

**DECISION ON AN INTERNAL REVIEW APPLICATION UNDER
SECTION 91 OF THE *GREYHOUND RACING ACT 2017***

Matter for determination	Decision dated 9 November 2023
Applicant	Mr Kevin Wallace Baker
Internal review decision date	8 May 2024
Internal review decision by	Mr Brenton (Alby) Taylor, Chief Commissioner
Internal review decision summary	To confirm the decision of the Commission's Application Assessment Panel made on 9 November 2023 to refuse Mr Baker's application for registration.

REASONS FOR DECISION

1. Set out below are the reasons for my decision in relation to the application by Mr Kevin Wallace Baker ("**Mr Baker**") for internal review under the *Greyhound Racing Act 2017* ("**Act**") of a decision made by the Commission on 9 November 2023.
2. The decision of the Commission was made by the Application Assessment Panel ("**Panel**"), which determined to refuse Mr Baker's application for registration as a greyhound 'Owner Trainer'.
3. This is a reviewable decision within the meaning of section 91(1) of the Act. As I was not substantially involved in making the reviewable decision, I have dealt with this application.
4. Under section 91(7) of the Act, an internal reviewer is empowered to:
 - Confirm the reviewable decision; or
 - Vary the reviewable decision; or
 - Revoke the reviewable decision, which is the subject of the application.

Background

5. Mr Baker was a previously registered participant, having first registered as a 'Trainer' in the year 1975.
6. On 19 July 2022, Mr Baker was disqualified for a period of 12 months in respect of a breach of Rule 106 (1)(d),¹ relating to the failure to provide veterinary attention to a greyhound when necessary.

¹ Rule 106 (1)(d) refers to the Greyhound Racing Rules in place at that time. The equivalent provision in the current Greyhound Racing Rules is Rule 21 (1)(d).

7. On 29 July 2023, following the expiration of his period of disqualification, Mr Baker applied for registration as an 'Owner Trainer'. In his application, Mr Baker had declared that he had previously been disqualified.
8. Mr Baker's application for registration was referred to the Commission's Application Assessment Panel. On 26 October 2023, the Panel considered Mr Baker's application.
9. When considering Mr Baker's application, the Panel had reference to the Commission's Fit and Proper Person Framework, which provides guidance to both applicants and decision makers regarding the Commission's administration of the requirement of section 47 (1) of the Act. Section 47(1) outlines that the Commission is to:

"...exercise its registration functions under this Division so as to ensure that any person registered by the Commission is a person who, in the opinion of the Commission, is a fit and proper person to be registered (having regard in particular to the need to protect the public interest as it relates to the greyhound racing industry)."
10. On 9 November 2023 the Commission advised Mr Baker that his application had been rejected on the following grounds:
 - Criterion 16 of the Fit and Proper Person Framework - Applicant has a disciplinary history within the greyhound, thoroughbred or harness racing industry.
 - Criterion 15 of the Fit and Proper Person Framework – Industry Interest Consideration - section 49(3) of the *Greyhound Racing Act* – The Commission may refuse to register a person as a greyhound racing industry participant if it is of the opinion that it would be in the best interests of the greyhound racing industry to do so.
11. The decision makers also noted that Mr Baker's proposed kennels did not meet the standards required by the NSW Greyhound Welfare Code of Practice. Mr Baker was advised of this decision verbally.

The internal review application

12. On 13 November 2023, Mr Baker lodged an application for an internal review of the decision made on 9 November 2023.
13. In support of his internal review application, Mr Baker emphasised that he is a fit and proper person, and that the circumstances that led to his prior disqualification was because he was "*going through a bad moment*". Mr Baker also provided a character reference in support of his internal review application.

Decision

14. In reviewing Mr Baker's application for registration in light of the Commission's Fit and Proper Person Framework, I note that the decision makers did not provide any reasoning as to how Mr Baker's application offended Criteria 16 and 15.

15. In respect of Criterion 16, the decision makers considered Mr Baker's disciplinary history. This history includes the following:
- 13 May 2021 – suspended for 12 weeks for failing to comply with the Rehoming Policy (a warning was also issued for failing to comply with notification requirements relating to the Rehoming Policy breach); and
 - 19 July 2022 – disqualification for 12 months for failing to provide veterinary treatment to a greyhound when necessary.
16. In considering Mr Baker's application for registration, the Panel rightly had regard to the seriousness of the charge that was found proven against Mr Baker in July 2022, as this charge involved a failure to provide veterinary care to an injured greyhound. Animal welfare is the greyhound racing industry's highest priority and the Commission views charges involving breaches of animal welfare requirements with the utmost seriousness.
17. The Framework clearly states that applications for registration will be considered on a case-by-case basis. The fitness of persons who have a history of rule breaches will be carefully considered when making a decision regarding their registration in the industry.
18. In the context of Mr Baker, he has been part of the industry for a long period of time and the penalties he has incurred in recent years are quite unusual in comparison to his lengthy and previously unblemished history within the industry. Mr Baker has served his period of disqualification and accordingly is eligible to again apply for registration in the industry.
19. However, I agree with the Panel, that Mr Baker's two disciplinary matters in the recent past, one more serious than the other, can be interpreted as an escalation in offending and warrants a close examination.
20. The Panel also made reference to Criterion 15 of the Framework, being that it would not be in the best interests of the greyhound racing industry to allow a participant found guilty of such a serious breach to return to the industry. I have not had regard to this Criterion as part of my decision-making process.
21. Instead, my reasoning process has focused upon Mr Baker's kennels, which I note were, at the time of his application, not compliant with the standards specified in the NSW Greyhound Welfare Code of Practice. These Standards are essential to protect the welfare of greyhounds and failure to meet these Standards is a disqualifying factor in an application for registration.
22. For these reasons, I have determined to confirm the decision of the Applications Assessment Panel to refuse Mr Baker's application for registration.
23. Mr Baker may re-apply for registration once his proposed kennels are compliant with the relevant Standards, and the Application Assessment Panel can consider this and any other matters which might be relevant to Mr Baker's application at that time.

Brenton (Alby) Taylor
Chief Commissioner

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