

11 June 2021
Sir Bruce Robertson
Chair of the Racing Integrity Establishment Board
Department of Internal Affairs
PO Box 805
Wellington 6140

FROM: New Zealand Animal Law Association
workstreams@nzala.org.nz

SENT BY EMAIL TO: greyhoundreview@dia.govt.nz

Dear Sir Bruce,

SUBMISSION ON THE 2021 REVIEW INTO GREYHOUND RACING

1. The New Zealand Animal Law Association (**NZALA**) has been invited by you to provide input into the review into greyhound racing, commissioned by the Hon Grant Robertson as Minister for Racing and Hon Meka Whaitiri as Associate Minister of Agriculture (Animal Welfare).
2. NZALA is grateful for the opportunity to be involved in this important process. We trust our comments and observations below are of assistance to you in completing your review.

Summary

3. The structure of this submission is as follows:
 - 3.1 first, we outline the legislative framework for animal welfare which the racing industry is subject to;
 - 3.2 second, we discuss the welfare issues in greyhound racing discussed in the Hansen Report and how these interact with the Animal Welfare Act 1999 (**AWA**);
 - 3.3 third, we raise our concerns regarding the changes implemented by Greyhound Racing New Zealand (**GRNZ**) in response to the Hansen Report to date; and
 - 3.4 finally, we discuss the need for a more fundamental assessment of greyhound racing, and whether it is possible for greyhound racing to comply with the AWA.
4. This submission focuses on NZALA's higher-level concerns, and particular legal matters. It does not specifically deal with many discrete issues with greyhound racing, such as live-baiting and drug use. We note, however, that:
 - 4.1 there are a range of such issues that are of significant concern; and
 - 4.2 should greyhound racing be allowed to continue, regulating (under section 183A of the AWA) racing practices with particular adverse animal welfare impacts should be considered by the National Animal Welfare Advisory Committee.
5. For the Board's reference, we have provided with this submission a collection of research documents to assist with understanding welfare issues inherent in greyhound racing.

Legislative Framework

6. The AWA outlines the obligations of animal owners, and those in charge of animals. In this context, the following are particularly significant:
 - 6.1 under section 10 owners and those in charge of animals are required to meet their physical, health, and behavioural needs in accordance with good practice and scientific knowledge; and
 - 6.2 under section 11, there is an obligation to alleviate unreasonable or unnecessary pain or distress that an ill or injured animal is suffering from.
7. Per section 4 of the Act, "*physical, health and behavioural needs*" include:
 - 7.1 proper and sufficient food and water;
 - 7.2 adequate shelter;
 - 7.3 the opportunity to display normal patterns of behaviour;
 - 7.4 appropriate physical handling; and
 - 7.5 protection from, and rapid diagnosis of, injury and disease.
8. In the context of greyhound racing, issues relating to 7.3 and 7.5 above are the most relevant and will be discussed specifically as they relate to greyhound racing in the next section.
9. Compliance with a code of welfare (which are often developed by industry) is a complete defence to any prosecution under the AWA. If a code of welfare allows certain treatment which would otherwise conflict with the AWA, no prosecution can succeed under the AWA.
10. There is no code of welfare that applies specifically to dog racing, and there are therefore no direct standards for racing, compliance with which would provide a defence to an AWA charge. The Dogs Code of Welfare, which does apply to greyhound owners, does not specifically address issues relating to racing.

Welfare issues within greyhound racing

11. The 2013 WHK Report and 2017 Hansen Report identified a number of welfare issues associated with greyhound racing. These include, but are not limited to:
 - 11.1 the over breeding of greyhounds, which results in many healthy dogs being euthanized;
 - 11.2 inadequate record-keeping to track individual greyhounds throughout their lives, with over 1000 dogs unaccounted for/missing; and
 - 11.3 injuries and deaths sustained on the racing track.
12. Regarding point 11.1 above, we note that in excess of 165 greyhounds were euthanized in the last racing season for reasons other than injury. This includes dogs which cannot be rehomed for behavioural reasons, or supply of retired greyhounds which exceeds demand. A breakdown

of this figure has not been provided by GRNZ, nor is this data independently audited, as such the current extent of overbreeding is unknown.

