



# Racing Penalties Appeal Tribunal 2015-16 Annual Report

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### Availability in other formats

This publication can be made available in alternative formats such as compact disc, audiotape or Braille. The report is available in PDF format at [www.rpat.wa.gov.au](http://www.rpat.wa.gov.au)

People who have a hearing or speech impairment may call the National Relay Service on 133 677 and quote telephone number (08) 9425 1888.

## Statement of Compliance

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Hon. Brendon Grylls, MLA  
**Minister for Housing; Racing and Gaming**

In accordance with section 61 of the *Financial Management Act 2006*, I submit, for your information and presentation to Parliament, the Annual Report of the Racing Penalties Appeal Tribunal of Western Australia for the financial year ended 30 June 2016.

The Annual Report has been prepared in accordance with the provisions of the *Financial Management Act 2006*.



Dan Mossenson  
**Chairperson**

16 September 2016

## Overview of Tribunal

### Executive Summary

It is with pleasure that I present the Annual Report of the Racing Penalties Appeal Tribunal for the year ended 30 June 2016.

The report details the significant issues that the Tribunal faced throughout the reporting period, and is designed to satisfy the Tribunal's statutory reporting requirements.

During the reporting period, the Tribunal completed 25 years of maintaining industry confidence in the enforcement of the various racing rules by providing an impartial judicial forum for the hearing of appeals against Racing and Wagering Western Australia's stewards' determinations. Since its implementation, the Tribunal has endeavoured to ensure the integrity of the State's racing industry is not compromised.

I am pleased to note that the Tribunal's website now offers an added feature of a precedents database for all stakeholders in the industry. The database contains summaries of important decisions made by the Tribunal in past 25 years for the three codes under different categories which is designed to assist prospective appellants and parties to proceeding.

During the financial year, five appeals were carried over from the previous reporting period, and 11 new appeals were lodged with the Tribunal. Of these, 14 were determined and two were carried over into the next financial year.

All appeal determinations can be viewed at [www.rpat.wa.gov.au](http://www.rpat.wa.gov.au)

I acknowledge and thank the members of the Tribunal for their contributions during the year. I also thank the Department of Racing, Gaming and Liquor for its ongoing provision of executive services, and the Supreme Court of Western Australia for permitting the Tribunal to use its facilities. It would not be possible for the Tribunal to conduct its activities in an effective, efficient manner without this invaluable support.



Dan Mossenson  
Chairperson

## Operational Structure

### Enabling Legislation

The Racing Penalties Appeal Tribunal is established under the *Racing Penalties (Appeals) Act 1990*. The Tribunal was established to confer jurisdiction in respect to appeals against penalties imposed in disciplinary proceedings arising from, or in relation to, the conduct of thoroughbred racing, harness racing and greyhound racing, and for related purposes.

### Purpose of the Tribunal

The aim of the *Racing Penalties (Appeals) Act 1990* is to create and maintain industry confidence in the enforcement of the various racing rules by providing an impartial judicial forum for the hearing of appeals.

Executive support for the Tribunal is provided by the Department of Racing, Gaming and Liquor. The Department recoups the cost of providing these services from the Tribunal. The Tribunal is funded from the profits of Racing and Wagering Western Australia (RWWA).

### Responsible Minister

As at 30 June 2016, the Minister responsible for the Racing and Gaming Portfolio was the Honourable Colin Holt MLC, Minister for Housing; Racing and Gaming.

### Appeals Which may be Heard by the Tribunal

A person who is aggrieved by a determination of RWWA, a steward or a committee of a racing club may appeal to the Tribunal within 14 days of the determination date. The Tribunal can hear the following matters:

- The imposition of any suspension or disqualification, whether of a runner or of a person;
- The imposition of a fine; or
- The giving of a notice of the kind commonly referred to as a “warning-off”.

Additionally, the Tribunal may grant leave to appeal in relation to a limited range of other matters.

## Appeals which are outside the Jurisdiction of the Tribunal

The jurisdiction of the Tribunal does not extend to a determination of a steward, a racing club, or a committee in matters regarding:

- Any protest or objection against a placed runner arising out of any incident occurring during the running of a race;
- The eligibility of a runner to take part in, or the conditions under which a runner takes part in, any race; or
- Any question or dispute as to a bet.

These matters are dealt with by RWWA.

## Determination of Appeals

The Tribunal is required to hear and determine an appeal based on the evidence of the original hearing, but may allow new evidence to be given or experts to be called to assist in its deliberations.

When determining an appeal, the Tribunal may make the following orders:

- Refund or repayment of any stakes paid in respect of a race to which the appeal relates;
- Refer the matter to RWWA, the stewards or the committee of the appropriate racing club for rehearing;
- Confirm, vary, or set aside the determination or finding appealed against or any order or penalty imposed to which it relates;
- Recommend or require that RWWA, the stewards or the committee of the appropriate racing club, take further action in relation to any person; and
- Such other orders as the member presiding may think proper.

Decisions of the Tribunal are final and binding.

## Administered Legislation

The Tribunal is responsible for administering the *Racing Penalties (Appeals) Act 1990*.

## Other Key Legislation Impacting on the Tribunal's Activities

The Tribunal complied with the following relevant written laws in the performance of its functions:

- *Auditor General Act 2006;*
- *Corruption and Crime Commission Act 2003;*
- *Disability Services Act 1993;*
- *Electoral Act 1907;*
- *Equal Opportunity Act 1984;*
- *Electronic Transactions Act 2003;*
- *Financial Management Act 2006;*
- *Freedom of Information Act 1992;*
- *Industrial Relations Act 1979;*
- *Public Interest Disclosure Act 2003;*
- *Public Sector Management Act 1994;*
- *Salaries and Allowances Act 1975;*
- *State Records Act 2000; and*
- *State Supply Commission Act 1991.*

## Administrative Structure

Sections 5 and 6 of the *Racing Penalties (Appeals) Act 1990* provide that the Tribunal shall consist of a Chairperson and a panel of members, each appointed by the Minister. The Schedule to the Act specifies terms of appointment shall not exceed three years, with eligibility for reappointment. The Tribunal, constituted by the Chairperson (or the Acting Chairperson or member presiding), and two members sitting together hear appeals. An appeal may be heard by the Chairperson, Acting Chairperson or member presiding sitting alone where the Regulations so provide.

### **Mr Dan Mossenson - Inaugural Chairperson**

Mr Dan Mossenson was admitted to practise law in 1970 and specialises in liquor licensing, hospitality and tourism law. Mr Mossenson became a partner of Lavan and Walsh in 1973, subsequently a founding partner of Phillips Fox and Lavan Legal, and currently is the emeritus partner of Lavan Legal.

Mr Mossenson chaired both the WA State Government Gaming Inquiry in 1984 and the Land Valuation Tribunal of Western Australia from 1985 to 1997, was founding Vice-Chairman of the National Association for Gambling Studies, board member of the Australian Institute of Gambling Studies, the Indian Ocean Tourism Organisation and the Tourism Council Western Australia Limited and its predecessor body for 14 years. Mr Mossenson is the Past President of the Perth Hebrew Congregation Inc and past vice-president of Carmel School Inc. Mr Mossenson is currently a board member of Yirra Yaakin Aboriginal Corporation and founder and secretary of the Small Bar Association of W.A. Inc.

### **Mr Patrick Hogan - Inaugural Member**

Mr Patrick Hogan is a barrister admitted to the Supreme Court of Western Australia and the High Court of Australia in June 1982. Mr Hogan worked as a barrister and solicitor with the Legal Aid Commission of Western Australia, practising in civil and criminal law, then in private practice as a barrister with Howard Chambers. Mr Hogan was appointed as a part-time Magistrate of the Children's Court of Western Australia in September 1999 and President of the Gender Reassignment Board of Western Australia in 2007.

### **Mr John Prior - Member**

Mr John Prior is a barrister practising with Francis Burt Chambers Perth, specialising in criminal and civil litigation in the areas of sports law and liquor licensing.

Mr Prior has served on many committees including President of the Criminal Lawyers' Association of Western Australia, Convenor of the Law Society of Western Australia Criminal Law Committee, Magistrates' Courts Liaison Committee, Ministry of Justice Advisory Council, Reduction of Delay in Criminal Jurisdiction of the District Court, Unrepresented Litigants Scheme Committee Supreme Court and chaired the Ministerial Taskforce on Drug Law Reform. Mr Prior is also a Commissioner of the Legal Aid Commission of Western Australia.

**Mr Robert Nash - Member**

Mr Robert Nash is a barrister admitted as a Practitioner of the Supreme Court of WA and the High Court of Australia, and also is a General Public Notary.

Mr Nash has served on several councils, committees and directorships, including Director of Bauxite Resources Ltd and North West Property Holdings Pty Ltd, Chairman of the WA Soccer Disciplinary Tribunal, Council Member of the Law Society of WA, Convenor Education Committee of Law Society of WA, Counsel Assisting the Royal Commission into the City of Wanneroo, Member of the Professional Conduct Committee of Law Society, Consultative Committee to the District Court on Civil Reforms in the District Court, the Ethics Committee of Law Society, Legal Panel of the Royal Australian Navy, resident tutor in law at St George's College, Council Member of WA Bar Association Council, Director WA Bar Chambers Ltd and Tutor in Civil Procedure at University of WA. He is also a Chairman of a public company and Head of the WA Navy Legal Panel.

**Mr Andrew Monisse - Member**

Mr Andrew Monisse was admitted as a barrister and solicitor of the Supreme Court of Western Australia in December 1990 after completing articles at Mallesons Stephen Jaques. His employment experience has included working as a solicitor assisting counsel at the WA Inc Royal Commission in 1991 and as a prosecutor for the Commonwealth Director of Public Prosecutions in the Perth office between 1992 and 1998. Since July 2000, Mr Monisse has worked as a barrister, and since October 2000 has been a member of the WA Bar Association. He practises predominantly in Criminal Law at Quarry Chambers. Mr Monisse is also a member of the Perth Legal Panel of the RAAF Specialist Reserve with the rank of Squadron Leader.

