

**Submission  
No 612**

## **INQUIRY INTO GREYHOUND RACING IN NSW**

**Organisation:** The Barristers Animal Welfare Panel

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## INQUIRY INTO GREYHOUND RACING IN NEW SOUTH WALES

### BARRISTERS ANIMAL WELFARE PANEL SUBMISSION

#### BACKGROUND

1. The Barristers Animal Welfare Panel (Panel) is a group of legal practitioners with an interest in animal welfare. There are over 100 barristers on the Panel, including some 25 Senior and Queen's Counsel, together with representatives from top law firms and law students.
2. The Panel notes the Terms of Reference for the Inquiry and welcomes the opportunity to make Submissions regarding the welfare of greyhounds, with specific reference to the following terms:
  - (j) sale and breeding of greyhounds including the market conditions and welfare of animals;
  - (k) the welfare of animals in the industry and the role of Greyhound Racing NSW in establishing and enforcing standards of treatment of animals;
  - (l) financial incentives for reducing euthanasia and prosecutions for animal mistreatment; and
  - (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.
3. It should be noted at the outset that the Panel does not condone the greyhound racing industry, which results in a significant detriment to the welfare of greyhounds in Australia. The industry is dependent on the exploitation of animals for entertainment or sport, so the Panel would support the abolition of the industry. There are precedents from other common law jurisdictions for the abolition of dog racing, such as the abolition of pari-mutuel dog racing in 2008, in Massachusetts in the United States.<sup>1</sup> However, the Panel has prepared this submission with a view to providing guidance as to areas for legal reform should the NSW Parliament not be minded to abolish the greyhound racing industry.
4. The Panel is particularly concerned by reports of the widespread euthanasia of greyhounds. In addition to the euthanasia of greyhounds injured during competition or training, there are reports of thousands of greyhounds being euthanised each year in NSW either as puppies, because they are too slow for competition or upon retirement.

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<sup>1</sup> McEwan & Skandakumar, "The welfare of greyhounds in Australian racing: has the industry run its course?" (2011) 6 AAPLI 53.

5. The Panel submits that the practice of euthanising unwanted greyhounds is unacceptable in a civilised society.
6. By way of summary, the Panel contends for the imposition of the following measures as a minimum:
  - a. Reform of the current regulatory regime by moving from self-regulation to regulation by those agencies and organisations that are the designated animal welfare regulators under the *Prevention of Cruelty to Animals Act 1979* (NSW) (POCTA Act) and *Companion Animals Act 1999* (NSW) (CA Act), being the RSPCA NSW, Animal Welfare League NSW, NSW Police and municipal councils. These are the organisations that are best placed to cause the greyhound industry to be effectively regulated from an animal welfare perspective.
  - b. Compulsory reporting of litter numbers (with independent verification), compulsory micro-chipping at 12 weeks and compulsory registration at 6 months.
  - c. The development of laws governing the lawful euthanasia of greyhounds (carrying greater weight than the *Code of Practice for Greyhounds in Training*), with a due emphasis on the best interests of the greyhound.
  - d. The imposition of registration conditions specifying a maximum number of greyhounds a breeder may breed in a specified period.
7. These recommendations are explored further below.

## OVERVIEW

8. The Panel understands that up to 3,000 greyhounds are reported as being euthanised each year in NSW.
9. A greyhound may be euthanised because it is injured during either training or racing and is of no further use to its owner. A greyhound may also meet the same fate when it retires from racing. Most tragically, young greyhounds may be put down simply because they are deemed to not have the requisite speed for racing.
10. Under the current system of self-regulation, when it comes to the identification and registration of greyhound puppies, it is too easy to avoid registering a greyhound until its worth as a racing dog or a breeding dog is established.

11. The Panel submits that greyhound breeders should not be exempt from any part of the same legislative regime as other dog breeders and that tough penalties should be imposed for failing to micro-chip and register greyhounds in the same way as other dogs under the CA Act.

#### REGULATORY FRAMEWORK

12. The greyhound racing industry is subject to the *Greyhound Racing Act 2009* (NSW) (GR Act). The industry is regulated, however, not by the NSW State Government but by an independent body corporate, 'Greyhound Racing New South Wales' (GRNSW).
13. GRNSW is independent of the NSW Government and has the non-exhaustive set of functions set out in section 9(2) of the GR Act, being:
  - a. To control, supervise and regulate greyhound racing in the State,
  - b. To register greyhound racing clubs, greyhound trial tracks, greyhounds, owners and trainers of greyhounds, bookmaking for greyhound racing and other person associated with greyhound racing,
  - c. To initiate, develop and implement policies considered conducive to the promotion, strategic development and welfare of the greyhound racing industry in the State,
  - d. To distribute money received as a result of commercial arrangements required by the *Totalizator Act 1997*,
  - e. To allocate greyhound racing clubs the dates on which they may conduct greyhound racing meetings.
14. Section 23 of the GR Act gives GRNSW the power to make rules in relation to, *inter alia*, the breeding, keeping, naming and identification of greyhounds.
15. GRNSW has adopted the Greyhound Racing Rules (GR Rules) pursuant to the power in s 23.

