed new TasRIC and Tasracing integrity structure.

It was considered vital by Clubs and industry participants that the Government should commit to make existing budgets for ORI (2021 - \$5.6 million) and for the Director available to fund the new integrity model. Animal welfare groups proposed a diversion of funds for welfare.

d. Governance

The Discussion Paper highlighted governance as a key issue to meet the Government's preferred requirement for the independence and separation of integrity functions, from racing's commercial functions. To achieve this the following is suggested:

- i. The establishment of TasRIC under the 2004 Act (or new legislation), reporting to the Minister, will ensure appropriate governance for integrity functions including their independence .
- ii. Tasracing's establishment of an independent Integrity Committee, which will include two Ministerial appointments (one of whom will be the Chair of this Committee), will be critical to ensure appropriate governance for integrity functions.
- iii. Tasracing to establish an Integrity Unit to be led by a Director of Integrity and this role/unit will be responsible for integrity, probity and animal welfare.
- iv. The Director of Integrity will report to the independent Tasracing Integrity Committee on all integrity matters and will report to the CEO Tasracing only for administrative functions associated with the Integrity Unit.

e. Other matters raised during Review

- i. The Racing Minister facilitated meetings between Tasracing, ORI and RSPCA on 26 July, 17 August and 23 November 2021 in an endeavour to bring parties closer together and to share information.
- ii. The 2016 Joint Select Committee Report into Greyhound Racing. Tasracing provided a summary of responses to the Report, including intended actions, progress and status as at February 2020 and November 2021.
- iii. Tasracing 2021 Annual report provided the following information on Greyhound racing:
 - 12,000 starters
 - 40% of available population is locally bred and 60% interstate bred
 - 280 pups were locally bred, down from 596 in 2014-15
 - 76% of retired greyhounds were re-homed
 - 40 greyhounds in total were euthanised compared with 309 in 2016-17
 - 90 greyhounds found homes through the GAP program
- iv. Kennel licences must be issued by local government authorities before a trainer can be licensed. Apart from this process it makes sense that under the new integrity arrangements, that minimum standards should be established under the guidance of TasRIC, by Tasracing Integrity, by which racing kennels are licenced for use. One alternative could be as occurs in Victoria where the Government has established a Code of Practice for the keeping of Racing Greyhounds, which provides detailed requirements for the construction and maintenance of facilities, including pen and yard size, sleeping areas and fencing requirements.

- v. There does not appear to be any reference to animal welfare in the 2004 Act. Should there be, with a focus on broadening RSPCA involvement in racing including inspecting properties with stewards?
- vi. Some have questioned if the 2004 Act would provide a stronger force for animal welfare compliance in racing than relying on penalties under the Rules of Racing. A licensed person's loss of livelihood, under the Rules of Racing, cannot be underestimated.
- vii. Views on where the GAP program should reside varied from remaining with Tasracing, to giving more responsibility to, and utilising other existing public re-homing bodies/persons.
- viii. There seems to be a significant misunderstanding from both industry and non-industry people with respect to the scope of wagering **in** Tasmania compared to wagering **on** Tasmanian racing nationally. The 20-21 results published by Tasracing are as follows:
 - \$199 million was wagered in Tasmania by Tasmanians on total racing wagering product including on Tasmanian, Australian and international racing
 - \$599 million was wagered on Tasmanian racing product by the rest of Australia and internationally.
 - A total of only \$2.2 million was wagered on the On course Totalisator at all Tasmanian racemeetings (320 pa), or less than 1% of wagering in Tasmania.
 - Only \$800,000 was wagered with On Course bookmakers, or less than 0.4% of total wagering in Tasmania. In reality licensing of bookmakers is a minor issue in the Review.
 - Of the \$599 million wagered on Tasmania by the rest of Australia, 70 to 80% would be with online corporate bookmakers, licensed by the Northern Territory Government.
 - Tasracing receives racefields fee income from corporate bookmakers but has limited control over such bookmakers operations, licensed in the NT. Tasracing does, however, have agreements with all approved licensed wagering operators, under Racefields Legislation, for it to receive important wagering information to assist with integrity investigations.
- ix. Submissions by a number of community groups and the parliamentary Greens Leader made assertions of "subsidisation" of racing and that the long term goal should be to defund racing from the public purse. This needs to be considered in the context that the Tasmanian Government in 2009 removed racing's rights to receive commercial/product fees from the TAB, when it was decided that the TAB be sold. This sale provided the Government of the day with a \$103m injection of revenue benefitting the State's economy. This effective defunding of racing required a funding commitment from Government to Racing to replace the industry's entitlements to commercial wagering fees from TAB operations in Tasmania.
- x. While the Terms of reference specifically excluded any review of funding arrangements for racing I note, given commentary from non-racing groups and people that racing should be defunded, that in 2012 the Legislative Council Government Administration Committee 'A' – Inquiry into the Performance of Tasracing, found as follows:

