

Greyhound Racing Act 2017
Statutory Review Report
April 2021



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1. Executive Summary

The *Greyhound Racing Act 2017* (the **Act**) and the *Greyhound Racing Regulation 2019* (the **Regulation**) provide the regulatory framework for greyhound racing in NSW. The Minister for Better Regulation and Innovation (the **Minister**) administers the Act, which was passed by the NSW Parliament and received assent in April 2017.

The Act sets the foundation for a sustainable greyhound racing industry, with high animal welfare and integrity standards. Section 102 of the Act requires that the legislation be reviewed as soon as possible three years after the date of assent to determine whether the policy objectives of the Act remain valid and whether its terms remain appropriate for securing those objectives.

A report on the outcome of the review must be tabled in Parliament by 9 April 2021. The review was undertaken by the Department of Customer Service (the **Department**) on behalf of the Minister.

As part of the statutory review of the Act, public consultation was held between July and September 2020, with more than 1,000 responses received through written submissions and online surveys. The Department also hosted online information sessions for greyhound racing clubs, industry participants and the public. All submissions were considered as part of the statutory review.

Overall, the review found that the policy intent of the Act remains valid and the legislation is appropriate for delivering against the Act's aims. However, the review recommends some amendments to the Act to address issues raised through the consultation and analysis of the legislation. The report makes 16 recommendations to improve the greyhound racing regulatory framework racing. Implementation of these recommendations will provide greater clarity around the policy objectives of the Act and the functions and activities of the controlling bodies, as well as ensuring the sustainability and ongoing viability of the industry.

2. Recommendations

Recommendation 1:

The Act be amended to include specific objectives relating to the control, regulation and financial sustainability of the industry. These objectives should align with the principal objectives of the Greyhound Welfare & Integrity Commission (the **Commission**) and Greyhound Racing NSW (**GRNSW**) under the Act.

Recommendation 2:

The Government undertake further work to determine whether the Commission's governance and operating structure remains relevant and appropriate.

Recommendation 3:

The Government review and consider available options to ensure the Commission is sustainably funded, as well as appropriate oversight mechanisms to ensure the Commission performs its functions efficiently.

Recommendation 4:

The Government review existing reporting mechanisms relating to the Commission's financial and operational performance and consider any necessary amendments.

Recommendation 5:

The Government undertake further work to determine whether GRNSW's governance and operating structure remains relevant and appropriate to manage compliance with its obligations.

Recommendation 6:

The Government consider amendments to GRNSW's functions under section 24 of the Act to provide greater clarity with regards to GRNSW's authority in relation to greyhound racing clubs.

In developing amendments, the Government should ensure GRNSW and racing clubs are consulted to determine the appropriate criteria for the exercise of functions in relation to greyhound racing clubs, including consideration of the scope and limitations of the powers and whether appeal provisions are necessary.

Recommendation 7:

The Act should be amended to require mid-term reviews of the Operating Licence to determine if compliance is advancing appropriately.

Recommendation 8:

The Act should be amended to require the Operating Licence to be made publicly available, as well as any mid-term review reports.

Recommendation 9:

The Operating Licence terms be amended to make it clear that ongoing compliance, as opposed to one-off compliance, is required for all licence terms. Timeframes for when compliance is to be met should be included, where appropriate.

Recommendation 10:

GRNSW be required to ensure it continues to give priority to those Operating Licence conditions that directly relate to welfare matters by setting timeframes as part of the licence conditions.

Recommendation 11:

GRNSW be required to give due consideration to the Commission's feedback on welfare matters provided as part of any consultation required by the licence.

Recommendation 12:

The Operating Licence terms should be amended to allow clarifying conditions to be introduced where it is considered that a licence term is broad or is to be implemented over a period of time.

Recommendation 13:

The Operating Licence be amended to bring greater focus to key non-welfare and integrity priority areas.

Recommendation 14:

The Operating Licence be amended to require GRNSW to report rehoming data from Greyhounds As Pets, as well as other programs supported by GRNSW.

Recommendation 15:

The Commission implement its enhanced registration scheme and training and accreditation of registered participants as a priority.

Recommendation 16

The Department and Commission consider whether additional categories of decision should be available for internal review, as appropriate.

3. Introduction

3.1 Background

Legislation to regulate greyhound racing in NSW has existed since the early 1930s. Over time, the regulation of greyhound racing has been through several reforms, including the establishment of separate commercial and regulatory bodies and at one time the amalgamation of regulatory oversight for greyhound and harness racing.

In 2016, the Special Commission of Inquiry into the NSW Greyhound Racing Industry, led by the Hon Michael McHugh AC QC, publicly released its report and findings. The Government accepted the report's first recommendation to ban greyhound racing and established the Greyhound Transition Taskforce to transition the industry to closure.

After extensive consultation with the industry, stakeholders and the public, the Taskforce Coordinator-General, Dr John Keniry AM, advised the Government there had been a major shift in the industry's attitude since the announcement of a ban. He advised that the industry was willing to change and recommended the ban should be reversed if the industry could meet strict animal welfare standards and regulatory guidelines.

On 11 October 2016, the NSW Government established the Greyhound Industry Reform Panel (the **Panel**) to make recommendations on how greyhound racing could continue in NSW while meeting high animal welfare standards. In February 2017, the Panel released its final report. It made 122 recommendations based on input from a wide range of stakeholders.

In April 2017, the NSW Parliament passed the *Greyhound Racing Act 2017* to implement a majority of the Panel's recommendations to reform the industry. This included the separation of commercial operations (under a reconstituted Greyhound Racing NSW – **GRNSW**) from integrity functions through the establishment of the Greyhound Welfare and Integrity Commission (the **Commission**). Since its commencement, the Act has resulted in significant changes to the governance, oversight and regulation of the NSW greyhound racing industry.

3.2 Overview of the Act and objectives

While the Act does not specifically state its objectives, the Second Reading Speech from the legislation's introduction in Parliament identified the key aim of the Act as setting the foundations and governance arrangements for a sustainable greyhound racing industry with high animal welfare and integrity standards. The Act provides for the following four key elements:

- a) establish the Commission as the industry regulator with principal objectives and functions
- b) reconstitute GRNSW as the industry's commercial body with principal objectives and functions
- c) greyhound welfare by making an enforceable Code of Practice for greyhound welfare (**Code of Practice**) and strengthened animal welfare offences and penalties
- d) control and regulation of greyhound racing.

3.3 Statutory Review

The Act and supporting regulation are administered by the Minister for Better Regulation and Innovation. Section 102 of the Act requires the Minister to undertake a review as soon as possible three years after the date of assent (11 April 2017) to determine whether the Act's policy objectives remain valid and whether its terms are appropriate for securing those objectives.

Section 102 also specifies that the review examine and report on:

- a) any improvements in the welfare of greyhounds since the enactment of the Act
- b) the appropriateness of a target for unnecessary euthanasia of greyhounds
- c) the adequacy of compliance and enforcement powers in relation to greyhound racing
- d) the appropriateness of the terms of an Operating Licence granted to GRNSW
- e) the appropriateness of penalties and offences
- f) the funding and efficiency of the Commission
- g) any impact on the export of greyhounds since the enactment of the Act.

A report on the outcome of the review must be tabled in both Houses of the NSW Parliament within 12 months of the end of the three-year period (by 9 April 2021).

3.4 Consultation

Public consultation on the statutory review of the Act was held from 8 July to 2 September 2020. A discussion paper and short and detailed surveys were released to help stakeholders and the public provide their feedback. The discussion paper focused on the key aims of the Act, including the establishment of the Commission, the reconstitution of GRNSW as the peak commercial body of the industry, providing for greyhound welfare, and the control and regulation of the greyhound racing industry.

Stakeholder groups, industry participants and the general public were invited to share their views on the Act and its effectiveness. As part of the consultation process, the Department also held a series of online information sessions for the public, industry participants and greyhound racing clubs. These sessions were held online due to the COVID-19 pandemic, with options to join the sessions online or by telephone.

