

**Submission
No 420**

INQUIRY INTO GREYHOUND RACING IN NSW

Organisation: The Law Society of NSW, Young Lawyers, Animal Law
Committee

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Animal Law Committee

Submission on the NSW Parliamentary Inquiry into the Greyhound Racing Industry

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The NSW Young Lawyers Animal Law Committee is grateful for the opportunity to make a submission to the NSW Parliamentary Inquiry into the Greyhound Racing Industry (**the Industry**).

NSW Young Lawyers

NSW Young Lawyers supports practitioners in their professional and career development in numerous ways, including by encouraging active participation in its 15 separate committees, each dedicated to particular areas of practice. Membership is automatic for all NSW lawyers under 36 years and/or in their first five years of practice, as well as law students.

The NSWYL Animal Law Committee (**the Committee**) comprises of a group of approximately 180 lawyers and law students interested in animal welfare and laws regulating the treatment of animals. The Committee aims to raise awareness and provide education to the legal profession and wider community, while increasing understanding about the importance of protecting animals from abuse and neglect. A common theme amongst Committee members is a passion and desire to use our legal skills and the law to help improve the lives of animals.

General observations and submissions

Given the Committee's area of focus, we have not responded to all the items in the Terms of Reference but have concentrated on certain lines of inquiry.

According to Greyhound Australasia, NSW is home to 35 of the 71 greyhound racing clubs nationally and accounted for \$22.2 million of the \$74 million stake money paid in 2011.¹ The greyhound racing industry is therefore a serious commercial enterprise which calls for greater regulatory scrutiny than currently exists. It will be clear from the Committee's submissions that our view that there are serious deficiencies in allowing Greyhound Racing NSW (**GRNSW**) to remain a self-regulating body in charge of both commercial and regulatory compliance within the greyhound racing industry. The Committee is of the view that an independent regulatory system should be established to increase standards of animal welfare.

The Committee makes the following recommendations in this submission:

- The establishment of an independent Racing Integrity Commission (**RIC**), vested with well-defined powers to audit, investigate and enforce compliance, investigate and report breaches of welfare, oversee and implement drug testing and to report annually to Parliament.

¹ <http://www.galtd.org.au/GreyhoundsAustralasia/index.php?q=node/111>

- That the RIC be funded by revenue from the industry.
- A limit be imposed on the breeding of greyhounds.
- The export of greyhounds to countries without animal welfare legislation be banned.
- GRNSW be relieved of its responsibility for imposing penalties for breaches of animal welfare with such powers to be vested in the RIC.
- Current Codes and legislation relating to greyhound welfare be reviewed.
- Annual public reporting of statistics including birth, death, injury and euthanasia rates.
- Greater funding of animal re-homing programs by GRNSW.

Item (f) - The effectiveness and accountability of the board and management of Greyhound Racing NSW

GRNSW is described as an autonomous non-government body, responsible for both the regulatory and commercial functions of the greyhound racing industry in NSW.² The objectives of these two functions can often be incompatible and involve a trade-off since the pursuit of successful commercial outcomes may come at the expense of considerations such as animal welfare.

The Committee submits that as a self-regulating body, GRNSW is not held accountable to the government or any independent regulator for its failure to meet any of its objectives. There is therefore a real risk that commercial goals are being pursued at the expense of non-monetary objectives. This is particularly the case with animal welfare since there is very limited transparency over its animal welfare practices with the consequence that breaches of its animal welfare obligations may easily go undetected.

Recommendation: The Committee submits that an independent regulator should be established to oversee the activities of GRNSW thereby providing industry members as well as the public with greater assurance that GRNSW is being held accountable to its governance requirements.

² http://www.olgr.nsw.gov.au/racing_grnsw.asp accessed 1/11/2013.

Item (h) - The capability and performance of Greyhound Racing NSW and governance of the industry

The inherent nature of self-regulation gives rise to basic concerns about how much trust can be placed on an industry or organisation to effectively identify, enforce and penalise breaches of its regulations. These concerns are particularly legitimate when it may not be in an industry's best interest to address breaches since they may be associated with financial cost or reputational damage.