"Findings

60. ... furthermore, as the sale of TOTE Tasmania has now been finalised, the ongoing and future funding of the operational and capital expenditure liabilities of the racing industry rests with the State ... "

- xi. I also note that the Tasmanian Government in 2020 agreed that Tasracing should receive 80% of the new Point of Consumption Tax (POCT) levied on national wagering operators that offer wagering services to Tasmanian residents. In FY21 this delivered \$2.75 million to Tasracing. A number of people suggested that this new revenue stream should focus longer term on funding animal welfare services/initiatives.
- xii. Training for Industry participants on the Rules of Racing and animal welfare requirements under the rules. Particularly for persons seeking new licences or to be re-licensed.

ATTACHMENTS

Attachment 1. Persons interviewed (54)

HOBART

Tasmanian Racing Club/ Racing Clubs Tasmania – Andrew Scanlon, Brendan Blomeley and Terry Clarke

Mr Merv Hill – Thoroughbred Advisory Network

Ms Denise Martin – Star Thoroughbreds

Mr Karl de Kroo – Executive Director Corporate development Ladbrokes, With Carly Richardson, General Counsel and Michael Gidley Head Corporate Affairs

Tas Racing – Messrs Gene Phair Chairman and Paul Eriksson CEO

Tasmanian Trotting Club – Messrs Philip Young Chairman and Steve Devereaux CEO

Tasmanian Jockeys Association – Mr Kevin Ring

Mr Justin Helmich – Director of Racing ORI

Ms Jan Davis – RSPCA CEO

Mr Wayne Howells – President GOTBAT

Hobart Greyhound Racing Club – Messrs Steve Lockley President and Graeme Barber Vice President

Magic Millions – Mr Barry Bowditch, Managing Director

Mr Bruce Neil – Owner and Principal of Cressfield Stud

Mr Dean Cooper – Former Chairman Tasracing and current Chairman Harness Racing Australia Rules Committee

BOTRA – Shaun Kelly, President and Sandra Hills, Secretary

Mr Charles Moon – Manager (Government) TABCORP

Next Generation Committee – Mark Yole, Shaun Kennedy, Mel Cotton, Brooke Hammond, Brendan Ryan, Nick Hay

Mr Joe O'Neill – Owner, Prime Thoroughbreds

Mr Dean Winter – Shadow Racing Minister

LAUNCESTON

Mr Nigel Schuurin – President, Australian Trainers Association – Tasmania

Ms Alison Archer – Chair, Tasmanian Turf Club

Mr Chester Bullock – Launceston Pacing Club, President

Ms Leigh Dornauf – Carrick Park Pacing Club, President Launceston Greyhound Racing Club

Mr Scott Brunton – Thoroughbred Trainer

Mr Barrie – Milton Devonport Racing Club, Chairman

Mr David Wishaw – President Tasbreeders

Mr Adam Trinder – Thoroughbred Trainer

Mr John Newsom – Launceston Greyhound Racing Club, President

Ms Robyn Johnson – North West Greyhound Racing Club, President

Ms Justine Keay – Burnie Harness Racing Club, President

Ms Audrey Harmer – King Island Racing Club, President

Ms Claire McDonald – Devonport Harness Racing club, President

Mr Rodney Hill – North East Pacing Club, President

Mr Craig Woods – St Mary's Pacing Club, President

Mr John McKenna – Racehorse Owners Association of Tasmania (Thoroughbreds)

Mr Ross Neal – ORI, Chairman of Stewards, Thoroughbreds

Mr Michael Hoyle – ORI, Chairman of Stewards Greyhounds

Ms Leanne Purdon – ORI, Licensing and Registration Officer

Mr Barrie Rattray – Harness Trainer and Breeder

Mr Joel Wallace – Former Tasracing Director

Ks Kelly Davis – ORI, Executive Officer

Justice Kate Cuthbertson – Tasmanian Racing Appeals Board, Chair

POST HOBART AND LAUNCESTON

NRE Tas – Rae Burrows, Director of Biosecurity Operations and Kevin de Witte, Chief Veterinary Officer

Attachment 2.

