

**Oaths Act 1867**  
**STATUTORY DECLARATION**

**QUEENSLAND**

**TO WIT**

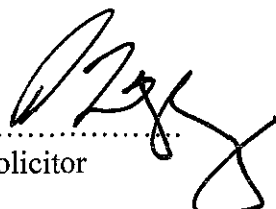
I, Carol Anne Perrett, of 111 George Street Brisbane in the State of Queensland, do solemnly and sincerely declare that:

**Office of Racing Regulation**

1. It is my understanding that while control bodies had always existed under the *Racing and Betting Act 1954* and *Racing and Betting Act 1980*, by the early 2000's it was recognised by Government that control bodies' governance, processes and procedures were not of a sufficiently high standard to enable them to effectively manage their code of racing. The racing and wagering environment both in Australia and overseas was rapidly changing and the control bodies needed to be able to respond to new and emerging challenges.
2. I was involved in preparing the drafting instructions for the *Racing Act 2002* (the Racing Act). The Racing Act was seen as a way of raising the standard of the control bodies' governance, policies, processes and procedures. This was the reason why the Racing Act included so much detail about control body policies, such as the requirement to have specific mandatory polices, form of polices, availability of policies and the requirement to have a licensing scheme.
3. Since the privatisation of the Queensland TAB in 1999, it was Government policy to gradually remove Government from the day to day operations of the racing industry, encourage industry self-management and place a greater emphasis on the role of Government in relation to matters impacting on the probity and integrity of racing and the need to protect the public interest. The Government was not involved in the control bodies' commercial decision-making. Statements similar to this were contained in most racing Cabinet Submissions since 2000.

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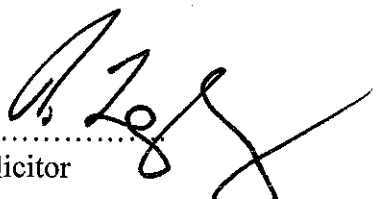
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4. As the Government recognised there were deficiencies in the three control bodies, since the Racing Act commenced, it has been Government policy that the role of the Office of Racing was to provide assistance to the control bodies and educate them wherever possible. Accordingly, the role of the Office of Racing has been carried out in an educative and conciliatory manner rather than by taking disciplinary action. The focus of the Office of Racing has always been on integrity and animal welfare issues, not on the internal workings of the control body.
5. The Office of Racing built a good working relationship with the key officers of each control body and this ensured that the control body officers were comfortable in providing information to the Office of Racing which ensured we were able to monitor emerging situations and provide relevant advice to the Deputy Director-General, Director-General and Minister and provide advice and assistance to the control bodies when required.
6. Notwithstanding, that the Office of Racing had a good working relationship with officers of the control bodies, Mike Kelly made it clear to the Chairs and Chief Executive Officers of the control bodies that the Office of Racing needed to be kept informed of any developments of an integrity or animal welfare nature, matters that were controversial or that would be of interest to the Government. For example, all race falls resulting in serious injury to a person or animal were required to be reported immediately to the Office of Racing. On a number of occasions, I have heard Mike Kelly speaking to Bob Bentley on the telephone and leaving him in no doubt that it was not acceptable that Queensland Racing had failed to provide information to the Office of Racing that we had found out through other sources.
7. Also, the control bodies were made aware that the Office of Racing expected them to address integrity and related issues and if they did not do so, the Office of Racing would ensure compliance. In my experience, the control bodies complied with all such requests from the Office of Racing.
8. The Office of Racing moved from one Department to another as a result of machinery of Government changes. In 2003, the Office of Racing was in the Department of Tourism, Racing and Fair Trading, moved to the Department of Housing, to the Department of Public Works, to the Department of Local Government, Sport and

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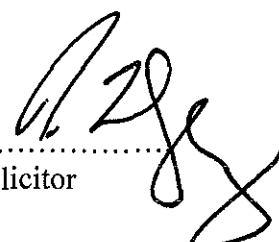
Recreation, to Treasury Department and to the Department of Employment, Economic Development and Innovation.

9. Each time there was a machinery of Government change or internal changes with a different reporting structure, Mike Kelly did a presentation to relevant officers such as the Director-General, Deputy Director-General and Minister's office. I attended a number of these presentations and on each occasion I recall that he would explain how the Office of Racing carried out its regulatory function in an educative and conciliatory manner rather than by threatening the control bodies with disciplinary action. This approach was never questioned by any of our superiors and I have always believed that it was endorsed by our superiors and Ministers.

