

QUEENSLAND RACING COMMISSION OF INQUIRY


AFFIDAVIT OF KENNETH JOHN SMITH

I, **KENNETH JOHN SMITH**, Trade Queensland, Queensland House, 392 Strand, London WC2R 0LT, United Kingdom, Agent-General for Queensland and Queensland Trade and Investment Commissioner, Europe, states on oath:

PRELIMINARY MATTERS

1. In this statement:
 - (a) 'Relevant Entities' means Racing Queensland Limited, Queensland Racing Ltd, Greyhounds Queensland Ltd, Queensland Harness Racing Ltd and their controlled entities including Queensland Race Product Co Ltd; and
 - (b) 'Relevant Period' means the period from 1 January 2007 to 30 April 2012.
2. I no longer have access to my inboxes or calendars for the period while I was at the Department of the Premier and Cabinet ('Department'). In order to assist the Commission with its inquiries, and particularly in order to answer the questions posed in the requirement addressed to me, I asked the Department to search for copies of any relevant emails and other documents that it appears I would have received whilst I was Director-General. I also requested copies of my electronic diaries for the relevant time. Those diaries commence in January 2007 but are more accurate for the period from 15 September 2007 onwards.
3. Crown Law and the Department have provided me with copies of some documents that have been located and are relevant to my statement, but I have not been able to personally search for other documents.
4. I have also referred to my personal notebooks from the Relevant Period while I was Director-General of the Department. Extracts of my notebooks relating to meetings referred to in this statement are attached and marked 'KS-1'. The notes record key points rather than verbatim minutes of the meetings and in many cases I did not keep notes where Departmental officers

Page 1

Signed: 
Deponent

Affidavit of Ken Smith

Taken by: 
Solicitor/Barrister /Justice of the Peace/
Commissioner for Declarations

GR Cooper
CROWN SOLICITOR
11th Floor, State Law Building
50 Ann Street
Brisbane Qld 4000
Telephone 07 3239 3734
Facsimile 07 3239 3456

were present as they took responsibility for recording actions from specific meetings. At other times, I instead wrote on briefing notes or spoke directly to staff about follow up.


5. I have prepared this statement on the basis of my recollections after refreshing my memory from the documents available to me.

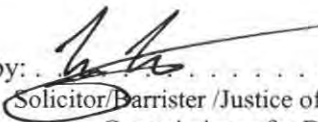
ROLE

6. I am currently the Agent-General for Queensland and Queensland Trade and Investment Commissioner, Europe. I was appointed to my position by the Governor in Council for a term from 5 July 2011 to 4 July 2016 and I am based in London.
7. Prior to my appointment as Agent-General for Queensland and Queensland Trade and Investment Commissioner, Europe, I was:
 - (a) the Coordinator-General and Director-General of the Queensland Department of Infrastructure from 15 January 2007 until 13 September 2007; and
 - (b) the Director-General of the Department from 14 September 2007 to 2 July 2011.

REPRESENTATIONS TO RELEVANT ENTITIES

8. Any representations, that I am aware of, that were made by representatives of the Relevant Entities to representatives of the Government in relation to:
 - (a) the consent, agreement or consultation required of the three codes of racing control bodies;
 - (b) industry infrastructure proposals;
 - (c) Government policy positions on the future oversight and regulatory role of the Minister and executive government in relation to the racing industry;
 - (d) proposed board membership of an amalgamated racing industry control body;
 - (e) the future role of racing clubs and club representatives; and
 - (f) the future role of the Queensland Country racing Committee and Country Racing Associations,are outlined in this statement in my description of the meetings I attended or in the documents I have attached.

Signed: 
Deponent

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DISCUSSIONS AND COMMUNICATIONS WITH RELEVANT ENTITIES

9. I am informed by Lucinda Kasmer, Special Legal Adviser in the Department, that the searches of my diaries have identified apparent appointments for meetings about racing issues pertinent to the Terms of Reference of the Inquiry. Attached and marked 'KS-2' is a bundle of printouts of those appointments with the relevant attachments. I discuss each meeting below in groups by reference to their subject matter.

Amalgamation of racing industry control bodies


27 October 2009

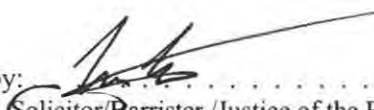
10. I attended a meeting on 27 October 2009 regarding the proposed amalgamation. I have some notes regarding this meeting and they are contained in exhibit KS-1.
11. The calendar appointment for this meeting in exhibit KS-2 attached a handwritten note addressed to 'Sue'. It is likely the note was prepared within the Premier's office and that the 'Sue' was Sue Cox, the Premier's diary secretary at the time. I cannot identify the author of the hand written note.
12. My recollection of this meeting is that:
- (a) The attendees were Premier Bligh, Treasurer Fraser, Bill Ludwig, Bob Bentley, Mike Kaiser, Lachlan Smith and me.
 - (b) The broad topics discussed were the need to improve, and in some cases, rationalise racing infrastructure and the need for governance reform.
 - (c) Bob Bentley raised a specific funding issue regarding the Gold Coast and particularly retaining the Magic Millions Carnival as there was a threat to move the event from the Gold Coast to Sydney because of poor facilities.
 - (d) After discussing various infrastructure issues and the industry's request for significant capital grants from Government, focus turned to the current litigious environment within the racing industry and issues between the three control bodies. In this context, Bob Bentley raised the need for a new governance model for the industry.
 - (e) Bob Bentley strongly promoted the need for a new governance model for the industry;
 - (f) The requirement for rolling elections was seen by Messrs. Bentley and Ludwig as not providing for stable governance of the industry. They outlined their preference for a more commercial, as opposed to representational, model for the governing board. They saw

- this occurring by allowing board appointments to be made on the basis of merit rather than by election.
- (g) There was also an issue raised about the terms of appointment for individual Board members, but I cannot recall the specific issues involved apart from the general points raised in (f) above.
 - (h) No commitment for funding was given at the meeting. The Premier outlined the budget context and the fact that mid year review ('MYR') was progressing and an announcement on the MYR outcomes was likely in early December.
 - (i) The Premier also gave no commitment to support the proposed Governance model;
 - (j) At the end of the meeting, Bob Bentley was asked by the Premier to provide further advice to Lachlan Smith and myself regarding options for a new governance model for the industry.
 - (k) The action taken by me or my officers following the meeting was to organise follow up discussions with Mr Bentley on governance issues and work with Treasury and the Office of Racing on an analysis of the infrastructure funding request in the context of Mid Year review deliberations by CBRC.
13. After the meeting of 27 October 2010, Bob Bentley sent a letter dated 10 November 2011 to me attaching the 'QR Case for Change' document. A copy of that letter (without the attachment) is attached and marked 'KS-3'. This letter would have been referred to the appropriate officers within the Department.
14. I have been shown an email from Nicholas Lindsay to Carol Perrett dated 16 November 2009 regarding the 'QR Case for change'. A copy of the email is attached and marked 'KS-4'. The email refers to issues that were required to be brought to 'Ken's attention'. It is likely that 'Ken' is a reference to me. I did not receive this email and I cannot recall seeing the comments on the QR Case for Change document, but it is likely they formed the basis of a briefing to me in preparation for my meeting on 20 November 2009 (discussed below).

20 November 2009

15. I attended a further meeting about the proposed amalgamation on 20 November 2009.
16. Dr Pradeep Philip, the Associate Director-General in the Department, signed a briefing note for me in preparation of this meeting. A copy of that briefing note is attached and marked 'KS-5'. The briefing note sets out general background information for me to review before

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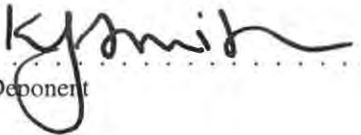
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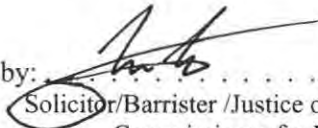
the meeting so I had an understanding of the likely matters to be raised for discussion. This is a standard process for most external and many key internal meetings.

17. The meeting on 20 November was about both governance and infrastructure funding. I have some notes regarding this meeting and they are contained in exhibit KS-1. My recollection of this meeting is that:
- (a) The attendees were Bob Bentley, Bill Ludwig, Lachlan Smith and me.
 - (b) The discussion focused on the control body amalgamation proposal.
 - (c) Bob Bentley wanted an early government decision and announcement about the issue.
 - (d) Bob Bentley referred to the fact that Western Australia were proposing a similar amalgamation and pointed to that as a benchmark for changes in Queensland.
 - (e) Bob Bentley raised an issue with the election process for the control bodies and the fact that Bill Ludwig was up for election in March of the next year.
 - (f) The issue of the importance of retaining the Magic Millions on the Gold Coast was also raised during the discussions.
 - (g) The outcome was that Queensland racing would come forward with a firm proposal, including an analysis of the legal issues by 21 December 2009.
 - (h) The action taken by me or my officers following the meeting was to ensure that the Premier and Departmental Officers were apprised of the discussions and the next steps.
18. There is no doubt in my mind that Mr Bentley in particular believed that there was an urgent need for the amalgamation of the 3 racing control bodies and that Government should endorse the proposals prepared by Racing Queensland..
19. Following this meeting, Bob Bentley wrote to me and Lachlan Smith by letter dated 23 November 2009 highlighting the urgency in the restructure of the racing industry. A copy of that letter is attached and marked 'KS-6'.
20. After this meeting, the Cabinet Budget Review Committee ('CBRC') made its decision regarding funding of control bodies in the Queensland racing industry (Decision Number 2863) on 26 November 2011.

18 December 2009

21. I convened a further meeting with the stakeholders about the proposed governance changes to the racing industry on 18 December 2009. My recollection of this meeting is that:
- (a) The attendees were Bob Bentley, Bob Lette, Kerry Watson, Ian Fletcher, David Ford, Mike Kelly, Lachlan Smith and me.

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- (b) The matters discussed focussed on the position of the 3 codes on the amalgamation proposal.
 - (c) The outcome was support in principle for the changes, although there were outstanding issues relating to Board composition and assurances for treatment of each of the codes.
 - (d) The action taken by me or my officers following the meeting included briefing of the Premier and my own Departmental Officers on the outcomes of the meeting.
22. I attended a pre-briefing meeting with Ian Fletcher, David Ford, Mike Kelly and Lachlan Smith immediately before this meeting. It is common to have such meetings so that government representatives can discuss relevant issues before meeting with third parties.

CBRC Submission

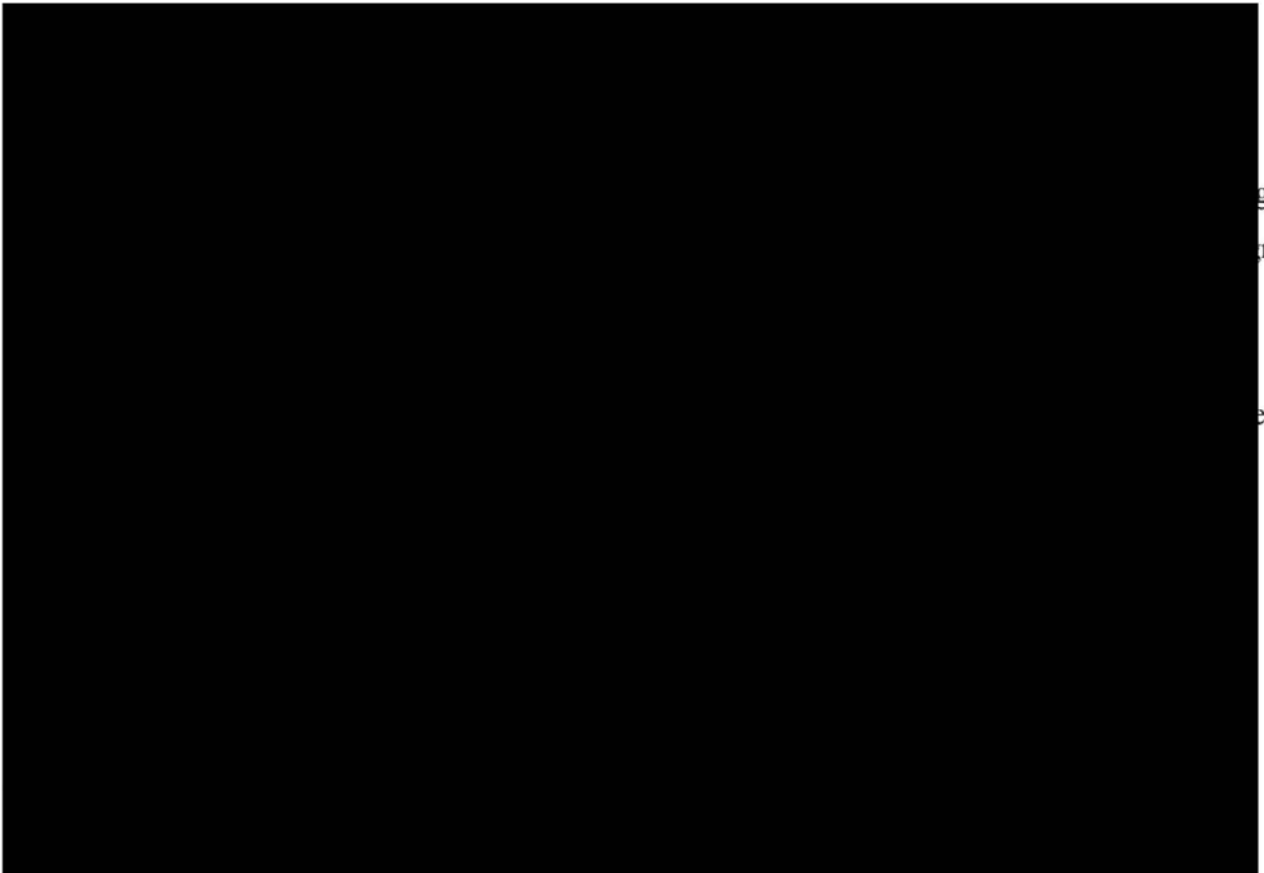
23. Around the time of the meetings about the proposed amalgamation, CBRC Submission 3756 (later Decision Number 2863) was being prepared by the Office of Racing. The policy officers within the Department were consulted on that submission.
24. I have been shown a copy of a briefing note that was prepared for the final submission dated 5 November 2009. A copy of that briefing note is attached and marked 'KS-7'. The briefing note was prepared by Justin Murphy and signed by Bronwen Griffiths. There is a space for me to also sign as Director-General, but my initial does not appear on the briefing note. That was probably because of my other work commitments on the day, and the fact that I was out of the office or involved in meetings and teleconferences on the day. The briefing note would have needed to be submitted to allow for circulation of the Cabinet Committee bag.
25. I note that the Departments did not support CBRC Submission 3756. I understand that Queensland Treasury also did not support the Submission. I had no concerns with the position outlined in the Department's briefing note. In my experience, it is not unusual for Cabinet or CBRC to make a decision contrary to recommendations from the Department or Queensland Treasury, or for that matter, the recommended positions put to Ministers by their own Departments as part of the decision making process. It is the prerogative of the Executive Government to make such decisions. In public administration, this would be seen to result in more informed decision making through a process of contestability.
26. My understanding at the time was the CBRC decision regarding funding was connected to the amalgamation proposal for the racing control bodies, which was the subject of later Cabinet consideration.

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27. I was not personally involved in the consultation about the draft submission or the CBRC decision, but would have been in attendance at meetings of the Committee of Budget Officials and CBRC where the submission was discussed and the final decision by Executive Government was made.
28. I note that the briefing note is dated 5 November 2011, before the meeting on 20 November 2011. I would not have disclosed any information about the CBRC Submission or the Department's position at that meeting as it would not have been appropriate to do so.

Other matters relating to the amalgamation



Proposal for Queensland Government funding scheme for racing infrastructure

32. The meeting on 27 October 2009 that I have discussed above involved discussion of both governance and infrastructure funding.

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Synthetic tracks

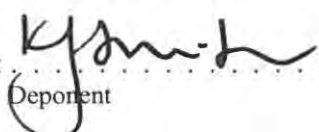
33. I attended a meeting with Bill Ludwig, Malcolm Tuttle and Andrew Hedges on 23 January 2007 in relation to the synthetic tracks project. That meeting occurred while I was Coordinator-General and Director General of the Department of Infrastructure. Stuart Booker, who was the Deputy Coordinator-General at the time, also attended the meeting.
34. At the meeting, we discussed the proposal to install synthetic racetracks at a number of racecourses. The outcome of the meeting was that Queensland Racing would work with Mr Booker to prepare a business case for the government to consider.
35. Attached and marked 'KS-10' are documents relevant to my involvement with the synthetic tracks proposals. The documents are self-explanatory.

Palm Meadows

36. I attended a meeting on 29 October 2007 with Queensland Racing and PricewaterhouseCoopers regarding the Palm Meadows racing proposal. This meeting was about the future of racing on the Gold Coast.
37. I have been shown a Director-General's briefing note dated 26 October about this meeting that was attached to the relevant diary entry in KS-2. I note that is not signed and appears to be a draft only. I cannot recall if I received a finalise copy of this briefing note.
38. Attached and marked 'KS-11' are documents relevant to my involvement with Palm Meadows. The documents are self-explanatory.

Strategic Plan

39. I attended a meeting with then Premier Anna Bligh, then Deputy Premier, Paul Lucas, then Treasurer Andrew Fraser, and then Minister responsible for Racing Peter Lawlor, Bob Bentley, Bill Ludwig and staff from the Premier's Office on 18 August 2010. The meeting was about the racing strategic plan. Discussions included proposals for significant rationalisation of facilities.
40. I attended a further meeting about the strategic plan with Bob Bentley, Anna Bligh, Andrew Fraser, Peter Lawlor, and Lachlan Smith on 9 November 2010. I have some notes regarding this meeting and they are contained in exhibit KS-1. The meeting was about the racing strategic plan, particularly Albion Park. The discussions included the future of Albion Park and Mr Bentley's proposals to redevelop the site. I was asked to obtain Crown Law advice

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about the capacity of Racing Queensland to sell the Albion Park site (the advice is contained within exhibit KS 13).

MEETINGS REGARDING GOVERNMENT POLICY

Magic Millions

41. On 11 August 2008, I had a meeting with Events Queensland about the Magic Millions. The attendees were Des Power, Michael Denton, Pat Vidgen and me. I have some notes regarding this meeting and they are contained in exhibit KS-1. We discussed funding of the event and the adequacy of Bundall facilities and Palm Meadows as an alternative. In particular, I recall that there were discussions about proposals to establish the world's richest two year old event. Events Queensland believed that retaining Magic Millions was a major advantage for the Gold Coast and Queensland in terms of the economic multipliers for the region, but this was hampered by the state of facilities at the Bundall track.
42. On 16 July 2009, I met with Gerry Harvey to discuss the Magic Millions. The attendees were Gerry Harvey, Katie Page, Peter Lawlor, Stephen Beckett and me. I have some notes regarding this meeting and they are contained in exhibit KS-1. The note refers to a meeting on 17 July, but I believe this is an error (in my notations) and the meeting did occur on 16 July. The discussion focussed on the adequacy of facilities on the Gold Coast and that if improvements could not be made the threat that the event would move to Sydney. In particular, I recall that I was asked to follow up with Events Queensland in an attempt to secure the Magic Millions event on the Gold Coast
43. The issue with the Magic Millions was ultimately resolved by Events Queensland when sponsorship arrangements were negotiated and secured. I recall being involved in discussions regarding those sponsorship arrangements with the Premier and her officers, Events Queensland, and Treasury.
44. Attached and marked 'KS-12' is a bundle of documents relevant to my involvement with the Magic Millions.

Kevin Seymour

45. I met with Kevin Seymour on 9 July 2010. David Hourigan from the Department also attended. This meeting was about another development matter not associated with the Racing Industry.

46. I recall requesting legal advice from Crown Law regarding the proposed sale of Albion Park, as outlined in paragraph 40 of this statement.
47. On 29 November 2010 I met with Kevin Seymour, with Premier Bligh and Treasurer Fraser. I have some notes regarding this meeting and they are contained in exhibit KS-1. The meeting with Kevin Seymour was specifically about the Albion Park dispute and Bob Bentley's handling of the amalgamation of the racing entities. Mr Seymour was complaining about the treatment of Queensland Harness Racing and the proportion of revenue allocated to it. There were discussions about the value of the Albion Park facility with Mr Seymour disputing Mr Bentley's estimates of the value of the site. Mr Seymour raised concerns that key harness racing resources were being sold to support the thoroughbred part of the industry. He was concerned that the Board of Racing Queensland did not properly represent the industry. Mr Seymour also expressed a lack of confidence in Mr Bentley's capacity to act in the best interests of all codes. He also expressed a view that the decision making process by the new industry body was "abominable" and that he may be forced to take legal action and proceed with an advertising campaign, particularly against any proposal to sell Albion Park.
48. Mr Seymour took legal action against Queensland Racing and Bob Bentley in an attempt to prevent the sale of Albion Park as he believed he had a personal commitment from Mr Bentley not to sell the facility. I personally requested my Department obtain Crown Law advice regarding the State joining the proceedings as a party. The advice from Crown Law was that the State did not have standing to be joined as a party. At a later time as the case progressed, Treasurer Fraser requested that I obtain further advice from Crown Law, but the advice remained the same. Copies of both advices were provided to the Treasurer but I am not sure what happened in relation to this advice or of the case itself.
49. Attached and marked 'KS-13' is a bundle of documents relevant to my involvement with Mr Seymour and the Albion Park facility. The documents are self-explanatory.

OTHER MATTERS


50. As part of my role as Director-General of the Department, I reviewed and responded to Ministerial correspondence to the Premier and dealt with other matters regarding the racing industry. These matters were various and not directly relevant to the matters outlined in the Request from the Commission so I have not covered all of them in detail in this statement.

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51. The diary appointments in exhibit KS-1 indicate that there may have been meetings scheduled on 7 and 8 December 2009. I have looked at my diary and no meeting appears to have occurred with the Treasurer on those days. There are two emails in exhibit KS-1 that would appear to show that the meetings scheduled for 7 and 8 December 2009 were cancelled. I also note that the diary entry for the meeting on 9 December 2009 states that there had not yet been a response to the meeting request. In any event, I cannot recall that meeting.
52. Throughout October 2007 I attended a number of meetings with racing industry representations about Equine Influenza outbreak and control measures. Bob Bentley or other Queensland Racing managers attended these meetings, as well as representatives from other peak groups affected by Equine Influenza. My diaries indicate that meetings were held on 2 October 2007, 23 October 2007 and 30 October 2007.

Sworn by KENNETH JOHN SMITH on **5** September 2013 at London, United Kingdom in the presence of:



 Deponent



 Solicitor/Barrister/Justice of the Peace/
 Commissioner for Declarations
 ADMITTED AS A LEGAL PROFESSIONAL
 IN THE AUSTRALIAN CAPITAL TERRITORY.
 MATTHEW EVAN TAYLOR SMITH

Signed: 

 Deponent

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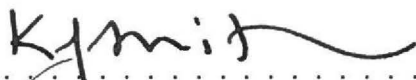
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QUEENSLAND RACING COMMISSION OF INQUIRY

CERTIFICATE OF EXHIBITS – KENNETH JOHN SMITH

Bound and marked “KS-1” to “KS-13” are the exhibits to the affidavit of Kenneth John Smith sworn on: 5 September 2013.

Exhibit	Description	Date	Pages
KS-1	Extracts from Ken Smith’s notebooks	Various	1 to 12
KS-2	Extracts from Ken Smith’s diaries	Various	13 to 40
KS-3	Letter Queensland Racing to Ken Smith re Case for Change	10.11.2009	41 to 65
KS-4	Email Nick Lindsay to Justin Murphy re QR Case for Change with attachment	18.11.2009	66 to 72
KS-5	Director-General’s briefing note re Queensland Racing – Meeting on 20 November 2009	19.11.2009	73
KS-6	Letter Queensland Racing to Ken Smith	23.11.2009	74 to 75
KS-7	Briefing Note re CBRC Submission 3756	05.11.2009	76
KS-8			
KS-9			
KS-10	Email Mike Kelly to John Paterson re Synthetic track	29.05.2007	83 to 85
KS-11	Documents relating to Palm Meadows proposal	Various	86 to 136
KS-12	Documents relating to Magic Millions	Various	137 to 185
KS-13	Documents relating to Kevin Seymour	26.11.2010	186 to 232


Deponent


Solicitor/Barrister/Justice of the Peace/
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Certificate of exhibits – Ken Smith

GR Cooper
CROWN SOLICITOR
11th Floor, State Law Building
50 Ann Street
Brisbane Qld 4000
Telephone 07 3239 6703
Facsimile 07 3239 6022

11 8 08.

Queensland Events

Magic Millions - Gold Coast.

- proposal to establish worlds richest 2 year old event.
- Beijing interested in enthusiasm, a race track.
- Crash the worlds richest 2 year old race.

Palm Meadows

last race

2010 - Be sales registered.

2009.

// Benefits to those up to speed identity.

Purchase speculating:

17/7/09.

Kate + Jerry Harvey.

Mega Millions. - need

to have new initiative to
ensure

\$5m/\$10m 2 year old race on
the Gold Coast.

Robert 2-year old race.

Aegis Economic Impact
Statement → Idea, stated
here

Burdall is essentially
land-based.

17/7/09.

HARVEY.

→ (Krenin)

→ ~~Shant~~ Shant Krenin

redevelopment up to

Sydney -

→ Replacement by the

Bundall track

27/10/09.

Old Racing Review, Treasury.

✓ Bob Bentley, Bill Ludwig.

Prin. v. → In budget review
deliberations - context of
budget position - hint week
of December mid year review
announcement.

✓ Revenue from slot bet

✓ Want to take Gold Coast -
Myse in Wiers bonus

✓ Control body changes - collapse
Goody brands, trotting, etc

→ position of other states / territories
on election of director.

✓ Model for successful governance
of the racing industry

27/10/09.

Old Law - Principles & Treaties

✓ Political elections

✓ Litigious issues where
actions are taken against the
Board.

✓ Best world systems -
Hong Kong, Singapore,
Turkey.

✓ Move from election process
to appointments on a merit basis

Bentley to provide advice
to Landman on governance
model

2012 - Bob, Bill & Tony to 2012
and then resign

20 / 11 / 09.

Bob Bentley
Bill Ludwig.

Central body - Early

Govt announcement -

Need stability - 3 corp /
bodies to one

- Bill up for election next
March.

WA

bring 3 codes & TAD
together

mid 2014 - new product - program
agreement.

⇒ Legal partner → 2 Records

20.11.2009

Wester - Brown



Gerard Bradley.

Myra Sullivan.

Subpart + combined output

Body

9 11 10

Bob Bentley

✓ Kevin Seymour - relationships
with DR re Albion Park.

Albion Park development.

Corporation Law Advice

CBRL → MYR

Ivan Seymour

29.11.10.

Premier; Minister Lawler.

- follow-up compulsory
acquisition of Milton

BCL - time of decision

Stay at Albion Park. 16% of \$80m &
Hannon Racing Club.

Statements completely deceptive &
misleading. - Grounds have also
complained.

✓ Ram, Science, ^{Centre} Club → cost of
relocation - Hannon Racing

29 11 10.

Kevin Seymour - breeder

Greyhound exhibition on the
Gold Coast.

- Issue of training on the Gold Coast

Sydney Harold Perle \$200m provided
to pay for prize money

- Invest capital - interest off prize
money.

→ \$40 - 50m → Albion Park - Claims
site worth \$20 - 30m

→ Breeding concern in all the
Hornes Bay, reserves are
being sold by thoroughbreds.

⇒ Would be there long term
and get 16% of additional
dollars into Hornes Bay.

⇒ Convinced that combination of
thoroughbreds, Hornes Bay, and Greyhounds

CABINET-IN-CONFIDENCE

29 11 2010.

Kevin Seymour - Premier

→ Harman Perry concerned about
way forward → Relationship with
Bob Bentley → responsibility to
act in the interests of all codes.
↓
"out of control"

Level playing field - Race on Body &
Subsidies night → allow race
in daytime - Has to be same
five & take

2014 Agreement → proportion
14.5% of revenue.

Whomdale process → Albin Pele + Redcliffe

Kenny Wetson RQ board - move to Logan
→ happy to hear Albin Pele + Redcliffe

29 " 2000

Meady → Bl Bentley + Kevin Seymour

→ - next move is to take legal
action - Happy to take a
full page ad in the paper.

→ Stam's passway → \$ owned her
passway.

Rasmussen + McCarty - by
owner, looking at relocating to
Sydney + Melbourne.

Lucinda Kasmer

Subject: Copy: Meet with Bob Bentley, Queensland Racing - Ken, Jim & Rob
Location: Small conference room, Fir 15

Start: Tue 2/10/2007 4:30 PM
End: Tue 2/10/2007 5:00 PM

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Ken Smith
Required Attendees: Jim Varghese; Setter, Robert

02/10 - confirmed by phone with Bob (contact x0419 964 210)

Lucinda Kasmer

Subject: Copy: Updated: 4pm MEETING WITH NON RACING HORSE INDUSTRY PEOPLE
Location: Premier's Boardroom. In att: Peter Toft, + 2 reps, accompanied by Wayne Wendt MP, Rob Setter DDG DPI, Ken Smith, Don Wilson

Start: Tue 23/10/2007 4:00 PM
End: Tue 23/10/2007 4:30 PM

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Anna Bligh

Categories: PREMIER MEETINGS - IMPORTANT

16 Oct. Brief requested from Rob Setter, DDG, DPI, 0419 646 073
Anne-Maree, Can you please now confirm the meeting with the Premier on Tuesday 23/10 at 4.00 - 4.30 for Peter Toft + two other Non Racing Horse Industry people. I will get the names as soon as I can. They will be accompanied by Wayne Wendt Member for Ipswich West. I will attend and possibly Dep Chair of the Equine Influenza Response Taskforce Rob Setter.
We will need a brief from Rob Setter by COB Monday 22/10 on the initiatives currently underway to support the Non Racing Sector through this crisis.
Thanks Don

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Unless stated otherwise, this email represents only the views of the sender and not the views of the Queensland Government.

Lucinda Kasmer

Subject: Copy: Meeting with Bob Bentley, PWC & Tract Consultants - Proposed Palm Meadows Gold Coast Racetrack
Location: DG's Large Conference Room, Level 15, Executive Building
Start: Mon 29/10/2007 11:00 AM
End: Mon 29/10/2007 11:30 AM
Recurrence: (none)
Meeting Status: Not yet responded
Organizer: Ken Smith
Required Attendees: Colin Jensen; Dennis Molloy; 'rbentley@queenslandracing.com.au'; Gerard Bradley
Optional Attendees: Peter Milward

In attendance:

Russell Taylor 3257 8796
Mark Ingham PWC
Rob Christmas PWC
Mark Doonah TRACT Consultants
Andrew ? TRACT Consultants
Gerard Bradley
Colin Jensen
Dennis Molloy
Peter Milward

Brief will be required. Data Projector and Audio to be set up.

Lucinda Kasmer

Subject: Copy: Catch-up Meeting with Rob Setter re EI Control Group
Location: ODG, Exec bld Lvel 15

Start: Tue 30/10/2007 9:45 AM
End: Tue 30/10/2007 10:00 AM

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Ken Smith
Required Attendees: Setter, Robert

Categories: Personal



15 minutes with
Ken

Lucinda Kasmer

From: Setter, Robert [Robert.Setter@dpi.qld.gov.au]
Sent: Wednesday, 24 October 2007 4:04 PM
To: Jacquie McCarthy
Subject: 15 minutes with Ken

Hello Jacquie

I would like 15 minutes with Ken (using one of the previously planned EI Control group times?) to discuss **Queensland position on end point of support package for modelling purposes, and possible extension of hardship to include horsefeed, water, disinfectant etc.**

Can I do that Friday or Tuesday?

R

Robert Setter
Deputy Director-General, Industry Development
Department of Primary Industries & Fisheries

Telephone 07 3239 3030 **Facsimile** 07 3239 0970
Email Robert.Setter@dpi.qld.gov.au
Website www.dpi.qld.gov.au **Call Centre** 13 2523

Profitable primary industries for Queensland

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Lucinda Kasmer

Subject: Copy: Meeting with Des Power, Michael Denton and Pat Vidgen re Magic Millions
Location: DG Sml Conference Rm, Lvl 15, Executive Bldg, 100 George St

Start: Mon 11/08/2008 3:30 PM
End: Mon 11/08/2008 4:00 PM

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Ken Smith
Required Attendees: despowers@qldevents.com.au; Michael Denton; Patrick Vidgen



FW: Meeting with
Ken Smith

Lucinda Kasmer

From: Patrick Vidgen
Sent: Monday, 4 August 2008 10:36 AM
To: Jacquie McCarthy
Subject: FW: Meeting with Ken Smith

Jacquie

Any chance for this?

Pat

Pat Vidgen
Deputy Director-General
Governance
Department of the Premier and Cabinet
Ph: 07 322 46061
Mobile: 0407 339 887
Fax: 07 322 42030

Please consider the environment before printing this email (3 sheets of paper = 1 litre of water)

From: Michael Denton [<mailto:Michael@qldevents.com.au>]
Sent: Monday, 4 August 2008 9:34 AM
To: Patrick Vidgen
Cc: Olivia Phillips; Melissa Price
Subject: Meeting with Ken Smith

Hi Pat

Des would like a 15 min meeting with Ken, you and me as soon as possible to discuss opportunity relating to Magic Millions

Cheers

Michael

Michael Denton
Chief Executive
Queensland Events Corporation Pty Ltd
Telephone 61 7 3222 1015
Facsimile 61 7 3221 1684
Mobile 0419 710 780
www.queenslandevents.com.au

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Lucinda Kasmer

From: Stephen Beckett [stephen.beckett@ministerial.qld.gov.au]
Sent: Wednesday, 15 July 2009 9:28 AM
To: Sue Cox
Subject: Fw: Gerry Harvey

Follow Up Flag: Follow up
Flag Status: Flagged

Fyi

From: Zoe Russell
To: Stephen Beckett
Cc: Marcus Taylor
Sent: Wed Jul 15 09:02:43 2009
Subject: Gerry Harvey

Hi Stephen,

David Croft from International Quarterback 0407 752 252 is the man to speak to regarding a possible meeting between Gerry Harvey and the Premier about Magic Millions while he is up here for the footy.

I have called him and left a message to get a time-frame that Gerry will be up here for but have so far not received a response

I will leave it in your capable hands and if I hear back from him I will pass the message on.

Cheers

Zoe Russell
Media Advisor
to the Hon Peter Lawlor MP
Minister for Tourism and Fair Trading

GPO Box 1141
Brisbane Qld 4001
P: (07) 3224 2002
F: (07) 3229 0434
M: 0437 436 914
E: zoe.russell@ministerial.qld.gov.au
<<http://statements.cabinet.qld.gov.au/http://statements.cabinet.qld.gov.au/>>
<http://statements.cabinet.qld.gov.au/http://statements.cabinet.qld.gov.au/>

Lucinda Kasmer

Subject: Copy; Updated: Gerry Harvey, Katie Page, Peter Lawlor + Stephen Beckett
Location: Premier's Boardroom

Start: Thu 16/07/2009 9:00 AM
End: Thu 16/07/2009 9:30 AM

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Anna Bligh

Categories: PREMIER MEETINGS - IMPORTANT

<<Fw: Gerry Harvey>> <<Magic Millions.doc>>
Emma,

Stephen has just asked if Ken can attend this 9.00am meeting with Gerry Harvey. Apologies for this very late notice.

Kind regards,
Sue



Fw: Gerry Harvey



Magic
Millions.doc

PLEASE NOTE: Venue now the Premier's Boardroom

Lucinda Kasmer

From: Louise Foley [Louise.Foley@ministerial.qld.gov.au]
Sent: Wednesday, 15 July 2009 4:15 PM
To: Stephen Beckett
Cc: Sue Cox
Subject: Magic Millions.doc
Attachments: Magic Millions.doc

Follow Up Flag: Follow up
Flag Status: Flagged

<<Magic Millions.doc>>

Stephen

Here's the Magic Millions brief I've had the department prepare. I am considering it's contents now.

Cheers

Louise

Ref:

Department of Employment, Economic Development
and Innovation

Minister's briefing note

Office of Racing

Title: **Magic Millions**

Action Information

Date: <leave blank for MCU>

1. Purpose

To provide information to you prior to your meeting with Mr Gerry Harvey of Magic Millions Sales Pty Ltd (Magic Millions).

2. Recommendation

That you note the contents of this brief.

3. Background

Magic Millions

- Magic Millions Sales and Race Day have been conducted on the Gold Coast since their inception in 1986-87.
- The Magic Millions Sales and Racing Carnival conducted in January of each year on the Gold Coast is a major highlight on the Queensland and Australian Racing Calendar.
- Magic Millions also conducts its National sales at the Gold Coast in May/June each year.
- The proprietors of Magic Millions have been increasingly critical of the effect that the current facilities at the Gold Coast Turf Club are having on its ability to promote and grow the Magic Millions Carnival.
- Magic Millions supports the redevelopment of facilities at Bundall or the development of a new greenfield international standard racing complex on the Gold Coast.
- Unless the current facilities are improved to world-class standard, Magic Millions has stated that it is likely to move its operations to a more appropriate site (e.g. Eagle Farm or Randwick).
- Any move of the race meeting from the Gold Coast will be strongly opposed by the Gold Coast Turf Club who may respond by withdrawing critical support for the conduct of the thoroughbred sales in the Magic Millions sales complex located adjacent to the turf club site.

Queensland Racing Industry Issues Paper

- The Queensland racing industry is currently faced with a number of major issues related to racing infrastructure. In short, key racing infrastructure is reaching a point of bulk obsolesce and significant funding is required to bring it up to the standard expected of a modern racing industry.
- Queensland Racing, as the approved control body for thoroughbred racing, is responsible for all commercial industry matters, including the development of racing infrastructure. The facilities at the Gold Coast Turf Club and the future of the Magic Millions Race and Sales Carnival are high on the list of infrastructure priorities identified by Queensland Racing.

Action Officer:
<Name>
<Branch/Division>
Tel:
Date:

Executive Director:
<Name>
Tel:
Date:

DDG:
<Name>
Tel:
Date:

- On behalf of the three racing control bodies, Queensland Racing has submitted a Queensland Racing Industry Issues Paper to the Government, highlighting the need to undertake a range of high priority racing industry infrastructure projects, with the upgrade of the Gold Coast Turf Club facility at Bundall, as the major focus. A Cabinet Budget and Review Committee submission on this issue is currently being prepared.
- The Queensland Racing Industry Issues Paper proposes a redirection of 50% of wagering taxes (over a period of 12 years) to the industry control bodies which is to be used to fund racing industry infrastructure projects. Based on current wagering figures this proposed redirection equates to approximately \$10 million in year 1, \$15 million in year 2 and rising to \$22 million per annum in years 3 – 12.
- The proposal to upgrade the Gold Coast Turf Club facility is not designed solely to accommodate Magic Millions. The Gold Coast Turf Club and racing at the Gold Coast plays a significant role in the overall Queensland wagering program.
- Queensland Racing has advised that if there is no redirection of wagering taxes as proposed in their Issues Paper, it will still proceed with a redevelopment of the Gold Coast Turf Club facility, at the expense of other areas of the industry.
- Queensland Racing has outlined the following likely consequences if there is no redirection of wagering taxes:
 - Queensland Racing will reduce its commitment to country racing to that required by legislation (7% of net UNiTAB product fee a year) This level of support is inadequate for most clubs to viably operate and will lead to the rapid demise of the majority of country race clubs in Queensland.
 - Deagon Racecourse will be sold with proceeds used to fund infrastructure developments.
 - Racing in Cairns will no longer be funded by Queensland Racing and will cease. As a result, the annual Cairns Amateurs race meeting will cease unless it can become fully self-funding.
 - A planned upgrade of Mackay racecourse facilities will be deferred and Mackay will cease to be a TAB venue.
- Queensland Racing had previously developed a proposal for the development of a premier racing venue, including the relocation of the Magic Millions facility, to a site at Palm Meadows on the Gold Coast. That project has been assessed and subsequently deemed unviable.

4. Issues

- You have met with representatives of Magic Millions. The threat to move its operations to an alternate venue is real. It is believed that Magic Millions has held preliminary discussions with both the Brisbane Racing Club and major race clubs in Sydney in order to commence contingency planning for any move from the Gold Coast.

5. Consultation

NIL.

Peter Henneken
Acting Director-General

Principal Advisor / Policy Advisor

Minister's Comments

Approved / Not Approved / Noted

Peter Lawlor MP
Minister for Tourism and Fair Trading

Lucinda Kasmer

Subject: Copy: Updated: Bill Ludwig, Bob Bentley re: racing
Location: Minister's ROom, Parliament House

Start: Tue 27/10/2009 3:30 PM
End: Tue 27/10/2009 4:15 PM

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Anna Bligh

Categories: PREMIER MEETINGS - IMPORTANT

<<img-X141204-0001.pdf>>

19/10
Anna is OK with the meeting with Bob Bentley next week,
Mike

21/10 - confirmed with Renee in Bob Bentley's office

22/10 -
secretary@awu.org.au

22/10 - brief requested - SC



img-X141204-000
1.pdf

Sue

Bill Ludwig & Bob Bentley
would like a meeting
with Premier on Vossing.

Says it's vital & needs
to be done ASAP.

Sue

11/10

Lucinda Kasmer

Subject: Copy: MEETING WITH RG BENTLEY QUEENSLAND RACING AND LACHLAN SMITH
Location: Ken Smith's Office, Small Conference Room, Floor 15, Executive Building

Start: Fri 20/11/2009 9:30 AM
End: Fri 20/11/2009 10:00 AM

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Ken Smith
Required Attendees: 'Lachlan Smith'

Categories: DG TO CHAIR MEETING OR PRESENT

TF/09/32076 DUE 18.11.09

From: "Andrew Fraser" </o=msb/ou=msbd07/cn=recipients/cn=fraser">
To: "Roslyn Raleigh" <roslyn.raleigh@ministerial.qld.gov.au>
Sent: Monday, 7 December 2009 5:28 PM
Subject: Re: Shall I cancel the Racing meeting with Ken Smith for today?

Yep

----- Original Message -----

From: Roslyn Raleigh
To: Andrew Fraser
Sent: Mon Dec 07 17:27:11 2009
Subject: Shall I cancel the Racing meeting with Ken Smith for today?

16/07/2013

From: "Roslyn Raleigh" </o=msb/ou=msbd20/cn=recipients/cn=roslyn.raleigh">
To: <ken.smith@premiers.qld.gov.au>; "Lachlan Smith" <lachlan.smith@ministerial.qld.gov.au>
Sent: Tuesday, 8 December 2009 7:58 PM
Subject: Racing - Ken Smith (Lachlan)

16/07/2013

Lucinda Kasmer

Subject: Copy: Racing - Ken Smith (Lachlan)
Location: Conference Room, Treasurer's Office

Start: Wed 9/12/2009 9:30 AM
End: Wed 9/12/2009 10:00 AM

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Andrew Fraser

Categories: MEETINGS

Lucinda Kasmer

Subject: Copy: Pre briefing re Racing Industry
Location: DG's Office - Level 15 Executive Building.

