

INQUIRY INTO GREYHOUND RACING IN NSW

Organisations: Greyhound Racing NSW
NSW Greyhound Breeders Owners and Trainers Association
Metropolitan and Provincial Greyhound Clubs Association
Greyhound Racing Clubs Association
Greyhound Action Group

Date received: 6/11/2013

Legislative Council Select Committee On

Greyhound Racing in NSW

Submission Addressing Terms of Reference Items

1 a), 1 b) and 1 c).

United for our Industry's future

 <p>GREYHOUND RACING NSW</p>	 <p>N.S.W. GREYHOUND BREEDERS OWNERS & TRAINERS ASSOCIATION</p>	<p><i>Metropolitan & Greyhound Provincial Racing Greyhound Clubs Clubs Association Association</i></p>
 <p>+</p>	<p>GREYHOUND ACTION GROUP NSW Inc.</p> 	

1. Introduction

The New South Wales (“NSW”) Greyhound Racing Industry welcomes the opportunity to provide a submission to the NSW Legislative Council Select Committee Inquiry into Greyhound Racing in NSW with respect to the financial viability and sustainability of the industry.

This submission is made on behalf of both Greyhound Racing New South Wales (“GRNSW”), the controlling body of the sport under the *Greyhound Racing Act 2009*, but also the following principal industry associations:

- a) the NSW Greyhound Breeders Owners and Trainers Association (“GBOTA”): the GBOTA provides services and excellence of knowledge to the Greyhound community including breeders, owners and trainers including the management and coordination of race meetings across the State;
- b) the Metropolitan and Provincial Greyhound Clubs Association (“MPGCA”): the MPGCA is the representative association of all TAB clubs operating in NSW;
- c) the Greyhound Racing Clubs Association (“GRCA”): the GRCA is the representative association of all non-TAB clubs in NSW; and
- d) the Greyhound Action Group (“AG”): the AG was formed to represent greyhound racing participants in the fight for our fair share.

The above five parties have **united for our Industry’s future**. The parties are referred to in this submission as the “Greyhound Industry” of NSW.

The Greyhound Industry understands that the NSW Government has established a parliamentary committee with terms of reference to inquire into greyhound racing in NSW in order to investigate the economic viability of the industry and other relevant matters.

Please direct any inquiries regarding this submission including any requests for further information to Brent Hogan, Chief Executive, GRNSW

2. Terms of Reference

This submission addresses the following terms of reference:

- a) the economic viability of the greyhound racing industry in NSW;
- b) the financial performance and conduct of the industry and of Greyhound Racing NSW including comparison to other States of Australia; and
- c) Government initiatives and assistance measures to support the industry and comparison of assistance to other codes.

Inquiry into greyhound racing in NSW **Greyhound Industry Submission**

The approach taken in this submission is to present a clear proposition upon which the submission is based and then an argument supporting the proposition which leads incontrovertibly to an apposite solution for the Parliamentary Inquiry to consider and act upon.

3. Proposition

We submit the following proposition to the Inquiry for consideration and remedy:

In 1997 the government failed to undertake reasonable due diligence prior to the privatisation and sale of the TAB or take apposite steps after the sale to ensure funding and other arrangements for the racing industry met its obligations to the Parliament of NSW for supporting legislation to sell the TAB in regard to it placing the NSW Racing Industry on a financial basis that would give it a sustainable long term future.

We contend that the Parliament has an obligation to ensure legislation it passes is fit for purpose and fulfils the intent for which it was proposed.

4. Background

4.1 Economic contribution of the NSW greyhound industry

In 2010 GRNSW engaged Access Economics¹ to conduct an independent study to determine the size, scope and economic contribution of the NSW greyhound racing industry to the NSW economy. Key findings of that study include:

- In FY2010 the total economic contribution of the greyhound racing industry in NSW was estimated to be \$144.2 million dollars. This comprised a direct economic contribution of \$92.3 million and an indirect contribution of \$51.9 million.
- Total employment by the industry was estimated to be 1,561 full time equivalents (FTE): 1,086 FTEs directly and 475 FTEs indirectly.
- Over 13,000 participants were involved in: owning, breeding and training greyhounds; organising the tracks and race meetings; and, administering the sport (often on a volunteer basis).
- Volunteering plays a large role in the industry and during FY2010 the unpaid time invested by trainers in the sport was conservatively estimated to be worth \$40 million.
- The economic contribution of wagering on greyhounds in FY2010 was \$31 million.