**Ms Karen Farley SC - Member**

Ms Karen Farley is a senior appeal consultant at Legal Aid WA and has served on several boards and committees including Criminal Lawyers Association, Childcare Services Board and Boards of Visitors to Heathcote and Alma St Centre. In December 2013, Ms Farley was appointed Senior Counsel in and for the State of Western Australia. She is also a member of the Criminal Law Committee of the Law Society and Legal Practice Board as well as being a Councillor of Peppermint Grove Shire.

**Mr William Chesnutt - Member**

Mr William Chesnutt is a barrister engaged in conducting general litigation matters with exposure to a wide variety of commercial and criminal matters. Mr Chesnutt has tutored in company law and legal framework of business subjects.

# Performance Management Framework

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## Agency Level Government Desired Outcome

Broad Government goals are supported by the Tribunal via specific outcomes. The Tribunal delivers services to achieve these outcomes. The following table illustrates the relationship between the Tribunal's services and desired outcomes, and the Government goal the Tribunal contributes to.

Government Goal	Desired Outcome of the Tribunal	Services Delivered by the Tribunal
Greater focus on achieving results in key service delivery areas for the benefit of all Western Australians.	To provide an appeal tribunal in relation to determinations made by racing industry stewards and controlling authorities.	Processing appeals and applications in accordance with statutory obligations.

## Changes to Outcome Based Management Framework

The Tribunal's Outcome Based Management Framework did not change during 2015-16.

## Shared Responsibilities with Other Agencies

The Tribunal did not share any responsibilities with other agencies in 2015-16.

# Report on Operations

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## Actual Results versus Budget Targets

Financial Targets	Target (\$)	Actual (\$)	Variation (\$)
Total cost of services (expense limit) (sourced from Statement of Comprehensive Income)	250,385	242,423	(7,962)
Net cost of services (sourced from Statement of Comprehensive Income)	0	(4,465)	(4,465)
Total equity (sourced from Statement of Financial Position)	426,597	446,053	19,456
Net increase (decrease) in cash held (sourced from Statement of Cash Flows)	0	6,718	6,718
	No.	No.	No.
Approved full time equivalent (FTE) staff level	N/A	N/A	N/A

The table below provides a summary of key performance indicators for 2015-16. A detailed explanation is provided later in the report.

Summary of Key Performance Indicators	Target	Actual	Variation
Total number of stay applications received	8	4	(4)
Number of stay applications determined same day	8	0	(8)
Average cost of processing an appeal	\$16,692	\$24,242	\$7,550

## Performance Summary for 2015-16

During the year, five appeals were carried over from 2014-15 and 11 new appeals were lodged with the Tribunal. As at 30 June 2016, the Tribunal had determined 14 appeals, including five from the previous year, with two appeals being carried over to 2016-17. These appeals, together with appeals from the previous year, are summarised by racing code:

Racing Code	Appeals carried over to 2015-16	Appeals Lodged	Appeals Determined	Appeals carried over to 2016-17
Thoroughbred	1	3	4	0
Harness	1	7	6	2
Greyhound	3	1	4	0

The results of the determinations in respect of the racing codes for the year 2015-16 are summarised below.

Results	2015-16		
	Thoroughbred	Harness	Greyhound
Allowed in Full	1	2	0
Allowed in Part (Penalty Reduced)	1	2	1
Referred Back to Stewards (RWWA)	0	0	0
Dismissed	2	0	3
Withdrawn	0	2	0
Leave to Appeal Refused	0	0	0
<b>Total</b>	<b>4</b>	<b>6</b>	<b>4</b>

Appeals Carried Over to 2016-17	Thoroughbred	Harness	Greyhound
Reserved Decision	0	0	0
Reserved Decision on penalty only	0	1	0
Reasons to be published	0	0	0
Yet to be heard	0	1	0
<b>Total</b>	<b>0</b>	<b>2</b>	<b>0</b>

## STAYS OF PROCEEDINGS

In 2015-16, similar to the previous year, there were four applications for stays of proceedings. The Chairperson made the determinations as follows:

<b>Stays of Proceedings 2015-16</b>			
<b>Results</b>	<b>Thoroughbred</b>	<b>Harness</b>	<b>Greyhound</b>
Stays Granted	1	0	0
Stays Refused	1	2	0
Withdrawn	0	0	0
<b>Total</b>	<b>2</b>	<b>2</b>	<b>0</b>

The following table provides a summary of the number, nature and outcome of matters before the Tribunal during 2015-16. Full determinations are available on the Tribunal's website at [www.rpat.wa.gov.au](http://www.rpat.wa.gov.au)

<b>Applications Heard and Determined in 2015-16</b>					
<b>Case No.</b>	<b>Name</b>	<b>Nature of Appeal</b>	<b>Hearing Date</b>	<b>Determination Date</b>	<b>Outcome</b>
780	David Young	Appeal against disqualification for seven months for breach of Australian Harness Rule of Racing 267(2)	27 July 2015	31 July 2015	Appeal upheld
781	Ryan Warwick	Appeal against suspension for six weeks for breach of Australian Harness Rule of Racing 149(2)	29 July 2015	29 July 2015	Appeal against penalty upheld
782	Barry McPherson	Appeal against determination by the RWWA Stewards of Greyhound Racing that greyhound "Splitset" had marred in breach of Greyhound Rule of Racing AR 69	21 September 2015	21 September 2015	Appeal dismissed
784	Anthony Yujnovich	Appeal against disqualification for six months for breach of rule 178 of the Rules of Thoroughbred Racing	19 January 2016	24 February 2016	Appeal against penalty upheld
785	Peter O'Neill	Appeal against suspension of 28 days for breach of Harness Rule of Racing 163(1)(a)	18 January 2016	24 February 2016	Appeal upheld
786	Benjamin Owen	Appeal against disqualification for four years for breach of Rules 178A and AR175(h)(i) of the Rules of Thoroughbred Racing	2 May 2016	19 May 2016	Appeal dismissed
787	Allen Lewis	Appeal against suspension for four weeks for breach of Australian Rule of Harness Racing 149(2)	19 April 2016	21 April 2016	Appeal against penalty upheld
789	Alan Kennedy	Appeal against suspension for six months for breach of Australian Rule of Thoroughbred Racing AR81A(1)(b)	21 June 2016	28 June 2016	Appeal against penalty upheld
790	Ryan Warwick	Appeal against suspension for five weeks for breach of Australian Rule of Harness Racing 149(2)	N.A	7 June 2016	Withdrawn

## Examples of Appeals before the Tribunal

The Tribunal heard a number of appeals throughout the course of the reporting period. Below are some fairly typical examples of the types of matters which come before the Tribunal.

### **ANTHONY GLENNY**

Mr Anthony Glenny, a licensed owner/trainer of greyhounds, was charged under Australian Rule of Racing 86(e) for refusing to disclose the identity of persons who had made requests to undertake live baiting practices at his premises.

This charge arose from an investigation by the RWWA Stewards into live baiting in the greyhound industry, following media coverage of this practice.

Mr Glenny was also charged with using a lure not free of any animal tissue (LR86a(1)&(2)), after it was found he was using a lure which contained thawed chicken carcass, and with improper conduct (AR86(o)) after stating words to the effect that he was going to go home and shoot all of his dogs.

Mr Glenny pleaded guilty to all charges. He was disqualified for 18 months in relation to charge 1, and received \$1500 and \$200 fines in respect of charges 2 and 3.

The Stewards acknowledged that Mr Glenny was a significant contributor to the greyhound industry, and that his property (with a full sized track and mechanical lure system) was one of the few such facilities and services in WA. Therefore, any penalty which impacted on Mr Glenny's ability to operate would have far reaching, industry-wide implications.

The matter was appealed to the Racing Penalties Appeals Tribunal on the grounds that:

- The penalty was manifestly excessive;
- Manifest excess having regard to previous penalties in other states;
- Failure to consider penalties imposed in other states;
- There was no requirement for a licensed person to report a breach of the rules; and
- Failure to answer questions aggravated by the possibility it may implicate the applicant.

On appeal, counsel for the appellant argued that as this case dealt with a failure to answer questions that may implicate others, rather than one in relation to offending or alleged offending on the part of the appellant himself, this placed the offending behaviour into a different category from other decided cases on this point. Furthermore, it was submitted that all cases referred to by Stewards had a clear and tangible benefit to be gained by the accused from the offending. In relation to similar cases from other jurisdictions, counsel argued that Mr Glenny had received a greater penalty for a less serious offence. As the breach concerned a national rule, it was also asserted that penalties across all jurisdictions should be consistent.

In response, Stewards highlighted that the recent exposure of live baiting activities has had a dramatic effect on the greyhound industry, and that the consequences of live baiting are far wider than simply protecting the supplier of a sample. Stewards argued that the case of Mr Glenny was a manifestly different scenario to those cases referred to by the counsel of the appellant.

In its determination, the Tribunal identified the seriousness of live baiting in the greyhound industry, and acknowledged that the inhumane practice has the ability to completely destroy the industry. Therefore, the Tribunal was not persuaded by the appellant's argument that this was a less serious offence, simply because there was no obvious benefit gained by Mr Glenny in withholding the names of those persons potentially involved in the practice.

The Tribunal also gave weight to the fact that Mr Glenny's refusal to answer questions prevented Stewards from pursuing a vital line of inquiry in order to determine whether the practice of live baiting was indeed occurring in WA, and concluded that the fact that this breach occurred in the investigation stage of proceedings (rather than at an inquiry) did not diminish the seriousness of the offence.

In dismissing the appeal against penalty, the Tribunal concluded that Stewards were justified in using all of their resources and powers to maintain public confidence, including the imposition of penalties to reflect the seriousness of the live baiting issue, and therefore under the circumstances, 18 months disqualification was deemed to be an appropriate penalty in Mr Glenny's case.

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## LINDA BRITTON

Ms Linda Britton, the State's premier licensed trainer of greyhounds, was charged with breaches of Rule 83(2)(a) of the Rules of Greyhound Racing. The charges concerned race day urine samples taken from one of Ms Britton's greyhounds which returned a positive result for testosterone, following which RWWA investigators attended Ms Britton's property to interview Ms Britton and her partner and to seize a number of items.

