



Department of
Local Government, Sport
and Cultural Industries

Racing Penalties Appeal Tribunal

2022-23 Annual Report



Table of Contents

Statement of Compliance.....	2
Executive Summary	3
Operational Structure.....	4
Enabling legislation.....	4
Responsible Minister	4
Purpose of the Tribunal	4
Appeals which may be heard by the Tribunal.....	4
Appeals which are outside the jurisdiction of the Tribunal	4
Determination of appeals.....	5
Organisational structure.....	5
Administered legislation.....	6
Other legislation impacting Tribunal activities.....	6
Performance Management Framework.....	7
Outcome-based management framework.....	7
Changes to outcome-based management framework	7
Shared responsibilities with other agencies	7
Report on Tribunal Performance and Operations	7
Actual results versus budget targets.....	7
Performance summary for 2022-23	8
Stays of proceedings	9
Disclosures and Legal Compliance.....	12
Financial statements.....	12
Key performance indicator information	26
Audit opinion.....	29
2023-24 Annual budget estimates	34
Significant Issues and Trends Impacting the Tribunal	46
Current and emerging issues and trends.....	46
Economic and social trends.....	46
Changes in written law.....	46
Likely developments and forecast results of operations	46
Statutory, governance and legal requirements	46
Unauthorised use of credit cards	46
Act of Grace payments	46
Advertising, market research, polling and direct mail	46
Other legal, statutory and governance requirements.....	47
Remuneration of members	47
Contacts.....	48

Statement of Compliance

Hon. Reece Whitby MLA
Minister for Racing and Gaming

In accordance with section 63 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 2023.

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

The financial statements comply with Australian Accounting Standards – Simplified Disclosures issued by the Australian Accounting Standards Board.



Chairperson

19 September 2023

Executive Summary

It is with pleasure that I present the Racing Penalties Appeal Tribunal Annual Report for the year ended 30 June 2023.

The Tribunal has experienced significant changes to its membership during the reporting period. Former Chairperson, Karen Farley SC, resigned on 31 July 2022 to take up her appointment as Chairperson to the Racing and Wagering Western Australia (RWVA) Board. Karen was first appointed to the Tribunal in March 1997 and was appointed Chairperson in March 2018. Karen's dedicated support and leadership of the racing industry in Western Australia has been invaluable. The Tribunal wish her all the best in her endeavours.

Special mention should also be made of Brenda Robbins, who resigned on 26 August 2022. Brenda was first appointed to the Tribunal in March 2018 I thank her for her work and dedication to the Tribunal over the years.

The Tribunal also welcomed two new members, Phillip Gleeson and Natalie Sinton, who were appointed in August 2022.

I would personally like to thank the Tribunal members for their support over the last year and their commitment and dedication to their role.

I also thank the State Administrative Tribunal for the continued use of their facilities to conduct hearings. Their ability, flexibility and willingness to cater to our needs is greatly appreciated.

Finally, I wish to thank the staff of the Department of Local Government, Sport and Cultural Industries (DLGSC) for the provision of executive services. Their dedication, professionalism and commitment ensuring the Tribunal continues to meet its corporate, financial and legal obligations, are vital to the ongoing effective operations of the Tribunal.



Robert Nash
Chairperson
19 September 2023

Operational Structure

Enabling legislation

The Racing Penalties Appeal Tribunal (the Tribunal) is established under the *Racing Penalties (Appeals) Act 1990* (the Act). 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.

Responsible Minister

As of 30 June 2023, the Minister responsible for the Racing and Gaming Portfolio was the Hon. Reece Whitby MLA, Minister for Environment; Climate Action; Racing and Gaming.

Purpose of the Tribunal

The aim of the Act 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 Local Government, Sport and Cultural Industries (the DLGSC). The DLGSC recoups the cost of providing these services from the Tribunal through a service level agreement, which is funded by Racing and Wagering Western Australia (RWVA).

Appeals which may be heard by the Tribunal

A person who is aggrieved by a determination of RWVA, 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 RWVA.

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.

Organisational structure

Sections 5 and 6 of the Act 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.

As of 30 June 2023, the Tribunal consisted of five members, namely:

Mr Robert Nash - Chairperson

Mr Nash was appointed chairperson in August 2022. He is a barrister admitted as a Practitioner of the Supreme Court of Western Australia and the High Court of Australia, and a General Public Notary. Mr Nash has, during the course of his career, served in a non-executive capacity on several councils, committees, and charitable and non-charitable boards, including Chairman of Australian Silica Quartz Group Limited, Councillor for the Town of Mosman Park, Chairman of the WA Soccer Disciplinary Tribunal, Council Member of the Law Society of WA, Convenor of the Education Committee of the Law Society of WA, Counsel Assisting the Royal Commission into the City of Wanneroo, Member of the Professional Conduct Committee and Ethics Committee of the Law Society of WA, Head of the WA Legal Panel of the Royal Australian Navy, and Council Member of the WA Bar Association Council.

Mr Andrew Monisse

Mr Andrew Monisse has served as member of the Racing Penalties Appeal Tribunal of Western Australia since February 1997. He was admitted as a barrister and solicitor of the Supreme Court of Western Australia in December 1990 after completing articles at Mallesons Stephen Jaques. Mr Monisse's employment experience has included working as a solicitor assisting counsel assisting at the WA Inc Royal Commission in 1991 and as a prosecutor for the Commonwealth Director of Public Prosecutions in the Perth office from 1992 to 1998. In April 1997 he commenced serving in the ADF as a member of the Perth Legal Panel of the RAAF Specialist Reserve, and since September 2006 has held the rank of Squadron Leader. In July 2000 Mr Monisse commenced his practice as a barrister, where he has since October 2000 been a member of the WA Bar Association. Mr Monisse practises predominantly in Criminal Law at Quarry Chambers.

Ms Johanna Overmars

Ms Johanna Overmars, was appointed to the Tribunal in March 2018. Ms Overmars holds a Bachelor of Laws and Bachelor of Arts from the University of Notre Dame Australia. Ms Overmars was admitted as a Barrister and Solicitor of the Supreme Court of WA in 2005. Ms Overmars has had a varied career working for Legal Aid Western Australia, Women's Legal Service WA and in private practice in the areas of Family Law, Criminal Law and Restraining Orders. Ms Overmars ran her own firm, Hills Hope Legal Pty Ltd in Mundaring for 6 years, until closing it to have her family. She currently works at Frichot Lawyers where she practices in the Wills and Estates and Family Law teams. Ms Overmars is a horse owner, who has a keen interest in horsemanship.

Mr Phillip Gleeson

Phillip Gleeson was appointed to the Tribunal in 2022. Phillip is a founding Director of Percy Kakulas Gleeson Injury Lawyers. He specialises in all aspects of plaintiff litigation, advocacy and advice across medical negligence, historical sexual abuse, work and industrial accidents and disease, motor vehicle accidents, product liability, and superannuation and group insurance claims. He is listed by the prestigious Doyles Guide as a leading lawyer for work injury compensation nationally as well as in WA, and for medical negligence, motor vehicle accident and public liability compensation in WA.

Ms Natalie Sinton

Natalie Sinton was appointed to the Tribunal in 2022. Natalie completed a Bachelor of Science and Master of Forensic Science before graduating with a Bachelor of Laws with Honours in 2007. Natalie was a Judge's Associate at the Court of Appeal for two years before commencing as a solicitor in the Criminal Law Division at Legal Aid in 2010, initially in the Duty Lawyer team. In 2012 Natalie joined the Criminal Appeals team, where she remains to this day. Natalie was the Secretary of the Criminal Lawyers' Association from 2015 to 2019 and is an accredited mediator.

Administered legislation

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

Other legislation impacting Tribunal 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*
- *State Supply Commission Act 1991*

Performance Management Framework

Outcome-based management framework / 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
Safe, Strong and Fair Communities: Supporting our local and regional communities to thrive.	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 changed during 2022-23 to reflect the State Government Goals announced in the 2022-23 budget.