¹ Access Economics: Independent study to determine the size, scope and economic contribution of the NSW greyhound racing industry to the NSW economy

Inquiry into greyhound racing in NSW Greyhound Industry Submission

- The sport generates significant direct economic value and flow-on benefits for other sectors of the economy.
- The industry contributed \$52 million dollars in flow-on economic benefits in FY2010, the majority of which is generated through breeding (\$24.4 million) and training (\$12 million) activities.

The following table details the economic contribution by region:

Table ii: Direct contribution by region, FY2010

	Breeding		Training		Tracks		Wagering		GRNSW		Total	
	Value add (\$m)	FTE	Value add (\$m)	FTE	Value add (\$m)	FTE	Value add (\$m)	FTE	Value add (\$m)	FTE	Value add (\$m)	FTE
Central West	3.0	39	1.1	14	0.5	12	1.2	7	-	-	5.8	72
Hunter Region	5.0	66	2.2	28	0.6	12	2.5	15	-	-	10.3	120
Illawarra	1.6	21	0.7	10	0.3	7	1.0	6	-	-	3.8	43
Mid North Coast	2.2	29	1.3	17	0.6	9	0.3	2	-	-	4.4	57
Murray	0.1	2	0.0	0	-	-	-	-	-	-	0.1	2
Murrumbidgee	1.7	22	0.8	10	0.1	4	0.3	2	-	-	2.9	37
Newcastle	0.2	2	0.3	4	1.1	27	4.4	25	-	-	6.0	59
North West	1.9	24	1.0	13	0.3	6	0.2	1	-	-	3.3	44
Northern	1.0	13	1.1	14	0.2	4	0.1	0	-	-	2.4	32
Richmond Tweed	3.1	40	1.4	19	1.2	27	3.8	22	-	-	9.5	108
South Eastern	2.1	28	0.7	9	0.2	3	0.0	0	-	-	3.0	40
Sydney	8.4	109	4.5	58	5.2	120	12.5	72	2.9	42	33.4	401
Wollongong	0.9	12	0.4	5	1.3	26	4.7	27	-	-	7.3	70
Total	31.3	407	15.4	201	11.7	257	31.0	179	2.9	42	92.3	1,086

Source: Access Economics

Note: FTE is the direct full time equivalent employment in the greyhound industry.

4.2 Snapshot of the NSW Greyhound Industry

The following provides a short summary of the current position of the NSW greyhound racing industry:

- Currently delivers 20% of TAB Wagering Revenue.
- Is paid for 13% of Wagering Revenue for a 99-year term via RDA and Inter-Code Agreements.
- Is paid for 597 races under RDA but currently runs 930 per annum.
- A fundamental flaw exists in the Industry funding model in that there is no correlation between Greyhound Industry performance and the flow of money back from wagering via RDA and Inter-Code Agreement into GRNSW for prizemoney and industry development.

Inquiry into greyhound racing in NSW **Greyhound Industry Submission**

- The Industry's commercial funding model relies on a wagering supply chain dependant on all three codes and TAB which is 'locked in' for next 99 years.
- Greyhounds have subsidised other racing codes by \$154m since 1998.
- Participants race for a total pool of \$23 million in prize money which is approximately \$14m less than in Victoria while on a wagering turnover and market share basis NSW currently matches Victoria.
- NSW costs and prize money uncompetitive with other States.
- NSW has 34 Metropolitan & Country Racetracks (more than twice that of Victoria).
- The Industry cannot meet Racetracks needs for capital and maintenance.
- Increasing risks of compliance with OH&S, Workcover, and Public Liability.
- Increasing regulatory pressures and costs in many other areas.
- In 2008 the Cameron Inquiry concluded the Greyhound Industry was uncompetitive and unsustainable.
- GRNSW advised Minister for Racing in January 2013 that we "have two years to act and envision a more dynamic and sustainable business model as we will not have the financial capacity to continue to fund the current level of industry expenditure thereafter".
- In November 2013 the 'NSW Greyhound Industry' confirms to the Inquiry that it is unviable in the short to medium term and unsustainable in the long term.
- A number of NSW Greyhound Industry participants are already racing more often in Victoria with some now reportedly contemplating transferring their entire operations to Victoria where there is higher prizemoney and more other forms of support for participants due to the more appropriate funding arrangements in that State.

4.3 Privatisation of the NSW TAB

In 1997 legislation passed through the lower and upper houses of NSW Parliament effectively enabling the privatisation and sale of the NSW TAB. Subsequent amendments to legislation enabling the sale of the TAB were also presented and passed by the Parliament of NSW.