13. It is our understanding from the recent comments of the Minister for Racing that the industry will no longer self-regulate from 1 July 2021, with the establishment of the Racing Integrity Board. Having an enforcement body which is truly independent of the racing codes may mitigate the data collection issues described at 11.2. It could also address ongoing concerns about the veracity of drug testing, injury reporting and enforcement of rules relating to welfare, due to the current conflicts of interest that exist within the Racing Integrity Unit (**RIU**).
14. We note that this is subject to the regulatory changes described by the Minister being concurrent with replacement/amendment of the Judicial Control Authority structure. This body similarly has a conflict of interest and has shown in its recent decision *Non Raceday Inquiry RIU v A H Turnwald* that animal welfare concerns are being treated as secondary to the public image of the code.¹

Interaction with the AWA

15. As mentioned above at 11.3, the Hansen Report highlighted the injuries and deaths sustained on the racing track as being a serious welfare issue. This is particularly so owing to its apparent conflict with sections 4(c) and 10 of the AWA, namely the duty placed on those in charge of animals to provide "*protection from, and rapid diagnosis of, any significant injury or disease*".
16. Greyhound racing has been identified as an inherently dangerous sport with injuries being almost inevitable. In the 2020 season alone, at least 34 dogs died or were euthanized as a result of on track injuries, with in excess of 1000 injury stand-downs. As the racing industry self-regulates, and its data is not audited by a truly independent body, it is possible the true numbers are higher than this.
17. Greyhounds race at very high speeds (up to 65km per hour). Due to the oval-shape of the track, and the sharp-turns, dogs often lose their footing on the first turn.² When combined with the "bunching" that occurs at the turns, the dogs can stumble and collide, resulting in serious injuries occurring.³ These injuries include skin tears, wounds, fractured legs and hocks, spinal damage, severe muscle cramping, trauma and "blown toes".⁴
18. The injuries resulting from racing are not limited to those which are immediately discoverable,⁵ and many, such as sesamoid fractures do not present until later in life,⁶ or upon a triggering

1 *Non Raceday Inquiry RIU v A H Turnwald* Judicial Control Authority for Racing Palmerston North A14111, 21 April 2021.

2 GK Sicard, K Short and PA Manley (1999) *A survey of injuries at five greyhound racing tracks*, Journal of Small Animal Practice, 40, 428-432, at 432.

3 Rodney Hansen, *Report to the New Zealand Racing Board on Welfare Issues Affecting Greyhound racing in New Zealand* (The New Zealand Racing Board) Report, December 2017 at [12.28].

4 MJ Guilliard (2010) *Third tarsal bone fractures in the greyhound*, Journal of Small Animal Practice, 51, 635-641, DOI: 10.1111/j.1748-5827.2010.01004.x at 639; JHB Prole (1976) *A survey of racing injuries in the greyhound*, Journal of Small Animal Practice, 17, 207-218; Sicard et al, above n 2, at 431; and AL Palmer, CW Rogers, KJ Stafford, A Gal, and CF Bolwell (2021) *A retrospective descriptive analysis of race-day injuries of greyhounds in New Zealand*, Australian Veterinary Journal, 99:6, 255-262 at 257.

5 Greyhound Racing Victoria *Micro fractures fact sheet* (2019) <https://greyhoundcare.grv.org.au/wp-content/uploads/2019/04/Welfare_Fact_Sheets_2019_Micro_Fractures_final.pdf>.

6 MJ Guilliard (2013) *Conservative management of fractures of the third metatarsal bone in the racing greyhound*, Journal of Small Animal Practice, 54, 507-511.

event,⁷ when the dogs may no longer be within the industry. As a result, these injuries are not accounted for in racing industry statistics and make assessments of AWA compliance deficient.