Shared responsibilities with other agencies

The Tribunal did not share any responsibilities with other agencies in 2022-23.

Report on Tribunal Performance and Operations

Actual results versus budget targets

The table below provides a summary of key financial targets for 2022-23. A detailed explanation is provided in the financial statements.

Financial Targets	Target (\$)	Actual (\$)	Variation (\$)
Total cost of services (expense limit) (sourced from Statement of Comprehensive Income)	254,242	221,536	32,706
Net cost of services (sourced from Statement of Comprehensive Income)	-23,354	10,549	12,805
Total equity (sourced from Statement of Financial Position)	15,900	49,872	-33,972
Net increase (decrease) in cash held (sourced from Statement of Cash Flows)	-23,354	11,335	12,019
Approved salary expense level*	0	0	0

* Executive support for the Tribunal is provided by the DLGSC.

The table below provides a summary of key performance indicators for 2022-23. A detailed explanation is provided later in the report.

Summary of Key Performance Indicators	Target	Actual	Variation
Total number of stay applications received	6	3	3
Number of stay applications determined as per KPI	6	0 ¹	5
Average cost of processing an appeal	\$21,187	\$30,254	\$9,067

Performance summary for 2022-23

During the year, two appeals were carried over from 2021-22 and 10 new appeals were lodged with the Tribunal. As at 30 June 2022, the Tribunal determined nine appeals, with three carried over to 2023-24. These appeals, together with appeals from the previous year, are summarised by racing code:

Racing Code	Appeals carried over from 2021-22	Appeals Lodged	Appeals Determined	Appeals carried over to 2023-24
Thoroughbred	1	3	2	2
Harness	0	6	5	1
Greyhound	1	1	2	0
TOTAL	2	10	9	3

The results of the determinations in respect of the racing codes for the year 2022-23 are summarised below:

Results	Thoroughbred	Harness	Greyhound
Allowed in Full	0	1	0
Allowed in Part (Penalty Reduced)	1	1	0
Referred Back to Stewards (RWWA)	0	0	0
Dismissed	1	3	2
Withdrawn/not progressed	0	0	0
Leave to Appeal Refused	0	0	0
Total	2	5	2

¹ The first application was not progressed due to the Appellant failing to provide further submissions (Appeal No 859). The second application was determined later than one working day following receipt of final submissions lodged by the parties (Appeal No 860). The third application was lodged on 29 June 2023 and upon receipt of all submissions was determined on 3 July 2023, i.e., the application was determined outside the reporting period (Appeal No 864).

Appeals Carried Over to 2023-24	Thoroughbred	Harness	Greyhound
Reserved Decision	0	0	0
Reserved Decision on penalty only	0	0	0
Reasons to be published	0	0	0
Yet to be heard	2	1	0
Total	2	1	0

The number of appeals determined over a 10-year period is summarised in the following table:

Racing Code	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
Thoroughbred	2	2	4	0	3	2	3	2	1	2
Harness	2	3	6	5	11	5	4	5	7	5
Greyhound	2	2	4	2	6	2	3	0	2	2
TOTAL	6	7	14	7	20	9	10	7	10	9

Stays of proceedings

In 2022-23, there were three applications for stays of proceedings. The Chairperson or the presiding member made the determination on the applications as follows:

Stays of Proceedings 2022-23			
Results	Thoroughbred	Harness	Greyhound
Stays Granted	0	0	0
Stays Refused	0	1	0
Withdrawn	0	0	0
Discontinued	0	1	0
Stay application determined 2023-24 FY	1	0	0
Total	1	2	0

The following table provides a summary of the number, nature and outcome of matters before the Tribunal during 2022-23. Full determinations are available from the Tribunal's website: [Racing Penalties Appeal Tribunal](#).

Applications Heard and Determined in 2022-23					
Appeal No.	Name	Nature of Appeal	Hearing Date	Determination Date	Outcome
853	Julie Anne Mitchell (carried over from 2021/22 FY)	Appeal against a fine of \$6,000 for a breach of Rule AR 240(2) of the Rules of Thoroughbred Racing	6/5/2022	22/7/2022	Appeal dismissed.
854	Derek Coldstream (carried over from 2021/22 FY)	Appeal against a disqualification period of 24 months for two breaches of Rule 83(2)(a) of the Rules of Greyhound Racing	5/8/2022	11/11/2022	Appeal dismissed.
855	Malcolm Hancock	Appeal against a fine of \$1,000 (\$500 suspended for a two year period) for a breach of Rule 231(2) of the Rules of Harness Racing	9/8/2022 for preliminary matter; 3/10/2022 for appeal	23/8/2022 for preliminary matter; 14/10/2022 for appeal	Preliminary matter dismissed on 23/8/2022. Substantive appeal dismissed on 14/10/2022.
856	Darren Taylor	Appeal against a disqualification period of two years for two breaches of Rule AR 233(c) of the Rules of Thoroughbred Racing	11/11/2022	3/2/2023	Appeal against penalty allowed in part. Disqualification period for charge 1 reduced to 8 months and disqualification period to charge 2 reduced to 6 months, to be served concurrently.
857	Maxwell Julien	Appeal against a fine of \$1,500 (\$250 suspended for a two year period) for a breach of Rule GAR 156(f)(iii) of the Rules of Greyhound Racing	3/11/2022	20/1/2023	Appeal dismissed.
858	Peter Anderson	Appeal against a fine of \$3,000 (\$1,000 suspended for a 12	30/3/2023	12/6/2023	Appeal dismissed.

Applications Heard and Determined in 2022-23					
Appeal No.	Name	Nature of Appeal	Hearing Date	Determination Date	Outcome
		month period) for a breach of Rule 190(1), (2) and (4) of the Rules of Harness Racing			
860	Stuart McDonald	Appeal against a 14 day suspension for a breach of Rule 163(1)(a)(iii) of the Rules of Harness Racing	13/12/2023	14/12/2023	Appeal dismissed.
861	Ross Olivieri	Appeal against a disqualification period of six months for a breach of Rule 190(1), (2) and (4) of the Rules of Harness Racing	20/1/2023	10/2/2023	Appeal against penalty allowed in part. Disqualification period reduced to 3 months. Written reasons to be provided in due course.
862	Gary Hall Jnr	Appeal against a 12 day suspension for a breach of Rule 163(1)(a)(iii) of the Rules of Harness Racing	20/1/2023	25/1/2023	Appeal upheld; 12-day suspension set aside.

Disclosures and Legal Compliance

Financial statements

The aim of these financial statements is to inform the Parliament and other interested parties, not only of what the Racing Penalties Appeal Tribunal has achieved during the financial year, but also of the reasons behind those achievements.

Disclosures and legal compliance

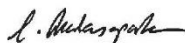
Racing Penalties Appeal Tribunal of Western Australia

Certification of financial statements

For the reporting period ended 30 June 2023

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 reporting period ended 30 June 2023 and the financial position as at 30 June 2023.

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



Ludisha Kalasopatan
Chief Finance Officer

5 September 2023



Robert Nash
Chairperson

5 September 2023



Phillip Gleeson
Member

5 September 2023

30 June 2023

Page 3 of 17



Nexia Perth Audit Services Pty Ltd

Racing Penalties Appeal Tribunal of Western Australia
Statement of comprehensive income
For the year ended 30 June 2023

	Notes	2023 \$	2022 \$
COST OF SERVICES			
Expenses			
Tribunal members' expenses	2.1	17,462	22,098
Supplies and services	2.2	204,074	204,554
Total cost of services		221,536	226,652
Income			
User charges and fees	3.2	1,835	2,400
Total income		1,835	2,400
NET COST OF SERVICES		219,701	224,252
Income from State Government			
Income from other public sector entities	3.1	230,250	235,784
Total income from State Government		230,250	235,784
SURPLUS FOR THE PERIOD		10,549	11,532
TOTAL COMPREHENSIVE INCOME FOR THE PERIOD		10,549	11,532

The Statement of comprehensive income should be read in conjunction with the accompanying notes.