### **Workload of the Office of Racing Regulation**

10. The Office of Racing had limited resources and personnel to carry out its functions which included responding to Ministerial correspondence, preparation of Ministerial briefs for meetings with stakeholders, interested persons and control body officers, preparation of Parliamentary briefs and preparation of estimates briefs and the estimates process which involved several months of work each year. In addition there were Government corporate, performance and other reporting, provision of secretariat and research support to the Racing Animal Welfare and Integrity Board, conduct of the annual audit program, administration of the annual Training Track Subsidy Scheme and dealing with Racing Science Centre issues which was a full workload for the Office of Racing.
11. In addition, there have been ongoing issues that the Office of Racing has had to deal with. For example, the Parklands Gold Coast venue has had ongoing issues since the site was identified for the Gold Coast University Hospital in 2007 and later for the Athletes Village for the 2018 Commonwealth Games. The Trustees of Parklands Gold Coast were appointed under the *Racing Venues Development Act 1982* which is administered by the Minister responsible for Racing. The harness and greyhounds codes raced at this venue, with the greyhounds required to vacate the venue in 2008 and harness in 2013. The Office of Racing Regulation was involved in liaising with

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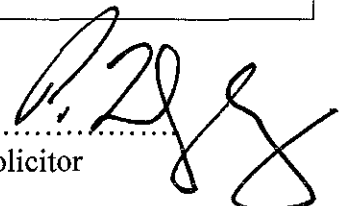
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the control bodies, race clubs and the Trust on a range of issues and a number of other Government departments in relation to the transfer of parcels of land.

12. The following is an overview of work undertaken by the Office of Racing, in addition to the matters outlined above:

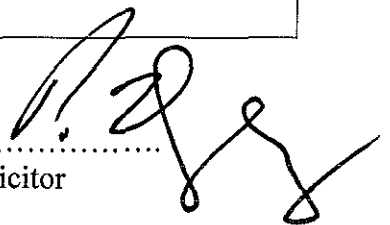
Date	Significant/Time Consuming Issues Office of Racing was involved in/worked on
2007 -2008	Processing applications for corporations to be approved as the control bodies for the harness and greyhound codes.
August 2007- 2008	Equine Influenza
September 2007	Office of Racing took over Synthetic Track Project from Sport and Recreation
November 2007	Preparation of briefs and papers for Australasian Racing Ministers' Conference and attendance at Conference and Government Racing Officers Meeting
2007-2008	QR proposal to establish a racing venue at Palm Meadows – briefs and meetings involving QR and Treasury officers
2007-2013	Numerous meetings, telephone calls and correspondence from various Quarter horse and Arabian horse bodies wishing to race in Queensland
2008 -2009	Cairns Amateurs and Cairns Jockey in financial difficulties – liaison with Department of Premier and Cabinet, Tourism Queensland, Cairns City Council
2008	Legislative amendments for corporations to be approved as the control bodies for the harness and greyhound codes - Preparation of Authority to Prepare Cabinet Submission, Authority to Introduce Cabinet Submission, drafting instructions, explanatory notes, instructing Parliamentary Counsel Cabinet submissions
2008	QR request to change constitution
2008	Race Fields legislation - preparation of Authority to Prepare

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	Cabinet Submission, Authority to Introduce Cabinet Submission, drafting instructions, explanatory notes, instructing Parliamentary Counsel, Crown Law advice sought on various issues related to section 92 of the Constitution.
December 2008	Preparation of briefs and papers for Australasian Racing Ministers' Conference and attendance at Conference and Government Racing Officers Meeting
2009	District Court appeal Harness Racing Queensland and State of Queensland v Whitaker
2009	Significant Appointment Cabinet Submission to appoint Trustees of Parklands Gold Coast
2009	Significant Appointment Cabinet Submission to appoint members of the Racing Animal Welfare and Integrity Board
2009-2010	Litigation involving Cairns Jockey Club and Trafalgar Pty Ltd – Crown Law advice obtained
2009	Additional Race Fields legislation - Preparation of Authority to Prepare Cabinet Submission, Authority to Introduce Cabinet Submission, drafting instructions, explanatory notes, instructing Parliamentary Counsel
2009	QR directors elections
2009	CBRC submission re infrastructure funding
December 2009 to July 2010	Amalgamation of control bodies – Preparation of Authority to Prepare Cabinet Submission, Authority to Introduce Cabinet Submission, drafting instructions, explanatory notes, instructing Parliamentary Counsel, Crown Law advice sought on various issues.
April 2010	Preparation of briefs and papers for Australasian Racing Ministers' Conference and attendance at Conference and Government Racing Officers Meeting