The first of three conditions proposed by the Government of the day for of the sale of TAB, which clearly enunciated its intent towards the racing industry and no doubt contributed to winning support in both the Lower and Upper houses of Parliament for the privatisation and sale of TAB was:

“To place the NSW Racing Industry on a financial basis that would give it a sustainable long term future”²

It should also be noted that the key points made by the Government in regard to the above intent under this reform priority were:

- wagering tax rate to be reduced to a level equivalent to that which applies in Victoria;
- a financial arrangement between the TAB and the racing industry that links increases in income for the racing industry to improvements in its performance, measured in terms of increased TAB income from wagering; and
- specifically, the Memorandum of Understanding between the Government and the Racing Industry will include an agreement which sets the baseline for industry income at \$165m with any additional support above those levels determined by the condition of achieving a reserve price in the order of \$1,200m (plus an amount, to be determined, representing the value of the State Wide Linked Jackpots System and Central Monitoring System products), being met.

The degree to which the Government ensured these key points were met in the reform of the Racing Industry may be debated. It is however the Greyhound Industry’s view that these targets were not adequately addressed prior to the sale of the TAB or subsequently.

4.4 Industry Funding Model

Industry revenues are materially derived from the wagering market either as a result of the arrangements with TAB Limited provided for in the Racing Distribution Agreement (“RDA”) or from Race Fields Information Use (“RFIU”) revenue from Australian wagering operators as enabled by the Racing Administration Act 1998. Revenue received under the RDA is commonly referred to as TAB Distributions.

4.4.1 TAB Distributions

In FY 2013, 82% of industry wagering revenue was earned under the RDA arrangements.

4.4.1.1 Legal Foundations

Since the privatisation of the NSW TAB, the contractual relationship between the NSW racing industry and TAB Limited has been governed by a 99 year contract known as the RDA. The Agreement has the following key features, it:

² Performance Audit Report: Sale of TAB, 1998 – The Audit Office of New South Wales, Page 77

Inquiry into greyhound racing in NSW Greyhound Industry Submission

- I. Defines the minimum program of race meetings to be conducted by the NSW racing industry and to be covered by TAB Limited;
- II. Defines fees due to the racing industry for the provision of the racing product; and
- III. Establishes governance arrangements including the Business & Strategy Committee and the Racing Products Committee.

The distribution of TAB funds between codes is governed by the 99 year Inter-Code Agreement. Under this agreement, TAB funding is essentially distributed between the codes on fixed percentages with 13% being received by the greyhound industry. This arrangement was put into place in 1998 as part of the privatisation of the TAB and is also in force for 99 years. Outside of the distribution of TAB funds, the Inter-Code Agreement provides for the establishment of Racingcorp.

4.4.1.2 Components of TAB Distributions

Payments by TAB Limited under the RDA fall into the following categories:

Product Fee	21.9965% of Net Wagering Revenue with respect to pari-mutuel betting (33% of the Product Fee within 3 days of the of the event, the remainder is paid within 3 days of the end of the quarter).
Fixed Product Fee	An amount of \$12m, annually adjusted for CPI since 2008, relating to Racingcorp's support of the Tabcorp takeover of TAB Limited.
Fixed Odds Product Fee	21.9965% of the Fixed Odds Revenue paid within 20 days after the end of each half year.
Wagering Incentive Fee (WIF)	25% of Wagering Earnings, payable after the end of each half year.
Trackside WIF	25% of Trackside Earnings, payable after the end of each half year.

4.4.1.3 Issues

Issues impacting on this revenue include:

- **Competition:** corporate bookmaker migration will continue to increase given the continual consumer shift to e-commerce. This is accentuated by increased involvement of global players such as Paddy Power, William Hill and Bet365 given the product breadth and best-of-breed technology platforms the foreign entities bring to the Australian market;

- **Mobile threat:** proliferation of mobile technology to result in increased competition in the core TAB business of pub and club wagering, as it continues to become easier to wager offsite;
- **Cash payments in decline:** migration away from cash to non-cash transactions erodes value of cash exclusivity and hence TAB turnover;
- **Sports migration:** Migration away from racing to sports erodes RDA revenues as no product fees are payable on sports betting, RDA provides only for 25% of the profits;
- **Fixed odds migration:** TAB introduction of fixed odds race betting to counter competition and product offering of corporate bookmakers is resulting in migration away from pari-mutuel turnover to fixed odds turnover which operates on a smaller profit margin.

4.4.2 Race Fields Revenue

RFIU revenue represented 18% of greyhound industry wagering revenue in 2013 and is forecast to represent between 24 and 28% of industry revenue by 2016.