Racing Penalties Appeal Tribunal of Western Australia
Statement of financial position
As at 30 June 2023

	Notes	2023 \$	2022 \$
ASSETS			
Current Assets			
Cash and cash equivalents	5.1	47,049	35,714
Receivables	4.1	5,286	4,676
Total current assets		52,335	40,390
TOTAL ASSETS		52,335	40,390
LIABILITIES			
Current Liabilities			
Payables	4.2	1,440	917
Other liabilities	4.3	1,023	150
Total current liabilities		2,463	1,067
TOTAL LIABILITIES		2,463	1,067
NET ASSETS		49,872	39,323
EQUITY			
Accumulated surplus		49,872	39,323
TOTAL EQUITY		49,872	39,323

The Statement of financial position should be read in conjunction with the accompanying notes.



Racing Penalties Appeal Tribunal of Western Australia
Statement of changes in equity
For the year ended 30 June 2023

	Notes	Accumulated surplus \$	Total equity \$
Balance at 1 July 2021		27,791	27,791
Surplus		11,532	11,532
Total comprehensive income for the period		<u>11,532</u>	<u>11,532</u>
Balance at 30 June 2022		<u>39,323</u>	<u>39,323</u>
Balance at 1 July 2022		39,323	39,323
Surplus		10,549	10,549
Total comprehensive income for the period		<u>10,549</u>	<u>10,549</u>
Balance at 30 June 2023		<u>49,872</u>	<u>49,872</u>

The Statement of changes in equity should be read in conjunction with the accompanying notes.

30 June 2023

Page 7 of 17



Nexia Perth Audit Services Pty Ltd

Racing Penalties Appeal Tribunal of Western Australia
Statement of cash flows
For the year ended 30 June 2023

	Notes	2023 \$	2022 \$
Cash flows from State Government			
Funds from other public sector entities		229,774	235,686
Net cash provided by State Government		<u>229,774</u>	<u>235,686</u>
<i>Utilised as follows:</i>			
Cash flows from operating activities			
Payments			
Tribunal members' expenses		(17,076)	(23,542)
Supplies and services		(204,074)	(204,554)
GST payments on purchases		(20,369)	(20,458)
GST payments to taxation authority		(18,162)	(23,544)
Other payments		-	(250)
Receipts			
User charges and fees		2,709	2,300
GST receipts on sales		22,646	23,515
GST receipts from taxation authority		15,887	17,455
Net cash used in operating activities		<u>(218,439)</u>	<u>(229,078)</u>
Net increase in cash and cash equivalents		11,335	6,608
Cash and cash equivalents at the beginning of the reporting period		35,714	29,106
Cash and cash equivalents at the end of the reporting period	5.1	<u>47,049</u>	<u>35,714</u>

The Statement of cash flows should be read in conjunction with the accompanying notes.

Racing Penalties Appeal Tribunal of Western Australia
Notes to the financial statements
For the year ended 30 June 2023

1 Basis of Preparation

The Racing Penalties Appeal Tribunal of Western Australia (the Tribunal) is a WA Government entity and is controlled by the State of Western Australia, which is the ultimate parent. The Tribunal is a not-for-profit entity (as profit is not its principal objective).

A description of the nature of its operations and its principal activities have been included in the "Purpose of the Tribunal" section of the Annual Report.

These annual financial statements were authorised for issue by the Accountable Authority of the Tribunal on 5 September 2023.

Statement of compliance

These general purpose financial statements are prepared in accordance with:

- 1) The *Financial Management Act 2006*
- 2) The Treasurer's Instructions
- 3) Australian Accounting Standards – Simplified Disclosures
- 4) Where appropriate, those Australian Accounting Standards paragraphs applicable for not-for-profit entities have been applied.

The *Financial Management Act 2006* and Treasurer's Instructions take precedence over Australian Accounting Standards. Several Australian Accounting Standards are modified by the Treasurer's Instructions to vary application, disclosure format and wording. 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.

Basis of preparation

These financial statements are presented in Australian dollars applying the accrual basis of accounting and using the historical cost convention. All values are rounded to the nearest dollar.

Accounting for Goods and Services Tax

Income, expenses and assets are recognised net of the amount of goods and services tax (GST), except that the:

- a) amount of GST incurred by the Tribunal as a purchaser that is not recoverable from the Australian Taxation Office (ATO) is recognised as part of an asset's cost of acquisition or as part of an item of expense; and
- b) receivables and payables are stated with the amount of GST included.

Cash flows are included in the Statement of cash flows on a gross basis. However, the GST components of cash flows arising from investing and financing activities which are recoverable from, or payable to, the ATO are classified as operating cash flows.

Comparative information

Except when an Australian Accounting Standard permits or requires otherwise, comparative information is presented in respect of the previous period for all amounts reported in the financial statements.

Judgements and estimates

Judgements, estimates and assumptions are required to be made about financial information being presented. The significant judgements and estimates made in the preparation of these financial statements are disclosed in the notes where amounts affected by those judgements and/or estimates are disclosed. Estimates and associated assumptions are based on professional judgements derived from historical experience and various other factors that are believed to be reasonable under the circumstances.

Services performed for the Tribunal by the Department of Local Government, Sports and Cultural Industries

The Department of Local Government, Sports and Cultural Industries (DLGSC) provides support to the Tribunal to carry out its objectives. This support comprises most of the amount recorded in the Statement of

Racing Penalties Appeal Tribunal of Western Australia
Notes to the financial statements
For the year ended 30 June 2023

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 DLGSC are made on a monthly basis under a net appropriation determination.

Racing Penalties Appeal Tribunal of Western Australia
Notes to the financial statements
For the year ended 30 June 2023

2 Use of our funding

Expenses incurred in the delivery of services

This section provides additional information about how the Tribunal's funding is applied and the accounting policies that are relevant for an understanding of the items recognised in the financial statements. The primary expenses incurred by the Tribunal in achieving its objectives and the relevant notes are:

	Notes
Tribunal members' expenses	2.1
Supplies and services	2.2

2.1 Tribunal members' expenses

	2023	2022
	\$	\$
Board fees	15,797	20,137
Superannuation - defined contribution plans	1,665	1,961
Total Tribunal members' expenses	17,462	22,098

Board fees includes wages and salaries for board members.

Superannuation is the amount recognised in profit or loss of the Statement of comprehensive income that comprises employer contributions paid to the Gold State Superannuation GSS (concurrent contributions), the West State Superannuation (WSS), the Government Employees Superannuation Board (GESBs), or other superannuation funds.

2.2 Supplies and services

	2023	2022
	\$	\$
Professional services	180,027	180,027
External audit fees	23,300	22,700
Other supplies and services expenses	747	1,827
Total supplies and services expenses	204,074	204,554

Supplies and services expenses are recognised as an expense in the reporting period in which they are incurred. The carrying amounts of any materials held for distribution are expensed when the materials are distributed.

Professional services comprise of services provided to the Tribunal by the DLGSC.

Racing Penalties Appeal Tribunal of Western Australia
Notes to the financial statements
For the year ended 30 June 2023

3 Our funding sources

How we obtain our funding

This section provides additional information about how the Tribunal obtains its funding and the relevant accounting policy notes that govern the recognition and measurement of this funding. The primary income received by the Tribunal and the relevant notes are:

	Notes
Income from State Government	3.1
User charges and fees	3.2

3.1 Income from State Government

	2023	2022
	\$	\$
Income received from other public sector entities during the period:		
Contribution from Racing and Wagering Western Australia (RWVA)	226,788	235,130
Interest revenue	3,462	654
Total Income from State Government	230,250	235,784

Income from other public sector entities is recognised as income when the Tribunal has satisfied its performance obligations under the funding agreement. If there is no performance obligation, income will be recognised when the Tribunal receives the funds.