Persons/organisations lodging written Submissions (31)

Animal Liberation

Andrea Brough

Veronica Carey

Coalition for the Protection of Greyhounds

Judy Daryon

Mr Steve Devereaux

Director of Racing, ORI

Dogs' Homes of Tasmania

Samantha Freeman

Brooke Hammond

Andrew Henricks

Hobart Greyhound Racing Club

Ross Kingston

Sandra Lagore

Jayd Lockley

Lilian MacDonald

Diane McGreechy

Jo Naylor

Cassy O'Connor, Tasmanian Greens Leader

Racing Clubs Tasmania

Helen Rayment

RSPCA, Tasmania

Jackie Standish

Sharon Symonds

TABCORP

Thoroughbred Advisory Network

Tasmanian Dog Walking Clubs Inc.

Tasmanian Jockeys Association

Tasracing

Will Wagner (2)

Attachment 3.

Summary of Integrity arrangements in States and Territories

(As per Table attached to Discussion paper)

SUMMARY OF RACING INDUSTRY INTEGRITY STRUCTURES BY JURISDICTION								
	VIC	NSW	QLD	SA	ACT	NT	WA	TAS
Integrity and oversight functions	<p>Victorian Racing Integrity Board An independent cross-code integrity board that oversees the delivery of integrity functions by Racing Victoria, Greyhound Racing Victoria, and Harness Racing Victoria (the three racing controlling bodies).</p> <p>The powers and functions of the Board complement those of the controlling bodies, racing stewards and the Racing Integrity Commissioner.</p> <p>Racing Integrity Commissioner Has standalone, independent statutory powers and a broad charter associated with integrity assurance.</p>	<p>The controlling code of racing are responsible for integrity services for their code.</p> <p>Racing NSW An independent, autonomous body established under the <i>Thoroughbred Racing Act 1996</i></p> <p>Racing NSW's Investigation and Surveillance Unit works in conjunction with the Racing NSW Stewards Panel to assist stewards in maintaining the integrity of thoroughbred racing.</p> <p>Empowered to investigate any suspected breach of the Rules of Racing and other specified matters.</p> <p>Stewards officiate at all Racing NSW race meetings and official trials.</p>	<p>Queensland Racing Integrity Commission An independent statutory body which oversees the integrity and welfare standards of racing animals and racing participants.</p> <p>Authorised Officers Appointed under the <i>Racing Integrity Act 2016</i> to investigate cases of animal cruelty and to respond to breaches of the <i>Racing Integrity Act 2016</i> and the <i>Racing Act 2002</i>. Authorised officers have investigative powers similar to those given to RSPCA inspectors.</p>	<p>The three codes of racing are governed by separate controlling bodies, each undertaking integrity functions.</p> <p>Racing SA Racing SA's stewards conduct integrity management, race day administration and licensing, and investigations.</p> <p>Harness Racing SA (HRSA) The Board of HRSA oversees the integrity function in harness racing.</p> <p>The Chairman of Stewards is responsible for the administration, enforcement and modification of the Rules of Racing to ensure that the integrity of harness racing is maintained.</p>	<p>ACT Gambling and Racing Commission An independent body established under section 5 of the <i>Gambling and Racing Control Act 1999</i>. Its function includes regulating racing (harness and thoroughbred) and investigating and conducting inquiries into issues and activities of persons in relation to racing related matters.</p> <p>Canberra Racing Club Principal racing authority responsible for management and administration of thoroughbred racing. Promotes the integrity of racing by focusing on proactive engagement</p>	<p>Northern Territory Racing Commission Established under the <i>Racing and Betting Act 1983</i> with responsibility for promoting and maintaining probity and integrity in racing and betting. The commission also conducts investigations into the operation of bookmakers and deals with disputes.</p> <p>Thoroughbred and greyhound racing make up the racing sector in the NT and are governed by separate bodies.</p> <p>Racing Appeals Tribunal Conducts appeals of substance from persons aggrieved by a decision of a steward or an official of a race club.</p>	<p>Racing and Wagering Western Australia Established as the controlling authority for thoroughbred, harness and greyhound racing. RWWA's charter under the <i>Racing and Wagering Western Australia Act 2003</i> includes responsibility for regulating and maintaining the integrity of lawful racing.</p> <p>Racing Penalties Appeal Tribunal An impartial judicial forum for the hearing of appeals against RWWA determinations, created to maintain industry confidence in the enforcement of the various racing rules.</p>	<p>Office of Racing Integrity Responsible for maintaining the probity and integrity of the three racing codes. On behalf of the Director of Racing, administrators, licenses and regulates the operations of on-course bookmakers in accordance with s 6 & 7 of the <i>Racing Regulation Act 2004</i>.</p> <p>Director of Racing Statutory officer responsible for regulating and controlling racing to ensure that it is conducted with integrity. Advises the Minister on racing integrity and related matters.</p>