19. A five-year Massey University study on the impact of training and racing of greyhounds, concluded that running in one direction from a young age, together with poor nutrition can cause asymmetric bone development between the left and right central tarsal bones in greyhounds.⁸
20. Numerous veterinary studies have shown that micro-fracturing occurs in racing greyhounds, particularly on the right hind leg and left front leg, from the stress placed on the joints when running on the track.⁹ This would not necessarily show up on a check, nor lead to an injury stand-down, with continued racing aggravating the condition.¹⁰ This can in turn contribute to "catastrophic" failure later in the dog's life, including fracturing of the metatarsals, metacarpals and most significantly, hocks.¹¹
21. As there is no code of welfare for greyhound racing, NZALA contend that incidents in which a dog is injured on the track may amount to offences of ill-treatment under the AWA, which is a strict liability offence. Section 4 of the AWA, in defining physical, health and behavioural needs of animals also requires them to be protected from any significant injury or disease, and this is a mandatory requirement.
22. Ill-treatment is defined in section 2(1) as:

in relation to an animal, means causing the animal to suffer, by any act or omission, pain or distress that in its kind or degree, or in its object, or in the circumstances in which it is inflicted, is unreasonable or unnecessary.
23. Subjecting greyhounds to racing arguably amounts to ill-treatment, as greyhound racing was found by the Hansen Report to be inherently dangerous, with injuries being almost inevitable. Further, the report did not consider the long-term injuries which can be attributed to racing, as discussed above. When greyhounds are injured this causes unnecessary pain or distress, and this is a direct result of owners and people in charge of greyhounds, who know the risks involved, putting them up to race.
24. In light of the above, greyhound racing is arguably inherently in breach of sections 12(a), 28A and 29(a) of the AWA.
25. We note that were it not for the Racing Act 2003 impliedly permitting greyhound racing to occur, the legality of greyhound racing could be successfully challenged, and prosecutions could be brought (by the state, by RNZSPCA, or privately) against participants, for failing to protect their dogs from significant injury.

7 PE Davis, CR Bellenger and DM Turner (1969) *Fractures of the sesamoid bones in the greyhound*, Australian Veterinary Journal, 45, 15-19.

8 DJ Thompson, NJ Cave, JP Bridges, K Reuvers, MC Owen & EC Firth (2012) *Bone volume and regional density of the central tarsal bone detected using computed tomography in a cross-sectional study of adult racing greyhounds*, New Zealand Veterinary Journal, 60:5, 278-284, DOI: 10.1080/00480169.2012.682957 at 283.

9 J Hickman, *Greyhound injuries* (1975) Journal of Small Animal Practice, 16, 455-460, at 455.

10 Ibid, at 456; and Thompson et al, above n 8, at 283.

11 Ibid, at 283; A Piras, *Stress Fractures in Racing Greyhounds*; KA Johnson, P Muir, RG Nicoll, and J K Roush (2000) *Asymmetric adaptive modelling of central tarsal bones in racing greyhounds*, Bone, 27:2, 257-263; Palmer et al, above n 4 at 260; and K Wendelburg, J Dee, R Kaderly, L Dee and E Eaton-Wells, (1988) *Stress fractures of the Acetabulum in 26 Racing Greyhounds*, Veterinary Surgery 17:3, 128-124 at 128,133.