4.4.2.1 Legislative Base

Commonly referred to as the 'Race Fields Legislation', amendments to the *Racing Administration Act* 1998 (see Division 3) and the associated *Racing Administration Regulation* 2012 introduced a scheme by which all wagering operators wishing to use NSW race field information are required to obtain a Race Field Information Use ("RFIU") Approval from the relevant controlling body.

The regime allows GRNSW to impose as a condition of use a fee that does not exceed 1.5% of the Approval Holder's wagering turnover that relates to the races subject of the RFIU Approval. The Regulations also allow GRNSW to impose conditions that specify the:

- I. duration of the Approval;
- II. manner of use of the race field information;
- III. events that must be notified to GRNSW relating to the corporate affairs of the Approval Holder;
- IV. Audit rights and requirements of GRNSW;

- V. Reporting requirements of the Approval Holder; and
- VI. Obligations of the Approval Holder as they relate to the preservation of the integrity and the reputation of greyhound racing.

GRNSW RFIU Approvals are issued on a financial year basis allowing GRNSW to consider changes to its fee and conditions regime annually.

4.4.2.2 GRNSW Approach to Fees

GRNSW charges fees on all Australian wagering operators fielding on NSW greyhound races on the lesser of 1.5% of turnover and 15% of gross margin. Gross margin can be simply understood as a wagering operator's sales on a particular race less punter winnings on that same race.

The inclusion of a turnover element in the calculation is necessary as the race fields legislation places a cap on the fees that GRNSW can charge, that cap is 1.5% of turnover.

4.5 Inequity of the current TAB funding model

The Greyhound Industry is confident that there is a general consensus that there is a fundamental flaw in the funding model which makes the greyhound industry unviable and unsustainable. This fundamental flaw in the funding model is arguably an outcome of the lack of foresight and commercial skills of Greyhound Industry's own negotiation team at the time that the RDA and Inter-Code agreements were struck in 1997. However, it might be fair to add that the environment in which these agreements were struck was not a commercially level playing field with representatives of the Greyhound industry having less bargaining power than their counterparts in other codes.

The current disincentive inherent in the existing commercial agreements for the other two codes to redress the flaw is now an issue as is an inability of previous reviews presented to government to create an imperative for change which might provide a sensible a remedy to fix the commercial flaws.

The funding of all three codes of racing is dependent upon a commercial framework which incorporates wagering with the TAB within a taxation regime set by Government which then enables a flow of money to be distributed by the TAB to the three codes of the racing industry.

As the other two codes are being materially subsidized by the greyhound industry it is fair to assume that there is no will or motivation for them to reconsider changes to the Inter-Code Agreement, such as moving to a performance based split of the TAB

Inquiry into greyhound racing in NSW
Greyhound Industry Submission

funding distribution. While the greyhound industry receives 13% of the distribution based on the Inter-Code Agreement it contributes over 20%. To date this means the greyhound industry has subsidised the other two codes of racing to the tune of approximately \$154 million over the past 16 years.

Greyhound Subsidisation of Thoroughbred & Harness Racing

	Gallops	Trots	Greyhounds
	\$000	\$000	\$000
1997/1998	(830)	(2,430)	3,261
1998/1999	(5,010)	(2,839)	7,849
1999/2000	(4,116)	(2,425)	6,541
2000/2001	(5,039)	(1,357)	6,396
2001/2002	(6,260)	(1,743)	8,003
2002/2003	(6,431)	(1,435)	7,866
2003/2004	(7,934)	(1,282)	9,215
2004/2005	(9,346)	(222)	9,568
2005/2006	(6,505)	(2,050)	8,555
2006/2007	(5,220)	(1,468)	6,688
2007/2008	(12,516)	(5,987)	18,503
2008/2009	(6,084)	(2,909)	8,992
2009/2010	(5,403)	(3,994)	9,397
2010/2011	(8,721)	(5,731)	14,452
2011/2012	(7,067)	(7,013)	14,080
2012/2013	(7,587)	(6,771)	14,357
Total	(104,069)	(49,656)	153,725

It should be obvious that this situation is not only unfair, it is unsustainable.

The Greyhound Industry accepts the fact that both the RDA and the Inter-Code agreements are legally binding

While the Greyhound Industry accepts that the commercial agreements are legally binding it does not accept either that such a commercially inequitable situation should remain so going forward or that the Government does not have a duty to remedy the current situation. As an overriding principle, the Government should adopt a philosophy that the long term financial viability of the racing industry is dependent on it having the ability to and being incentivised to compete on at least equal terms to other jurisdictions in the national market. This involves embracing a culture of promoting and rewarding innovation, growth and performance, as was intended in 1997³.