The Department received a total of 1,084 responses, including:

- 729 short survey responses
- 82 detailed survey responses
- 273 written submissions via email or post.

Submissions were made by individuals, racing clubs and interest groups, as well as key stakeholders including GRNSW, the Commission, the NSW Greyhound Breeders, Owners and Trainers Association (**GBOTA**) and RSPCA NSW. It is noted that there are divergent views about the greyhound racing industry across the community and this was reflected in the comments and submissions received on the statutory review.

Survey responses were relatively evenly distributed between the Greater Sydney region (39 per cent) and regional NSW (34 per cent), with 27 per cent of survey responses from individuals outside NSW. Approximately 22 per cent of respondents had attended a

greyhound racing track in the last year. Around 32 per cent of respondents stated they were greyhound owners or trainers, with a further 17 per cent stating they worked in a role related to the greyhound racing industry.

The Department reviewed and considered all survey responses and submissions received as part of the preparation of this report.

4. Snapshot of the industry

The greyhound racing industry:

- contributes more than \$335 million to the NSW economy, with 47 per cent of this economic activity in regional NSW
- sustains around 2,700 full-time equivalent jobs.¹

In 2018-19, the following greyhound racing activity was undertaken in NSW:

- 6,505 greyhounds raced
- 2,970 registered participants
- 32 racing clubs
- 1,153 racing meetings
- 11,399 races
- 81,282 starters.

¹ Size and Scope of NSW Racing Industry 2014
https://www.industry.nsw.gov.au/data/assets/pdf_file/0004/119254/Size-and-scope-of-the-NSW-racing-industry.pdf

5. Findings of the review

5.1 Objectives of the Act

As outlined above, the Act's Second Reading Speech identified four key aims for the legislation. However, these objectives are not specifically stated in the Act.

Summary of submissions

A number of submissions supported the Act having clearly defined objectives, while noting that the Act's primary intention was to provide for the welfare of greyhounds and the sustainability of the industry.

The Commission also suggested that the objects of the Act be made explicit and focus on:

- fostering public confidence in the greyhound racing industry
- regulating and controlling the conduct of greyhound racing in a way that is consistent with community expectations
- contributing to the responsible and sustainable development of the greyhound racing industry.

RSPCA NSW stated that the lack of identified objectives for the Act may create uncertainty around legislative intent and make it difficult for any Court attempting to interpret the legislation.

Findings in relation to objects of the Act

While the controlling bodies have clear legislated objectives, articulating broader legislated objectives may clarify the legislation's intent for participants and members of the public, and act as guidance to those exercising legislated functions.

Recommendation 1

The Act be amended to include specific objectives relating to the control, regulation and financial sustainability of the industry. These objectives should align with the principal objectives of the Commission and GRNSW under the Act.

5.2 Greyhound Welfare & Integrity Commission

The Act establishes the Commission as the industry's independent regulator. Under the Act the Commission is responsible for upholding high animal welfare standards, overseeing the integrity of greyhound racing and monitoring and enforcing compliance. The Commission commenced operations in July 2018.

The Commission's principal objectives under the Act are to:

- promote and protect the welfare of greyhounds
- safeguard the integrity of greyhound racing and betting
- maintain public confidence in the greyhound racing industry.²

² Section 11 of the *Greyhound Racing Act 2017*

5.2.1 Governance

The Act sets out the governance framework for the Commission, which is constituted as an NSW Government agency. It is governed by a Chief Commissioner and two other Commissioners appointed by the NSW Governor on the joint recommendation of the Minister for Better Regulation and Innovation and the Minister for Agriculture. At least one Commissioner must have been an Australian lawyer for a minimum of seven years. Other requirements include that a person cannot be appointed as a Commissioner if they have been a greyhound racing industry participant, a proprietor of a greyhound trial track or a club official or member of GRNSW at any time.

The Act allows the Minister to give a written direction in relation to the functions of the Commission if satisfied it is in the public interest to do so, with a notice setting out the reasons for any direction published. However, section 8(3) provides that such a direction cannot be made in relation to a number of matters, including any decision relating to the registration of a particular greyhound, person or trial track or any decision relating to the Commission's exercise of its investigation and enforcement powers.

The Act provides for the Minister to delegate the exercise of any Ministerial function to any person or body, or any class of persons or bodies, authorised by the regulations.

Summary of submissions

Generally, submissions indicated support for the Commission as an independent regulator and in improving greyhound welfare and industry integrity. However, a number of industry participants were critical of the Commission and suggested returning its role and functions back to GRNSW. Some submissions advocated for the Commission to be independent of Government or for legislative amendments to require at least one Commissioner to be an animal welfare expert.

In relation to Ministerial directions under the Act, the Commission submitted that section 8 of the Act should be amended to make clear that any direction should be for the purpose of furthering the Commission's principal objectives and to require the Minister to consult with the Commission before issuing any direction. The Commission further submitted that the Act or Regulation should be amended to disallow delegation of Ministerial direction functions.

Analysis

It is noted that the separation of the industry's regulatory functions from its commercial operations is a key part of the Government's greyhound racing reforms, removing the potential conflicts between these functions. This separation of industry oversight was recommended by the Panel.

The functions of the Commission, and the role of its Commissioners, are broader than animal welfare; with control, regulation and oversight of greyhound racing also part of its core functions. The Commission has access to expert animal welfare advice through its Greyhound Industry Animal Welfare Committee and can employ staff with the necessary animal welfare or veterinary expertise to undertake its functions.

In addition to the Act providing for Ministerial directions to be made with respect to the Commission's functions; it is further noted that the Minister and Department regularly consult

with and seek information and advice from the Commission. As such, the Commission's requested amendments are not considered necessary at this stage.

In relation to delegations, it is noted that currently only the Deputy Secretary, Better Regulation Division is specified as a person to whom Ministerial functions may be delegated. A separate instrument of delegation is required for the Minister to specify the delegation of particular functions, allowing the Minister to consider the appropriateness and reasons for any such delegation. The Commission's concerns are acknowledged; however, the requested legislative amendment is not considered necessary.

Findings on Commission governance

Given the Commission's role and the animal welfare-related resources available to it, such as the Greyhound Industry Animal Welfare Committee, there does not appear to be sufficient justification to mandate animal welfare expertise for Commissioners.

However, given disparate feedback around the appropriateness of the Commission's current operating and governance structures, it is recommended that consideration be given to whether they remain relevant and appropriate.

Recommendation 2

The Government undertake further work to determine whether the Commission's governance and operating structure remains relevant and appropriate.

5.2.2 Principal objectives and functions of the Commission

Under the Act, the Commission has wide ranging functions to regulate greyhound racing and provide for the welfare of greyhounds, including by developing policies and implementing its Code of Practice, and to investigate animal welfare and integrity concerns and enforce compliance.

The Act allows the Commission to establish advisory committees and requires that it prepare a strategic plan every three years. Since the commencement of the Act, the Commission has undertaken significant work as the industry's independent regulator in order to achieve its principal objectives and perform its functions.

Consistent with its role as a NSW Government agency, the Commission reports annually to Parliament on its financial performance and operations, implementation of its strategic plan, numbers of greyhounds, participants and trial tracks registered, summaries of greyhound injuries, disciplinary action undertaken, inquiries conducted and the activities of the Greyhound Industry Animal Welfare Committee.

Summary of submissions

RSPCA NSW stated that while the Commission's objectives are appropriate, a rewording is necessary to specify the standard of greyhound welfare expected. Similarly, while it views the Commission's functions as appropriate, RSPCA NSW contends that there should be an obligation to evaluate the effectiveness of the legislation and policies implemented.

Some views raised in submissions about the Commission's functions include:

- abolishing GRNSW and transferring its functions to the Commission

- transferring GRNSW's functions relating to the development of racecourse minimum standards and management of greyhound adoption programs to the Commission
- expanding the Commission's functions to override GRNSW decisions relating to welfare, recommend key performance indicators in the GRNSW Operating Licence, undertake academic research, monitor greyhounds on the Companion Animals Register and undertake analysis on greyhound injuries
- extending its annual reporting requirements to include the number of greyhounds whelped, named, raced, retired and deceased and contain a summary of racing injuries and outcomes for all greyhounds that sustained major injuries

Submissions from the Commission and GRNSW did not identify any deficiencies with the Commission's functions or responsibilities.