Welfare issues not discussed in the Hansen Report

26. The Hansen Report noted that the main justification trainers gave for euthanizing a healthy greyhound was its supposed unsuitability as a pet. However, the report did not discuss the possibility of a causal link between racing and anti-social behaviour, nor did it provide recommendations relating to behavioural outcomes.
27. Veterinary and behavioural research suggests that, in addition to a history of selective breeding to this end, racing encourages chasing behaviour in greyhounds,¹² through a combination of:
 - 27.1 visual and auditory stimuli provided by the lure;¹³
 - 27.2 positive reinforcement from trainers when the dogs give chase;¹⁴ and
 - 27.3 the confinement of greyhounds for up to 23 hours per day, and corresponding lack of socialisation with other dogs.
28. As a result, greyhounds learn behaviour which can be detrimental to their possible future as a family pet, as they are unable to distinguish between what they should and should not chase.¹⁵ This encouraged prey drive, together with their high speed and agility, creates a risk to humans, as well as other domestic and non-domestic animals, which the Hansen Report did not adequately address.
29. There have been numerous reported instances of retired greyhounds attacking and/or killing other dogs, cats, and livestock in New Zealand. This issue is not unique to New Zealand, with Dr Karen Dawson, an Australian vet specialising in behaviour, advising that she is seeing a greater number of incidents involving greyhounds biting humans and other animals. She has attributed this behaviour to the dogs' race training not aligning well with an urban family environment.¹⁶
30. She further notes that ex-racing greyhounds are often in a state of fear and anxiety, which in many cases is chronic. The former chief veterinarian of Greyhound Racing NSW and welfare scientist, Dr Liz Arnott, has noted similar concerns, and stated:¹⁷

When you look at the scientific literature... greyhounds are overrepresented compared to some other breeds for behavioural issues.

12 TJ Howell, PC Bennett (2020) *Preventing predatory behaviour in greyhounds retired from the racing industry: Expert opinions collected using a survey and interviews*, Applied Animal Behaviour Science, 226:104988, DOI 10.1016/j.applanim.2020.104988.

13 M Starling, B Wilson and P McGreevy (2020) *Effects of Lure Type on Chase-Related Behaviour in Racing Greyhounds*, Animals, 10:2262, 1-13.

14 Howell and Bennett, above n 13, at [3.2].

15 M McHugh M (2016). *Special Commission of Inquiry into the Greyhound Racing Industry in New South Wales*, 137 at [16.47] and [16.56].

16 T Forbes, *Greyhounds 'docile and low maintenance' but vet warns of adoption risk for dogs bred to race*, ABC Gold Coast, published 14 July 2018.

17 Ibid.

31. Furthermore, a 2016 dog behaviour study, published in the Journal of Veterinary Behaviour, found greyhounds were overrepresented when it came to visits to behavioural clinics in Brisbane and on the Gold Coast.¹⁸
32. Behavioural issues continue to be reflected in the GRNZ euthanasia statistics. In the 2013 to 2017 period, 383 greyhounds were declared to have been euthanized due to their unsuitability as pets, although the true number is likely to be higher, due to a lack of data collection at this time. In the 2020 season, 165 dogs were euthanized for reasons other than a track injury. While a breakdown of this number was not provided by GRNZ, this figure includes dogs euthanized due to behaviour and temperament issues, which would prevent them from being safely rehomed.
33. As veterinary research has suggested these behavioural issues are causally linked to racing¹⁹ and the care of racing greyhounds,²⁰ greyhound racing could inherently breach section 10 of the AWA in relation to the requirement that animals are given the opportunity to display normal patterns of behaviour, per section 4(c) of the AWA.
34. This in turn raises the possibility of AWA offences being proved against trainers pursuant to section 12(b), particularly in relation to racing/ex-racing greyhounds:
 - 34.1 attacking humans or other animals; or
 - 34.2 being euthanized for failing the temperament test and/or displaying severe behavioural issues or anxiety.
35. The use of live-bait and prohibited substances within the racing code also present significant animal welfare concerns. Both practices are intended to provide a competitive advantage:
 - 35.1 live baiting is thought to stimulate the dogs' prey drive;²¹ and
 - 35.2 doping is believed to either heighten physical performance, or alternatively reduce physical performance to race fix.
36. Live baiting is specifically prohibited under section 29(c) to (e) of the AWA, and the intentional or inadvertent doping of a dog can be an offence under section 28, 28A or 29(a). While these practices are already prohibited by both the AWA and racing rules, we note that inadequate enforcement and a lack of independence by those inspecting kennel facilities and administering drug tests mean these activities are likely to be more prevalent than we realise.
37. The recent decision in *Non Raceday Inquiry RIU v A H Turnwald* is an example of the current enforcement inadequacies.²² Not only was the penalty imposed much lower than those open to the JCA in the circumstances, and what was suggested by the RIU, but MPI chose not to take action under the AWA. Mike Godber has stated that only 7% of dogs starting are drug tested, and the RIU currently selects which dogs are tested. Cumulatively this is unlikely to provide a sufficient deterrent from participating in these practices.

