

Second Reading

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [4.15 p.m.]: I move:
That this bill be now read a second time.

The primary purpose of the bill before the Parliament is to amend the Thoroughbred Racing Act 1996 in relation to appointment procedures and eligibility requirements and it increases the number of appointed members of the board of Racing NSW. At this point I make it clear that these amendments do not reflect on the current board of Racing NSW or on any particular member of the board.

The Hon. Steve Whan: Are you sure?

The Hon. MICHAEL GALLACHER: Yes, I am sure. The Government recognises the importance of the racing industry, its employment and economic contribution to the State and its importance to the people of New South Wales as a source of entertainment and social interaction. The Government's broad policy for racing is that it supports the viability and the sustainable economic development of the racing industry while ensuring that the highest integrity and standards apply to racing and associated wagering in accordance with community expectations. The controlling or governing body for the thoroughbred racing code is Racing NSW. Although it is established by the Thoroughbred Racing Act 1996, Racing NSW is independent of government, does not represent the Crown and is not subject to ministerial direction. This recognises that the racing industry has self- management of its affairs. Nevertheless, the Government is responsible for the legislative framework which underpins the racing industry and the governance and integrity standards set out in the enabling legislation.

The thoroughbred racing code, the largest sector of the New South Wales racing industry, comprises some 137 race clubs which conduct more than 750 race meetings a year across the State. Prize money distributed to participants each season is well over \$100 million. The New South Wales racing industry is a significant employer, providing 50,000 full-time and part-time jobs. The industry also makes a significant contribution to the State's economy, estimated to be of the order of \$1 billion annually. It has provided the State with wagering taxes for many years, with the most recent contribution of approximately \$160 million. Apart from regulatory functions under the Act and under the Rules of Racing, the primary responsibilities of Racing NSW include the registration of race clubs, the allocation of race dates and the distribution of TAB revenue and prize money. Historically, there has been an issue with factional interests within the racing industry seeking to secure a benefit in accordance with their self-interest.

A primary example of this tendency was identified in 1995 by Ian Temby, QC, when he recommended that the Australian Jockey Club revert to a race club and relinquish its governing body role for the industry. The Temby review found that it was inappropriate for the Australian Jockey Club to manage TAB payments and race date allocations for the racing industry at the same time as operating as a race club. The Temby recommendations resulted in the creation of what is now known as Racing NSW as an independent body. Since then several changes have been made to the arrangements for the structure of Racing NSW and to the manner in which members are appointed to improve the governance model and to ensure

contemporary, best practice governance in the spirit of continuous improvement.

The bill before the House has come about in part from concern that the existing eligibility arrangements for membership of Racing NSW are not suited to ensuring that its members are able to comply with the duty to act in the public interest and in the interests of the horse racing industry as a whole in New South Wales. For some time I have had my own concerns about whether, under the current arrangements, Racing NSW can operate effectively and meet its statutory duty to the racing industry and to the public. A number of pressing challenges are facing the racing industry, such as the ongoing race fields information usage fee issue, the major redevelopment of Randwick and Rosehill racecourses and the unprecedented competition for the entertainment dollar. It is questionable whether the Racing NSW membership of five is sufficient to manage the workload—I am referring to its size and to the range of skills—to undertake the many reforms that are necessary to ensure the future viability and sustainable economic development of the thoroughbred racing industry. The bill leaves intact the business and skills criteria provisions for appointment as a member of Racing NSW, but strengthens the eligibility and disclosure and management of pecuniary interest requirements to minimise the influence of factional and personal interests as a basis for decision making. The bill also retains the independent selection panel process but amends its procedure.

Under the current arrangements persons are not eligible for appointment if they are employees of a race club or racing association, or if they are members of the governing body of a race club or eligible industry body. However, the Act is silent on the operative date of effect, and the practice has been that the prohibition applies at the time of appointment. This arrangement does not afford sufficient separation from the interests and influences of a former role within the industry and the duty of an independent member of Racing NSW. Under the proposed new arrangements the eligibility requirements for appointment to Racing NSW will provide that persons are not eligible for appointment if they are currently, or during the past 12 months have been, either employees or members of a governing body of a race club, racing association or eligible industry body as defined in the Act. The 12-month separation period is considered appropriate and is likely to become the benchmark for appointments to other independent boards established by legislation.

The new provisions will also expressly prohibit membership of Racing NSW if the independent selection panel forms the view that an applicant has a direct or indirect pecuniary interest that is considered to be a conflict of interest which is incompatible with membership of Racing NSW. Examples of conflicts of interest which would be incompatible are already set out in section 21 of the Act—that is, being a member, partner, employee of a specified company, body or person, or having some other specified interest relating to a specified company, body or person. This concept will be extended to cover any direct or indirect pecuniary interests that members may acquire or that may become apparent following their appointment as members. As currently occurs, a member will be required to disclose any direct or indirect pecuniary interest in a matter to be considered at a meeting of Racing NSW. In the past, such conflicts of interest were left to the board to manage and determine whether the member should participate in the consideration of an issue. However, under the proposed amendments, a member will be prohibited from participating in the consideration of that matter. Should a serious conflict of interest exist the Minister may ask that the member show cause why his or her appointment should not be terminated.

These amendments will ensure that self-interest is, and is seen to be, eliminated and that consequently board decision-making is made in the best interests of the whole of the thoroughbred racing industry and the public interest. Currently, the selection panel is limited

to recommending appointees for the precise number of vacancies on the board. Under the new provisions the selection panel will be required to provide a list of recommended appointees that exceeds the number of vacancies so as to enable the Minister to make a selection. This arrangement gives the Minister greater purview over the appointment process and, coupled with the expansion of the board from five to seven members, reflects the need to broaden the skill base of the board and allows for the appointment of the best available talent. Similarly, the selection panel will be required to provide a list of eligible appointees for the Minister's consideration for appointment to the positions of chairperson and deputy chairperson. While it is appreciated that Racing NSW is independent of government, the appointment of the chair and deputy chair by the Minister will provide for stability and allow Racing NSW to focus on its statutory responsibilities to the racing industry and to the public.

The bill also provides that the selection panel will continue to be able to make recommendations concerning the term of office for which a person is to be appointed. However, this would not be binding on the Minister as is presently the case. Given the concerns about the existing arrangements, the bill provides that the terms of existing appointees be terminated and that a fresh appointment process be undertaken, with existing appointees eligible to reapply under the new arrangements. The current appointees are Chairperson Alan Bell, Deputy Chairperson Alan Brown, Mr Ken Brown, AM, Ms Kim Harding and Mr Arthur Inglis. To provide for business and governance continuity, appropriate transitional arrangements have been included so that all existing Racing NSW members continue in office—under caretaker provisions—until such time as the fresh selection process is undertaken and new appointments are made. The proposed amendments are intended to provide for the future viability and growth of the New South Wales thoroughbred racing industry. A strong, viable industry will continue to provide an economic benefit to the State generally and to regional and rural communities in particular. The Government has the prerogative to ensure that the legislation is appropriate in its policy objectives, reflects current best practice and meets community expectations. I commend the bill to the House.