Analysis

In relation to welfare standards, it is important to note that while improving greyhound welfare is a critical element of the legislation, the principal instrument for setting enforceable standards to protect the welfare and promote the wellbeing of greyhounds is the NSW Greyhound Welfare Code of Practice. The standards in the Code of Practice were developed with reference to the five domains of animal welfare (nutrition, environment, health, behaviour and mental state).

The following is noted in relation to the matters raised about the Commission's functions:

- the separation of the industry's regulatory functions from its commercial operations is a key part of the Government's greyhound racing reforms, removing the potential conflicts between these functions
- GRNSW's responsibility as the controlling body in respect of the registration of race clubs provides the necessary mechanism to implement and enforce minimum standards requirements for racecourses. It also remains best placed to oversee greyhound adoption programs through its operation of the Greyhound As Pets (**GAP**) program under the Act. GRNSW must consult with the Commission before finalising minimum safety standards for racecourse safety. The Act also requires the Minister to consult with the Commission about the Operating Licence
- the Commission already has an explicit function to undertake research and investigate greyhound breeding and racing generally and to develop and implement animal welfare policies, including through consultation with animal welfare bodies
- the Companion Animals Register is administered by the Office of Local Government. Requiring the Commission to monitor greyhounds on the Register is beyond the intent of the Act and would bring all persons owning greyhounds, not just industry participants, under the Commission's jurisdiction. The Commission shares information with local councils when a greyhound is retired and registered on the Companion Animals Register
- the Commission releases quarterly reports on racing injuries and has also implemented a Race Injury Review Panel to investigate serious injuries. It also routinely publishes data on breeding services and whelping, naming of greyhounds and greyhound retirements and end-of-life reporting. The Regulation requires the Commission's annual report to include the number of greyhounds registered and a summary of racing injuries. Transparent reporting is key to building public confidence in the greyhound racing industry.

Findings in relation to the principal objectives and functions of the Commission

The review finds that the current principal objectives and functions of the Commission remain appropriate.

5.2.3 Funding and efficiency of the Commission

As required by the Act, the review must consider the funding and efficiency of the Commission. The Act requires GRNSW to fund the costs of the Commission. To support the industry towards a sustainable future, the Government committed to providing the Commission \$11 million in funding over four years to support its establishment and initial operations.

The Government has also committed an additional \$4 million annually to the Commission, until 2021-22, following the introduction of Point of Consumption (**PoC**) tax on wagering in January 2019.

Summary of submissions

Submissions outlined many views on how the industry should be funded, including that the Government should:

- fund the Commission via wagering taxes
- fund private rehoming organisations, greyhound sanctuaries and animal welfare organisation investigations
- ensure GRNSW receives a proportionate share of wagering revenue under the revenue sharing arrangement between the three racing codes and the NSW TAB

In contrast, submissions also stated:

- the Government should not fund the Commission as the industry should be sustainable and self-sufficient, as outlined in the Panel recommendations
- the Commission should generate more of its own revenue, highlighting that participant registration fees have been waived since 2017
- it is unethical for wagering revenue to fund the Commission.

Most survey responses indicated support for greater oversight of the Commission in relation to its governance and financial performance.

The Commission submitted that the current funding model is flawed as it requires negotiation with GRNSW, is contrary to the intent of the Panel recommendations and causes unnecessary tension between both bodies. The Commission would prefer to be funded from the greyhound racing industry's share of PoC tax proceeds as well as increasing its direct contribution from the PoC tax.

GRNSW submitted there should be no requirement to fund the Commission unless the revenue sharing arrangement between the racing codes and NSW TAB (the **Inter-Code Deed**) is amended to provide further revenue to the greyhound racing industry. The NSW Greyhound Breeders, Owners & Trainers Association (**GBOTA**) supported this position, suggesting the Commission should be funded from PoC tax revenue, noting this would be consistent with the funding model for the Queensland Racing Integrity Commission (which receives government funding). GBOTA submitted that if Commission funding was in addition

to GRNSW's share of PoC tax revenue it would rectify some of the inequities in the Inter-Code Deed.

In relation to efficiency, the Commission noted during its first two years the need for expenditure on:

- start-up costs and capacity-building requirements
- implementing key industry reforms as per its obligations under the Act and Panel recommendations
- transitioning functions from GRNSW and data cleansing in order to verify the current population of greyhounds and industry participants
- delivering efficient customer service interfaces and improving online services for industry participants

The Commission submitted its expenditure compares favourably with the welfare and integrity costs incurred previously by GRNSW and the integrity costs of Greyhound Racing Victoria, noting that there are key jurisdictional differences between Victoria and NSW that significantly impact operational costs. These include the larger track network in New South Wales and the Commission's regulation of a larger number of greyhounds, including retired greyhounds owned by industry participants.

Analysis of the funding and efficiency of the Commission

The Commission's costs were reported to be \$16.42m (2019-20) and \$15.66m (2018-19). The increase from the prior year is largely due to employment costs associated with staff that were not in place at the commencement of the Commission on 1 July 2018. In January 2019, an independent review conducted by the Department of Industry determined the average costs of GRNSW's integrity and welfare functions conducted in the three years before the Commission was \$13.89m.

Findings in relation to funding and efficiency of the Commission

Effective oversight and regulation of the greyhound racing industry requires a strong and co-operative relationship between its two controlling bodies. The current funding arrangement, and the necessity for the Commission and GRNSW to reach an agreed position on funding annually, risks undermining this relationship.

While there are varied views on its resolution, there is broad recognition and acknowledgement that the current funding arrangements for the Commission are not workable or sustainable. Survey responses also indicated broad support for greater oversight of the Commission, particularly in relation to governance and financial performance.

Recommendation 3

The Government review and consider available options to ensure the Commission is sustainably funded, as well as appropriate oversight mechanisms to ensure the Commission performs its functions efficiently.

Recommendation 4

The Government review existing reporting mechanisms relating to the Commission's financial and operational performance and consider any necessary amendments.

5.3 Greyhound Racing NSW

The Act reconstituted GRNSW as a statutory body corporate, controlled by a board of directors, with a commercial focus and social objectives to improve greyhound welfare. Part 3 of the Act sets out the constitution and management of GRNSW (Division 1), its objectives and functions (Division 2) and its key reporting and financial requirements (Division 3).

5.3.1 Governance

The GRNSW Board is responsible for its governance and control. The GRNSW Board consists of five to seven directors appointed by the Governor on the Minister's recommendation. A majority of directors must be independent, meaning they cannot have been a participant, trial track proprietor, racing club official or member for at least the previous seven years.

Findings in relation to the governance of GRNSW

Several submissions supported the abolition of GRNSW and transfer of its commercial responsibilities to the Commission.

Noting recommendations made further in this report in relation to the Operating Licence, it is recommended that further work is undertaken to determine whether GRNSW's governance and operating structure remains relevant and appropriate to managing compliance with its obligations.

Recommendation 5

The Government undertake further work to determine whether GRNSW's governance and operating structure remains relevant and appropriate to manage compliance with its obligations.

5.3.2 Principal objectives and functions of GRNSW

GRNSW's principal objectives are outlined in Part 3, Division 2 of the Act and include:

- to be a commercially viable entity
- to exhibit a sense of social responsibility by having regard to the welfare of greyhounds
- to promote greyhound racing in the State as a competitive and sustainable industry with a high level of public trust³.

Under the Act, GRNSW's functions include to:

- conduct or authorise the conduct of greyhound race meetings and allocate race dates
- register greyhound racing clubs
- distribute wagering revenue
- develop safety standards for racecourses
- manage greyhound adoption programs.

GRNSW's exercise of its functions require authorisation by an Operating Licence (discussed on page 17) issued by the Minister, with a five-year Operating Licence issued to GRNSW in July 2017.