18 R Col, C Day and CJC Phillips (2016) *An epidemiological analysis of dog behaviour problems presented to an Australian behaviour clinic, with associated risk factors*, Journal of Veterinary Behaviour, 15, 1-11 at 5.

19 Howell and Bennett, above n 13, at [3.2].

20 McHugh M. (2016). *Special Commission of Inquiry into the Greyhound Racing Industry in New South Wales*.

21 Howell and Bennett, above n 13, at [3.2].

22 Above, n 1.

38. We are hopeful that the establishment of the Racing Integrity Board, together with increased penalties for rule breaches could mitigate the above concerns. However, it is our recommendation that testing of all dogs starting should be mandatory to ensure AWA compliance. Random kennel inspections should also be conducted regularly, to better deter live-baiting.

Changes implemented by GRNZ

39. On-track injuries were one of the most significant areas of animal welfare concern noted in the Hansen Report, and as discussed above, racing injuries could inherently constitute a breach of the AWA. It is, therefore, of significant concern that this is the one area in which little progress has been made to implement Hansen Report recommendations and reduce the prevalence of injuries.
40. Recommendation 20 specifically suggested that:

NZGRA should continue with its programme of improving safety at racetracks including:

- a. *Undertaking or promoting further research into the causes of death and injury including into possible explanations for differences in casualty rates between race tracks.*
 - b. *The completion of trials on the positioning of the lure and giving effect to any changes recommended as a result.*
 - c. *Investigating the introduction of straight tracks.*
41. The 2020 GRNZ annual report outlines actions to date regarding this issue, which have largely involved "monitoring" and "investigating", with only moderate changes actually being implemented, and only at two tracks. The inaction by GRNZ in this area is reflected in the reported injury statistics:²³
- 41.1 in the period leading to the Hansen Report (2014 to 2017):
- (a) 165 greyhounds were reported as dying as a result of racing injuries (55 per year on average); and
 - (b) 2,000 suffered racing injuries which resulted in a stand down (666 per year on average);
- 41.2 in the 2018 season there were 35 deaths and 844 injuries requiring stand downs;
- 41.3 in the 2019 season there were 58 deaths and 1040 injuries requiring stand downs; and
- 41.4 in the 2020 season there were 34 deaths and 1032 injuries requiring stand downs.
42. As the average number of injuries requiring stand downs per season has in fact increased since the Hansen Report, NZALA considers that inadequate improvements have been made to what is arguably the most significant issue in terms of AWA compliance.

43. As this data is collected by GRNZ and industry affiliated bodies, it is possible that there is under-reporting of injuries and deaths, which could make the true figures higher than those provided.
44. The exclusion/concealment of 47 greyhound deaths from the GRNZ 2020 Annual Report is suggestive of under-reporting by the industry. These 47 deaths did not involve euthanasia and could also potentially constitute breaches of the section 11 and section 12(b) duty to alleviate pain and suffering. Alternatively, injury related deaths could have been included in the statistics for dogs euthanized for "other reasons".