#### REGISTRATION OF COMPANION ANIMALS OTHER THAN GREYHOUNDS

16. Section 5 of the CA Act defines a '*companion animal*' to include '*a dog*'. The CA Act, therefore, *prima facie* regulates the welfare of greyhounds, irrespective of whether they are kept as pets or employed in racing / breeding.

17. As detailed below, however, the *Companion Animals Regulation 2008* (NSW) (CA Regulation) specifically exempts greyhounds from the identification and registration requirements of the CA Act, provided the owner has complied with the GR Rules.
18. Companion animals, other than greyhounds, are subject to a strict system of identification (i.e.: micro-chipping) and registration.
19. Section 8 of the CA Act provides, in respect of animals other than greyhounds, as follows:
  - a. Section 8(1) – Puppies must be identified –by microchip – from the time the puppy is 12 weeks old,
  - b. Section 8(3) – An owner who fails to micro-chip a puppy in compliance with s 8(1) may be fined up to \$880,
  - c. Section 8(2) – A puppy may not be `sold' unless it is micro-chip (even if younger than 12 weeks old),
  - d. Section 8(3) – An owner who sells / gifts ad greyhound puppy which is not micro-chipped may be fined up to \$880.

The word `sell' is defined under section 5 of the CA Act to include a transfer of ownership, including as a gift.

20. Section 9 of the CA Act regulates the registration of dogs, other than greyhounds, as follows:
  - a. Section 9(1) – Puppies must be registered from the time they are 6 months old,
  - b. Section 9(1) – An owner who fails to comply may be fined up to \$880.

#### GREYHOUNDS EXEMPTED

21. The CA Regulation, however, provides for a general exemption from the identification and registration requirements of the Act, where a greyhound is registered according to the GR Rules.
22. Clause 4(2) of the CA Regulation provides that a greyhound is taken to have been identified for the purpose of s 8 of the CA Act if:
  - a. The greyhound has been voluntarily micro-chipped, or
  - b. The greyhound has been registered in accordance with the GR Rules.
23. Clause 16(g) of the CA Regulation provides that a greyhound is exempt from registration under the CA Act if registered in accordance with the GR Rules.

## REGISTRATION OF GREYHOUNDS UNDER THE GR RULES

24. Rule 111A of the GR Rules provides that *'a greyhound whelped on or after 1 January 2011 shall be ear branded and micro-chipped in accordance with the requirements of GRNSW'*.
25. Rule 112 of the GR Rules provides that a certificate of registration or greyhound identification shall be issued in respect of each greyhound registered *'to enable identification of the greyhound for racing, breeding and associated purposes.'*
26. Rule 115 of the GR Rules prevents a greyhound from being able to race or be used for breeding until it has been registered.
27. Local Rule 106 of the GR Rules provides that a greyhound retired from racing shall cease to be registered as a racing or breeding greyhound and must be registered under the CA Act instead.
28. Rules 106(3) and 106(4) of the GR Rules are important provisions, relevant to the registration, transfer and euthanising of greyhounds. They read, in full, as follows:
  - (3) *At any time after the registration of a litter, the last registered owner or person responsible for the greyhound at the relevant time, shall, within ten working days, notify GRNSW by lodging of the prescribed form, if that greyhound has transferred ownership, been retired as a pet or a breeding greyhound, been transferred to an adoption program, exported, surrendered to another agency, been humanely euthanized by a veterinary surgeon or deceased.*
  - (4) *It shall be a requirement to include a veterinary certificate of euthanasia when lodging the appropriate form for any greyhound that has been euthanized by that veterinary surgeon.*
29. Failure to comply with Rule 106 exposes the offender to a penalty in accordance with Rule 95. Available penalties include fines, suspension, disqualification, cancellation and warning off *'as GRNSW or Stewards see fit'*. No guidance is given regarding what is an appropriate penalty, or what circumstances are to be taken into account in arriving at that penalty.