For example, in 2000 the greyhound racing industry and the conduct of its officials was investigated by the Independent Commission against Corruption. Questions were raised at the time about why it had taken so long to act, since whistleblowers had warned the NSW government of serious problems at the tracks at least five years earlier.³

Another example of the weakness of a self-regulating industry occurred in 2012, when David Landa, resigned as the integrity auditor for GRNSW, criticising the role as "*compromised and unworkable*".⁴ Mr Landa said, "*Leaving a gaming industry without the proper checks and balances – no government does that*", "*Nowhere in the world would the gaming industry be allowed to self-regulate like this*."⁵

The Committee submits that due to lack of independent oversight of the industry, problems will continue to arise unless greater transparency and accountability are introduced to encourage and ensure regulatory compliance within the industry.

Recommendation: The Committee submits that an independent Racing Integrity Commission (**RIC**), similar to the one established in Victoria be established. It is essential that the RIC be vested with well-defined powers to audit, investigate and enforce compliance and be responsible for reporting its findings annually to Parliament.⁶ The RIC could be funded from the revenue the government receives from TAB turnover on NSW greyhound meetings which in the 2012-13 financial year amounted to \$21.2 million.

Item (i) - The incidence of drug administration and doping in the industry and the efficacy of Greyhound Racing NSW's control and testing processes

Figures taken from GRNSW indicate the incidence of drug administration in animals is increasing. The statistics show an 82% increase in positive drug test results between the years 2010-2011 and 2011-2012. This was the highest proportion of positive results on record, since 2006-2007. Whilst GRNSW has pledged to increase its drug-testing budget,

³ <http://www.smh.com.au/nsw/nsw-racing-going-to-the-dogs-20120714-2230l.html#ixzz2hIKzEe1Y>

⁴ <http://www.smh.com.au/nsw/nsw-racing-going-to-the-dogs-20120714-2230l.html#ixzz2hIKzEe1Y>

⁵ <http://www.smh.com.au/nsw/nsw-racing-going-to-the-dogs-20120714-2230l.html#ixzz2hIKzEe1Y>

⁶ <http://www.parliament.nsw.gov.au/prod/parliament/hansart.nsf/V3Key/LC20121113063>

the Committee submits that it is yet to be seen whether this will have an impact on doping rates.⁷ The Committee supports measures taken to reduce the incidence of animal doping in the industry.

Currently, the drug tests used by the industry are not comprehensive enough to detect all banned substances suggesting that the incidence of doping is likely even higher than official statistics indicate. The Committee submits that GRNSW's current drug management and checking procedures are inadequate, again in part to the self-regulation of the industry.

Recommendation: The Committee submits that an independent RIC should also have powers to appoint independent integrity auditors who are responsible for overseeing drug testing procedures and investigations. In the interim, external auditing and assistance to GRNSW should be mandated, by for example, by the reinstating its Veterinary Advisory Panel (constituted of independent veterinarians).⁸

Item (j) - Sale and breeding of greyhounds including the market conditions and welfare of animals

The Committee submits that the over-breeding of dogs is an inherent problem in the greyhound racing industry and raises serious animal welfare issues.⁹ Figures from the Australia and New Zealand Greyhound Association indicate that Australia is the world's third largest producer of racing dogs after the United States and Ireland.¹⁰

The subsistence of the Australian greyhound industry demands the large-scale killing of greyhounds each year.¹¹ It is estimated that approximately 17,000 greyhounds are killed in Australia, as puppies, as a result of injuries suffered during racing, or as surplus dogs at the end of their retirement.¹² The CEO of GRNSW, Brent Hogan, has admitted that approximately 3,000 greyhounds bred for the racing industry are euthanized every year in NSW alone.¹³ However, despite the high number of animals euthanised, the number of

⁷ Greyhound Racing New South Wales 2011-2012 Annual Report.

⁸ Which was previously dismantled.

⁹ Alexandra McEwan & Krishna Skandakumar, 'The welfare of greyhounds in Australian racing: has the industry run its course?', *Australian Animal Protection Law Journal* (December 2011), 2.

