



Queensland  
Government

Department of Employment, Economic Development  
and Innovation

Reference No: RAC-861 (2)

17 October 2011

Mr Malcolm Tuttle  
Chief Operations Manager  
Racing Queensland Limited  
PO Box 63  
SANDGATE QLD 4017

Dear Mr Tuttle *Malcolm*

I refer to my previous correspondence regarding the conduct of the 2010 Control Body Assessment under section 46 of the *Racing Act 2002* (the *Racing Act*).

Please find enclosed the draft 2010 Control Body Assessment Report for your comment and development of an appropriate action plan. Racing Queensland's response will be included as part of the final Assessment Report.

I would appreciate it if you would provide your comments and action plan in response to the draft Assessment Report to this office by 14 November 2011.

If you have any enquiries relating to the assessment program, please do not hesitate to contact me on (07) 3234 1408.

Yours sincerely

Carol Perrett  
Director  
Investigations and Compliance  
Office of Racing

Office of Racing

Level 4, 33 Charlotte Street  
Locked Bag 180  
City East QLD 4002  
Telephone +61 7 3234 1400  
Facsimile +61 7 3234 1411  
Email fofo@racing.qld.gov.au

**OFFICE OF RACING REGULATION**  
**CONTROL BODY ASSESSMENT**  
**REPORT**  
**2010**

**RACING QUEENSLAND  
LIMITED**

**APPROVED**

---

Mike Kelly  
Executive Director, Office of Racing  
Date: / / 2011

## LEGISLATIVE AUTHORITY

Section 46 of the *Racing Act 2002* (the Act) requires the Chief Executive to prepare and provide to the Minister an annual program for assessing the suitability of control bodies to manage the relevant codes of racing.

In accordance with section 46(3) of the Act, the Minister approved the 2010 program on 4 January 2011. The assessment program provided for the assessment of Racing Queensland Limited (Racing Queensland) as the control body for thoroughbred, harness and greyhound racing in Queensland.

The powers and functions of the Chief Executive under the Act relating to assessment programs (section 46) have been delegated to the position of Executive Director, Office of Racing.

This report contains details of the assessment of Racing Queensland.

## 1. BACKGROUND

Queensland Racing Limited, Queensland Harness Racing Limited, and Greyhounds Queensland Limited ceased to be control bodies at midnight 30 June 2010. Racing Queensland became the control body for the three codes of racing from 1 July 2010.

Section 81 of the Act requires a control body to have policies in relation to 24 matters (sections 81(a) to 81(w)). Section 83 of the Act defines the form each policy must take, including the requirement for the control body to enter into its minutes that the policy has been made.

The Board of Racing Queensland determined that in order for the new control body to have the required policies in effect from and including 1 July 2010, 24 policies were made on an urgent basis in a timeframe that did not allow for adequate time for consultation.

Racing Queensland's 'Code of Racing Policy Development' policy, made under section 81(a) of the Act requires consultation with stakeholders as part of the policy development process. Racing Queensland advised that the policies would be reviewed within three months of publication, and would not continue to have effect after six months from publication unless there had been formal consultation on the review of each of the policies.

With each of the policies commencing on 1 July 2010, no policy should continue to have effect after 31 December 2010 unless formal consultation on the review of each policy has been undertaken.

## 2. OBJECTIVES & SCOPE

The aim of the 2010 Control Body Assessment Program is to determine:

1. *Racing Queensland's compliance with section 81 of the Act, including the consultation undertaken with stakeholders as part of its policy development process (section 81(a));*
2. *whether urgent policies made by the Board of Racing Queensland with effect from and including 1 July 2010, were reviewed within three months of publication, and did not have effect after 31 December 2010 (six months from publication) unless formal consultation on the review of each of the policies had been undertaken; and*
3. *whether each of the policies required under section 81 of the Act meet the form of each policy as required by section 83 of the Act.*

### 3. METHODOLOGY

The assessment was carried out by two officers of the Office of Racing Regulation initially undertaking a desktop audit of Racing Queensland's website on 16 May 2011 (results detailed in Attachment 1), with a follow up interview on 31 May 2011 using a number of assessment questions (Attachment 2). Answers to outstanding issues identified were provided by Racing Queensland (Attachment 3).