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June 2010	Federal Court proceedings served on the State and RQL challenging race fields legislation. Instructions provided to Crown Law.
2010	RQL developed infrastructure plans
October 2010	Draft CBRC submission drafted but did not proceed
December 2010	RQL Industry Infrastructure Plan released
2011	Workplace Health and Safety and Flood and Cyclone Funding for race clubs
2011	Complaint from Anthony Burke in regard to the Toowoomba Turf Club - meetings with complainant and his lawyer and extensive correspondence - Office of Racing required RQL to conduct an investigation
July 2011	CBRC submission and decision re Infrastructure Plan
September 2011	Preparation of briefs and papers for Australasian Racing Ministers' Conference and attendance at Conference and Government Racing Officers Meeting
November 2011	Letters re potential prosecution action under the Racing Act sent to 29 bookmakers re use of Queensland race information
2011-12	Comprehensive review undertaken of the Collection Procedures published by the Racing Animal Welfare and Integrity Board
2011 -2102	Reviewed RQL Business Cases under the Racing Industry Capital Development Scheme and provided feedback and assistance to RQL
2011-12	Prosecution of 5 bookmakers under the Racing Act in the Magistrates Court
2012	Significant Appointment Cabinet Submission to appoint members of the Racing Animal Welfare and Integrity Board

**Section 39 Compliance Summary produced by the Commission**

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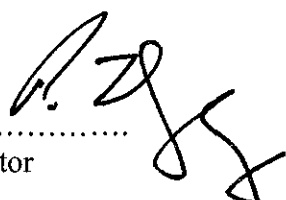
13. I refer to the Commission's Document number 8 'Section 39 Compliance Summary' which was referred to during my evidence and Mr Kelly's evidence to the Commission (**Attachment 1**).
14. While the control bodies did not submit all audit plans by the due date, the Office of Racing did send letters to the control bodies reminding them of their obligations. I have located reminder letters sent by the Office of Racing to the three control bodies on 13 February 2006 and 3 December 2008 and to the harness and greyhound control bodies on 25 January 2007 (**Attachment 2**).
15. In addition to the formal letters sent, I recall that telephone calls were also made to the control bodies to remind them of their obligations.

**Section 41 Compliance Summary produced by the Commission**

16. I refer to the Commission's Document number 16 'Section 41 Compliance Summary' which was referred to during my evidence and Mr Kelly's evidence to the Commission (**Attachment 3**).
17. While the control bodies did not submit all notices by 15 July each year as required by section 41, the Office of Racing did send letters to the control bodies reminding them of their obligations. I have located reminder letters sent by the Office of Racing to the three control bodies on 26 June 2007 and to the harness and greyhound control bodies on 6 August 2008 (**Attachment 4**).
18. In addition to the formal letters sent, I recall that telephone calls were also made to the control bodies to remind them of their obligations.
19. Section 41(2) of the Racing Act stated that within 14 days after each anniversary day of a control body's approval effect day, the control body must give to the chief executive a notice about whether the control body has been an eligible corporation for the year before the anniversary day and is, on that anniversary day, an eligible corporation. Accordingly, section 41(2) would apply only to corporations that had been granted a control body approval under section 26 and not to statutory body control bodies.

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20. I have assumed that the heading “Eligible Corporation?” in Attachment 3 indicates whether the relevant control body stated that it was an eligible corporation in accordance with section 41(2).

### **Queensland Racing**

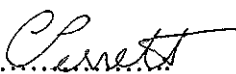
21. In respect to Queensland Racing, under the heading “Eligible Corporation” in Attachment 3 it is stated “no” for 2008 and 2009, which indicates that Queensland Racing did not state whether it was an eligible corporation in 2007-08 and 2008-09. Attached are copies of Form 10 submitted by Queensland Racing that indicate that Queensland Racing did advise that it was an eligible corporation in 2007-08 and 2008-09 (**Attachment 5**).
22. I refer to the heading “Directors Approval?” in **Attachment 3** and note that it is stated “No” for Queensland Racing in 2007 to 2009. A review of the Minutes of the Queensland Racing Board Minutes on the Commission’s website for 6 July 2007, 4 July 2008, 26 June 2009 indicates that the section 41 plans for those years were approved by the Board of Queensland Racing.