¹⁰ World Greyhound racing Federation, *Protests Mount Over Export of Racing Greyhoundsto Korea. Melbourne, Australia* <<http://www.worldgreyhoundracingfederation.com>> ; Alexandra McEwan and Krishna Skandakumar, 'The welfare of greyhounds in Australian racing: has the industry run its course?', *Australian Animal Protection Law Journal* (December 2011), 2.

¹¹ Alexandra McEwan & Krishna Skandakumar, 'The welfare of greyhounds in Australian racing: has the industry run its course?', *Australian Animal Protection Law Journal* (December 2011), 2.

¹² Alexandra McEwan & Krishna Skandakumar, 'The welfare of greyhounds in Australian racing: has the industry run its course?', *Australian Animal Protection Law Journal* (December 2011), 2.

¹³ The Conversation, 'The Unbearable Lightness of Being a Greyhound' (December 2012) <<http://theconversation.com/the-unbearable-lightness-of-being-a-greyhound-10800>>

greyhounds named has been consistently rising (over 5,000 each year for the last 10 years).¹⁴

The over-breeding of these animals has created a market for the use of greyhounds in research,¹⁵ for educational purposes in veterinary schools,¹⁶ and as a live export commodity to countries throughout Asia, particularly China and South Korea.¹⁷ Asian purchasers are willing to pay high prices for greyhounds deemed “second-hand” by Australian standards and the industry is capitalising on that fact.¹⁸ The emerging greyhound racing market in Asia has created a financial motive for the Australian industry to export dogs overseas.¹⁹ The Committee submits that this drive for profit has resulted in a number of serious animal welfare issues.²⁰ These countries lack substantive animal welfare regulations and enforcement.²¹ Unlike China, South Korea at least has existing animal welfare laws in place, however, neither country punishes acts of animal cruelty.²² There is also a tendency in the greyhound industry to maximise profits by ‘destroying’ dogs in the least expensive way possible.²³

In addition, the Committee has concerns that despite the fact that some Asian countries have laws prohibiting the consumption of dog meat, it is rarely enforced in China and South Korea and is often accompanied by cruel slaughter techniques.²⁴ The export of greyhounds to China and South Korea violates the fundamental purpose of NSW animal welfare legislation in Australia, namely the prevention of cruelty towards animals.²⁵ It also offends one of the principles endorsed by GRNSW regarding the export of greyhounds to countries which do not have a properly managed greyhound racing industry, or where such an industry is not sufficiently regulated to ensure the welfare of greyhounds.²⁶

¹⁴ <http://www.galtd.org.au/GreyhoundsAustralasia/index.php?q=node/111>

¹⁵ Lorna Edwards, ‘Hounded to death’ *The Sydney Morning Herald*(Sydney) 25 October 2004.

¹⁶ University of Queensland, *About Us* (2011) School of Veterinary Science Education Memorial Program, University of Queensland < <http://www.uq.edu.au/vetschool/about-emp>>.

¹⁷ Alison G Jones, Australia’s Damaging International Trade Practice: The Case Against Cruelty to Greyhounds’ (2005) 14 *Pacific Rim Law & Policy Journal* 67, 677; Alexandra McEwan and Krishna Skandakumar, ‘The welfare of greyhounds in Australian racing: has the industry run its course?’, *Australian Animal Protection Law Journal* (December 2011).

¹⁸ Alison G Jones, Australia’s Damaging International Trade Practice: The Case against Cruelty to Greyhounds’ (2005) 14 *Pacific Rim Law & Policy Journal* 67, 680

¹⁹ Alison G Jones, Australia’s Damaging International Trade Practice: The Case against Cruelty to Greyhounds’ (2005) 14 *Pacific Rim Law & Policy Journal* 67, 680.

²⁰ Alison G Jones, Australia’s Damaging International Trade Practice: The Case against Cruelty to Greyhounds’ (2005) 14 *Pacific Rim Law & Policy Journal* 6, 680.

²¹ Alison G Jones, Australia’s Damaging International Trade Practice: The Case against Cruelty to Greyhounds’ (2005) 14 *Pacific Rim Law & Policy Journal* 67, 680.

²² Alison G Jones, Australia’s Damaging International Trade Practice: The Case against Cruelty to Greyhounds’ (2005) 14 *Pacific Rim Law & Policy Journal* 67, 686.