Start: Fri 18/12/2009 10:30 AM
End: Fri 18/12/2009 11:00 AM

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Ken Smith
Required Attendees: 'Fletcher, Ian'; 'david.ford@treasury.qld.gov.au'; michael.kelly@racing.qld.gov.au;
Lachlan.Smith@ministerial.qld.gov.au

Categories: MEETINGS

Lucinda Kasmer

Subject: Copy: Updated: MEETING TO DISCUSS RACING INDUSTRY STRUCTURE AND FUNDING
Location: Small Conference Room, Level 15, Executive Building

Start: Fri 18/12/2009 11:00 AM
End: Fri 18/12/2009 11:45 AM

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Fletcher, Ian

Categories: MEETINGS

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Lucinda Kasmer

Subject: Meeting with Kevin Seymour
Location: DG's Office, Level 15, 100 George Street

Start: Fri 9/07/2010 8:45 AM
End: Fri 9/07/2010 9:15 AM

Recurrence: (none)

Meeting Status: Meeting organizer

Organizer: Ken Smith
Required Attendees: 'sueb@seymourgroup.com.au'; David Hourigan

Lucinda Kasmer

Subject: Copy: MEET with Paul Lucas, Andrew Fraser, Peter Lawlor, Bob Bentley, Bill Ludwig re: Racing strategic plan. [In att: Nicole Scurrah, Stephen Beckett, Nick Williams, Ken Smith]
Location: Minister's Room, Parliament House
Start: Wed 18/08/2010 5:30 PM
End: Wed 18/08/2010 6:15 PM
Recurrence: (none)
Meeting Status: Not yet responded
Organizer: Anna Bligh
Categories: PREMIER/IMPORTANT

Lucinda Kasmer

Subject: Copy: 4.15pm MEET with Bob Bentley RE Racing Industry [Lachlan Smith, Ken Smith, Min. Lawlor, Min Fraser, Min Lawlor]
Location: Premier's Boardroom
Start: Tue 9/11/2010 4:15 PM
End: Tue 9/11/2010 4:45 PM
Recurrence: (none)
Meeting Status: Not yet responded
Organizer: Anna Bligh

****Please note this will now be 4.15pm start - sorry for the late notice****

RE: Racing Industry Update.

NOTE: Bill Ludwig is interstate and has declined joining by teleconference.

Lucinda Kasmer

Subject: Copy: MEET: Kevin Seymour RE Racing industry [Min Lawlor, Ken Smith, Stephen Beckett, Lachlan Smith]
Location: Premier's Boardroom
Start: Mon 29/11/2010 2:15 PM
End: Mon 29/11/2010 2:45 PM
Recurrence: (none)
Meeting Status: Not yet responded
Organizer: Anna Bligh

Confidential letter attached - hand-delivered to office 22 Nov.

<<img-Y221313-0001.pdf>>

****NOTE: 29/11 Treasurer declined due to prior appointment****

Contact Sue, Kevin Seymour's office 3226 8799



img-Y221313-000
1.pdf

Requested brief 2 6/11

Kevin and Kay Seymour

KWS.4302\sb

22 November 2010

Hon A Bligh, MP
Premier of Queensland
Minister for the Arts
Level 15, Executive Building
100 George Street
BRISBANE QLD 4000

STRICTLY CONFIDENTIAL

Dear Premier

There has been for some time now much misinformation in the public arena about Harness Racing and Greyhounds.

Bob Bentley has been quoted in the newspaper that Harness Racing lost \$1,349,000 last year but he has failed to explain this claim.

The facts are:

- Bob Bentley negotiated with some of the Corporate Bookmakers to reduce the Race Fields Charges by in excess of half from \$2,145,114 to \$966,114 – an adjustment of \$1,179,000 in accordance with a letter received from Racing Queensland of 4 November 2010.

He did not seek approval of Harness Racing Queensland Board.

Nor did he wait for the outcome of the NSW Court case.

- He agreed to pay Victorian Racing an additional \$804,031.
- The two items referred above impacted the financial performance of Harness Racing Queensland in the year of 30 June 2010 by \$1,983,031.
- Harness Racing received less from UNITAB, part of which was impacted by the reduced Galloping income from fixed price wagering.

Whilst these costs are significant for Harness Racing they were major for Galloping which can be multiplied by up to six (6) times.

- Even with these imposts that have been imposed on Harness Racing in 2010, he has failed to admit that Harness Racing produced a profit in 2008/09 of \$1,108,326.
- Albion Park also has been highly successful producing substantial profits:

2004/2005	\$154,786	Profit	
2005/2006	\$347,198	Profit	
2006/2007	\$493,452	Profit	
2007/2008	\$13,101	Profit	
2008/2009	\$-152,336	**Loss	**Inter Dominion
2009/2010	\$177,000	Profit	

Unit 33
One Macquarie Street
Teneriffe Qld 4005

Phone: (work) 3226 8799
Phone: (home) 3358 6644 Fax: 3358 6622
Mobile: 0418 842 233

...2

The only loss incurred as expected in running the Inter Dominion without a Government or Events Corporation contribution

It also has to be noted that Albion Park has operated for the past two years without a grandstand and no income from catering or sponsorship – a significant liability as a result of the demolition of the Russ Hinze Stand.

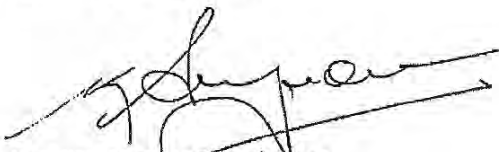
It is also interesting to note that the major galloping clubs in 2008/2009 incurred losses as follows:

• Queensland Turf Club	\$-990,908	Loss
• Gold Coast Turf Club	\$-497,189	Loss
• Townsville Turf Club	\$-390,641	Loss
• Brisbane Turf Club	\$-380,012	Loss
• Toowoomba Turf Club	\$-148,187	Loss
• Sunshine Turf Club	\$-44,609	Loss

For whatever reason there has been a campaign to paint a picture of continuing losses and statements that Harness Racing is trading at a loss are simply not true.

Bob Bentley as Chairman of Racing Queensland has a corporate and moral responsibility to act in the best interest of Harness Racing and his seeming lack of commitment is extremely disappointing.

Kind regards
KW & K SEYMOUR



KEVIN W SEYMOUR, AM

TF/09/32076



Mr Ken Smith
Director General
Department of the Premier and Cabinet
Level 15
100 George Street
BRISBANE QLD 4000

Queensland Racing Limited
ABN 93 116 735 374
Racecourse Rd Deagon QLD 4017
PO Box 63 Sandgate QLD 4017
T 07 3869 9777
F 07 3269 6104
E info@queenslandracing.com.au
W www.queenslandracing.com.au

10th November, 2009

Dear Ken

Please find enclosed the QRL Constitution, 'The Case for Change.'

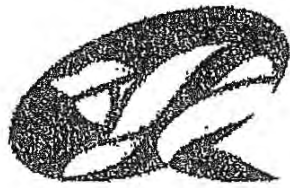
This confidential document review was requested by the Honourable Anna Bligh, Premier and Honourable Andrew Fraser, Treasurer, at our meeting on the 27th October.

A case for change is necessary and urgent, and I seek a meeting with you, Mr Lachlan Smith and those in your respective departments so that further discussion on this document can progress. I will be available Wednesday 18th November till 2pm, Thursday 19th and Friday 20th.

Please advise if the meeting is possible by contacting my assistant, Ms Renee Whitchurch on (07) 3869 9725.

Yours sincerely

R.G. BENTLEY
Chairman



QUEENSLAND RACING

**QRL Constitution
The Case For Change**

Overview	3
Evolution of historical structures	3
The club committee voting process	3
Should the clubs have a vote?	4
Observations on the Australian experience	4
Current control body	5
Other models	10
The question needs to be asked?	11
Why not change the current constitution?	12
Industry Issues	12
Stability of the Board	12
QRL board achievements since 2006:	13
Financial KPI's	14
Code comparisons of relevance	17
Option to integrate three codes of racing	19
Recommendations	21
Action for Queensland	21
Stage1	21
Stage 2	22
Constitution of the new control body	22
Members	22
Founding Directors	22
Initial term	22
Director's selection	23
Director Numbers	23
Remuneration	23
General meeting	23
Product Company	23
Other Issues	24

Overview

The purpose of this submission is to recommend a suitable structure for the Queensland Racing Industry (QRI) and follows discussions with the Premier, Honourable Anna Bligh and Treasurer, Honourable Andrew Fraser MP on a transparent and workable industry structure that encapsulates the best principles of independence and commercial governance for the control body structure for the racing industry.

The recommended structure is simple and commercially sound and recommends the amalgamation of the three racing codes in Queensland into a single control body structure.

Evolution of historical structures

Queensland has always led the way with structural reform in racing administration in Australia and has paved the way for other states to modernise their control body structure. In saying this, the existing Queensland model is a watered-down model of what was originally intended from the significant reforms made in 2001/02. The original model was compromised for political purposes and sectional interests existing at the time it was established.

Notwithstanding, Queensland, is still 5 years ahead of other States but the current governance model is not sustainable in the longer-term if Queensland is to maintain the strength of the current industry. There are numerous references in reform papers by various governments that espouse all the good principles of governance and control yet the final outcome in respect to racing administration is never the optimum model and leaves the industry still captive to the historic and compromised "colonial" system where race clubs hold sway over industry progress.

The club committee voting process

Before embarking on the rationale for the control body changes, it is well to examine how the club and industry associations arrive at their vote to cast at control body elections, and what percentage of the industry does the vote represent.

Race club elections are poorly supported, on average, a 20% vote is considered a good membership response. The clubs, through the constitution, control 9 votes at QRL elections. Those with the responsibility to vote represent a minority interest at best.

The industry associations fair no better, with the Queensland Breeders Association holding 1 vote, yet represent less than 50% of the industry with the 5 largest breeders not members.

The Trainers Association has 2 divisions with one organisation holding 1 vote and the other nil.

Should the clubs have a vote?

It can be seen that any notion that representation is important is **not** born out by the enthusiasm to participate. Most race club members have **no** interest in racing administration or racing integrity – what interests them is the social interaction at race clubs and punting.

The concern that has always been expressed by those that work within the racing industry and rely on it for their financial security has been that club members paying \$150 a year club membership fees and electing an amateur race club committee are indirectly controlling the future of the racing industry and the financial well-being of 30,000 employees within the QRI.

Club members are participants for their own pleasure and their involvement in the racing industry is a social activity. In contrast 30,000 Queenslanders rely on the racing industry for their livelihood and they need an independent control body to guard their future. The very notion that the racing industry can be controlled / influenced and its destiny directed by a minority of club members who have no financial interest in the industry is absurd.

The club membership exercising control over an industry is not a commercially sound model and the track record of the club system is abysmal. The clubs, with few exceptions, are poorly run, have little or no innovation, are racked with financial mis-management that borders on fraud but continue to agitate, cause disruption, and seek control of an industry that they would have no possible ability to manage.

Race club committee members, as a general rule, have no financial interest in the racing industry and occupy these positions for the supposed 'prestige' that appointment to a club committee holds. They stand to suffer no adverse consequences from a decline in the health/performance of the racing industry.

What is even more concerning is that despite the lack of involvement these organisations and people have in the serious aspects of the racing industry Governments continue to listen to these vested interests and meet with them every time they want to agitate for their own self interests.

Observations on the Australian experience

From a review of recent Australian experience, the following observations can be made or conclusions drawn.

- *The role of State governments has been important in bringing about governance change. In some cases it was the State government with its various forms of vested interest (e.g. in industry tax revenue) that was pressing for change. There was widespread recognition that racing would be forced to change whether it wished to or not. However, the Australian advice was to keep the Government, so far as possible, at arms length. State racing authorities in Australia are very vulnerable to changes in state level government and even to changes of Minister.*

- Control of state level racing authorities has, historically, been dominated by race clubs – many of the reforms have been to ensure that other stakeholders gain a more direct role in the governance process.
- Private ownership of the TABs (except in Western Australia) has created the need for the various parties involved in Thoroughbred racing to address important industry relationships e.g. with Tabcorp, as a common issue.
- During the various governance change processes, the dominant metropolitan race clubs were keen to maintain their position but rural racing clubs have had considerable political leverage.
- The principal objective of changes to governance structures has been to replace representative, club focused boards with skills-based boards to gain both an industry best interests focus and to improve the calibre of leadership.
- Although their influence at the governance level has been deliberately reduced, race clubs are still considered a very important component of the industry but in terms primarily of 'putting on the show' (i.e. mounting race meetings, gaining local sponsorship, providing a good on-course experience etc).
- There is general agreement about the preferable size (7-9) and necessary skills of boards capable of effective governance of the racing industry. These include racing industry knowledge, financial literacy, commercial savvy, political nous, ability and willingness to participate in the industry. Boards at the larger end of the size range are considered preferable because of the perceived workload (including the need for board members to be visible at racing events and other industry gatherings).
- Appointments should initially be of sufficient length (three to four years) to enable directors to get on top of the job and to enjoy extended but not unlimited terms (up to eight or nine years) provided their performance is satisfactory.
- Most current governance structures are compromises in the face of political realities and there are still unfulfilled ambitions for governance change – particularly in terms of the peak body having greater control over industry assets for the sake of achieving greater efficiency and effectiveness (e.g. distribution of venues, marketing, etc).
- Changes in governance structures and processes must be owned by and driven by the board.

Current control body

The control body structure must be independent of the club system and those participants that the constitution and the *Racing Act* sets out to license and administer. The Government attempted to achieve this outcome with the enactment of the *Racing Act* and establishment of corporate entities as racing control bodies. However, due to political constraints that existed at the time and the impact of AR1¹ the government was not able to fully implement its

¹ The explanation of impact this rule had on appointments to control body board is explained later in the paper.

preferred model and had to compromise the final model that still provided considerable power to the club system.

The constitution through necessity adopted the present voting structure at its inception when the QRL constitution needed to comply with a tightly administered Australian Rule of Racing A.R.1. The strict application of A.R.1 meant that there could be no "appointees" other than by clubs and industry associations to a control board. This 'rule' protected the status quo and kept governments out of the supervision of racing as well as protecting the traditional, inefficient, amateur administrations. In short, if a director candidate is not suitable to the clubs then there was no way of securing a control body position.

The strict adherence to A.R.1 and the 'appointments' no longer exist.

Currently, the QRL constitutional 'initial term' has expired leaving the control body directors in a 'no win' situation. Directors are reliant on the goodwill of the clubs and industry associations to effect their election or re-election. Decisions that are necessary to protect/enhance integrity, and vital for the progress of the industry, but may have a detrimental effect on a particular sectional interest, immediately alienates that sectional interest and directly influences the director's tenure.

The current election process of stakeholder voting on directors to hold office compromises director behaviour. This is unacceptable and poor governance and creates a serious integrity issue for the Government.

The current voting system is neither appropriate, nor commercially acceptable, for a regulatory control body responsible for the integrity of a code of racing.

The current system is open to manipulation and director candidates are not necessarily elected on merit - a candidate will be supported as a nominee of a sectional interest, and by any fair assessment, the process is compromised. I will deal with this later in this submission as an actual occurrence on two fronts applicable to the, *Airdrews v QRL* Supreme Court trial.

Unfortunately, the 2009 election process has seen the start of the prostitution of the current constitutional voting process. Candidates for control body consideration or election going forward will be reliant on the club vote to be elevated to the control body board, unless urgent change is forthcoming.

The clubs are well aware that the current process affords them the opportunity to take control, a process that they have relentlessly pursued constantly since the establishment of the Queensland Thoroughbred Racing Board as the control body in 2002.

Pre 1981

Prior to 1981, the then Queensland Turf Club (QTC) was the body responsible for racing administration in Queensland. This model reflected the colonial structure of racing administration that had existed in Australia ever since European settlement and was modelled on the English model of racing administration that existed at the time.

This system championed the ruling class controlling what they referred to as the 'Sport of Kings' and was characterised by all the worst examples of upper class English society that was attempted to be replicated in the Australian colony. At the forefront of this structure was the QTC who subsequently had over 100 years involvement as the administrator of Queensland racing. Is it any wonder the QTC continues to agitate to a return to the past where race clubs ruled supreme with no oversight of their activities.

Notwithstanding the recent establishment of the Brisbane Racing Club (BRC) the former QTC committee members and their supporters continue to shape the actions of the BRC in the tradition of the QTC approach to racing administration.

1981 - 2001

In 1981, legislation established five principal clubs as the control bodies for the thoroughbred code in Queensland. However, the four regional principal clubs were effectively marginalised and controlled by the fifth – the QTC. In effect, the QTC still ran racing in Queensland.

Following a review by the Goss government in 1992, the five principal clubs were abolished and replaced with one control body, the Queensland Principal Club (QPC). The appointment of persons to the Board of the QPC was by direct nomination by clubs and regional associations. This resulted in major conflicts of interest for the members of the QPC who did not vote on matters in the interests of the thoroughbred code as a whole but in the interests of the race club that they represented. By 2001, the Board of the QPC had become so controlled by the vested-interests of race clubs it was incapacitated and unable to effectively make decisions.

In 2001, the Beattie government abolished the QPC and established the Interim Thoroughbred Racing Board to manage the process of transition to the Queensland Thoroughbred Racing Board that was established in 2002.

There is no doubt that the government in removing race club control would not want the industry reverting to, the *'old ways and old days'*, of the past.

2002

The government dispensed with the representative control body model and adopted a skills based board appointed to control the industry and bring forth a more permanent structure. Those that sought the control did not achieve their desired appointees on the board and protested at great lengths to overturn the decision. The tactic did not work despite negative publicity in the Courier Mail and the lobbying of Bill Carter and the QTC.

2004

The Beattie government, at the urgings of the then QTC / Bill Carter / Gordon Nuttal and the Courier Mail, were coerced through false information to schedule the Shanahan Inquiry with the purpose of giving legitimacy to a new representative structure with QTC and clubs in control.

Result - Failed

- Cost government \$1 million
- Racing \$500,000
- **Total cost \$1.5 million**

2006

The Beattie government, again pushed by the same people, the then QTC / Bill Carter / Gordon Nuttal and the Courier Mail, determined to hold the Daubney Rafter Inquiry to investigate false accusations and that the independent body had failed in its duty of care and that there was corruption in the system.

It is interesting to note that the QTC sought and was granted approval to participate as a "friend to the inquiry" and proceeded to attack the control body relentlessly suggesting corruption of senior staff and bullying of disgruntled employees. Throughout this entire process they were actively supported by Courier Mail Journalist, Tuck Thompson at the behest of long-time QTC supporter Courier Mail Journalist Bart Sinclair.

Result - Failed

- No corruption
- No bullying
- The Inquiry made no adverse findings against QRL
- Cost to government \$4 million
- Cost to QRL \$3 million
- **Total cost \$7 million**

2008

- QRL sought changes to the constitution on the grounds of certainty and to extend the term of the control body.
- Industry voted 14 to 1 in favour. Only dissent was the QTC.
- Following the declaration, Bill Carter considered there was a flaw in the process and engaged in a lengthy and expensive witch hunt.

- The matter was referred to the CMC, then ASIC, all for a negative result. Still not satisfied the matter was then referred to the fraud squad of the QLD police.

Result

- No official misconduct; no breach of ASIC requirements.
- As a procedural requirement had not been complied with, the process was administratively flawed and therefore, could not be approved by the responsible Minister.
- Cost to Industry \$200,000
- **Total cost \$200,000**

2009

William (Bill) Bernard Andrews v Queensland Racing Limited

Again, QRL has found itself the subject of litigation. QRL, in following the provisions of the company constitution found itself a defendant against existing board member Bill Andrews (plaintiff) with the decision delivered by Judge J Wilson on 23 October 2009.

Without recounting the nature of the litigation brought by Andrews (as it is bound to be fresh in everyone's mind), it is of significant importance to note that Andrews was in receipt of financial assistance by others prepared to co-fund the action brought by him. The action by Andrews was co-funded by the following:

- Basil Nolan – Vice President, Thoroughbred Breeders Queensland Association;
- Bob Frappell – Chairman, Thoroughbred Breeders Queensland Association – Class 'A' Shareholder representative, QRL;
- Kevin Dixon – Chairman, Brisbane Racing Club – Class 'A' Shareholder representative, QRL;
- Tom Treston – former committee member, Queensland Turf Club; and
- Dick McGruther – unsuccessful applicant for the vacant board position, QRL – deputy chairman, non-executive directors, Watpac – former auditor of QTC, when a partner with Bentleys MRI.

In respect of Mr McGruther, it should be noted that he is the deputy chairman, non-executive director of Watpac, and it needs to be remembered that Watpac has in existence, a memorandum of understanding with the Brisbane Racing Club that deals with the proposed development of both Eagle Farm and Doomben. Further, as tended in his evidence in the case, he confirmed that he had also applied for a position as a director of QRL after being encouraged to do so by former chairman of the QTC and current deputy chairman of the Brisbane Racing Club, Mr Bill Sexton.

Identifying and understanding the motives of those that have co-funded the Andrews action provides a great insight as to the underlying reason why the action was initiated. Clearly, there are those out there that believe that the

Industry should be governed as it was prior to 1992, when the QTC reigned supreme as both a Principal Racing Authority (PRA) and a race club.

In terms of the orders that have subsequently been handed down, in short, QRL is required to recommence the election process for two new directors starting with the compilation of a shortlist of candidates by an independent recruitment agency.

Beyond the considerable financial cost of these inquiries, for extended periods of time, the board of QRL and senior staff were distracted assisting with information to ensure that the proprietary of the PRA, namely QRL, was protected. Not in any of these inquiries or court cases, has QRL been the plaintiff. In all instances, it has found itself defending its position.

The inquiries have emanated from disgruntled persons within the industry, who lack a preparedness to accept the necessary change that is vital for the Thoroughbred racing industry in Queensland to survive and prosper. This indeed is unfortunate and is a reflection of the influential few, who continue to support the notion of race club sovereignty. In the "Andrews versus QRL" case those who have co-funded the action are on the record as keen supporters of the QTC.

This is consistent with my previous comments in section "current control body."

The current circumstances and events surrounding the 2009 election are a mirror of the disruption and relentless pursuit of control that has dogged the industry in 2002 / 2004 / 2005 / 2006 / 2008. It seems obvious, that unless there is a new model as suggested in this submission, the past will be continuously repeated.

I recap the frustration around due process and the associated costs by the clubs relentless pursuit of control, and their desire to revert to the past administration structure. A system that featured dubious integrity practices, the pursuit of privilege and opened up the opportunity for manipulation and corruption.

If governments wish to distance themselves from racing, and genuinely want excellence from racing control, they need to properly empower the control body with effective legislation without the collar of political compromise to manage the industry.

Racing in Queensland is a significant industry. The control body needs the changes recommended, otherwise the path to mediocrity is certain.

Other models

The best examples of racing administration can be sourced by reference to Singapore, Hong Kong and Japan where total control of racing and wagering is government controlled and owned. The success of these racing industries

can be readily attributed to a total control of assets and administration. This is a critical issue. These racing control bodies can adapt to changing market conditions and maximise the allocation of available resources.

QRL can not attain this position, the luxury of owning the wagering licence has long past and the gifting of racecourses to clubs in the early part of 2001 and 2002 has restricted the progress that QRL can realistically achieve going forward.

Unfortunately, Australian racing administration models and the New Zealand model are of little help to draw inspiration. These models all set out to achieve a result but have been compromised in their delivery by the influence of the clubs watering down any structure that will reduce the club committee influence or prestige.

Queensland dispensed with a representative model in 2002 and introduced a skills based board, unfortunately because of the Australian racing rule A.R.1, Queensland retained a connection to the club system by allowing clubs to appoint directors through a convoluted election process, and destroying directors' independence.

The Queensland model worked well while there was an 'initial term' with no elections, but as the initial term has expired the industry is going through a period of trench warfare as the clubs see an opportunity to take control and revert to the pre 1990's.

Queensland can lead the Australian industry by adopting a model that will quickly be followed by other states in Australia, progressing a much needed national administration model.

The Australian and the Queensland industry will not fail by fierce competition from a changing wagering landscape. The industry will fail if it continues to be captive to an outdated club compromised control administration.

Stakeholders, as defined by those who derive their livelihood from this industry, want the club system dismantled and the industry put on a national footing of independent control. The stakeholders see the flaws in the system with the doyens of the club hierarchy using the system for privilege and proudly claim their amateur administration status. There is little wonder that the stakeholders and those that earn their living from the industry want a stable environment.

The question needs to be asked?

"How can an industry with a turnover of \$16 billion, 250,000 employees grow and prosper to meet the challenges that are upon the industry with a club-centric system of control that continually challenges progress and defends the privileged position of club committees enjoying the largess and influence derived from their positions, and defending the status quo with fierce determination no matter the cost"

If governments wish to distance themselves and practically devolve their commitment to racing then they need to empower the control body with effective controls without the collar of political compromise to manage this industry and overcome the challenges ahead.

The industry is significant especially in Queensland and unless the government is prepared to make change as recommended then the industry will suffer a rapid decline.

Why not change the current constitution?

As the change to the constitution requires a 75% vote this is in reality a 100% vote of both 'A' and 'B' members.

Any change to the constitution is rendered impossible under current conditions, as clubs will not agree to changes that diminish their perception of control. The current voting process even more so is a disincentive for change.

The reason for change is compelling however the constitutional voting process renders change impossible.

Industry issues

The cliché "at the crossroads" has often been used to emphasise a potential change in industry direction. At present though, it is more applicable than ever.

The previous section discussed the need for stability and the outcomes delivered as a result of having a stable board for a period of time. The issues we as an industry currently face require the attention of an experienced board that will not be distracted from the task at hand. Following are areas within which challenges exist.

- Wagering landscape
- Capital Infrastructure
- Alternative revenue streams
- Broadcast and Intellectual Property
- National Integration
- Dwindling attendances
- Country racing
- Decreasing participation

Stability of the Board

Over the last 4 to 5 years the QRL board has delivered, annually, strong financial outcomes. Most of these outcomes have been achieved in the face of considerable adversity. Notwithstanding, the board, as a result of director stability and through the certainty of the initial term, has grown the industry in

key areas. It is doubtful that any other Principal Racing Authority in Australia has the same score on the board as QRL, in terms of positive industry outcomes. It is emphasized that a stable board has underpinned the deliverables for the benefit of the industry. The following charts highlight some of those key outcomes.

QRL board achievements since 2006:

Listed below are major projects completed by QRL since 2006:

- \$6.2M synthetic track installation at Corbould Park, Caloundra;
- \$4.55M injection into TAB prizemoney levels over the past two years;
- \$1.2M increased annual contribution to country racing from July 1, 2009, with minimum prizemoney levels at strategic meetings increased to \$6k;
- \$4.83M QTIS 600 Race, Bonus Series and Sale;
- \$7.2M lighting installation covering both tracks at Corbould Park, Caloundra; and
- \$600k investment into world class training equipment available to Queensland apprentices, jockeys and trackwork riders throughout the State.
- \$10M synthetic track installation at Clifford Park, Toowoomba, commenced in February 2009;

Listed below are projects either commenced or due for commencement:

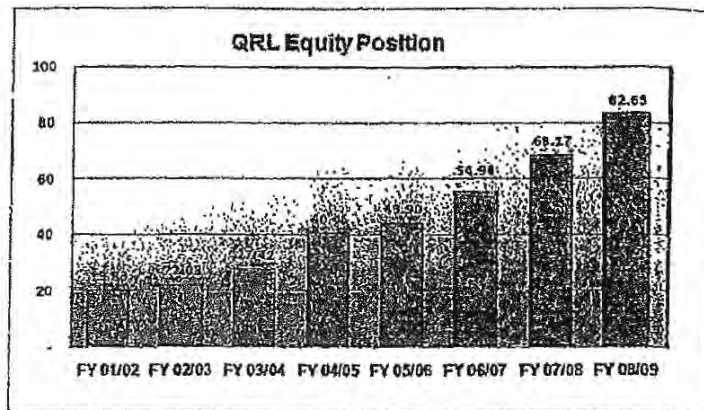
- \$6M upgrade of Callaghan Park, Rockhampton, due for commencement in May, 2009; and
- \$16M stabling project for 416 horses at Corbould Park, Caloundra, due for commencement in May 2009.

Listed below are projects under investigation by QRL:

- Major redevelopment of Gold Coast training and racing infrastructure;
- Stabling, training and commercial development at Deagon;
- Decentralised training and stabling;
- Cairns Jockey Club & Far North Queensland Amateur Turf Club amalgamation;
- Stabling and training development at Mackay; and
- Development of a Strategic Plan for racing in North Queensland to ensure that a sustainable racing industry exists.

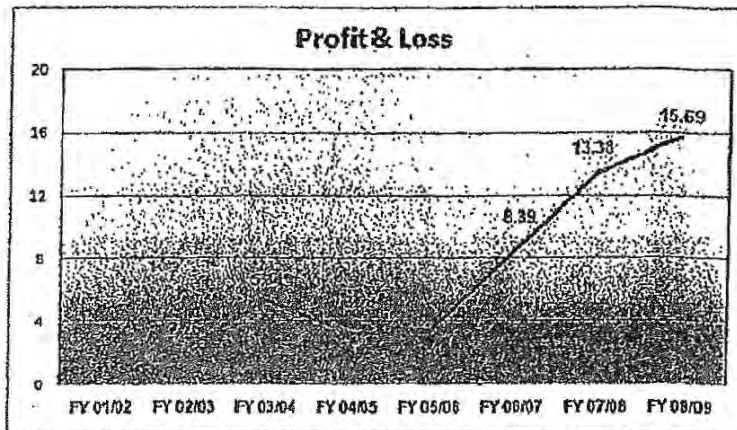
Financial KPI's

Financial Outcomes - Equity



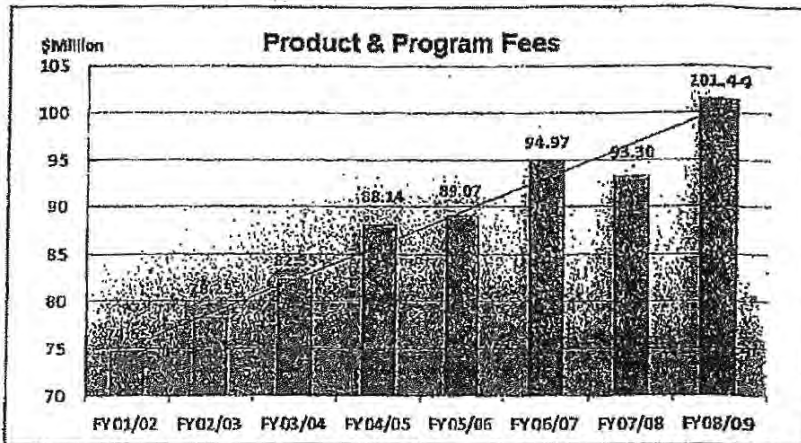
Queensland Racing's equity has increased to \$82.63M. Equity has continued to grow since FY 01/02 and has quadrupled from FY 01/02 highlighting strong investment in the QLD racing industry

Financial Outcomes - Profit/Loss



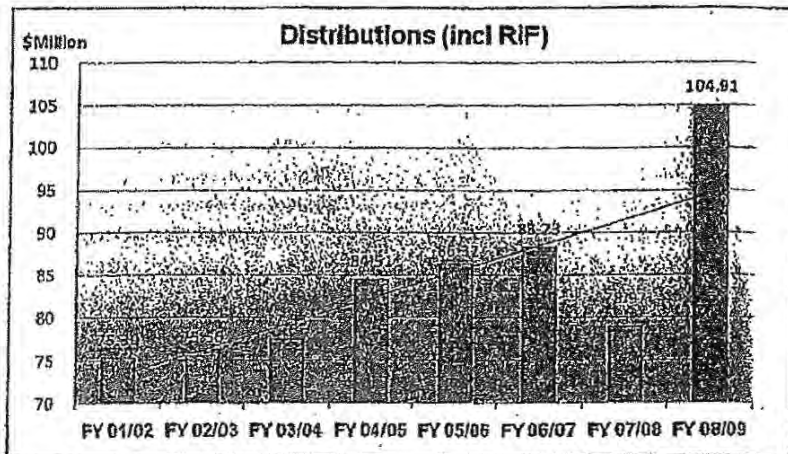
QRL continues to build a solid surplus position since FY 01/02

Income generated from TAB wagering



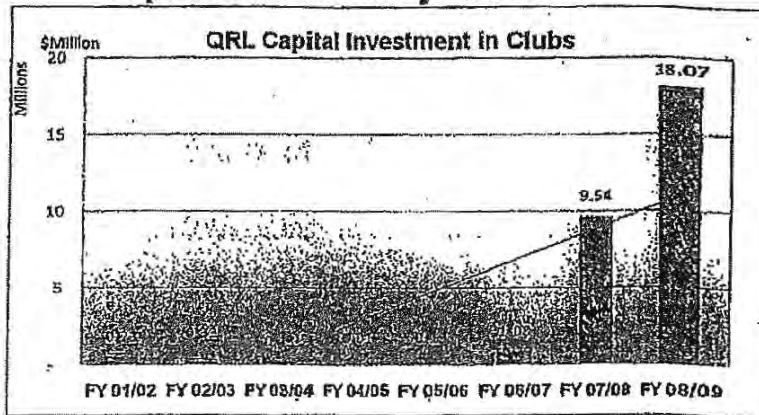
Product and Program Fees continued to grow in FY0809. In what promises to be a difficult year forecast for FY0910 is growth of around 1% in comparison to the 7% achieved in FY0809 due in part to the Global economic downturn

Distribution from QRL to Industry



Increased distributions to the Industry in FY0809 include Race Information fees of \$12.26 million and increases in Prizemoney and QTIS. Note impact of E.I in 07/08.

Capital Investment by QRL in Clubs



QRL has substantially increased investment in capital projects for Clubs, including lighting and synthetic tracks for Toowoomba & Sunshine Coast TC, stabling for Sunshine Coast TC as well as major track upgrade at Rockhampton JC.

Major Distributions

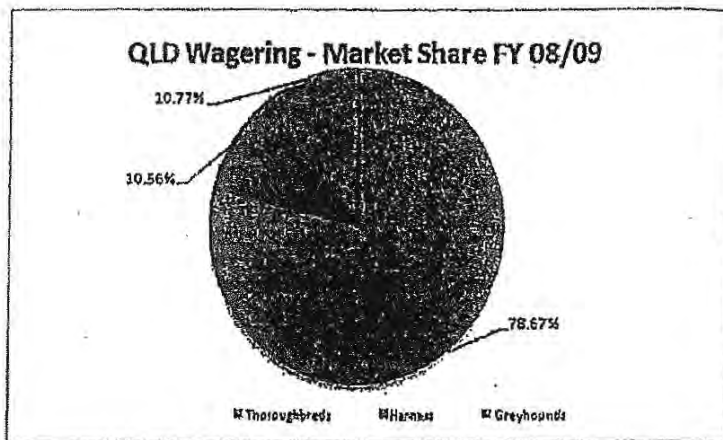
Major 2008/09 Financial Year distributions by QRL are as follows:

	FY08/09
Prizemoney / QTIS	\$ 73.97M
Race Information Fees	\$ 12.26M
Administration Subsidies	\$ 7.90M
Jockey Riding Fee	\$ 7.06M
Jockey Workcover	\$ 1.71M
Unplaced Starters Rebate	\$ 0.91M
Jockey / Trainer Public Liability	\$ 0.24M
Industry / Apprentice Awards	\$ 0.14M
Club Capital Works	\$ 0.31M
Other	\$ 0.41M
	<u>\$104.91M</u>

Code comparisons of relevance

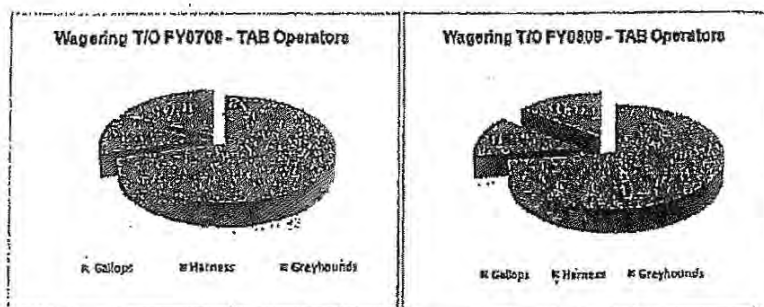
It can be seen from the following graphs that the Harness and Greyhound codes occupy a relatively minor footprint of the racing industry in Queensland.

Market Share of QLD Wagering - UNITAB



Thoroughbreds dominate UNITAB wagering with approximately 78.67% of the domestic wagering market.

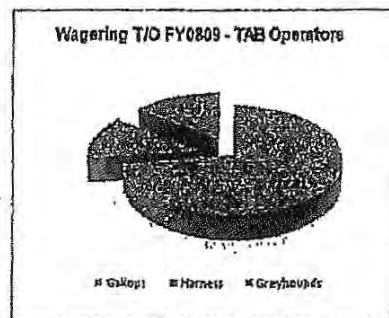
Market Share of QLD Wagering – All TAB Operators



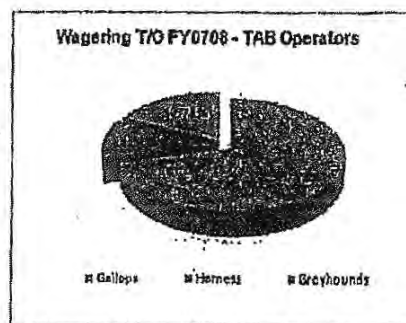
Thoroughbreds dominate All TAB wagering with approximately 71% in FY0708, increasing to 73% in FY0809.

FY0708				
	Gallops	Harness	Greyhounds	All QLD Product
Race Meetings	563	334	637	1,534
Races	3,863		5,827	9,690
Starters	39,212		41,828	81,040
Attendance/Admissions	787,791			787,791
Control Body Staff	162		27	189
Trainers	1,183	436	1,174	2,793
Jockeys/Drivers	274	304	n/a	578
Stable Hands/Attendants	2,111	218	656	2,985
Bookmakers	115	9	15	139
Clubs	136	7	9	152
\$'000				
Surplus/Deficit	13,382	477	1,501	11,403.99
Prizemoney paid out	67,592	11,194	7,341	86,066.31
Product & Program fees	93,489	17,865	11,687	123,040.53

FY0809				
TAB Operator	Gallops	Harness	Greyhounds	All QLD Product
ACTTAB	23,422,444	3,045,280	3,290,501	29,758,224
NTTAB Pty Ltd	25,704,565	3,945,994	4,107,810	33,757,770
RWWA	1,21,026,165	38,844,998	48,856,105	208,727,268
SA Tab	84,814,498	17,570,604	18,168,171	120,553,273
TAB NSW	583,931,578	93,978,181	109,459,022	786,768,781
TAB Victoria	338,323,997	71,994,686	80,439,165	490,757,848
TOTE Tasmania	74,880,237	11,621,295	13,705,948	100,205,880
UNITAB	432,986,596	58,097,268	59,274,357	550,358,221
	1,685,090,080	298,497,705	337,300,479	2,320,888,264
All	73%	13%	15%	100%
UNITAB	79%	12%	11%	100%



FY0708				
TAB Operator	Gallops	Harness	Greyhounds	All QLD Product
ACTTAB	20,463,967	2,363,175	4,174,831	27,001,973
NT TAB Pty Ltd	18,522,056	2,703,104	4,117,607	25,342,767
RWWA	104,613,020	31,067,178	51,940,528	187,620,726
SA Tab	71,221,097	13,516,786	18,820,895	103,558,778
TAB NSW	508,540,423	74,048,344	117,813,215	700,401,982
TAB Victoria	290,206,860	56,054,518	87,573,762	433,835,140
TOTE Tasmania	48,940,465	7,317,819	10,466,275	66,724,559
UNITAB	370,514,246	45,905,032	63,710,548	480,130,826
	1,433,022,134	232,976,956	358,617,661	2,024,616,751
All	71%	12%	18%	100%
UNITAB	77%	10%	13%	100%



Option to integrate three codes of racing

This paper, for the consideration of the government, considers the integration of the three racing codes, namely the Thoroughbred, the Greyhounds and the Harness codes, in Queensland. It proposes the integration of all three codes into a single control body.

Due to the size and complexity of the thoroughbred code the suggested integration is based on the systems and structure of the existing thoroughbred control body, QRL.

Currently the three codes are governed by three companies, limited by guarantee which results in duplication and inefficiencies. Just as the QRL has actively pursued the integration of the two metropolitan racing clubs in Brisbane (the Brisbane Turf Club and the Queensland Turf Club), the three codes of racing need to have regard for the efficiencies that would be generated as a result of integration. Whilst no financial analysis has been undertaken in relation to the efficiencies that would be generated, when it is contemplated that there is duplication at most levels within each of the codes, it becomes logical that a single control body administering the three codes of

racing in Queensland will deliver considerable efficiencies, and in turn benefits for each code of racing.

The benefits of amalgamating the three control bodies into one control body for the Queensland racing industry, include:

- streamlined strategic decision-making in the interests of the entire racing industry;
- single point commercial negotiation;
- the establishment of one licensing and training regime and system;
- enhanced integrity management systems and procedures; and
- coordination of asset redevelopments;

The smaller harness and greyhound codes which currently do not have the resources to replicate thoroughbred systems will benefit from the investigation, legal and appeal processes that now operate in the thoroughbred code.

While no staff would be displaced if the control bodies are amalgamated, over time as staff leave, there will be opportunities to reduce the number of staff. Staff from the three codes would benefit from increased career opportunities in the larger organisation.

Below in this paper under, 'Recommendations', the integration of the three codes is further discussed and the proposed new board structure considers an initial compilation of directors from the three codes of racing, and then ultimately the directors are simply being drawn from industry and commerce.

The current constitution was created in an entirely different set of circumstances. There was a different and stable income stream and the competition for the wagering dollar was present but not aggressive. The industry was resigned to a period of stability not prefaced by continuous elections.

The Australian Rule of Racing A.R.1 was relevant in that a constitution for a control body could not have 'appointees' to the control body unless by the industry. The framing of the current QRL constitution was of necessity, constrained in so much as it required industry representation for election to the control body board. This was considered by racing clubs as their protection of the system. The rule was introduced so as to stop government appointments or for that matter any outsiders no matter their qualifications to racing boards. This no longer applies, except that clubs continue to agitate in an endeavour to cling to this long dispensed crutch of protection.

The Australian racing industry is extensive and far reaching, it is complex and occupies a space in Australian industry and community that is rarely understood. The industry relies on integrity and a control body system that has a real separation from those participants and associations that it licences and controls.

There needs to be a complete understanding that the racing industry is entirely different from other sporting bodies and their participating clubs. The industry generates \$16 billion in turnover contributes substantially to government taxes employs over 250,000 people full time and the opportunity for corruption and manipulation is an ever present danger.

I am proposing a simple structure that will meet all the governance expectations and will give a vastly superior control model for Queensland that will hopefully be replicated interstate as a forerunner to a national racing industry model. The structure and model will accommodate the Harness and Greyhound codes.

Recommendations

Action for Queensland

Stage 1

1. Let the current election process play out. That is QRL will proceed to comply with the Supreme Court orders of Justice Wilson or any further orders handed down.

Result - that 2 new directors will be elected to the current QRL board under the existing constitutional process.

2. The government by legislation will revoke the three existing control body licences on the following grounds:-
 - (a) The model no longer fits the current conditions in the racing industry;
 - (b) A.R.1 no longer needs strict interpretation;
 - (c) The government sees the need for a major upgrade of infrastructure in the racing industry and it is essential that the directors have security of tenure to effect the developments and structural change;
 - (d) Remove the constant distraction of board elections and the associated lobbying of stakeholders who maintain a vested interest to achieve the best outcomes for their clubs at the expense of the wider industry;
 - (e) Amalgamate the three [3] control bodies in one entity for efficiency and progression of developments; and
 - (f) Apply the proper governance of separation of directors being elected by those who they are required to license and control.

Stage 2

1. A single control body to administer all regulated racing in Queensland will be established and licensed by the Government.
2. The constitution of the new control body will be broadly based on the current QRL constitution, with the necessary changes outlined below.
3. Transfer the staff, assets liabilities and responsibilities of the current three control bodies to the new control body.

Constitution of the new control body

Members

The only members of the company will be the directors. If a person ceases to be a director, they cease to be a member.

Founding Directors

As the largest of the three codes, the thoroughbred code generates by far, the most income and has the most contentious issues to deal with. Accordingly, the founding directors of the new control body will be the five QRL directors and one existing director from each of the current harness and greyhound control bodies.

The chair and deputy chair of the control body will be the chair and deputy chair of QRL who will hold these positions for the initial term.

Initial term

It is proposed that directors of the new control body be appointed for an initial term of five years, until 2015. During this period the directors would not be required to stand for election.

This period of stability is necessary to ensure that the considerable work necessary to properly implement the operations of one amalgamated control body for the Queensland racing industry is undertaken as effectively as possible in the interests of the three codes of racing. As this will be a period of significant change with a high work load, it is important that the directors are focused on control body issues and not distracted by elections.