### **Harness Control Bodies**

23. In respect to the harness control body, under the heading “Eligible Corporation” in Attachment 3 it is stated “no” for 2008 and 2009 which indicates that the Queensland Harness Racing Board did not state whether it was an eligible corporation in 2007-08 and 2008-09. Queensland Harness Racing Limited (QHRL) was appointed as the control board for the harness code of racing on 1 July 2008. Accordingly, section 41(2) did not apply to the Queensland Harness Racing Board in 2007-08. Attached is a copy of Form 10 which indicates that QHRL did advise that it was an eligible corporation in 2008-09 (**Attachment 6**).

### **Greyhound Control Body**

24. In respect to the greyhound control body, under the heading “Eligible Corporation” in Attachment 3 it is stated “no” for 2008 and 2009 which indicates that the Greyhound Racing Authority did not state whether it was an eligible corporation in 2007-08 and

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2008-09. Greyhounds Queensland Limited (GQL) was appointed as the control board for the greyhound code of racing on 1 July 2008. Accordingly, section 41(2) did not apply to GQL in 2007-08. Attached is a copy of Form 10 which indicates that GQL did advise that it was an eligible corporation in 2008-09 (**Attachment 7**).

25. While I do not have access to the harness and greyhound control bodies' Board Minutes, attached is a letter from Greyhounds Queensland Limited enclosing the 2008-09 Plan under section 41 which is signed by the Acting Chair of Greyhounds Queensland Limited (**Attachment 8**).

### **Racing Queensland Limited**


26. Racing Queensland Limited was created as a control body for the 3 codes of racing on 1 July 2010. This probably explains why there was no compliance by 15 July 2010. In respect to Racing Queensland under the heading "Eligible Corporation" in Attachment 3 it is stated "no" for 2011 which indicates that Racing Queensland did not state whether it was an eligible corporation in 2010-11. Attached is a copy of Form 10 which indicates that Racing Queensland did advise that it was an eligible corporation in 2010-11 (**Attachment 9**).

### **Synthetic Tracks**

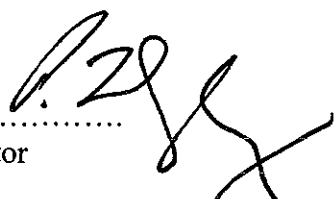
27. I refer to my statement dated 15 October 2013. Since making that statement I have located a file note in my Day Book numbered 8 at pages 82 and 83 of 137 provided by Crown Law. The file note indicates that Pat Morgan advised me that Malcolm Tuttle had advised Pat that an overseas supplier had been selected. I take this to mean that Equestrian had been selected and Malcolm had assured Pat that Queensland Racing had followed an open tender process and offered to let Pat look at the process. Malcolm assured Pat that the process would stand up to scrutiny. This file note is not dated but it would appear it was in July 2007 (**Attachment 10**).

### **Investigations Conducted by the Office of Racing**

28. I have located the following investigation files conducted by the Office of Racing:

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- a complaint in 2007 regarding a harness race, stewards socialising with licensees and betting on harness races on Betfair (**Attachment 11**).
- a complaint in 2007 that there had been inaction by the Greyhound Racing Authority (GRA) in not responding to an earlier complaint about the condition of greyhounds and that the GRA did not carry out regular kennel inspections (**Attachment 12**).
- a complaint in 2007 regarding the barrier draw system used by Queensland Racing (**Attachment 13**).
- a complaint in 2007 regarding the safety of the running rail at the Ipswich Greyhound Racing Club, a lack of a first aid kit and emergency procedures and a veterinary officer on call or present at greyhound trials (**Attachment 14**).
- whether a thoroughbred horse trainer had taken action in 2007 to deliberately infect his horses with equine influenza and whether this amounted to a breach of the Racing Act (**Attachment 15**).
- whether a steward employed by the GRA had a business or financial relationship with a licensee in the greyhound code and whether the relationship amounted to official misconduct within the meaning of the *Crime and Misconduct Act 2001*. The investigation was conducted in 2007-08 (**Attachment 16**). Attachments to the report are available but not included due to their size.
- a complaint regarding the use of the whip by a harness trainer/driver in 2007 (**Attachment 17**).
- whether Queensland Racing dealt with the transfer and ownership and management rights of a horse appropriately and complied with its Forms Policy and whether Queensland Racing dealt with the complaint regarding the transfer of the horse appropriately in 2008 (**Attachment 18**).
- A number of complaints by a former steward employed by the GRA in relation to staffing, employment, training, integrity of meetings at the Rockhampton Greyhound Racing Club, a penalty imposed on a licensee and that a board member interfered in the decision regarding the penalty (**Attachment 19**).