## SHORTCOMINGS IN SYSTEM OF GREYHOUND REGISTRATION

30. Rule 86 of the GR Rules sets out 35 specific infractions (which do not have any consequences under any NSW statute for non-compliance).
31. In addition, as set out above, Rule 106(5) renders it an infraction not to comply with the terms of that Rule, including notifying GRNSW – in respect of a registered greyhound – about retirement, transfer of ownership, adoption and humane euthanasia.
32. The GR Rules do not, however, specifically indicate that any of the following conduct constitutes an offence under the GR Rules:

- a. Failing to ear brand and micro-chip a greyhound puppy,
  - b. Euthanising a greyhound which has not been registered,
  - c. Advising GRNSW that a greyhound has been euthanised where a veterinary surgeon is not involved.
33. Whilst conduct such as publishing contemptuous remarks about a steward, using an assumed name and failing to comply with the published GRNSW dress standards are each of sufficient importance to be specifically defined as infractions under Rule 86, there are no specific offences relating to the failure to comply with the registration provisions in the GR Rules.
34. Other than suffering an injury, which can occur at any time during the life of a racing greyhound, the times at which a greyhound is most vulnerable to being euthanised are when they are born and when they retire.
35. The Panel acknowledges that Rule 86(a) makes it an infraction to '*contravene any of these Rules*', but submits that this is an inadequate protection against the failure to properly notify GRNSW of the existence of a greyhound puppy or to advise GRNSW that a non-registered greyhound has been euthanised, or that euthanasia of retired greyhound has occurred other than with the assistance of a veterinary surgeon.

#### RECOMMENDED REFORM

36. The Panel makes the following recommendations to strengthen the registration regime and to reduce the chances of an unwanted greyhound being euthanised.

a. Cease Self-Regulation

Remove the greyhound exemption from compliance with the CA Act. The welfare of thousands of greyhounds is not being properly addressed under the GR Rules regime. Reform of the GR Rules is not sufficient, because there is no visibility into GRNSW's effectiveness in enforcing the Rules, and no statistical data available as to level of compliance with the Rules. Enforcement by the existing animal welfare regulators under the POCTA Act and CA Act would sufficiently redress this issue.

b. Compulsory Identification and Registration

The CA Act requires puppies to be micro-chipped at 12 weeks and registered at 6 months. Greyhounds registered under the GR Rules are currently exempt from this regime. One of the major failings of the GR Rules is that they provide no compulsory timeline for micro-chipping and registration. The effect of the GR Rules is that a greyhound owner only has an incentive to register a greyhound if s/he wishes to race the greyhound or use it for breeding. It is too easy for a greyhound owner to put down *slow* greyhounds and only register the *fast* ones.

The identification and registration regime should include compulsory reporting of litter numbers (with independent verification by a vet), compulsory micro-chipping at 12 weeks and compulsory registration at 6 months.

c. Guidelines Discouraging Euthanasia of Greyhounds, and Encouraging Responsible Ownership of Greyhounds

The purpose of breeding greyhounds – in the vast majority of cases – is to produce fast dogs which will win greyhound races. Given reports that thousands of greyhounds are euthanised each year in NSW, it may be accepted that, in addition to injury, unwanted greyhounds are put down if they do not prove their racing skills early in life or when they become too old to race.

A change of culture is required whereby greyhound owners accept that part of the cost of being involved in greyhound racing is the maintenance, throughout the entire course of their natural lives, of greyhounds which do not prove to be good racing dogs and to continue to care for greyhounds when they retire from racing.

Laws are required to govern when it is lawful to euthanise a greyhound. These can be developed through consultation with the greyhound industry and animal welfare groups. The focus, however, should be on the best interests of the greyhound rather than the convenience of the greyhound owner. It is not congruous with the standards of our society for animals to be euthanised for economic expediency.

This regulation should operate in lock-step with effective measures to either keep or re-home greyhounds after their racing / breeding days are over.

d. Breeding Limits

Allied to the proposed guidelines for the lawful euthanasia of greyhounds is a system whereby greyhound breeders – as a condition of their registration – are only permitted to breed a specified number of greyhounds in a specified period. The regulatory body should be required to conduct research into the number of retired greyhounds the industry can adequately and safely maintain and link this to the number of greyhounds which can be bred each year. A necessary element of this system would be the compulsory reporting of litter numbers – at birth – to prevent the early culling of unwanted greyhounds in order to comply with the registration limit.



## CONCLUSION

37. Civilised society cannot countenance the widespread slaughter of greyhounds for no other reason than their inability to run as fast as other dogs. Appropriate reforms must be undertaken to ensure that, if it is allowed to continue, the greyhound racing industry is properly regulated and that, as expounded by GRNSW, "the welfare of all animals must be a primary consideration for all participants in the greyhound racing industry."
38. The Panel submits that the reforms referred to in this submission will constitute a first step towards the humane treatment of greyhounds, whose agility and speed have consigned them for use in an industry which, at present, is causing their widespread mistreatment and killing.