Following a Stewards inquiry, Ms Britton was charged with the following offences:

- Presenting ZELEMAR FEVER to race on 16 August 2014 not free of the prohibited substance testosterone;
- Presenting ZELEMAR FEVER to race on 23 August 2014 not free of the prohibited substance testosterone;
- Failure to keep any treatment records detailing the administration of ethylestrenol tablets to greyhound bitches; and
- Possession of schedule 4 medications without prescription.

Ms Britton pleaded guilty to all of the charges. The Stewards imposed a nine-month disqualification for each presentation offence (to be served cumulatively) resulting in an 18-month disqualification from the industry. Fines were issued for the remaining two convictions.

Ms Britton appealed on the grounds that:

- Stewards erred in their consideration of penalty on counts 1 and 2 by failing to consider and follow penalties imposed for similar offences in other states of Australia;
- Stewards erred in their consideration of penalty on counts 1 and 2 by:
  - a) Dealing with the absence of an explanation by the appellant for the presence of the prohibited substance as an aggravating factor; and
  - b) Dealing with the absence of such an explanation by the appellant as a matter that it was incumbent to provide;
- Stewards erred by dealing with the question of penalty in relation to counts 1 and 2 by reference to the matters the subject of counts 3 and 4 as aggravating factors. (subsequently abandoned);
- Stewards erred by dealing with the question of penalty in relation to counts 1 and 2 by wrongly considering and applying the “totality principle”; and
- The penalty imposed by Stewards on counts 1 and 2 was manifestly excessive having regard to all the circumstances of the case, penalties imposed for similar offences in this state and penalties imposed in other states of Australia.

The Tribunal acknowledged that the rule Ms Britton was charged under is a relatively new rule to the Greyhound industry, with only one other matter having been appealed to the Tribunal. A nine-month disqualification is the highest penalty which has ever been imposed in Australia for this kind of offence, implying that the factual circumstances of this case are among the most serious for an offence of this nature. Although Stewards recognised mitigating circumstances in the appellant's case, namely her guilty plea and good record, Ms Britton was still handed a penalty which exceeded the previously established range of penalties. In the Tribunal's view, this penalty was too harsh given the mitigating circumstances, and it was determined that seven months was a more appropriate penalty in each case.

It was also highlighted that as Ms Britton was charged with a presentation offence, no proof was required as to how the prohibited substance came to be present in the urine samples of the greyhound. The Tribunal agreed with the submission by the appellant that an offender's failure to provide an explanation cannot be seen as an aggravating factor, and at worst is a neutral factor in the sentencing process. However, the Tribunal was unable to identify any comments in the Stewards' reasons which would lead them to believe that the lack of explanation resulted in an increase in penalty. This ground of appeal was therefore dismissed.

In respect of the totality principle, while the Tribunal was satisfied that the penalties should not have been served concurrently, it determined that Stewards did fail to consider whether partial cumulation of the two disqualification periods was appropriate, rather than total cumulation. The Tribunal unanimously upheld this ground of appeal, and by a majority, amended the penalty so that the second disqualification imposed of seven months should be served concurrently with the last two months of the first seven months disqualification (resulting in a total penalty of 12 months disqualification for the two offences).

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However, Tribunal member Mr Andrew Monisse dissented on this point, stating that in light of Ms Britton's exemplary record and position in the greyhound industry, the second disqualification should be served concurrently with the last five months of the first disqualification, resulting in a total penalty of nine months.

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### **MR ANTHONY YUJNOVICH**

Mr Anthony Yujnovich was charged under Australian Rule 178 after the horse he trained (Mr Olympia) returned a positive result for TCO2 in excess of 39.0 millimoles per litre. Mr Yujnovich pleaded guilty to the charge and Stewards imposed a penalty of six months disqualification. Mr Yujnovich did not provide an explanation for the elevated TCO2 level.

Mr Yujnovich appealed to the Tribunal on the grounds that:

- He is a first time offender in approximately 48 years as a Trainer;
- He has never appeared before Stewards in relation to a breach of the rules;
- The penalty was based on a TCO2 reading of greater than 39.0 but the Victorian Laboratory reported a reading of 38.7;
- The horse in question had never been tested on any previous occasion during its racing career and therefore a normal level of TCO2 for this particular animal had not been established;
- TCO2 is described as "potentially" performance enhancing but the penalty handed down was equal to or greater than penalties handed down to other trainers for substances that are "definitely" performance enhancing;
- There are several precedents where the Tribunal has ruled that a six-month disqualification for high TCO2 was excessive and they have been reduced;
- Sufficient weight was not given to the appellant's personal circumstances and he wished to present further evidence in relation to the matter.

The Tribunal dismissed the third, fourth, fifth and sixth grounds of the appeal, and noted that the most commonly imposed penalty for this kind of offence is six months disqualification. However, during the course of the appeal Mr Yujnovich presented a report from a consultant psychiatrist as to his ill health. In the Tribunal's view, the effect of disqualification on Mr Yujnovich, in light of this new evidence, was greater than that on a person without these medical conditions, and should be taken into account in determining penalty. On this basis the appeal was allowed, and the penalty of six months disqualification was set aside, and substituted with a three-month disqualification.

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## MR BENJAMIN OWEN

Mr Owen was at Pinjarra racecourse on Sunday, 13 December 2015, where a witness reported seeing Mr Owens engaging in suspicious activity and suspected he had administered a substance to a horse in the wash bay. After the race, Mr Owen was summoned to the Stewards' room and after some prompting he produced the nitrolingual spray. Following an investigation, Mr Owen was charged under Rule 178A and AR 175(h)(i) of the Rules of Thoroughbred Racing for having in his possession the prohibited substance nitrolingual spray and for administering the substance to a horse. Mr Owen pleaded guilty to the possession charge and not guilty to the administration charge. Mr Owen was found guilty of both charges, and received a four-year disqualification and a \$400 fine.

In their reasons, Stewards gave some weight to Mr Owen's post offence conduct, namely his attempt to place the nitrolingual spray down the front of his pants prior to entering the Steward's room, and his failure to present the spray to the Stewards after being requested to empty his pockets. Mr Owen also stated at the inquiry that he administered the spray to himself in the wash bay; however this was not disclosed in the Steward's room on race day. These combined factors were used by Stewards to support a guilty finding for the administration offence.

On appeal, the appellant argued that it was not open to Stewards to make the finding of fact in relation to the administration offence as there was no direct or circumstantial evidence that he had administered the substance to the horse. This argument was rejected by the Tribunal as the direct evidence of the witness combined with Mr Owen's post offence conduct was deemed sufficient to support a conviction of administration. The Tribunal subsequently dismissed the appeal against a conviction by Mr Owen.

Mr Owen also appealed the penalty on the grounds that it was manifestly excessive. However, no submission was made before Stewards or the Tribunal that special circumstances should apply. The Tribunal confirmed that the Stewards took into account all relevant factors when sentencing Mr Owen, including Mr Owen's personal circumstances, the timing of the offence, the nature of the substance used, the location of it, and the absence of a guilty plea, remorse or contrition.

The Tribunal upheld the decision of the Stewards and the appeal was dismissed.

## Significant Issues and Trends Impacting the Tribunal

### Changes to Acts

There were no amendments to the *Racing Penalties (Appeals) Act 1990* for the year under review.

### Likely Developments and Forecast Results of Operations

It is expected that the workload of the Racing Penalties Appeal Tribunal for 2016-17 will remain steady. Indications are that the Tribunal is adequately resourced to efficiently carry out its functions.

## Disclosures and Legal Compliance

### Financial Statements

This part of the annual report provides the means by which Parliament and other interested parties can be informed, not only of what the Racing Penalties Appeal Tribunal has achieved during the financial year, but also of the reasons behind those achievements.

#### Certification of Financial Statements for the Year Ended 30 June 2016

The accompanying financial statements of the Racing Penalties Appeal Tribunal of Western Australia have been prepared in compliance with the provisions of the *Financial Management Act 2006* from proper accounts and records to present fairly the financial transactions for the financial year ending 30 June 2016 and the financial position as at 30 June 2016.

At the date of signing, we are not aware of any circumstances which would render the particulars included in the financial statements misleading or inaccurate.

Three handwritten signatures are shown side-by-side. On the left is a blue ink signature of 'Terry Ng'. In the center is a black ink signature of 'Patrick Hogan'. On the right is a black ink signature of 'Dan Mossenson'.

Terry Ng  
**Chief Finance Officer**

14 September 2016

Patrick Hogan  
**Member**  
Racing Penalties  
Appeal Tribunal

14 September 2016

Dan Mossenson  
**Chairperson**  
Racing Penalties  
Appeal Tribunal

14 September 2016

# Racing Penalties Appeal Tribunal

## Statement of Comprehensive Income for the year ended 30 June 2016

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	Note	2016 \$	2015 \$
<b>COST OF SERVICES</b>			
<b>Expenses</b>			
Tribunal members' expenses	13	41,891	27,719
Superannuation	13	3,865	2,616
Supplies and services		196,667	185,334
<b>Total cost of services</b>		<b>242,423</b>	<b>215,669</b>
<b>Income</b>			
<i>Revenue</i>			
Operating income	4	234,848	243,552
Interest revenue	5	12,040	13,814
<b>Total Revenue</b>		<b>246,888</b>	<b>257,366</b>
<b>NET COST OF SERVICES</b>	10	<b>(4,465)</b>	<b>(41,697)</b>
<b>SURPLUS/(DEFICIT) FOR THE PERIOD</b>		<b>4,465</b>	<b>41,697</b>
<b>OTHER COMPREHENSIVE INCOME</b>			
<b>Total other comprehensive income</b>		<b>0</b>	<b>0</b>
<b>TOTAL COMPREHENSIVE INCOME FOR THE PERIOD</b>		<b>4,465</b>	<b>41,697</b>

The Statement of Comprehensive Income should be read in conjunction with the accompanying notes.