Recommendation of Straight Tracks

45. The Hansen Report specifically suggested the implementation of straight tracks to mitigate risk of injury. Of note, there has been no move to straight tracks, or even trials, despite the industry having now "studied/ monitored" the use of straight tracks in Australia for four years.
46. We note that research into the use of straight tracks in Australia was conducted by the Coalition for Greyhound Protection (**CGP**) in March 2020. This found that oval track race data showed an increase in all injury categories when compared to straight track race data across all states, with the exception of Major I injuries (fractured toes, severe split pads, dislocated joints, simple fractures, Grade 3 muscle injuries) in Victoria.²⁴
47. Some injury categories doubled when racing on oval tracks. In South Australia combined Major I and II injuries at the Murray Bridge oval track were five times that of the Murray Bridge straight track. The only deaths occurred on oval tracks.
48. The findings of the CGP research supported the findings of the University of Technology Sydney (**UTS**), that racing on straight tracks results in fewer injuries and fatalities. The failure of GRNZ to implement this change to straight tracks therefore suggests the industry is ignoring proven measures to improve animal safety and welfare.²⁵

Conclusion

49. In 2017, The Department of Internal Affairs advised the Government that as greyhound racing is a form of entertainment, there is an ethical obligation to ensure that the welfare of animals is paramount. The current injury statistics, and the failure of the industry to resolve these recurring issues following successive reviews, indicate the welfare of greyhounds is not being treated as paramount. The social-licence of the industry to operate is therefore in question.
50. Even if the Hansen Report recommendations, including the move to straight tracks, are implemented by GRNZ, it is doubtful whether injuries will be sufficiently mitigated. While straight track racing statistically appears to be safer than oval track racing, CPG and UTS research found that straight tracks still carry significant risk of serious injury and death. This position appears to have been reinforced by the Hansen Report, which stated "*the nature of greyhound racing makes some casualties inevitable*".²⁶

²⁴ Coalition for the Protection of Greyhounds *The case for straight tracks* (2020) at 8.

²⁵ University of Technology Sydney *Identifying optimal greyhound track design for greyhound safety and welfare Phase I Report Jan 2016 to 31 Dec 2016* (2016).

²⁶ *Hansen Report*, above n 3, at [12.39].

51. Further, the true prevalence of long-term bone injuries in greyhounds is unknown, as data is not collated by the racing industry (both in New Zealand and internationally) about injuries which occur after a greyhound's retirement from racing. While successive veterinary studies have shown a causal link between racing and later fractures, it is currently unknown how many greyhounds suffer as a result, as the sample sizes for each study were relatively small.
52. Without sufficient evidence to show the long-term risk of fractures is limited, the law should err on the side of precaution and prohibit greyhound racing to prevent unnecessary suffering to greyhounds and uphold the AWA.
53. It is therefore our recommendation that greyhound racing is banned in New Zealand, particularly as repeated reviews have now indicated similar welfare concerns which have to date been inadequately addressed by the industry.
54. Should greyhound racing be retained, this should be subject to the following conditions:
 - 54.1 mandatory use of straight tracks, and discontinued use of oval tracks;
 - 54.2 restriction on the number of dogs which can be bred per year, to better align with rehoming demand;
 - 54.3 independent:
 - (a) collection of all breeding, rehoming and euthanasia data;
 - (b) injury reporting;
 - (c) drug testing of all dogs that start races;
 - (d) rule enforcement; and
 - (e) adjudication of all charges brought for rule breaches;
 - 54.4 collection of data for all greyhound bone injuries following retirement from racing, to better analyse long-term health implications from the practice;
 - 54.5 the conducting of ethological research into chase behaviour, aggression, and anxiety in racing/ex-racing greyhounds to assess whether there are measures which could limit the number of dogs euthanized for these issues; and
 - 54.6 a further review to be conducted into the greyhound racing industry, in order to assess whether greyhound racing should be allowed to continue following the implementation of the above conditions.

Nāku, nā / yours faithfully

The New Zealand Animal Law Association