Revenue is recognised at a point-in-time for contributions from RWVA. The agreement between the Tribunal and RWVA contains no obligation to provide any service to RWVA in exchange for its contribution. Therefore, the Tribunal recognises income in accordance with *AASB 1058 Income of Not-for-Profit Entities* at the time the funds are received.

3.2 User charges and fees

	2023	2022
	\$	\$
User charges and fees		
Stay of proceedings	154	100
Appeal fees	1,561	2,300
Transcription Fees	120	-
Total user charges and fees	1,835	2,400

Revenue is recognised at the transaction price when the Tribunal transfers control of the services to customers.

Revenue is recognised for the major activities as follows:

Revenue is recognised at a point-in-time for stay of proceedings (to suspend penalties) in relation to greyhound and harness racing. The performance obligations for these user fees and charges are satisfied when services have been provided. Stay applications are typically determined within one working day of receiving the submission.

Revenue is recognised at a point-in-time for appeal fees (appeal against penalties imposed in disciplinary proceedings) in relation to greyhound and harness racing. The Tribunal typically satisfies its performance obligations in relation to these user fees and charges when the appeal is determined and revenue is then recognised.

Racing Penalties Appeal Tribunal of Western Australia
Notes to the financial statements
For the year ended 30 June 2023

4 Other assets and liabilities

This section sets out those assets and liabilities that arose from the Tribunal's controlled operations and includes other assets utilised for economic benefits and liabilities incurred during normal operations:

	Notes
Receivables	4.1
Payables	4.2
Other liabilities	4.3

4.1 Receivables

	2023	2022
	\$	\$
Current		
Interest receivable	616	140
Other receivable	137	-
GST receivable	4,533	4,536
Total receivables at end of the period	5,286	4,676

Receivables are recognised at original invoice less any allowance for uncollectible amounts (i.e. impairment). The carrying amount of net receivables is equivalent to fair value as it is due for settlement within 30 days.

4.2 Payables

	2023	2022
	\$	\$
Current		
Accrued expenses	1,440	917
Total payables at end of period	1,440	917

Payables are recognised at the amounts payable when the Tribunal 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 for the Tribunal is generally within 15-20 days.

Accrued expenses represent the amount due to the board member but unpaid at the end of the reporting period. Accrued expenses are settled within a fortnight after the reporting period. The Tribunal considers the carrying amount of accrued expenses to be equivalent to its fair value.

4.3 Other liabilities

	2023	2022
	\$	\$
Current		
Income in advance	1,023	150
Balance at end of period	1,023	150

Income in advance relates to appeal fees yet to be determined at the end of the reporting period. Typically, an appeal fee is received upfront upon submission of an application for review.

Racing Penalties Appeal Tribunal of Western Australia
 Notes to the financial statements
 For the year ended 30 June 2023

5 Financing

This section sets out the material balances and disclosures associated with the financing and cashflows of the Tribunal.

	Notes
Cash and cash equivalents	5.1

5.1 Cash and cash equivalents

	2023	2022
	\$	\$
Cash and cash equivalents	47,049	35,714
Balance at end of period	<u>47,049</u>	<u>35,714</u>

For the purpose of the Statement of cash flows, cash and cash equivalent assets comprise cash at bank.

Racing Penalties Appeal Tribunal of Western Australia
Notes to the financial statements
For the year ended 30 June 2023

6 Financial Instruments and contingencies

This note sets out the key risk management policies and measurement techniques of the Tribunal.

Financial instruments	Notes 6.1
Contingent assets and liabilities	6.2

6.1 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:

	2023	2022
	\$	\$
Financial assets		
Cash and cash equivalents	47,049	35,714
Financial assets at amortised cost ^(a)	753	140
Total financial assets	47,802	35,854
Financial liabilities		
Financial liabilities at amortised cost ^(b)	1,440	917
Total financial liability	1,440	917

(a) The amount of financial assets at amortised cost excludes GST recoverable from the ATO (statutory receivable).

(b) The amount of financial liabilities at amortised cost excludes GST payable to the ATO (statutory payable).

6.2 Contingent assets and liabilities

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

Racing Penalties Appeal Tribunal of Western Australia
Notes to the financial statements
For the year ended 30 June 2023

7 Other disclosures

This section includes additional material disclosures required by accounting standards or other pronouncements, for the understanding of this financial report.

	Notes
Events occurring after the end of the reporting period	7.1
Key management personnel	7.2
Related party transactions	7.3
Related bodies	7.4
Affiliated bodies	7.5
Remuneration of auditors	7.6

7.1 Events occurring after the end of the reporting period

The Tribunal is 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 Tribunal, the results of those activities or the state of affairs of the Tribunal in the ensuing or any subsequent financial year.

7.2 Key management personnel

The Tribunal has determined key management personnel to include cabinet ministers, board members and senior officers of the Tribunal. The Tribunal does not incur expenditures to compensate cabinet ministers and those disclosures may be found in the *Annual Report on State Finances*.

The total fees, salaries, superannuation, non-monetary benefits and other benefits for board members of the Tribunal for the reporting period are presented within the following bands:

Compensation band of members of the Tribunal

	2023	2022
Compensation band (\$)		
0 – 10,000	7	8
	\$	\$
Compensation of members of the Tribunal ^(a)	17,462	22,098
Total compensation of members of the Tribunal	17,462	22,098

Compensation band of senior officers

	2023	2022
Compensation band (\$)		
0 – 10,000	1	1
	\$	\$
Compensation of senior officers ^(a)	-	-
Total compensation of senior officers	-	-

(a) Total compensation includes the superannuation expense incurred by the Tribunal in respect of members and senior officers.

Racing Penalties Appeal Tribunal of Western Australia
Notes to the financial statements
For the year ended 30 June 2023

7.3 Related party transactions

The Tribunal is a wholly owned public sector entity that is controlled by the State of Western Australia.

Related parties of the Tribunal include:

- all cabinet ministers and their close family members, and their controlled or jointly controlled entities;
- all senior officers and their close family members, and their controlled or jointly controlled entities;
- other agencies and statutory authorities, including related bodies, that are included in the whole of government consolidated financial statements (i.e. wholly-owned public sector entities);
- associates and joint ventures of a wholly-owned public sector entity; and
- the Government Employee's Superannuation Board (GESB).

Significant transactions with Government-related entities

In conducting its activities, the Tribunal is required to transact with the State and entities related to the State. These transactions are generally based on the standard terms and conditions that apply to all agencies. Such transactions include:

- annual services fees payments to DLGSC for services received (Note 2.2);
- contribution received from Racing and Wagering Western Australia (Note 3.1); and
- audit fee payments to the Office of the Auditor General (Note 7.6).

Significant transactions with other related entities

- superannuation payments to GESB (Note 2.1).

Material transactions with related parties

Outside of normal citizen type transactions with the Tribunal, there were no other related party transactions that involved key management personnel and/or their close family members and/or their controlled (or jointly controlled) entities.

7.4 Related bodies

The Tribunal had no related bodies during the financial year.

7.5 Affiliated bodies

The Tribunal had no affiliated bodies during the financial year.

7.6 Remuneration of auditors

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

	2023	2022
	\$	\$
Auditing the accounts, controls, financial statements and key performance indicators	26,000	23,300
	<u>26,000</u>	<u>23,300</u>

Key performance indicator information

Key performance indicator information

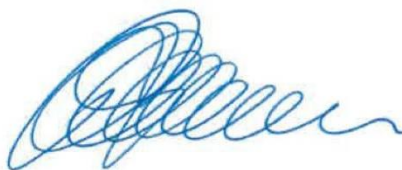
Certification of Key Performance Indicators

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 of Western Australia, and fairly represent the performance of the Racing Penalties Appeal Tribunal of Western Australia for the financial year ended 30 June 2023.



Robert Nash
Chairperson
Racing Penalties Appeal Tribunal of
Western Australia

5 September 2023



Phillip Gleeson
Member
Racing Penalties Appeal Tribunal of
Western Australia

5 September 2023



Detailed Information in Support of Key Performance Indicators

Government Goal: Safe, Strong and Fair Communities

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

Stays of Proceedings

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 and the key performance indicator of the Racing Penalties Appeal Tribunal (the Tribunal) is to determine the applications for stays no later than one working day following the receipt of final submissions being lodged by the parties to the proceedings.