**Racing Penalties Appeal Tribunal**  
**Statement of Financial Position**  
**as at 30 June 2016**

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	Note	2016	2015
		\$	\$
<b>ASSETS</b>			
<b>Current Assets</b>			
Cash and cash equivalents	6, 10	447,078	440,360
Receivables	7	2,795	2,770
<b>Total Current Assets</b>		<b>449,873</b>	<b>443,130</b>
<b>TOTAL ASSETS</b>		<b>449,873</b>	<b>443,130</b>
<b>LIABILITIES</b>			
<b>Current Liabilities</b>			
Payables	8	3,820	1,542
<b>Total Current Liabilities</b>		<b>3,820</b>	<b>1,542</b>
<b>TOTAL LIABILITIES</b>		<b>3,820</b>	<b>1,542</b>
<b>NET ASSETS</b>		<b>446,053</b>	<b>441,588</b>
<b>EQUITY</b>			
Accumulated surplus/(deficit)		446,053	441,588
<b>TOTAL EQUITY</b>		<b>446,053</b>	<b>441,588</b>

The Statement of Financial Position should be read in conjunction with the accompanying notes.

**Racing Penalties Appeal Tribunal**  
**Statement of Changes in Equity**  
**for the year ended 30 June 2016**

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	Note	Contributed equity \$	Reserves \$	Accumulated surplus/ (deficit) \$	Total equity \$
<b>Balance at July 2014</b>	9	0	0	399,891	399,891
Changes in accounting policy or correction of prior period errors		0	0	0	0
<b>Restated balance at 1 July 2014</b>		0	0	399,891	399,891
Surplus/(deficit)		0	0	41,697	41,697
Other comprehensive income		0	0	0	0
Total comprehensive income for the period		0	0	41,697	41,697
Transactions with owners in their capacity as owners:					
Other contributions by owners		0	0	0	0
Distributions to owners		0	0	0	0
Total		0	0	0	0
<b>Balance at 30 June 2015</b>		<b>0</b>	<b>0</b>	<b>441,588</b>	<b>441,588</b>
<b>Balance at 1 July 2015</b>		0	0	441,588	441,588
Surplus/(deficit)		0	0	4,465	4,465
Other comprehensive income		0	0	0	0
Total comprehensive income for the period		0	0	4,465	4,465
Transactions with owners in their capacity as owners:					
Other contributions by owners		0	0	0	0
Distributions to owners		0	0	0	0
Total		0	0	0	0
<b>Balance at 30 June 2016</b>		<b>0</b>	<b>0</b>	<b>446,053</b>	<b>446,053</b>

The Statement of Changes in Equity should be read in conjunction with the accompanying notes.

**Racing Penalties Appeal Tribunal**  
**Statement of Cash Flows**  
**for the year ended 30 June 2016**

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	Note	2016	2015
		\$	\$
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
<b>Payments</b>			
Tribunal members' expenses		(39,810)	(25,889)
Superannuation		(3,668)	(2,482)
Supplies and services		(196,667)	(185,334)
GST paid on purchases		(1,991)	(1,289)
GST payments to taxation authority		(23,225)	(24,053)
<b>Receipts</b>			
Receipts from customers		234,848	243,552
Interest received		11,997	14,001
GST receipts on sales		23,225	24,053
GST receipts from taxation authority		2,009	1,290
<b>Net cash provided by/(used in) operating activities</b>	10	<b>6,718</b>	<b>43,849</b>
Net increase/(decrease) in cash and cash equivalents		6,718	43,849
Cash and cash equivalents at the beginning of the period		440,360	396,511
<b>CASH AND CASH EQUIVALENTS AT THE END OF THE PERIOD</b>	10	<b>447,078</b>	<b>440,360</b>

The Statement of Cash Flows should be read in conjunction with the accompanying notes.

**Racing Penalties Appeal Tribunal  
Notes to the Financial Statements  
for the year ended 30 June 2016**

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**Note 1. Australian Accounting Standards**

**General**

The Authority's financial statements for the year ended 30 June 2016 have been prepared in accordance with Australian Accounting Standards. The term 'Australian Accounting Standards' includes Standards and Interpretations issued by the Australian Accounting Standards Board (AASB).

The Authority has adopted any applicable new and revised Australian Accounting Standards from their operative dates.

**Early adoption of standards**

The Authority cannot early adopt an Australian Accounting Standard unless specifically permitted by TI 1101 *Application of Australian Accounting Standards and Other Pronouncements*. Partial exemption permitting early adoption of AASB 2015-7 *Amendments to Australian Accounting Standards – Fair Value Disclosures of Not-for-Profit Public Sector Entities* has been granted. Aside from AASB 2015-7, there has been no early adoption of any other Australian Accounting Standards that have been issued or amended (but not operative) by the Authority for the annual reporting period ended 30 June 2016.

**Note 2. Summary of significant accounting policies**

**(a) General statement**

The Authority is a not-for-profit reporting entity that prepares general purpose financial statements in accordance with Australian Accounting Standards, the Framework, Statements of Accounting Concepts and other authoritative pronouncements of the AASB as applied by the Treasurer's instructions. Several of these are modified by the Treasurer's instructions to vary application, disclosure, format and wording.

The *Financial Management Act 2006* and the Treasurer's instructions impose legislative provisions that govern the preparation of financial statements and take precedence over Australian Accounting Standards, the Framework, Statements of Accounting Concepts and other authoritative pronouncements of the AASB.

Where modification is required and has had a material or significant financial effect upon the reported results, details of that modification and the resulting financial effect are disclosed in the notes to the financial statements.

**(b) Basis of preparation**

The financial statements have been prepared on the accrual basis of accounting using the historical cost convention.

The accounting policies adopted in the preparation of the financial statements have been consistently applied throughout all periods presented unless otherwise stated.

The financial statements are presented in Australian dollars and all values are rounded to the nearest dollar.

**(c) Reporting entity**

The reporting entity comprises the Authority only.

**(d) Contributed equity**

AASB Interpretation 1038 *Contributions by Owners Made to Wholly-Owned Public Sector Entities* requires transfers in the nature of equity contributions, other than as a result of a restructure of administrative arrangements, to be designated by the Government (the owner) as contributions by owners (at the time of, or prior to transfer) before such transfers can be recognised as equity contributions. Capital appropriations have been designated as contributions by owners by TI 955 *Contributions by Owners made to Wholly Owned Public Sector Entities* and have been credited directly to Contributed equity.

The transfer of net assets to/from other agencies, other than as a result of a restructure of administrative arrangements, are designated as contributions by owners where the transfers are non-discretionary and non-reciprocal.

**Racing Penalties Appeal Tribunal  
Notes to the Financial Statements  
for the year ended 30 June 2016**

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**(e) Income**

*Revenue recognition*

Revenue is recognised and measured at the fair value of consideration received or receivable. Operating income mainly comprises funding from the Racing and Wagering Western Australia, appeal fees and transcription fees. This income is received pursuant to the Racing Penalties (Appeals) Act 1990.

Revenue is recognised for the major business activities as follows:

*Sale of goods*

Revenue is recognised from the sale of goods and disposal of other assets when the significant risks and rewards of ownership transfer to the purchaser and can be measured reliably.

*Provision of services*

Revenue is recognised by reference to the stage of completion of the transaction.

*Interest*

Revenue is recognised as the interest accrues.

*Grants, donations, gifts and other non-reciprocal contributions*

Revenue is recognised at fair value when the Authority obtains control over the assets comprising the contributions, usually when cash is received.

Other non-reciprocal contributions that are not contributions by owners are recognised at their fair value. Contributions of services are only recognised when a fair value can be reliably determined and the services would be purchased if not donated.

**(f) Services Performed for the Racing Penalties Appeal Tribunal by the Department of Racing, Gaming and Liquor**

The Department of Racing, Gaming and Liquor provides support to the Racing Penalties Appeal Tribunal to enable the Tribunal to carry out its objectives. This support comprises most of the amount recorded in the Statement of Comprehensive Income under 'Supplies and services'. These expenses are in the nature of salaries and administration costs in providing these support services.

Recoups from the Tribunal to the Department of Racing, Gaming and Liquor are made on a monthly basis under a net appropriation determination.

**(g) Financial instruments**

In addition to cash, the Authority has two categories of financial instrument:

- \* Receivables; and
- \* Financial liabilities measured at amortised cost.

Financial instruments have been disaggregated into the following classes:

- \* Financial Assets
  - Cash and cash equivalents
  - Receivables
- \* Financial Liabilities
  - Payables

Initial recognition and measurement of financial instruments is at fair value which normally equates to the transaction cost or the face value. Subsequent measurement is at amortised cost using the effective interest method.

The fair value of short-term receivables and payables is the transaction cost or the face value because there is no interest rate applicable and subsequent measurement is not required as the effect of discounting is not material.

**(h) Cash and Cash Equivalents**

For the purpose of the Statement of Cash Flows, cash and cash equivalent assets comprise cash on hand.

**(i) Receivables**

Receivables are recognised at original invoice amount less an allowance for any uncollectible amounts (i.e. impairment). The collectability of receivables is reviewed on an ongoing basis and any receivables identified as uncollectible are written-off against the allowance account. The allowance for uncollectible amounts (doubtful debts) is raised when there is objective evidence that the Authority will not be able to collect the debts. The carrying amount is equivalent to fair value as it is due for settlement within 30 days.

**Racing Penalties Appeal Tribunal**  
**Notes to the Financial Statements**  
**for the year ended 30 June 2016**

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**(j) Payables**

Payables are recognised at the amounts payable when the Authority becomes obliged to make future payments as a result of a purchase of assets or services. The carrying amount is equivalent to fair value, as settlement is generally within 30 days.

**(k) Employee Benefits**

Annual and Long Service Leave

The Tribunal does not employ staff. The Tribunal utilises the staff and facilities of the Department of Racing, Gaming and Liquor. The cost of the services provided by the Department of Racing, Gaming and Liquor is recouped from the Tribunal as a service fee. Accordingly, provisions have not been made for annual and long service leave.

Superannuation

The Government Employees Superannuation Board (GESB) and other fund providers administer public sector superannuation arrangements in Western Australia in accordance with legislative requirements. Eligibility criteria for membership in particular schemes for public sector employees vary according to commencement and implementation dates.

Eligible employees contribute to the Pension Scheme, a defined benefit pension scheme closed to new members since 1987, or the Gold State Superannuation Scheme (GSS), a defined benefit lump sum scheme closed to new members since 1995.