In addition, it should be noted that the Product and Program Agreement expires on 1 July 2014. As the future income for the three codes of racing will be dependent on the outcome of the negotiation of a new agreement, it is imperative that this process is led by directors who understand the issues and are best placed to ensure a sound financial future for the Queensland racing industry.

Director's selection

The selection of directors will be by a panel of recruitment/management consultants acting independently of the new control body. The panel would be appointed as follows:

- One member appointed by the control body (those directors who are seeking reappointment will not vote or be part of the consultant's appointment);
- One member appointed by the Australian Institute of Company Directors; and
- One member appointed by the Director-General of the department responsible for racing.

Following initial guidance as to selection criteria as per the Racing Act and taking into consideration the suitability and skills required to complement the board their majority decision will be final. Board members will be selected on ability not popularity and this removes the industry lobbying for outcomes.

After the expiration of the initial term, directors are to retire on a rotational basis every two years.

Director Numbers

The new control body will have a maximum of 9 and minimum of 7 directors.

Remuneration

The remuneration of the directors will be determined by an independent organisation such as Mercers by benchmarking against companies of similar revenue and size. Remuneration reviews will be carried out every 2 years.

General meeting

In addition to the company's annual general meeting, the control body will hold a meeting each year to provide information to industry stakeholders.

Product Company

It is recommended that Product Co Pty Limited remains and as a sub-committee of the board of the control body.

Other Issues

Code Funding

The allocation of funding to the three codes would be based on wagering performance.

Stamp Duty

Approval would be required to transfer of assets from the three existing control bodies to the new control body without paying transfer duty.



R.G. BENTLEY
Chairman

'KS-4'

Justin Murphy

From: Nicholas Lindsay
Sent: Wednesday, 18 November 2009 3:00 PM
To: Justin Murphy
Subject: FW: QR Case for change
Attachments: Comments on the QRL Case for Change document.doc

-----Original Message-----

From: carol.perrett@racing.qld.gov.au [<mailto:carol.perrett@racing.qld.gov.au>]
Sent: Tuesday, 17 November 2009 11:25 AM
To: Nicholas Lindsay
Subject: RE: QR Case for change

Nick

Just finished. It is attached.

you need to discuss, please call me on 323 41408.

Regards Carol

(See attached file: Comments on the QRL Case for Change document.doc)

Nicholas Lindsay
<Nicholas.Lindsay
@premiers.qld.gov
.au>

17/11/2009 10:59
AM

To
"'carol.perrett@racing.qld.gov.au'"
<carol.perrett@racing.qld.gov.au>

cc

Subject

RE: QR Case for change

Carol

How are you tracking with this?

Nick

-----Original Message-----

From: Nicholas Lindsay
Sent: Monday, 16 November 2009 11:07 AM
To: 'carol.perrett@racing.qld.gov.au'
Subject: QR Case for change

Carol

As discussed, I would appreciate your comments on the attached paper, including key issues that should be brought to Ken's attention and recommendations for the way forward.

If I could have your thoughts by early tomorrow that would be appreciated.

Nick

x83329-----

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COMMENTS ON THE QRL 'THE CASE FOR CHANGE'

General - Need for Reform

Wagering reform was achieved with the privatisation of the TAB in 1999 and significant changes were subsequently made to the then control body structures to ensure that the racing industry could effectively operate within the privatised wagering environment.

Since then all three racing industry control bodies have made significant improvements in the operational and financial performance of the racing industry through operational reforms such as changes to the racing and wagering programs. However, the existing control body structure prevents strategic decision making to address a range of emerging threats and opportunities confronting the industry.

Structural reform of the Queensland racing industry is now required to provide control bodies with the power to deal with industry's competitiveness and longer term viability.

The Queensland Racing Limited (QRL) 'The Case for Change' Paper has been prepared on the basis that the Government will provide funding to an amalgamated control body for key infrastructure projects across the three codes of racing.

Amalgamation of the control bodies for three codes of racing

Background

There are three codes of racing recognised under the Racing Act, each administered by a racing control body:

- Queensland Racing Limited was appointed as the control body for the thoroughbred code on 1 July 2006;
- Queensland Harness Racing Limited (trading as Harness Racing Queensland) was appointed as the control body for the harness code on 1 July 2008; and
- Greyhounds Queensland Limited was appointed as the control body for the greyhound code on 1 July 2008.

Each control body is a company limited by guarantee established under the *Corporations Act 2001* (Cth).

The Racing Act gives the control bodies the power to manage their code of racing.

A control body has the power to license clubs, venues, participants and animals for the code, and make decisions regarding the allocation of race dates, prize money and other funding to clubs.

Current Constitutions of Control Bodies

While there are minor structural and governance differences between each code of racing and control body, each control body is comprised of 'A' and 'B' class members:

- A Class members – licensee race clubs and participants and key stakeholder groups; and
- B Class members – directors of the control body company.

The QRL 'Case for Change' Paper outlines the benefits of amalgamating the control bodies for the three codes of racing into one control body, which include:

- Streamlined strategic decision-making in the interests of the entire industry;
- Single point commercial negotiation;
- The establishment of one licensing and training regime and system;
- Enhanced integrity management systems and procedures; and
- Coordination of asset redevelopments.

The QRL Paper states that no staff will be displaced.

Office of Racing Comment

It is considered that in the longer term, the establishment of a one control body model would be expected to significantly reduce control body administrative overheads, drive efficiencies, and result in coordinated industry decision-making.

Legal advice from Crown Law has been obtained that indicates the proposal to amalgamate the control bodies can be achieved by amendments to the Racing Act.

Legislation would transfer all of the staff, assets, liabilities and responsibilities of the control bodies to the new amalgamated control body.

Legislation would provide that staff would be transferred on the same or equivalent terms of employment and would retain their entitlements which accrued prior to the transfer.

Grassroots stakeholder resistance to control body amalgamations would be expected. This resistance would not be based on any logical argument. However, if Government funding is provided for infrastructure support, this resistance would be countered by strong control body support for infrastructure delivery.

Directors of new amalgamated control body

Background

Under the constitutions of the three control bodies, the founding directors of the companies were appointed for an initial term of 3 years. Under the QRL constitution, from 2009 onwards, and in the case of the harness and greyhound control bodies from 2010, one third (2) of the directors are required to retire and a director election process is required to be undertaken annually. Retiring directors are eligible for re-appointment.

These current constitutional arrangements will result in an almost constant 'election cycle' for vacancies on the company boards, with elections held yearly.

The constitutions of QRL, Harness Racing Queensland and Greyhounds Queensland provide a complicated director selection process which involves members of the control body company that are also regulated by that control body, voting for the appointment directors of that same company.

Initial Term for Founding Directors

The QRL Paper proposes that directors of the new amalgamated control body be appointed for an initial term of five years, until 2015.

The reasons stated for the need for an extended term without director elections are:

- A period of stability is necessary to ensure the amalgamation of the control bodies into one control body is properly implemented.
- During this period of significant change with a high workload, it is important that the directors are focussed on control body issues and not distracted by elections.
- The Product and Program Agreement between the control bodies and UNiTAB Limited expires on 1 July 2014. There is a need for stability during the negotiations for a new agreement to ensure a sound financial future for the racing industry.

Office of Racing Comment

The current constitutional arrangements requiring annual elections results in significant disruption to control body activities as incumbent directors facing re-election tend to be focussed on maintaining their position on the company board.

The continual election cycle also places an administrative burden on the control bodies that is distracting from their ability to meet the challenges of reform.

A period uninterrupted by director elections would enable the control bodies to carry out the restructuring and reform necessary for the long term financial health of the industry.

As the Product and Program Agreement between the control bodies and UNITAB Limited provides the majority of the control bodies' income, it is very important that experienced directors who have a good understanding of the issues facing the industry are involved in the re-negotiation of this agreement. Also, the Intercode Agreement between the control bodies which specifies the percentage that each code receives under the Product and Program Agreement also expires on 1 July 2014.

In view of the reasons outlined above, it is considered that an initial term of five years until 2015 is a reasonable period, which should provide the necessary stability for the control body.

Term of Directors after Initial Term

QRL proposes that after the initial term, directors would retire every two years on a rotational basis.

Office of Racing Comment

It is considered that a two year term would ensure that the directors are not constantly in 'election mode' and would provide greater stability for the control body and would reduce the costs associated with the director election process.

Appointment of Directors

After the initial term, it is proposed that a panel of three independent recruitment consultants, one appointed by the directors of the company, one appointed by the Australian Institute of Company Directors, and one appointed by the Director-General of the department responsible for racing, would appoint the directors of the company.

Office of Racing Comment

The appointment of directors by a panel of three independent recruitment consultants would address the issue of clubs and licensees who are regulated by the control body voting on the appointment of directors to the control body.

Members of the Control Body Company

Currently, each control body is comprised of 'A' and 'B' class members:

- A Class members – licensee race clubs and participants, and key stakeholder groups
- B Class members – directors of the control body company.

The QRL 'Case for Change' paper states that "the control body structure must be independent of the club system and those participants that the constitution and the Racing Act sets out to license and administer".

It is proposed that the only members of the amalgamated control body would be its directors.

Office of Racing Comment

As the control body is a regulator, it is not appropriate for the members of the control body company to be licensees that the control body regulates. The involvement of race club members, licensees or industry participants in the selection/election of control body directors is a serious integrity threat.

As the function of a control body is to manage its code of racing, it has both regulatory and commercial functions, including regulating all licensees and making commercial decisions to provide the best financial outcomes for the industry.

It is agreed that, as tough, integrity and commercially focussed decisions are required to be made, including the rationalisation of assets and restructuring of racing, it is difficult for the directors to take such action when affected clubs are also members of the company who vote on the reappointment of directors.

DIRECTOR-GENERAL'S BRIEFING NOTE
Policy

Tracking Folder No. TF/09/32076
Document No. DOC/09/134393

To: Director-General
Date: 19 November 2009
Subject: Queensland Racing – Meeting with Mr Bob Bentley, Chairman on 20 November 2009

URGENT

Approved / Not Approved / Noted
Addressee
Date

• RECOMMENDATION

It is recommended that you:

- note the following information and that a Cabinet Submission on structural reform to the Queensland racing industry, including the proposals by Queensland Racing Limited (QRL), is being prepared by DEEDI for early in the new year.

• KEY ISSUES

- Broadly, the objective of achieving structural stability as a prerequisite for industry reform is supported, however, the merit of the specific reforms proposed is unclear.
- Further consideration of the proposals, in consultation with the existing control bodies, is required given the factional nature of the industry.
- A key issue will be demonstrating that any reforms adequately provide for transparency and equity across racing codes and are not seen as undemocratic.
- No consultation has occurred with the harness and greyhound racing codes.

QR Proposed Reforms

- It is likely that an amalgamation of racing control bodies will deliver overall efficiency improvements, reducing costs for the industry (however an estimate of the saving is not provided). There is a risk, however, that the smaller codes (particularly greyhound racing) may lose influence and funding.
- Proposals to alter the current selection process for Boards will be closely scrutinised by industry players. Under the proposed reforms, the current election of two board members would proceed but no further elections would occur until 2015, at which time two Board members would face election every second year.
- The Chair would face election in 2023.
- Proposals to delay the election of Board members (particularly the Chair who is due to face an election for the first time in 2012 under existing arrangements) will be strongly opposed by sections of the industry.
- Amendment to the *Racing Act 2002* is required to bring effect to these reforms.

• CONSULTATION

- DEEDI.

• BACKGROUND

- While related, the issues of structural reform are separate to the funding submission recently considered by CBRC.
- QR are proposing structural reforms to the Queensland racing industry, including:
 - o amalgamation of the three racing control bodies;
 - o members of a new control body to only comprise Directors; and
 - o retirement of Directors every two years on a rotational basis from, following an extended initial term for Directors (selected from existing Directors) of five years.

Dr Pradeep Phillip
Associate Director-General

Comments

Action Officer: Nick Lindsay Approvals by Director / ED / DDG
Area: ECP documented in notes in TRIM
Telephone: 323 83329

November 23, 2009



Mr Ken Smith
Director-General
Department of the Premier and Cabinet
Queensland Government
PO Box 15185
CITY EAST QLD 4002

Queensland Racing Limited
ABN 91 613 117 177
Racecourse Rd Deagon QLD 4017
PO Box 63 Sandgate QLD 4017
T 07 3865 9777
F 07 3269 5409
E info@queenslandracing.com.au
W www.queenslandracing.com.au

Mr Lachlan Smith
Senior Policy Advisor
Treasury Department
Queensland Government
GPO Box 611
BRISBANE QLD 4001

Dear Gentlemen

Following on from Friday's meeting, please find attached an email from the Chief Executive Officer of the Brisbane Racing Club (BRC), Stephen Ferguson, to Colin Smith, Principal of L.E.K. Consulting (LEK).

You will be aware that Queensland Racing Limited (QRL) engaged LEK to undertake carriage of the industry's broadcast strategy to a point where LEK would be positioned to negotiate on behalf of the TAB race clubs in QLD as a whole.

The advantages of this are obvious in that, by combining the entire broadcast rights into a single offer, the industry stands to benefit substantially as a result of the increased value associated with a combined offer. The broadcast project initiated by QRL was pursued to deliver increased revenue to all TAB race clubs in Queensland, not to provide additional revenue to QRL, as the control body in Queensland.

Historically, TAB race clubs in Queensland have negotiated their own contracts in isolation to each other, and, as a result, have achieved a less than optimum outcome. Conservatively, LEK has valued the combined Queensland broadcast at more than double the current revenue levels delivered. History reveals that Sky Channel has negotiated an outcome with the metropolitan TAB clubs in the first instance and then provided to other TAB clubs in Queensland an amount far less than the value of the individual club's content.

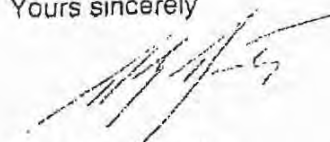
As you will observe by the attached email, it is clearly the intention of the BRC to withdraw from the current process, notwithstanding undertakings they have provided right throughout.

The circumstances that we now confront due to the obstinate behaviour of the BRC are seen as nothing short of embarrassing for the thoroughbred racing industry in Queensland. Put bluntly, this is just another example of what QRL is required to tolerate as a result of race clubs and their members owning significant assets that should reside with the PRA on behalf of the entire industry.

I, along with all other genuine people in the Queensland racing industry wish to see this industry progress and continue to deliver significant economic outcomes for Queensland.

The course of action discussed at our Friday meeting is becoming more urgent by the day. The Government's urgent attention to industry funding and governance restructure is critical. In this regard, we look forward to receiving your urgent advice.

Yours sincerely



R. G. BENTLEY
Chairman

Department of the Premier and Cabinet

Cabinet Budget Review Committee Submission briefing note

Submission No: 3756

Date: 5 November 2009

Minister Lawlor

Funding of control bodies in the Queensland racing industry

Purpose

1. That CBRC approve funding of \$100M over five years to the three racing industry control bodies to assist in funding high priority racing industry infrastructure.

Background and Issues

2. Qld has 140 racing clubs conducting 1,440 racing meetings. Only 14 racing venues operate commercially as TAB clubs (conducting races for wagering through UNiTAB).
3. Qld wagering turnover on thoroughbred racing has increased from \$1.2B to \$1.6B over the last seven years; an average of 4.4% per annum. The Qld government receives wagering tax as a percentage of the commission deducted by UNiTAB on wagering conducted by means of the totalisator. Wagering tax increased by 4.8% over the five years to 2008/09 to total \$37.1M.
4. The industry was restructured in the early 2000's, at which time the Queensland Racing Limited (QRL), Queensland Harness Racing Limited (QHRL) and Greyhounds Queensland Limited (GQL) were created and a Product and Program Agreement was completed with UNiTAB.
5. The three codes received \$120.3M in 2008/09 in fees under the Agreement and a further \$17.8M in Race Information fees. Race clubs rely on revenue from the sale of broadcasting rights and sponsorship (in the case of TAB clubs), bar sales and catering.
6. QRL is required by legislation to invest 7% of Agreement fees (approx \$6.2M) in prize money for non-TAB clubs. Currently QRL is electing to invest 13.5% or \$13M to ensure the viability of country racing.
7. The industry argues there is no capacity within the current revenue stream for the maintenance and upgrade of racing facilities given competing needs of maintaining prize money, operating multiple control bodies and subsidising non-commercial rural and regional racing venues.
8. The overall state of racing infrastructure is poor; a workplace health and safety assessment found 50% of non-TAB race clubs to not meet minimum industry standards.
9. The submission provides three options involving Government only funding contributions of between \$250M (over 12 years) and \$100M (over five years), contingent on industry reform.

Department of the Premier and Cabinet's position

10. The racing industry in Queensland faces significant challenges. However, the issue is primarily one of having too many racing venues (some of what QRL is proposing would make this worse – for example, upgrading Beaudesert while retaining Deagon).
11. While revenue growth is not as strong as the industry would like, it is still increasing faster than inflation. Providing direct funding to the racing industry is a major departure from existing government policy, and will invite questions about government priorities.
12. Recommendation three which links government funding to "asset and country racing rationalisation" is also problematic. Some rationalisation of country racing is needed (to allow the clubs that generate revenue for the industry through the TAB arrangement to improve facilities and offer more prize money). However, when previous rationalisation of country/ regional racing occurred, the government was able to deflect some criticism as this was an industry decision. Making funding contingent on these reforms risks portraying the government as the driver of rationalisation.
13. If the State is of a mind to provide financial assistance, there may be merit in once-off funding for the upgrade of the Gold Coast Turf Club (\$50M), subject to a firm commitment to significant investment by the owners of Magic Millions and commitments to further strengthen the Gold Coast carnival. This could assist the tourism industry, lock the Magic Millions into the Gold Coast, and provide the opportunity to grow a premium product in concert with industry. It would also keep the pressure on QRL to reform the industry without making funding contingent on it.

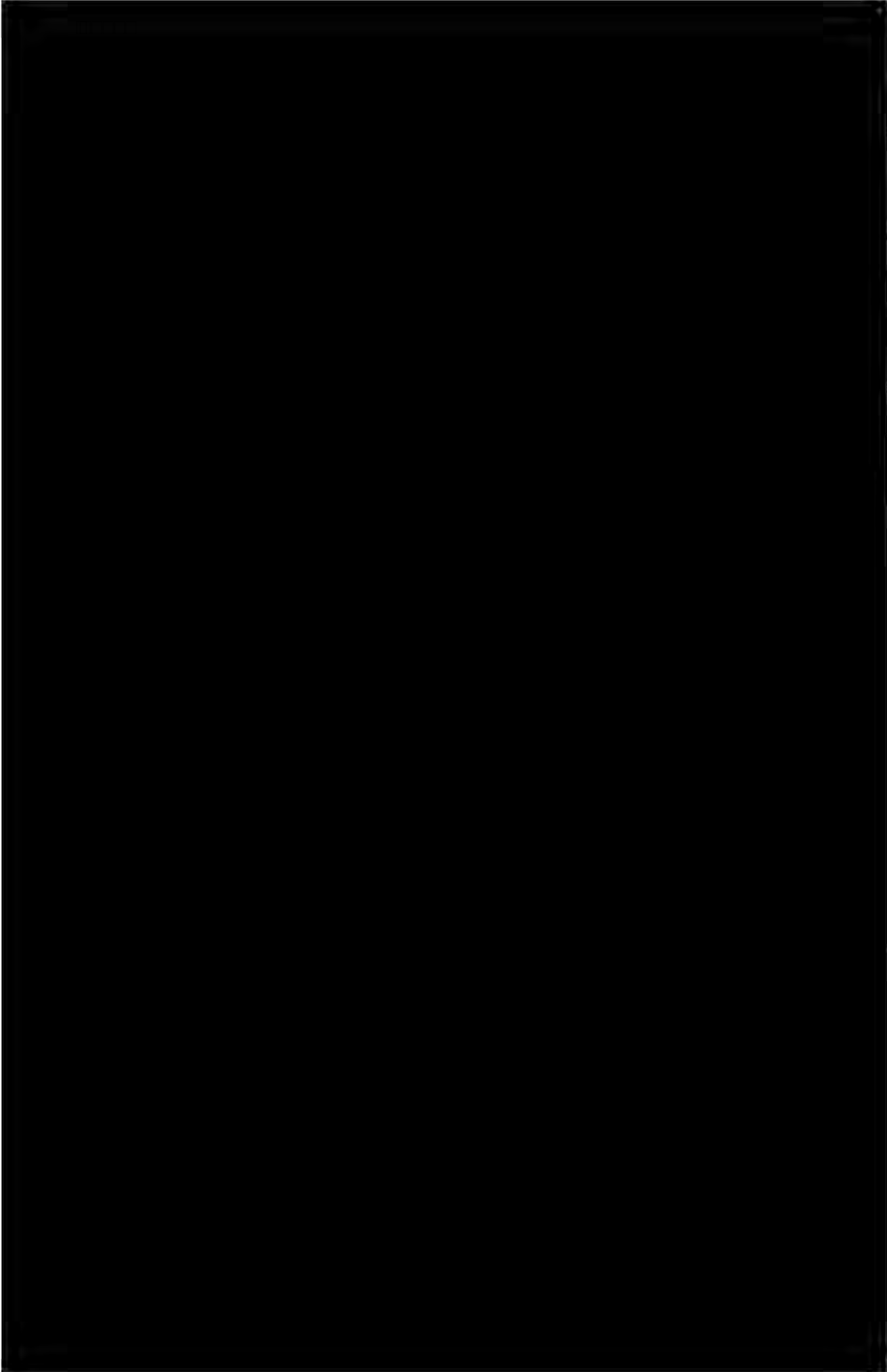
Recommendation

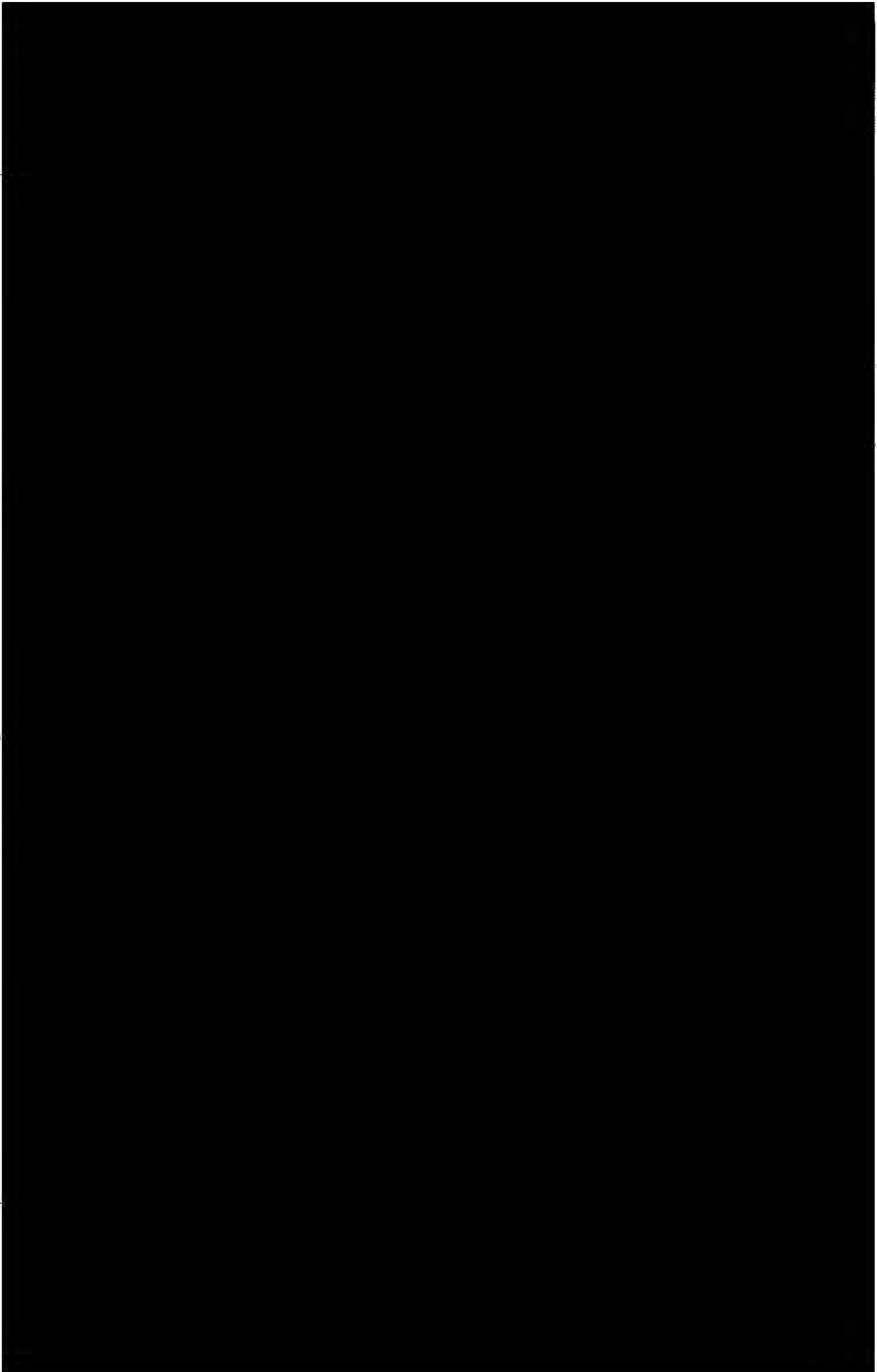
14. That the submission not be supported.

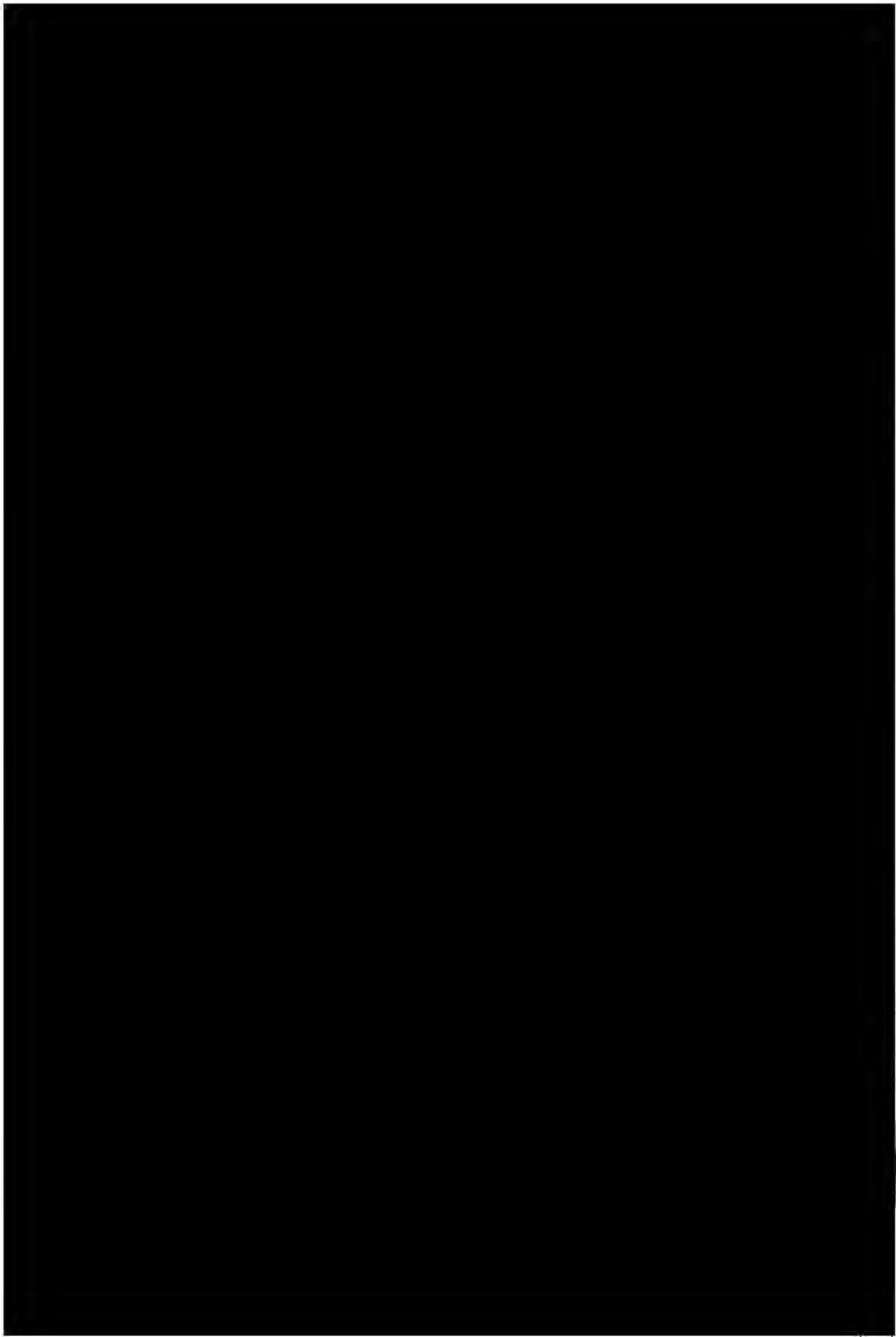
Action Officer: Justin Murphy
Area: Economic Policy
Telephone: 3234 1384

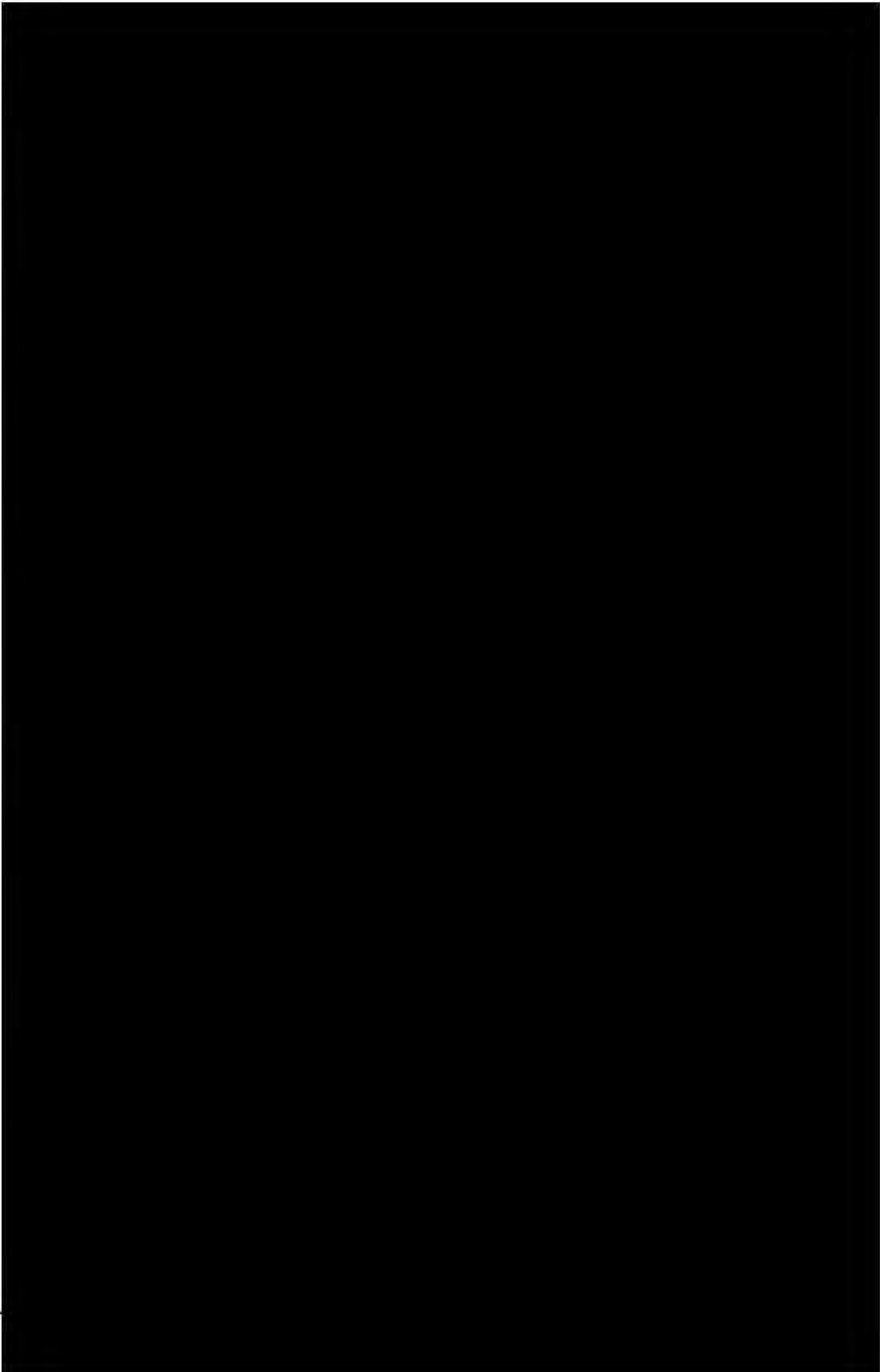
ADG (PD): *02*

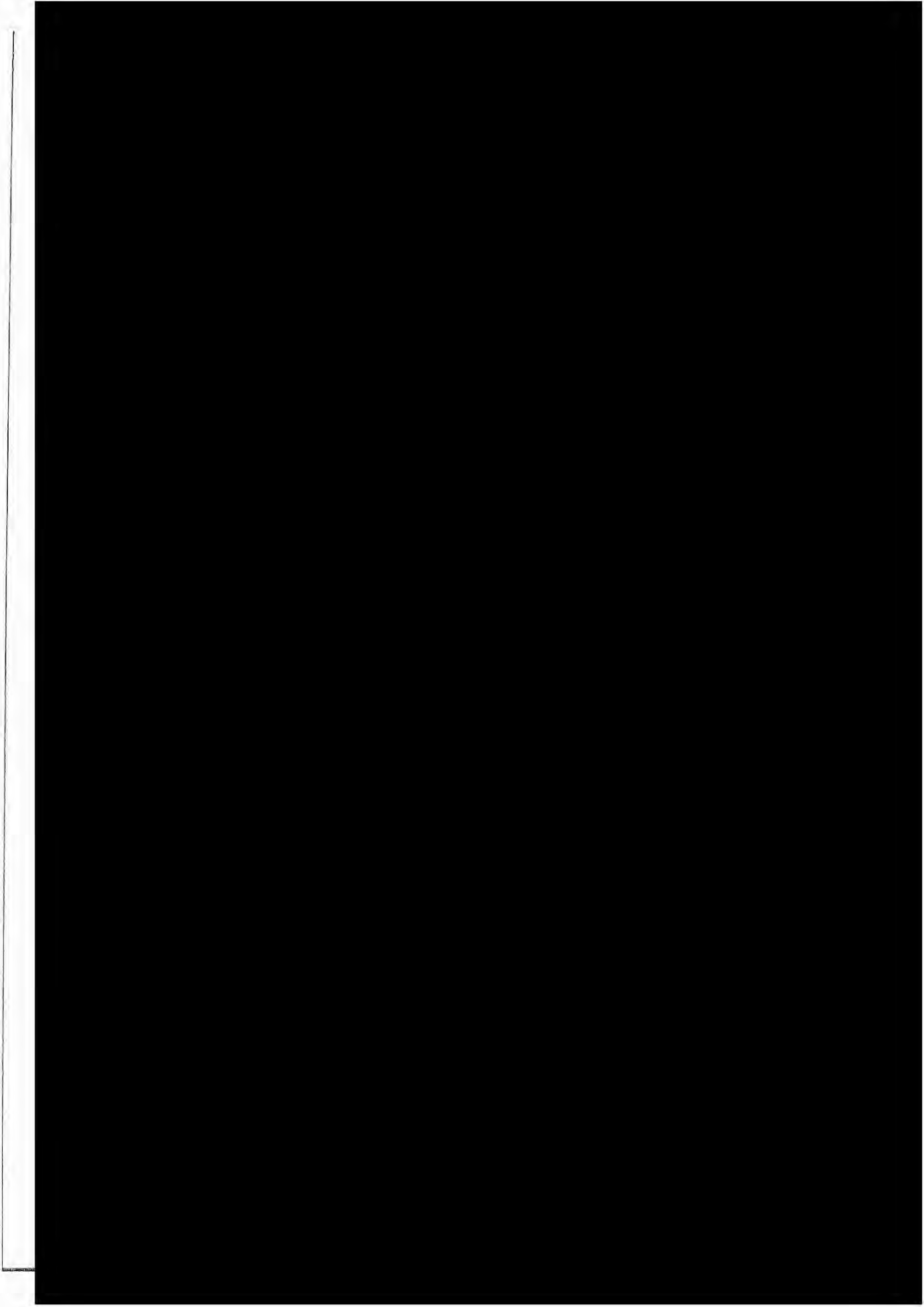
DG:











PATERSON John

From: KELLY Mike
Sent: Tuesday, 29 May 2007 11:11 AM
To: PATERSON John
Subject: FW: Synthetic track

John - pls keep for file.

MK

-----Original Message-----

From: MORGAN Pat
Sent: Tuesday, 29 May 2007 11:08 AM
To: KELLY Mike
Subject: FW: Synthetic track

Mike

Please see the emails below -- I am advised we can share this between ourselves only .. When I get the first draft of the submission (my staff are doing a big cut and paste exercise right now) I will have to ensure the language reflects the context from on Smith

The point of interest in this is the statement about QRL meeting the balance of costs for the tracks

I'll ring you as soon as I have a draft available Pat

-----Original Message-----

From: VAN HAREN Tiani
Sent: Tuesday, 29 May 2007 10:32 AM
To: MORGAN Pat; HUMPHREYS Glenn; PEISKER Tim
Subject: FW: Synthetic track

-----Original Message-----

From: BRAYTON Charmian On Behalf Of KINNANE Michael
Sent: Tuesday, 29 May 2007 10:30 AM
To: VAN HAREN Tiani
Subject: FW: Synthetic track

Tiani - as requested...

Regards
Charmian

-----Original Message-----

From: Ken Smith [mailto:Ken.Smith@infrastructure.qld.gov.au]
Sent: Monday, 28 May 2007 6:26 PM
To: KINNANE Michael; Gerard Bradley; Walter Ivessa (Queensland Treasury)
Cc: Debbie Krebs
Subject: RE: Synthetic track

Michael

As discussed, could you work with Walter on an urgent CBRC submission seeking approval of \$12M for the synthetic track, subject to specific conditions including those outlined below. It is up to your Minister on the conditions other than the financial issues and contribution to be achieved from Qld racing (eg wheteher conditional on the eventual reduction to one Brisbane track).The DP also wants this sub to rescind the previous decision 1628 (Sub no 2308)which approved funding of the same quantum for the Brisbane Racing precinct.

Mal Tuttle can provide more details for the budget papers/ ministerial releases. Can copy me into the final CBRC submission?

Regards

Ken Smith
Coordinator-General
and Director-General
Department of Infrastructure

Phone: 07 322 78543 Fax: 3224 4683
Mobile: 0417 730 013
Email: Ken.Smith@infrastructure.qld.gov.au

-----Original Message-----
From: Anna Bligh [mailto:Am.Bligh@ministerial.qld.gov.au]
Sent: Monday, 28 May 2007 5:55 PM
To: Ken Smith
Subject: Re: Synthetic track

Ken - yes, please proceed on this basis

-----Original Message-----
From: Ken Smith <Ken.Smith@infrastructure.qld.gov.au>
To: Anna Bligh <Am.Bligh@ministerial.qld.gov.au>; Stuart Fyfe
<Stuart.Fyfe@ministerial.qld.gov.au>; Gerard Bradley
<gerard.bradley@treasury.qld.gov.au>; Michael Kinnane (dlgpr)
<Michael.Kinnane@dlgpr.qld.gov.au>
Sent: Mon May 28 15:57:52 2007
Subject: Synthetic track

DP

I refer to our discussions about this issue. I have now had a chance to speak with Mal Tuttle from Qld racing. Also with Michael Kinnane and Gerard Bradley about the use of Business Water Efficiency Program and the previous CBRC decision to allocate \$12M to address the Health and Safety issues between the two Brisbane Clubs.

The Water Efficiency program is not a good source as the tracks don't use a lot of urban water (they have their own dams, surface and ground water sources).

The \$12Million approved in February 06 was not allocated and hasn't been held in a reserve or Departmental budget. A \$12M allocation would allow 3 tracks to be surfaced an average of \$6 to \$6.5M. Qld Racing would meet the balance. Their priorities are:
Sunshine Coast Turf Club 2.Toowoomba 3.Metro Brisbane or Gold Coast (the latter being linked to either rationalisation to one club in Bris or relocation on the Gold coast

Qld racing have appointed Price Waterhouse Coopers to prepare the detailed business case.

Gerard would prefer that if funding was to be provided, it be sourced from this year's budget rather than 07/08.If funding was to be provided it could be held in trust by QR pending government approval of the business case and funding contribution from QR.

Regards

Ken Smith
Coordinator-General
and Director-General
Department of Infrastructure

Phone: 07 322 78543 Fax: 3224 4683
Mobile: 0417 730 013
Email: Ken.Smith@infrastructure.qld.gov.au

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Geoff Parton

From: Kerri Neuendorf
Sent: Monday, 22 October 2007 2:52 PM
To: Correspondence Policy
Cc: Michelle Hansson
Subject: Request for DG meeting brief

TW:124275
DG's Brief (Meeting)
Due 3pm
FRIDAY
DG's office

Hi Geoff and Vesna

Peter Milward

The DG and Dennis Molloy (+ Colin Jensen) are meeting with Bob Bentley and others next Monday, 29 October. Would Policy please provide a brief to support the DG's attendance, due by me by 3pm Friday 28 October.

There are hard copy papers that have been provided by Mal Grierson as background - copy in your Friday 15 tray

Thanks
Kerri

Kerri Neuendorf

Executive Assistant
Office of the Director-General
Department of the Premier and Cabinet
Telephone: 340 67933
Email: kerri.neuendorf@premiers.qld.gov.au

From: Jacquele McCarthy **On Behalf Of** Ken Smith
Sent: Thursday, 18 October 2007 10:40 AM
To: Colin Jensen; Dennis Molloy; 'rbentley@queenslandracing.com.au'
Cc: Peter Milward
Subject: Meeting with Bob Bentley, PWC & Tract Consultants - Proposed Palm Meadows Gold Coast Racetrack
When: Monday, 29 October 2007 11:00 AM-11:30 AM (GMT+10:00) Brisbane.
Where: DG's Large Conference Room, Level 15, Executive Building

In attendance:

Mark Ingham PWC
Rob Christmas PWC
Mark Doonah TRACT Consultants
Andrew ? TRACT Consultants

Def will be required.

*Palm Meadows -
will be meeting with Bob Bentley.*

Palm Meadows to be Investigated as Potential Race Site

18/10/07

Palm Meadows is to be investigated as a potential site for thoroughbred racing on the Gold Coast, Racing Minister Andrew Fraser announced today.

Mr Fraser told State Parliament that Queensland Racing Limited are currently looking for an alternate site that could also potentially cater to harness and greyhound racing.

"Many people who have the Magic Millions Carnival know first hand that it is more than a highlight on the racing calendar but a major event for Queensland.

"Equally they know it is constrained by the physical characteristics of the Gold Coast Turf Club's site at Bundall.

"Many would also be aware the Bligh Government's recent announcement for the location of the new Gold Coast Hospital would also impact upon the current Parklands site where harness and greyhound racing is now conducted.

"It is therefore critical that a racing precinct with state-of-the-art facilities be relocated to a new area so Queensland racing can continue to be a success in South East Queensland."

Mr Fraser said the Government had recently met with Queensland Racing Ltd chiefs to investigate the possible development of a site at Palm Meadows.

"These talks are not aimed at a quick fix," Mr Fraser said.

"These are very early days but it has been agreed that a thorough investigation be undertaken at that site.

"The investigation will focus on specific issues including possible planning and site constraints.

"It is also critical that any investigation take a priority look at the area's conservation and environmental issues."

Mr Fraser said Queensland Treasury would undertake an independent valuation to ensure the proposal's feasibility.