The number of stay applications lodged is lower than the forecast target due to the lower number of appeals lodged for the reporting period.

The reason for the discrepancy between the number of stay applications received versus the number of stay applications determined are as follows:

- Appeal No 859: the application was not progressed as the Appellant did not provide further submissions.
- Appeal No 860: the application was determined later than one working day following receipt of final submissions lodged by the parties.
- Appeal No 864: the application was lodged on 29 June 2023, and upon receipt of all submissions was determined on 3 July 2023 (i.e., determined outside of the reporting period).

Key Effectiveness Indicator	2019-20 Actual	2020-21 Actual	2021/22 Actual	2022-23 Target	2022-23 Actual
Total number of stay applications received	5	2	2	6	3
Number of stay applications determined no later than one working day of receipt of final submissions being lodged by the parties to the proceedings	4	2	2	6	0
Indicator ¹	80%	100%	100%	100%	0%

¹ The effectiveness indicator for this activity is derived by dividing the number of stay applications determined within one day of receipt of all submissions by the total number of stay applications received, then multiplying by 100.

Service: To perform functions for the racing industry.

Service Description: 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 for hearing appeals 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.

The reason for the discrepancy between the estimated average cost of processing appeals during the financial year 2022-23 versus the actual cost incurred in processing the appeals is due to the operational expenses (i.e., the cost of services) of the Tribunal and the number of appeals heard during the year were less than the budgeted estimate.

Key Efficiency Indicator	2019-20 Actual	2020-21 Actual	2021-22 Actual	2022-23 Target	202-23 Actual
Average cost of processing an appeal ²	\$23,425	\$34,417	\$20,605	\$21,187 ³	\$27,692 ⁴

² The average processing cost for each financial year is derived by dividing the total cost of services to the Tribunal by the number of appeals heard.

³ This is based on 2022-23 budgeted cost of services of \$254,242 divided by an estimated 12 appeals heard.

⁴ This is based on 2022-23 actual cost of services of \$221,536 divided by 8 appeals heard.

Audit opinion



Auditor General

INDEPENDENT AUDITOR'S REPORT

2023

Racing Penalties Appeal Tribunal of Western Australia

To the Parliament of Western Australia

Report on the audit of the financial statements

Opinion

I have audited the financial statements of the Racing Penalties Appeal Tribunal of Western Australia (Tribunal) which comprise:

- the Statement of Financial Position at 30 June 2023, and the Statement of Comprehensive Income, Statement of Changes in Equity and Statement of Cash Flows for the year then ended
- Notes comprising a summary of significant accounting policies and other explanatory information.

In my opinion, the financial statements are:

- based on proper accounts and present fairly, in all material respects, the operating results and cash flows of the Racing Penalties Appeal Tribunal of Western Australia for the year ended 30 June 2023 and the financial position at the end of that period
- in accordance with Australian Accounting Standards (applicable to Tier 2 Entities), the *Financial Management Act 2006* and the Treasurer's Instructions.

Basis for opinion

I conducted my audit in accordance with the Australian Auditing Standards. My responsibilities under those standards are further described in the Auditor's responsibilities for the audit of the financial statements section of my report.

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

Responsibilities of the Tribunal for the financial statements

The Tribunal is responsible for:

- keeping proper accounts
- preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards (applicable to Tier 2 Entities), the *Financial Management Act 2006* and the Treasurer's Instructions
- such internal control as it determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Page 1 of 5

In preparing the financial statements, the Tribunal is responsible for:

- assessing the entity's ability to continue as a going concern
- disclosing, as applicable, matters related to going concern
- using the going concern basis of accounting unless the Western Australian Government has made policy or funding decisions affecting the continued existence of the Tribunal.

Auditor's responsibilities 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. The objectives of my audit are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatements, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Australian Auditing Standards will always detect a material misstatement when it exists.

Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations or the override of internal control.

A further description of my responsibilities for the audit of the financial statements is located on the Auditing and Assurance Standards Board website. This description forms part of my auditor's report and can be found at

https://www.auasb.gov.au/auditors_responsibilities/ar4.pdf.

Report on the audit of controls

Opinion

I have undertaken a reasonable assurance engagement on the design and implementation of controls exercised by the Racing Penalties Appeal Tribunal of Western Australia. The controls exercised by the Tribunal are those policies and procedures established 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 the State's financial reporting framework (the overall control objectives).

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 the State's financial reporting framework during the year ended 30 June 2023.

The Tribunal's responsibilities

The Tribunal is responsible for designing, implementing and maintaining controls to ensure that the receipt, expenditure and investment of money, the acquisition and disposal of property and the incurring of liabilities are in accordance with the *Financial Management Act 2006*, the Treasurer's Instructions and other relevant written law.

Auditor General's responsibilities

As required by the *Auditor General Act 2006*, my responsibility as an assurance practitioner is to express an opinion on the suitability of the design of the controls to achieve the overall control objectives and the implementation of the controls as designed. I conducted my engagement in accordance with Standard on Assurance Engagement ASAE 3150 *Assurance Engagements on Controls* issued by the Australian Auditing and Assurance Standards Board. That standard requires that I comply with relevant ethical requirements and plan and perform my procedures to obtain reasonable assurance about whether, in all material respects, the controls are suitably designed to achieve the overall control objectives and were implemented as designed.

An assurance engagement involves performing procedures to obtain evidence about the suitability of the controls design to achieve the overall control objectives and the implementation of those controls. The procedures selected depend on my judgement, including an assessment of the risks that controls are not suitably designed or implemented as designed. My procedures included testing the implementation of those controls that I consider necessary to achieve the overall control objectives.

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

Limitations of controls

Because of the inherent limitations of any internal control structure, it is possible that, even if the controls are suitably designed and implemented as designed, once in operation, the overall control objectives may not be achieved so that fraud, error or non-compliance with laws and regulations may occur and not be detected. Any projection of the outcome of the evaluation of the suitability of the design of controls to future periods is subject to the risk that the controls may become unsuitable because of changes in conditions.

Report on the audit of the key performance indicators

Opinion

I have undertaken a reasonable assurance engagement on the key performance indicators of the Racing Penalties Appeal Tribunal of Western Australia for the year ended 30 June 2023. The key performance indicators are the Under Treasurer-approved key effectiveness indicators and key efficiency indicators that provide performance information about achieving outcomes and delivering services.

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 2023.

The Tribunal's responsibilities 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 internal controls as the Tribunal determines necessary to enable the preparation of key performance indicators that are free from material misstatement, whether due to fraud or error.

In preparing the key performance indicators, the Tribunal is responsible for identifying key performance indicators that are relevant and appropriate, having regard to their purpose in accordance with Treasurer's Instructions 904 *Key Performance Indicators*.

Auditor General's responsibilities

As required by the *Auditor General Act 2006*, my responsibility as an assurance practitioner is to express an opinion on the key performance indicators. The objectives of my engagement are to obtain reasonable assurance about whether the key performance indicators are relevant and appropriate to assist users to assess the entity's performance and whether the key performance indicators are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. I conducted my engagement in accordance with Standard on Assurance Engagements ASAE 3000 *Assurance Engagements Other than Audits or Reviews of Historical Financial Information* issued by the Australian Auditing and Assurance Standards Board. That standard requires that I comply with relevant ethical requirements relating to assurance engagements.

An assurance engagement involves performing procedures to obtain evidence about the amounts and disclosures in the key performance indicators. It also involves evaluating the relevance and appropriateness of the key performance indicators against the criteria and guidance in Treasurer's Instruction 904 for measuring the extent of outcome achievement and the efficiency of service delivery. The procedures selected depend on my judgement, including the assessment of the risks of material misstatement of the key performance indicators. In making these risk assessments, I obtain an understanding of internal control relevant to the engagement in order to design procedures that are appropriate in the circumstances.