### 4. RESOURCES

The assessment was conducted by Principal Compliance Officers from the Office of Racing Regulation, and the outcomes of the assessment reviewed by the Director (Investigations & Compliance), Office of Racing Regulation and the Executive Director, Office of Racing.

### 5. ASSESSMENT FINDINGS

#### 5.1 General Overview of Assessment Findings

Overall, the assessment revealed that Racing Queensland was generally compliant with sections 81 and 83 of the Act, and that the urgent policies that were made by the Board of Racing Queensland with effect from and including 1 July 2010 were reviewed, including formal consultation with industry stakeholders, within three (3) months of publication. However, it is recommended that all policies that were amended have a commencement date that reflects the date the policies were made by the Board of Racing Queensland, i.e. 3 September 2010. The implementation of an appropriate version numbering system, which has since been adopted, will greatly assist interested parties in determining the history of the policy development. Additionally, it is also recommended that Racing Queensland develop an additional policy under section 81(u) of the Act that deals with the disposal of assets, other than land and intangible assets, which are already provided for.

#### 5.2 Assessment Criteria 1

***Racing Queensland's compliance with section 81 of the Act, including the consultation undertaken with stakeholders as part of its policy development process (section 81(a))***

##### 5.2.1 Have all 24 policies required by section 81 of the Act been made by Racing Queensland?

Under section 83(2) of the Act, a policy is "made" by the control body when the policy is entered into the control body's minutes as having been made by it. An investigation of correspondence provided to the Office of Racing in July 2010 revealed that all 24 policies made under section 81 of the Act were made by Racing Queensland on an urgent basis with an effective date of 1 July 2010.

It was noted that all policies listed a commencement date of 1 July 2010, with the exception of three (3) policies that were listed as being amended with a commencement date of 3 September 2010. They were:

- s81(c) Licensing Scheme Policy
- s81(e) Policy for a program for the testing and training of racing animals, including holding trials
- s81(h) Policy for first-level appeals

At a meeting between officers of the Office of Racing Regulation and Racing Queensland on 31 May 2011, a copy of the board minutes of 1 July 2010 and 3 September 2010 were provided by Racing Queensland.

#### Board Minutes 1 July 2010

The minutes of 1 July 2010 confirm that all 24 policies had been made by Racing Queensland on an urgent basis with a commencement date of 1 July 2010.

#### Board Minutes 3 September 2010

The board minutes of 3 September 2010 indicate that, following a consultation process the following policies were amended and approved by the Board:

- s81(c) Licensing Scheme Policy
- s81(k) Policy on the Standards Required for Licensed Venues, including Venue Licensing Procedures;
- s81(n) Policy for Decision Making by Stewards; and
- s81(q) Drug and Alcohol Policy (Licence holders and Race club officials)

The commencement date for Board approved amended policies under sections 81(k), 81(n) and 81(q) was listed as 1 July 2010. As these policies were amended and approved by the Board at its meeting of 3 September 2010, in accordance with section 83(4), new policies should have been made with a commencement date not earlier than the date the policy was made, i.e. 3 September 2010.

The commencement date for the Board approved amended policy under section 81(c) was listed as 3 September 2010.

All other policies confirmed by the Board on 3 September 2010 reflected a commencement date of 1 July 2010.

The following policies identified during the desktop audit were not reflected in the Board minutes of 3 September 2010 as having been amended and approved by the Board, despite being amended on 3 September 2010:

- s81(e) Policy for a program for the testing and training of racing animals, including holding trials
- s81(h) Policy for first-level appeals

If the policies under section 81(e) and (h) were amended, such amendments required approval by the Board. Under section 83(4) of the Act, if the control body wishes to amend a policy, it must make a new policy, which must be entered into the control body's minutes as having been made by it, with a commencement date not earlier than the date the policy is made. The Racing Queensland Board minutes of 3 September 2010 do not reflect that any amendments to policies made under section 81(e) and 81(h) were approved by the Board.

#### Disposal of Assets Policies

It was noted that Racing Queensland has made two (2) policies under section 81(u) of the Act, as follows:

- s81(u) Policy on Disposal of Land by Non-Proprietary Licensed Clubs; and
- s81(u) Policy on Dealing with Intangible Assets by Non-Proprietary Licensed Clubs

However, section 81(u) of the Act provides that the control body must make a policy about the disposal of assets under section 113. Section 113 of the Act provides for the prohibition of disposal of any assets of non-proprietary entities, except in limited circumstances. It does not state that the disposal of assets only relates to land or intangible assets. As such, it is recommended that Racing Queensland make a new policy under section 81(u) of the Act to provide for the disposal of assets, other than land or intangible assets, by non-proprietary licensed clubs.