4.6 The economic viability of the NSW greyhound racing industry

A significant tome of well researched evidence was presented in 2008 by the Cameron Inquiry⁴ into the NSW Greyhound industry that supports the Greyhound Industry's view that the Industry is not competitive with other States in Australia with

³ Performance Audit Report: Sale of TAB, 1998 – The Audit Office of New South Wales, Page 77

⁴ Correct Weight? A Review of wagering and future sustainability of the NSW racing industry by Alan Cameron, 1998

Inquiry into greyhound racing in NSW **Greyhound Industry Submission**

regards to its cost structure for participants and available prize money. Further there is little in either the current commercial or regulatory frameworks approved by government to date which might act as a catalyst to encourage industry development.

GRNSW advised the Minister for Racing in January 2013 that we “have two years to act and envision a more dynamic and sustainable business model as we will not have the financial capacity to continue to fund the current level of industry expenditure thereafter”. For example, there is a network of 35 clubs and racetracks across metropolitan and country NSW with many either in need of capital for renewals and enhancements which cannot be funded from the many barely surviving Clubs nor can it be adequately provided for by GRNSW within already stretched current funding. Victoria by comparison has a vibrant greyhound industry⁵ whilst the Greyhound industry in NSW is not viable in the short to medium term and is far from sustainable in the long term. A number of NSW Greyhound Industry participants are already racing more often in Victoria with some now reportedly contemplating transferring their entire operations to Victoria where there is higher prizemoney and more other forms of support for participants.

The Greyhound Industry in NSW is not competitive or viable in its current form. Whilst the industry is likely to continue in some form, up to half of the clubs and tracks across the State may need to close in the next five to ten years in order to retain a level of viability for the industry.

4.7 Government initiatives and assistance measures to support the industry

4.7.1 Government Assistance

The NSW Government has historically provided low level financial and non-financial assistance to GRNSW. Small financial investments have been made through the Country Racing Fund and various government departments via education and training initiatives. With respect to non-financial assistance, the NSW Government has helped amend the legislation for Greenhounds, however dismissed other requests, such as removing the Race Fields Information Use fee cap in the *Racing Administration Regulation 2012*.

Commonly referred to as the ‘Race Fields Legislation’, amendments to the *Racing Administration Act 1998* and the associated *Racing Administration Regulation 2012* introduced a scheme by which all wagering operators wishing to use NSW race field information are required to obtain a Race Field Information Use (RFIU) Approval from the relevant controlling body.

⁵ <http://www.premier.vic.gov.au/media-centre/media-releases/8107-victorian-greyhound-racing-industry-powering-ahead.html>

Inquiry into greyhound racing in NSW **Greyhound Industry Submission**

The regime allows GRNSW to impose as a condition of use a fee that does not exceed 1.5% of the Approval Holder's wagering turnover that relates to the races subject of the RFIU Approval.

There is no legal impediment to the government amending the regulation to allow the removal of the RFIU fee cap. GRNSW sought Queens Council advice on the issue from Mr. David Jackson AM QC and Gary Rich who opined as follows:

"So far as the No Cap Proposal is concerned, our view is that the mere removal of the 1.5% Cap would neither increase nor reduce the prospects of a successful challenge founded on s 92 of the Constitution. The fact that there was no longer an upper limit on the fees that may be imposed would not, of itself, increase or decrease the burdens borne by interstate traders relative to their intrastate competitors.

Again, it is possible that GRNSW will purport to impose fees that are structured or applied in such a way that they do contravene s 92 of the Constitution, or indeed some other law. However, the same possibility exists today. Removing the 1.5% Cap will not make it any more or less likely that the fees actually imposed by GRNSW will discriminate against interstate trade in a protectionist sense."

GRNSW has approached the former and current NSW Government to amend the legislation to remove the cap that applies to race fields fees collected by GRNSW or to include in the cap a measure of gross margin. This would also allow GRNSW to receive the full benefit of its gross margin cost model, which is not the case with a cap in place. These approaches have not met with success.

History shows us that the NSW greyhound industry cannot rely on the NSW Government for any type of significant investment or funding for infrastructure or other projects. As a result there is a need to plan for infrastructure renewals and projects independently of government.

GRNSW has been forced to dig deep into the industry's resources over recent years to fund a number of critical infrastructure projects. For example, GRNSW has fully funded the development of its new information technology system 'OzChase' without any support from the NSW Government, providing critical IT infrastructure for the sport.