³ Section 23 of the Greyhound Racing Act 2017

Under the Act, GRNSW is also responsible for any other functions conferred or imposed on it by the Operating Licence, the Act or any other legislation and is required to:

- implement minimum standards for racetracks, racing clubs and race meetings⁴
- produce an annual report for tabling in Parliament⁵
- produce and publish a strategic plan every three years⁶.

Since its reconstitution under the Act, GRNSW has publicly released its 2018-2021 Strategic Plan and three annual reports.

Summary of submissions

Submissions varied on GRNSW's functions with some support for transferring its functions and objectives to the Commission. Other submissions proposed that the Commission's functions and objectives be transferred back to GRNSW on the basis that:

- GRNSW could more effectively manage the costs of welfare and integrity activities than the Commission
- improvements to the industry and conduct of participants since the Act commenced could allow the industry to self-regulate again.

Some industry participants supported GRNSW's strategic direction to provide greater emphasis on the development of greyhound racing in regional areas of NSW and distribute more prize money.

GRNSW noted in its submission that its Strategic Plan provides the blueprint for the organisation and that progress has been made to ensure the industry is responsible, competitive and sustainable. GRNSW stated that its annual reports provide information about how it is working towards achieving the outcomes stated in its Strategic Plan, noting the current plan covers 2018-21.

GBOTA raised concerns about GRNSW's power to appoint administrators to conduct the affairs of a greyhound racing club under section 24(j) of the Act. GBOTA stated that given the significance of the power and its potential impact on racing clubs, an outline of the circumstances and processes for appointing an administrator should be included in the Act.

Similar concerns were also raised by the Dapto Agricultural and Horticultural Society Ltd (DAHS), noting deficiencies in the Act observed in previous legal proceedings, including that the Act does not set out sufficient details about how GRNSW may exercise its power to intervene in the affairs of a racing club or organisation or specify the bounds of administration powers, especially in relation to clubs where greyhound racing is not the sole activity.

Findings in relation to the principal objectives and functions of GRNSW

GRNSW and the Commission did not identify any deficiencies with their functions or responsibilities. The concerns raised by GBOTA and DAHS regarding the lack of legislative clarity for GRNSW's functions in relation to racing clubs are acknowledged. This uncertainty heightens the risk of legal disputes between GRNSW and racing clubs about the lawful

⁴ Section 26 of the Greyhound Racing Act 2017

⁵ Section 28 of the Greyhound Racing Act 2017

⁶ Section 29 of the Greyhound Racing Act 2017

execution of legislative functions. Increased litigation between GRNSW and racing clubs would be financially costly for the industry, clubs and have the potential to undermine GRNSW's ability to manage racing clubs.

Other jurisdictions that provide authority for controlling bodies to appoint an administrator to a club set out more detail in relation to the exercise of this authority. For example, *the Racing Act 1958 (Vic)* authorises Greyhound Racing Victoria to suspend members of a racing club and appoint a fit and proper person to be club administrator, with an administrator authorised to exercise all the powers of the club.

The review supports amendments to GRNSW's functions under section 24 of the Act to provide greater clarity with regards to GRNSW's authority in relation to greyhound racing clubs. Further consideration is necessary to determine the appropriate criteria for GRNSW's exercise of these functions, in consultation with GRNSW and greyhound racing clubs.

Recommendation 6

The Government consider amendments to GRNSW's functions under section 24 of the Act to provide greater clarity with regards to GRNSW's authority in relation to greyhound racing clubs.

In developing amendments, the Government should ensure GRNSW and racing clubs are consulted to determine the appropriate criteria for exercise of functions in relation to greyhound racing clubs, including consideration of the scope and limitations of the powers and whether appeal provisions are necessary.

5.3.3 Operating Licence

Section 25 of the Act authorises the Minister to grant an Operating Licence to GRNSW for five years. The use of an Operating Licence allows the Government to set the high order requirements and conditions for the industry's operation, balanced against GRNSW's status as a statutory body controlled by a board of directors with autonomy to meet its commercial imperatives and manage its daily operations.

The Act requires the Minister to consult the Commission prior to renewing, amending, suspending or cancelling the GRNSW licence, with any advice provided to the Minister published on the Commission's website. In accordance with the Act, a five-year licence was granted to GRNSW in 2017 by the then Minister for Racing.

Summary of submissions

RSPCA NSW observed the Act does not provide details on eligibility criteria for holding the licence or any requirements relating to licence conditions or record keeping.

Some submissions supported the requirement for GRNSW to hold an Operating Licence. Others suggested the licence should be amended to include measurable key performance indicators and to be publicly available.

GRNSW's preference was for the Operating Licence to be amended to reflect a 'principles approach' adopted by other Australian jurisdictions, rather than the current 'compliance approach.' It maintained the licence should focus on the achievement of broad aims and goals, as opposed to a more limited focus on compliance within fixed terms.

The Commission suggested the Operating Licence should be amended to remove duplication of statutory provisions and to rectify anomalies and drafting inconsistencies. The Commission also suggested the licence should strengthen requirements in relation to GRNSW's reporting of achievements.

Analysis of the Operating Licence

As required by the Act, the review must consider the appropriateness of the terms of the GRNSW licence. An operating licence review was undertaken by the Department as part of the broader statutory review to consider GRNSW's activities in relation to its licence obligations.

The operating environment for GRNSW has undergone significant change since the licence was granted and this has impacted how GRNSW delivers on licence conditions. In particular, for the first six months of 2020 racing operations have been adversely impacted by bushfires, drought and COVID-19 restrictions. The review has taken this into consideration.

GRNSW has demonstrated compliance with a majority of its specific obligations under the Operating Licence. Where it has not demonstrated full compliance with its requirements, GRNSW has provided evidence of its continued work to fulfil these obligations, such as the future sustainability of greyhound racing in NSW.

While the Act sets out administration requirements for the licence, including in relation to its duration and a process for amendment, suspension and cancellation, it does not specify an application or renewal process licence or provide a formal process to consider compliance at any given point of time.

Findings in relation to the Operating Licence

The terms of the licence, while appropriate at the time it was granted, may require amendment or update to reflect the need for the Minister and/or the Commission to require further action where a condition has not been satisfactorily met. There would also be benefits in sharpening the focus of the licence on key welfare outcomes, on the priorities for Government and the industry and adding measurable performance indicators such as timeframes. The need for increased transparency should also be considered, including by making its terms publicly available and requiring regular reviews (in the absence of a formal renewal and application process).

Recommendations from the review of the Operating Licence are set out below.

Recommendation 7

The Act should be amended to require mid-term reviews of the Operating Licence to determine if compliance is advancing appropriately.

Recommendation 8

The Act should be amended to require the Operating Licence to be made publicly available, as well as with any mid-term review reports.

Recommendation 9

The Operating Licence terms be amended to make it clear that ongoing compliance, as opposed to one-off compliance, is required for all licence terms. Timeframes for when compliance is to be met should be included, where appropriate.

Recommendation 10

GRNSW be required to ensure it continues to give priority to those Operating Licence conditions that directly relate to welfare matters by setting timeframes as part of the licence conditions.

Recommendation 11

GRNSW be required to give due consideration to the Commission's feedback on welfare matters provided as part of any consultation required by the licence.

Recommendation 12

The Operating Licence terms should be amended to allow clarifying conditions to be introduced where it is considered that a licence term is broad or is to be implemented over a period of time.

Recommendation 13

The Operating Licence be amended to bring greater focus to key non-welfare and integrity priority areas.

5.4 Providing for the welfare of greyhounds

The Act sets out a regulatory framework for greyhound welfare, including:

- the establishment of the Greyhound Industry Animal Welfare Committee (**Welfare Committee**) to provide the Commission with advice on matters relating to greyhound welfare
- providing for an enforceable Code of Practice for greyhound welfare
- setting out animal welfare offences and penalties
- empowering the Commission with functions to develop and implement policies relating to greyhound welfare and undertake research and investigate matters relating to greyhound breeding
- allocating GRNSW with functions to develop minimum standards for licensed racecourses and manage greyhound adoption programs.