*Recommendation: Amendments to policies made under sections 81(e) and 81(h) be approved by the Board and entered into its minutes as having been made by it, with a commencement date not before the date of approval.*

*Recommendation: Policies made under sections 81(k), 81(n), and 81(q) be corrected to reflect a commencement date of 3 September 2010.*

*Recommendation: Note that under section 83(4) of the Act, any time the control body wishes to amend a policy, it must make a new policy.*

*Recommendation: Develop a new policy under section 81(u) of the Act to provide for the disposal of assets, other than land or intangible assets, by non-proprietary licensed clubs.*

#### 5.2.2 What industry consultation was undertaken in reviewing/changing the policies?

Racing Queensland advised that the urgent policies made on 1 July 2010 were widely distributed to industry stakeholders for consultation and a copy of each policy was also published in the July 2010 edition of the Racing Queensland magazine. Stakeholders were asked to provide submissions on the policies by 16 August 2010.

Racing Queensland advised that only three (3) submissions were received, and that those submissions were from internal staff members of Racing Queensland. No submissions were received from industry stakeholders. The submissions related to four (4) policies, which were amended and approved by the Board of Racing Queensland at its meeting of 3 September 2010 (as detailed in 5.2.1 above).

#### 5.2.3 Was the industry consultation undertaken in accordance with the control body's policy development policy required under section 81(a)

Racing Queensland's 'Code of Racing Policy Development' policy, made under section 81(a) of the Act, provides that consultation is a core element of policy development. The policy requires that a formal consultation stage that provides for industry-wide input on policy content to be built into the standard policy development process, including a minimum period of 28 days for comment.

The policy also provides that in exceptional circumstances where the urgent making of a policy is required in a timeframe that does not allow adequate time for formal consultation, then any policy that is made urgently will be reviewed within three (3) months. Any such urgent policy will not continue to have effect after six (6) months unless there has been formal consultation on the review of the policy consistent with the formal consultation process applied in the development of a non-urgent policy.

Racing Queensland's 'Code of Racing Policy Development' policy also states that consultation submissions must be made in writing, and that Racing Queensland will provide feedback on written submissions made during the formal consultation process, either on an individual or group basis and that confidentiality will be respected where comments have been provided on an in-confidence basis.

On 1 July 2010, the Board of Racing Queensland adopted 24 policies made under section 81 of the Act and determined that exceptional circumstances required the urgent making of the policies

in a timeframe that did not allow adequate time for consultation. The exceptional circumstances identified by Racing Queensland were:

- "1) Pursuant to the *Racing and Other Legislation Amendment Act 2010* (Qld):
  - 1.1 the approvals held by the three control bodies for racing in Queensland were cancelled on midnight on 30 June 2010;
  - 1.2 on 1 July 2010 the Minister must give an approval to Racing Queensland Limited for the three codes of racing in Queensland; and
  - 1.3 Racing Queensland Limited will be the control body for the three codes of racing in Queensland with effect from and including 1 July 2010.
- 2) Section 81 of the *Racing Act 2002* requires a control body to have certain policies in place. In order for Racing Queensland Limited to have these policies in place with effect from and including 1 July 2010, the section 81 policies were made on an urgent basis in a timeframe that did not allow adequate time for consultation".

Racing Queensland advised that the urgent policies adopted on 1 July 2010 were widely distributed to industry stakeholders for consultation. A copy of each policy was published in the July 2010 edition of the Racing Queensland magazine which was sent to licensees and published on Racing Queensland's website. Stakeholders were asked to provide submissions on the policies by 16 August 2010. Racing Queensland advised that only three (3) submissions were received, and that those submissions were from internal staff members of Racing Queensland. No submissions were received from industry stakeholders.

After reviewing the information provided by Racing Queensland, it is determined that the consultation process undertaken by Racing Queensland meets the industry consultation requirements of both section 81(a) of the Act and Racing Queensland's 'Code of Racing Policy Development'.

However, it is noted that the requirement of Racing Queensland for submissions to be made in writing may be a deterrent to persons wishing to make a comment, but who are unable to make a submission in writing, for example, persons with poor literacy skills or those from non-English speaking backgrounds.