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

My independence and quality management relating to the report on financial statements, controls and key performance indicators

I have complied with the independence requirements of the *Auditor General Act 2006* and the relevant ethical requirements relating to assurance engagements. In accordance with ASQM 1 *Quality Management for Firms that Perform Audits or Reviews of Financial Reports and Other Financial Information, or Other Assurance or Related Services Engagements*, the Office of the Auditor General maintains a comprehensive system of quality management including documented policies and procedures regarding compliance with ethical requirements, professional standards and applicable legal and regulatory requirements.

Other information

The Tribunal is responsible for the other information. The other information is the information in the entity's annual report for the year ended 30 June 2023, but not the financial statements, key performance indicators and my auditor's report.

My opinions on the financial statements, controls and key performance indicators do not cover the other information and accordingly I do not express any form of assurance conclusion thereon.

In connection with my audit of the financial statements, controls and key performance indicators my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements and key performance indicators or my knowledge obtained in the audit or otherwise appears to be materially misstated.

If, based on the work I have performed, I conclude that there is a material misstatement of this other information, I am required to report that fact. I did not receive the other information prior to the date of this auditor's report. When I do receive it, I will read it and if I conclude that there is a material misstatement in this information, I am required to communicate the matter to those charged with governance and request them to correct the misstated information. If the misstated information is not corrected, I may need to retract this auditor's report and re-issue an amended report.

Matters relating to the electronic publication of the audited financial statements and key performance indicators

The 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 2023 included in the annual report 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, controls and key performance indicators described above. It does not provide an opinion on any other information which may have been hyperlinked to/from the annual report. 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 contact the entity to confirm the information contained in the website version.



Nayna Raniga
Senior Director Financial Audit
Delegate of the Auditor General for Western Australia
Perth, Western Australia
7 September 2023

2023-24 Annual budget estimates



Department of
Local Government, Sport
and Cultural Industries

Minister's ref:
Dept/Agency ref: M223001940
Author: Ludisha Kalasopatan
Phone enquiries: Jennifer Shelton - 6552 7606

TO: MINISTER FOR RACING AND GAMING
FROM: DIRECTOR GENERAL
DATE: 23 MAY 2023
SUBJECT: **RACING PENALTIES APPEAL TRIBUNAL – ANNUAL BUDGET ESTIMATES FOR THE 2023-24 FINANCIAL YEAR**

PURPOSE

Recommend that the Minister approve the attached annual budget estimates for the Racing Penalties Appeal Tribunal (Tribunal) for the 2023-24 financial year and return to the Department of Local Government, Sport and Cultural Industries (DLGSC).

BACKGROUND

In accordance with Section 24(2) of the *Racing Penalties (Appeals) Act 1990*, the Racing Penalties Appeal Tribunal (Tribunal) submits the estimates of income and expenditure and annual budget estimates for the 2023-24 financial year for your approval.

This budget will be published on the DLGSC website following your approval.

On 6 April 2023, Treasury advised of the requirement for the section 40 Estimates to be provided to Ministers by 26 May 2023. Based on **Attachment 5** of the Treasurer's Direction Under Section 40(1) of the *Financial Management Act 2006*, the Tribunal is exempt from preparing the draft annual estimates for the 2023-24 financial year as the Total Cost of Services is less than ten million dollars for the two most recent consecutive comparative periods, as reported in the tabled annual reports.

However, the annual funding from Racing and Wagering Western Australia (RWVA) is to be submitted to the Minister for approval.

CURRENT STATUS

For 2023-24, the Tribunal is projected to record a total operating income and interest of \$5,535, requiring \$253,740 to be funded by RWVA. Their obligation to fund the operations of the Tribunal is in accordance with section 106 of the *Racing and Wagering Western Australia Act 2003*.

RWVA has advised that they have no objection to the 2023-24 annual budget estimates.

Key points in relation to the Tribunal's 2023-24 budget estimates are as follows:

Statement of Comprehensive Income (Attachment 1)

Operating expenses

Board remuneration and associated superannuation expenses of \$57,692 is based on twelve appeals and six stay on applications.

The annual DLGSC service fee of \$184,528 is based on currently approved parameters plus 2.5 per cent CPI.

Within the Other operating expenses budget of \$29,380, an amount of \$25,000 is included for the annual audit undertaken by the Office of the Auditor General.

Operating revenues

Funding from RWWA has been budgeted at \$253,740 for the 2023-24 financial year, an increase of \$26,952 compared with the 2022-23 budget. This is due to an increase in board remuneration and associated superannuation expenses, DLGSC service fee and annual audit fee.

The budget for the operating income of \$3,135 relates to fees and charges. The fees and charges are based on the appeals application fee of six stay of proceedings, three Greyhound appeals and nine Thoroughbred/Harness appeals.

Statement of Financial Position (Attachment 2)

The estimated cash resources of \$13,580 for the 2023-24 financial year is the five per cent working cash limit of the total cost of services.

CONTENTIOUS ISSUES

N/A

MEDIA OPPORTUNITY

N/A

RECOMMENDATION

That the Minister approves the Racing Penalties Appeal Tribunal's 2023-24 annual budget estimates and returns the signed copy to the Department of Local Government, Sport and Cultural Industries.



Lanie Chopping
Director General

Approved

Not Approved

Noted

Reece Whitby MLA

Date

MINISTER FOR RACING AND GAMING

Att. 1: Statement of Comprehensive Income 2023-24

Att. 2: Statement of Financial Position 2023-24

Att. 3: Statement of Cash Flows 2023-24

Att. 4: Annual Cash Estimates 2023-24

Att. 5: Treasurer's Direction – Annual Estimates

Att. 6: Section 24(2) of the *Racing Penalties (Appeals) Act 1990*

Att. 7: Section 40 of the *Financial Management Act 2006*

Racing Penalties Appeal Tribunal
Statement of Comprehensive Income
Estimates for the year ending 30 June 2024

	ANNUAL BUDGET 2022-23 \$	ESTIMATED ACTUAL 2022-23 \$	ANNUAL BUDGET 2023-24 \$
COST OF SERVICES			
Operating expenses			
Fee expenses to tribunal members	43,388	34,053	51,975
Superannuation	4,556	3,576	5,717
Services & contracts expense (professional services)	180,027	180,027	184,528
Other operating expenses	26,271	24,373	29,380
Total cost of services	<u>254,242</u>	<u>242,028</u>	<u>271,600</u>
Operating revenues			
Funding from Racing & Wagering WA	226,788	226,788	253,740
Operating income	2,900	2,127	3,135
Interest	1,200	3,412	2,400
Total operating revenue	<u>230,888</u>	<u>232,327</u>	<u>259,275</u>
Net cost of services	<u>23,354</u>	<u>9,702</u>	<u>12,325</u>
CHANGE IN NET ASSETS RESULTING FROM OPERATIONS			
	(23,354)	(9,702)	(12,325)
Add Opening balance of accumulated surplus/(deficit)	39,254	39,323	29,621
Closing balance of accumulated surplus/(deficit)	<u>15,900</u>	<u>29,621</u>	<u>17,297</u>

Racing Penalties Appeal Tribunal
Statement of Financial Position
Estimates as at 30 June 2024

	ANNUAL BUDGET 2022-23 \$	ESTIMATED ACTUAL 2022-23 \$	ANNUAL BUDGET 2023-24 \$
CURRENT ASSETS			
Cash resources	12,712	25,905	13,580
GST receivable	3,003	3,006	3,006
Interest receivable	185	710	710
Total current assets	<u>15,900</u>	<u>29,621</u>	<u>17,297</u>
Total assets	<u>15,900</u>	<u>29,621</u>	<u>17,297</u>
CURRENT LIABILITIES			
Accounts payable	0	0	0
Income received in advance	0	0	0
Accrued tribunal members fees	0	0	0
Accrued superannuation	0	0	0
Total current liabilities	<u>0</u>	<u>0</u>	<u>0</u>
Total liabilities	<u>0</u>	<u>0</u>	<u>0</u>
Net assets	<u>15,900</u>	<u>29,621</u>	<u>17,297</u>
EQUITY			
Accumulated surplus/(deficit)	<u>15,900</u>	<u>29,621</u>	<u>17,297</u>
Total equity/(equity deficit)	<u>15,900</u>	<u>29,621</u>	<u>17,297</u>