5.4.1 Greyhound Industry Animal Welfare Committee

The Act requires the Commission to establish the Welfare Committee to advise it on any matter related to greyhound welfare. The Commission is required to have regard to Welfare Committee advice.

In accordance with sections 33(2)(a) to (e) of the Act, at the time of preparing this report members of the Welfare Committee, appointed by the Chief Commissioner, are:

- Animal welfare or behaviour expert – Dr Tanya Stephens (Chair), President, Welfare and Ethics Group, Australian Veterinary Association.
- Senior RSPCA NSW officer nominated by its CEO – Ms Kathryn Jurd, Legal Counsel, RSPCA NSW

- Nominee of the Chief Veterinary Officer – Ms Suzanne Robinson, Director, Animal Welfare, NSW Department of Primary Industries
- Greyhound racing industry representative – Ms Ellen Harris
- GRNSW representative – Dr Alicia Fuller, General Manager Welfare, GRNSW

Summary of submissions

Some submissions requested an expansion of the Welfare Committee membership, including to allow the appointment of an animal science expert. Other submissions suggested the Commission should be required to provide written reasons when not adopting the Welfare Committee's advice, and for the Welfare Committee to have the ability to appeal to a tribunal or court when the Commission decides not to adopt their advice.

The Commission noted that section 33 of the Act currently constrains membership of the Welfare Committee, both in terms of the number of members and organisations represented. The Commission supported a less constraining legislative framework, which frees up the 'representation model' in order to admit a broader cross-section of animal welfare expertise.

RSPCA NSW suggested Welfare Committee membership does not support high greyhound welfare standards as currently only one member is a canine expert.

Findings in relation to the welfare committee

The review notes concerns raised by the Commission and RSPCA NSW about the Welfare Committee but does not support an expansion of its membership at this stage.

The review also notes the role of the Welfare Committee as an advisory body for the Commission on animal welfare matters. The review finds no justification for expanding the Welfare Committee's role to that of decision maker or oversight authority for the Commission such that would require appeal provisions.

5.4.2 Preparing and making a Code of Practice

Division 2, Part 4 of the Act requires the Commission to develop, implement and publish a Code of Practice⁷ (the **Code**), which establishes:

- standards for the keeping, treatment, handling and care of greyhounds
- standards for the facilities, equipment and conditions at premises where greyhounds are kept, trialled, trained or raced
- standards for procedures and practices for keeping, trialling, training and racing greyhounds.

In developing the Code, the Act requires the Commission to consult with GRNSW and any person or body at its discretion. The Code must be published on the Commission's website.

The Code can specify 'offence provisions' which are offences under section 39 of the Act, carrying a maximum of 1,000 penalty units for a corporation and 200 penalty units or imprisonment for 2 years (or both) for an individual.

The Code was approved by the Minister for Better Regulation and Innovation and the Minister for Agriculture and published in July 2020. In making the Code, the Commission

⁷ Section 35(1) of the *Greyhound Racing Act 2017*

consulted extensively with the Welfare Committee, GRNSW, GBOTA, RSPCA NSW and the Department of Primary Industries, as well as with industry participants and members of the public. The Code was open for public consultation from January to April 2020, including public consultation sessions across NSW.

The Code will commence on 1 January 2021, following a Commission campaign to educate the industry to ensure participants are aware of their obligations under the Code.

Summary of submissions

Submissions were generally positive about the Act's requirement for a Code. However, there were concerns expressed about specific content and provisions in the Code by both animal welfare advocates and industry participants.

Findings in relation to preparing and making the Code of Practice

The requirement for a Code is broadly supported and should be retained in the Act.

Comments about the content of the Code are out of scope of this review and it is noted that extensive public consultation was undertaken prior to the publication of the Code in July 2020. The Commission's approach to administering the Code is an operational matter for it to determine following its commencement.

5.4.3 Animal welfare offences and penalties

The Act introduced new animal welfare offences and penalties:

- to impose a lifetime industry ban on any person guilty of a live baiting offence under the *Prevention of Cruelty to Animals Act 1979* (**POCTA Act**) or the *Crimes Act 1900* (**Crimes Act**)
- to prohibit the keeping, possessing or controlling any animal that can be used as a lure for greyhounds (without an exemption)
- to define live baiting as a serious act of cruelty for the purposes of an offence under section 530 of the Crimes Act
- for contravening offence provisions of the Code of Practice
- for failing to register a greyhound, or as a participant, racing club, trial track
- for failing to comply with registration conditions
- for providing false information to inspectors, obstructing an investigation or assaulting or imitating inspectors.

Summary of submissions

Submissions about animal welfare offences and penalties were varied and included:

- the range of penalties and offences are practical and effective at deterring bad behaviour
- offence penalties are too lenient
- offence penalties are too harsh
- offences and penalties need to be reviewed to ensure they are scaled appropriately and are proportionate to other animal welfare legislation
- offences and penalties should be enhanced for prohibited substances.

RSPCA NSW stated that offence provisions are usually either created under legislation or by way of the Act allowing for offence provisions to be created by regulation, noting that offence

provisions in the Code are not identified in the legislation or its regulation. RSPCA stated that as offence provisions are limited to two offences under the Code (Standards 9.4 and 9.5 relating to euthanasia of greyhounds) these two standards could be defined as offences under the Act to ensure greater transparency and to make it easier for participants to understand their obligations.

Findings in relation to animal welfare offences and penalties

The review notes the wide-ranging responses in relation to the appropriateness of offences and penalties and consistency with other animal welfare legislation.

The Act allows the Commission to designate specific offence provisions within the Code to be an offence under section 39 of the Act and sets out specific penalties for breaches. It is noted that while the Commission prepares the Code, the Code is made by the Minister, with the concurrence of the Minister for Agriculture. The offence provisions are clearly specified in the Code and the Commission has undertaken an extensive participant education campaign with respect to obligations under the Code. The offence provision framework allows the Commission to be responsive to participant behaviour and add to Code offence provisions without the need for legislative amendment.

5.4.4 Implementation of greyhound welfare policies

The Act provides that the Commission's functions include initiating, developing and implementing policies relating to the welfare of greyhounds. It also provides that the Commission undertake research and investigate any aspect of greyhound breeding and provides for regulations to be made for a greyhound bond.

The following policies and codes have been introduced since the Commission commenced operations:

- NSW Greyhound Welfare Code of Practice (commences 1 January 2021)
- Code of Practice for Breeding, Rearing and Education
- Code of Practice for the Keeping of Greyhounds in Training
- Race Day Hydration and Hot Weather Policy
- Trial Track Policy
- Swabbing Policy
- Greyhound Rehoming Policy.

5.4.4.1 Greyhound breeding

The Commission is responsible for registering people who breed greyhounds for racing and undertaking research in relation to greyhound breeding.

The Commission's Code of Practice for Breeding, Rearing and Education of greyhounds applies to people who breed, rear or educate greyhounds in NSW. It also sets standards for care and management of greyhounds on breeding, rearing and education premises.

The NSW Greyhound Welfare Code of Practice also contains standards for greyhound breeding, including:

- age and litter limits for breeding females
- requirements around natural mating and artificial insemination
- restrictions related to the sale of pups.

The breeding standards put in place by the Commission are designed to encourage breeders to make informed and responsible breeding decisions in order to increase the proportion of greyhounds that are suitable for racing. Since 2015, the number of greyhounds bred in NSW has more than halved.

	2014-15	2015-16	2016-17	2017-18	2018-19
Greyhounds bred	7,964	4,432	3,052	3,976	3,747

The Commission is continuing to monitor breeding trends, including the tracking of pups as they reach various milestones. It is also focused on measures to promote quality racing dogs, rather than a simplistic focus on breeding numbers.

Summary of submissions

Some submissions, particularly those from industry participants, were focused on maintaining an adequate number of greyhounds to fill race fields and maintain a high quality of racing. A number of submissions noted the significant reduction of greyhounds bred annually since 2016.