²³ Alison G Jones, Australia’s Damaging International Trade Practice: The Case against Cruelty to Greyhounds’ (2005) 14 *Pacific Rim Law & Policy Journal* 67, 680.

²⁴ Alison G Jones, Australia’s Damaging International Trade Practice: The Case against Cruelty to Greyhounds’ (2005) 14 *Pacific Rim Law & Policy Journal* 67, 681

²⁵ Alison G Jones, Australia’s Damaging International Trade Practice: The Case against Cruelty to Greyhounds’ (2005) 14 *Pacific Rim Law & Policy Journal* 67, 686.

²⁶ GRNSW, Animal Welfare Policy, November 2006, 5.

Against the above background, the Committee submits that once the greyhounds are exported from Australia, there are no welfare protections or guarantees that these dogs will be handled humanely once they retire and no longer have any economic value.²⁷

Recommendation: The Committee submits that a limit on breeding should be imposed on the industry and the export of greyhounds to countries without animal welfare legislation be banned.²⁸

Item (k) - The welfare of animals in the industry and the role of Greyhound Racing NSW in establishing and enforcing standards of treatment of animals

The *Greyhound Racing Act 2009* (NSW) makes no specific reference to greyhound welfare and therefore creates no liability on GRNSW to adequately provide for the welfare of the dogs involved in the racing industry. However, GRNSW have established an *Animal Welfare Policy (AWP)* which refers to GRNSW having primary responsibility for 'the control of greyhound and animal welfare in the NSW greyhound racing industry through the implementation of relevant policies, rules and regulations as well as information and education programs.'²⁹ The AWP does not contain any detailed animal welfare obligations of GRNSW and the Committee submits that it presents more as an aspirational document, large parts of which have been adopted from Greyhounds Australasia which is the national peak body for greyhound racing.

More specific welfare requirements can be found in a raft of sources including the *Greyhound Racing Rules*, *GRNSW Code of Practice*, the *Prevention of Cruelty to Animals Act 1979* (NSW), the *Prevention of Cruelty to Animals Regulations 2012* (NSW), the *Greyhound Australasia Rules* and the *World Greyhound Racing Federation Animal Welfare Protocols*. However, these regulations do not provide a comprehensive method of enforcing animal welfare within the industry and have failed to do so to date.

Of the 151 *Greyhound Racing Rules*, only R86 and R106 contain provisions relevant to greyhound welfare. R86 makes it an offence to use any gear, substance or thing to inflict undue suffering on a greyhound. No guidance is provided about what would constitute 'undue suffering'. R106 provides that people responsible for greyhounds should provide them with proper food, drink, exercise, housing and veterinary care. They should also exercise reasonable care to prevent greyhounds from experiencing unnecessary pain and suffering. The penalty for breaches of these rules is at the discretion of GRNSW or

²⁷ Alison G Jones, Australia's Damaging International Trade Practice: The Case against Cruelty to Greyhounds' (2005) 14 *Pacific Rim Law & Policy Journal* 67, 682.

²⁸ Alison G Jones, Australia's Damaging International Trade Practice: The Case against Cruelty to Greyhounds' (2005) 14 *Pacific Rim Law & Policy Journal* 67, 686.

²⁹ *Greyhound Racing NSW Animal Welfare Policy*, November 2006, 4.

its Stewards and can be a fine, suspension, disqualification, cancellation or warning-off as GRNSW sees fit.³⁰

The GRNSW *Code of Practice for the Keeping of Greyhounds in Training* (**the Code**) is described on its website as being mandatory,³¹ however the Code does not stipulate any penalties for non-compliance. Instead it exempts existing registered kennels from having to comply with Section 2.2 of the Code (which relates to Kennel Size). Furthermore, the frequent use of 'should' rather than 'must' throughout the Code also casts ambiguity over the exact nature of compliance required by industry members. The Code also appears incomplete as it refers to Separate Codes of Practice being available to define requirements for breeding, rearing and education however none of these could be located.³²

These disparate sources of animal welfare obligations are not only convoluted but confusing. There is also no mention of how the various obligations will be enforced. In a self-regulating industry, this is particularly concerning since the value of rules and regulations are derived from the compliance they encourage. Currently with no independent oversight, there is very little visibility over GRNSW's animal welfare performance.