**Media Contact: Chris Ward (Treasurer Fraser) 0418 424 854
Claire Power (Queensland Racing) 3869 9760**

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***** Disclaimer *****

Green Heart Racing Precinct

NERANG RIVER

New Multi-Purpose Car/Bus Station
New Harness Racing Track and Outdoor Events Area
New Magic Millions Sales Arena and Stables
World Class Stables and Training Facilities

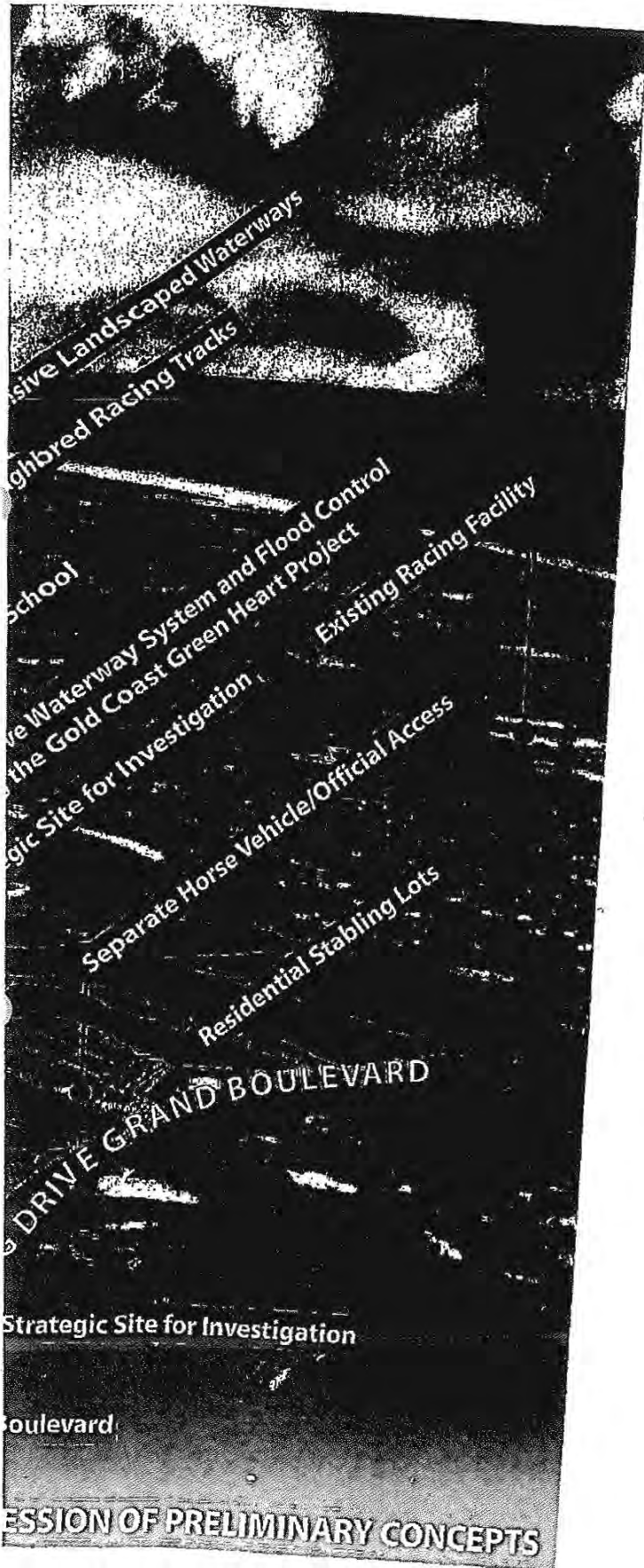
State of The Art Spectator Facilities

Nearby Residential Areas Buffer

New International St

Public Access to Green Heart Cycle and Pedestrian Network and Open Spaces

Spectato



QUEENSLAND
RACING

Tract

PRICEWATERHOUSECOOPERS



Proposed Racecourse, Palm Meadows: Due Diligence Review of the Proposal

[Handwritten signature]
28.2.07

1. REQUEST

- a. Tim Spencer, Deputy Under Treasurer, telephoned Mal Grierson, Director-General, DPW, seeking assistance in reviewing a document covering the proposed development of a new thoroughbred horse racing and stabling venue at a specific site at Palm Meadows on the Gold Coast.
- b. Pursuant thereto, Treasury's Drew Ellem delivered three copies of the document to Kerry Petersen early on Wednesday 28 Feb 07. Two of those copies were subsequently delivered to Mal Grierson and Gavin Utfin at 11.00am.
- c. Drew Ellem has subsequently scheduled a meeting to discuss DPW's preliminary review of the above document (hereinafter referred to as the "Referenced Document") at 8.30am Friday 2 March 07. It is understood that Treasury is seeking a more definitive review by COB Tuesday 6 March 07.
- d. Drew Ellem advised early on Wednesday 28th that Treasury was seeking comments on both the efficacy of the capital works amounts as well as a general review of the document itself. No written brief has been received from Treasury.
- e. This abbreviated review constitutes a preliminary due diligence review of the documents referred in the next section. Discussions have only been held with Drew Ellem from Queensland Treasury. It was prepared by Gavin Utfin on Wednesday 28 February 07 and is tabled for confidential discussion.

2. DOCUMENT UNDER REVIEW

- a. The Referenced Document is headed *Confidential Executive Summary for the Hon. Andrew Fraser MP, Minister for Local Government, Planning & Sport*, dated February 2007 and appearing to be under the banner of Queensland Racing Limited ("QRL").
- b. The Referenced Document has 29 pages and refers on its last page to 9 Appendices which were not included in the transmittal.
- c. In some respects, the Referenced Document contains general material that has been used previously in other QRL submissions.
- d. The Referenced Document has been structured as a preliminary business case for establishing a best practice thoroughbred horse racing and training venue at a specific site at Palm Meadows in the Gold Coast hinterland. It also hints at accommodating multi-function uses on non-racing days.
- e. As the Referenced Document made several mentions of specific Appendices in a separate document, an urgent loan of that document was sought from Treasury. The Appendices Document was delivered early afternoon on Wednesday 28

February 07. In many respects, the baseline detail was contained within the Appendices Document. The Appendices Document was being delivered to Kerry Petersen on Thursday morning for her examination and return to Drew Ellem at the meeting on Friday morning.

3. THE PROPOSAL

- a. The QRL Document states that The Project objective is:
To consolidate and expand racing facilities on the Gold Coast to meet current and future demand for training and racing and in doing so grow the interstate and international contribution of racing to the Gold Coast and Queensland economy.
- b. The proposed facilities include:
 - i. The venue: A multi-purpose international horse racing destination capable of hosting community events
 - ii. Tracks: To provide a grass and a synthetic racing and training surfaces that meet the world's best practice for jockey and horse safety.
 - iii. Horse facilities: To increase the stable capacity to 1,200 on-course stables to meet the latest design and best practice animal welfare standards
 - iv. Grandstand: To provide the public and members with a modern amenity with covered seating of 10,000 and hard stand facilities for event days of 25,000 capacity
 - v. Greenspace: To facilitate flood mitigation and create attractive open space accessible to the public as well as the racing community
 - vi. International event: To further develop the Magic Millions Carnival as a truly international event
- c. In February 06, QRL in conjunction with the Sunland Group commenced a feasibility evaluation of a relocation of the Gold Coast Turf Club to a site referred to "Palm Meadows" owned by Mr Stanley Ho of Macau, covering an area of 318 hectares. Sunland had subsequently withdrawn from the project.
- d. A Melbourne project team comprising the Industry Superannuation Property Trust ("ISPT") and Spowers Architects (Melbourne and Singapore) also worked on the feasibility of the concept, independently of Sunland. (Spowers had worked previously on concepts for Eagle Farm Racecourse.)
- e. In December 06, the Spowers consortium completed their high level feasibility in conjunction with Knight Frank Valuers, Rider Hunt Quantity Surveyors and other consultants - for and on behalf of the Gold Coast Turf Club. Their reports are contained within the Appendices Document.
- f. The QRL proposal is basically the Spowers concept as tabled in December 06. In essence, the QRL proposal is for the existing Gold Coast Turf Club to be relocated from Bundall to a new site at Palm Meadows currently owned by Mr Stanley Ho. Equity will come from the sale of QRL's Deagon racecourse facility, the sale of the existing Gold Coast Turf Club property and from sale of sites associated with the Palm Meadows purchase. The balance will be debt funded. Contiguous complementary facilities (eg Magic Millions and commercial buildings) on the site will be provided off-balance sheet by private industry developers.

4. PRELIMINARY CONCLUSIONS

- a. The Referenced Document and the separate document containing the 9 Appendices (the "Appendices Document") constitute a preliminary business case for establishing a thoroughbred horse racing and training venue at a specific site of Palm Meadows. The site is considered to be within the Carrara flood plane (as defined by Gold Coast City Council ("GCCC") and the Department of Local Government & Planning) in the Gold Coast hinterland and adjacent to the Carrara Golf Course and various canal developments.
- b. The reason that the site hasn't been developed to date probably stems from the embargo that GCCC had placed on any further development in the Carrara flood plane until more definitive hydrology studies had been completed on this area. The area has also significant environmental obstacles (involving acid-sulphate soils and the bearing capacity of the ground conditions) and a lack of adequate and integrated major infrastructure.
- c. For the above reasons, this site has been bypassed until substantive investigations have been completed and the essential infrastructure upgrade could be provided as part of a major development in order to amortise the infrastructure trunk works.
- d. Accordingly, the nominated asking price for the site (ie \$70 million) appears quite unreasonable given its siting and characteristics.
- e. There doesn't appear to be any evidence of a precise functional brief having been prepared as a precursor investigation. Appendix 2 headed *Gold Coast Turf Club - Preliminary Facility Needs Analysis* prepared by Spowers Architects for the GC Turf Club would appear to constitute that Club's requirements for a development it would want to operate and own. There is a close correlation between the QRL document and that Needs Analysis but the QRL document lacks any critical appraisal of it.
- f. However, it may be argued that there are several previous studies prepared for QRL that have adopted similar functional proposals. Such studies could involve the Brisbane Racing Precinct (Eagle Farm and Doomben), the Westgate Super Track and various other preliminary studies (including several benchmark studies) referred to by QRL over the past few years.
- g. The Magic Millions component adds a special dimension to the functional requirements but it is not known the degree of commitment that operators of this component have to keeping it on the Gold Coast. There is anecdotal evidence that many of the patrons of this venture combine a lifestyle holiday with the business of the component.
- h. There is no precise examination of any demand analysis of patrons, transport needs or services generally for a best practice new-generation racing and training venue. It is recognised that many historic racecourses were simply built on the immediate outskirts of a city or town. However, the new-generation best practice racecourses usually take into account such things as arterial road access, public transport corridors (both train and bus), parking and complementary uses within a competent long-term strategic plan.
- i. Assuming the above functional brief and siting parameters have passed a reasonable muster, there has been no evidence of investigating alternative sites upon which the functional brief has been optimised.

- j. A specific site has been nominated and a preliminary master plan has been prepared. There is no evidence that there are not three alternative sites that better meet the requirements of the functional brief and the locational imperatives. Also, without such an analysis, there can be no compelling reason why the nominated Palm Meadows site is the best without considering all development costs (including the purchase price).
- k. The above notwithstanding, the vendor of the Palm Meadows site is not a known philanthropist who would be prepared to offer the site at a discounted price for the benefit of thoroughbred horse racing on the Gold Coast.
- l. In relation to the "Estimate of Inflows" on page 23 of the Referenced Document, the realisation of funds (ie \$35M for the Deagon site and \$105M for the existing Gold Coast Turf Club site) would be dependent in large measure on aggressive marketing, adopting a State-endorsed strategic plan for both sites and astute timing. It would also involve a persuasive program to convince the vested interests associated with the Bundall site that it should be phased out in support of another site. Accordingly, the nominated Inflows should be seen as optimistic at this stage until more definitive studies have been completed.
- m. Moreover, the "Future Recoverable" return from surplus post land improvements (of \$150M) does appear to be possible although extremely optimistic. It relies on endorsement by GCCC for specific development of a type in an area that it heretofore hasn't embraced.
- n. Insofar as the capital cost component (ie \$129M) is concerned, there is insufficient information in the functional brief that would enable a robust cost plan to be prepared and verified against this figure. Moreover, Appendix 9 which incorporates, inter alia, "costings" from Rider Hunt Melbourne, Property & Construction Consultants, has a range of higher figures which don't appear to have any direct connection to the amounts contained within the Referenced Document. Furthermore, the Rider Hunt estimates indicate a range of exclusions that could add a further 25% to its own model. Taken together, the costing model contained within the QRL Referenced Document would appear, on its face, to be unachievable under even the most optimistic scenario.
- o. Although the Referenced Document constitutes a preliminary business case at best, it doesn't cover any approach to life cycle costing (incorporating sinking funds, etc) or operational costs. The capital works components of the complementary facilities are covered in part in the Appendices but are not brought to account in the Referenced Document.
- p. From perspectives of logic, strategic planning, probity and financial prudence, the overall proposal is fundamentally flawed. The Referenced Document together with the Appendices should only be considered to constitute a preliminary business case. However, there is sufficient material provided in the documents to be able to derive a competent strategic plan and business case upon which a more informed decision could be made. Such a further investigation could be completed within three months if there was QRL and Government commitment to proceed down that track.

Submitted for confidential discussion.

GAVIN LITFIN
Executive Director (Strategic Projects)

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Document provided by
Treasury 28 Feb 07.

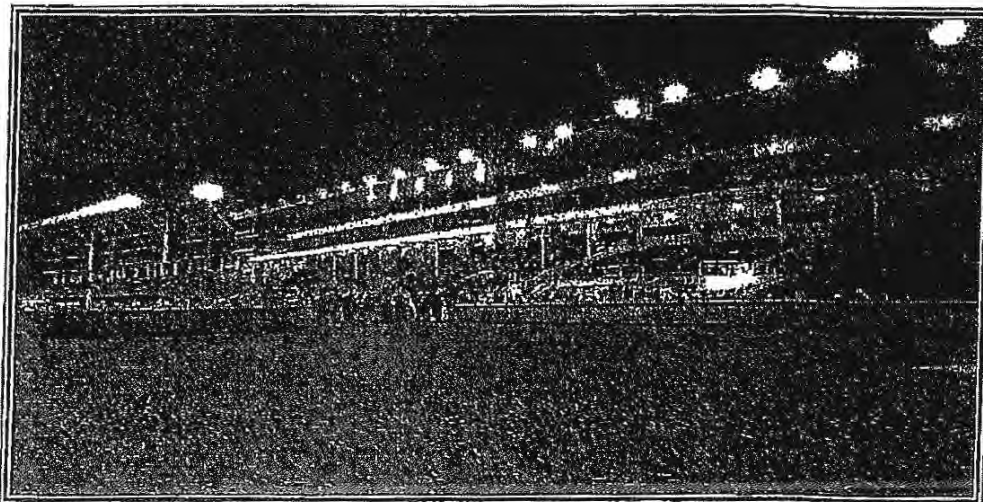
Reviewed in brief by
DPW.

[Signature]
18.10.07

**Confidential Executive Summary
for the
Hon. Andrew Fraser MP
Minister for Local Government, Planning & Sport**



**Major racing nations are gearing up for the future to maximise
the tourist major event dollar and using racing to forge links to
overseas trade and investment.**



Queensland Racing Limited
February 2007

Contents to Executive Summary

<u>Item</u>	<u>Page</u>
⊕ Overview	4
- Overview of Racing	4
⊕ Amended Queensland Racing Limited Strategic Statement for South East Queensland	5
- Background on Investigations to Date	5
- Progress to Date	5
⊕ The Project	7
- Objective	7
- The Venue	7
- Tracks	8
- Horse Facilities	8
- Water Conservation	8
- Solid Waste	8
- Grandstand	8
- Greenspace	9
⊕ Best practice and examples of other modern examples taking place in other Racing jurisdictions	10
- Overseas	10
- Australia	10
⊕ Project Benefits	11
- Transportation	11
- Employment	11
- International Investment and Interest	11
- International Event	11
- International Race Series	11
- Premier Thoroughbred Sale Venue	11
- Major Regional Racing Centre	12
- Emergency Disease Management	12
- Water Conservation	12
⊕ Economic Impact	13
- Economic Uplift for the Gold Coast Region	13
- Employment	13
- Economic Uplift for the State of Queensland	14
- Race Club Related Revenue	15
- Current Venue Relocation	15

<u>Item</u>	<u>Page</u>
⊕ Economic Impact (<i>continued</i>)	
- Ancillary Spending in Community	15
⊕ Magic Millions Sales Revenue	16
⊕ Training Fee Revenue	17
⊕ Brisbane Turf Club (BTC) / Queensland Turf Club (QTC) Amalgamation	19
- BTC / QTC Amalgamation	19
- The Metropolitan Racing Policy – Brisbane	19
- Scenario A	19
- Scenario B	19
- Scenario C	19
⊕ High Level figures for the Gold Coast Redevelopment Project	23
⊕ Breakdown of Construction Costs	24
⊕ Queensland Racing Limited's Request from the Queensland Government	25
- Stage 1 – Loan / Low Interest / Profit Share	25
⊕ Development Option A – Industry Control (<i>Preferred Option</i>)	26
- Proposed outflows for the Government	26
⊕ Development Option B – Developer Control	27
⊕ Development Option C – Developer Control	27
⊕ Development Option D – Joint Venture	28
⊕ Timeframe	28
⊕ Appendices	
- Appendix 1 – 9 inclusive	following



Overview:

Queensland Racing Limited (QRL) has identified the need for a signature racing facility for Queensland, in particular the Gold Coast with top class facilities that will elevate racing in Queensland to a new competitive national level capable of hosting international racing events.

Currently Queensland race tracks, training tracks and public facilities are sub standard and are holding back the opportunity for the growth and expansion of the industry and limiting employment opportunities. The industry is a significant contributor to the Queensland economy. In the last 5 years the Queensland racing industry has contributed directly in excess of \$350 million in wagering taxes and refundable GST whilst also providing significant opportunities for semi and unskilled employment.

This submission identifies an opportunity not only for the racing industry but for the Gold Coast region and the whole of Queensland.

Queensland Racing believes that there is a small window of opportunity for the racing industry in Queensland to make the Gold Coast a major racing centre not only in Australia, but a must see tourist event destination world wide.

Overview of Racing:

The Australian Bureau of Statistics Report for 2005-06 reveals that:

- Thoroughbred Horse Racing was the second most attended sport with 2 million people (13%) attending or having attended at least once in the last 12 months.
- Attendance levels at horse racing events have increased from 1.7 million in 1995 to 2 million, an increase of over 15%.

Comparable statistics listed below show the appeal and resurgence of horse racing as the number 2 leisure interest for Australians.

AFL	2.5 million
Thoroughbred Racing	2.0 million
Rugby League	1.5 million
Motor sports	1.5 million

The attendance figures reported, support the significance of racing, however there is an underlying dominant economic reality that must be considered. A decentralised Queensland must have a strong viable industry in the south east to sustain the entire country racing program comprising 110+ clubs and communities that are dependant on the income generated in South East Queensland. This project is vital to that sustainability.

Amended QRL Strategic Statement for South East Queensland:

Background on Investigations to Date:

In late 2005, QRL whilst preparing its business plan commenced a review of the operations of the Gold Coast Turf Club and the Magic Millions Sales Operations.

In January 2006 following an over capacity race attendance, record yearling sale results and a ground swell of public complaints of overcrowding and poor amenities on offer at both venues gave the industry a reality check. QRL identified the common thread of complaints being that the Gold Coast was offering an international event, attracting wealthy patrons and buyers who spend large tourist dollars and the best Queensland can offer is third world amenities.

The 2007 situation proved an equally unsatisfactory state of affairs except there were more complaints and stronger calls to those involved for the event (now held over 13 days) to provide the experience expected of an international event. Feedback received includes *"the facilities at the Gold Coast Turf Club were inferior to that of even country tracks in Victoria"*¹.

Progress to Date:

- In February 2006, QRL in conjunction with "the Sunland Group" commenced a feasibility evaluation of a relocation to the site referred to as "Palm Meadows", owned by Mr Stanley Ho of Macau, covering an area of 318 hectares.

The investigation reached a stage that with the addition of the sale of "Deagon Training Centre" owned by QRL as part of the development package and the inclusion of the current Gold Coast Turf Club freehold, an international class racing and training facility could be constructed.

- In March 2006 a change in directors and management at "Sunland" and a new focus on unit construction in Dubai saw the project lapse from a "Sunland" perspective.

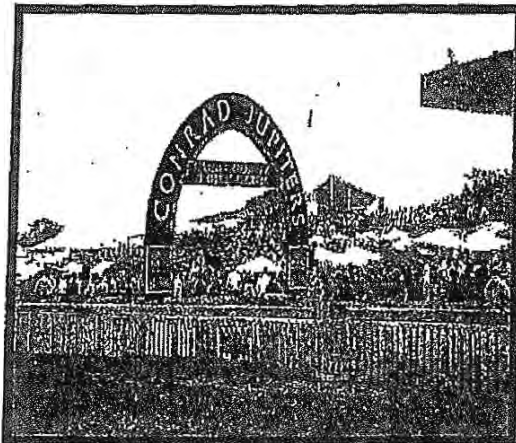
During the "Sunland" investigation feasibility, a Melbourne project team consisting of Industry Superannuation Property Trust (I.S.P.T.) and Spowers Architects (Melbourne and Singapore) also worked on the feasibility of the concept, independently of "Sunland".

- In December 2006 the Spowers Consortium completed their high level feasibility in conjunction with Knight Frank Valuers and Rider Hunt, Quantity Surveyors, Engineers and Project Management. This Consortium have offered a developmental proposal similar to that of "Sunland Group" for consideration. This proposal is attached as Appendix 2.²

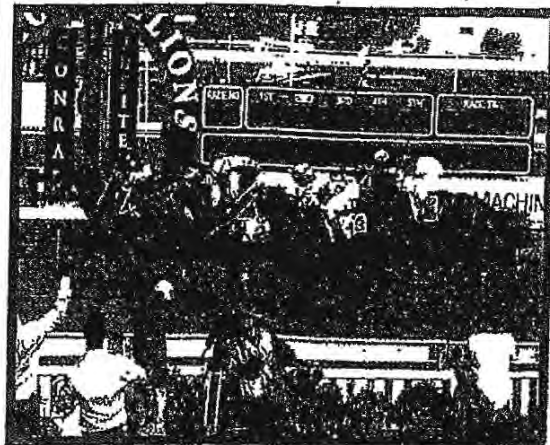
¹ See Appendix 1 – Email re: feedback on 2007 Magic Millions Race day at Gold Coast Turf Club.

² See Appendix 2 – Gold Coast Turf Club - Preliminary Facility Needs Analysis – February 2007.

- Late December 2006 QRL's Chief Operations Manager and the Chairman met with the Committee of the Gold Coast Turf Club and outlined QRL's proposed vision and direction for Gold Coast Racing. The committee of the Gold Coast Club gave "In Principle" support for QRL to advance the project.
- In early January 2007 the QRL Chairman held talks with the Directors of the Magic Millions and Mr Gerry Harvey. The Magic Millions Company, the Directors of Magic Millions and Mr Gerry Harvey are fully supportive of the project and will relocate if the project proceeds.



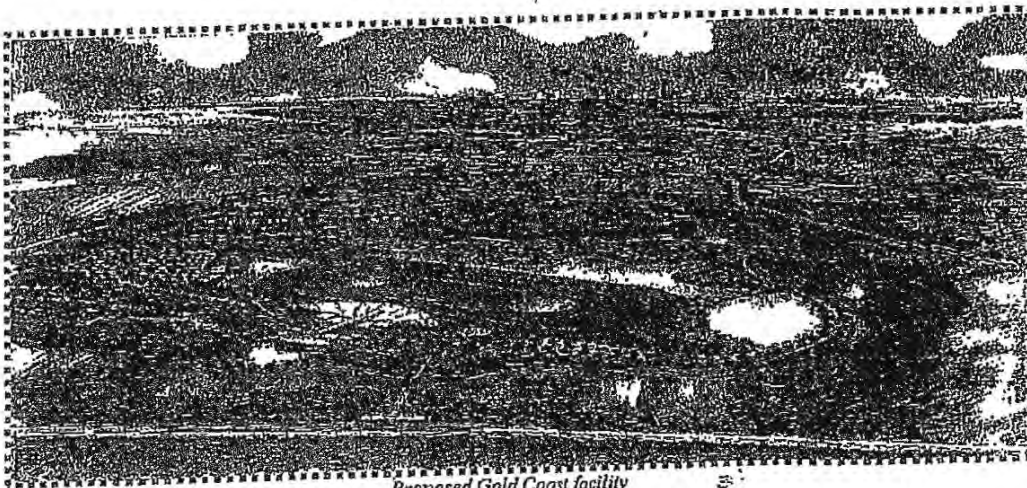
Magic Millions Action



- The Gold Coast City Council Chair of Planning has been contacted and while not committing support, is keen to become involved as it answers some of the flood mitigation and acid sulphate soil problems at Palm Meadows. In addition the traffic problems associated with the Bundall site can be re-engineered if the Turf Club is relocated. The unofficial response is support for this project.
- In mid January 2007, the office of Mr Stanley Ho contacted the Chairman of QRL informally to ascertain the intentions of the government. The response is "that this is not a government matter however QRL would seek the Ministers counsel before proceeding with any party". A meeting is provisionally scheduled for early March 2007 with QRL to establish if there is a way forward for this project.
- On 20 January 2007 a land holder contacted the Office of QRL to inquire as to the progress of the Palm Meadows development. The company, Habitat Pty Ltd, advised that they represent the owner of the parcel of land adjacent to Palm Meadows and the main railway line. A meeting is scheduled to take place with this party in late February 2007.

- On Saturday 3 February 2007 the Chairman of QRL attended an informal meeting with a major national developer whose representative wished to ascertain the view of the racing industry on the Palm Meadows development.

The developers claim that the project is feasible with or without the racing industry, however the project would be significantly improved with QRL's involvement in establishing a signature racing facility. He claims that he intends to make an offer early March 2007 to Mr Ho to secure the Palm Meadows site. In the meantime he has asked for a formal meeting with the Chairman of QRL. During the course of the meeting the representative offered up information that the parcel of land adjacent to Palm Meadows site and railway line [landlocked] has been offered to the developer at \$6 million for the 27 hectares.



Proposed Gold Coast facility

The Project:

Objective:

To consolidate and expand racing facilities on the Gold Coast to meet current and future demand for training and racing and in doing so grow the interstate and international contribution of racing to the Gold Coast and Queensland economy.

The Venue:

A multi-purpose international horse racing destination capable of hosting community events.

Tracks:

To provide a grass and a synthetic racing and training surface that meets the world's best practice for jockey and horse safety.

Horse Facilities:

To increase the stable capacity to 1,200 on-course stables designed to meet the latest design and best practice animal welfare standards.²

A recent analysis of stabling requirements for the Thoroughbred Racing Industry in SEQ, recently completed by the University of Queensland and AusVet Animal Health Services, has recommended a need for stabling and ancillary facilities due to "increases in populations, sharp rises in land and house/stable values, cost of development and council (government) regulations constraining stables design and siting are all making it increasingly difficult for trainers to buy or develop off course stabling and are exerting downward pressure on trainer numbers."³

The Gold Coast Turf Club currently has no on-course stabling.

The trend appears to be towards efficient and maximum utilisation of land for integrated racing related facilities for convenience and cost saving measures.

The combination however of more stables, within a brand new, world class facility, is likely to provide the impetus for a boom in training on the Gold Coast, especially from over the border.

Water Conservation:

To minimise the use of water and incorporate the recycling of all waste water.

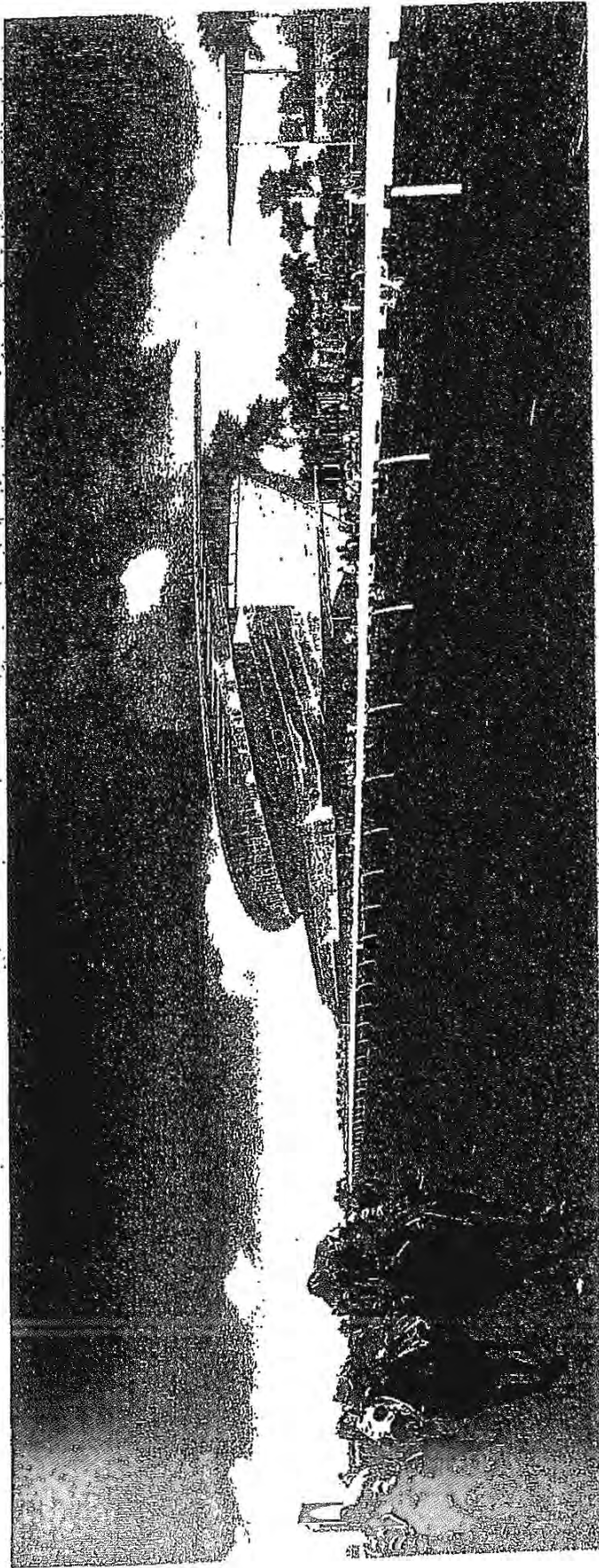
Solid Waste:

Install the latest German technology for the recycling of solid animal waste and resale as odourless high-grade fertilizer.

Grandstand:

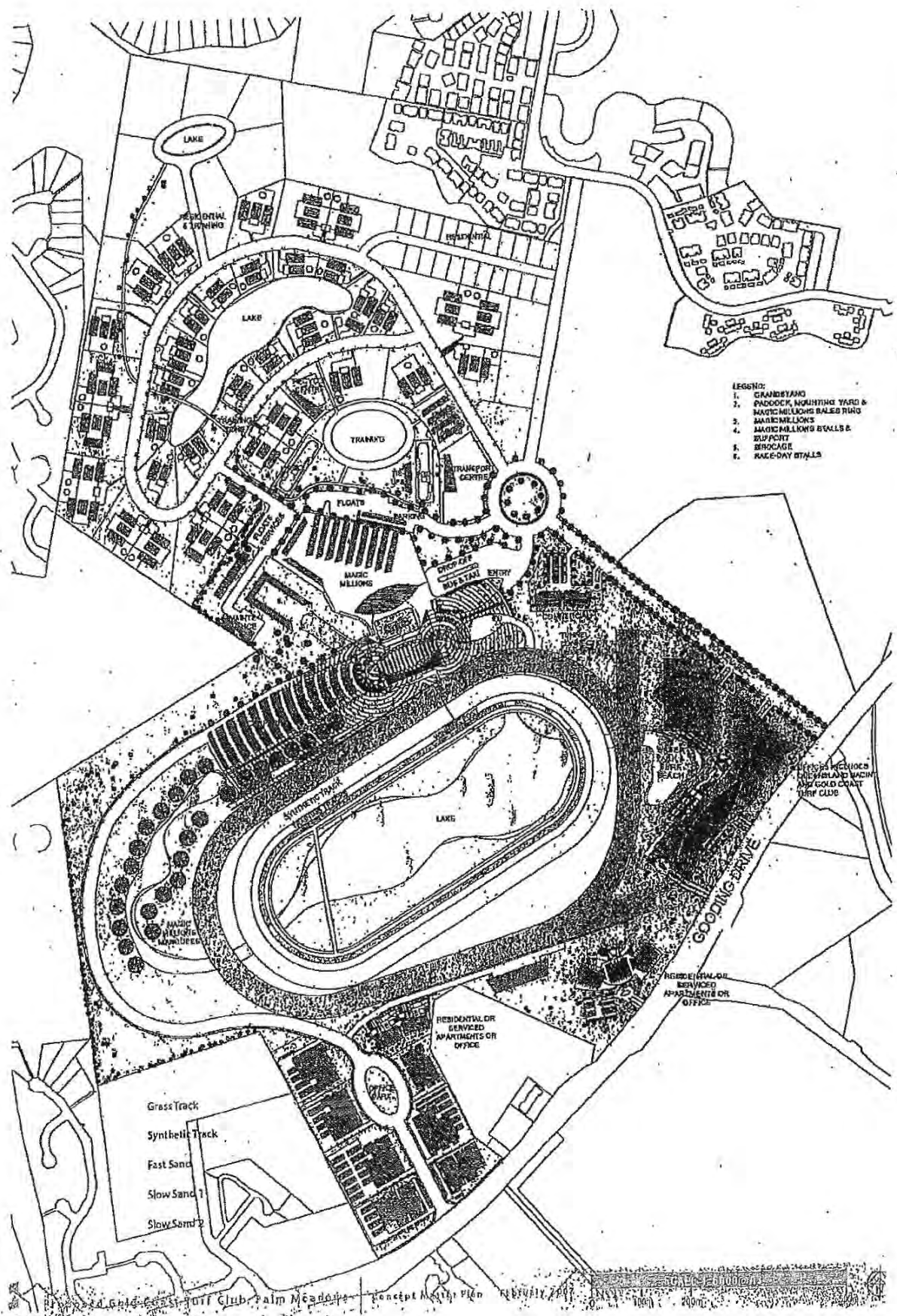
To provide the public and members with a modern amenity with covered seating of 10,000 and hard stand facilities for event days of 25,000.

³ See Appendix 3 – Extract from Analysis of Stabling Requirements for the Thoroughbred Racing Industry in South East Queensland – Prepared by the University of Queensland and Ausvet Animal Health Services. - November 2006. (page 10)



NEW GOLD COAST RACECOURSE, PALM MEADOWS
ARTIST'S IMPRESSION OF GRANDSTAND

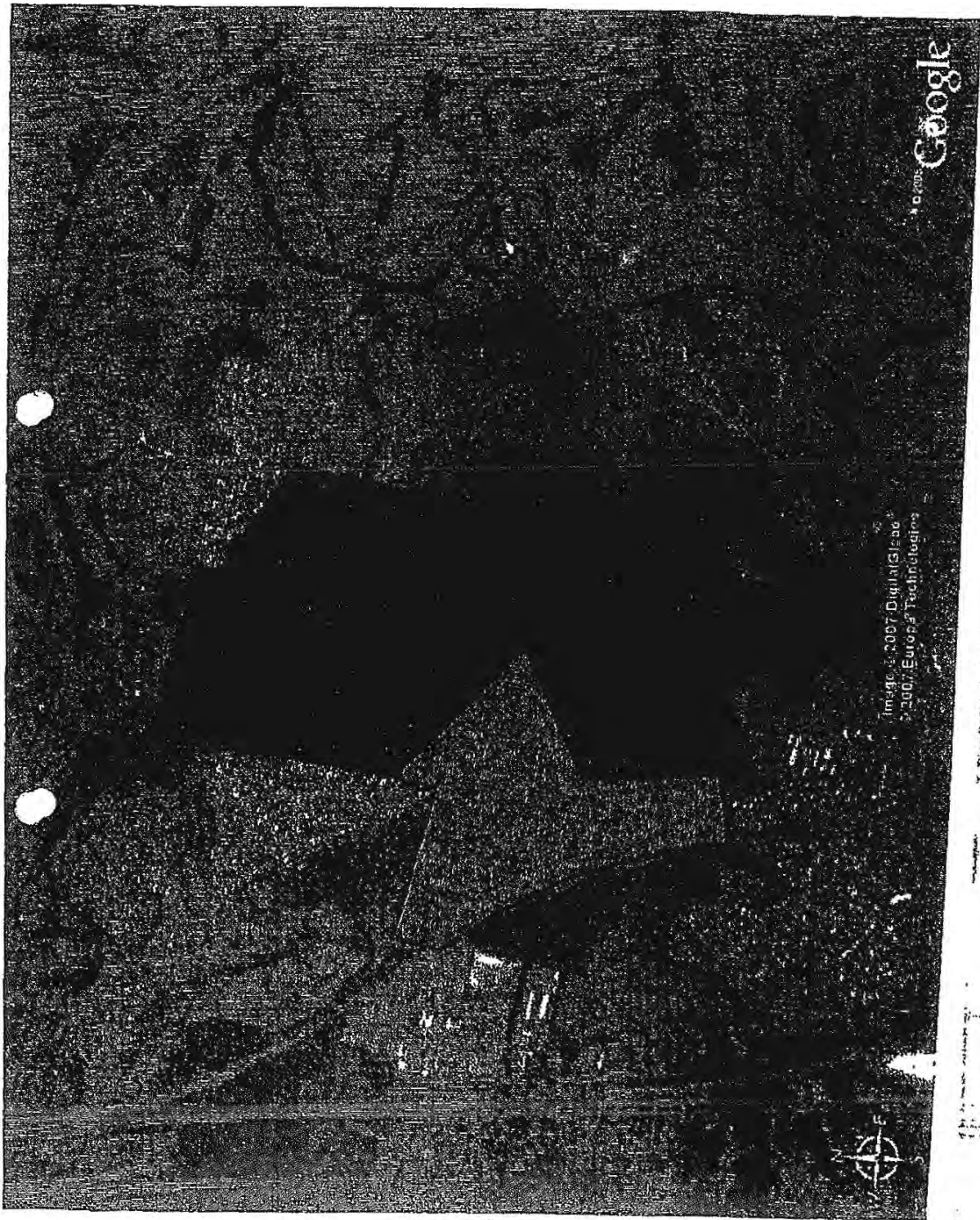
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- LEGEND:
1. GRANDSTAND
 2. Paddock, HARVESTING YARD & MAGIC MELLOW'S SALES RING
 3. MAGIC MELLOW'S
 4. MAGIC MELLOW'S BALLS & SUPPORT
 5. BIRDCAGE
 6. RACE-DAY STALLS

- Grass Track
- Synthetic Track
- Fast Sand
- Slow Sand 1
- Slow Sand 2

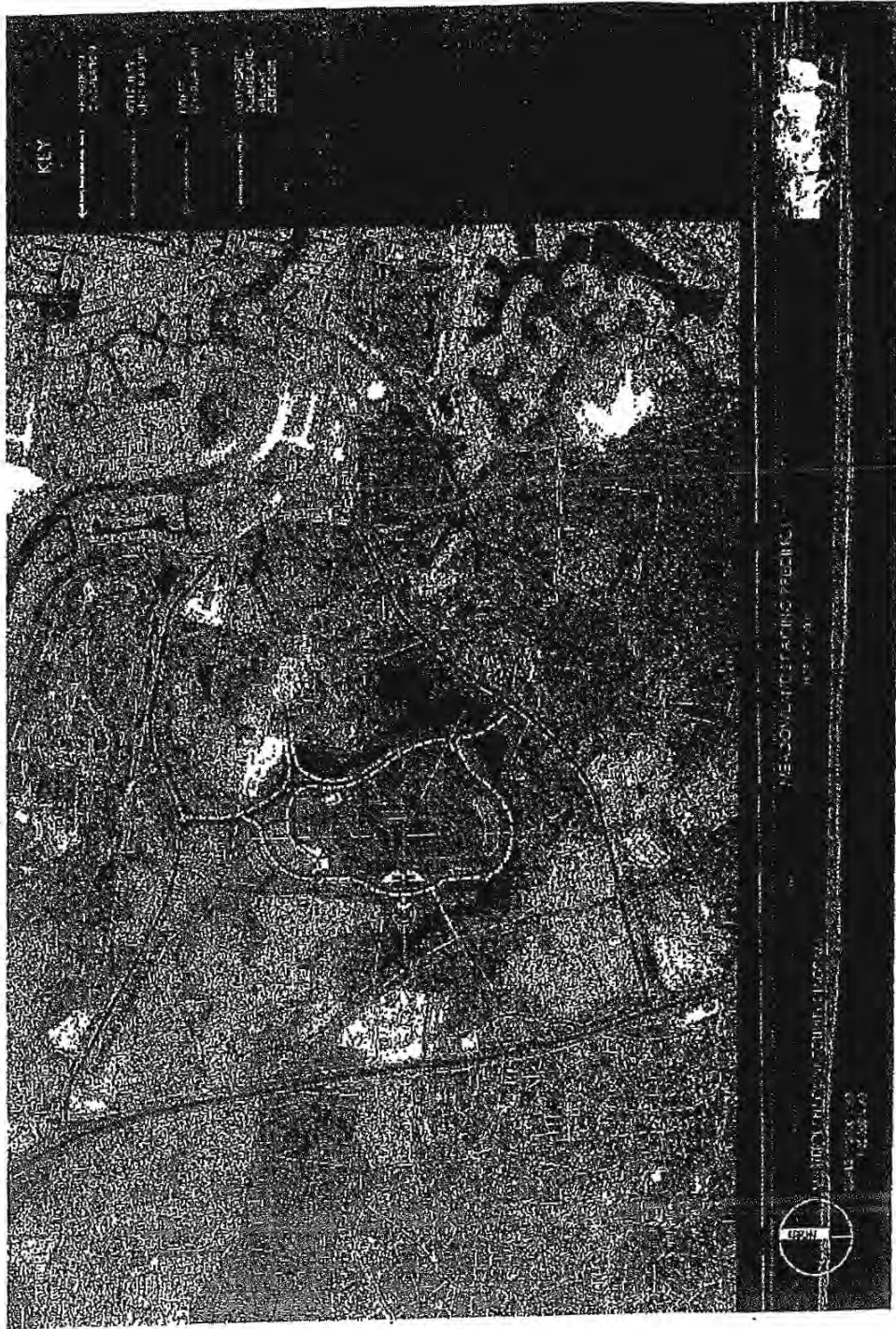
Palm Meadows Golf Club - Palm Meadows - Concept Master Plan - February 1997





Proposed Gold Coast Facility

Major access and transport



Scale: 1:1000

Greenspace:

Facilitate flood mitigation and create attractive open space accessible to the public as well as the racing community.

Major racing nations are gearing up for the future to maximise the tourist major event dollar and using racing to forge links to overseas trade and investment.

The rationale being that the profile of those involved in racing at the top level have in most cases direct harmonious links to government and major corporations.

Best practice and examples of other modern examples taking place in other Racing jurisdictions:

Overseas

Royal Ascot – U.K.

Complete refurbishment costing 500 million pounds sterling.

Singapore

Stabling: capacity currently at 1,060 but being extending to 1,400 due to demand.

Grandstand: Suitable for private and corporate entertainment with excellent BOH facilities.

Tokyo

Stabling: Integrated facility with stables, equine pool and walkers.

Grandstand: State of the art giant grandstand with 8 functional levels.

Renovations / construction taking place over a 7 year period and able to cater for crowds of up to 100,000 people.

Dubai

Currently combining track and facility use.

United States of America

Trend in eliminating dirt tracks in favour of synthetic tracks.

High investment in facilities including on-course stabling.