Tribunal members commencing employment prior to 16 April 2007 who were not members of either the Pension Scheme or the GSS became non-contributory members of the West State Superannuation Scheme (WSS). Tribunal members commencing employment on or after 16 April 2007 became members of the GESB Super Scheme (GESBS). From 30 March 2012, existing members of the WSS or GESBS and new employees have been able to choose their preferred superannuation fund provider. The Authority makes contributions to GESB or other fund providers on behalf of employees in compliance with the *Commonwealth Government's Superannuation Guarantee (Administration) Act 1992*. Contributions to these accumulation schemes extinguish the Authority's liability for superannuation charges in respect of employees who are not members of the Pension Scheme or GSS.

The GSS is a defined benefit scheme for the purposes of employees and whole-of-government reporting. However, it is a defined contribution plan for agency purposes because the concurrent contributions (defined contributions) made by the Authority to GESB extinguishes the agency's obligations to the related superannuation liability.

The Authority has no liabilities under the Pension Scheme or the GSS. The liabilities for the unfunded Pension Scheme and the unfunded GSS transfer benefits attributable to members who transferred from the Pension Scheme, are assumed by the Treasurer. All other GSS obligations are funded by concurrent contributions made by the Authority to the GESB.

The GESB makes all benefit payments in respect of the Pension Scheme and GSS, and is recouped from the Treasurer for the employer's share.

**(l) Superannuation expense**

Superannuation expense is recognised in the profit or loss of the Statement of Comprehensive Income and comprises employer contributions paid to the GSS (concurrent contributions), WSS, the GESBS, and other superannuation funds.

**(m) Comparative figures**

Comparative figures are, where appropriate, reclassified to be comparable with the figures presented in the current financial year.

**Racing Penalties Appeal Tribunal  
Notes to the Financial Statements  
for the year ended 30 June 2016**

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**Note 3. Disclosure of changes in accounting policy and estimates**  
**Initial application of an Australian Accounting Standard**

The Authority has applied the following Australian Accounting Standards effective, or adopted, for annual reporting periods beginning on or after 1 July 2015 that impacted on the Authority.

AASB 2013-9      *Amendments to Australian Accounting Standards – Conceptual Framework, Materiality and Financial Instruments*

Part C of this Standard defers the application of AASB 9 to 1 January 2017. The application date of AASB 9 was subsequently deferred to 1 January 2018 by AASB 2014-1. The Authority has not yet determined the application or the potential impact of AASB 9.

AASB 2014-8      *Amendments to Australian Accounting Standards arising from AASB 9 (December 2014) – Application of AASB 9 (December 2009) and AASB 9 (December 2010) [AASB 9 (2009 & 2010)]*

This Standard makes amendments to AASB 9 *Financial Instruments* (December 2009) and AASB 9 *Financial Instruments* (December 2010), arising from the issuance of AASB 9 *Financial Instruments* in December 2014. The Authority has not yet determined the application or the potential impact of AASB 9.

AASB 2015-3      *Amendments to Australian Accounting Standards arising from the Withdrawal of AASB 1031 Materiality*

This Standard completes the withdrawal of references to AASB 1031 in all Australian Accounting Standards and Interpretations, allowing that Standard to effectively be withdrawn. There is no financial impact.

AASB 2015-7      *Amendments to Australian Accounting Standards Fair Value Disclosures of Not-for-Profit Public Sector Entities [AASB 13]*

This Standard relieves not-for-profit public sector entities from the reporting burden associated with various disclosures required by AASB 13 for assets within the scope of AASB 116 that are held primarily for their current service potential rather than to generate future net cash inflows. It has no financial impact.

**Future impact of Australian Accounting Standards not yet operative**

The Authority cannot early adopt an Australian Accounting Standard unless specifically permitted by TI 1101 Application of Australian Accounting Standards and Other Pronouncements or by an exemption from TI 1101. By virtue of a limited exemption, the Authority has early adopted AASB 2015-7 *Amendments to Australian Accounting Standards – Fair Value Disclosures of Not-for-Profit Public Sector Entities*. Where applicable, the Authority plans to apply the following Australian Accounting Standards from their application date.

		<b>Operative for reporting periods beginning on/after</b>
AASB 9	<i>Financial Instruments</i>	1 Jan 2018
	This Standard supersedes AASB 139 <i>Financial Instruments: Recognition and Measurement</i> , introducing a number of changes to accounting treatments.	
	The mandatory application date of this Standard is currently 1 January 2018 after being amended by AASB 2012-6, AASB 2013-9, and AASB 2014-1 <i>Amendments to Australian Accounting Standards</i> . The Authority has not yet determined the application or the potential impact of the Standard.	
AASB 15	<i>Revenue from Contracts with Customers</i>	1 Jan 2018
	This Standard establishes the principles that the Authority shall apply to report useful information to users of financial statements about the nature, amount, timing and uncertainty of revenue and cash flows arising from a contract with a customer. The Authority has not yet determined the application or the potential impact of the Standard.	
AASB 16	<i>Leases</i>	1 Jan 2019
	This Standard introduces a single lessee accounting model and requires a lessee to recognise assets and liabilities for all leases with a term of more than 12 months, unless the underlying asset is of low value. The Authority has not yet determined the application or the potential impact of the Standard.	

**Racing Penalties Appeal Tribunal  
Notes to the Financial Statements  
for the year ended 30 June 2016**

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		<b>Operative for reporting periods beginning on/after</b>
AASB 1057	<i>Application of Australian Accounting Standards</i>	1 Jan 2016
	This Standard lists the application paragraphs for each other Standard (and Interpretation), grouped where they are the same. There is no financial impact.	
AASB 2010-7	<i>Amendments to Australian Accounting Standards arising from AASB 9 (December 2010) [AASB 1, 3, 4, 5, 7, 101, 102, 108, 112, 118, 120, 121, 127, 128, 131, 132, 136, 137, 139, 1023 &amp; 1038 and Int 2, 5, 10, 12, 19 &amp; 127]</i>	1 Jan 2018
	This Standard makes consequential amendments to other Australian Accounting Standards and Interpretations as a result of issuing AASB 9 in December 2010.	
	The mandatory application date of this Standard has been amended by AASB 2012-6 and AASB 2014-1 to 1 January 2018. The Authority has not yet determined the application or the potential impact of the Standard.	
AASB 2014-1	<i>Amendments to Australian Accounting Standards</i>	1 Jan 2018
	Part E of this Standard makes amendments to AASB 9 and consequential amendments to other Standards. It has not yet been assessed by the Authority to determine the application or potential impact of the Standard.	
AASB 2014-3	<i>Amendments to Australian Accounting Standards – Accounting for Acquisitions of Interests in Joint Operations [AASB 1 &amp; 11]</i>	1 Jan 2016
	The Authority establishes Joint Operations in pursuit of its objectives and does not routinely acquire interests in Joint Operations. Therefore, there is no financial impact on application of the Standard.	
AASB 2014-4	<i>Amendments to Australian Accounting Standards – Clarification of Acceptable Methods of Depreciation and Amortisation [AASB 116 &amp; 138]</i>	1 Jan 2016
	The adoption of this Standard has no financial impact for the Authority as depreciation and amortisation is not determined by reference to revenue generation, but by reference to consumption of future economic benefits.	
AASB 2014-5	<i>Amendments to Australian Accounting Standards arising from AASB 15</i>	1 Jan 2018
	This Standard gives effect to the consequential amendments to Australian Accounting Standards (including Interpretations) arising from the issuance of AASB 15. The mandatory application date of this Standard has been amended by AASB 2015-8 to 1 January 2018. The Authority has not yet determined the application or the potential impact of the Standard.	
AASB 2014-7	<i>Amendments to Australian Accounting Standards arising from AASB 9 (December 2014)</i>	1 Jan 2018
	This Standard gives effect to the consequential amendments to Australian Accounting Standards (including Interpretations) arising from the issuance of AASB 9 (December 2014). The Authority has not yet determined the application or the potential impact of the Standard.	
AASB 2014-9	<i>Amendments to Australian Accounting Standards – Equity Method in Separate Financial Statements [AASB 1, 127 &amp; 128]</i>	1 Jan 2016
	This Standard amends AASB 127, and consequentially amends AASB 1 and AASB 128, to allow entities to use the equity method of accounting for investments in subsidiaries, joint ventures and associates in their separate financial statements. The Authority has not yet determined the application or the potential impact of the Standard.	