4.7.2 Country Racing Fund

GRNSW has received minimal funding from the NSW Government over the past 10 years, relative to the financial support provided by the NSW Government to thoroughbred racing.

In September 2011, as part of the 2011/12 Budget, the NSW Government announced the establishment of the Country Racing Fund. This included \$5 million over two years to help secure the future of country race tracks in NSW.

Inquiry into greyhound racing in NSW **Greyhound Industry Submission**

The \$5 million fund supports capital improvements such as new safety railings at individual country thoroughbred, harness and greyhound racing clubs and tracks.

The funds are distributed in accordance with the proportion of each code's total country contribution to wagering in NSW during 2010/11. GRNSW received approximately \$1 million from the Country Racing Fund.

The lack of government assistance in contrast to other codes and states presents a serious challenge to GRNSW's ability to remain competitive with the other greyhound jurisdictions.

4.7.3 NSW Thoroughbred Racing Industry

To put the funding position of GRNSW into perspective, a comparison with NSW thoroughbred racing is pertinent. In 2010, the NSW Government announced up to \$174 million in funding for thoroughbred racing in NSW for major upgrades to the Rosehill and Randwick Racecourses. This followed the merger of the Australian Jockey Club and Sydney Turf Club.

The \$174 million funding package included a grant of \$24 million for the merged race club entity to fund renovation and infrastructure improvements at Rosehill Gardens, including:

- Refurbishment and alterations to the Fleming Stand on all levels;
- Vehicular access bridge and tunnel link to an infield carpark;
- New main entry and pedestrian railway bridge from James Ruse Drive;
- New pedestrian bridge over James Ruse Drive; and
- Demountable infield concert stage and infrastructure and a new infield screen.

The other element of the package included the establishment of a Thoroughbred Racing Development Fund, which allowed the thoroughbred racing industry to secure a \$150 million loan. The loan will fund the redevelopment of Royal Randwick Racecourse, delivering:

- Two new state-of-the-art grandstands; and
- A new 4,500 seat multi-purpose parade ring.

A proportion of revenue from the simulated racing game Trackside will be paid into the fund. Based on TAB projections and with the inclusion of a proportion of NSW Government wagering taxes, this is expected to amount to around \$12 million a year (after three years) which will fund loan repayments.

Revenue from the fund is administered in accordance with a Deed of Arrangement executed between the Minister for Racing, Racing NSW, Tabcorp and the Australian Turf Club.

Inquiry into greyhound racing in NSW

Greyhound Industry Submission

Other racing jurisdictions receive extensive financial support from their respective governments, enabling them to invest more in infrastructure, industry related initiatives, integrity services and helping their participants.

4.7.4 Victorian Greyhound Racing Industry

Greyhound Racing Victoria (GRV) has received funding over \$10.5 million from the Victorian Government since 2010 for various track re-developments across the state.

In addition to this funding, the Victorian Government committed \$1 million, over four years in its 2011/12 Budget, to GRV's Greyhound Adoption Program.

In March 2012, the Victorian Government committed a further \$1.55 million over four years from the Victorian Racing Industry Fund⁶ for new incentives in the Greyhound Owners and Breeders Incentive Scheme.

From 16 August 2012, the wagering tax rate in Victoria was reduced from 19.11 per cent to 7.6 per cent, as part of the arrangements for the new Wagering and Betting Licence. The equivalent tax rate in NSW is 19.11 per cent.

4.7.5 Queensland Racing Industry

The Queensland Government introduced and passed the *Racing and Other Legislation Amendment Bill 2010* in April 2010. The Bill amended the *Racing Act 2002*, the *Wagering Act 1998*, and the *Gaming Machine Act 1991*.

Amendments to the *Wagering Act 1998* will provide for wagering tax revenue to be paid into a Community Investment Fund and an amendment to the *Gaming Machine Act 1991* will provide for money in the Community Investment Fund to be used for the development scheme capital works programs outlined in the industry infrastructure plan.

The fund will provide the industry with approximately \$110 million in funding for capital works to assist in the maintenance of the industry's existing assets and infrastructure, and to fund significant necessary capital improvements.

⁶ The \$79.5 million Victorian Racing Industry Fund provides grants to the Victorian racing industry for improvements at racing and training venues and for selected programs designed to further stimulate industry growth and development.