Australia

Rosehill (NSW)

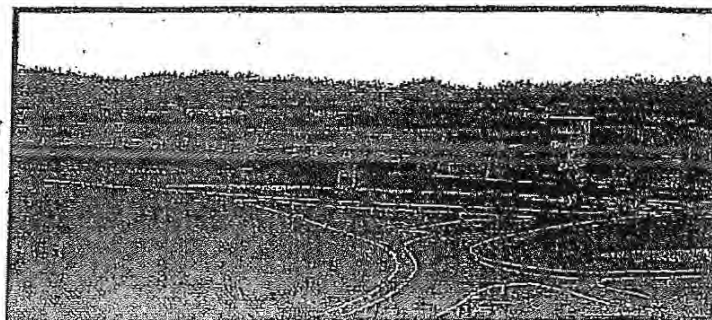
Have undertaken major investment in public facilities and on-course stabling in recent years.

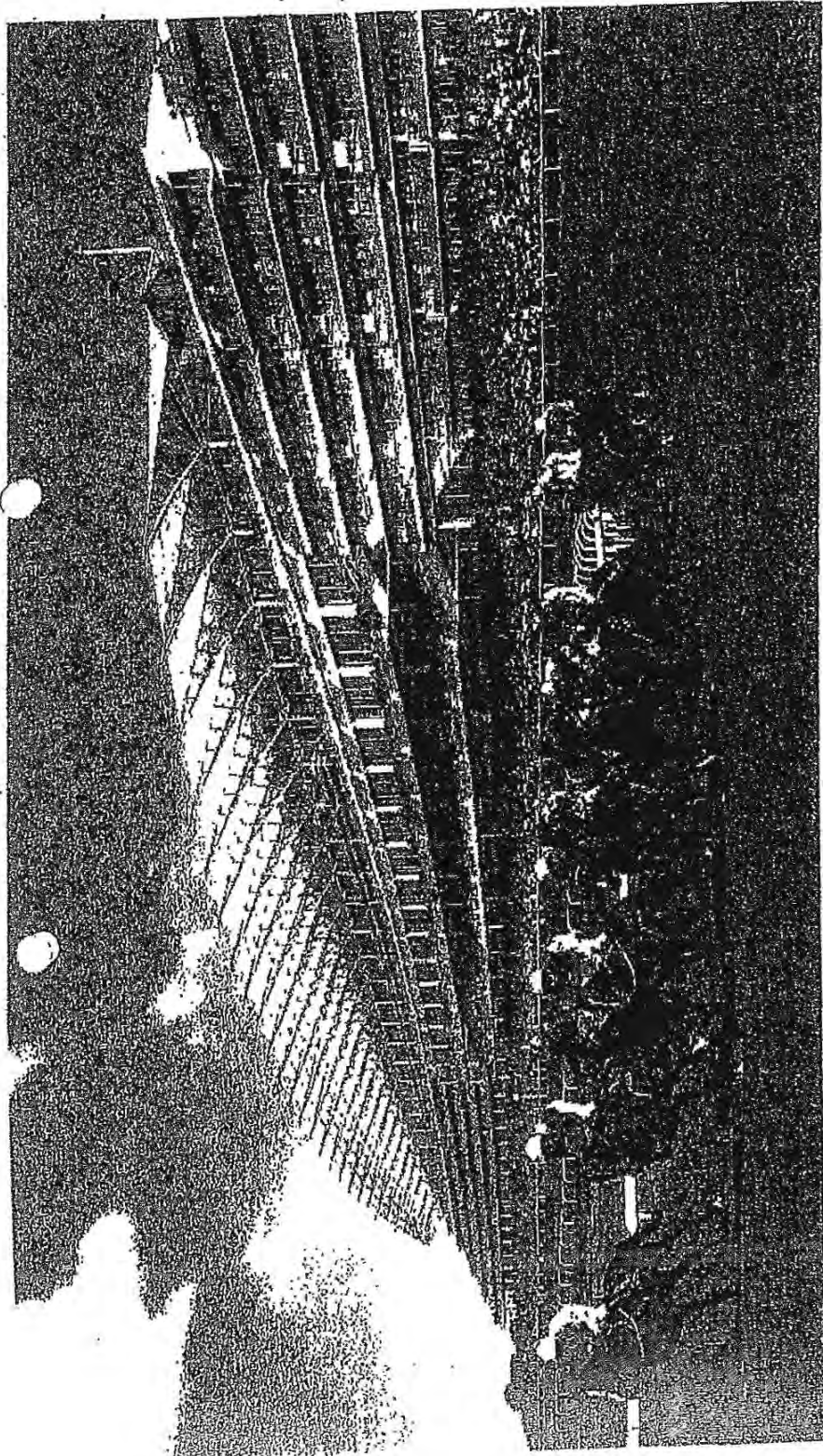
Flemington (VIC)

Currently undertaking a major renovation of track, facilities and public areas.

An estimated closure to racing for 6 months post Melbourne Cup 2006.

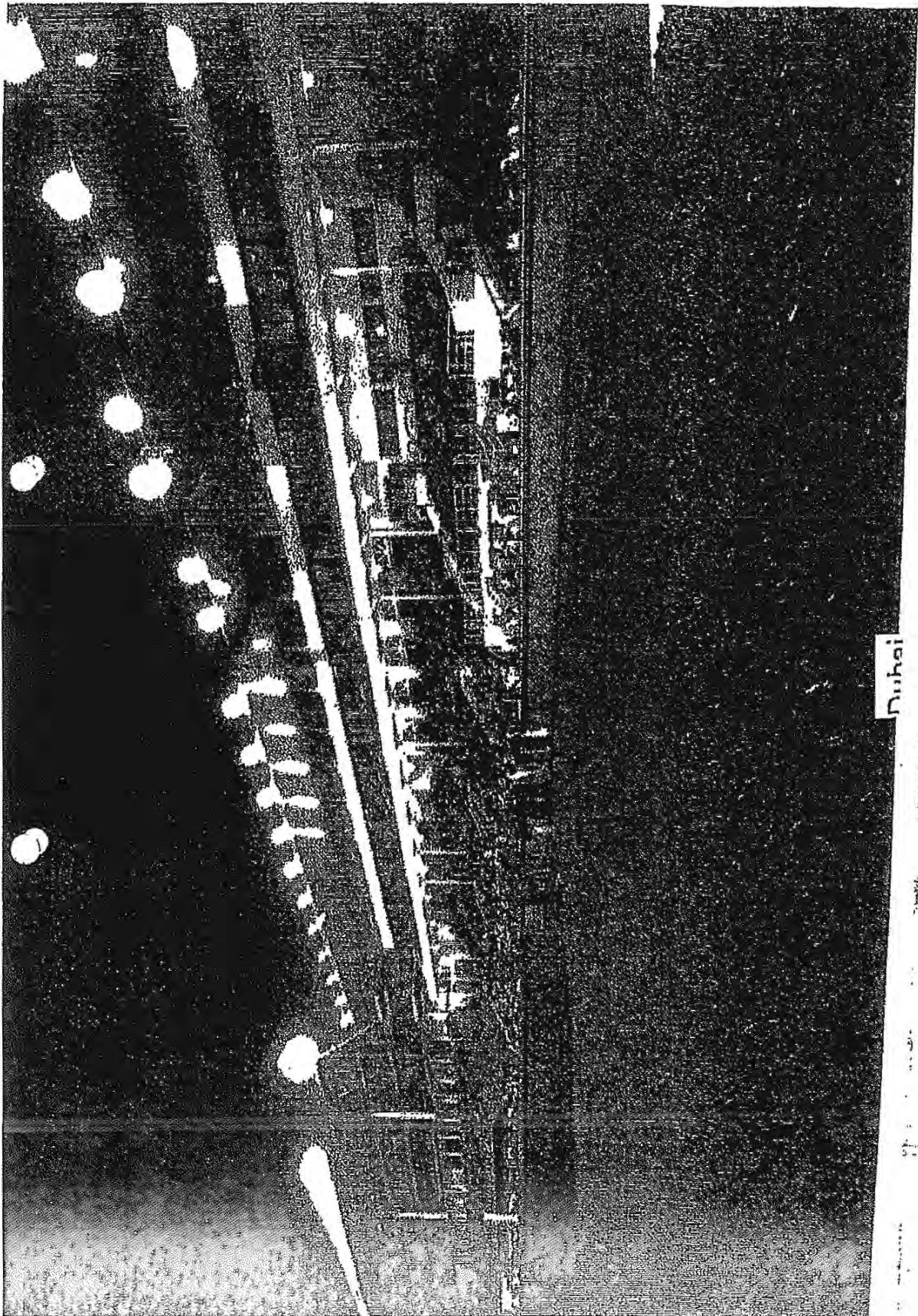
*Oncourse stabling
At Kranji
Singapore*





Royal Ascot - UK

**All major racing jurisdictions have a signature race course as a focal point.
Queensland does not.**



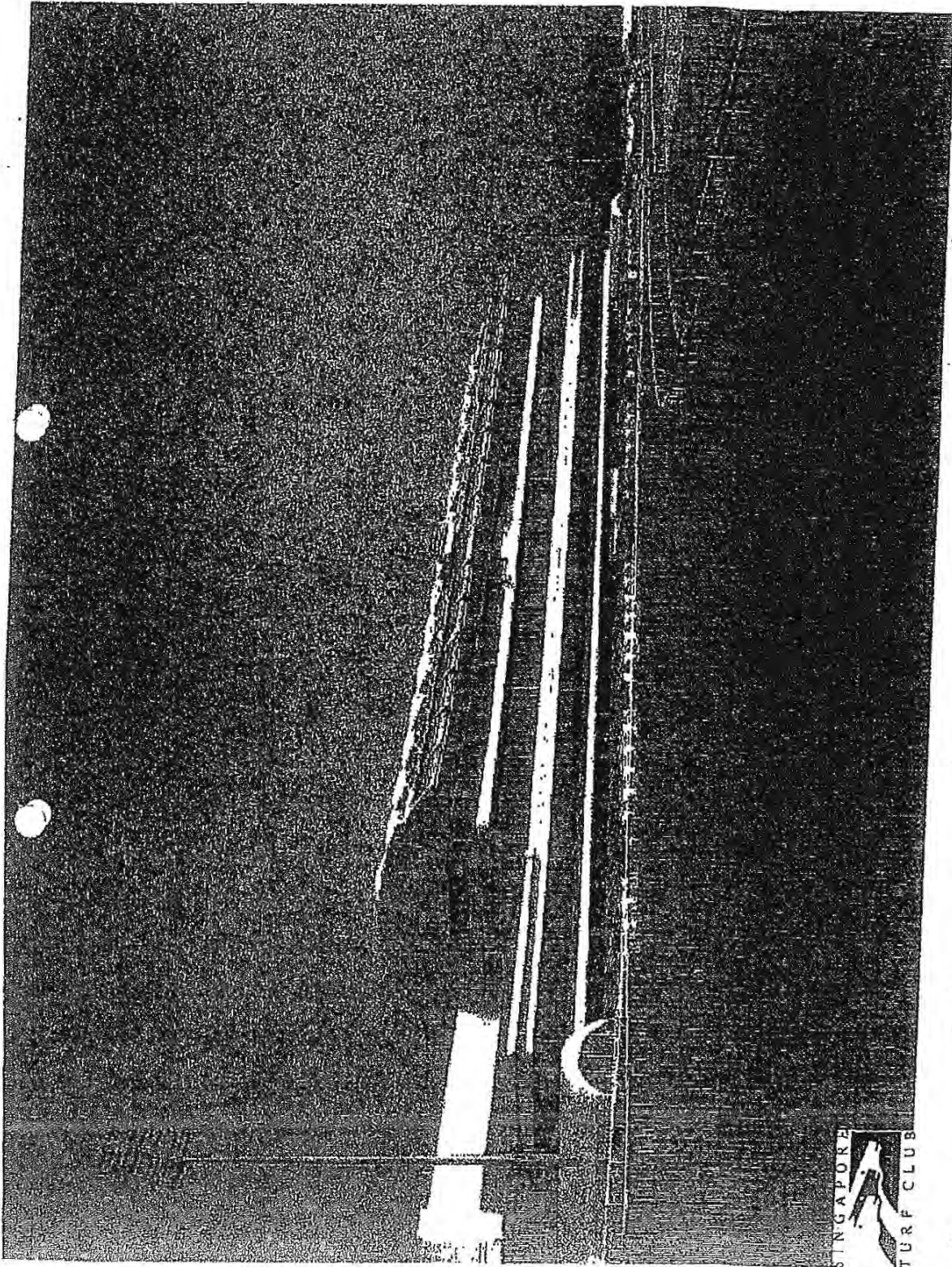
Dukhai

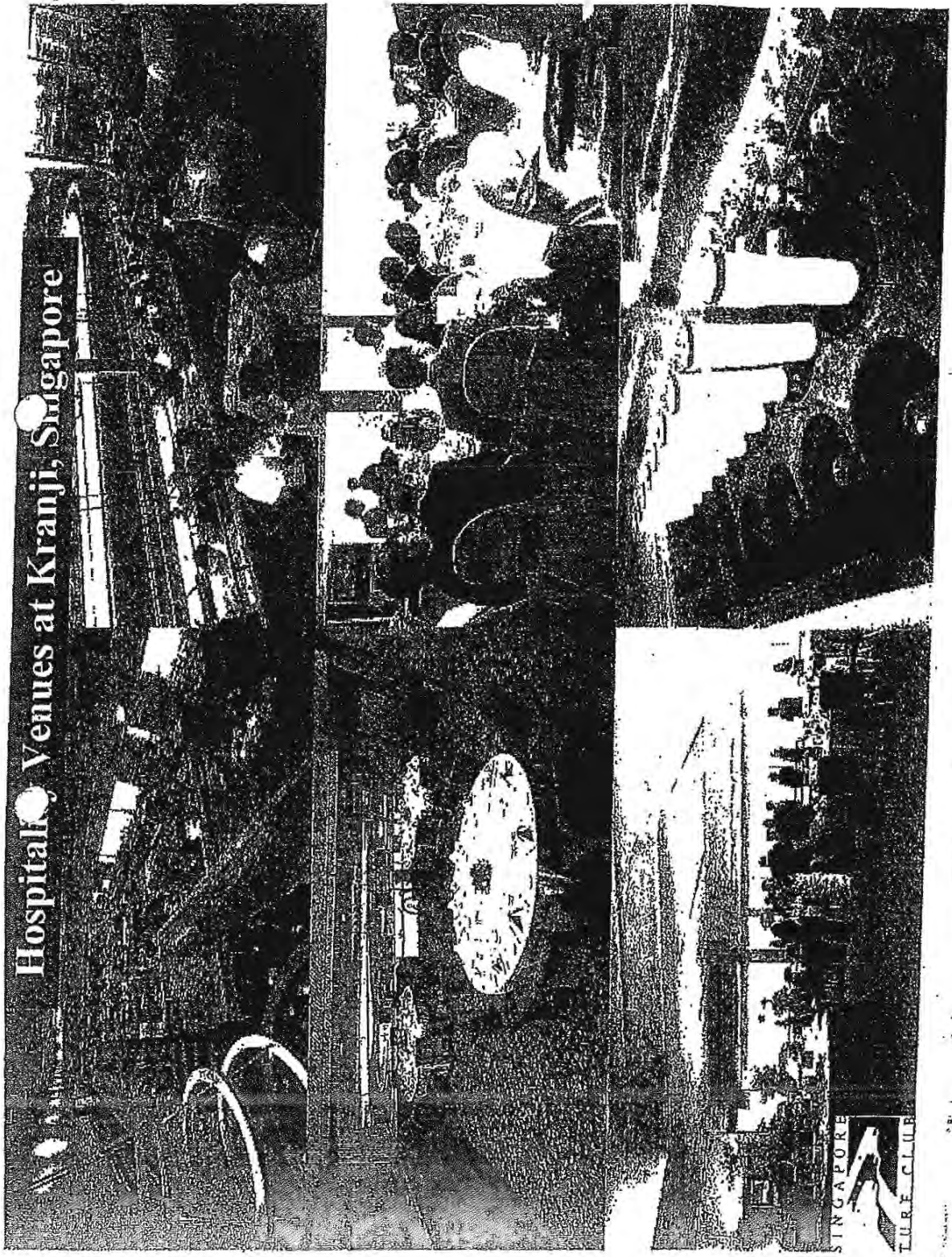
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Shanghai

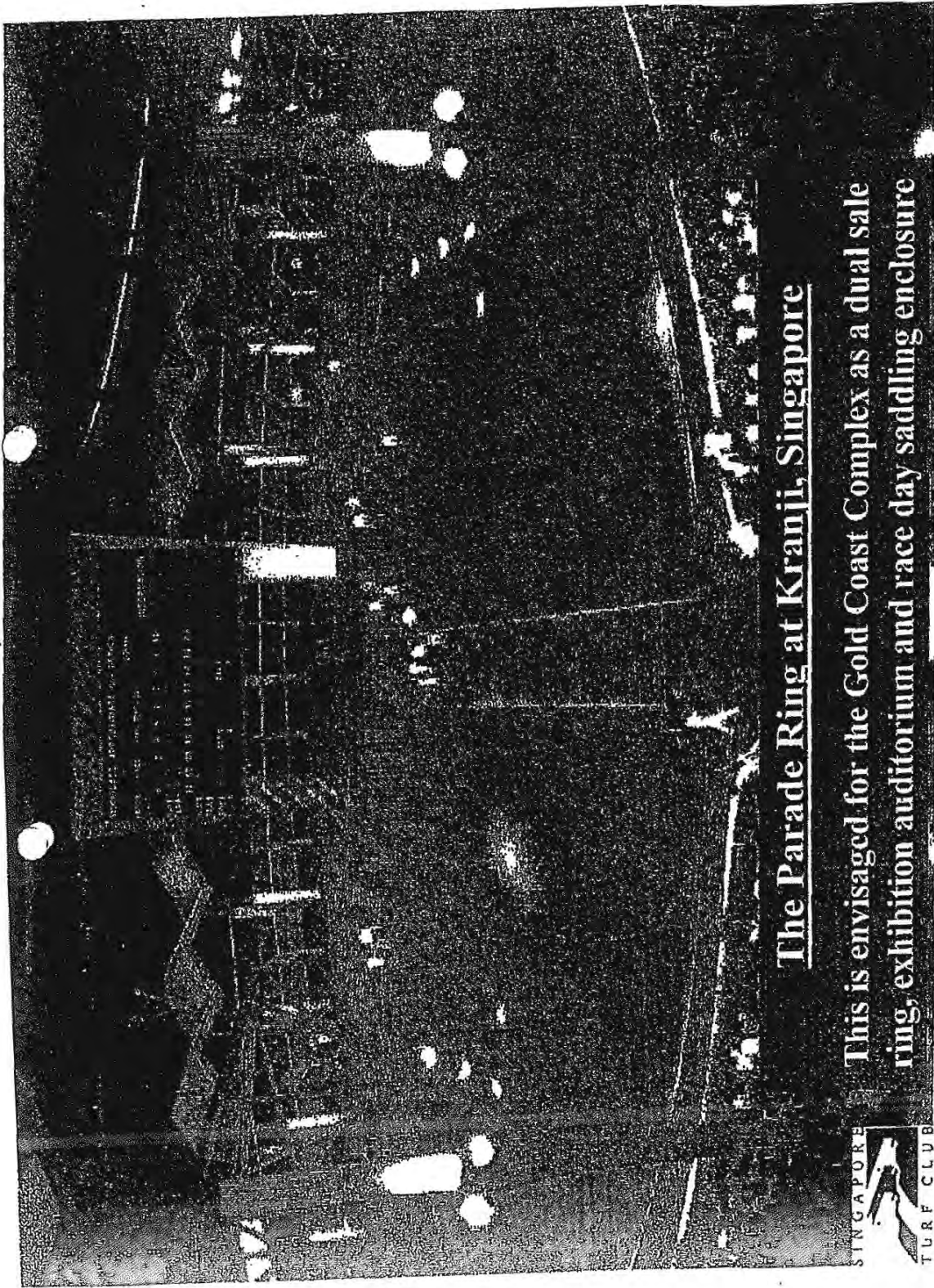
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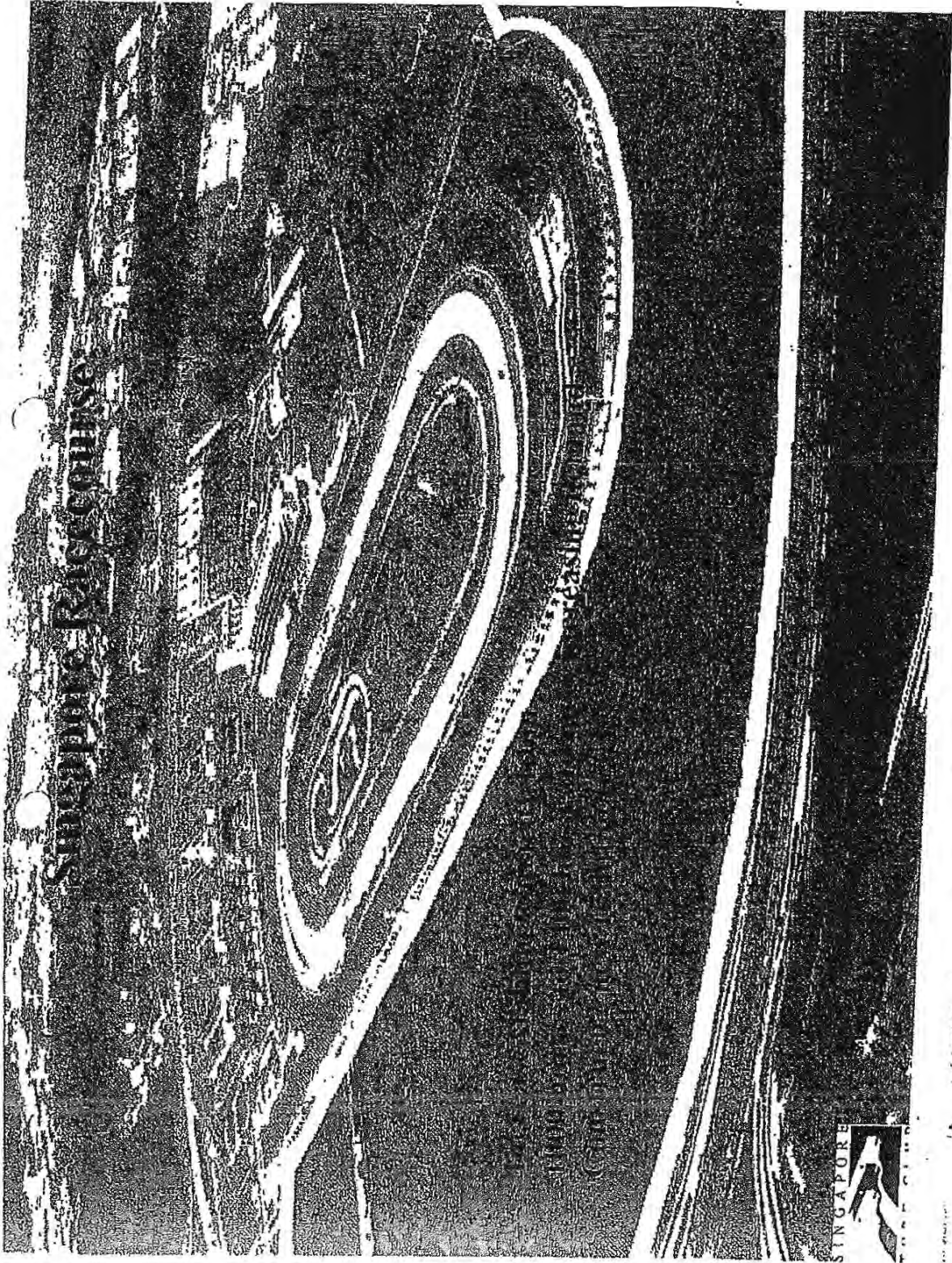
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The Parade Ring at Kranji, Singapore

This is envisaged for the Gold Coast Complex as a dual sale ring, exhibition auditorium and race day saddling enclosure

SINGAPORE
TURF CLUB



Project Benefits:

The Gold Coast region lies in a fortuitous location in terms of its ability to stimulate economic growth from non-local investment. Its close proximity to the New South Wales border provides it with greater potential for achieving 'new' money into the economy.

Transportation:

Allow the southern suburbs of Brisbane (Beenleigh and Logan shires) access by rail to employment opportunities in racing, not accessible easily under current transport arrangements. The location allows employees to be sourced from the southern suburbs of Brisbane for work and training opportunities by rail at minimal cost to the worker.

Employment:

Maintain and create 3,000 permanent unskilled and semi skilled positions.

International investment and interest:

A ground floor opportunity exists to attract substantial investment into the development through overseas and interstate interests in stabling and racing.

There is currently considerable demand to locate to the Gold Coast but the current facilities and welfare standards are limiting growth.

International Event:

An opportunity to further develop the Magic Millions Carnival as a truly international event.

Randwick in NSW has been chosen to host the visit of the Pope Youth Rally and 250,000 are expected. Queensland does not have a suitable venue to even consider events of this magnitude.

International Race Series:

This development positions the Gold Coast to bid and hold a leg of the International Series. Currently Melbourne and Randwick are the only tracks and facilities suitable.

Premier Thoroughbred Sale Venue:

A relocated facility will be a serious threat to the NSW dominance as the premier sale facility in Australasia.

Major Regional Racing Centre:

The relocated facility will be the major racing centre for Northern NSW drawing participants from as far south as Coffs Harbour.

Emergency Disease Management:

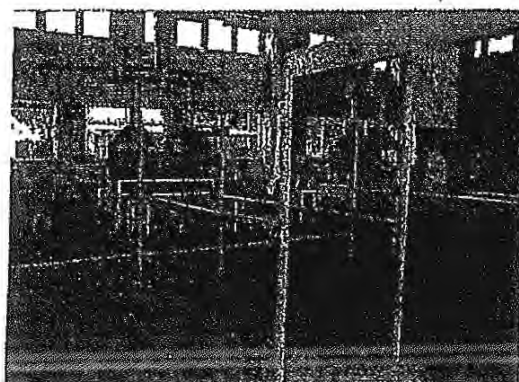
Currently the stabling of horses in a residential environment, as is the case in Brisbane, will eventually cease due to health risk factors to humans. This proposed development is following modern practice of the United Kingdom, Japan, Singapore, Malaysia and other major racing nations.

The proposed location of the new Gold Coast Turf Club offers superior capability to isolate, restrict movement and quarantine animals, should there be either a suspected or confirmed emergency animal disease situation.

Water Conservation:

The relocation of the Gold Coast Turf Club to the proposed location will offer significant water savings. Current water usage is 1.8 million litres (ML) a week (Course Proper 1.265 ML and training tracks 0.510 ML per week).

This project offers the immediate reduction of 500 kilolitres per week with the installation of a synthetic track and a further reduction with the development of the flood plain and recycling opportunities not currently available.



On Site Horse Facilities



Water Recycling Opportunities

Economic Impact:⁴

1. Economic uplift for the Gold Coast Region
2. Economic uplift for the entire state of Queensland
 - Growth in Economic Activities
 - Direct employment
 - Tourism
 - Infrastructure usage (rail network)
 - Venue (associated services)
 - Improved race club related revenue including training fees
 - Ancillary spending in the community
 - Increased Magic Millions sales due to greater stabling capability

Economic Uplift for the Gold Coast region:

The activities of the Gold Coast Turf Club and Magic Millions currently generate approximately \$92 million for the local economy and \$164 million statewide. The Magic Millions sales events in January and June contribute just under 50% of this impact.

By year 4, it is estimated that the expenditure impact following relocation to the new venue will exceed \$172million. This will represent a 68% increase on the estimated expenditure impact in year 4 compared to a scenario where the Gold Coast Turf Club and Magic Millions continue to operate from the current site.

Employment:

It is estimated that by Year 4, following the proposed relocation and development of a new world class facility, more than 3,000 full time equivalent (FTE) positions will be created or maintained, an increase of 63% on the scenario of the status quo remaining.

It is anticipated that this growth will be sustained through the continued growth of both the Magic Millions sales as a key part of the Australasian racing calendar and the destination tourism associated with the multi purpose entertainment venue.

⁴ See Appendix 4 - Projected Economic Impacts Associated with a proposed relocation of the Gold Coast Turf Club prepared by IER in January 2007.



Economic Uplift for the State of Queensland:

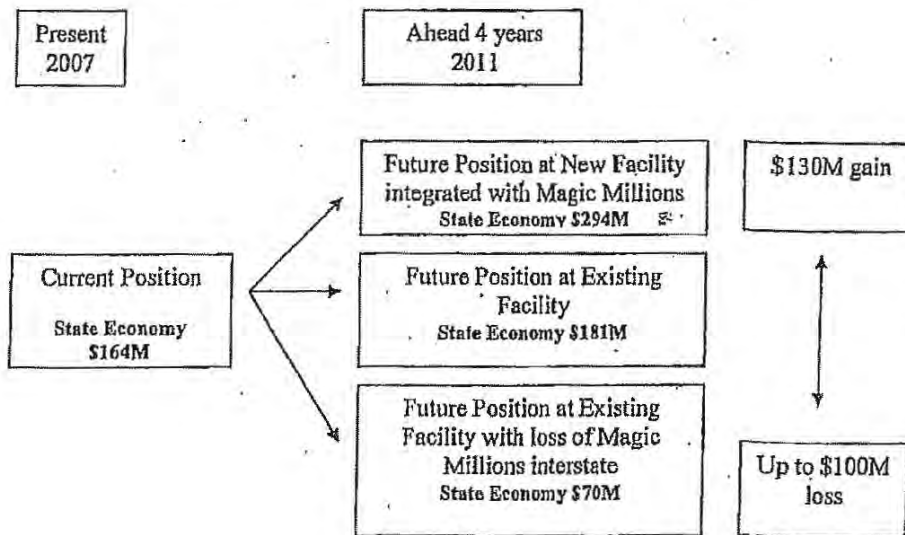
It is estimated that the Gold Coast Turf Club and Magic Millions operations generated more than \$164 million in expenditure in Queensland during the period July 2005 – June 2006. Just over 56% of this spending occurs in the Gold Coast region, contributing more than \$92 million into the local economy. The remaining 44% occurs in other parts of Queensland, illustrating the significant state wide impact that is generated by the Gold Coast Turf Club.

From a state wide perspective, the proposed relocation and development of the new facility is estimated to generate an expenditure impact of more than \$294 million by year 4. This represents a 62% increase on the estimated expenditure impact compared to a scenario where the Gold Coast Turf Club and Magic Millions continued to operate from the current site.

If the Gold Coast Turf Club and Magic Millions operations remained at their current location, it is estimated that their expenditure impact on the Queensland economy would only increase from \$164M to \$181M, an increase of only 10.7%.

If the Magic Millions decided to cease operations on the Gold Coast in favour of another venue interstate, there could be a negative impact to the local and states economies in the range of \$80 - \$100 million.

The Economic Impact of the Decision can be Represented by the following:-





Race Club Related Revenue:

Modelling associated with the relocation and development of a new Gold Coast Turf Club and Magic Millions facility suggests that growth in race club related revenue could reach in excess of 93% over the next 4 years.

In 2005-06, the Gold Coast Turf Club contributed more than \$17 million to the local economy from its on-course raceday activities. This is estimated to grow to more than \$36 million by year 4 under the relocation plan. Should the status quo remain, growth is anticipated to reach no more than \$20 million by year 4.

Current Venue Relocation:

The ability for the new venue to deliver growth opportunities where it simply is not possible at the current venue (particularly in the area of increased supply of horses) exist in areas such as membership revenue, admissions, wagering and catering in line with the anticipated growth in attendances. This increase in interest and attendance would be supplemented by the proportion of interstate, overseas and other Queensland visitors

Ancillary Spending in the Community:

In addition to race club related spending, racegoers and Magic Millions attendees spend large amounts in various non-racing areas during their trip. These areas include; transport, entertainment (restaurants, pubs, tourist attractions, etc.), accommodation and shopping.

In 2005-06, it is estimated that Gold Coast Turf Club visitors spent more than \$20 million on ancillary community items during their trip. The majority of this spending was made by interstate and overseas visitors to Queensland. It is likely that this spending could be lost to other regions if the Magic Millions and associated races no longer existed to drive non local visitation.

Mr Harvey has publicly stated:-

"...the future of the MM race day could depend on securing a new venue, or else other interstate options could be pursued. We don't want to do that but at the end of the day if we decide we want to have the best horse sale in the country with the best races and everything we can't do it here, I suppose we'd have to look somewhere else".⁵

Modelling associated with the relocation and development of a new Gold Coast Turf Club and Magic Millions facility suggests that growth in ancillary community spending could exceed 80% over the next 4 years.

⁵ See Appendix 5 – Gold Coast Bulletin Article – 18 January 2007 – "Harvey warns on relocation issue".

"It is worth noting that for every \$1 generated on-course by visitors to the Gold Coast Turf Club race days, an additional \$0.52 is generated, outside of the Gold Coast in other parts of Queensland.....normally north along the coastline, to undertake tourist related activities. As a result they spend considerable amounts on transport, accommodation and entertainment.

A survey of 140 visitors to the 2006 Magic Millions Carnival revealed that just over 46% of respondents see attendance at the carnival was an opportunity to combine a holiday in Queensland... on average, they travel in a party of 3 and spend 9 nights in Queensland. (6 at the Gold Coast)."⁴

Magic Millions Sales Revenue:⁴

Over the last 21 years, Magic Millions has become one of Australasia's fastest growing bloodstock auction houses. Magic Millions Sales Pty Ltd hosts two large thoroughbred auctions in January and July each year.

The January auction combines premier racing, the Conrad Jupiters Magic Millions Raceday with \$3.5 million in prizemoney, within a nineteen day schedule packed with racing, sales and social events.

The sales generate immense interest in the racing fraternity worldwide, with visitors from many nations visiting the Gold Coast in the hope of finding their next (or first) champion. These visitors provide a significant economic bonanza, often bringing their family and enjoying a holiday within the same business trip.

In 2005-06, it is estimated that visitors to the January Magic Millions Sales generated more than \$65 million for the Queensland economy during their stay. Just under 45% of this amount was contributed directly to the Gold Coast economy.



It is estimated that the relocation and development of a new Gold Coast Turf Club and Magic Millions sales facility may yield revenue growth of up to 65% over the next 4 years.

Significant growth is projected for the both the Gold Coast and other Queensland regions. The main drivers of this growth include:

- Increased capacity for sales nominations due to the construction of 400 additional boxes.

⁴ See Appendix 4-- Projected Economic Impacts Associated with a proposed relocation of the Gold Coast Turf Club prepared by IER in January 2007.



- Increased attendance as a result of a better racing program, more horses able to be auctioned (current facility cannot sustain real growth in attendances).
- Increased catering and social function revenue due to growth in attendances and the high interstate and overseas proportion of visitors.
- Attraction of better quality horses including a sales catalogue that, by year 3, could attract a higher percentage of International bred horses.

In addition to this, the integration of the sales and racing venues into a single, world class venue will allow for numerous cost efficiencies with a potential for more effective marketing and therefore greater growth.

This state of the art sales facility is expected to pose a serious challenge to New South Wales as the premier sales facility in Australia – a result not possible at the current venue.

Training Fee Revenue:⁴

Previously, the report discussed the benefits that the Gold Coast region receives by being so close to the New South Wales border. This is again evident in the area of thoroughbred training services. The proposed new facility at Palm Meadows will provide Gold Coast thoroughbred trainers with a brand new, increased capacity, on track training facility. It is anticipated that the training facility will go from providing stables for up to 800 horses initially, growing to 1,200 horses by Year 4.

Importantly, the Gold Coast receives more than half of its training business from interstate owners, thus generating significant economic impacts in the local economy.

The Gold Coast Turf Club currently provides training to over one seventh (1/7th) of all starters in Queensland not to mention those horses that start interstate or regularly in Northern NSW.

Training services in Brisbane, and indeed the Gold Coast, faces two major barriers to growth:-

- Demand for stables currently exceeds supply, and
- The perception that the current stables in Brisbane and the Gold Coast is substandard when compared to the Southern States.

⁴ See Appendix 4 - Projected Economic Impacts Associated with a proposed relocation of the Gold Coast Turf Club prepared by IER in January 2007.

The second issue in particular, strikes at the very heart of why growth from arguably the most lucrative training markets (the southern states) is not possible if the status quo remains.

In order to attract trainers to either relocate, or to set up satellite stables, both the capacity and the quality of the stables and training complex needs to improve. It is anticipated that the development of state of the art training facilities, including an increase in capacity, would lead to the following outcomes:-

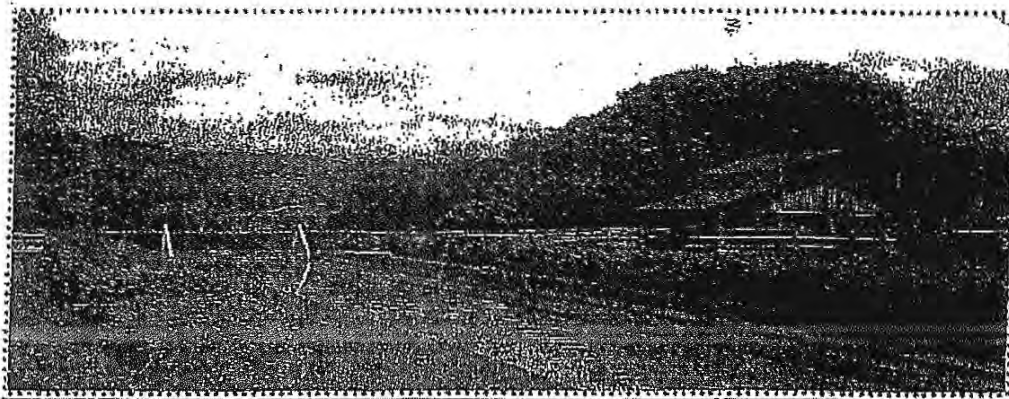
- A significant increase (in the order of 100%) in training being undertaken within the wider Gold Coast precinct within 2 years.
- Major trainers from Victoria, New South Wales and South Australia would recognize the improvement in facilities, combined with the advantageous economics of training on the Gold Coast, leading to relocation or the establishment of satellite stables.
- An increase in the capacity to meet current and future Queensland trainer demand for facilities

In addition to this, given the size and status of the Magic Millions Sales event, there will be a flow on effect of overseas buyers deciding to keep their horses in Queensland to be prepared, trialled and raced in the state.

It is estimated that the relocation and development of a new Gold Coast Turf Club and Magic Millions facility, including training centre, may yield revenue growth of more than 150% over the next 4 years.

Under the status quo scenario, training revenue can only grow moderately through an increase in the daily training fee. This is due to current demand for stables being fully met.

The combination however of more stables, within a brand new, world class facility, is likely to provide the impetus for a boom in training on the Gold Coast – especially from over the border.



Equine facilities

Brisbane Turf Club (BTC) / Queensland Turf Club (QTC) Amalgamation:

BTC / QTC Amalgamation:

The development of a signature racing facility on the Gold Coast will bring pressure on the committees of the BTC and QTC to act in a rational way towards the merger of the two clubs, the sale of Doomben and the subsequent development of Eagle Farm. This will have far reaching positive outcomes for all stakeholders. *WMM*

The Gold Coast development will bring about the merger and sale of Doomben and the redevelopment of Eagle Farm in a peaceful rational progression, unfortunately for metropolitan Brisbane, in a longer time frame. *?*

If the "no change" option is the preferred option for the Brisbane Clubs then the anticipated public opposition to the loss of Doomben will be a non issue in the short term. If the "no change" option is the result then the amalgamation of the BTC and QTC into one facility would be in the vicinity of 5 to 7 years. The merging of the two clubs is expected to be successful, however the appetite for rationale change with the sale of Doomben and redevelopment of Eagle Farm may be too bigger leap at this time.

The Metropolitan Racing Policy – Brisbane:

It is QRL's mandate to initiate, develop and implement policies it considers conducive to the development and welfare of the racing industry and the protection of the public interest in relation to the racing industry. Brisbane metropolitan racing facilities currently do not fulfil the expectations of all sections of the industry and the separate plans put forward by the BTC and the QTC respectively do not advance Queensland industry expectations. Both Clubs, with a duplication of facilities located adjacent to each other, expending substantial funds on the development of each facility, is not in the racing public's best interests.

The Board of QRL's strategy for the future of metropolitan racing in Brisbane and for the merger of equals of both metropolitan clubs into one entity operating at one venue as clearly enunciated in the Metropolitan Racing Policy – Brisbane.⁶

The proposed development of the Gold Coast will have the following impacts on Brisbane racing:-

Scenario A:

The optimum position for Queensland would be for a redeveloped Eagle Farm with the proceeds of the sale of Doomben, and a relocated Gold Coast Turf Club to Palm Meadows.

Swindell?

⁶ See Appendix 6 – Queensland Racing Limited – Metropolitan Racing Policy – Brisbane – 2 January 2007 (including media release dated 23 November 2006),

The combined assets of the QTC and BTC will allow the development in Brisbane of one premier racing facility.

All industry stakeholders would benefit to the maximum if this was achievable. The racing programme would be constructed to operate both facilities with premium programmes. Approximately 75 meetings scheduled for Brisbane and 90 meetings scheduled on the Gold Coast.

Scenario B:

Status Quo in Brisbane if members vote for "no change" and Palm Meadows development materialises.

A redeveloped Gold Coast would conduct approximately 16 of the metropolitan meetings, conduct twilight meetings on the synthetic track during the tourist season on Friday evenings, linking with Moonee Valley and Singapore. The Gold Coast would host all international events and would be recognised as Queensland's premier race track.

QTC and BTC would share the remaining metropolitan meetings and race more secondary meetings.

The status and quality of the meetings would have greater variance than is the case currently.

Scenario C:

No change to Gold Coast. No change to QTC / BTC.

Should the 'No Change' situation be the result this will see Queensland struggle to maintain its renewed position as a major racing state based on an average of number of meets, races and starters producing 25% of thoroughbred product, NSW 28% and Victoria 23%.⁷

Redevelopment in some form to the existing Gold Coast site will be necessary to upgrade training facilities from an animal welfare position. There is insufficient capital available to upgrade facilities. The capital required will be approximately \$20 million and will need to be resourced from a reduction in the race programme of both country and South East Queensland and a moratorium or reduction in prize money.

The QTC and BTC will be able to carry on as they have been with piecemeal development, but with little prospect to elevate either facility to a proper standard.

The QTC and BTC have the opportunity to combine without any injection of capital from any source to achieve the QRL policy objective and QRL has no intention of rescinding the key objectives of the policy.

⁷ See Appendix 7 – Extract from The Australian Racing Fact Book 2005-06.

The QTC Eagle Farm facility would need upwards of \$90 million to achieve a moderate standard, of development. QRL does not support this scenario and compounding this the QTC cannot raise the capital to progress this option, in addition their trading results over the last 5 years do not support any ability to fund capital improvements and remain viable. * ?

After a recent Capital expenditure request from the QTC PriceWaterhouseCoopers, QRL's financial advisors, stated:-

*"The QTC financial model indicates that the project will not ameliorate the historic declining profit performance, but rather accelerate its impact on the financial position of the QTC. The surplus working capital will be significantly reduced which, together with its increased losses and in the absence of asset sales, may accelerate the risk of QTC encountering financial difficulties in the short to medium term."*⁸

The racing politics of spending \$90 million if available on Eagle Farm while Doomben still exists as a racing centre would cause considerable disruption to the industry and the question would be asked why spend all the money on Eagle Farm and not Doomben. In any event spending half the money on Eagle Farm and half the money on Doomben would only result in two half developed facilities.

The BTC at Doomben will struggle to make even minor upgrades to facilities and the limitations of area and track size will not allow the BTC to achieve the uplift required going forward.

The racing programme will see little change or uplift with this outcome and stagnation in the industry

⁸ See Appendix 8 – Correspondence dated 22 November 2006 from PricewaterhouseCoopers to Queensland Racing Limited – re: Queensland Turf Club Limited – Tunnel and Stables Project.

The Gold Coast development will bring about the merger and sale of Doomben and the redevelopment of Eagle Farm in a peaceful rational progression unfortunately for Metropolitan Brisbane in a longer time frame.