**Racing Penalties Appeal Tribunal**  
**Notes to the Financial Statements**  
**for the year ended 30 June 2016**

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		<b>Operative for reporting periods beginning on/after</b>
AASB 2014-10	<i>Amendments to Australian Accounting Standards – Sale or Contribution of Assets between an Investor and its Associate or Joint Venture [AASB 10 &amp; 128]</i>	1 Jan 2016
	<p>This Standard amends AASB 10 and AASB 128 to address an inconsistency between the requirements in AASB 10 and those in AASB 128 (August 2011), in dealing with the sale or contribution of assets between an investor and its associate or joint venture. The Authority has not yet determined the application or the potential impact of the Standard.</p>	
AASB 2015-1	<i>Amendments to Australian Accounting Standards – Annual Improvements to Australian Accounting Standards 2012–2014 Cycle [AASB 1, 2, 3, 5, 7, 11, 110, 119, 121, 133, 134, 137 &amp; 140]</i>	1 Jan 2016
	<p>These amendments arise from the issuance of International Financial Reporting Standard <i>Annual Improvements to IFRSs 2012–2014 Cycle</i> in September 2014, and editorial corrections. The Authority has not yet determined the application or the potential impact of the Standard.</p>	
AASB 2015-2	<i>Amendments to Australian Accounting Standards – Disclosure Initiative: Amendments to AASB 101 [AASB 7, 101, 134 &amp; 1049]</i>	1 Jan 2016
	<p>This Standard amends AASB 101 to provide clarification regarding the disclosure requirements in AASB 101. Specifically, the Standard proposes narrow-focus amendments to address some of the concerns expressed about existing presentation and disclosure requirements and to ensure entities are able to use judgement when applying a Standard in determining what information to disclose in their financial statements. There is no financial impact.</p>	
AASB 2015-6	<i>Amendments to Australian Accounting Standards – Extending Related Party Disclosures to Not-for-Profit Public Sector Entities [AASB 10, 124 &amp; 1049]</i>	1 Jul 2016
	<p>The amendments extend the scope of AASB 124 to include application by not-for-profit public sector entities. Implementation guidance is included to assist application of the Standard by not-for-profit public sector entities. There is no financial impact.</p>	
AASB 2015-8	<i>Amendments to Australian Accounting Standards – Effective Date of AASB 15</i>	1 Jan 2017
	<p>This Standard amends the mandatory effective date (application date) of AASB 15 <i>Revenue from Contracts with Customers</i> so that AASB 15 is required to be applied for annual reporting periods beginning on or after 1 January 2018 instead of 1 January 2017. The Authority has not yet determined the application or the potential impact of AASB 15.</p>	
AASB 2015-10	<i>Amendments to Australian Accounting Standards – Effective Date of Amendments to AASB 10 &amp; 128</i>	1 Jan 2016
	<p>This Standard defers the mandatory effective date (application date) of amendments to AASB 10 &amp; 128 that were originally made in AASB 2014-10 so that the amendments are required to be applied for annual reporting periods beginning on or after 1 January 2018 instead of 1 January 2016. The Authority has not yet determined the application or the potential impact of AASB 2014-10.</p>	
AASB 2016-2	<i>Amendments to Australian Accounting Standards – Disclosure Initiative: Amendments to AASB 107</i>	1 Jan 2017
	<p>This Standard amends AASB 107 <i>Statement of Cash Flows</i> (August 2015) to require disclosures that enable users of financial statements to evaluate changes in liabilities arising from financing activities, including both changes arising from cash flows and non-cash changes. There is no financial impact.</p>	
AASB 2016-3	<i>Amendments to Australian Accounting Standards – Clarifications to AASB 15</i>	1 Jan 2018
	<p>This Standard clarifies identifying performance obligations, principal versus agent considerations, timing of recognising revenue from granting a licence, and, provides further transitional provisions to AASB 15. The Authority has not yet determined the application or the potential impact.</p>	
AASB 2016-4	<i>Amendments to Australian Accounting Standards – Recoverable Amount of Non-Cash-Generating Specialised Assets of Not-for-Profit Entities</i>	1 Jan 2017
	<p>This Standard clarifies that the recoverable amount of primarily non-cash-generating assets of not-for-profit entities, which are typically specialised in nature and held for continuing use of their service capacity, is expected to be materially the same as fair value determined under AASB 13 <i>Fair Value Measurement</i>. The Authority has not yet determined the application or the potential impact.</p>	

**Racing Penalties Appeal Tribunal**  
**Notes to the Financial Statements**  
for the year ended 30 June 2016

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**Note 4. Operating income**

	2016	2015
	\$	\$
Fees and charges	2,598	3,027
Funding from Racing and Wagering Western Australia	232,250	240,525
	<b><u>234,848</u></b>	<b><u>243,552</u></b>

**Note 5. Interest revenue**

	2016	2015
	\$	\$
Interest revenue		
Commonwealth Bank of Australia	<b><u>12,040</u></b>	<b><u>13,814</u></b>

**Note 6. Cash and cash equivalents**

	2016	2015
	\$	\$
Cash and cash equivalents are represented by funds held at the Commonwealth Bank of Australia		
	<b><u>447,078</u></b>	<b><u>440,360</u></b>

**Note 7. Receivables**

	2016	2015
	\$	\$
<u>Current</u>		
Interest receivable	2,793	2,750
Other receivable	0	0
GST receivable	2	20
<b>Total current</b>	<b><u>2,795</u></b>	<b><u>2,770</u></b>

The Authority does not hold any collateral or other credit enhancements as security for receivables.

**Note 8. Payables**

	2016	2015
	\$	\$
<u>Current</u>		
Accrued expenses	0	0
Other payable	3,820	1,542
<b>Total current</b>	<b><u>3,820</u></b>	<b><u>1,542</u></b>

**Racing Penalties Appeal Tribunal**  
**Notes to the Financial Statements**  
for the year ended 30 June 2016

**Note 9. Equity**

The Western Australian Government holds the equity interest in the Authority on behalf of the community. Equity represents the residual interest in the net assets of the Authority.

**Contributed equity**

	<b>2016</b> \$	<b>2015</b> \$
Balance at start of period	0	0
<b>Contributions by owners</b>		
Transfer of net assets from other agencies	0	0
<b>Total contributions by owners</b>	<b>0</b>	<b>0</b>
<b>Distributions to owners</b>		
Transfer of net assets to other agencies	0	0
<b>Total distributions to owners</b>	<b>0</b>	<b>0</b>
<b>Balance at end of period</b>	<b>0</b>	<b>0</b>
 <b>Accumulated surplus/(deficit)</b>		
	<b>2016</b> \$	<b>2015</b> \$
Balance at start of period	441,588	399,891
Result for the period	4,465	41,697
Income and expense recognised directly in equity	0	0
<b>Balance at end of period</b>	<b>446,053</b>	<b>441,588</b>
<b>Total Equity at end of period</b>	<b>446,053</b>	<b>441,588</b>

**Note 10. Notes to the Statement of Cash Flows**

	<b>2016</b> \$	<b>2015</b> \$
<b>Reconciliation of cash</b>		
Cash at the end of the financial year as shown in the Statement of Cash Flows is reconciled to the related items in the Statement of Financial Position as follows:		
Cash and cash equivalents	447,078	440,360
	<b>447,078</b>	<b>440,360</b>
 <b>Reconciliation of net cost of services to net cash flows provided by/(used in) operating activities</b>		
	<b>2016</b> \$	<b>2015</b> \$
Net cost of services	4,465	41,697
<b>(Increase)/decrease in assets</b>		
Receivables <sup>(a)</sup>	(43)	609
<b>Increase/(decrease) in liabilities</b>		
Payables <sup>(a)</sup>	2,278	1,542
Net GST receipts/(payments) <sup>(b)</sup>	18	1
Change in GST in receivables/payables <sup>(c)</sup>	0	0
<b>Net cash provided by/(used in) operating activities</b>	<b>6,718</b>	<b>43,849</b>

(a) Note that the Australian Taxation Office (ATO) receivable/payable in respect of GST and the receivable/payable in respect of the sale/purchase of non-current assets are not included in these items as they do not form part of the reconciling items.

(b) This is the net GST paid/received, i.e. cash transactions.

(c) This reverses out the GST in receivables and payables.

**Racing Penalties Appeal Tribunal  
Notes to the Financial Statements  
for the year ended 30 June 2016**

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**Note 11. Financial instruments**

**(a) Financial risk management objectives and policies**

Financial instruments held by the Authority are cash and cash equivalents, receivables, and payables. The Authority has limited exposure to financial risks. The Authority's overall risk management program focuses on managing the risks identified below.

*Credit risk*

Credit risk arises when there is the possibility of the Authority's receivables defaulting on their contractual obligations resulting in financial loss to the Authority.

The maximum exposure to credit risk at end of the reporting period in relation to each class of recognised financial assets is the gross carrying amount of those assets inclusive of any allowance for impairment as shown in the table at note 11(c) 'Financial instruments disclosures' and note 7 'Receivables'.

Credit risk associated with the Authority's financial assets is minimal because the Authority trades only with recognised, creditworthy third parties. The Authority has policies in place to ensure that sales of products and services are made to customers with an appropriate credit history. In addition, receivable balances are monitored on an ongoing basis with the result that the Authority's exposure to bad debts is minimal. At the end of the reporting period there were no significant concentrations of credit risk.

*Liquidity risk*

Liquidity risk arises when the Authority is unable to meet its financial obligations as they fall due.

The Authority is exposed to liquidity risk through its trading in the normal course of business.

The Authority has appropriate procedures to manage cash flows by monitoring forecast cash flows to ensure that sufficient funds are available to meet its commitments.

*Market risk*

Market risk is the risk that changes in market prices such as foreign exchange rates and interest rates will affect the Authority's income or the value of its holdings of financial instruments. The Authority does not trade in foreign currency and is not materially exposed to other price risks. Other than as detailed in the interest rate sensitivity analysis table at Note 11(c), the Authority has no borrowings and its exposure to market risk for changes in interest rates relates primarily to cash and cash equivalents which are interest bearing.

**(b) Categories of financial instruments**

The carrying amounts of each of the following categories of financial assets and financial liabilities at the end of the reporting period are:

	<b>2016</b>	<b>2015</b>
	\$	\$
<b>Financial Assets</b>		
Cash and cash equivalents	447,078	440,360
Receivables <sup>(a)</sup>	2,793	2,750
<b>Financial Liabilities</b>		
Financial liabilities measured at amortised cost	3,820	1,542

(a) The amount of receivables excludes GST recoverable from the ATO (statutory receivable).

**Racing Penalties Appeal Tribunal**  
**Notes to the Financial Statements**  
for the year ended 30 June 2016

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**Note 11. (c) Financial instrument disclosures**

*Credit risk*

The following table discloses the Authority's maximum exposure to credit risk and the ageing analysis of financial assets. The Authority's maximum exposure to credit risk at the end of the reporting period is the carrying amount of financial assets as shown below. The table discloses the ageing of financial assets that are past due but not impaired and impaired financial assets. The table is based on information provided to senior management of the Authority.

The Authority does not hold any collateral as security or other credit enhancements relating to the financial assets it holds.

**Aged analysis of financial assets**

	Carrying Amount	Not past due and not impaired	Past due but not impaired				Impaired financial assets
			Up to 1 month	1-3 months	3 months to 1 year	1-5 years	
			\$	\$	\$	\$	
<b>2016</b>							
Cash and cash equivalents	447,078	447,078					
Receivables <sup>(a)</sup>	2,793		2,793				
	<b>449,871</b>	<b>447,078</b>	<b>2,793</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>2015</b>							
Cash and cash equivalents	440,360	440,360					
Receivables <sup>(a)</sup>	2,750		2,750				
	<b>443,110</b>	<b>440,360</b>	<b>2,750</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<sup>(a)</sup> The amount of receivables excludes the GST recoverable from the ATO (statutory receivable).

**Racing Penalties Appeal Tribunal**  
**Notes to the Financial Statements**  
**for the year ended 30 June 2016**

**Note 11. (c) Financial instrument disclosures (contd)**

*Liquidity risk and interest rate exposure*

The following table details the Authority's interest rate exposure and the contractual maturity analysis of financial assets and financial liabilities. The maturity analysis section includes interest and principal cash flows. The interest rate exposure section analyses only the carrying amounts of each item.