SUMMARY OF RACING INDUSTRY INTEGRITY STRUCTURES BY JURISDICTION continued

	VIC	NSW	QLD	SA	ACT	NT	WA	TAS
Integrity and oversight functions	<p>Provides independent oversight of integrity within all three racing codes.</p> <p>Integrity officials of each controlling body and stipendiary stewards</p> <p>Responsibility for the day to day enforcement of the rules of racing.</p> <p>Stewards are also responsible for investigating and prosecuting participants on charges relating to specified offences.</p> <p>Victorian Racing Tribunal</p> <p>A quasi-judicial body completely independent of the controlling bodies of the racing codes.</p> <p>Hears matters under the rules of racing of all three racing codes.</p>	<p>They also attend track work, conduct track and stable inspections, administer drug testing operations, address safety issues and ensure the integrity of racing by conducting inquiries into race rides, horse health, wagering and the use of prohibited substances.</p> <p>Harness Racing NSW</p> <p>An independent body established under the <i>Harness Racing Act 2009</i>.</p> <p>Harness Racing NSW's integrity department comprises regulatory staff and incorporates stewards, integrity personnel, and investigators.</p> <p>Stewards act as a regulatory officer for harness racing, tasked with ensuring that the integrity of racing is</p>	<p>Stewards</p> <p>Appointed by the Racing Integrity Commissioner to enforce the Rules of Racing.</p> <p>Responsible for overseeing the integrity of racing activities across the three codes and are empowered to penalise any person committing a breach of the Rules.</p> <p>Internal reviews</p> <p>A Queensland Government process implemented by the Queensland Racing Integrity Commission which allows applicants to seek a review of a decision or penalty. Reviews are conducted by a single reviewer</p>	<p>The Chairman of Stewards is also responsible for managing a panel of stewards who are responsible for the control of all racing activities.</p> <p>Greyhound Racing SA (GRSA)</p> <p>The controlling body for greyhound racing whose key responsibility is to ensure that the sport is managed in a responsible and ethical manner.</p>	<p>with local participants, as well as continual maintenance of track facilities to ensure best practice horse welfare standards.</p> <p>The harness code in the ACT is governed by the NSW Harness body.</p> <p>Greyhound racing is banned in the ACT.</p> <p>Racing Appeals Tribunal</p> <p>Hears appeals from certain decisions of the Canberra Racing Club, the Harness Racing Club and persons conducting a race meeting.</p>	<p>It is authorised to conduct appeals against penalties imposed in disciplinary proceedings arising from, or in relation to, the conduct of or activities related to the three codes.</p>	<p>Stewards</p> <p>Wide-ranging powers to control and regulate respective racing codes.</p> <p>Responsible for ensuring the Rules of Racing are adhered to, and to investigate, determine and where necessary, penalise any breaches of the Rules. Stewards are responsible for the conduct of race meetings, and the conduct of all registered persons. They are also responsible for drug testing both human and animal racing participants.</p> <p>Tasmanian Racing Appeal Board</p> <p>An independent body established under s 23 of the <i>Racing Regulation</i></p>	

SUMMARY OF RACING INDUSTRY INTEGRITY STRUCTURES BY JURISDICTION continued

	VIC	NSW	QLD	SA	ACT	NT	WA	TAS
Integrity and oversight functions		<p>maintained and enhanced through the development, implementation and enforcement of local and national rules, regulations and policies concerned with racing and trialling activities. Stewards also have the primary oversight of drug testing, licensing and handicapping.</p> <p>The primary function of the Integrity Officer is to enhance the integrity of harness racing through non-raceday functions and strategies. The role also coordinates the human drug testing regime.</p> <p>The Investigator conducts all investigative work in the course of gathering evidence which may be used at a stewards inquiry. The investigator also oversees security matters relating to competitors and</p>	<p>appointed by the Commission. The position is independent from the original decision maker and the reviewer has knowledge of the racing industry.</p> <p>The internal review process replaced the Racing Disciplinary Board.</p>	<p>GRSA has two bodies to support its delivery of integrity outcomes and introduce a greater level of independence to its inquiry framework, the Integrity and Welfare Committee and the Integrity Hearings Panel.</p> <p>The independent Integrity and Welfare Committee reports to the GRSA Board on all integrity-related aspects of the GRSA operation, and includes representation independent of the Board and GRSA. Its primary purpose is to provide oversight of the GRSA integrity and welfare functions and to advise and make recommendations to the GRSA</p>				<p>Act 2004 to handle certain appeals for the racing industry.</p>