4.7.6 Western Australian Racing Industry

In 2010, the Western Australia (WA) Government provided the racing industry with funding of \$13 million for racecourse infrastructure, over five years, through the Racecourse Infrastructure Grants Program. The aim of the program is to support the establishment or improvement of infrastructure that is critical to the conduct of racing and/or training activities in both metropolitan and regional WA, across all three codes of racing. Race clubs, official training centres and allied bodies across the state are entitled to make application for funding under the program.

The WA Government has also provided funding to the racing industry through its Royalties for Regions program, including:

- \$6.6 million in racecourse infrastructure funding to assist regional race clubs to complete major projects critical to the conduct of racing and to meet Work, Health and Safety standards; and
- Support for country racing carnivals to fund statewide and national marketing and peripheral activities, such as on-course entertainment.

In addition to the above funding provided through programs, the WA Government introduced changes to wagering tax in the 2007/08 financial year, delivering \$11 million in tax savings to the industry each year.

5. Current Situation

The Greyhound Industry is of a view that members of the Inquiry must form a view about the current sustainability and future viability of the Racing industry.

The Greyhound Industry view is the relative health of the industry has already been extensively analysed by others. It is however worth noting that:

In 2008 the Cameron Inquiry concluded our Industry was uncompetitive and unsustainable⁷.

GRNSW advised the Minister for Racing in January 2013 that we “have two years to act and envision a more dynamic and sustainable business model as we will not have the financial capacity to continue to fund the current level of industry expenditure thereafter”.

The Greyhound Industry has now formed a strong and collective view that;

The greyhound industry in NSW is unviable in the short to medium term and unsustainable in the long term

The implication of this view has logically led the Greyhound Industry to unite in its efforts to request the Inquiry to consider what the implications are and for whom, if our view is correct.

As an overview, the Greyhound Industry submits that if the commercial landscape in this code is left as it is then the Industry will inevitably need to be structurally reformed to survive or it may collapse. It may take a number of years but it will collapse without significant structural reform.

The Greyhound Industry considers such a collapse might well harm both the Thoroughbred and Harness codes as well. This conclusion is based on our view that the greyhound industry will inevitably continue to deteriorate and eventually may breach its minimum supply obligations under the RDA. If this occurs then it may also lead to significant acceleration of the downturn in wagering revenues for the TAB and likewise diminishing taxation revenues for the government.

While the Greyhound Industry does not have the resources alone to model the implication on wagering revenues and taxation revenues for the Government of this dire scenario, we do however believe this would be an action for TAB and Treasury of NSW to work with us on. The Greyhound industry would welcome these key stakeholders to pursue detailed planning with us to fully understand the implication for all parties, if our dire scenario was to eventuate.

⁷ Correct Weight? A Review of wagering and future sustainability of the NSW racing industry by Alan Cameron, 1998

If one code of Racing collapses, whether it be the Greyhounds or either of the Thoroughbred or Harness Industries, for any reason, the entire racing industry may become unviable because of the intrinsic reliance of all three codes on the commercial and taxation frameworks inherent in the RDA and Inter-Code Agreements.

In such a scenario the NSW Racing Industry would be viewed in an extremely poor light both nationally and internationally from which recovery to long term sustainability would be difficult to engineer, if at all possible.

One aspect of change that GRNSW has already done a significant amount of work on is the positive impact of amending Clause 16(2)(a) of the *Racing Administration Regulation 2012* with respect to the setting of fees for wagering operators under the race fields legislation. At present the Regulation does not allow a fee that exceeds 1.5% of an approval holder's wagering turnover as it relates to NSW greyhound racing. GRNSW has estimated that the removal of the cap allowing GRNSW to enjoy the full benefit of its current fee regime would result in profit enhancement of \$5.5 million per annum. This initiative had been considered and rejected by government in the past but we consider it has merit in the current context of this Inquiry's terms of reference.

The Greyhound industry requests the Inquiry to form a view on whether the government in 1997 made apposite inquiry and took reasonable action to fulfil its intent to create a sustainable racing industry, at that time.

Further because the Inter-Code Agreement is a 99 year agreement the second request is that the Inquiry forms a view on whether the government of the day in 1997 ensured that there were adequate measurement and reporting mechanisms within the commercial arrangements it used as a key condition precedent and trigger for TAB to be privatised to enable proper and unbiased checks and balances on the health of the racing industry in order to determine whether it was indeed viable and sustainable for the long term.

Lastly, the Greyhound Industry believes the Inquiry should form a view as to whether in the advent the government of the day in 1997 failed to meet its intent and therefore its obligation to the Parliament of New South Wales that the government of today has an obligation to remedy this failure.