However, others expressed concerns about the rate of breeding exceeding rehoming capacity, proposing a cap on the annual number of greyhounds bred and lowering the age requirement for a greyhound to be registered. Other suggestions included imposing more stringent restrictions on the number of litters able to be whelped and additional oversight of greyhound breeders and rearers.

Some submissions raised concerns that a greyhound bond has not been introduced or more generally about the need to prevent overbreeding. There were also industry concerns about the potential impact of a greyhound bond and the need to avoid an “over correction” of breeding levels.

The Commission stated that in 2018 it determined it was not in a position to introduce a fit-for-purpose bond as the available data was not adequate to make confident policy and regulatory decisions about the rate of breeding needed to support the industry. The Commission was also concerned that a bond would discourage industry participation.

The Commission confirmed that it publishes data on breeding numbers and actively monitors trends and stated that:

“...it is premature to implement breeding incentives or disincentives as current trends indicate that breeding numbers are sufficiently restrained by market forces and the Commission’s ongoing monitoring.”

Findings in relation to breeding

Breeding numbers are currently significantly lower than in 2014-15. A small increase in breeding numbers has been noted in recent reporting periods and this continues to be monitored by the Commission. The Commission has a range of administrative tools and approaches to monitor and address the issue of overbreeding, if necessary.

5.4.4.2 Greyhound rehoming and retirement

Since its commencement, the Commission has implemented the Greyhound Rehoming Policy (**Rehoming Policy**) for industry participants to:

- maximise opportunities to rehome greyhounds that are retired or unsuitable for racing, to live out their natural life as a companion animal
- eliminate unnecessary euthanasia of healthy greyhounds
- ensure that euthanasia, when necessary, is conducted in a humane manner.

Under the Rehoming Policy, greyhound owners must prepare their greyhounds for rehoming and make genuine attempts to rehome a retired greyhound.

If the retired greyhound cannot be rehomed privately, the owner must seek admission of the retired greyhound into GRNSW's GAP program. If the retired greyhound is not admitted to the GAP program, the owner must then attempt:

- rehoming through at least one other pet rescue or rehoming organisation; or
- admission into the GAP program a second time.

Under the Rehoming Policy, if a greyhound is unable to be rehomed, the owner must notify the Commission of their intention to proceed with euthanasia at least 10 business days prior. Failure to comply with the Rehoming Policy is an offence under the Rules and may result in disciplinary action.

It will be an offence under the Code of Practice (Standards 9.4 and 9.5) for a participant to transfer a greyhound to a new owner if the participant has a reasonable belief the greyhound may be euthanised. It is also an offence for a participant to euthanise a greyhound unless:

- delaying euthanasia would result in the greyhound experiencing unacceptable pain and suffering, and
- a veterinarian has been consulted but is unable to attend in a timely manner, and
- transporting the greyhound to a veterinarian would unreasonably prolong its suffering, and
- the euthanasia is performed using humane methods.

Under section 39 of the Act, these offences carry a maximum penalty of 1,000 penalty units for a corporation and 200 penalty units or imprisonment for 2 years (or both) for an individual.

The Commission reports quarterly on retirement and end of life outcomes for greyhounds, with reports available on its [website](#). For 2019-20, the Commission reported the following:

Destination	Number
Retained by owner or trainer	520
Rehomed privately by owner or trainer	224
Accepted by Greyhounds as Pets	148
Accepted by another animal rescue or adoption agency	339
Total	1,231

The Commission also reported the following euthanasia statistics for 2019-20:

Cause	Number
Medical euthanasia (not at racetrack)	350
Euthanasia at racetrack	52
Behaviourally unsuitable to be rehomed	56
Rehoming attempts failed	27
Total	485

Under the Act, GRNSW is required to manage greyhound adoption programs. GRNSW does this through its GAP program and by supporting and providing funding to several independent greyhound rehoming programs.

GRNSW expenditure on the GAP program increased to \$1,941,459 in 2018-19, an investment increase of \$319,000 on 2017-18. Rehoming figures since 2015-16 are shown in the below table, noting that figures for rehoming through independent programs are not available for 2015-16 and 2016-17:

Year	Rehomed via GAP or with GAP assistance	Rehomed by owner or other agencies	Total Rehomed
2015-16	324	-	-
2016-17	498	-	-
2017-18	415	1,395	1,810
2018-19	729	764	1,493

Summary of submissions

Submissions supported a robust framework for rehoming greyhounds that retire from the racing industry. Several submissions called for an increase in the industry's rehoming capacity and additional support services, with others expressing concern that rehoming was a way for owners to avoid responsibility for greyhounds no longer required. Several submissions, particularly from animal welfare organisations, questioned the effectiveness of rehoming programs and expressed concern about greyhounds not being tracked after leaving the industry.

The Commission submission indicated reservations about the utility of setting a target for unnecessary euthanasia of greyhounds, stating that the current approach of seeking to eliminate all unnecessary euthanasia of healthy greyhounds, as specified in its Rehoming Policy, is preferable to setting a numerical or percentage goal.

The Commission noted that the Rehoming Policy was amended in December 2019 to increase rehoming requirements and improve transparency in the reporting of rehoming

attempts. Initial data following the introduction of these changes shows a decline in the number of greyhounds euthanised.

GRNSW noted that it has made significant progress in greyhound rehoming, particularly through the introduction of new initiatives such as its Homing Assistance Scheme. Several not-for-profit organisations outlined a case for more GRNSW funding of independent rehoming providers.

The RSPCA NSW raised concerns that successful rehoming does not necessarily result in a positive welfare outcome for greyhounds, calling for monitoring of rehomed greyhounds to consider their welfare in new environments.

The Coalition for the Protection of Greyhounds submitted that euthanasia should be banned and only be allowed in specific circumstances such as where a veterinarian certifies a greyhound is suffering from a serious or life-threatening condition or injury that causes significant pain, discomfort or a marked reduction in quality of life.

Findings in relation to greyhound rehoming and retirement

The Panel intended the review to consider improved data to inform whether a specific target for unnecessary euthanasia could be implemented to achieve zero unnecessary euthanasia by a nominated date.

The improvements in the quality of retirement and end of life data regularly reported on by the Commission are noted. However, these reports cover relatively recent periods only and data is not considered sufficient or extensive enough to inform a realistic legislative target for euthanasia.

A legislated ban on greyhound euthanasia is not supported, with the current policies and measures currently available to the Commission and GRNSW providing the necessary framework to limit unnecessary euthanasia, as well as the tools available to enforce compliance.

The review notes the concerns raised in submissions about improving greyhound rehoming reporting. The review recommends that reporting on greyhound rehoming and retirement be expanded to include additional information and data from independent rehoming and rescue organisations, where practical.

Recommendation 14

The Operating Licence be amended to require GRNSW to report rehoming data from GAP, as well as other programs supported by GRNSW.

5.4.4.3 Greyhound racing injuries

The Act requires that GRNSW set minimum standards for racecourse design and construction, racecourse facilities and amenities and greyhound training facilities to improve safety and greyhound welfare.⁸

⁸ Section 26 of the *Greyhound Racing Act 2017*

The Government's greyhound reforms included a commitment to provide \$30 million for conditional capital grants to improve animal welfare, including upgrading track facilities to make them safer for greyhounds (**Capital Grants Program**). Funding is dependent on the development of track standards. However, where serious safety or welfare risks are identified, GRNSW can request early access to funding.

GRNSW has consulted with greyhound racing clubs on draft track minimum standards, which are informed by research on optimal greyhound racetrack design by the University of Technology Sydney (**UTS**). Under the Act, the track standards must be approved by the Commission prior to adoption⁹, with work to finalise the track standards ongoing.

Over the past three years, GRNSW has accessed funding from the Capital Grants Program for urgent works at venues across NSW, including Wentworth Park, Gosford, Gunnedah, Bathurst, Kempsey and Tamworth. More than \$7 million has been spent to date, with the balance of the funding from the Capital Grants Programs to be allocated in accordance with GRNSW's Track Strategy. GRNSW has recently consulted with greyhound racing clubs on the draft Track Strategy, which is based on the minimum standards.