SUMMARY OF RACING INDUSTRY INTEGRITY STRUCTURES BY JURISDICTION continued

	VIC	NSW	QLD	SA	ACT	NT	WA	TAS
Integrity and oversight functions		<p>the conduct of race meetings and testing of drivers.</p> <p>Greyhound Welfare and Integrity Commission</p> <p>Independent regulator of the greyhound industry. Responsible for the regulatory functions of greyhound racing, including developing and implementing policies relating to the welfare of greyhounds and the integrity of racing, registration and licensing of greyhounds and participants, administering and enforcing the Greyhound Racing Rules, and conducting stewards inquiries and investigations.</p> <p>Stewards investigate breaches of the racing rules and can apply penalties for non-compliance with specified rules.</p> <p>Stewards are also responsible</p>		<p>Board on such matters.</p> <p>The Integrity Hearings Panel hears inquiries deemed to be more serious either by their nature or impact.</p> <p>SA Racing Appeals Tribunal</p> <p>Responsible for hearing and determining appeals from all three racing codes, against a decision made under the rules of the controlling authority, the disqualification or suspension of a person from participating in that code, or the imposition of specified fines.</p>				

SUMMARY OF RACING INDUSTRY INTEGRITY STRUCTURES BY JURISDICTION continued

	VIC	NSW	QLD	SA	ACT	NT	WA	TAS
Integrity and oversight functions		<p>for safeguarding the welfare of greyhounds and participants, drug testing and regulating race meetings.</p> <p>The Commission also employs inspectors to carry out compliance and enforcement activities under the <i>Greyhound Racing Act 2017</i>, to support its welfare and integrity functions.</p> <p>A process of 'Internal Review' under the Greyhound Racing Act 2017 allows greyhound racing industry participants to apply to the Commission to have certain decisions reviewed. It is an additional avenue of review.</p> <p>Racing Appeals Tribunal Deals with appeals by racing industry participants, who are aggrieved by certain decisions.</p>						

Attachment 4.

Australian Rules of Racing

Australian Harness Racing Rules (The Rules) – Promulgation Process

1. Harness Racing Australia (HRA) has a specific process for both the creation or amendment of the Rules. This process was implemented many years ago to streamline the original process and since its inception it has enabled both new rules and amendments to be implemented efficiently and with appropriate consultation.
2. The overwhelming majority of the Rules arise out of Integrity Conferences conducted by Harness Racing Australia (HRA) at least annually. The Conferences are attended by the Chairmen of Stewards of each State and New Zealand as well as other officials including Integrity Managers. Independent experts such as, for example, Regulatory Veterinarians are often asked to join the Conference to provide advice and opinion on topics such as prohibited substances.
3. The Integrity Conferences have an independent Chair and the agenda is comprised of issues raised by the Stewards and other Integrity officials throughout the year including proposed rule changes.
4. At the conclusion of each Integrity Conference the independent Chair prepares a draft memorandum of the proposed rule changes as well as a summary of the reasoning behind the changes. That draft is distributed by HRA to the Chairmen of Stewards and the Chief Executive Officers of the State Controlling Bodies for comment within a designated time frame.
5. When the comments on the draft memorandum are received the independent Chair makes appropriate changes to the original draft and submits the revised memorandum to HRA for consideration by the Rules Committee.
6. The Rules Committee ordinarily comprises three persons all of whom are (or have been) qualified legal practitioners and who have an interest in horse racing. The Chair of the Integrity Conference is also the Chair of the Rules Committee.
7. The Rules Committee does not provide advice on the substance of a proposed rule. The Committee recommends the appropriate wording of the rule as well as its position within the Rules. The Committee may for example decide that a proposed addition to the Rules Dictionary can be more appropriately expressed or defined.
8. The Chair of the Rules Committee prepares a memorandum reflecting the decisions of the Committee and provides that to HRA.
9. The HRA Annual General Meeting (or any other meeting if required) considers as part of its Agenda the recommendations of the Rules Committee. HRA is assisted in that process by the Chair of the Integrity Conferences and Rules Committee who attends the AGM and speaks to the proposed rule amendments.
10. HRA votes on the proposed amendments and recommends their adoption by each of the State Controlling Bodies. Historically, with very few exceptions, the recommended rules are adopted by each State Controlling Body.

11. In the event that a proposed amendment to the Rules arises other than through an Integrity Conference the views of the Integrity Conference members are sought followed by consideration by the Rules Committee and recommendation to HRA.
12. Each State Controlling Body can introduce, if required, Local Rules and their introduction is in accordance with the legislative requirements of each particular State.

March 4, 2022