**Interest rate exposure and maturity analysis of financial assets and financial liabilities**

	Weighted Average Effective Interest Rate %	Interest rate exposure				Nominal Amount	Maturity dates			
		Carrying Amount	Fixed interest rate	Variable interest rate	Non- interest bearing		Up to 1 month	1-3 months	3 months to 1 year	1-5 years
<b>2016</b>										
<u>Financial Assets</u>										
Cash and cash equivalents	2.26	447,078		447,078		447,078	447,078			
Receivables <sup>(a)</sup>		2,793			2,793	2,793	2,793			
		<b>449,871</b>	<b>0</b>	<b>447,078</b>	<b>2,793</b>	<b>449,871</b>	<b>449,871</b>	<b>0</b>	<b>0</b>	<b>0</b>
<u>Financial Liabilities</u>										
Payables		3,820			3,820	3,820	3,820			
		<b>3,820</b>	<b>0</b>	<b>0</b>	<b>3,820</b>	<b>3,820</b>	<b>3,820</b>	<b>0</b>	<b>0</b>	<b>0</b>

<sup>(a)</sup> The amount of receivables excludes the GST recoverable from the ATO (statutory receivable).

Racing Penalties Appeal Tribunal  
 Notes to the Financial Statements  
 for the year ended 30 June 2016

Note 11. (c) Financial instrument disclosures (contd)

*Liquidity risk and interest rate exposure*

**Interest rate exposure and maturity analysis of financial assets and financial liabilities**

	Weighted Average Effective Interest Rate %	Carrying Amount	Interest rate exposure			Nominal Amount	Maturity dates				
			Fixed interest rate	Variable interest rate	Non- interest bearing		Up to 1 month	1-3 months	3 months to 1 year	1-5 years	More than 5 years
<b>2015</b>			\$	\$	\$	\$	\$	\$	\$	\$	\$
<b>Financial Assets</b>											
Cash and cash equivalents	2.70	440,360		440,360		440,360	440,360				
Receivables <sup>(a)</sup>		2,750			2,750	2,750	2,750				
		<b>443,110</b>	<b>0</b>	<b>440,360</b>	<b>2,750</b>	<b>443,110</b>	<b>443,110</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Financial Liabilities</b>											
Payables		1,542			1,542	1,542	1,542				
		<b>1,542</b>	<b>0</b>	<b>0</b>	<b>1,542</b>	<b>1,542</b>	<b>1,542</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<sup>(a)</sup> The amount of receivables excludes the GST recoverable from the ATO (statutory receivable).

**Racing Penalties Appeal Tribunal**  
**Notes to the Financial Statements**  
**for the year ended 30 June 2016**

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**Note 11. (c) Financial instrument disclosures (contd)**

*Interest rate sensitivity analysis*

The following table represents a summary of the interest rate sensitivity of the Authority's financial assets and liabilities at the end of the reporting period on the surplus for the period and equity for a 1% change in interest rates. It is assumed that the change in interest rates is held constant throughout the reporting period.

	<b>-100 basis points</b>			<b>+100 basis points</b>	
	<b>Carrying amount</b>	<b>Surplus</b>	<b>Equity</b>	<b>Surplus</b>	<b>Equity</b>
		\$	\$		\$
<b>2016</b>					
<b>Financial Assets</b>					
Cash and cash equivalents	447,078	(4,471)	(4,471)	4,471	4,471
<b>Financial Liabilities</b>					
<b>Total Increase/(Decrease)</b>		<b>(4,471)</b>	<b>(4,471)</b>	<b>4,471</b>	<b>4,471</b>
	<b>-100 basis points</b>			<b>+100 basis points</b>	
	<b>Carrying amount</b>	<b>Surplus</b>	<b>Equity</b>	<b>Surplus</b>	<b>Equity</b>
		\$	\$		\$
<b>2015</b>					
<b>Financial Assets</b>					
Cash and cash equivalents	440,360	(4,404)	(4,404)	4,404	4,404
<b>Financial Liabilities</b>					
<b>Total Increase/(Decrease)</b>		<b>(4,404)</b>	<b>(4,404)</b>	<b>4,404</b>	<b>4,404</b>

*Fair values*

All financial assets and liabilities recognised in the Statement of Financial Position, whether they are carried at cost or fair value, are recognised at amounts that represent a reasonable approximation of fair value unless otherwise stated in the applicable notes.

**Racing Penalties Appeal Tribunal**  
**Notes to the Financial Statements**  
**for the year ended 30 June 2016**

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**Note 12. Explanatory statement**

Significant variances between estimates and actual results for 2016 and between the actual results for 2016 and 2015 are shown below. Significant variances are considered to be those greater than 10% or \$20,000.

**(i) Significant variances between estimated and actual result for 2016**

	<b>2016 Estimate \$</b>	<b>2016 Actual \$</b>	<b>Variation \$</b>
Superannuation	4,275	3,865	(410)

Superannuation

The variance of \$410 is due to the impact of the decrease in the Tribunal members' expenses in 2016.

**(ii) Significant variances between actual results for 2016 and 2015**

Variations which have been explained in part (i) of this note have not been repeated here in the interests of concise reporting.

	<b>2016 \$</b>	<b>2015 \$</b>	<b>Variance \$</b>
Interest revenue	12,040	13,814	1,774

Interest revenue

The decrease of \$1,774 is the result of lower interest rates throughout the year.

**Racing Penalties Appeal Tribunal**  
**Notes to the Financial Statements**  
for the year ended 30 June 2016

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**Note 13. Remuneration of members of the Accountable Authority**

The number of members of the accountable authority, whose total of fees, salaries, superannuation, non-monetary benefits and other benefits for the financial year, fall within the following bands are:

Remuneration Band (\$)	2016	2015
0 - 10,000	6	6
10,001 - 20,000	1	1
	\$	\$
Base remuneration and superannuation	45,756	30,335
Other benefits	0	0
<b>The total remuneration of members of the accountable authority</b>	<b><u>45,756</u></b>	<b><u>30,335</u></b>

Total remuneration includes the superannuation expense incurred by the Authority in respect of members of the accountable authority.

**Note 14. Remuneration of auditor**

Remuneration paid or payable to the Auditor General in respect of the audit for the current financial year is as follows:

	2016	2015
Auditing the accounts, controls, financial statements and key performance indicators	<u>11,000</u>	<u>10,800</u>

**Note 15. Commitments**

As at 30 June 2016 the Authority did not have any other material capital or expenditure commitments.

**Note 16. Contingent liabilities and contingent assets**

The Authority is not aware of any contingent liabilities and contingent assets as at the end of the reporting period.

**Note 17. Events occurring after the end of the reporting period**

We are not aware of any matters or circumstances that have arisen since the end of the financial year to the date of this report which has significantly affected or may significantly affect the activities of the Authority, the results of those activities or the state of affairs of the Authority in the ensuing or any subsequent financial year.

## Key Performance Indicator Information

Key Performance Indicators (KPIs) are required by section 62 of the *Financial Management Act 2006* and are provided to assist interested parties such as Government, Parliament and community groups in assessing an agency's desired outcomes. KPIs measure the efficiency and effectiveness of an agency.

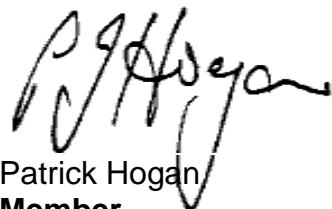
### Certification of Key Performance Indicators

We hereby certify that the key performance indicators are based on proper records, are relevant and appropriate for assisting users to assess the performance of the Racing Penalties Appeal Tribunal, and fairly represent the performance of the Racing Penalties Appeal Tribunal for the financial year ended 30 June 2016.



Dan Mossenson  
**Chairperson**  
Racing Penalties Appeal Tribunal

14 September 2016



Patrick Hogan  
**Member**  
Racing Penalties Appeal Tribunal

14 September 2016

## Detailed Information in Support of Key Performance Indicators

**Desired Outcome:** To provide an appeal tribunal in relation to determinations made by racing industry stewards and controlling authorities.

**Strategy:** To ensure that a timely and effective appeal forum is provided at minimum cost to the racing industry<sup>1</sup>.

Under the *Racing Penalties (Appeals) Act 1990* (the Act), an appellant may apply for a suspension of the operation of a penalty at the time of lodging the appeal (a stay). It is essential to the racing codes, trainers, owners and the general public that these stay applications are dealt with expeditiously. These determinations impact directly on the eligibility of riders, drivers and runners to fulfil prior engagements.

The aim of the Racing Penalties Appeal Tribunal (the Tribunal) is to endeavour to finalise applications for stays on the same day as they are lodged. This is only potentially achievable when the appellant (or the appellant's counsel) and the stewards of the relevant code of racing are contactable on that day to provide submissions and the material is available to be forwarded in sufficient time to be dealt with that day by the Tribunal. In those cases where an appeal with a stay application is lodged at the registry later in the day there is virtually no prospect of it being determined until at least the next working day.

The time involved in determining a stay application, is governed by many factors including the availability of counsel for both parties, the provision of the transcript of a stewards' inquiry and other supporting information, legal proceedings in other jurisdictions and the complexity of matters required to be determined.

Key Effectiveness Indicator	2012-13 Actual	2013-14 Actual	2014-15 Actual	2015-16 Target	2015-16 Actual
Total number of stay applications received	3	7	4	8	4
Number of stay applications determined the same day	0	0	1	8	0
<b>Indicator<sup>1</sup></b>	<b>0%</b>	<b>0%</b>	<b>25%</b>	<b>100%</b>	<b>0%</b>

<sup>1</sup> The effectiveness indicator for this activity is derived by dividing the number of stay applications determined the same day by the total number of stay applications received, then multiplying by 100.

The table below provides an explanation as to why the 4 stay applications were not processed the same day and highlights that factors beyond the Tribunal's control were responsible for such a delay.