In March 2019, GRNSW started the Race Injury Rebate Scheme, which provides financial support for the off-track diagnosis and treatment of serious racing injuries. The scheme aims to eliminate the euthanasia of injured greyhounds where owners do not have the financial means to treat serious injuries.

In 2016, GRNSW began publishing quarterly reports on greyhound injuries sustained in racing at registered racetracks. The Commission took over this role from July 2018, with injury figures from the Commission's most recent quarterly report in the table below.

Greyhound injury numbers and rates

Injury category	Qtr 1 2019		Qtr 2 2019		Qtr 3 2019		Qtr 4 2019		Qtr 1 2020	
	No.	Per 1,000 starts	No.	Per 1,000 starts	No.	Per 1,000 starts	No.	Per 1,000 starts	No.	Per 1,000 starts
Minor	247	14.1	303	15.0	343	16.9	320	15.7	242	13.0
Medium	207	11.8	154	7.6	161	7.9	233	11.4	183	9.8
Major I	84	4.8	71	3.5	76	3.7	84	4.1	73	3.9
Major II	27	1.5	41	2.0	34	1.7	45	2.2	37	2.0
Catastrophic	33	1.9	17	0.8	12	0.6	15	0.7	15	0.8
Total	598	34.1	586	29.1	627	30.9	697	34.2	550	29.5

⁹ Section 26(6) of the *Greyhound Racing Act 2017*

Summary of submissions

Comments about greyhound racing injuries were varied, with some submissions noting the decrease in injuries over the past three years while others stated that there is a need for further work to reduce greyhound injuries.

Overall, submissions supported ongoing improvements to track safety, with many requesting the implementation of UTS recommendations, such as straight track racing and a reduction of race fields to six greyhounds.

Ongoing analysis of injuries was suggested, in addition to development of research partnerships and the use of innovative technology. Several submissions suggested that where track improvements have been made a significant decline in racing injuries has not occurred. Some recommended the development of key performance indicators by the Commission, including in relation to racing injuries.

Multiple submissions supported GRNSW's Race Injury Rebate Scheme which helps to prevent unnecessary euthanasia by offering financial support (up to \$2,750) for off-track veterinary costs. One submission requested public reporting on the numbers of greyhounds that benefit from the scheme and their outcomes following treatment.

The adequacy and availability of track veterinary equipment was also raised, as were the Commission's process for approving euthanasia, which one submitter argued may lead to the unnecessary suffering of greyhounds seriously injured during racing.

The Commission sought to be fully consulted during the assessment of each application made by GRNSW for funding from the Capital Grants Program, and on prioritising improvements at tracks with an above average rate of catastrophic and serious injuries and where race factors are believed to be a significant contributor. A further submission suggested that the Commission be given enforcement powers to ensure the use of best practice safety design and technology for track works.

Findings in relation to racing injuries

Both the Commission and GRNSW are committed to implementing policies and initiatives that reduce racing injuries and improve greyhound welfare outcomes.

The Act provides the framework for both the Commission and GRNSW to make improvements to the injury rate of greyhounds. This includes a variety of initiatives including significant safety improvements to tracks and facilities, the introduction of the Code of Practice and policies and the accurate reporting of injury data.

The Commission's reporting shows the severity of injuries sustained by racing greyhounds has decreased as a proportion of total injuries. The Commission's Greyhound Examination Database, developed in partnership with UTS, now provides accurate injury reporting in real time, allowing it to thoroughly understand and respond to trends and issues as they emerge.

5.4.4.4 Greyhound exports

The Act does not specifically regulate greyhound exports, which are governed by the Greyhound Racing Rules. However, the statutory review is required to examine and report on any impact on the export of greyhounds since the commencement of the Act.

The Panel recommended that the NSW Government advocate for improved regulatory control of greyhound exports, including support for a requirement that international export destinations have appropriate animal welfare standards. In November 2017, the then Minister for Racing wrote to the then Commonwealth Minister for Agriculture and Water Resources to advocate for strengthened regulation and oversight of greyhound exports.

Greyhounds Australasia (**GA**) is the peak body for greyhound racing in Australia. GA responsibilities including setting the Rules at a national level and issuing greyhound passports. In December 2017, GA amended the Rules to make it an offence for participants to transfer ownership of greyhounds when they either are aware, or ought to be aware, that the greyhound will be, or is likely to be, exported without a greyhound passport.

In late 2018, GA also amended its Passport Policy, making it clear that a GA passport will not be issued under any circumstances where the intended destination is unregulated. GA's export guidelines ensure Australasian greyhounds can only be exported to countries that have a standard of care and accountability comparable to Australian standards.

Greyhound exports:

- 2015-16 – 776
- 2016-17 – 299
- 2017-18 – 292
- 2018-19 – 36

Summary of submissions

The majority of submissions that considered greyhound exports were supportive of requirements that greyhounds not be exported to countries with animal welfare and monitoring standards that were not comparable to those in Australia.

Submissions from GRNSW and the Commission noted the current regulation has been satisfactory in substantially reducing the number of greyhounds and only permits greyhounds to be exported to jurisdictions with comparable standards. Both organisations indicated ongoing monitoring of the export of greyhounds is needed to ensure compliance with the Rules.

GRNSW also noted that greyhound export numbers have declined significantly since 2015. In 2018-19 just 36 greyhounds were exported to destination countries with comparable welfare and monitoring standards as Australia, including Canada, Czech Republic, Hong Kong, Ireland, Italy, the Netherlands, New Zealand, Portugal, Singapore, Taiwan, United Kingdom and the United States.

RSPCA NSW noted the decline in export numbers but requested further examination of outcomes for greyhounds which are exported. The Commission has indicated that it continues to regularly review the data collected at the border for greyhounds exported from Australia.

Findings in relation to greyhound exports

The review notes the positive impact on the export of greyhounds since the enactment of the Act, with only a limited number of greyhounds exported annually to countries with comparable welfare standards.

5.5 Regulation of greyhound racing

The Act provides for an improved registration and licensing framework (Part 5) and enhanced compliance, investigatory, inquiry and enforcement powers for the Commission (Parts 6, 7 and 8).

5.5.1 Enhanced registration and licensing

Part 5 of the Act and the Regulation strengthened registration requirements and broadened the definition of greyhounds and greyhound industry participants. The Act requires that all greyhounds be registered by 12 weeks of age and that all industry participants, trial tracks and racing clubs be registered.

The Act includes offences for failing to register a greyhound or as a participant. The registration framework is supported by the Regulation, with clause 10 requiring the owner or custodian of a greyhound to inform the Commission when a greyhound is whelped and whenever there is a change in the premises at which a greyhound is kept.

Under the Act's registration framework, the Commission may impose conditions on the registration of greyhounds, participants and trial tracks and GRNSW may impose conditions on the registration of greyhound racing clubs.

Summary of submissions

Many submissions indicated support for the Commission's new online registration portal stating it has made it much easier to renew registration for participants and greyhounds. RSPCA NSW suggested introducing competency-based licensing of participants. Some submissions suggested compliance education programs could increase awareness among industry participants, reduce the amount of breaches and lead to a lower level of contest against charges when a breach is detected.

Others noted the current registration requirements do not completely capture a greyhound's life cycle, suggesting tracking should occur beyond retirement and rehoming outside of the greyhound racing industry. Some submissions suggested that requiring greyhounds to be registered only at 12 weeks means they can be euthanised before this time.

The Commission's submission confirmed its recent implementation of the following programs to confirm the location of greyhounds:

- whereabouts tracking for pups entering their pre-race training phase. This program is ongoing and focuses on confirming the status and whereabouts of greyhounds between the ages of 12-18 months, where greyhounds are prepared for and assessed on suitability to race
- Greyhound Register Reconciliation Program to validate all greyhound data held by the Commission.