Recommendation: The Committee submits that GRNSW should be relieved of its responsibility for imposing penalties for breaches of animal welfare. An independent RIC, with the assistance of independent experts should be responsible for monitoring animal welfare practices and for deciding the appropriate penalty. The current Code should be reviewed by independent experts and revised according to their recommendations. The Committee further submits that regulations regarding greyhound welfare should be strengthened and given legislative force. This would encourage greater compliance and provide stronger methods of welfare enforcement in the industry.

Item (I) - Financial incentives for reducing euthanasia and prosecutions for animal mistreatment

The term "euthanasia" when employed by GRNSW, refers to ending the life of "injured dogs at all races and trial races",³³ and also appears to be used in relation to the termination of life of dogs that are not at all injured or suffering, but are merely surplus to the requirements of the industry ie. "wastage".

³⁰ Greyhound Racing NSW, *Animal Welfare Policy*, R95

³¹ <http://www.thedogs.com.au/DPage.aspx?spid=116&id=4>

³² Greyhound Racing NSW *Code of Practice – For the Keeping of Greyhounds in Training*, April 2011, 1

³³ Greyhound Racing NSW, *Animal Welfare Policy*, 2006, Section 9.

Due to GRNSW being an autonomous, self-regulating body there is a lack of readily available data in relation to the number of dogs killed in connection with the greyhound racing industry. GRNSW does not report the number of dogs euthanised at the track as a result of broken bones and other injuries, but estimates that the “wastage” is around 3,000 per year within NSW.³⁴ A RSPCA spokesperson suggests this would be a minimum and possibly an underestimate.³⁵

This suggestion is supported by the number of greyhounds born each year into the industry compared against the number of greyhounds successfully re-homed post retirement from the industry.³⁶

In terms of financial incentives to reduce euthanasia rates, GRNSW does not publish data in relation to the current costs involved in killing greyhounds each year. However given the industry is reported to be worth almost \$3 billion nationwide,³⁷ the costs are likely to be insignificant. There is therefore little or no financial incentive for GRNSW to minimise the number of dogs killed each year.

Recommendation: The Committee submits that GRNSW should be required to report the number of dogs that are put to death each year or die as a result of racing and have this independently audited by an independent RIC.

In recognition of the number of dogs who become surplus to the needs of the racing industry, GRNSW's not for profit initiative “Greyhounds as Pets” (**GAP**) aims “to improve animal welfare in the greyhound racing industry by providing dogs with a ‘career change’ if they are not suited to, or are ready to retire from, the racing industry”.³⁸ Whilst this project is commendable, the way it is structured is unlikely to result in any meaningful reduction in the number of greyhounds killed or abandoned each year. For example, there is a non-refundable enrolment fee of \$100 which is payable when the dog is surrendered to GAP.³⁹ Not only could this operate as a financial disincentive in an industry concerned with increasing prize money returns and appeal to consumers,⁴⁰ but surrendering the animals is potentially more expensive than having the dog euthanized

³⁴ Timothy McDonald, 'Greyhound racing euthanasia rates slammed', ABC News, 10 Nov 2012. Available at: <http://www.abc.net.au/news/2012-11-09/greyhound-racing-euthanasia-rates-slammed/4362442>.

³⁵ Australian Broadcasting Corporation, 'Doping, cruelty and collusion claims dog greyhound racing industry', 7:30, 15 October 2013. Transcript available at: <http://www.abc.net.au/news/2013-10-15/doping-cruelty-and-collusion-claims-dog-greyhound/5024822>.

³⁶ In the 2011-12 year, Greyhound Racing NSW reports 6,141 greyhounds were named (Greyhound Racing NSW Annual Report 2011-12, p 32). In 2009 Greyhound Racing NSW established Greyhounds as Pets (GAP) to re-home greyhounds. In June 2007 the Minister for Tourism, Major Events, Hospitality and Racing, and Minister for the Arts reported that since its establishment, GAP has only successfully re-homed 300 greyhounds of the thousands that are born each year. (<http://www.parliament.nsw.gov.au/prod/la/qala.nsf/18101dc36b638302ca257146007ee41a/73129441ba2b6f30ca257b750000790d?OpenDocument>)

³⁷ <http://www.abc.net.au/news/2013-10-15/doping-cruelty-and-collusion-claims-dog-greyhound/5024822>.