Racing Penalties Appeal Tribunal

Statement of Cash Flows


Estimates for the year ending 30 June 2024

	ANNUAL BUDGET 2022-23 \$ Inflows (Outflows)	ESTIMATED ACTUAL 2022-23 \$ Inflows (Outflows)	ANNUAL BUDGET 2023-24 \$ Inflows (Outflows)
CASH FLOWS FROM OPERATING ACTIVITIES			
Payments			
Payments to tribunal members	(43,388)	(34,883)	(51,975)
Superannuation payments to GESB	(4,556)	(3,663)	(5,717)
Payments to DLGSC	(180,027)	(180,027)	(184,528)
Other payments	(26,271)	(24,372)	(29,380)
GST paid on purchases	0	(14,340)	0
GST paid to Taxation Authority	0	(18,162)	0
Receipts			
Receipts from customers	2,900	1,977	3,135
Funding from RWWA	226,788	226,788	253,740
Interest received	1,200	2,841	2,400
GST receipts on sales	0	22,656	0
GST received from Tax Authority	0	11,375	0
Net cash provided by/(used in) operating activities	<u>(23,354)</u>	<u>(9,809)</u>	<u>(12,324)</u>
Cash at the beginning of the reporting period	<u>36,066</u>	<u>35,714</u>	<u>25,905</u>
Cash at the end of the reporting period	<u><u>12,712</u></u>	<u><u>25,905</u></u>	<u><u>13,580</u></u>

RACING PENALTIES APPEAL TRIBUNAL
CASH ESTIMATES 2023/2024

DESCRIPTION	2022/2023 ANNUAL BUDGET	2022/2023 ESTIMATED ACTUAL	2023/2024 ANNUAL BUDGET
COSTS INCURRED BY TRIBUNAL DIRECTLY			
Members' Fees	\$43,388	\$34,883	\$51,975
Members' Superannuation	\$4,566	\$3,663	\$5,717
Members' Travel Costs	\$400	\$0	\$410
Audit Fees	\$23,000	\$23,300	\$25,000
Other Expenses (Web Development, Security, Library Acquisitions, Transcription Costs, Bank Charges)	\$2,871	\$1,072	\$3,970
TOTAL COSTS INCURRED BY TRIBUNAL DIRECTLY	\$74,215	\$62,918	\$87,072
COSTS INCURRED DIRECT TO DLGSC			
Services Provided by DLGSC	\$180,027	\$180,027	\$184,528
TOTAL COSTS INCURRED DIRECT TO DLGSC	\$180,027	\$180,027	\$184,528
ANNUAL COST FOR TRIBUNAL	\$254,242	\$242,945	\$271,600
LESS TRIBUNAL REVENUE			
Opening Balance	\$36,066	\$35,714	\$25,905
Funding from RWWA	\$226,788	\$226,788	\$253,740
Appeal Fees	\$2,600	\$1,755	\$2,823
Stay of Proceedings Fees	\$300	\$102	\$312
GST Payment to ATO	\$0	\$1,529	\$0
Interest	\$1,200	\$2,841	\$2,400
Transcription Fees	\$0	\$120	\$0
Other Revenue	\$0	\$0	\$0
TOTAL TRIBUNAL REVENUE	\$266,954	\$268,849	\$285,180
BALANCE OF TRIBUNAL	\$12,712	\$26,906	\$13,680

APPROVED:



 CHAIRPERSON

 23.5.23

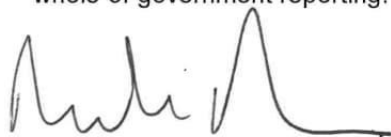
 DATE

ATTACHMENT 1

FINANCIAL MANAGEMENT ACT 2006 (FMA)
TREASURER'S DIRECTION UNDER SECTION 40(1) OF THE FMA

I hereby direct that the accountable authority of an agency described in any of the paragraphs below is not required to prepare draft annual estimates of the financial operations of the agency under section 40 of the FMA with respect to the 2022-23 financial year or any subsequent financial year.

- (a) An agency that is separately identifiable in a single Division of Budget Paper No 2 'Agency Information in Support of the Estimates'.
- (b) A statutory authority that is required to prepare and table in Parliament a statement of corporate intent under its enabling legislation.
- (c) An agency whose Total Cost of Services is less than ten million dollars for the two most recent consecutive comparative periods as reported in its tabled annual report.
- (d) An agency whose audit has been dispensed with under section 14(2) of the *Auditor General Act 2006*.
- (e) A statutory authority that is not consolidated into the financial statements of the Government of Western Australia for the purposes of whole-of-government reporting.



Mark McGowan MLA
TREASURER

Date: 16 MAR 2022

Racing Penalties (Appeals) Act 1990
Miscellaneous **Part 3**

s. 24

admitted as a true copy of the record of that determination; and

- (b) judicial notice shall be taken of the signature of the Registrar on such a document.
- (2) Where a determination of the Tribunal requires the payment of any money, the Registrar shall, upon application by a party to the proceedings in which the determination was made or a person claiming through or under such a party, issue a certified copy of the record of that determination.
- (3) The certified copy of the record of the determination may be lodged with the Magistrates Court in accordance with the court's rules of court (which may provide for the payment of a lodging fee), for registration and when registered by the court may be enforced as if it were a judgment of the court.

[Section 23 amended: No. 59 of 2004 s. 142.]

24. Finance and audit

- (1) The funds available to the Tribunal to enable it to perform its functions are —
- (a) moneys from time to time appropriated by Parliament; and
 - (b) moneys derived from the performance of its functions; and
 - (c) moneys payable in accordance with subsection (4); and
 - (d) other moneys made available to the Tribunal or to which it becomes entitled.
- (2) The Registrar, before the end of each financial year, shall —
- (a) make an estimate of the total anticipated cost of the operations of the Tribunal for the ensuing financial year of the Tribunal; and
 - (b) submit that estimate, adjusted in accordance with subsection (3), to the Minister for approval.

Racing Penalties (Appeals) Act 1990**Part 3** Miscellaneous**s. 24**

- (3) The estimate submitted under subsection (2)(b) shall be adjusted —
- (a) to include the amount, if any, by which the amount paid by RWWA under subsection (4) in respect of the previous financial year, fell short of the actual total cost of the operations of the Tribunal for that financial year; or
 - (b) to exclude the amount, if any, by which the amount paid by RWWA under subsection (4) in respect of the previous financial year, exceeded the actual total cost of the operations of the Tribunal for that financial year,

as the case requires.

- (4) The amount representing the estimate approved by the Minister under subsection (2) shall be —
- (a) deducted by RWWA from the moneys that, but for section 106(1)(h) of the RWWA Act, would otherwise be available to be paid or credited to racing clubs by RWWA under section 106 of the RWWA Act; and
 - (b) paid by RWWA to the Tribunal.

[(5)-(7) deleted]

- (8) One or more accounts are to be established in respect of the funds of the Tribunal —
- (a) as agency special purpose accounts under section 16 of the *Financial Management Act 2006*; or
 - (b) with the approval of the Treasurer, at a bank as defined in section 3 of that Act,

to which all amounts received by the Tribunal are to be credited and all expenditure charged.

- (9) The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Tribunal and its operations.

Racing Penalties (Appeals) Act 1990
Miscellaneous **Part 3**

s. 25

- (10) The financial year of the Tribunal that —
- (a) began on 1 August 2006; and
 - (b) would have ended on 31 July 2007 in accordance with this subsection, as in force immediately before the commencement of the *Racing and Wagering Legislation Amendment Act 2007* section 7,

is to be taken to have ended on 30 June 2007.