<b>Appeal No</b>	<b>Applicant</b>	<b>Explanation</b>
A30/08/780	David Young v RWWA Stewards of Harness Racing	Appeal was lodged on 06/07/2015 at 3:05pm. Exchange of submissions between the counsels for the parties were finalised at approximately 11:57am on 10/07/2015. The application was determined on the same day at 2:05pm.
A30/08/781	Ryan Warwick v RWWA Stewards of Harness Racing	Appeal was lodged on 22/07/2015 at 10:18am. Exchange of submissions between the counsels for the parties was finalised at 10:45am on 23/07/2015. The application was determined on the same day at 12:31pm.
A30/08/786	Benjamin Owens v RWWA Stewards of Thoroughbred Racing	Appeal was lodged on 01/04/2016 at 1:15pm. Exchange of written submissions concluded on 04/04/2016. The stay application hearing took place on 13/04/2016. The application was determined on 14/04/2016 at 12.42pm.
A30/08/789	Alan Kennedy v RWWA Stewards of Thoroughbred Racing	Appeal was lodged on 23/05/2016 at 12:07pm. Exchange of submissions between the parties was finalised at approximately 3:31PM on 24/05/2016. The application was determined on the same day at 3:42pm.

<b>Service:</b>	To perform functions for the racing industry.
<b>Service Description:</b>	To process appeals/stay applications in accordance with statutory obligations.

The Tribunal was established to maintain industry confidence in the enforcement of the various racing rules by providing the industry with an impartial quasi judicial forum for the hearing of appeals against a determination, or a finding comprised in or related to a determination, of an appropriate controlling authority, of a racing club, or of any committee or stewards.

The Tribunal is responsible for hearing and determining appeals and stay applications against penalties imposed in disciplinary proceedings arising from, or in relation to, the conduct of greyhound racing, horse racing and harness racing.

A person who is aggrieved by a RWWA decision, or a determination made by a steward/stewards or a committee of a racing club, may make an appeal to the Tribunal within 14 days of the decision being handed down.

The Registrar of the Tribunal must ensure that appeals and stay applications are processed in accordance with the *Racing Penalties (Appeals) Act 1990* and the *Racing Penalties (Appeals) Regulations 1991*, whilst providing an effective and efficient service to the racing industry at minimal cost.

The average cost can change for each reporting year as a result of increases or reductions in the number of matters heard before the Tribunal, combined with annual increases to the total cost of providing services to the Tribunal to conduct its operations.

This means the more stay applications that are heard in a given year the less it costs on processing an application. Conversely, if fewer applications are heard in a given year then it costs more on average to process a stay application.

The reason for the discrepancy between the estimated average costs of processing a stay application versus the actual cost of processing a stay application in 2015-16 is due to the decrease in the actual cost of services provided to the Tribunal as well as the number of stay applications heard.

Key Effectiveness Indicator	2012-13 Actual	2013-14 Actual	2014-15 Actual	2015-16 Target	2015-16 Actual
<b>Average cost of processing an appeal<sup>2</sup></b>	\$24,140	\$23,040	\$21,567	\$16,692 <sup>3</sup>	\$24,242 <sup>4</sup>

<sup>2</sup> The average processing cost for each financial year was derived by dividing the total cost of services to the Tribunal by the number of appeals heard.

<sup>3</sup> This is based on 2015-16 budgeted total cost of services of \$250,385 divided by a target of 15 appeals.

<sup>4</sup> This is based on 2015-16 actual total cost of services \$242,423 divided by actual 10 appeals with 4 stay applications and one withdrawn matter.



## Auditor General

### INDEPENDENT AUDITOR'S REPORT

To the Parliament of Western Australia

### RACING PENALTIES APPEAL TRIBUNAL OF WESTERN AUSTRALIA

#### Report on the Financial Statements

I have audited the accounts and financial statements of the Racing Penalties Appeal Tribunal of Western Australia.

The financial statements comprise the Statement of Financial Position as at 30 June 2016, the Statement of Comprehensive Income, Statement of Changes in Equity and Statement of Cash Flows for the year then ended, and Notes comprising a summary of significant accounting policies and other explanatory information.

#### *Opinion*

In my opinion, the financial statements are based on proper accounts and present fairly, in all material respects, the financial position of the Racing Penalties Appeal Tribunal of Western Australia at 30 June 2016 and its financial performance and cash flows for the year then ended. They are in accordance with Australian Accounting Standards and the Treasurer's Instructions.

#### *Tribunal's Responsibility for the Financial Statements*

The Tribunal is responsible for keeping proper accounts, and the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards and the Treasurer's Instructions, and for such internal control as the Tribunal determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

#### *Auditor's Responsibility for the Audit of the Financial Statements*

As required by the Auditor General Act 2006, my responsibility is to express an opinion on the financial statements based on my audit. The audit was conducted in accordance with Australian Auditing Standards. Those Standards require compliance with relevant ethical requirements relating to audit engagements and that the audit be planned and performed to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Tribunal's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of accounting estimates made by the Tribunal, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my audit opinion.

## **Report on Controls**

I have audited the controls exercised by the Racing Penalties Appeal Tribunal of Western Australia during the year ended 30 June 2016.

Controls exercised by the Racing Penalties Appeal Tribunal of Western Australia are those policies and procedures established by the Tribunal to ensure that the receipt, expenditure and investment of money, the acquisition and disposal of property, and the incurring of liabilities have been in accordance with legislative provisions.

### ***Opinion***

In my opinion, in all material respects, the controls exercised by the Racing Penalties Appeal Tribunal of Western Australia are sufficiently adequate to provide reasonable assurance that the receipt, expenditure and investment of money, the acquisition and disposal of property, and the incurring of liabilities have been in accordance with legislative provisions during the year ended 30 June 2016.

### ***Tribunal's Responsibility for Controls***

The Tribunal is responsible for maintaining an adequate system of internal control to ensure that the receipt, expenditure and investment of money, the acquisition and disposal of public and other property, and the incurring of liabilities are in accordance with the Financial Management Act 2006 and the Treasurer's Instructions, and other relevant written law.

### ***Auditor's Responsibility for the Audit of Controls***

As required by the Auditor General Act 2006, my responsibility is to express an opinion on the controls exercised by the Racing Penalties Appeal Tribunal of Western Australia based on my audit conducted in accordance with Australian Auditing and Assurance Standards.

An audit involves performing procedures to obtain audit evidence about the adequacy of controls to ensure that the Tribunal complies with the legislative provisions. The procedures selected depend on the auditor's judgement and include an evaluation of the design and implementation of relevant controls.

I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my audit opinion.

## **Report on the Key Performance Indicators**

I have audited the key performance indicators of the Racing Penalties Appeal Tribunal of Western Australia for the year ended 30 June 2016.

The key performance indicators are the key effectiveness indicators and the key efficiency indicators that provide information on outcome achievement and service provision.

### ***Opinion***

In my opinion, in all material respects, the key performance indicators of the Racing Penalties Appeal Tribunal of Western Australia are relevant and appropriate to assist users to assess the Tribunal's performance and fairly represent indicated performance for the year ended 30 June 2016.

### ***Tribunal's Responsibility for the Key Performance Indicators***

The Tribunal is responsible for the preparation and fair presentation of the key performance indicators in accordance with the Financial Management Act 2006 and the Treasurer's Instructions and for such controls as the Tribunal determines necessary to ensure that the key performance indicators fairly represent indicated performance.

*Auditor's Responsibility for the Audit of Key Performance Indicators*

As required by the Auditor General Act 2006, my responsibility is to express an opinion on the key performance indicators based on my audit conducted in accordance with Australian Auditing and Assurance Standards.

An audit involves performing procedures to obtain audit evidence about the key performance indicators. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the key performance indicators. In making these risk assessments the auditor considers internal control relevant to the Tribunal's preparation and fair presentation of the key performance indicators in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the relevance and appropriateness of the key performance indicators for measuring the extent of outcome achievement and service provision.

I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my audit opinion.

**Independence**

In conducting the above audits, I have complied with the independence requirements of the Auditor General Act 2006 and Australian Auditing and Assurance Standards, and other relevant ethical requirements.

**Matters Relating to the Electronic Publication of the Audited Financial Statements and Key Performance Indicators**

This auditor's report relates to the financial statements and key performance indicators of the Racing Penalties Appeal Tribunal of Western Australia for the year ended 30 June 2016 included on the Tribunal's website. The Tribunal's management is responsible for the integrity of the Tribunal's website. This audit does not provide assurance on the integrity of the Tribunal's website. The auditor's report refers only to the financial statements and key performance indicators described above. It does not provide an opinion on any other information which may have been hyperlinked to/from these financial statements or key performance indicators. If users of the financial statements and key performance indicators are concerned with the inherent risks arising from publication on a website, they are advised to refer to the hard copy of the audited financial statements and key performance indicators to confirm the information contained in this website version of the financial statements and key performance indicators.



DON CUNNINGHAME  
ASSISTANT AUDITOR GENERAL FINANCIAL AUDIT  
Delegate of the Auditor General for Western Australia  
Perth, Western Australia  
15 September 2016

## Governance Disclosures

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### Unauthorised Use of Credit Cards

There have been no identified instances of unauthorised use of corporate credit cards.

## Other Legal and Government Policy Requirements

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### Advertising and Sponsorship

Section 175ZE of the *Electoral Act 1907* requires public agencies to report details of expenditure to organisations providing services in relation to advertising, market research, polling, direct mail and media advertising. The Tribunal did not incur expenditure of this nature in 2015-16.

### Remuneration of Members

During the reporting period, the following remuneration figures applied to Tribunal members.

Tribunal Member	All Earnings	Superannuation
William Chesnutt	\$4,897.00	\$388.37
Andrew Monisse	\$809.00	\$39.34
Dan Mossenson	\$26,601.00	\$2,527.09
Patrick Hogan	\$1,198.00	\$113.82
Robert Nash	\$2,606.00	\$247.58
John Prior	\$1,902.00	\$180.70
Karen Farley	\$1,797.00	\$170.73
<b>Total</b>	<b>\$39,810.00</b>	<b>\$3,667.63</b>

### Other Government Policy Requirements

The Tribunal meets its requirements through arrangements with the Department of Racing, Gaming and Liquor. The Department's Annual Report contains information on how the Department meets the following requirements:

- Disability Access and Inclusion Plan Outcomes.
- Compliance with Public Sector Standards and Ethical Codes.
- Recordkeeping Plans.
- Substantive Equality.
- Occupational Safety, Health and Injury Management.