**Section 84 -Availability of Policies**

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29. Section 84 has been interpreted by the Office of Racing and the control bodies in the past to refer only to the mandatory policies under section 81. However, it would appear that it applies to all policies made by a control body. Therefore all policies relating to staff and internal matters would be caught by section 84.
30. Accordingly, the control bodies have placed mainly the mandatory policies and some other policies that may be of interest to licensees and industry stakeholders on their websites. The control bodies ensured that their mandatory section 81 policies were publicly available in compliance with subsections (1), 2(b) and (c).
31. Queensland Racing and Racing Queensland were the only control bodies that sent a copy of their mandatory policies to the Office of Racing in compliance with section 84(2)(a) on a regular basis.
32. However, the Office of Racing reviewed the control bodies' websites on a frequent basis and accessed and reviewed the control bodies' mandatory policies.
33. The policies regarding the internal workings of the control body were not of interest to the Government as it was Government policy that the control body was responsible for the day to day management of the codes of racing. It was not the role of Government to micro manage the control bodies.
34. The majority of the internal policies would be of no interest to licensees and stakeholders.

#### **Department of Premier and Cabinet Briefing Notes**

35. The Office of Racing did not see any Department of Premier and Cabinet briefing notes. The first time we saw them was when they were attached to statements provided to the Commission. The advice received by the Office of Racing from the Department of Premier and Cabinet was via the emails only. The Department of Premier and Cabinet and Treasury Department (central agencies) never provide a copy of their briefing notes to other departments (line agencies).
36. The process for all Cabinet Submissions is that departments must submit all draft Cabinet submissions to the Department of Premier and Cabinet and Treasury

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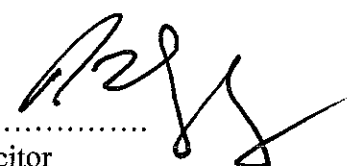
Department and they receive feedback on them during the development process. If their feedback is not accepted, there is the possibility that the Department of Premier and Cabinet and Treasury Department may brief against the submission. It is then a matter for Cabinet to decide. As stated by Ken Smith in his statement dated 5 September 2013 at paragraph 25, "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. In public administration, this would be seen to result in more informed decision making through a process of contestability."

37. Notwithstanding the issues raised in the Cabinet briefing notes from the Department of Premier and Cabinet, the submissions were supported by the Department of Premier and Cabinet.
38. The briefing note from Dr Pradeep Phillip dated 19 November 2010 was prepared for a meeting with the Director General of the Department of Premier and Cabinet on 20 November 2009. The statement in Dr Pradeep Phillip's briefing note that the chair would face election in 2023 is incorrect. He notes that the amalgamation is likely to deliver overall efficiency improvements.
39. As we never saw these briefing notes, we could not have taken them into consideration.

**Emails between Nick Lindsay and Carol Perrett on 9 February 2010**

40. Emails between Nick Lindsay and Carol Perrett on 9 February 2010 relate to the advance copy of the Policy/Authority to Prepare Cabinet Submission.
41. Nick Lindsay states "DPC supports the broad intent of the proposed reforms. He raised issues related to lack of consultation and the removal of guaranteed funding allocations to the smaller codes. There were also governance model issues that needed to be addressed in the final submission. The final submission was considered by Cabinet on 22 February 2010.
42. The decision to consult with only the chairs and executives of the three control bodies was made at the beginning of the amalgamation process in 2009. It was not made by

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Mike Kelly or myself but at a higher level within Government. The Premier, Treasurer, Minister Lawlor, the Director-General of the Department of Premier and Cabinet, Ken Smith and others were involved in the decision-making involving the amalgamation.