[Section 24 amended: No. 11 of 1992 s. 71; No. 49 of 1996 s. 59; No. 35 of 2003 s. 189; No. 28 of 2006 s. 407; No. 77 of 2006 Sch. 1 cl. 143(2)-(4); No. 2 of 2007 s. 7; No. 37 of 2018 s. 77.]

25. Regulations

- (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for enabling the Tribunal to exercise the jurisdiction conferred on it or otherwise for giving effect to the purposes of this Act.
- (2) Without derogating from the generality of the power conferred by subsection (1), the regulations may —
 - (a) provide for the qualifications of persons to be eligible for appointment under section 6, and require consultation with RWWA or other persons in relation to the membership of the Tribunal; and
 - (b) in relation to the jurisdiction of the Tribunal, provide for sittings of the Tribunal and for security for costs to be given; and
 - (c) prescribe generally as to the practice and procedure of the Tribunal, including the power of the Chairperson or member presiding to order that proceedings be heard in camera; and
 - (d) provide for —
 - (i) the manner of lodging appeals; and

Financial Management Act 2006**Part 3** Funds management**Division 4** Annual estimates of agencies**s. 40**

- (4) Subsection (2) does not limit the power of —
- (a) a department or sub-department to hold public money or other money; or
 - (b) a statutory authority to hold statutory authority money or other money,

in an interest bearing bank account maintained under section 13 but, for public money referred to in paragraph (a), the interest is to be paid into the Public Bank Account and credited to the Consolidated Account.

- (5) If —
- (a) a department or sub-department holds other money; or
 - (b) a statutory authority holds statutory authority money or other money,

in a bank account that does not form part of the Public Bank Account, the department, sub-department or statutory authority may transfer that money to the Public Bank Account for investment under section 37.

- (6) Subsection (5) has effect —
- (a) subject to another written law concerning the investment of particular money; but
 - (b) despite another written law requiring money to be held in a particular bank account.

Division 4 — Annual estimates of agencies*[Heading inserted: No. 12 of 2021 s. 10.]***40. Preparation of draft annual estimates**

- (1) Unless otherwise directed in writing by the Treasurer, the accountable authority of an agency must, in each financial year —
- (a) prepare draft annual estimates of the financial operations of the agency for the next financial year (*draft annual*

Financial Management Act 2006
Funds management **Part 3**
Annual estimates of agencies **Division 4**
s. 41

estimates) in the manner prescribed by the Treasurer's instructions; and

- (b) submit the draft annual estimates to the Minister on or before the date designated by the Treasurer under subsection (2).
- (2) For the purposes of subsection (1)(b), the Treasurer must —
- (a) for each financial year, designate the date by which the accountable authority must submit the draft annual estimates to the Minister; and
 - (b) make the date known to the accountable authority in a manner that the Treasurer considers appropriate.

[Section 40 inserted: No. 12 of 2021 s. 10.]

41. Approval of annual estimates

- (1) After receiving draft annual estimates submitted by an accountable authority under section 40(1), the Minister must, within the period of 1 month after the submission date for the draft annual estimates or such other period as is specified in a determination under subsection (2), either —
 - (a) approve the draft annual estimates; or
 - (b) present the accountable authority of the agency with annual estimates of the financial operations of the agency for the financial year to which the draft annual estimates relate, and direct that they are to be the annual estimates of the financial operations of the agency for the financial year.
- (2) The Treasurer may, in writing, determine the period that applies for the purposes of subsection (1) in a particular case.
- (3) When the Minister approves draft annual estimates under subsection (1)(a), or gives a direction under subsection (1)(b) in relation to annual estimates, they become the annual estimates of the financial operations of the agency to which they relate for the whole of the financial year to which they relate.

Significant Issues and Trends Impacting the Tribunal

Current and emerging issues and trends

It is pleasing to see the racing industry's ongoing commitment to animal welfare.

Economic and social trends

The Tribunal has allowed parties to attend hearings via teleconference or videoconference in circumstances where the parties are located in the regions, are ill due to Covid, or are otherwise unable to attend the hearing due to extenuating circumstances. Notwithstanding this, the Tribunal's first preference is for parties to attend hearings in person.

Changes in written law

The Racing Penalties (Appeals) Amendment Regulations 2022 amended section 5(2) of the Racing Penalties (Appeals) Regulations 1991 to delete reference to the Legal Practitioners Act 1893, which came into effect on 1 July 2022.

The Racing and Gaming Regulations Amendment (Fees and Charges) Regulations 2022 increased the fees and charges under Section 4 of the Racing Penalties (Appeals) Regulations 1991, which came into effect on 1 January 2023:

- Application for leave to appeal relating to greyhound racing - \$165.00.
- Application for leave to appeal relating to other appeals - \$411.50.
- Notice of appeal relating to greyhound racing - \$156.50.
- Notice of appeal relating to other appeals - \$261.50.
- Stay of proceedings - \$52.00.

Likely developments and forecast results of operations

It is expected that the workload of the Racing Penalties Appeal Tribunal for 2023-24 will remain steady.

Statutory, governance and legal requirements

Unauthorised use of credit cards

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

Act of Grace payments

There were no act of grace payments made during the reporting period.

Advertising, market research, polling and direct mail

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 incurred the following expenditure in 2022-23:

Expenditure			

Other legal, statutory and governance requirements

The Tribunal meets its requirements through arrangements with the DLGSC. The DLGSC's annual report contains information on how the following requirements are met:

- Disability access and inclusion plan outcomes.
- Compliance with public sector standards and ethical codes.
- Recordkeeping plans.
- Employment and industrial relations.
- Staff development.
- Workers' compensation.
- Occupational safety, health and injury management.
- WA multicultural policy framework.
- Substantive equality.

Remuneration of members

Chairperson

The Chairperson is entitled to a remuneration of \$225.75 per hour for hearings/meetings.

Plus:

\$126 per hour for preparation time (i.e., 1 hour per day of hearing).

\$126 per hour for decision writing time (i.e., 2 hours for up to 1 day of hearing).

Members

The members are entitled to payment of:

\$494 per half day for hearings/meetings (under 4 hours); or

\$756 per day for hearings/meetings (for over 4 hours).

Plus:

\$105 per hour for preparation time (i.e., 1 hour per day of hearing).

\$105 per hour for decision writing time (i.e., 2 hours for up to 1 day of hearing).

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

Position title	Member name	Type of remuneration	Period of membership		Gross/actual remuneration for 2022-23
Former Chairperson	Karen Farley SC	Sitting fees plus preparation and decision writing time	1/7/2022	31/7/2022	\$829.50
Chairperson	Robert Nash	Sitting fees plus preparation and decision writing time	1/7/2022	30/6/2023	\$5564.54
Former Member	Brenda Robbins	Sitting fees plus preparation and decision writing time	1/7/2022	26/8/2022	\$494.00
Member	Phillip Gleeson	Sitting fees plus preparation and decision writing time	1/8/2022	30/6/2023	\$1,093.00
Member	Natalie Sinton	Not applicable. Full time public sector employee	1/8/2022	30/6/2023	Nil
Member	Andrew Monisse	Sitting fees plus preparation and decision writing time	1/7/2022	30/6/2023	\$5,002.00
Member	Johanna Overmars	Sitting fees plus preparation and decision writing time	1/7/2022	30/6/2023	\$2,396.00
Total					\$15,379.04

Contacts

Office location: 140 William Street
PERTH WA 6000

Postal address: PO Box 8349
Perth Business Centre WA 6849

Telephone: (08) 6551 4888
Toll free: 1800 634 541

Internet: [Racing Penalties Appeal Tribunal](#)
Email: registrar@rpat.wa.gov.au

Availability in other formats

This publication can be made available in alternative formats. The report is available in PDF format at [Racing Penalties Appeal Tribunal](#).

People who have a hearing or speech impairment may call the National Relay Service on 133 677 and quote telephone number (08) 6551 4888.