*Recommendation: Racing Queensland review its 'Code of Racing Policy Development' policy made under section 81(a) of the Act to accommodate the needs of persons unable to make written submissions on draft policies for consultation.*

### 5.3 Assessment Criteria 2

***Whether urgent policies made by the Board of Racing Queensland with effect from and including 1 July 2010, were reviewed within three months of publication, and did not have effect after 31 December 2010 (six months from publication) unless formal consultation on the review of each of the policies had been undertaken.***

Racing Queensland advised that it undertook consultation on the 24 urgent policies made on, and effective from and including, 1 July 2010 as outlined above under 5.2.3.

As a result of the consultation undertaken, four (4) policies were amended and approved by the Board of Racing Queensland at its meeting of 3 September 2010, with an effective date of 3 September 2010. The remaining 20 policies were reviewed by the Racing Queensland board at its meeting of 3 September 2010.

In light of the consultation process outlined above, it is determined that Racing Queensland did review the urgent policies made by the board within three (3) months of publication and that those policies in effect on 31 December 2010 had had formal consultation on the review of each of the policies.

#### 5.4 Assessment Criteria 3

*Whether each of the policies required under section 81 of the Act meet the form of each policy as required by section 83 of the Act.*

##### 5.4.1 Do the policies conform to the required policy format and were they made in accordance with section 83?

All policies of Racing Queensland complied with section 83(1) of the Act in that they prescribed (a) the name of the policy; (b) the date it was made; (c) the date it took effect; and (d) its purpose. The policies also referred to those affected by it, including licensees and non-licensed persons (section 83(1)(e)), and the manner in which the control body made decisions about matters provided by the policy was covered by the "Procedures" section (section 83(1)(f)). No rules of racing were made by the policies (section 83(1)(g)).

All of Racing Queensland's policies were entered into the control body's minutes as having been made by it (section 83(2)).

##### 5.4.2 Where were the policies published?

Twenty-one (21) of the 24 policies required by section 81 of the Act were published on Racing Queensland's website. Three (3) of the 24 policies made by Racing Queensland were missing from its website as follows:

- s81(k) Policy on the Standards Required for Licensed Venues, including Venue Licensing Procedures;
- s81(n) Policy for Decision Making by Stewards; and
- s81(q) Drug and Alcohol Policy (Licence holders and Race club officials)

At a subsequent interview with Racing Queensland on 31 May 2011, it was determined that the three (3) identified policies had been made but were not published on the website at the time of assessment due to an administrative error. A verbal recommendation was made at that meeting for Racing Queensland to ensure that all 24 policies made under section 81 of the Act were published on Racing Queensland's website. Racing Queensland advised by emails dated 23 June 2011 and 18 July 2011 that the three policies in question had been uploaded. A further check of Racing Queensland's website on 22 August 2011 confirmed that this action had been taken.

##### 5.4.3 Did the current and/or previous policy have a version number?

None of the policies reviewed on 16 May 2011 contained a version number. The Control Body Assessment Reports for both 2008 and 2009 recommended that the control body implement a version numbering system. An appropriate version numbering system would provide clarity in relation to the history of development of each policy.

On 31 May 2011, it was verbally recommended that a version numbering system be implemented, in accordance with the recommendations of previous control body assessments. Racing Queensland advised by emails dated 23 June 2011 and 18 July 2011 that a version numbering system had been implemented for all Racing Queensland policies. A further check of Racing Queensland's website on 22 August 2011 confirmed that this action had been taken.



## RECOMMENDATIONS

It is recommended that Racing Queensland:

1. Correct the policies made under sections 81(k), 81(n), and 81(q) to reflect a commencement date of 3 September 2010.
2. Submit amended policies made under sections 81(e) and 81(h) for approval by the Board, and that such policies be entered into its minutes as having been made by the control body, with a commencement date not before the date of approval.
3. Note that under section 83(4) of the Act, any time the control body wishes to amend a policy, it must make a new policy.
4. Develop a new policy under section 81(u) of the Act to provide for the disposal of any asset, other than land or intangible assets, by non-proprietary licensed clubs.
5. Review its 'Code of Racing Policy Development' policy made under section 81(a) of the Act to accommodate the needs of persons unable to make written submissions on draft policies for consultation.

DRAFT