43. The Office of Racing attempted to address the issue of the removal of guaranteed funding allocations to the smaller codes by including an amendment in the drafting instructions attached to the Cabinet submission. The proposed amendment was to give the Minister the power to require a control body which had an approval for more than one code of racing to provide reasons and justification for its decisions that had a detrimental impact on a particular code of racing and require the control body to reconsider and make a new decision.
44. Minister Lawlor's Cabinet briefing note was amended on 17 February 2010 to include, "The Department of Premier and Cabinet has indicated that the Minister should be distanced from such decision-making by referring the power to a third party. No suitable third party has been identified." (**Attachment 20**)
45. The proposed amendment was not approved by Cabinet. This matter was referred to in paragraph 15 of the statement of Mike Kelly dated 1 October 2013.

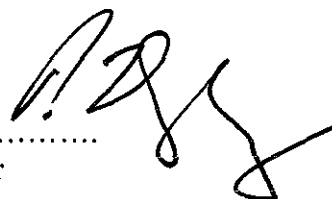
**Emails between Nick Lindsay and Carol Perrett on 17, 22, 30 and 31 March 2010**

46. Emails between Nick Lindsay and myself on 17 and 22 March 2010 relate to the Authority to Introduce Submission and the issue of consultation.
47. Emails between Nick Lindsay and myself on 30 and 31 March 2010 relate to the Authority to Introduce Submission and the issue of consultation and the 'best interests of the code'.
48. It is noted that David Ford approved the submission on 1 April 2010 (**Attachment 21**)

**Email of 5 March 2010 at 10.47 am from Carol Perrett to David Grace**

49. Emails on 5 March 2010 from myself to David Grace copied to Bob Bentley and Shara Murray contained an attachment that specified the amendments to the draft

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- constitution that the Government required as a result of the Cabinet Decision relating to the Policy/Authority to Prepare Submission on 22 February 2010 (**Attachment 22**).
50. The amendments to the draft constitution attached to the email of 5 March 2010 are based on the information contained in the Cabinet Decision of 22 February 2010 and two emails:
- email from David Ford, Deputy Director-General to Mike Kelly copied to Claire Maconachie David Ford's Executive Officer, Sandy Williams, CLLO and Ian Fletcher, Director-General on 23 February 2010 (**Attachment 23**); and
  - email from Mike Kelly to David Ford copied to Carol Perrett, Claire Maconachie and Ian Fletcher on 24 February 2010 in which Mike Kelly advised that he had spoken to the Minister and was advised of further changes (**Attachment 24**).
51. The final submission lodged with the Cabinet Secretariat for consideration by Cabinet on 22 February 2010 was not significantly different to the changes to the constitution outlined in the email of 5 March 2010 (**Attachment 25**).
52. The following amendments were required to the RQL constitution by the email of 5 March 2010 ( See attachment 22 – Cabinet Submission):
- The initial term of the directors is to expire on 30 June 2014. Note: the initial term is not to expire at the conclusion of the AGM in 2014 -- must expire on 30 June 2014.
  - The remuneration of the directors is to be recommended by an independent consultant who has expertise in remuneration of public company directors and it must be approved by the Chief Executive Officer of the Department responsible for racing.
  - In making decisions, the control body is to have regard to the best interests of the thoroughbred, harness and greyhound codes as a whole, and the continued existence and welfare of each individual code.
  - The constitution is to provide for the establishment of committees for non-TAB racing that will be responsible for providing advice and recommendations to the control body.
  - The current chairs of the eight Country Racing Associations will form an advisory committee to provide advice and recommendations to Racing Queensland Limited

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on non-TAB thoroughbred racing issues. Detailed provisions regarding the role and operations of this body are to be included in Racing Queensland Limited's constitution.

53. Paragraph 24 of the Cabinet Submission stated that the control body would establish advisory committees for non-TAB racing.

**Mike Kelly**

54. On the 5<sup>th</sup> February 2013, Mr Kelly put forward a number of names to the Director-General for the positions of Racing Integrity Commissioner and the Racing Disciplinary Board. (**Attachment 26**)

AND I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act* 1867.

**DECLARED AND SIGNED at Brisbane**

this 30<sup>th</sup> day of October, 2013

Witness Cherrett

Before me:-

[Signature] Solicitor