6. Conclusions

The Greyhound Industry has formed its own view on the proposition submitted to the Parliamentary Inquiry. The Inquiry must also form a view on this matter because the principle upon which we have presented this proposition is of the utmost importance as a basis upon which the people of New South Wales can have faith in the Westminster System of Government. Regardless of the subject of legislation Parliament has an obligation to ensure it is fit for purpose and fulfils the intent upon which it was proposed.

In the event the Parliamentary Inquiry supports the Greyhound Industry's proposition then there is a duty to find a remedy. The remedies recommended include:

- 1. Government provide a capital injection to the Greyhound Industry equal to the \$154 million loss that the greyhound industry has sustained due to the government's failure in 1997 to meet its intent to sustainably reform the racing industry and its obligations to Parliament;**
- 2. The \$154 million capital injection be funded by applying a differential tax rate of 0% from wagering on greyhounds until such time as the Net Present Value (NPV) of the \$154 million is returned to the Greyhound Industry;**
- 3. After the Greyhound Industry receives its remedy on the current capital loss it is proposed that the tax rate be increased to a level which allows for the percentage return to the Greyhound Industry to equal the actual percentage contribution to wagering revenues that the Greyhound Industry makes at that time, with the current level of 13% being a floor; and**
- 4. Government remove the Race Fields Levy Cap (currently equal to 1.5% of turnover) to enable Greyhound Industry (and other racing industry codes) to use market forces to determine the appropriate contribution from corporate bookmakers to racing codes for access to product.**

Note: Financial implications of each remedy are provided in the appendices to this submission.

7. Benefits

The above proposal will not harm the TAB or the other two codes of racing. The Greyhound Industry considers it will in fact benefit the other two code of racing, and TAB wagering, dramatically improve the greyhound industry and provide a funding pathway to reinvigorate the issues being considered elsewhere by the Inquiry.

Specifically the benefits of the proposed remedy are:

- 1. No RDA or Inter-Code change implications;**
- 2. Funded by:**
 - a. 'Temporary' tax stream reductions; and**
 - b. A Regulatory amendment to the Race Fields levy cap which has no effect on Government Taxation Income;**
- 3. The remedy is a "stimulus package" effectively funded by punters via temporary tax forgone by government to save the greyhound Industry;**
- 4. Ultimately, eliminates risks and increases opportunities for a healthy sustainable racing industry in NSW which benefits key stakeholders including the Government, TAB, all codes of racing and all participants in the Greyhound Industry.**

Appendix: Financial Modelling of Greyhound Industry Remedy

The \$154 million capital injection is funded by applying a differential tax rate of 0% from wagering on greyhounds until such time as the Net Present Value (NPV) of the \$154 million is returned to the Greyhound Industry.

State gambling tax revenue derived from NSW TAB betting on greyhound racing in FY13	\$30,656,367
Revenue lost to the NSW greyhound racing industry since privatisation	\$153,725,000
Number of years to recover lost revenue	5

After the Greyhound Industry receives its remedy on the current capital loss it is proposed that the tax rate be increased to a level which allows for the percentage return to the Greyhound Industry to equal the actual percentage contribution to wagering revenues that the Greyhound Industry makes at that time, with the current level of 13% being a floor.

TAB distributions received by NSW greyhound industry in FY13 (13%)	\$31,101,000
TAB distributions that would have been received by NSW greyhound industry in FY13 if based on market share (19.6%)	\$45,458,000
Lost revenue in FY13	\$14,357,000
Component of State gambling tax that would be forgone to make good the greyhound racing industry	47%

Inquiry into greyhound racing in NSW
Greyhound Industry Submission

Government remove the Race Fields Levy Cap (currently equal to 1.5% of turnover) to enable Greyhound Industry (and other racing industry codes) to use market forces to determine the appropriate contribution from corporate bookmakers to racing codes for access to product

Race fields Information Use fees received by GRNSW based on current fee policy and the legislative cap	9,563,776
Race fields Information Use fees that would be received by GRNSW with its current fee policy <u>if the cap was removed</u>	15,079,634
Incremental benefit to GRNSW	5,515,858

* Based on actual sales and revenue data for FY13, applying the FY14 fee model

Inquiry into greyhound racing in NSW
Greyhound Industry Submission

Attachments:

Access Economics: Independent study to determine the size, scope and economic contribution of the NSW greyhound racing industry to the NSW economy.

Performance Audit Report: Sale of TAB, 1998 – The Audit Office of New South Wales.

Correct Weight? A Review of wagering and future sustainability of the NSW racing industry by Alan Cameron, 1998.