The Commission noted that Panel recommendations 65-72, relating to the participant registration and training requirements, have either been fully or partially implemented, with progression to full implementation underway. The Commission stated it is currently developing mandatory online knowledge testing for registration of key participant roles, to be commenced by late 2020.

Findings in relation to enhanced registration and licensing

The Commission stated it is currently developing mandatory online knowledge testing for registration of key participant roles, to be commenced by late 2020.

The registration framework allows the Commission greater oversight of every greyhound that enters or exits the industry. Registration conditions and greyhound notification requirements enforced by the Commission, designed to monitor the movement of greyhounds throughout their lifecycle, include:

- when a greyhound transfers ownership
- when a greyhound has left or entered a person's care
- greyhound naming
- greyhound breeding applications and exemptions
- whelping notice
- litter registration
- 12-week registration
- greyhound retirement
- end of life notifications.

The review also notes the Commission's programs to track and trace greyhounds provide much-needed confidence in the reliability of the greyhound records. Additional tracking programs based on specific risk criteria continue to be implemented by the Commission on an ongoing basis.

Under the Act's exchange of information provisions¹⁰ the Commission shares information with local councils when a greyhound is retired and registered under companion animals register legislation.

The Commission is currently developing a new registration and accreditation scheme. The new framework will mean people who are responsible for the care of a greyhound have clearly understood obligations and possess knowledge and skills required to obtain and retain their registration.

Overall, the review finds the Act provides an appropriate registration and licensing framework for the Commission to administer and have oversight of greyhounds and industry participants. However, it is recommended that the Commission ensures that Panel recommendations 65-72 relating to participant registration and training are implemented as a priority.

Recommendation 15

The Commission implement its enhanced registration scheme and training and accreditation of registered participants as a priority.

5.5.2 Effective investigatory and enforcement powers

Part 7 of the Act provides the Commission with robust investigation and enforcement powers including to obtain information and records, enter premises and inspect and seize things. These investigative powers help inspectors effectively monitor and enforce compliance in the industry and hold participants who fail to comply accountable.

¹⁰ Section 90 of the *Greyhound Racing Act 2017*

In 2018-19, the Commission reported the following investigative and disciplinary actions against participants:

Investigations

Action	Number
Reports of potential wrongdoing	370
Completed investigations	280

In 2018-19, the Commission reported the following kennel inspection data.

Inspections of kennels

Action	First inspection	Follow-up inspection	Total
Routine	509	13	522
Following a positive swab	28	2	30
New kennels	19	0	19
Registration new or upgraded	77	6	83
Targeted (based on intelligence)	114	12	126
Total	747	33	780

It also reported in relation to prohibited substances that 7,964 swabs were collected from 81,282 starters at NSW races at a sampling rate of 9.8 per cent (comparable to sampling rates in the previous two years).

In 2018-19, 34 race day swabs taken from 33 greyhounds were positive for a prohibited substance.

Summary of submissions

The majority of submissions supported the current investigative and enforcement powers and believe they are adequate to regulate the industry. RSPCA NSW indicated that the short time frame over which data has been collected, and the reliance on reporting on aggregate statistics, makes it difficult to determine the adequacy of compliance and enforcement powers.

The Commission stated it has not identified any fundamental gaps in its compliance, enforcement and disciplinary powers and reiterated that it should maintain administration of these functions to ensure the continuation of an effective and properly coordinated regulatory scheme.

Findings in relation to investigatory and enforcement powers

The review finds that the current investigatory and enforcement powers in the Act are proportionate and appropriate.

5.5.3 Disciplinary Actions

Under the Act the Commission can take disciplinary action against a participant for non-compliance with the law, Code of Practice or the Rules. Sanctions can include:

- suspending or cancelling a registration
- imposing conditions on registration
- imposing a fine
- disqualifying or warning off a person, club official or greyhound
- prohibiting participation in greyhound racing in any way.

In 2018-19, the Commission reported its stewards issued 598 notices of disciplinary action at race meetings (370 related to the performance of greyhounds in races). In total, stewards issued 228 fines and 17 warnings to participants on race days.

For disciplinary actions taken outside of race day, in the 2018-19 period 36 disciplinary actions with a total of 68 charges were proven, half of which (34) related to the conduct of participants and the remainder shared equally (17 each) between prohibited substances and animal welfare.

Summary of submissions

Submissions were mixed in relation to the use of disciplinary action. Industry participants (including GBOTA) raised concerns around the perceived lack of flexibility in imposing a penalty for cases relating to the detection of a prohibited substance.

Other submissions, particularly from those responders who indicated that they are principally concerned with animal welfare, suggested that disciplinary action was lax. Some participants and clubs also stated that disciplinary action is applied inconsistently by the Commission.

The Commission and GRNSW both indicated the current disciplinary provisions are suitable to allow the controlling bodies to act in relation to breaches. However, GRNSW stated its preference for the Act to be expanded to include enforceable undertakings.

Findings in relation to disciplinary actions

Calls to strengthen disciplinary provisions are noted. However, it is clear the Commission has sufficient powers at its disposal to take action where required. The consistent application of disciplinary measures is an operational matter for the Commission rather than a matter requiring amendment of the Act.

Suggestions that other disciplinary options, such as enforceable undertakings and warnings, may have merit if current options were considered inappropriate to address a particular type of conduct. However, it is noted that the Commission has not expressed a need for additional disciplinary options.

5.5.4 Greyhound Racing Rules

Under the Act, the Commission is empowered to make Rules about any matter related to greyhound racing, subject to consultation with GRNSW. The Act requires the Rules to be published on the NSW legislation website.

The current Rules in force in NSW were previously made by GRNSW and continue under transitional arrangements in the legislation. At the national level GA is conducting a review of the Rules, due to be completed before the end of 2020. Subject to the finalisation of the national review, the Commission will make the Rules in NSW in accordance with the Act.

Summary of submissions

A number of industry participants and the GBOTA made submissions on the consistency of the Rules and their application by the Commission. Submissions did not specifically address provisions relating to the Rules. The Commission and GRNSW both indicated the current regulatory arrangements fulfill the requirement to regulate the industry.

Findings in relation to the rules

The review notes the concerns raised by participants about issues of consistency. It is expected the national review will address inconsistencies and gaps in the Rules and allow for a more uniform approach regardless of where greyhounds are raced in Australia.

The ability of the Commission to make Rules outside of the national arrangements where necessary provides an added assurance that emerging issues can be quickly addressed (noting the Commission would still need to consult on any new Rule) and that any unique regulatory circumstances in NSW can be taken into consideration.

5.5.5 Internal reviews

Under the Act, where an individual is subject to a reviewable decision by a steward or the Commission, they can access an internal review of that decision. Internal reviews are an essential fairness mechanism for administrative decisions. The right of review is in addition to any right of appeal a person has to the Racing Appeals Tribunal under the *Racing Appeals Tribunal Act 1983*.

Summary of submissions

A number of industry participants, as well as GBOTA, made submissions on the fairness and consistent application of decisions by the Commission. GRNSW maintained that consideration be given to developing a more efficient, low-cost mechanism for both Steward's enquiries and appeals from decisions.

A majority of industry participant survey responses supported internal review of additional categories of decision, with submissions stating that all Commission decisions should be reviewable upon request or suggesting an external, independent review mechanism would be more appropriate.

By contrast, survey responses and submissions from non-participants suggested that internal review provisions were adequate or already too extensive.

Findings in relation to internal reviews

The Act provides for internal review of certain disciplinary decisions. Currently, the Commission charges no fee for internal reviews. This provides a low-cost appeal mechanism

for participants who dispute a Stewards decision. The review notes that no industry participants sought internal reviews in 2018-19.

While submissions from industry participants indicated broad support for allowing additional decisions to be subject to internal review, only limited information was provided about the types of decisions considered a priority for internal review. It is noted that submissions did not reference the availability of independent review through the Racing Appeals Tribunal, which is in addition to the internal review process.

It is recommended that consideration be given to whether additional decisions should be subject to internal review.

Recommendation 16

The Department and Commission consider whether additional categories of decision should be available for internal review, as appropriate.