If the "no change" option for the Brisbane Clubs is the result, then the anticipated public opposition to the loss of Doomben will be a non issue in the short term.

High Level figures for the Gold Coast Redevelopment Project:⁹

Estimate of Outflows to construct Phase 1 Racing facilities is

Land purchase	\$ 70M	
Adjacent land purchase	\$ 6M	
Land improvements	\$ 54M	
Construction costs racing facilities	\$129M	<u>\$259M</u>

Estimate of Inflows

Deagon sale	\$ 35M	
Existing Gold Coast Turf Club site	<u>\$105M</u>	<u>\$140M</u>

Shortfall \$119M

Future Recoverable:

Surplus post land improvements
200 ha * \$750K per ha. (1ha = 2.47 acres) \$150M

Strata title stables (300 * \$20K) \$ 6M

where Future Non Racing - land content
(10 ha * \$800K) \$ 8M \$164M

Surplus achievable \$ 45M

⁹ See Appendix 9 – Correspondence Industry Superannuation Property Trust dated 13 December 2006 to Queensland Racing Limited – re: Expression of Interest for Gold Coast Turf Club Land Holdings and Deagon Racecourse including Gold Coast Turf Club development opportunity and costings from firm Rider Hunt.

Breakdown of Construction Costs:⁹

Parcel 1(A) – Racecourse	
Grandstand incl. BOH including 'Magic Millions' stand	61,300,000
External Area 'Race Day' Zones	4,300,000
Public Transport	1,800,000
Public Car Parking	3,000,000
VIP & Members etc. Car Parking	3,300,000
Infrastructure Costs re: track incl. raising and tunnel	23,000,000
Main Racetrack and Training Tracks	18,500,000
Maintenance & Workshop Buildings	1,000,000
Auxiliary Buildings	400,000
Stabling	<u>12,200,000</u>
Total	<u>128,800,000</u>

excls funds.

⁹ See Appendix 9 – Correspondence Industry Superannuation Property Trust dated 13 December 2006 to Queensland Racing Limited – re: Expression of Interest for Gold Coast Turf Club Land Holdings and Deagon Racecourse including Gold Coast Turf Club development opportunity and costings from firm Rider Hunt.



Queensland Racing Limited's Request from the Queensland Government:

Stage 1 – Loan / low interest / Profit Share:

Firstly, for the Queensland Government to provide QRL with a sufficient level of comfort that they would be prepared to advance a loan of \$76M so that negotiations with Mr Stanley Ho (land owner) and Habitat Pty Ltd (adjacent land owner representative) can progress and provide a level of certainty. Mr Ho has indicated that he is willing to proceed with negotiations as long as QRL can provide some level of certainty to him that we intend to proceed and complete a contract subject to a detailed cost and project analysis and any other conditions that the Government may impose.

- independent valuation?

Development Option A – Industry Control (Preferred Option)

Finance:

\$76 million loan

- purchase Palm meadows 318 ha. at \$70 million
- purchase Habitat Pty Ltd land 27 ha. at \$6 million

\$2 million grant

- Feasibility plan and specifications

Interest

- 2.5% non compounding

Term

- 5 years, repayable at expiration of 5 years or as land sales are progressed.

Profit Share

- 50% on profits on balance of surplus non race track land after earthworks and flood mitigation

Other

- Government to construct a dedicated railway station on the Robina / Brisbane Line \$?
- Granting of "Major status Project"
- Stamp Duty relief on initial purchase \$?

Proposed outflows for the Government:

- * \$2 million on approval of the purchase
- * 2% on the contracts
- * 8% on completion of successful feasibility
- * 90% balance within 90 days of successful approval by Government

Development Option B – Developer Control:

A National Developer purchases the property and the Gold Coast Turf Club offer the Bundall site and Queensland Racing offer the Deagon site at an agreed value in return for a "turn key" swap for the developed racing facilities at Palm Meadows.

The necessity to sell Deagon is not a preferred option. The sale does not allow any profits to be returned to racing and the public interest issue if Deagon is sold for redevelopment will raise the issue of greenspace and the relocation of 250 horses, trainers and trackwork riders from the Sandgate locality.

Finance:

- Grant – required of government \$24.5 million for the difference between valuation of Deagon and the sale price. (\$10.5M valuation in 2005 and \$35M consideration)
- Government requirement to approve the sale and rezoning of the Deagon facility.

Development Option C – Developer Control:

A National Developer purchases the property, develops the racing facility and the surrounding precinct and applies for a licence to race. This is a very real prospect and permissible under *The Racing Act 2002*. The Developer would own all the racecourse facilities and operate as a proprietary business.

If the facility had superior improvements and met animal welfare standards QRL would have no option to refuse a licence.

In the event that the facilities were superior to the existing Gold Coast Turf Club this would see the demise of the current Gold Coast Turf Club, as we would not licence two facilities on the Gold Coast.

Finance: Nil

This option would prove very unpopular with existing members and patrons of the Gold Coast Turf Club and the traditional racing community.



Development Option D – Joint Venture:

A Joint Venture with the Industry Superannuation Property Trust (ISPT) with the inclusion of the Gold Coast Turf Club Bundall site and the QRL Deagon site as a stakeholder capital contribution. Development through a purpose formed project management company and operated through a unit trust similar to the Sunshine Coast Racing Unit Trust with QRL and the Gold Coast Turf Club. (Financed by ISPT).

Finance: Grant – required of government \$35 million or approval to sell Deagon as per option C above.

Comment:

Option B and Option C, while minimising some risk leave the industry in the hands of developers and there is no reward for the utilisation of the flood plain as lakes and racing facilities.

The fact that approximately 108 hectares of land is only suitable for a racetrack development makes the balance of land available for development increasingly valuable.

Timeframe:

Queensland Racing would like the Government to give this matter urgent priority. Failure to act on this proposal as a matter of urgency may see the opportunity pass the industry by.

Appendices:

Appendix 1

Email re: feedback on 2007 Magic Millions Race day at Gold Coast Turf Club.

Appendix 2

Gold Coast Turf Club - Preliminary Facility Needs Analysis – February 2007.

Appendix 3

Extract from Analysis of Stabling Requirements for the Thoroughbred Racing Industry in South East Queensland – Prepared by the University of Queensland and Ausvet Animal Health Services. - November 2006. (page 10)

Appendix 4

Projected Economic Impacts Associated with a proposed relocation of the Gold Coast Turf Club prepared by IER in January 2007.

Appendix 5

Gold Coast Bulletin Article – 18 January 2007 – “Harvey warns on relocation issue”.

Appendix 6

Queensland Racing Limited – Metropolitan Racing Policy – Brisbane – 2 January 2007.

Appendix 7

Extract from The Australian Racing Fact Book 2005-06.

Appendix 8

Correspondence dated 22 November 2006 from PricewaterhouseCoopers to Queensland Racing Limited – re: Queensland Turf Club Limited – Tunnel and Stables Project.

Appendix 9

Correspondence Industry Superannuation Property Trust dated 13 December 2006 to Queensland Racing Limited – re: Expression of Interest for Gold Coast Turf Club Land Holdings and Deagon Racecourse including Gold Coast Turf Club development opportunity and costings from firm Rider Hunt.

0409/7577 P/12

• between Nanny + Retired Crabbie
• West of Broadbeach + Bicton Farm
Tracking No. 124275

Director-General's briefing note

Policy

Title: Palm Meadows Racing Proposal

Date: 26 October 2007

1. Recommendation

• That that you note the issues detailed below in relation to the Palm Meadows Racing Proposal for your meeting with Queensland Racing Limited (QRL) and PricewaterhouseCoopers (PWC). *development opportunity on the Parklands site*

2. Issues

- QRL and its advisors PWC have developed a project proposal and preliminary business case for a racing facility on the Gold Coast. The proposal involves the purchase of a site at Palm Meadows and the development of that site into an international standard racing precinct. The Magic Millions facility, and possibly the Gold Coast Turf Club, would relocate from Bundall to the Palm Meadows site. The proposal includes the sale of residual land at the Palm Meadows site for residential purposes.
- QRL is seeking a loan from Queensland Treasury Corporation (up to \$90M) to purchase several adjoining sites at Palm Meadows and Government coordination of the project approvals.
- The Treasurer recently wrote to Mr Bob Bentley, Chairman of QRL, providing in-principle support for the project (Attachment 1). This support was subject to a number of conditions, including the satisfactory outcome of appropriate site due diligence and an independent valuation of the land to be performed by the State. The letter also noted that the State is reserving the right to purchase the land in the first instance for subsequent sale to QRL or its preferred developer, as an alternative to providing a loan to QRL.
- The Treasurer confirmed in Parliament on 17 October 2007 that QRL was investigating a possible new site at Palm Meadows for the development of a premier racing venue.
- Queensland Treasury will be commissioning independent due diligence on the Palm Meadows site. Treasury's due diligence will include verification that specific site issues and constraints such as the planning scheme, acid sulphate soils, hydrology, conservation and environmental issues will not adversely impact on the viability of the development proposal. Given QRL's request for Government assistance, the Government needs to ensure that the purchase price for the land will withstand public scrutiny and that all costs associated with the land, including remediation and holding costs, could be recovered in the event that QRL is unable to deliver the project.
- The recently announced location of the new Gold Coast Hospital is expected to impact upon both the Harness and Greyhound Racing facilities at the current Parklands venue. Given the Government's announcement, it is expected that QRL will be looking to discuss the possibility of relocating the Parklands Harness and Greyhound facilities to the proposed new Palm Meadows venue.
- As yet, no formal consideration has been given to the potential of co-locating the facilities. The current business case for Palm Meadows uses a portion of the revenue from the residential development to underwrite the development of the racing precinct. The inclusion of the Parklands facilities would have a substantial impact on the viability of QRL's current proposal. Any consideration of the proposal to relocate the Parklands facilities would need to be subject to a full business case and detailed analysis of costings for the proposal.

3. Consultation

- Queensland Treasury, Office of Racing.

Alex Beavers
Alex Beavers
Deputy Director-General, Policy

Approved / Not Approved / Noted
Ken Smith
Ken Smith
Director-General
29.10.07

Action Officer: Einar Oddsson
Area: Economic Policy
Telephone: 323 71039

ED:
✓



Hon Andrew Fraser MP
Member for Mount Cookthra



Queensland
Government

Treasurer of Queensland

TRX-02178

Mr B Bentley
Chairman
Queensland Racing Limited
PO Box 69
SANDGATE QLD 4017

Dear Mr Bentley

I refer to our recent discussions on a project proposal by Queensland Racing Limited to develop a thoroughbred racing facility, with complementary training and sales facilities, at Palm Meadows on the Gold Coast. The project includes a component of residential development.

I understand that you have resumed negotiations with representatives of Hungat Worldwide Pty Ltd, the owner of the proposed site of the Palm Meadows facility and are seeking State support for the project.

The Queensland Government has had the opportunity to review the development and, in principle, is supportive of the proposal. The Government is considering options for securing the site, with any funding being subject to the satisfactory outcome of appropriate site due diligence. The site due diligence would include:

- verification that specific site issues and constraints, such as the planning scheme, acid sulphate soils, hydrology, conservation and environmental issues will not adversely impact on the viability of the development proposal
- an independent valuation of the land to be commissioned by the State
- Queensland Racing Limited undertaking consultation with Gold Coast City Council officers regarding the development proposal.

As you may be aware, the Gold Coast City Council has prepared a "Greenheart" vision for the Carrara Merrimac Floodplain. The master plan seeks to secure the area as world class parkland and open space. Included in the land set aside as "environment and recreation core" is a significant portion of the Hungat owned land, including portions that would be developed for residential land under the QRL proposal.

Level 9 Executive Building
100 George Street Brisbane 4000
PO Box 611 City East
Queensland 4002 Australia
Telephone +61 7 3224 6900
Facsimile +61 7 3229 0612
Email treasurer@minister.qld.gov.au
ABN 65 559 415 158

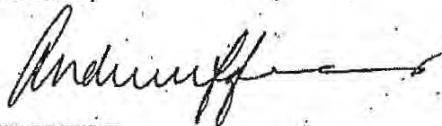
Should the due diligence and consultation with Gold Coast City Council verify that the site would support and be available for development, the State will, in consultation with Queensland Racing and its advisors, determine the most appropriate structure to enable Queensland Racing to secure the site. In this regard, the State reserves the right to purchase the land in the first instance for subsequent sale to Queensland Racing Limited or its preferred developer, as an alternative to providing a loan to Queensland Racing Limited as you have proposed. It should be noted that under either structure, the State obviously must ensure that the purchase price of the land will withstand public scrutiny and the independent valuation to be obtained will be critical in this regard.

Of course, any final commitment to the project by the State would be subject to normal Government approval processes, including Cabinet consideration.

Officers will work closely with Queensland Racing and its advisors to progress the site due diligence in a timely manner.

Should you require further information in relation to this matter, please contact Mr Ian Munro, Assistant Under Treasurer, Treasury Department, on 07 3224 6866.

Yours sincerely



ANDREW FRASER

COMACC Lambert Burgess
Branch Strategic Asset Management
Telephone (07) 3224 7505
Doc ID 03/UTS/Overseasack & (Treasury)27m2ATRX-0111M_LTR.doc
Date 21 September 2007

JWS

Ken Smith

From: John O' Sullivan [John@qldevents.com.au]
Sent: Thursday, 15 April 2010 4:15 PM
To: Ken Smith
Cc: Patrick Vidgen
Subject: RE: Magic Millions - status and next steps

DDG Governance

Plan progress preparation of CBRC sub.

Dear Ken

Apologies. The increase for Magic Millions in 2011 and 2012 would be \$ 1 m plus GST per annum in addition to the \$ 625 k per annum already committed. So a total increase of \$ 2m over the two remaining years.

W

It would be the intention to lock in and announce the extended contract as referred to below from 2013-2017 and the owners were comfortable with this and a first and last for another 5 years.

21/4/10

Will work with Pat to now action.

Regards
John

From: Ken Smith [mailto:Ken.Smith@premiers.qld.gov.au]
Sent: Thursday, 15 April 2010 10:31 AM
To: John O' Sullivan
Cc: Patrick Vidgen
Subject: RE: Magic Millions - status and next steps

Dear John

Thanks for your email. Can I clarify that the negotiations involve an increase to \$1M plus GST in 2011 and 2012? If memory is correct we were talking of an increase of \$1m approx previously, so is this an increase of approx \$400K? If so, a great outcome.

Also, great to be able to secure MM with a new contract from 2013 to 2017. I have asked Pat to work with you on CBRC submission to progress. Well done

Pat

Regards

Ken Smith
Director-General
Department of the Premier and Cabinet

Phone: 07 322 44728 Fax: 3229 2049

15/04/2010

-> Cab See advised at CBRC request. Old Events drafts CBRC in consultation with MM e Means. P. Vidgen 27/4.

Mobile: 0417 730 013
Email: Ken.Smith@premiers.qld.gov.au

Please consider the environment before printing this email (3 sheets of paper = 1 litre of water)

From: John O' Sullivan [mailto:John@qldevents.com.au]
Sent: Wednesday, 14 April 2010 11:31 PM
To: Ken Smith
Cc: Patrick Vidgen
Subject: Magic Millions - status and next steps

Dear Ken

I trust that you are well.

you know Geoff Dixon and I met with the owners of Magic Millions today in Sydney. Present at the meeting were John Singleton, Gerry Harvey, Katie Page and Rob Ferguson. Also in attendance was Bob Bentley from Qld Racing. In short the meeting was successful and we now have an in principle agreement for a 5 year extension from 2013.

As per our discussions from last Friday, we presented to them a without prejudice offer (subject to CBRC sign off) of the following:

1. Upgrade of existing contract - a payment of AUD 1,000,000 plus GST per annum for each of 2011 and 2012 carnivals
2. New contract - a payment of AUD 2,500,000 plus GST per annum for the period 2013 - 2017

This was for the continuation of the January Carnival and Sales on the Gold Coast and also the June Sales programme on the Gold Coast. QEC would also retain a first and last right of refusal for the period 2018 - 2022. This as you know is a longer extension than the current contract contemplates.

This offer is acceptable to the owners.

It was agreed at this meeting that Magic Millions are not to use this money for prize money but for significantly upgrading the marketing and promotions and general events around the event. They are agreeable to this and are looking to engage SEL to manage the event. They will look to become the World's Richest 2 year old race however, they believe that any such claim will be immediately matched by the Sydney Turf Club.

We also agreed to assess the models of the race day from 2012. It may be that QEC takes a more operational role within the conducting of the race day and may even end up running the race day. If this is the case the license fee would adjust and QEC may use the license fee for these purposes.

The parties have now agreed to work on a long form contract with a view to providing the Premier and owners with an announcement opportunity. We think that this will be a great news story for Events in Qld.

I now seek your advice on next steps to confirm the funding for this package. I assume that I will need to prepare a CBRC funding request for the new agreement. There is not existing discretionary funds within the QEC budget

15/04/2010

for this size of transaction. I would also appreciate your advice as to timing as the sooner I can wrap this up then the sooner we can announce the new agreement.

Thank you again for your support on this matter.

Kind regards

John

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15/04/2010

PREMIER'S BRIEFING NOTE

Governance

Tracking Folder No. TF/10/29947

Document No. DOC/10/167547

To: THE PREMIER
Date: 13 December 2010
Subject: Magic Millions contract Key Performance Outcomes and Indicators

Approved / Not Approved / Noted
Premier
Date
Date Action Required by:
Requested by:
(if appropriate)

• **RECOMMENDATION**

It is recommended that you:

- approve the following key performance outcomes and indicators (**Attachment 1**) as per the Magic Millions draft event contract as it stands on 7 December 2010 under *Schedule Three: Key Performance Outcomes*, and
- note that these obligations have been agreed with Magic Millions CEO, Mr Stephen Silk, and Director, Ms Katie Page on the 19 November 2010.

• **KEY ISSUES**

- The Magic Millions January Carnival and Sales begin on 12 January 2011.
- The contract needs to be approved, signed and finalised by all parties before this start date.

• **ELECTION / CABINET / PUBLIC COMMITMENTS**

- On 8 June 2010, you announced that \$15.7 million will be invested to keep the Magic Millions on the Gold Coast until 2017.

• **CONSULTATION**

- Marketing committee established comprising of Tourism Queensland; Magic Millions, Gold Coast Tourism; Gold Coast City Council; Gold Coast Turf Club; and International Quarterback (represent sponsors).
- CBRC process (please see **Attachment 2**).
- Mr Stephen Silk, Managing Director, Magic Millions; Mullins Lawyers (representing Events Queensland); and Brown Wright Stein Lawyers (representing Magic Millions).

• **BACKGROUND**

- Events Queensland has supported Magic Millions since 1999.
- The CBRC submission at **Attachment 2** outlines further background information.

W

Ken Smith
Director-General

Comments (Premier or DG)

CEO Events QLD.
EQ Economic Policy.
Spoke to the Premier about the KPI's & Outcomes. Premier has approved that this can be finalised by CEO Events QLD following cabinet approval.

Action Officer: J. O'Sullivan Approvals by: [Signature]
Area: Events Queensland documented in notes in TRIM
Telephone: 323 90616

[Signature]
14.12.2010

Attachment One: Key Performance Indicators & Obligations

Events Queensland and Magic Millions Contract Summary of Key Obligations:

1. Stage Event in Queensland on the Gold Coast.
2. Spend no less than \$500,000 in cash and in kind on marketing efforts.
3. Maintain administration office of Magic Millions on the Gold Coast.
4. Not utilise licence fee for prize money for upgrading of Magic Millions facility.
5. Provide to Events Queensland with first right of refusal and last right to match for 2018 – 2022.
6. Use best endeavours to obtain free to air coverage of the event in January. Failure to do so results in a \$500,000 reduction in licence fee.
7. Events Queensland can nominate an observer to the Magic Millions Management Committee.
8. Naming rights to selected race in carnival.

KEY PERFORMANCE OUTCOMES

Each Magic Millions event (race day, carnival, sales) have their own Key Performance Outcomes (KPO) for each respective event. Each are related back to the objectives of each event (as outlined below).

JUNE EVENT:

Objectives of the Event:

- To achieve overall growth of the **Event**
- To increase awareness and recognition of the **Event**
- To continue to attract and build upon the number of buyers and tourists from overseas and interstate for the **Event**
- Increase number of visitors attending the Sales and Carnival and their country/state of origin
- Increase average length of stay of visitors
- Increased average daily spend of visitors
- Increased event media value
- Increased bed nights generated for the event
- Increased economic Impact

Obligations

Provide statistical information on the **Event** each year with a comparison of the previous year's information on –

- Number of visitors attending the Sales and associated events and their country/state of origin
- Average length of stay of visitors
- Average daily spend of visitors
- Event media value
- Bed nights generated for the event
- Economic Impact
- Number of lots offered for sale
- Average sale price
- Gross sales total
- Details of Buyers per location
- Details of horses purchased by overseas buyers
- Schedule of all official and affiliated events held
- Hotel bookings
- Television ratings for the documentary, where applicable

Other KPO's measured include:

Print Media Coverage realised

- Breakdown of local, state, national and international coverage

Tourism Outcomes

- Evidence that a plan was developed to maximise interstate and international tourism.
- Evidence that the destination 'hero' photographs selected from the agreed portfolio, were featured on event collateral.
- Evidence that the host destination was incorporated within or in conjunction with the logos or marks pertaining to the event and featured on all event collateral.

Queensland Events Outcomes

- Demonstration of high profile branding of **Queensland Events** commensurate with the investment and those of other 'sponsors' of the event.
- Evidence that signage and hospitality was delivered at a minimum to the agreed level in accordance with Schedule 4.
- Evidence of opportunities provided for **Queensland Events/Queensland Government** representatives to be involved with all major announcements/high profile activities associated with the **Event**.
- Evidence that the event web site was linked to the **Queensland Events'** web site.
- Evidence that a plan was developed to identify Whole of Government opportunities through the **Event**.

JANUARY EVENT (INCLUDING RACE DAY)

Objectives of the Event:

- To achieve overall growth of the **Event**
- To increase awareness and recognition of the **Event**
- To continue to attract and build upon the number of buyers and tourists from overseas and interstate for the **Event**
- Increase number of visitors attending the Sales and Carnival and their country/state of origin
- Increase average length of stay of visitors
- Increased average daily spend of visitors
- Increased event media value
- Increased bed nights generated for the event
- Increased economic Impact

Marketing, Promotional and Public Relations

- To assist in the promotion of Queensland and the Gold Coast as a destination of choice for tourists and racing enthusiasts
- To ensure maximum exposure of the event in all facets of the media
- To continue to pursue new overseas markets with a view to bringing more international visitors and buyers to the **Event**

Obligations

Provide statistical information on the **Event** each year with a comparison of the previous year's information on –

- Number of lots offered for sale
- Average sale price
- Gross sales total
- Details of Buyers per location
- Details of horses purchased by overseas buyers
- Schedule of all official and affiliated events held
- Television ratings for the documentary, where applicable
- Details of the Race Day including attendances (corporate and marquee sales), tote, bookmaker and TAB turnover
- Number of visitors attending the Sales and Carnival and their country/state of origin
- Average length of stay of visitors
- Average daily spend of visitors
- Event media value
- Bed nights generated for the event
- Economic Impact

Print Media Coverage realised

- Copy of all event-specific press clippings
- Breakdown of local, state, national and international coverage
- Evidence of the event being marketed in accordance with approved marketing plan.

Tourism Outcomes

- Evidence that a plan was developed to maximise interstate and international tourism.
- Evidence that the destination 'hero' photographs selected from the agreed portfolio, were featured on event collateral.
- Evidence that the host destination was incorporated within or in conjunction with the logos or marks pertaining to the event and featured on all event collateral.

Queensland Events Outcomes

- Demonstration of high profile branding of **Queensland Events** commensurate with the investment and those of other 'sponsors' of the event.
- Evidence that signage and hospitality was delivered at a minimum to the agreed level in accordance with Schedule 4.
- Evidence of opportunities provided for **Queensland Events/Queensland Government** representatives to be involved with all major announcements/high profile activities associated with the **Event**.
- Evidence that the event web site was linked to the **Queensland Events'** web site.
- Evidence that a plan was developed to identify Whole of Government opportunities through the **Event**.



KWS.4262\sb



Mr Ken Smith
 Director General
 Department of the Premier and Cabinet
 Level 15, Executive Building
 100 George Street
 BRISBANE QLD 4000

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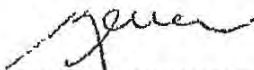
Dear Ken

I have sent this copy to give you a heads up on the Albion Park issue.

I need to get it resolved quickly to avoid it becoming a major public issue with the industry.

Thanks

Kind regards
SEYMOUR GROUP PTY LTD


KEVIN W SEYMOUR, AM
CHAIRMAN

KWS.4261\sb

13 October 2010



Hon Anna Bligh, MP
Premier of Queensland and
Minister for the Arts
Level 15, Executive Building
100 George Street
BRISBANE QLD 4002

Dear Premier

It is with some reluctance I write to you knowing the issues you are addressing at the moment.

However due to developments with Racing Queensland I have to bring to your attention the difficulties the Harness Racing Industry is encountering.

We were given an assurance that Albion Park would remain the home of Harness Racing in the long term. Bob Bentley in his wisdom has repudiated this commitment and has applied to Government to sell Albion Park indicating to you that it would yield \$100M which he could use to relocate Harness Racing and build facilities for the Galloping Industry.

We totally reject this proposal as it could be suggested that he has engaged in deceptive and misleading conduct after giving an undertaking to retain Albion Park for our long term use.

The local residents are very clear in that they do not want to see any major development on the site other than the modest development we had proposed for the land that was surplus to our racing requirements.

We were also promised that we would get 16% of the money he received from Government for a new grandstand to replace the unsafe Russ Hinze stand.

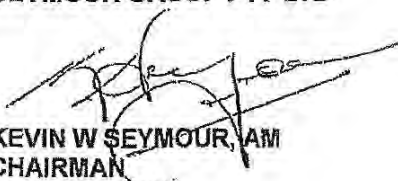
Needless to say the promise has not been fulfilled!

I personally do not want to make this a public issue, but unless we get it resolved quickly, emotions from within the industry will ultimately see the matter develop into a major issue.

Government can resolve it quickly by confirming that Albion Park will continue for Harness Racing in the long term.

I will be happy to discuss at any time in an effort to reach a resolve.

Kind regards
SEYMOUR GROUP PTY LTD



KEVIN W SEYMOUR, AM
CHAIRMAN

P12237

Jessica Eggleton

From: DPC Correspondence
Sent: Friday, 15 October 2010 4:54 PM
To: Jessica Eggleton
Subject: FW: National Trotguide - "An act of bastardary"
Attachments: TROT1410p003.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

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Tracking Folder No:	TF/1024924	

From: Karen Cowell
Sent: Friday, 15 October 2010 4:31 PM
To: DPC Correspondence
Subject: FW: National Trotguide - "An act of bastardary"

ECU, please register for any necessary action. I note that Kevin Seymour has also written to the Premier regarding Harness Racing (TF/10/24524 and TF/10/24423).

From: Kevin Seymour [mailto:kseymour@seymourgroup.com.au]
Sent: Friday, 15 October 2010 9:32 AM
To: Ken Smith
Subject: National Trotguide - "An act of bastardary"

Dear Ken, attached is an article from the National Australian Harness Weekly.

I thought it represented how harness racing feels about Racing Queensland and their actions.

What is more disturbing is that we understand there is more bad news to be released according to well informed sources.

Thanks

Kind regards
SEYMOUR GROUP PTY LTD

Kevin Seymour

KEVIN W SEYMOUR, AM
CHAIRMAN

p: 07 3226 8799

f: 07 3221 1644

kseymour@seymourgroup.com.au



SEYMOUR

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An act of bastardry

ALBION PARK AND GOLD COAST TO FALL BY THE WAYSIDE TO FILL RQL'S COFFERS

By ANDREW GEORGIU

QUEENSLAND harness racing could be set to face arguably one of its darkest periods in history according to many of those involved in the code, and all to the betterment of the thoroughbred industry.

The industry is looking at the prospect of losing its two principal tracks, Albion Park by sale and Gold Coast to be reclaimed by government, in a radical proposal put forward by the thoroughbred code-dominated Racing Queensland Limited - the controlling body in the State.

And what's more, harness racing is set to relocate to the somewhat remote regions of Deagon and Ipswich, where tracks are set to be constructed inside the existing thoroughbred circuits.

The news will come as a shock to most participants who were told that "Albion Park is to remain the long term home of harness racing in the State" not so long ago by RQL.

One harness racing participant, who wished to remain anonymous due to the possibility of reprimand, described the about-face by RQL as akin to a "stab in the back" as the control board reneged on its Albion Park promise.

"Many participants supported the formation of RQL, albeit with only one harness racing representative, as this was good corporate governance and the way forward for racing in this State, by which we may now well rue the day it (RQL) came into existence participant stated.

A newspaper article in Queensland's mainstream tabloid, Courier Mail, penned by veteran scribe Bart Sinclair outlines a secret 'Asset Management Plan' drafted by RQL Chairman Bob Bentley to sell Albion Park for approximately \$100million.

In an outrageous move, the money from the sale of the metropolitan venue will then be set aside and dedicated to upgrades of thoroughbred tracks at the Gold Coast, Beaudesert, Mackay, Cairns and Rockhampton.

The proposal was said to be put forward by the government appointed Mr Bentley to the Queensland Cabinet late last week.

While the document itself hasn't been released as yet, National Trotguide understands its contents paint a very dull picture for harness racing and greyhound racing in the Sunshine State.

While Albion Park, the State's home of harness racing, will be sold, Gold Coast's Parklands Complex, which hosted the Watson

Inter Dominion Championships just two seasons ago, is set to be taken over. That piece of land will be virtually handed to the Gold Coast University Hospital as it is government owned.

With no Albion Park or Gold Coast to host meetings, RQL's proposal will see harness racing's only TAB venues being inside Deagon and Ipswich racetracks from May 2012, with the construction of harness racing and greyhound tracks at both venues to commence next year.

The RQL proposal appears to be fast-tracked to fall within the term of the current Bligh government without having any consultation with key stakeholders in the racing industry, yet has a total estimated cost of \$196.6 million.

Late Tuesday afternoon, RQL responded to the Courier Mail article and calls from National Trotguide with this statement from Mr Bentley:

"A submission for additional funding for the entire racing industry is currently before the State Government for its consideration.

"This funding submission, if successful, would fund the strategic asset development plan which was drafted in consultation with key stakeholders and where possible reflects their input.

"It also contains expert input from engineers and architects who visited major thoroughbred, harness and greyhound clubs around the State to define a scope around the investment required to improve the standard of key industry facilities.

"It will be up to the Government to consider the submission and therefore it is premature to comment on specific detail."

A plan to borrow a further \$100 million from Queensland Treasury Corporation is also part of the blueprint for racing's three codes.

Queensland's leading metropolitan trainer, John McCarthy, said he was shocked to hear of a possible move away from Albion Park.

"If we as an industry couldn't get a better facility to what Albion Park has to offer us now, then I believe a move away from there would be a major step back for our sport," he said.

"We haven't really been in the loop with what's happening with news of a possible sale from Albion Park, but I definitely wouldn't be happy about that.

"I've had a lot of good moments there and the track is one of the best going around.

"As far as I was aware, Racing Queensland Limited told us that Albion Park was set to be the home of harness racing in this State."

RQL is the governing body for all three codes in Queensland and as part of the merger with the harness racing industry last year, took over all the assets of the code, including any racetracks.

With that in mind, RQL have the power to do as they wish and with the backing of the State Government, appear as though they cannot be opposed even if their plans cause angst among participants.

Some of the actions instigated by RQL since its inception earlier this year involving harness racing to date have been criticised as destabilising to the code.

These include the suspension of racing at Redcliffe and the dramatic standing down of Chief Steward Martin Knibbs.

Many believe a continuation of such actions will place harness racing in an irreparable position.

This latest news could well see many all ready disgruntled participants lose all confidence in the administration and hasten their exit from harness racing in such an occurrence the only beneficiaries will be the thoroughbred participants.



SPEED TEST

By ANDREW GEORGIU

SATURDAY night's Rapidvite Be Good Johnny Sprint at Albion Park is set to be a cracker.

A field of brilliant sprinters and equally tough stayers has been assembled for the \$25,000 feature over 1660 metres, with the winner likely to gain rave reviews from Directors of the NSW Harness Racing Club in the lead-up to the SBW Eurodrive Miracle Mile.

Queensland is represented by seven of the nine runners, with Lonester Legend and Karlon Mlek, drawn barriers four and five respectively, the only interstateers.

Champion Blacks A Foke has come up with gate six while Washkole (one) is one of four runners for Albion Park's leading mentor John McCarthy.

His other runners are Be Good Johnny (seven), Brof City Beau (eight) and Crown Bromoo (nine), while his son Luke McCarthy will handle former Inter Dominion winner Mr Feelgood (three).

Fox Valley Appeal (two) is the other runner in the event.

Formguide Directory

THURSDAY

- BATHURST page 19
- PENRITH page 21
- GOLD COAST (field) page 82
- ARARAT (field) page 84

FRIDAY

- HAROLD PARK page 11
- MELTON page 18
- YOUNG page 23
- GOLD COAST page 25
- GLUCESTER PARK page 27

SATURDAY

- ALBION PARK page 28
- NEWCASTLE page 31
- NYAH page 33
- GLOBE DERBY page 85

SUNDAY

- TAMWORTH page 27
- HOBBART (field) page 44

General

- BUSH TELEGRAPH page 8
- BREEDING BARN page 10
- RESULTS page 85, 86 & 84
- CLASSIFIEDS page 71
- HORSE TRADER page 72
- TRIALS page 73
- SA NEWS page 75
- VA NEWS page 76
- NZ NEWS page 77

Trotguide

PRODUCTION MANAGER
Andrew Georgiou

ASSISTANT EDITOR
Paul Courts

STAFF JOURNALISTS
Mimi Kocuga, Amanda Blaino, Anthony Senechal, Convidy Freacik, 1300 085 401

TELEPHONE: (07) 3815 1233
MOBILE: 0412 230 518
FAX: (07) 3815 1841

WEB SITE
http://www.trotguide.com.au

EMAIL
trotguide@trotguide.com.au

POSTAL ADDRESS
All correspondence to be addressed to:
National Trotguide
PO Box 227, GLEBE NSW 1589
Phone: (02) 9590 3098
Fax: (02) 9590 9497
Business PITY LTD
24 Lion Power Place, Macquarie NSW 2104
Telephone: (02) 9518 1130

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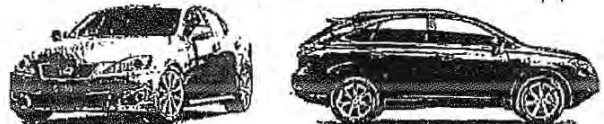
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Jessica Eggleton

712237

From: DPC Correspondence
Sent: Thursday, 21 October 2010 12:30 PM
To: Jessica Eggleton
Subject: FW: Palmer hits out at track sale proposal
Attachments: image2010-10-21-090740.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Jess

Please register and NFA. Relate to all other Kevin Seymour corro on this issue. Make a note that response is being prepared under TF/10/24524 and email a TRIM ref to Ec Pol for information.

Ta
Jan

Jan Hatton
Manager, Executive Correspondence
Executive Correspondence Unit
Department of the Premier and Cabinet
Level 4, Executive Building, 100 George Street Brisbane QLD
PO Box 16185, City East QLD 4002
Ph: (07) 3247 3486 | Fax: (07) 3211 0204
Short Dial: 72486
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From: Karen Cowell
Sent: Thursday, 21 October 2010 11:34 AM
To: DPC Correspondence
Subject: FW: Palmer hits out at track sale proposal

ECU, please note additional correspondence from Kevin Seymour to the DG in regards to racing (response under TF/10/24524) KC

From: Kevin Seymour [mailto:kseymour@seymourgroup.com.au]
Sent: Thursday, 21 October 2010 8:58 AM
To: Kevin Seymour
Subject: Palmer hits out at track sale proposal

Interesting to see Clive Palmer has come out in support of Albion Park.

Thanks

Kind regards
KW & K SEYMOUR

Kevin Seymour

KEVIN W SEYMOUR, AM
p: 07 3226 0799
f: 07 3221 1644
kevin@seymour@seymourgroup.com.au

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Previous Clive Palmer Next

Palmer hits out at track sale proposal

Yachting at 1:30pm
By Glenn Davis

BRISBANE, Oct 28 AAP - Mining magnate Clive Palmer believes the harness and greyhound industries are doomed if Racing Queensland's proposal to sell Albion Park goes on.

Palmer wants the Queensland Government to rein in Racing Queensland Chairman Bob Bentley over his plans to sell Brisbane's famous venue.

Palmer, an avid harness racing supporter, said the latest asset sale proposal would be the death of harness and greyhound racing in Queensland and Bentley should be brought to account over the plan and other Racing Queensland activities.

"Bob the bidder must be reined in by the state government before he creates further chaos," Palmer said.

"I cannot believe a venue which is so entrenched in the fabric of Brisbane can be sold off to the highest bidder, possibly to make way for more high density housing.

"This will mean the end of the major codes of harness and greyhound racing in Brisbane and a sad end to a unique part of the city's sporting and social landscape."

Palmer was highly critical of the Racing Queensland board for not being upfront about the asset management plan which will see harness and greyhound racing relocated from Albion Park to Deagon and Ipswich and the scrapping of a proposed premier dog track at Logan.

"It's simply not good enough for Queenslanders to learn via a media leak that the state's premier metropolitan harness and greyhound destination is being bogged off for urban land development," he said.

Palmer said he could not understand why anyone would want to move harness racing from the Gold Coast.

The Inter-Dominions were voted the most successful in history when held on the Coast and contributed \$1.1 billion to the state's economy, he said.

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Crown Law

Your ref: Leighton Craig
Our ref: CDC/PRE052/1847/FRH
Contact: Helen Freemantle
Direct ph: 323 96920
Direct fax: 3239 6386

Department of
Justice and Attorney-General

10 November 2010

Mr Leighton Craig
Director, Constitutional and Administrative Law Services
Department of the Premier and Cabinet
PO Box 15185
CITY EAST Qld 4002

By email to: Leighton.Craig@premiers.qld.gov.au

Dear Mr Craig

Racing Queensland Limited - proposed sale of Albion Park Raceway

I refer to your e-mail this morning seeking urgent advice about the capacity of Racing Queensland to sell the Albion Park Raceway site.

Executive Summary

On the basis of certain assumptions that I set out below, including that Racing Queensland becomes the registered owner of the site, Racing Queensland has power to sell the site without having to meet the requirements of section 113 of the *Racing Act 2002*.

Background

My limited understanding of the relevant facts, based on your instructions and recent media coverage, is as follows.

Queensland Racing has indicated its intention to sell Albion Park Raceway. Clive Palmer is quoted in today's *Courier-Mail* indicating that he will seek to prevent the sale of the Albion Park Raceway and challenging the Minister for Tourism and Fair Trading to sack Bob Bentley, the chairman of Queensland Racing.

Mr Bentley has made a public response to Mr Palmer, saying that the sale of Albion Park Raceway is essential, as it is operating at a financial loss which is not sustainable into the future.

State Law Building
50 Ann Street Brisbane
GPO Box 5221 Brisbane
Queensland 4001 Australia
DX 40121 Brisbane Uptown
Telephone 07 3239 6703
Facsimile 07 3239 0407
ABN 13 846 673 994

Racing Queensland Limited – proposed sale of Albion Park Raceway

You seek advice about whether Racing Queensland is obliged to obtain the Minister's approval to the proposed sale.

Advice

Ownership of Albion Park Raceway

There are some 10 separate parcels of land comprising the Albion Park Raceway. Title searches for all 10 indicate that the registered proprietors are Queensland Harness Racing Limited and Greyhounds Queensland Limited as tenants in common in equal half-shares.

(47) The Racing Queensland website indicates that "the employees, assets, liabilities and responsibilities of the previous existing racing control bodies, Queensland Racing Limited, Harness Racing Queensland and Greyhounds Queensland Limited have been transferred to Racing Queensland Limited".

(48) I do not know how or why those transfers have taken place. So far as Albion Park is concerned, the transfers are not reflected on the land title register. However, I will assume for the purpose of this advice that:

- (1) • the statement on the Racing Queensland website is correct;
- (2) • that transfers of the parcels of land have not yet been lodged with the registrar of titles, but will be;
- (3) • Racing Queensland itself, and not Queensland Harness Racing Limited and Greyhounds Queensland Limited, will effect the proposed sale.

If those assumptions are not correct, this advice will have to be revisited.

Application of section 113 of the Act

You have instructed me that Racing Queensland believes that section 113 of the Racing Act does not apply to it because it is a control body, and that it is able to proceed under section 113AA.

The relevant parts of section 113 of the Act provide:

113 Prohibition of disposal of assets etc. of non-proprietary entity

- (1) A non-proprietary entity may not dispose of any of its asset unless—
...
(b) if the asset is an interest in real property and is used for a purpose mentioned in subsection (2)—the asset is disposed of under that subsection; or
...
(2) Despite this Act or another Act, or a law, custom or practice, the entity must not dispose of an interest in real property that is used for the

following purposes without the approval of the Minister obtained before the disposal—

- (a) a licensed venue;
- (b) a place for exercising, conditioning or training licensed animals.

- (4) The Minister may, under subsection (2), approve the disposal of an asset that is an interest in real property used for a purpose mentioned in that subsection only if the following happened before the entity sought the Minister's approval—
 - (a) the majority of the entity's members present at a meeting of it approved of the disposal;
 - (b) the relevant control body's approval was obtained.
- (5) A relevant control body may grant an approval mentioned in subsection (4)(b) on conditions the control body considers appropriate including a condition requiring a stated portion of the proceeds of the disposal of the asset to be paid to the control body for use by the control body for the benefit of its code of racing.

I assume for the purpose of this advice that Albion Park Raceway is both a licensed venue and a place for exercising, conditioning or training licensed animals. (Section 113(2) is unclear whether both those aspects must be met or only one.)

In order for section 113 to apply to Racing Queensland, it must be a "non-proprietary entity". This involves consideration of a number of definitions in the Act.

Non-proprietary entity is defined in section 111 as meaning either:

- a licensed club that is a non-proprietary club; or
- a corporation that was a licensed club and, when it was licensed, was a non-proprietary club.

A *club*, as defined in schedule 3, can be a corporation, which has as part of its objects the object of promoting animal racing of a particular breed or type of animal.

Racing Queensland's constitution provides in clause 3 under the heading "Objects" that:

- the objects of the company are to exercise the powers and perform the functions of a control body;
- its income and property will be applied solely for the promotion of the objects of the company and that no income or property may be paid as dividend or profit to the members of the company; and
- the company will, in exercising the functions and powers of a control body, have regard to the best interests of the thoroughbred, harness and greyhound racing codes as a whole and the continued existence and welfare of each individual code.

It is possible that Racing Queensland would be captured by the definition of "club".

A *non-proprietary club* is defined in schedule 3 as being a club with a constitution that provides for the application of all of the club's profits and other income to the promotion of the club's objects and prohibits the payment of dividends to the members of the club. Racing Queensland would possibly be captured by this definition.

A *licensed club* is defined in schedule 3 to the Act as being a club licensed by a control body to hold race meetings for the control body's code of racing. I do not consider this definition would extend to the control body itself.

If Racing Queensland is not a licensed club then it would not fall within the definition of a "non-proprietary entity" and therefore Racing Queensland is correct in arguing that section 113 does not apply to it.

On the other hand, if Queensland Harness Racing Limited and Greyhounds Queensland Limited (and not Racing Queensland) were to be the vendors, and if (as seems likely based on my limited instructions) they are non-proprietary entities, the requirements of section 113 would apply to a sale by those entities. In that case, the approval of their members, Racing Queensland and the Minister would be required.

Application of section 113AA

Section 113AA provides:

113AA Dealing with assets of non-proprietary entity

A non-proprietary entity must not deal with an asset of the entity other than under—

- (a) a policy of the relevant control body; or
- (b) a written approval of the relevant control body, obtained before the dealing and relating to that asset.