³⁸ <http://www.thedogs.com.au/DPage.aspx?spid=130&id=58> accessed 1/11/13

³⁹ Greyhound Racing NSW, Greyhounds As Pets, 'Information for owners and trainers'. available at: <http://www.thedogs.com.au/Uploads/Userfiles/Info%20for%20owners%20trainers%20170913%281%29.pdf>.

⁴⁰ Greyhound Racing NSW 2013 Annual Report, 2.

by a vet (and certainly more costly than less humane methods of killing). To highlight this, it is estimated that only roughly 300 dogs passed through GAP since its commencement in four years ago,⁴¹ which is approximately a mere 1% of dogs who are killed annually in the industry.

Recommendation: The Committee submits that the non-refundable enrolment fee should be removed and GRNSW should be required to contribute a fixed percentage of its budget towards maintaining GAP. GRNSW in its 2013 Annual Report stated that \$1.3 million would be spent on animal welfare initiatives during the 2013-14 year⁴² but this should be made into a per annum commitment. In addition, current requirements for muzzling in NSW legislation that single out greyhounds should be removed to assist with the re-homing of animals.

There have been very few prosecutions within the NSW greyhound racing industry for mistreatment of animals. Between August 2011 and June 2013, GRNSW received 22 reports of potential welfare breaches and another 14 were detected by stewards during kennel inspections. Investigations into the 36 cases resulted in 11 individuals being either disqualified, issued with a warning or had their licence application refused⁴³ but none resulted in any prosecutions.

Recommendation: The Committee submits that an independent RIC should be given powers to engage veterinarians to conduct regular welfare checks of the dogs and to report directly to the RIC who should report any breaches to the RSPCA or other relevant organisation. .

Item (m) - The adequacy and integrity of data collection in the industry, including the number of pups born, the number of dogs euthanised and injury rates

The publicly available data concerning greyhound pup births, wastage of greyhounds and greyhound injuries provides a very incomplete picture of the welfare performance of the greyhound racing industry. The majority of information is based on estimates and

⁴¹<http://www.parliament.nsw.gov.au/prod/la/qala.nsf/18101dc36b638302ca257146007ee41a/73129441ba2b6f30ca257b750000790d?OpenDocument>

⁴² Greyhound Racing NSW 2013 Annual Report, 6.

⁴³ Legislative Assembly 2011-12-13, 'Questions & Answers Paper No. 164', 4066 - Greyhound Welfare, available at:

<http://www.parliament.nsw.gov.au/prod/la/qala.nsf/18101dc36b638302ca257146007ee41a/73129441ba2b6f30ca257b750000790d?OpenDocument>

inferences⁴⁴ and information released by GRNSW which has been described as inaccurate by animal welfare bodies such as the RSPCA.⁴⁵

Recommendation: The Committee submits that an independent RIC should maintain comprehensive statistics of the birth, death and injury rates of dogs connected with the greyhound racing industry and make them publicly available.

The Committee thanks the Select Committee for the opportunity to comment. If any further information can be provided, please contact the undersigned.

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⁴⁴ Alexandra McEwan & Krishna Skandakumar 'The welfare of greyhounds in Australian racing: has the industry run its course?' (2011) *Australian Animal Protection Law Journal*, 2-3
<http://www.animallaw.info/nonus/articles/art_pdf/McEwan_Skandakumar_AAPLJ_Greyhound_2013.pdf>

⁴⁵ Timothy McDonald, 'Greyhound racing euthanasia rates slammed' *ABC News* (Online) 10 November 2012 <<http://www.abc.net.au/news/2012-11-09/greyhound-racing-euthanasia-rates-slammed/4362442>>
Australian Broadcasting Corporation, 'Doping, cruelty and collusion claims dog greyhound racing industry', *7:30 Report* (Online) 15 October 2013 <<http://www.abc.net.au/news/2013-10-15/doping-cruelty-and-collusion-claims-dog-greyhound/5024822>>