If section 113 does not apply to Racing Queensland because it is not a non-proprietary entity, then equally section 113AA would not apply. Both provisions are directed at non-proprietary entities.

In any event, 'deal with' is defined by section 111 not to include disposal. It seems clear enough that a sale of the sort contemplated would be a disposal, and therefore not a dealing within the meaning of section 113AA.

Functions and powers of Racing Queensland

According to its website, Racing Queensland was appointed under the Racing Act as from 1 July 2010 as the control body for the thoroughbred, harness and greyhound racing codes.

The functions of a control body under the Act are essentially to manage the relevant racing code for which it is appointed, including the involvement of animals, clubs, participants and venues in the code (section 7(1) and section 33(1) of the Act).

In order to be eligible for appointment as a control body, an applicant must be a corporation established under the *Corporations Act 2001* (Cth) (Racing Act, section 8).

The powers of a control body are set out in section 34 of the Racing Act and include powers in relation to animals, clubs, participants and venues. The powers in relation to venues include:

- to license venues (section 34(1)(a));
- to assess the performance of venues and their suitability to continue to be licensed (section 34(1)(b));
- to make decisions about, and allocate funding for, venue development and other infrastructure for the relevant racing code (section 34(1)(g)); and
- to require a licensed club to do something or refrain from doing something (section 34(3)).

In addition, under section 35, where a control body controls more than one racing code, as is the case with Queensland Racing, the control body must make decisions that are in the best interests of all the codes, while having regard to the interests of each individual code.

There is no express power in the Act for a control body to sell or dispose of assets or venues. Section 33(2) provides that a control body has all the powers necessary for it to manage the racing code for which it is appointed and “all other powers necessary for discharging the obligations imposed on the control body” under the Act.

Under section 34(1)(b), a control body has power to assess the performance of venues and their suitability to continue to be licensed. If the control body assesses a venue such as Albion Park Raceway as unsuitable to continue to be licensed, what flows from that? It seems to me there is a reasonable argument that a control body would have power to dispose of a venue that is no longer suitable to be licensed, so that the proceeds of sale would be available to assist in developing other relevant infrastructure.

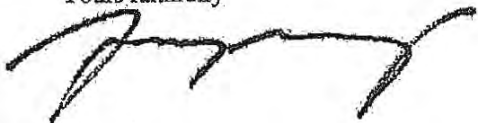
In any event, section 124(1) of the *Corporations Act* provides that a corporation has the legal capacity and all the powers of an individual. There is no doubt that an individual has the power to acquire, hold and dispose of real property.

While the capacity of Racing Queensland to dispose of real property under its general *Corporations Act* power must be interpreted in light of the scheme of the *Racing Act*'s provisions, on the basis of the assumptions I have set out earlier, I incline to the view that Racing Queensland does have power to sell Albion Park Raceway without requiring the Minister's approval. I emphasise that this opinion is given on the basis of limited instructions and a limited understanding of the facts. If any of those prove not to accord with my assumptions, this advice should be revisited.

Racing Queensland Limited – proposed sale of Albion Park Raceway

If I can be of any further assistance, please do not hesitate to contact me.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Tony Keyes', written in a cursive style.

Tony Keyes
Senior Deputy Crown Solicitor
Commercial and Public Law

Kathryn Zahran

From: Leighton Craig
Sent: Thursday, 11 November 2010 10:32 AM
To: Kathryn Zahran
Subject: FW: Proposed sale of Albion Park raceway

Hi Kathryn

Further to below, I've logged an urgent call with Sinead McCarthy and Claire Cooper to get the ball rolling on this -- both are in meetings. I'll be unavailable shortly due to ExCo, so will get Kirstie to transfer them to you. If they haven't called shortly, we may need to start chasing this down.

On page 2 of Tony's advice there is a clear list of the assumptions we need to confirm, and an additional one on page 3. These are:

- 1. The statement on RQ's website is correct re the transfer of assets from the former bodies
- 2. That transfers of the parcels of land have not yet been lodged
- 3. RQ itself and not the Queensland Harness racing Ltd and Greyhounds Qld Ltd will effect the proposed sale
- 4. Albion Park Raceway is both a licensed venue and a place for exercising, conditioning and training licensed animals.

You might like to do a quick review and see if there is anything else we need to firm up Tony's advice.

Thanks for your help with this.

Leighton

Leighton Craig
Director
Constitutional and Administrative Law Services
Department of the Premier and Cabinet

p: 322 58244
m: 0457 782 636
f: 3229 7494

Ken also wants to know if there are any constraints on the title re: future use & what approvals are needed for any future use.

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From: Leighton Craig
Sent: Thursday, 11 November 2010 9:55 AM
To: Kathryn Zahran
Cc: Tim Herbert
Subject: FW: Proposed sale of Albion Park raceway

Hi Kathryn

I'm going to be tied up with Executive Council this morning. Wonder if you could pls progress this as a matter of urgency today, with a view to DEED filling some of the gaps that have lead to the assumptions in the Crown Law advice.

Happy to discuss

Leighton

Leighton Craig
Director
Constitutional and Administrative Law Services
Department of the Premier and Cabinet

p: 322 68244
m: 0457 782 836
f: 3229 7494

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From: Sharon Bailey
Sent: Thursday, 11 November 2010 9:48 AM
To: Leighton Craig
Cc: Tim Herbert; Patrick Vidgen
Subject: RE: Proposed sale of Albion Park raceway

Not at all, let's do it

From: Leighton Craig
Sent: Thursday, 11 November 2010 9:27 AM
To: Sharon Bailey
Cc: Tim Herbert; Patrick Vidgen
Subject: FW: Proposed sale of Albion Park raceway
Importance: High

Hi Sharon

Any concerns with me forwarding this advice to DEEDI legal so we can start to square away the assumptions as per Bronwyn's email? Not sure we get gather the info by other means...

Leighton

Leighton Craig
Director
Constitutional and Administrative Law Services
Department of the Premier and Cabinet

p: 322 68244
m: 0457 782 836
f: 3229 7494

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From: Bronwen Griffiths
Sent: Wednesday, 10 November 2010 6:06 PM
To: Patrick Vidgen; Ken Smith
Cc: Leighton Craig; Tim Herbert; Paul Sariban
Subject: FW: Proposed sale of Albion Park raceway
Importance: High

Thanks Pat

Given the caveats in Tony's advice, will you prepare further advice on the assumptions in consultation with DEEDI?

I've left a copy of the Crown Law advice with Lachlan in the Premier's office and said we would get some further advice up tomorrow on the assumptions underpinning the advice. Lachlan also mentioned that he had sought some advice on the planning approval process from Ken – did this request come to you?

Happy to discuss further.

Bronwen Griffiths
Acting Associate Director General
Department of the Premier and Cabinet
Phone 340 62140

From: Patrick Vidgen
Sent: Wednesday, 10 November 2010 5:35 PM
To: Bronwen Griffiths
Cc: Leighton Craig; Tim Herbert
Subject: FW: Proposed sale of Albion Park raceway
Importance: High

As discussed.

Pat Vidgen
Deputy Director-General | Governance | Department of the Premier and Cabinet
Phone: 07 3224 9084 | Short Dial: 46081 | Mobile: 0407 339 887 | Fax: 07 3224 2030
Level 4, Executive Building, 100 George Street, BRISBANE QLD 4000

Queensland Government, energy, trade, justice, health and fire www.qld.gov.au
Please consider the environment before printing this email

From: Tim Herbert
Sent: Wednesday, 10 November 2010 5:34 PM
To: Patrick Vidgen
Subject: Fwd: Proposed sale of Albion Park raceway

Sent from my iPhone

Begin forwarded message:

From: Tony Keyes <Tony.Keyes@crownlaw.qld.gov.au>
Date: 10 November 2010 5:13:45 PM GMT+10:00
To: Leighton Craig <Leighton.Craig@premiers.qld.gov.au>
Cc: Tim Herbert <Tim.Herbert@premiers.qld.gov.au>, Helen Freemantle <Helen.Freemantle@crownlaw.qld.gov.au>
Subject: Proposed sale of Albion Park raceway

Leighton

My advice is attached.

Regards
Tony Keyes
Senior Deputy Crown Solicitor
Commercial and Public Law
Crown Law
Ph: 323 96190

<<CL_DOCS-#2857563-v1-SDCS_advice_to_DPC_re_proposed_sale_of_Albi3n_Park_raceway.PDF>>

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Kathryn Zahran

From: Leighton Craig
Sent: Friday, 12 November 2010 9:52 AM
To: Kathryn Zahran
Subject: FW: URGENT advice on Proposed Sale of Albion Park

Hi Kathryn

See email chain below. I'll chase down CL re the encumbrance issue, but wonder if you might speak to DEEDI re the DG's query about what needs to happen to transfer title – DEEDI note below the transfer documents haven't been lodged yet but will be – perhaps we could ask for timeframe.

Happy to discuss

Leighton

Leighton Craig
Director
Institutional and Administrative Law Services
Department of the Premier and Cabinet

p: 322 58244
m: 0457 782 636
f: 3229 7494

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Please consider the environment before printing this email

From: Sharon Bailey
Sent: Friday, 12 November 2010 9:44 AM
To: Leighton Craig
Subject: FW: URGENT advice on Proposed Sale of Albion Park

I'm guessing you're already on this? I understand Treasurer's Office and Prem's Office are meeting this afternoon to discuss.

haven't found rogue ECM yet, but we're looking...

From: Ken Smith
Sent: Thursday, 11 November 2010 7:04 PM
To: Sharon Bailey
Cc: 'Lachlan Smith'
Subject: RE: URGENT advice on Proposed Sale of Albion Park

Thanks Sharon. Please provide the advice on the 10 parcels and confirm outcome of title search. Also, what needs to happen administratively to transfer properties to Racing Queensland? DEEDI should be able to advise on the latter

Regards

Ken Smith
Director-General
Department of the Premier and Cabinet

Phone: 07 322 44728 Fax: 3229 2049
Mobile: 0417 730 013
Email: Ken.Smith@premiers.qld.gov.au

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From: Sharon Bailey
Sent: Thursday, 11 November 2010 5:21 PM
To: Ken Smith
Subject: FW: URGENT advice on Proposed Sale of Albion Park

fyi

From: Leighton Craig
Sent: Thursday, 11 November 2010 4:54 PM
To: Sharon Bailey
Cc: Kathryn Zahran; Patrick Vidgen; Tim Herbert
Subject: FW: URGENT advice on Proposed Sale of Albion Park

Hi Sharon

As discussed, DEEDI has confirmed the assumptions that formed the basis of the Crown Law advice provided yesterday re Albion Park. So it appears the advice provided stands ie Racing Queensland does have power to sell Albion Park without the Ministers approval. (For the sake of completeness, I have asked Crown law to confirm this, but will not receive that advice until tomorrow morning).

On the matter of encumbrances on the title impacting future use, DEEDI has advised that when the State transferred the Albion Park raceway to the former control bodies in or around 2003, no constraints were placed on the land regarding future use. Again, I have asked Crown Law to check this title search to confirm this - advice to be provided tomorrow morning.

Trust this assists

Leighton

Leighton Craig
Director
Constitutional and Administrative Law Services
Department of the Premier and Cabinet

p: 322 58244
m: 0457 782 636
f: 3229 7494

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From: Leighton Craig
Sent: Thursday, 11 November 2010 4:07 PM
To: 'Tony Keyes'; Helen Freemantle
Cc: Kathryn Zahran; Tim Herbert
Subject: FW: URGENT advice on Proposed Sale of Albion Park

Hi Tony and Helen

I have attached below advice from DEEDI confirming the assumptions provided in your advice yesterday concerning the disposal of Albion Park.

Would greatly appreciate your return email confirming that, based on this additional information, the advice stands.

I'd also appreciate advice whether the title searches you conducted indicated any encumbrance that might impact on future use of the 10 parcels.


Much appreciated

Leighton

Leighton Craig
Director
Constitutional and Administrative Law Services
Department of the Premier and Cabinet

p: 322 56244
m: 0457 782 638
f: 3228 7494

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From: Cooper, Claire [mailto: Claire.Cooper@deedi.qld.gov.au]
Sent: Thursday, 11 November 2010 3:21 PM
To: Kathryn Zahran
Cc: McCarthy, Sinead; Tim Herbert; Leighton Craig
Subject: RE: URGENT advice on Proposed Sale of Albion Park

Dear Kathryn,

In response to your questions below, I am instructed:

1. The Department of Employment Economic Development and Innovation (DEEDI) confirms that the statement on the Racing Queensland's website is correct with regard to the transfer of assets from the former bodies.

Comment:

In this regard please refer to Part 6 Transitional Provisions for the Racing and Other Legislation Amendment Act 2010 of the *Racing Act 2002* (Qld) (sections 427 to 444).

In accordance with section 428, the Minister gave an approval to the new control body, Racing Queensland Limited to be the control body for the thoroughbred, harness and greyhound codes of racing. Therefore, under section 429, on 1 July 2010, all assets, liabilities, agreements and property of a former control body were transferred to the new control body, Racing Queensland Limited. Under section 429(2), the "registrar of titles or other person responsible for keeping a register for dealings in property must, if asked by the new control body, record the vesting of the property under this section in the new control body."

2. DEEDI confirms that the transfers of the parcels of land have not been lodged but will be.

Comment:

The transfer documents have been prepared but have not yet been lodged but will be.

3. DEEDI confirms that Racing Queensland is the entity that may effect the proposed sale (not Queensland Harness Racing Ltd or Greyhounds Queensland Ltd).

Comment:

In accordance with section 429, from 1 July 2010, the Albion Park site became the property of Racing Queensland and if it is to be sold, Racing Queensland will effect the proposed sale.

4. DEEDJ confirms that Albion Park Raceway is both a licensed venue and a place for exercising, conditioning or training licensed animals.

Comment:

The Albion Park raceway is both a licensed venue and a place for exercising, conditioning and training licensed animals.

Additional Comment:

It is stated in the Crown Law advice on page 4, that "If Queensland Harness Racing Limited and Greyhounds Queensland Limited (and not Racing Queensland) were to be the vendors, and if (as it seems based on my limited instructions) they are non-proprietary entities, the requirements of section 113 would apply to a sale by those entities...".

Please note that Queensland Harness Racing Limited and Greyhounds Queensland Limited were former control bodies. Section 113 only applies to licensed clubs not to control bodies. Queensland Harness Racing Limited and Greyhounds Queensland Limited have never been licensed clubs.

I hope this assists. Let me know if you require further information.

Regards

Claire Copper
A/Director (Mon-Thurs)

Commercial Law Group | Legal
Department of Employment, Economic Development and Innovation
Level 5, 80 Ann Street, Brisbane Qld 4000
GPO Box 46, Brisbane Qld 4001
t: +61 7 3224 2920
f: +61 7 3239 3949
e: claire.cooper@deedi.qld.gov.au

Website www.deedi.qld.gov.au Business Information Centre 13 25 23

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From: Kathryn Zahran [<mailto:Kathryn.Zahran@premiers.qld.gov.au>]
Sent: Thursday, 11 November 2010 11:38 AM
To: Cooper, Claire
Cc: McCarthy, Sinead; Tim Herbert; Leighton Craig
Subject: URGENT advice on Proposed Sale of Albion Park
Importance: High

Dear Claire

The Department of Premier & Cabinet would appreciate your urgent advice with regard to the capacity of Racing Queensland to sell the Albion Park Raceway site. You may have seen some media coverage recently concerning same. We have sought, and received urgent advice from Crown Law concerning:

- Who holds the title over the site; and
- What constraints exist on Racing Queensland re: disposal of the site.

Crown Law's advice relies on certain assumptions with regard to the capacity of Racing Queensland to sell the site, therefore, your advice would be appreciated in relation to ownership and certain ancillary information regarding disposal.

Albion Park Raceway comprises of 10 separate parcels of land, title searches have revealed the registered proprietors are Queensland Harness Racing Ltd and Greyhounds Queensland Ltd as tenants-in-common in equal half-shares. Crown Law's advice has relied on the following assumptions:

- The statement on the Racing Queensland website claiming the "the employees, assets, liabilities and responsibilities of the previous existing racing control bodies, Queensland Racing Ltd, Queensland Harness Racing and Greyhounds Queensland Ltd have been transferred to Racing Queensland Ltd" is correct;
- The transfer of the parcels of land have not yet been lodged with the registrar of titles, but will be;
- Racing Queensland itself, not Queensland Harness Racing Ltd or Greyhounds Queensland Ltd, will effect the proposed sale; and
- Albion Park Raceway is both a licensed venue and a place for exercising, conditioning or training licensed animals.

We require DEEDI to substantiate that these assumptions are, in fact, correct. Please can you confirm, or otherwise, the following:

1. The statement on the Racing Queensland's website is correct with regard to the transfer of assets from the former bodies.
2. That the transfers of the parcels of land have not been lodged but will be.
3. Racing Queensland will effect the proposed sale (not Queensland Harness Racing Ltd or Greyhounds Queensland Ltd).
4. Albion Park Raceway is both a licensed venue and a place for exercising, conditioning or training licensed animals.

Please can you also advise if there are any constraints on the title in relation to future use?

Apologies for the short notice however we require your advice before **COB today**.

Thank you.

Kind Regards

Kathryn Zahran

LL.B (Uni of Qld); GradDipLegPrac (QUT); LL.M (QUT)

Principal Legal Officer

Department of Premier and Cabinet

p : 3237-1040

f : 3229-7494

m: 0423 596 057

e: Kathryn.Zahran@premiers.qld.gov.au

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Lucinda Kasmer

From: Brooke Ford [Brooke.Ford@ministerial.qld.gov.au]
Sent: Friday, 26 November 2010 12:48 PM
To: Brief Premier
Cc: Linda Whatman
Subject: URGENT - brief for Premier Mon 29 Nov - Qld Racing Industry / Albion Park
Attachments: img-Y221313-0001.pdf

Importance: High

Hi Sheila,

As discussed, please request an urgent brief (to Premier today 5pm) for the Premier's meeting with Mr Kevin Seymour on Monday 29 Nov at 2.15pm.

Please find attached a confidential letter from Mr Seymour with the matters to be discussed. Attending: Treasurer, Minister Lawlor, DG, Lachlan Smith and Stephen Beckett.

This follows a meeting the Premier had with Bob Bentley about similar issues on 9 November.

Stephen Beckett has suggested Linda Whatman may be able to provide some insight as well.

Thanks again and sorry for the late notice.

<<img-Y221313-0001.pdf>>

KInd Regards,

Brooke Ford
Personal Assistant to the Premier and Minister for the Arts The Honourable Anna Bligh MP
T: 07 3224 5746 | M: 0407 947 504 | E:
Brooke.Ford@ministerial.qld.gov.au

Kevin and Kay Seymour

KWS.4302\sb

22 November 2010

Hon A Bligh, MP
Premier of Queensland
Minister for the Arts
Level 15, Executive Building
100 George Street
BRISBANE QLD 4000

STRICTLY CONFIDENTIAL

Dear Premier

There has been for some time now much misinformation in the public arena about Harness Racing and Greyhounds.

Bob Bentley has been quoted in the newspaper that Harness Racing lost \$1,349,000 last year but he has failed to explain this claim.

The facts are:

- Bob Bentley negotiated with some of the Corporate Bookmakers to reduce the Race Fields Charges by in excess of half from \$2,145,114 to \$966,114 – an adjustment of \$1,179,000 in accordance with a letter received from Racing Queensland of 4 November 2010.

He did not seek approval of Harness Racing Queensland Board.

Nor did he wait for the outcome of the NSW Court case.

- He agreed to pay Victorian Racing an additional \$804,031.
- The two items referred above impacted the financial performance of Harness Racing Queensland in the year of 30 June 2010 by \$1,983,031.
- Harness Racing received less from UNITAB, part of which was impacted by the reduced Galloping income from fixed price wagering.

Whilst these costs are significant for Harness Racing they were major for Galloping which can be multiplied by up to six (6) times.

- Even with these imposts that have been imposed on Harness Racing in 2010, he has failed to admit that Harness Racing produced a profit in 2008/09 of \$1,108,326.
- Albion Park also has been highly successful producing substantial profits:

2004/2005	\$154,786	Profit	
2005/2006	\$347,198	Profit	
2006/2007	\$493,452	Profit	
2007/2008	\$13,101	Profit	
2008/2009	\$-152,336	**Loss	**Inter Dominion
2009/2010	\$177,000	Profit	

Unit 33
One Macquarie Street
Teneriffe Qld 4005

Phone: (work) 3226 8799
Phone: (home) 3358 6644 Fax: 3358 6622
Mobile: 0418 842 233

...2

The only loss incurred as expected in running the Inter Dominion without a Government or Events Corporation contribution

It also has to be noted that Albion Park has operated for the past two years without a grandstand and no income from catering or sponsorship – a significant liability as a result of the demolition of the Russ Hinze Stand.

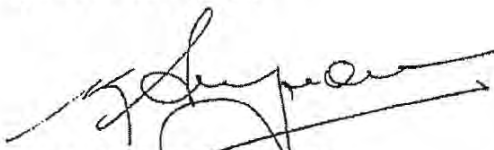
It is also interesting to note that the major galloping clubs in 2008/2009 incurred losses as follows:

• Queensland Turf Club	\$-990,908	Loss
• Gold Coast Turf Club	\$-497,189	Loss
• Townsville Turf Club	\$-390,641	Loss
• Brisbane Turf Club	\$-380,012	Loss
• Toowoomba Turf Club	\$-148,187	Loss
• Sunshine Turf Club	\$-44,609	Loss

For whatever reason there has been a campaign to paint a picture of continuing losses and statements that Harness Racing is trading at a loss are simply not true.

Bob Bentley as Chairman of Racing Queensland has a corporate and moral responsibility to act in the best interest of Harness Racing and his seeming lack of commitment is extremely disappointing.

Kind regards
KW & K SEYMOUR



KEVIN W SEYMOUR, AM

PREMIER'S BRIEFING NOTE

Policy

To: **THE PREMIER**
Date: 26 November 2010
Subject: Meeting with Mr Kevin Seymour on Monday,
29 November 2010 (2.15pm)

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• RECOMMENDATION

It is recommended that you note issues raised in this brief.

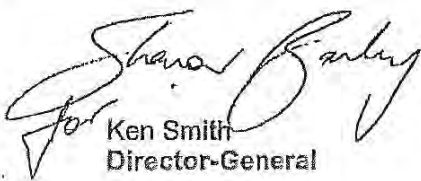
P12821

• KEY ISSUES

- Racing Queensland Limited (RQL) was recently established to provide for improved decision making for the racing industry as a whole, including in relation to any proposals that may be presented to the Queensland Government for consideration under its Racing Industry Capital Development Scheme. Since 1 July 2010, Harness Racing Queensland (HRQ) has had no assets, liabilities or responsibilities.
- RQL is responsible for conducting consultation with the Queensland racing industry in the development of its industry plan, and it is expected that public release of the plan and detailed consultation by RQL will be undertaken shortly.
- The Albion Park raceway site has been a matter of considerable contention within the racing industry and wider community for some time. For example, the Brisbane City Council Albion Neighbourhood Plan indicates the preferred option is to relocate the raceway to allow redevelopment more appropriate to an inner city location.
- Any change to the future use of Albion Park Raceway is a matter for RQL, as both the owner and the control body for racing in Queensland.
- The Office of Racing confirms the reported profit, by Mr Seymour, of \$1,108,326 from 2008-09 HRQ financial statements; but is unable to verify the reported 2009-10 financial figures.
- Mr Seymour has provided operating results for Albion Park for the last six years, which record profits in all but one year (2009). However, it appears the figures provided are those of the Albion Park Harness Racing Club, which conducts races at the venue – not the Albion Park Raceway, which operated the venue. The Albion Park Raceway, which operated up to 1 July 2010, under a joint venture between the former HRQ and greyhound control body, sustained significant operating losses over a number of years.
- Overall, over the past 10 years, the harness racing code has been subsidised by revenue generated by the thoroughbred and greyhound codes.

• BACKGROUND

- Mr Kevin Seymour AM, former deputy chairman of the previous harness racing control body, HRQ, has requested a meeting with you.
- Mr Bentley wrote to the Chairman of the Albion Park Harness Racing Club on 22 November 2010 in response to a letter received from the club and criticism of the control body in the media. The letter (**Attachment 1**), which appears on Racing Queensland's website, provides background to the challenges confronting RQL, the harness code in particular, and the wider industry.


Ken Smith
Director-General

Comments (Premier or DG)

Action Officer: Nick Lindsay	Approvals by Director / ED / DDG
Area: ECP	documented in notes in TRIM
Telephone: 323 83329	

22 November 2010

Mr Warwick Stansfield
Chairman
Albion Park Harness Racing Club
PO Box 296
ALBION QLD 4010

Dear Warwick



Racing Queensland Limited
A.B.N 62 142 765 674
Racecourse Rd Deagon QLD 4017
PO Box 83 Sandgate QLD 4017
T 07 3869 0777
F 07 3209 6404
E info@racingqueensland.com.au
W www.racingqueensland.com.au

Thank you for your letter of Friday the 19th November, expressing your Club's concerns on "the state of the Harness Industry". It would have been preferable that your Club gave Racing Queensland Limited the opportunity to respond rather than immediately seeking media exposure.

The former Queensland Racing Limited will hold its annual meeting on the 6th December and the results for 2009/10 will be open for confirmation. The results are audited and have been sent to all "A" class shareholders in advance of the annual meeting.

The former harness racing Board Members have the audited results of that organisation and it is their duty to schedule their annual meeting for the harness industry "A" class shareholders and release the results, not Racing Queensland Limited.

There is a disconnect in the perception that Racing Queensland Limited is critical of the Albion Park Harness Racing Club, this is not the case and there has been no mention of the Club in any correspondence or comment. The strong operating surplus and cash position of the Club is recognised and should be commended. The meeting with your Club prior to the amalgamation and since with individual members indicated that they were looking for change in the operating structure between the Club and the control body. Racing Queensland Limited has given assurances that there would be a new operating structure introduced after consultation with the Clubs.

Prior to the amalgamation of the three codes into one control body, the early amalgamation meetings did discuss the retention of Albion Park and the possible allocation of funds by code, the future of the product and programme agreement, employee retention and other related matters. I do not dispute that the harness code wanted, as a condition that Albion Park remain the home of harness and likewise the greyhound code, which at the time were 50% owners, were equally adamant that if harness was to keep Albion Park then the greyhound code would require fair compensation. Fair compensation was not the pittance the harness Board had offered on previous occasions.

It is common knowledge that the joint ownership and usage of Albion Park was not successful in the past and as discussions progressed, it was clear that if conditions were placed on Albion Park or any asset of the merged Board then this would impede the industry in restructuring.

The issue of any assurances given to the thoroughbred, harness and greyhound codes prior to the amalgamation was addressed in a letter to the Chairman of the harness Board on the 5th February, 2010. The letter was received by the harness Board on the 8th February, well in advance of the harness Board making their decision to amalgamate.

As stated in the abovementioned letter:

"The matters outlined above are matters for the incoming 3 code Board. Neither the current Board of QRL nor myself as Chair of Queensland Racing, have any mandate to decide these outcomes or furnish any guarantees. I understand from the correspondence from the Queensland Government that it has outlined its position that it will not be mandating any guarantees in future legislation.

The assurances being sought in your correspondence seek to lock a future Board of 3 codes into an impossible situation having to agree on issues that may not be economically feasible or affordable. The purpose of the new control body structure is to secure the future of the 3 codes and restructure the industry to meet the challenges that lie ahead.

....I am prepared to facilitate a meeting to discuss any issue but stress that no binding decision or guarantee is capable of being made."

The industry infrastructure plan will be released shortly for comment. I assure you that there have been multiple combinations and options explored to achieve the current plan. The plan cannot be code specific and there will be issues for all codes that do not fit their wish list.

I note your letter suggests that there should be code specific upgrades at Albion Park. This is understandable as this would benefit the Albion Park Harness Racing Club in isolation. There is no recognition that the greyhound code was a 50% owner of Albion Park and would remain under the Albion Park harness plan as an infield operation. This, I can assure you, is not acceptable to the greyhound club or greyhound stakeholders.

I respect your right of opinion that the harness racing industry is at an all time low, but with respect, the industry has been in decline for a number of years with falling attendance, low foaling numbers and diminishing wagering outcomes. At the recent annual meeting of Harness Racing Australia, where you were present, the Australian Harness Board discussed these very issues and the problems within the industry you seem keen to blame of Racing Queensland Limited are endemic. To somehow accuse Racing Queensland Limited after four months of amalgamation as the cause is far fetched.

The Club should look deeper at the problem and realise change is necessary. The harness industry in Queensland has some of the best horses in Australia, in fact two of the best 10 in the world, a younger generation of drivers and trainers that can hold their own in any company. A favourable distribution system since 1998 that yields the harness industry 14.5% of revenue yet only producing 10% of the product, clearly at the expense of the greyhound stakeholders, yet the industry indicators continue to show decline.

A reasonable assessment would be if the harness industry has all the above positives, what have you or your administrators done to capitalise with these positives going for the industry. The only media that the harness industry has generated since the Inter Dominion in 2009 is a campaign to resist change.

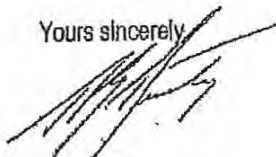
Racing Queensland Limited has invested considerable resources in attempting to position the harness and greyhound codes for growth within the confines of a racing industry in Queensland. The harness industry will survive if the stakeholders have a reality check and embrace change.

The topic on race fields will be an industry issue for some considerable period ahead and your letter makes reference to this issue. The CEO of Racing Queensland Limited issued a press release on Friday, 19th November addressing Race Fields legislation.

Warwick, once the infrastructure plan is available for comment, I will seek a meeting with your Club Committee to discuss the plan and any other topic your Committee may wish to raise.

I welcome your input and comment.

Yours sincerely



R. G. Bentley
Chairman - Racing Queensland Limited



Crown Solicitor

5 January 2011

Mr Leighton Craig
Director
Constitutional and Administrative Law Services
Department of the Premier & Cabinet
Executive Building
100 George Street
BRISBANE QLD 4000

Dear Mr Craig

Proceedings concerning the proposed sale of Albion Park by Racing Queensland Limited

I refer to your email of 4 January 2011. You have requested my urgent advice in relation to whether the State could have an interest in Supreme Court proceedings brought by Queensland Harness Racing Limited (the plaintiff) against Racing Queensland Limited (Racing Queensland) and Robert George Bentley sufficient to justify the State becoming a party to those proceedings.

Through the proceedings, the plaintiff is seeking, among other things, an injunction to prevent the proposed sale of Albion Park by Racing Queensland.

Executive summary

With certain preliminary steps still to occur, it is not possible to form a concluded view at this stage as to whether the State has a sufficient legal interest in the proceedings such as to give it standing to become a party. My initial view though is that it does not. To the extent that my instructions may be that the State has an "interest" in a broader policy sense in seeing that Racing Queensland, as the new control body for the three codes of racing, is not impeded in the performance of its statutory functions (including the proposed sale of Albion Park), it is difficult to see how that interest would not be adequately protected by Racing Queensland's defence of the proceedings.



State Law Building
50 Ann Street
Brisbane Q 4000

GPO Box 5221
Brisbane Q 4001

Telephone
(07) 3239 6160

Facsimile
(07) 3239 6382

Advice

Status and functions of Racing Queensland

Racing Queensland is a company limited by guarantee incorporated under the *Corporations Act 2001* (Cth). It was registered on 25 March 2010.

Pursuant to the 2010 amendments to the *Racing Act 2002*, on 1 July 2010 Racing Queensland became the control body for the three codes of racing in Queensland, namely thoroughbred racing, harness racing and greyhound racing. The approvals held by the former three control bodies, including the plainiffs, were cancelled at midnight on 30 June 2010. The assets and liabilities of the former control bodies became the assets and liabilities of Racing Queensland.

As the control body for the three codes of racing, Racing Queensland's statutory function is to manage those codes of racing (s33 of the *Racing Act*). It is given broad powers in order to perform its statutory function (see s33(2) and s34), subject to the limitation in s34A that, in making a decision under the Act, it must make a decision that is in the best interests of all the codes of racing while having regard to the interests of each individual code.

The advice provided by Mr Tony Keyes, Senior Deputy Crown Solicitor on 10 November 2010 confirms that Racing Queensland's powers would necessarily include the right to dispose of any real property it owns, including Albion Park, subject of course to s34A.

Becoming a party to Court proceedings

In order for the State to become a party to the proceedings, it would need to satisfy the Court that it falls within the terms of Rule 69(1)(b) of the *Uniform Civil Procedure Rules 1999* (the UCPR) which provides that a Court may at any stage of a proceeding order that the following persons be included as a party –

- i) a person whose presence before the Court is necessary to enable the Court to adjudicate effectively and completely on all matters in dispute in the proceeding;*
- ii) a person whose presence before the Court would be desirable, just and convenient to enable the Court to adjudicate effectively and completely on all matters in dispute connected with the proceeding.*

The test to determine whether a person's presence is 'necessary' in the terms of Rule 69(1)(b)(i) is, will the person's (in this case, the State's) rights against or liabilities to any party to the proceeding be directly affected by any order made in the proceedings.

Answers to your specific questions

1. *Are there any specific issues raised in the Claim and Statement of Claim that have implications (or create an interest in the matter) for the State of Queensland?*

The plaintiff seeks a variety of court orders including an injunction restraining Racing Queensland from selling or attempting to sell Albion Park prior to 1 July 2040. Its claim is made in reliance upon a number of alleged facts, set out in the Statement of Claim, broadly revolving around representations which the plaintiff alleges were made by the Chairman of Racing Queensland about the future of Albion Park.

While the lawyers for Racing Queensland have served on the plaintiff a Request for Further and Better Particulars, which may reveal additional material facts, on the pleadings as they stand I do not see that the pleadings in themselves give rise to any legal interest for the State over and above that of Racing Queensland.

Given the policy objectives behind the 2010 amendments, which include the establishing of one control body for the three codes of racing and to ensure that the control body has the necessary powers to manage those codes of racing my instructions may be, that the State has an interest in seeing that Racing Queensland is able to exercise its powers and discharge its statutory obligations in an unimpeded way. However the State's "interest" in these proceedings, assuming the Government supports Racing Queensland's proposed sale of Albion Park, is more of a policy nature than a particular legal one.

To the extent that the pleadings claim that three senior public servants, Mr Smith, Mr Kelly and Ms Perrett, were in attendance at certain meetings, those officers are witnesses of fact and the State's position will be reflected through their evidence in relation to those meetings.

2. *Does the creation of the body Racing Queensland by an act of Parliament of itself create an interest for the State in the proceedings?*

The *Racing Act*, including the 2010 amendments, did not “create” Racing Queensland. It is a company limited by guarantee established under the *Corporations Act*.

The *Racing Act* creates a process by which a corporation, such as Racing Queensland, may be approved as the control body for a code or codes of racing.

The Minister’s appointment of Racing Queensland as the control body for the three codes of racing does not of itself create a particular legal interest for the State in the proceedings.

3. *Does the State have a sufficient interest to become a party to the proceedings?*

While the State has a right to make an application to seek to be joined as a party to the proceedings, whether a Court will grant the application would depend on the State’s ability to satisfy the Court that its presence was either “necessary” or “desirable, just and convenient” to enable the Court to adjudicate on the matters that are in dispute in the proceedings, in the terms of Rule 69(1)(b) of the UCPR.

On the information presently pleaded, I do not consider that the State could satisfy the terms of Rule 69 of the UCPR.

I have not been asked to identify for example, any particular financial obligation that the State has to Racing Queensland (such as a guarantor) so that, in the terms of the test as to whether a person’s presence is “necessary” the State would have any particular liability to the plaintiff were it successful in its proceedings against Racing Queensland.

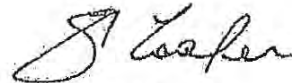
In short, on the facts as they currently stand, I do not consider the State has a sufficient legal interest as to give it standing to become a party to the proceedings.

The matter should nevertheless be kept under review in terms of any defence that is ultimately filed on behalf of Racing Queensland or further particulars provided by the plaintiff. It may be that in the course of these interlocutory steps, further facts or information are revealed which may require

assessment as to whether they give rise to a sufficient legal interest on the part of the State as to seek to become a party to the proceedings.

However, even if that event the question may well be whether the State's interest would be adequately protected through the defence of the application by Racing Queensland. It is apparent from Cooper Grant's correspondence to the lawyers for the Plaintiff that Racing Queensland intends to vigorously defend the proceedings.

Yours faithfully



GR Cooper
Crown Solicitor

PRE052/1815:2925821

Natalie Karger

P12237

From: Lachlan Smith [mailto:Lachlan.Smith@ministerial.qld.gov.au]
Sent: Monday, 24 January 2011 8:36 AM
To: Ken Smith
Subject: FW: Racing Queensland Limited and Anor ats Queensland Harness Racing Limited
Attachments: SKMBT_C652 11012009452.pdf; SKMBT_C652 11012009480.pdf

Ken, for on-forwarding to your officer in DPC who is keeping an eye on this.

Cheers,

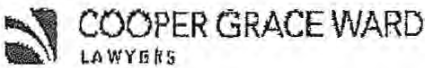
Lachlan

From: Fiona Bradbury [mailto:Fiona.Bradbury@cgw.com.au] **On Behalf Of** David Grace
Sent: Thursday, 20 January 2011 9:52 AM
To: Lachlan Smith
Cc: 'bentley@racingqueensland.com.au'; 'crossmore13@yahoo.co.uk'; 'Shara Murray'
Subject: Racing Queensland Limited and Anor ats Queensland Harness Racing Limited

Dear Lachlan

David Grace has asked me to forward the attached documents to you.

Regards,
 Fiona Bradbury,
 Sent on behalf of,
David Grace | Partner



Digitised?	YES	NO
If digitised, this is now an ELECTRONIC DOCUMENT. Enter ALL DATA in TRIM.		
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Date Received	24 JAN 2011	in DPC
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Tracking Folder No:	TR/11/3524	

T 61 7 3231 2421 F 61 7 3231 8421 M 0417 722 718 E david.grace@cgw.com.au W www.cgw.com.au
 Level 21, 400 George Street, Brisbane 4000 Australia GPO Box 834, Brisbane 4001

Assistant: Fiona Bradbury T 61 7 3231 2572

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COOPER GRACE WARD
LAWYERS

Our Ref: DJG 10088888

20 January 2011

Lachlan Smith
Senior Policy Advisor to the Hon Anna Bligh MP

Email: lachlan.smith@ministerial.qld.gov.au

Level 21, 400 George Street
Brisbane 4000 Australia

GPO Box 834, Brisbane 4001

T 61 7 3231 2444

F 61 7 3221 4356

www.cgw.com.au

ABN 95 591 906 639

Dear Mr Smith

Racing Queensland Limited and Anor ats Queensland Harness Racing Limited

Please find enclosed the defence filed in the Supreme Court and served on the plaintiff's solicitors today.

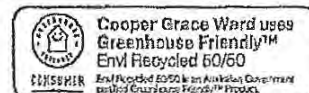
If you have any questions please do not hesitate to contact us.

Yours faithfully
COOPER GRACE WARD

David Grace
Partner
T 61 7 3231 2421
F 61 7 3231 8421
E david.grace@cgw.com.au

TITLE

This electronic transmission (and any following pages) is confidential, may contain legally privileged information and is intended solely for the named addressee. If you receive this document in error, please destroy it and advise the sender.



SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane
NUMBER: 13832/10

Plaintiff: QUEENSLAND HARNESS RACING LIMITED
ACN 128 036 000

AND

First Defendant: RACING QUEENSLAND LIMITED
ACN 142 786 874

AND

Second Defendant: ROBERT GEOFFREY BENTLEY

Filed in the Brisbane Registry on the 20th day of January 2011.

DEFENCE

The defendants rely on the following facts in defence of the claim:

1. As to paragraph 1 of the amended statement of claim the defendants:
 - (a) admit the allegations in sub-paragraphs 1(a), 1(b), 1(c), 1(d), 1(e), 1(f), 1(g), 1(h)(i), 1(j) and 1(l);
 - (b) say that Mr Lette, Mr Seymour and Mr Knudsen remained members and directors of the plaintiff until, at least, 22 December 2010;
 - (c) do not admit:
 - (i) the allegations in sub-paragraph 1(h)(ii). The defendants have made reasonable inquiries and remain uncertain of the truth or otherwise of the allegations as, despite a request for particulars served on the solicitors for the plaintiff on or about 29 December 2010, the plaintiff has refused to provide proper particulars of the allegations such that the defendants are not in a position to otherwise plead to the allegations.
 - (ii) the allegations in sub-paragraph 1(i). The defendants have made reasonable inquiries and remain uncertain as to the truth or falsity of the allegation;

DEFENCE
Filed on behalf of the Defendant
Form 17 - R.148

COOPER GRACE WARD
Level 21, 400 George Street
Brisbane 4000 Australia
Reference: DJG:EJS2:10089898

T 61 7 3231 2444
F 61 7 3221 4356

3648141_2.DOCX

- (iii) the allegations in sub-paragraph 1(k). The defendants have made reasonable inquiries and remain uncertain as to the truth or falsity of the allegation;
- (iv) the allegations in sub-paragraph 1(m). The defendants have made reasonable inquiries and remain uncertain as to the truth or falsity of the allegation;
- (d) deny:
 - (i) the allegations in sub-paragraph 1(h)(iii) because:
 - (A) the allegation is not true as the second defendant did not make any such representations; and
 - (B) by virtue of the matters pleaded in paragraph 22(a)(vi), below, the second defendant represented that he was not capable of binding the first defendant;
 - (ii) the allegations in sub-paragraph 1(h)(iv) because they are not true as the second defendant did not have at all material times the authority or capacity to bind the first defendant.

2. As to paragraph 2 of the amended statement of claim the defendants:

- (a) admit:
 - (i) the allegations in sub-paragraph (a);
 - (ii) that since on or about 1 July 2010 the first defendant was a corporation within the meaning of the *Trade Practices Act 1974 (Qld)* ("*Trade Practices Act*");
- (b) save as otherwise admitted deny the allegations therein because they are not true as prior to about 1 July 2010 the first defendant was not a "corporation" within the meaning of that term as it is used in the *Trade Practices Act*.

3. The defendants admit paragraph 3 of the amended statement of claim.

4. As to paragraph 4 of the amended statement of claim, the defendants:

- (a) admit that at the meeting on 18 December 2010 one of the public servants in attendance at the meeting said words to the effect:
 - (i) of those alleged in paragraph 4(a) of the amended statement of claim;
 - (ii) that it was the intention of the Government that if an integration of the racing industries occurred the Government would make

a funding package available to the industry by way of a taxation rebate of approximately 50% of the wagering tax collected by the State Government;

(III) that the amount of and the conditions to be attached to any funding package to be made available to the racing industry by the Government were matters which were yet to be determined;

(b) save as otherwise admitted, deny the allegations in paragraph 4 because Mr Kelly did not say words to the effect of those alleged.

5. The defendants admit the allegations in paragraph 5 of the amended statement of claim.

6. The defendants admit the allegations in paragraph 6 of the amended statement of claim.

7. As to paragraph 7 of the amended statement of claim the defendants:

(a) admit that at the meeting the second defendant tabled a document entitled "Key Draft Constitutional Issues for meeting December 23 2009" which set out topics which might be included in the constitution of a new body corporate which might be appointed as the control body of the three codes of racing in Queensland;

(b) do not admit the allegation in paragraph 7(b). The defendants have made reasonable inquiries and remain uncertain as to the truth or falsity of the allegation;

(c) say that the meeting on 23 December 2009:

(I) was between representatives of the three codes of racing in Queensland and members of the public service of the State of Queensland;

(II) was for the purposes of discussing and attempting to reach consensus on the manner in which the State Government might affect structural reform to the management and control of racing in Queensland;

(d) further say that at the meeting on 23 December 2009:

(I) the second defendant proposed for discussion that a new control body for the three codes of racing might consist of a Board of Directors:

- (A) of which he was the Chairman; and
 - (B) of which there would be directors who were drawn from the three codes of racing in the proportions of five directors from thoroughbred racing, one director from greyhound racing and one director from harness racing;
- (ii) at no time did the second defendant state or suggest that:
- (A) the proposed new control body would act otherwise than in accordance with resolutions voted upon by the directors;
 - (B) the passing of resolutions by the board of directors of the proposed new control body would be in a manner other than that provided for by s.248G of the *Corporations Act 2001 (Cth)* ("*Corporations Act*");
- (iii) Mr Lette for the plaintiff did not agree to the proposed structure of the new control body and advised the meeting that he would confer with the Board of Harness Racing Queensland Limited about the proposal;
- (iv) Mr Lette said words to the effect that if the Government merged the control bodies of the three codes of racing into one control body there was a risk that the racing venue at Albion Park ("Albion Park") might be sold by the new control body;
- (v) In response to the statement of Mr Lette, the second defendant said words to the effect that:
- (A) the prospect of Albion Park being sold by the new control body had not been the subject of discussion at any board meeting of the control body of thoroughbred racing in Queensland, being Queensland Racing Limited;
 - (B) he, the second defendant, would be prepared to give advice to the Minister responsible for Racing in Queensland at a meeting proposed for 4 January 2010 that there was no agenda to sell Albion Park;
- (vi) one of the public servants in attendance said words to the effect that:
- (A) the amount of any funding package provided by the State Government was yet to be determined;

- (B) the conditions on which any funding might be made available by the State Government were yet to be determined;
 - (C) any funding package made available to the racing industry would only be made available if the government was assured that there was adequate and stable industry governance and that the funds would be invested commercially to sustain the industry;
- (vi) In relation to the use to which any new control body of the three codes of racing might put any funding package provided by the State Government, the second defendant said words to the effect that:
- (A) the new control body would be prepared to give a commitment to allocate up to \$14,000,000 to a maximum of \$18,000,000 on infrastructure at Albion Park from the proposed funding package;
 - (B) any such commitment was subject to all council and State government approvals and on the basis that the funding package provided by the Government was at the rumoured amount of \$100,000,000;
 - (C) the new control body would be prepared to give a commitment to allocate up to \$10,000,000 to assist in the funding of a new development at Logan for greyhound racing;
 - (D) any commitment would be subject to all council and State government approvals and on the basis that the funding package provided by the Government was at the rumoured amount of \$100,000,000;
- (viii) Mr Lette, on behalf of the plaintiff, did not agree to the proposed allocation or commitment of any part of the Government funding package in relation to Albion Park;
- (e) further say that:
- (i) during the course of the meeting, Mr Lette was aware, as was the case, that any action by any new control body in relation to the spending of any industry funding provided by the State Government would:

- (A) have to be determined by the Board of Directors of any new control body in accordance with the Constitution of the new control body;
 - (B) have to comply with the provisions of the *Racing Act 2002 (Qld)* ("*Racing Act*") as in force from time to time;
 - (C) have to comply with any conditions imposed upon it by the State Government as to the manner in which any funding was expended;
- (ii) any statements by the second defendant as to the use to which any government funding might be put by any new control body were statements of opinion of what a new control body constituted as proposed by the second defendant was likely to do if approved by the relevant Minister under the *Racing Act*;
- (f) deny:
- (i) the allegations in sub-paragraph 7(a) because they are not true for the reasons referred to in sub-paragraph (a) hereof;
 - (ii) the allegations in sub-paragraph 7(c)(i) because they are not true for the reasons referred to in sub-paragraphs (c)(i) – (ii) and (d)(i) hereof;
 - (iii) the allegations in sub-paragraph 7(c)(iv) because they are not true by reason of the matters referred to in sub-paragraphs (d)(vii) and (e) hereof;
 - (iv) the allegations in sub-paragraph 7(c)(v) because they are not true by reason of the matters referred to in sub-paragraphs (d)(vii) and (e) hereof;
- (g) admit the allegations in sub-paragraphs 7(c)(ii) and 7(c)(iii) of the amended statement of claim.

7A. As to paragraph 7A of the amended statement of claim the defendants:

- (a) say that:
- (i) the matters pleaded in paragraphs 7(c)(i) to 7(c)(v) of the amended statement of claim were and are incapable of giving rise to the implied representations alleged in paragraph 7A of the amended statement of claim;
 - (ii) the statements made by the second defendant at the Second Meeting could not have conveyed a representation that the

second defendant would or could cause the first defendant to act in any particular manner in circumstances where:

- (A) the purpose of the Second Meeting was to discuss the proposed integration of the three control bodies;
- (B) the first defendant did not exist at the time of the Second Meeting;
- (C) an entity would only become the sole control body by the passage of legislation and the granting of approval by the Minister responsible for the legislation;
- (D) the decisions of the proposed single control body would be made by the Board of the proposed single control body in accordance with its constitution;
- (E) the composition of the Board of the proposed single control body was a subject of discussion at the Second Meeting;
- (F) the plaintiff, by Mr Lette, was dissatisfied and had expressed dissatisfaction with the proposed Board composition for the proposed single control body;
- (G) the second defendant had no power to prospectively control the decisions of the proposed single control body;
- (H) It was not represented by the second defendant or any other person at the Second Meeting that the first defendant would be given the power to control the decisions of the proposed single control body;

- (b) deny the allegations therein because they are not true because of the matters referred to in paragraph 7 herein and sub-paragraph (a) hereof.

7B. As to paragraph 7B of the amended statement of claim the defendants:

(a) say that:

- (i) the matters alleged in paragraphs 7(c)(i) to 7(c)(v) of the amended statement of claim were and are incapable of:
 - (A) constituting or purporting to constitute an offer to contract on behalf of the first defendant;
 - (B) constituting or purporting to constitute an offer to contract on behalf of the second defendant;

- (C) conveying the matters pleaded in paragraphs 7B(1) and 7B(2) of the amended statement of claim;
 - (ii) in the circumstances of the Second Meeting as pleaded in paragraphs 7 and 7A hereof the statements made by the second defendant at the Second Meeting:
 - (A) did not comprise, objectively, an offer to contract on his own behalf or on behalf of the first defendant; and/ or
 - (B) were so uncertain that they were not capable of acceptance;
 - (C) did not carry with them any objective intention that any apparent statement of offer made by the second defendant would be capable of being accepted so as to create legally binding contractual relations;
 - (b) deny the allegations made therein because they are not true by reason of the matters alleged in paragraphs 7 and 7A herein and sub-paragraph (a) hereof.
- 8. As to paragraph 8 of the amended statement of claim, the defendants:
 - (a) admit that the second defendant:
 - (i) issued minutes of the meeting of 23 December 2009 on or about 30 December 2009;
 - (ii) the minutes of the meeting issued by the plaintiff recorded the matters referred to in paragraphs 7(d)(i), 7(d)(v) and 7(d)(vii) herein;
 - (iii) delivered the minutes of the Second Meeting so issued to Mr Kelly;
 - (iv) confirmed in the covering letter to Mr Kelly that he considered that the minutes were a true reflection of the proceedings of the meeting which had occurred on 23 December 2009;
 - (b) deny that:
 - (i) the minutes of meeting prepared by the second defendant recorded the matters pleaded in paragraphs 7(c)(i) – (v) of the amended statement of claim because the allegation is not true by reason of the matters alleged in paragraphs 7, 7A and 7B herein and because the minutes recorded the matters pleaded in sub-paragraphs 7(d)(i), 7(d)(v) and 7(d)(vii) herein;

- (ii) that the minutes of meeting conveyed the alleged implied representation referred to in sub-paragraph 8(a)(i) of the amended statement of claim because the allegation is not true by reason of the matters pleaded in paragraph 7A herein;
- (iii) that the minutes of meeting confirmed the alleged Integration Offer referred to in sub-paragraph 8(a)(ii) of the amended statement of claim because the allegation is not true by reason of the matters pleaded in paragraph 7B herein;
- (c) save as otherwise pleaded deny the allegations in sub-paragraphs 8(b) and 8(c) because they are not true by reason of the matters alleged in sub-paragraphs (a) and (b) hereof.

- 9. The defendants do not admit paragraph 9 of the amended statement of claim. The defendants have made reasonable inquiries and they remain uncertain as to the truth or falsity of the allegations.
- 10. The defendants admit the allegations in paragraph 10 of the amended statement of claim.
- 11. The defendants admit the allegations in paragraph 11 of the amended statement of claim.
- 12. The defendants admit the allegations in paragraph 12 of the amended statement of claim.
- 13. As to paragraph 13 of the amended statement of claim the defendants:
 - (a) say that:
 - (i) In response to the statement by Mr Letts in paragraph 4 of the Twelve Point Document that a guarantee that Albion Park would be the long term home and racing headquarters of harness racing was necessary, the second defendant:
 - (A) did not provide the guarantee as requested;
 - (B) indicated only that he was of the opinion that, at that time, there was no issue with the ongoing operation of Albion Park as the home and racing headquarters of harness racing;

(ii) In response to the statement by Mr Lette in paragraph 5 of the Twelve Point Document that "to ensure the development of Albion Park the provision of a grant of up to \$25 million is required to allow the redevelopment to proceed", the second defendant:

- (A) refused to provide any guarantee that \$25 million would be provided;
- (B) identified that there had been initial discussions about a sum of money which might be allocated from any Government Funding package to harness racing;
- (C) stated that the median figure of the amounts discussed, being \$16 million, was not consistent with the proportion to which harness racing might be entitled based upon the Product Fee arrangement;
- (D) further indicated that the amount of government funding which might be applied to harness racing was a matter for further discussion;

Particulars of sub-paragraph (a)

the responses of the second defendant were in the document referred to as the "Twelve Point Response";

- (b) admit that the words quoted from the document referred to as the "Twelve Point Response" are accurately quoted;
- (c) deny the allegations to the extent to which they have not otherwise been admitted because the allegations are not true by reason of the matters referred to in sub-paragraph (a) hereof.

14. As to paragraph 14 of the amended statement of claim the defendants deny:

- (a) sub-paragraph 14(a) because:
 - (i) they are not true as the second defendant was not the promoter of the first defendant; and
 - (ii) despite a request for particulars served on 29 December 2010, the plaintiff has pleaded no facts or particulars capable of establishing that the alleged representations were made by the second defendant as promoter of the first defendant;
- (b) paragraph 14(b) of the amended statement of claim because the alleged representations were not in trade or commerce for the purposes of the *Trade Practices Act 1974* (Cth) ("TPA") as:

- (i) the alleged conduct did not involve the conduct of a corporation within the meaning of the TPA as the first defendant did not come into existence until 25 March 2010;
- (ii) the alleged statements were made in the course of discussions between the three racing control bodies approved under the *Racing Act* for the purposes of making proposals to the State Government about the manner in which the State Government should reform the management and control of racing in Queensland;
- (iii) the alleged conduct was not conduct engaged in in the course of any trading or commercial activity.

15. The defendants do not admit the allegations in paragraph 15 of the amended statement of claim. The defendants have made reasonable inquiries and they remain uncertain as to the truth or falsity of the allegations.

16. As to paragraph 16 of the amended statement of claim the defendants:

(a) admit:

- (i) that on or about 8 January 2010 the Honourable Mr Peter Lawlor MP, the Minister for Tourism and Fair Trading ("the Minister"), sent to Mr Lette a letter;
- (ii) the letter from the Minister to Mr Lette contained the words quoted in paragraph 16;

(b) say that:

- (i) the letter from the Minister also stated:

"It is the Government's firm view that this funding should be made available to a control body with the requisite skills and financial capacity to work towards a common purpose in managing the challenges facing the industry and a control body that is collectively committed to growing all codes of racing in Queensland into the future.

I note that all codes have given their in-principle agreement about the importance of an integrated control body and have agreed to work towards advancing this aim.

The Government is eager to continue discussions with Harness Racing Queensland about how such a control body can be achieved, in line with the Government's commitment to helping industry make the infrastructure investments required for a sustainable future."

- (ii) At no time did Mr Lette dispute the matters asserted in the letter of the Minister.
 - (c) do not admit the allegations save to the extent to which they have otherwise been expressly pleaded to. The defendants have made reasonable inquiries and they remain uncertain as to the truth or falsity of the allegations.
17. As to paragraph 17 of the amended statement of claim the defendants:
- (a) admit that on or about 20 January 2010, Mr Lette sent a letter to the Minister that stated, among other things, words to the effect of those recited;
 - (b) say that:
 - (i) the letter of Mr Lette mis-stated the position with respect to the alleged guarantee that Albion Park would be the long term home and racing head quarters for harness racing;
 - (ii) the letter of 20 January 2010 from Mr Lette to the Minister also relevantly stated:

"3. Merger Agreement

As is normal practice in all mergers of commercial entities we would expect and seek your Governments support for heads of agreement / memoranda of understanding / shareholders agreement to be entered into by the three code controlling bodies. This will provide future reference and clarity so that there should not be any disagreement in the future at Board or Industry level as to the purpose, process and rights of each of the parties during and after the merger process."
18. As to paragraph 18 of the amended statement of claim the defendants:
- (a) admit that on or about 21 January 2010, the Minister sent a letter to Mr Lette in reply to Mr Lette's letter of 20 January 2010;
 - (b) deny that the letter of 21 January 2010 did not dispute the statement pleaded in paragraph 17 of the amended statement of claim as the letter of 21 January 2010 did not address the statement pleaded in paragraph 17 of the amended statement of claim or any of the other matters that the letter of 20 January 2010 asserted had been agreed;
 - (c) say that the letter of 21 January 2010 from the Minister to Lette also relevantly stated:

"With respect to the Government's commitment of more than \$80 million funding over four years under the Racing Industry Capital Development Scheme, suitable governance and management arrangements will be put in place to ensure public funds are directed and controlled for the benefit of the entire Queensland racing industry. The new amalgamated control body will be required to submit business cases on priority capital works, which will be considered by Government before funds are approved for allocation to the control body.

In regard to the need for a merger agreement, as you would appreciate, the present case differs from the merger of other commercial entities as the merger will be effected by legislation which will transfer all of the assets, liabilities and staff of the existing control bodies to the new control body. Should the three control bodies wish to enter into an agreement in relation to any ancillary matters not covered by the legislation that is a matter for the control bodies."

19. The defendants do not admit the allegations in paragraph 19 of the amended statement of claim. The defendants have made reasonable inquiries and they remain uncertain as to the truth or falsity of the allegations.
20. The defendants do not admit the allegations in paragraph 20 of the amended statement of claim. The defendants have made reasonable inquiries and they remain uncertain as to the truth or falsity of the allegations.
21. The defendants do not admit the allegations in paragraph 21 of the amended statement of claim. The defendants have made reasonable inquiries and they remain uncertain as to the truth or falsity of the allegations.
22. As to paragraph 22 of the amended statement of claim the defendants:
 - (a) say that:
 - (i) on or about 25 January 2010, Mr Lette, on behalf of the plaintiff, sent a letter to the Minister that relevantly stated:

"...the Board of Harness Racing Queensland has recommended to its members that they support the establishment of the control body structure proposed by the other two racing codes.

The Class A members have agreed in principle. However, as a result of discussions with Class A members, the Board of Harness Racing Queensland has narrowed the issues that those members would want addressed before they would support the

proposed new control body. ... there are three matters that the Class A members would want to see addressed:

- the long term guarantee of Albion Park as the home and racing headquarters for harness racing has been agreed. Confirmation should be provided that "long term" is at least 30 years;

...".

- (ii) on or about 28 January 2010, the Minister sent a letter to Mr Lette, on behalf of the plaintiff, that relevantly stated:

"In relation to the issues that your Class A members wish to have addressed, these are matters for the new control body to deal with and no guarantees can be given by Government on these matters."

- (iii) on or about 2 February 2010, Mr Lette, on behalf of the plaintiff, sent a letter to the Minister that relevantly stated:

"I note in your letter that these matters would have to be considered by the new control body and that no guarantee can be given by Government on these matters."

In these circumstances and to fulfil the Board's legal obligations to the members of QHRL under the QHRL Constitution, Harness Racing Queensland will meet with the Class A Members and seek their view regarding your response. An urgent meeting has been organized for Wednesday morning and I will then advise you of the result."

- (iv) on or about 3 February 2010, Mr Lette, on behalf of the plaintiff, sent a letter to the second defendant and sought a meeting to discuss three issues including:

"The long term guarantee of Albion Park as the home and racing headquarters for harness racing has been agreed. Confirmation should be provided that "long term" is at least 30 years."

- (v) on or about 3 February 2010, Mr Lette, on behalf of the plaintiff, sent a letter to the Minister that relevantly stated:

"The Class A members cannot agree to QHRL joining the merger of the three codes until these matters are resolved."

My Board has accordingly been charged with resolving these matters to their satisfaction.

It is our view, that a position on these matters can be resolved in advance of the formation of the new control body as have many contentious matters already with Mr Bentley.

I have today written to Mr Bentley advising of these only outstanding issues seeking Queensland Racing Limited's agreement to our requirements so that our code can move forward with agreement on the merger.

If no satisfactory agreement can be reached, then notwithstanding my Board's recommendation, it is my view that the QHRL Class A members will not agree to join the merger and therefore QHRL will not be in a position legally to agree to join the merger."

- (vi) on or about 5 February 2010, the second defendant sent a letter to Mr Lette, on behalf of the plaintiff, that relevantly stated:

"The harness board has asked that three matters outlined in your correspondence and listed below be resolved as a matter of urgency:

1. The long term guarantee of Albion Park as the home and racing headquarters for harness racing has been agreed. Confirmation should be provided that "long term" is at least 30 years.

...
The matters outlined above are a matters [sic] for the incoming 3 code board. Neither the current board of QRL nor myself as Chair of Queensland Racing, have any mandate to decide these outcomes or furnish any guarantees. I understand from the correspondence from the Queensland Government that it has outlined its position that it will not be mandating any guarantees in future legislation.

The assurances being sought in your correspondence seek to lock a future board of 3 codes into an impossible situation having to agree on issues that may not be economically feasible or affordable.

...
I am prepared to facilitate a meeting to discuss any issue but stress that no binding decision or guarantee is capable of being made."

- (vii) on or about 5 February 2010, the Minister sent a letter to Mr Lette, on behalf of the plaintiff, that relevantly stated:

"...the matters identified by the class A members are not matters that the government can provide any guarantees on as they would be the responsibility of the new amalgamated control body.

The agreement of Queensland Harness Racing Limited is not a precondition to progressing legislation to effect the amalgamation of the three existing racing control bodies.

However, without participation by Queensland Harness Racing Limited in the amalgamation, it would be necessary for me to consider proposing legislation providing for the amalgamation of only the thoroughbred and greyhound control bodies. ...

Also, the significant capital development funding that the government will make available to the racing industry will be exclusively utilised by the new amalgamated thoroughbred and greyhound control body."

- (vii) the letter of 5 February 2010 from the second defendant to Mr Lette was distributed to the directors of the plaintiff prior to the meeting of directors on 8 February 2010;

Particulars.

- (A) Ms T Fenwick sent a copy of the letter by email to Mr Seymour and Mr Knudsen at 10.48am on 14 February 2010;
- (ix) in the premises, at the time of the making of the resolution on 8 February 2010, as alleged in paragraph 22 of the amended statement of claim, the directors of the plaintiff were aware, as was the case, that:
- (A) neither the Government nor the second defendant could or would offer the plaintiff any guarantees as to what decisions would be made by the proposed single control body if it came into existence;
- (B) the second defendant had no power to make decisions on behalf of the proposed single control body;
- (C) the second defendant did not hold himself out as having any power to bind any entity appointed as the control body for the three codes of racing;
- (D) the second defendant would not provide any guarantee on his own behalf or on behalf of any new control body that Albion Park would remain as the long term home and racing headquarters for harness racing for 30 years or at all;
- (E) Albion Park's future would be a matter for the Board of the proposed single control body;
- (F) any proposed use of funding provided by the Government to the proposed single control body would

- be a matter for the determination of the Board of the proposed single control body;
- (G) the proposed single control body would be required to submit business cases on priority capital works, which would be considered by the Government before funds were approved for allocation to the proposed single control body;
 - (H) the agreement of the plaintiff to the proposed single control body was not a precondition to amalgamation of the three then-existing control bodies;
 - (I) if the plaintiff did not support the proposed single control body, the Minister might consider legislating for the amalgamation of only the thoroughbred and greyhound control bodies with the result that the plaintiff would not have access to any part of the Government's proposed industry funding package;
- (x) on or about 8 February 2010, the Board of the plaintiff resolved as follows:
- "to support the merger of the three codes into one control body based on the [Minister's] advices that the Government intend[ed] to legislate for the merger of the three codes and in particular of the adverse impact on the code as per the [Minister's] communication if it did not agree to join";
- (xi) the minutes of the meeting of Queensland Harness Racing Limited accurately identified the resolutions put and passed at the meeting;
- (b) admit that on 8 February 2010, the plaintiff resolved:
- (I) to support the merger of the three control bodies into one control body;
 - (II) to advise the Government of Mr Lette's appointment as the harness racing representative on the Board of the new control body;
- (c) deny:
- (I) that the plaintiff relied upon the alleged representations as the allegation is false because of the matters referred to in subparagraph (a) hereof;

- (ii) the allegations to the extent to which they have not been admitted because they are not true by reason of the matters alleged in sub-paragraphs (a) and (b) hereof.

23. As to paragraph 23 of the amended statement of claim the defendants:

(a) say:

- (i) in the letter of 8 February 2010 from Mr Lette to the Minister, Mr Lette stated:

"In light of your advices, that you intend to legislate for the merger of three codes and in particular of the adverse impact on the code as pointed out in your letter if harness racing stood outside the merger, the Board has resolved to support the merger of the three codes into one control body";

- (ii) the statement by Mr Lette of the basis upon which the Board acted was accurate;

- (iii) no contract as alleged could come into existence by reason of the circumstances identified as the alleged terms of the Integration Agreement particularised in the amended statement of claim are different from the alleged terms of the Integration Offer particularised in the amended statement of claim;

- (iv) further and in the alternative:

- (A) if an offer in the form of the alleged Integration Offer existed (which is denied) no consideration was provided by the plaintiff for the alleged offer; and

- (B) any such offer was withdrawn by the terms of the letter from the second defendant to the plaintiff of 5 February 2010;

- (b) deny that by the sending of the letter of 8 February 2010, the plaintiff accepted the alleged Integration Offer because no such offer existed for the reasons referred to in paragraphs 7 and 7B hereof and sub-paragraph (a)(iii) and (iv) hereof.

24. The defendants deny the allegations in paragraph 24 of the amended statement of claim because they are not true by reason of the matters pleaded in paragraphs 7(c), 7(d), 7A, 13, 18, 22 and or 23 hereof .

25. As to paragraph 25 of the amended statement of claim, the defendants:
- (a) say that:
 - (i) the allegations made contravene, or would cause the contravention at any trial of the proceeding, of section 8 *Parliament of Queensland Act 2001 (Qld)* and/ or they are not justiciable;
 - (ii) the plaintiff agreed to the integration for the reasons set out in the resolution of the plaintiff's board of directors of 8 February 2010;
 - (b) deny the allegations as, for the reasons pleaded above, the understanding pleaded in paragraph 24 of the amended statement of claim did not exist.
26. The defendants do not admit the allegations in paragraph 26 of the amended statement of claim. The defendants have made reasonable inquiries and they remain uncertain as to the truth or falsity of the allegations.
27. As to paragraph 27 of the amended statement of claim the defendants:
- (a) say that:
 - (i) at no time prior to the commencement of these proceedings did the plaintiff assert to the first and/or second defendant the existence of the alleged Integration Agreement;
 - (ii) at no time did Mr Lette assert to the first and/or second defendant the existence of the alleged Integration Agreement;
 - (iii) for the reasons pleaded in paragraph 23 herein no agreement in the form of the alleged Integration Agreement existed;
 - (b) admit that:
 - (i) the first defendant was incorporated on 25 March 2010;
 - (ii) the first defendant did not, after 25 March 2010 disavow the alleged Integration Agreement (the existence of which is denied);
 - (c) deny:
 - (i) that any agreement referred to as the Integration Agreement existed for the reasons referred to in paragraph 23 hereof;
 - (ii) that the first and/or the second defendant knew of the matters alleged in sub-paragraphs 27(a) or (b) of the amended statement of claim because the allegation is untrue as such

matters were not known by the first and/or the second defendants;

(III) that the conduct of the first defendant ratified any such agreement because the allegation is not true;

(d) save as otherwise pleaded do not admit the allegations. The defendants have made reasonable inquiries and they remain uncertain as to the truth or falsity of the allegations.

28. As to paragraph 28 of the amended statement of claim the defendants:

(a) say that:

(i) at no time prior to the commencement of these proceedings did the plaintiff assert to the first and/or second defendant the existence of the alleged Integration Agreement;

(ii) at no time did Mr Lette assert to the first and/or second defendant the existence of the alleged Integration Agreement;

(iii) for the reasons pleaded in paragraph 23 herein no agreement in the form of the alleged Integration Agreement existed;

(iv) if the alleged Integration Agreement existed (which is denied) and if the second defendant acted for and on behalf of the first defendant prior to after 25 March 2010 (which is also denied) the alleged Integration Agreement was disavowed by the terms of the letter of 5 February 2010 from the second defendant to Mr Lette of the plaintiff;

(v) as a matter of law, the plaintiff has not pleaded any facts capable of establishing the representation alleged as:

(A) the conduct relied upon by the plaintiff as constituting the representation is the conduct of the first defendant in not disavowing the alleged Integration Agreement;

(B) the alleged representation is a representation arising from silence;

(C) the conduct of the first defendant in not disavowing the alleged Integration Agreement is consistent with:

(1) neither the first defendant nor the second defendant being aware of the alleged Integration Agreement; and/or

(2) the alleged Integration Agreement not existing;

(D) In the premises, the silence of the first defendant is incapable of constituting the representation alleged by the plaintiff;

(b) deny:

- (i) that any agreement referred to as the Integration Agreement existed for the reasons referred to in paragraph 23 hereof;
- (ii) that the first and or the second defendant knew of the matters alleged in sub-paragraphs 28(a) or (b) of the amended statement of claim because the allegation is untrue as such matters were not known by the first and/or the second defendants;
- (iii) that any representation as alleged was made because the allegation is not true by reason of the matters referred to herein;

(c) save as otherwise pleaded deny the allegations. The defendants have made reasonable inquiries and they remain uncertain as to the truth or falsity of the allegations.

28A. As to paragraph 28A of the amended statement of claim the defendants:

(a) say that:

- (i) the terms of the letter of the second defendant to the plaintiff of 5 February 2010 were inconsistent with the existence of the alleged Integration Offer and/or the alleged Integration Agreement;
- (ii) on and from 5 February 2010, the plaintiff was aware by Mr Lette, Mr Knudsen and Mr Seymour of the terms of the letter of the second defendant to the plaintiff of 5 February 2010;
- (iii) at no time prior to the passing of the legislation referred to in paragraph 31 of the amended statement of claim did the plaintiff seek to withdraw its agreement alleged in paragraph 25(a) of the amended statement of claim;
- (iv) the allegation is embarrassing because it contravenes, or would cause the contravention at any trial of the proceeding, of section 8 *Parliament of Queensland Act 2001 (Qld)* and/ or it is not justiciable;

(b) deny the allegations because they are not true because, by reason of:

- (i) the matters pleaded in paragraph 24 herein the understanding pleaded in paragraph 24 of the amended statement of claim did not exist;
- (ii) the matters pleaded in paragraph 23 herein there was no Integration Agreement;
- (iii) the matters alleged in sub-paragraph (a) hereof the plaintiff would not have withdrawn its agreement as alleged;
- (c) save as otherwise pleaded do not admit the allegations. The defendants have made reasonable inquiries and they remain uncertain as to the truth or falsity of the allegations.

28B. As to paragraph 28B of the amended statement of claim, the defendants:

- (a) rely upon their denials of the relevant representations as are pleaded above;
- (b) deny:
 - (i) that, to the extent that the second defendant made a representation as to his belief as to the future of Albion Park, he did not have a reasonable ground for making the representation as, at the time the second defendant expressed his view as to the future of Albion Park, he was not aware of any matter which would have the effect that Albion Park would not remain the home track and head quarters of harness racing in Queensland;
 - (ii) that section 51A of the *Trade Practices Act* has any application to the representations alleged in paragraphs 7(c), 7A and 7B of the amended statement of claim as:
 - (A) the representations are alleged to have been made on or about 23 December 2009;
 - (B) the alleged representations did not involve the conduct of a corporation within the meaning of the *Trade Practices Act* as the first defendant did not come into existence until 25 March 2010;
 - (C) the representations as alleged were not, in any event, made in trade or commerce;
- (c) save as otherwise admitted deny the allegations which are allegations of law.

- 28C. As to paragraph 28C of the amended statement of claim the defendants:
- (a) rely upon the matters pleaded in paragraphs 24 and 28B hereof;
 - (b) deny the allegations because they are not true as section 52 of the *Trade Practices Act* has no application to the representations alleged in paragraphs 7(c), 7A and 7B of the amended statement of claim as:
 - (i) the representations are alleged to have been made on or about 23 December 2009;
 - (ii) the alleged representations did not involve the conduct of a corporation within the meaning of the *Trade Practices Act* as the first defendant did not come into existence until 25 March 2010;
 - (iii) the representations as alleged were not, in any event, made in trade or commerce.
 - (c) save as otherwise admitted deny the allegations which are allegations of law.
29. The defendants deny paragraph 29 of the amended statement of claim as they are not true because:
- (a) by reason of the matters pleaded in paragraphs 7, 7A, 8, 13, 14, 16, 17, 22 and 23 hereof the second defendant was not knowingly concerned in the alleged breach of the *Trade Practices Act*;
 - (b) the plaintiff has failed to plead any sufficient material facts by which it could sustain a cause of action under s.75B of the *Trade Practices Act*.
30. As to paragraph 30 of the amended statement of claim the defendants:
- (a) deny the allegations therein as they are not true because:
 - (i) the second defendant did not make an offer to contract on behalf of the first defendant for the reasons pleaded in paragraph 7B hereof;
 - (ii) there was no purported entry into the Integration Agreement by the plaintiff for the reasons pleaded in paragraph 23 hereof;
 - (iii) the plaintiff has no entitlement to damages pursuant to section 131(2) *Corporations Act* 2001 (Cth) ("*Corporations Act*") as:
 - (A) the measure of damages pursuant to section 131(2) *Corporations Act* is "the amount the company would be

liable to pay to the party if the company had ratified the contract and then did not perform at all";

(B) for the reasons pleaded in paragraph 38(b)(iii), below, if the first defendant did not perform the alleged Integration Agreement, the plaintiff would suffer no loss;

(iv) the plaintiff has no entitlement to have Albion Park transferred to it pursuant to section 131(3) Corporations Act as Albion Park was:

(A) transferred to the first defendant by operation of section 429 *Racing Act*;

(B) not received by the first defendant because of the alleged Integration Agreement;

(b) further, the allegations contravene, or would cause the contravention at any trial of the proceeding, of section 8 of the *Parliament of Queensland Act 2001 (Qld)* and/or are not justiciable.).

31. The defendants admit the allegations in paragraph 31 of the amended statement of claim.

32. The defendants admit the allegations in paragraph 32 of the amended statement of claim.

33. As to paragraph 33 of the amended statement of claim the defendants:

(a) admit that the matters pleaded in paragraphs 33(a), 33(b), 33(c) and 33(d) occurred pursuant to the enactment of the *Racing and Other Legislation Amendment Act 2010 (Qld)* ("the Amending Act");

(b) deny that the matters pleaded in paragraphs 33(a), 33(b), 33(c) and 33(d) occurred in accordance with the alleged representations or alleged Integration Agreement:

(i) as the allegations are untrue;

(ii) for the reasons pleaded in paragraphs 7, 7A, 7B, 8, 13, 14, 16, 17, 22 and 23 hereof;

(c) insofar as the paragraph alleges that the matters occurred in accordance with or as a consequence of the alleged representations and the alleged Integration Agreement, the allegations contravene, or would cause the contravention at any trial of the proceeding, of

section 8 of the *Parliament of Queensland Act 2001 (Qld)* and/or are not justiciable.

34. The defendants admit the allegations in paragraph 34 of the amended statement of claim.
35. The defendants deny the allegations in paragraph 35 of the amended statement of claim as they are not true because:
 - (a) the claim for a trust with respect to Albion Park is inconsistent with the operation of s.429 of the *Racing Act (as amended)*;
 - (b) the plaintiff has alleged no facts or particulars capable of establishing the existence of a trust in relation to Albion Park;
 - (c) the first defendant does not hold Albion Park on trust for the purposes pleaded in paragraph 35 of the amended statement of claim.
36. The defendants deny the allegations in paragraph 36 of the amended statement of claim as they are not true because:
 - (a) the allegations are inconsistent with the operation of the *Racing Act (as amended)*;
 - (b) the plaintiff has alleged no facts or particulars capable of establishing the restriction on the exercise of the first defendant's rights and powers alleged in paragraph 36 of the amended statement of claim;
 - (c) there are no such restrictions on the exercise of the first defendant's rights and powers.
37. The defendants deny the allegations in paragraph 37 of the amended statement of claim as they are not true:
 - (a) for the reasons pleaded in paragraph 23, above, there was no Integration Agreement;
 - (b) and because the conduct alleged in paragraph 34 of the amended statement of claim does not breach the alleged terms of the Integration Agreement pleaded in paragraph 23 of the amended statement of claim.
38. As to paragraph 38 of the amended statement of claim the defendants:
 - (a) say that:

- (i) by reason of the operation of s.429 of the *Racing Act (as amended)* all of the assets of the plaintiff in existence as at 1 July 2010 vested in the first defendant;
 - (ii) if the Integration Agreement existed (which is denied) the assets which vested in the first defendant referred to in sub-paragraph (a)(i) hereof included all rights and interests in and under the alleged Integration Agreement;
 - (iii) pursuant to s.429 of the *Racing Act (as amended)* any agreement in force immediately before 1 July between a former control body and another entity is taken to be an agreement between the first defendant and the other entity;
 - (iv) in the premises if there were a breach of the alleged Integration Agreement (which is also denied) any such breach could not cause the plaintiff loss by reason of the matters referred to in sub-paragraphs (a)(i) and (ii) hereof;
 - (v) in the premises the plaintiff's claim for alleged loss and damage flowing from the alleged breach of the Integration Agreement is not maintainable by it;
- (b) deny the allegations therein because they are not true:
- (i) by reason of the matters referred to in sub-paragraph (a) hereof;
 - (ii) because there was no Integration Agreement on the basis of the matters pleaded in paragraph 23 herein;
 - (iii) the losses alleged in paragraph 38 of the amended statement of claim would not be caused by a breach of the alleged Integration Agreement as they are the consequence of the commencement of the Amending Act.

The defendant does not require a jury

Signed: 

Description: Solicitor for Defendant

This pleading was settled by Mr Hodge of Counsel in consultation with Mr Derrington of Senior Counsel.

NOTICE AS TO REPLY

You have fourteen days within which to file and serve a reply to this defence. If you do not do so, you may be prevented from adducing evidence in relation to allegations of fact made in this defence.



Crown Solicitor

3 March 2011

Mr Tim Herbert
Executive Director, State Affairs
Department of the Premier and Cabinet
Executive Building
100 George Street
Brisbane Q 4000

Dear Mr Herbert

Further advice

**Queensland Harness Racing Limited v Racing Queensland Limited and Bentley
Proceedings concerning the proposed sale of Albion Park**

In our telephone conversation today with Ms Edmans and Ms Zahran of your office and Dr Sammon of this office, you sought further urgent legal advice on recent developments in this litigation.

Questions posed for advice and short answers

The questions posed for my advice and my short answers are as follows:

1. **Given the current developments, does the State now possess sufficient legal interest to have standing to become a party to the proceedings?**

The most recent Further Amended Statement of Claim dated 21 February 2011 still does not name the State of Queensland, Treasurer Fraser or former Minister Lawlor as a party to the proceedings. No relief or remedy is sought against them. It is not necessary for the State of Queensland or Treasurer Fraser or former Minister Lawlor to become parties to the proceedings in order for the dispute to be determined by the Supreme Court. In any event, an application by any of them to be joined as a party would be likely to fail because no remedy is sought against them, and no interest of theirs is at stake in the proceeding.



State Law Building
50 Ann Street
Brisbane Q 4000

GPO Box 5221
Brisbane Q 4001

Telephone
(07) 3239 6160

Facsimile
(07) 3239 6382

2. In respect of the answer to question 1, what are the impacts for the State?

There is an allegation contained in the Further Amended Statement of Claim that the Queensland Parliament would not have enacted legislation in 2010 to amend the *Racing Act 2002* Qld to divest control of harness racing from Queensland Harness Racing Limited to Racing Queensland Limited if Minister Lawlor had been aware of a proposal by Racing Queensland Limited to sell Albion Park Raceway. In a Defence dated 20 January 2011, Racing Queensland Limited quite correctly responded to this allegation by saying that such an allegation is not justiciable by the Supreme Court because of s 8 of the *Parliament of Queensland Act 2001*.

If I am wrong in my answer to question 1 and the State did have standing to be joined as a party, it would have to consider carefully the worth of doing so. The defendants have pleaded s 8 of the Parliament of Queensland Act, and I consider them quite capable of arguing that element of the defence at trial. On the other hand, if the State was made a party, it would become publicly embroiled in a dispute in which, as I say, it has no legal interest.

3. What options would be available to the State arising from this?

As mentioned, the State could apply to become a party. However, that course carries significant risks, and little advantage. Racing Queensland Limited and Mr Bentley are capable of arguing the defence under s 8 of the Parliament of Queensland Act. At this stage, in my opinion, it is not necessary for the State of Queensland to seek leave to intervene separately. The proceedings should continue to be monitored to assess potential effects on the State of Queensland and relevant Ministers.

Background

In the Crown Solicitor's previous advice in this matter dated 5 January 2011, he set out the background to this litigation. In short, Queensland Harness Racing Limited is challenging the prospective sale of Albion Park Raceway by Racing Queensland Limited (named as the first defendant). Mr Bentley, as chairman of Racing Queensland Limited is named as the second defendant.

I have been supplied with the Further Amended Statement of Claim dated 21 February 2011. I have also been supplied with the Defence filed on behalf of the defendants dated 20 January 2011. The existing Defence will need to be updated by reference to the amendments in the Further Amended Statement of Claim, but I expect that the same approach will be adopted.

In short, the claim made by Queensland Harness Racing Limited is that it was prepared for the control of harness racing in Queensland to be passed to Racing Queensland Limited on a number of bases, including that Albion Park Raceway would not be sold. On 7 December 2010, Racing Queensland Limited published a document which proposes that Albion Park Raceway be sold (see paragraph 34 of the Further Amended Statement of Claim). Queensland Harness Racing contends that this proposed action:

- (a) amounts to misleading or deceptive conduct in contravention of s 52 of the *Trade Practices Act 1974* (Cth);
- (b) amounts to a breach of contract; and
- (c) would amount to a breach of an asserted trust in which Racing Queensland Limited holds Albion Park Raceway.

Amongst other remedies, Queensland Harness Racing Limited seeks an injunction restraining the sale of Albion Park Raceway.

In the Crown Solicitor's advice dated 5 January 2011, he advised that the State of Queensland did not have standing to become a party to the litigation under Rule 69 of the *Uniform Civil Procedure Rules 1999* Qld ("the UCPR"). It was not necessary for the State to be joined as a party in order for the dispute to be resolved by the Supreme Court.

Latest amendments to Statement of Claim

It appears that the previous version of the Statement of Claim referred to former Minister Lawlor, as the Minister responsible for the Office of Racing (see paragraph 1(j) of the Further Amended Statement of Claim). The Statement of Claim in the form that it presently takes refers to the involvement of former Minister Lawlor in the events leading up to the 2010 amendments to the *Racing Act*. There are no allegations of misleading or deceptive behaviour against former Minister Lawlor. Instead, those allegations are made against Racing Queensland Limited, and Mr Bentley.

The latest version of the Statement of Claim for the first time refers to the involvement of Treasurer Fraser in the events leading to the 2010 amendments to the *Racing Act* (see paragraphs 1(j)(ii) and 9). The pleading concerning Treasurer Fraser in paragraph 9 is simply that Treasurer Fraser attended a meeting with Mr Lette, Chairman of Queensland Harness Racing Limited (to 30 June 2010), and Mr Bentley. Again, there are no allegations of misleading or deceptive conduct on the part of Treasurer Fraser.

In summary, the State of Queensland, Treasurer Fraser and former Minister Lawlor are not parties to the litigation. No relief or remedy is sought against any of them in the proceedings. In my view therefore, it is not necessary for any of them to be made parties to the litigation in order for the dispute and the litigation to be resolved by the Supreme Court. Indeed, an application by any of them to be joined as a party under the UCPR, rule 69(1)(b) (referred to in the previous advice) would be likely to fail because, notwithstanding the changes to the Statement of Claim, the test under that rule would still not be met.

At present, the only issue of concern on the pleadings is an allegation made by Queensland Harness Racing Limited that the 2010 amendments to the *Racing Act* would not have been made unless for the misleading and deceptive conduct of Racing Queensland Limited and Mr Bentley (see for example paragraphs 25, 28A, 28B of the Further Amended Statement of Claim). Racing Queensland Limited and Mr Bentley in their Defence have responded to this allegation by saying that such allegations are not justiciable by the Supreme Court of Queensland because of s.8 of the *Parliament of Queensland Act 2001* Qld. That provision is as follows:

8 Assembly proceedings can not be impeached or questioned

- (1) The freedom of speech and debates or proceedings in the Assembly can not be impeached or questioned in any court or place out of the Assembly.
- (2) To remove doubt, it is declared that subsection (1) is intended to have the same effect as article 9 of the Bill of Rights (1688) had in relation to the Assembly immediately before the commencement of the subsection.

This provision re-enacts the familiar provision of the *Bill of Rights 1688* (Imp). It reflects the fundamental principle of separation of powers between Parliament and the courts.

If the State of Queensland was to seek leave to intervene in the matter, it would be to assert that the 2010 amendments to the *Racing Act* cannot be assailed on the basis that it was enacted pursuant to a misunderstanding by Parliament. The existing defendants to the litigation have raised this very issue, and in my opinion, are capable of competently presenting the argument to the Supreme Court.

It is true that Treasurer Fraser and former Minister Lawlor are referred to in the pleadings. It may be that one of the present parties will seek to call either or both of them to give evidence at the trial on this matter about their involvement. Even as potential witnesses, however, this does not require that they or the State of Queensland be made parties to this litigation.

It is possible that either Treasurer Fraser or former Minister Lawlor may be approached prior to the trial by the lawyers for the parties for a statement of evidence to be obtained from them. There is "no property in a witness" and it is a matter for Treasurer Fraser and former Minister Lawlor whether they wish to cooperate with the lawyers for the parties in this regard. Obviously, care would have to be taken both in any statement and any evidence they would give that Cabinet or Executive Council confidentiality is not breached. Crown Law can provide advice and assistance in that case. Furthermore, I think it is highly likely that non-party discovery under the UCPR will be sought against the State. That is a method for the parties to litigation obtaining documents from the State Government concerning the issues raised in the litigation. Again, Crown Law is able to advise if any such application is made, most likely to the Office of Racing and Queensland Treasury.

Apart from that, the litigation should continue to be monitored for issues of concern to the State Government. Mr Mike Kelly, Executive Director of the Office of Racing, has received a letter dated 21 February 2011 from Cooper Grace Ward, lawyers for Queensland Racing Limited. They enclosed the Further Amended Statement of Claim, wishing to draw attention to the application of s.8 of the Parliament of Queensland Act. They wished to know whether the State of Queensland wished to intervene.

I recommend that a letter in response be prepared, asking for them to provide copies of any further pleadings as they are prepared or filed. I recommend they be told that the State of Queensland does not intend to intervene at this stage. I look forward to your further instructions.

I have received a request from the Office of Racing for legal advice in the same terms as your request. I seek your instructions to forward a copy of this advice to the Office of Racing.

Please do not hesitate to contact me if you would like further advice concerning this matter.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Tony Keyes', with a long horizontal flourish extending to the right.

Tony Keyes
Acting Crown Solicitor

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