

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

Matters for determination	Decision dated 3 July 2023
Applicant	Mr Preston Whitelaw
Internal review decision date	29 September 2023
Internal review decision by	Mr Brenton (Alby) Taylor Chief Commissioner, GWIC
Internal review decision summary	Confirmation of the decision of 3 July 2023 to refuse the application of Mr Preston Whitelaw for registration as both a Greyhound Owner and Greyhound Attendant

REASONS FOR DECISION

1. These are the reasons for the decision following an application by Mr Preston Whitelaw (“**Mr Whitelaw**”) for internal review under the *Greyhound Racing Act 2017* (“**Act**”) of a decision of the Commission’s Application Assessment Panel (“**AAP**”). The original decision was to refuse an application made by Mr Whitelaw for registration as both a Greyhound Owner and Greyhound Attendant.
2. This is a reviewable decision within the meaning of section 91(1) of the Act. I confirm I was not involved in making the original decision, and I am a qualified person in accordance with section 91(5) of the Act. I lastly confirm I have dealt with this application for review.
3. Under section 91(7) of the Act, an internal reviewer is empowered to:
 - Confirm the reviewable decision the subject of the application; or
 - Vary the reviewable decision; or
 - Revoke the reviewable decision.

Background

4. On the 20 July 2023, Mr Whitelaw formally requested a review of a decision made by the AAP on the 3 July 2023 to refuse an application by Mr Whitelaw for registration as both a Greyhound Owner and Greyhound Attendant.
5. Mr Whitelaw has not previously held any type of registration within the Greyhound Racing industry.

6. On 17 April 2023, Mr Whitelaw submitted an application for registration as both a Greyhound Owner and Greyhound Attendant. In this application, Mr Whitelaw made the declaration that he had not previously been charged with, nor convicted of, any criminal offence.
7. As part of the usual registration application process, a New South Wales Police Certificate was ordered in the name of Mr Whitelaw. That certificate was produced on 30 May 2023, and included the following details:

COURT	COURT DATE	OFFENCE	OUTCOME
Broken Hill Local Court	30/07/2021	Have control of dog with hunting collar etc in part etc	Fine: \$350
Broken Hill Local Court	30/07/2021	Use non prescribed electrical device upon animal	Community correction order: 6 months Weapon/implement forfeited to the Crown
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Broken Hill Local Court	30/07/2021	Enter agricultural land with hunting dog - aggravated	Community correction order: 15 months

8. The application was then considered by the AAP. The AAP had regard to the requirements set out under the Fit and Proper Person Framework ("**FPPF**") in their consideration of the application.
9. Under section 47 of the Act, the Commission is required to ensure that anyone who is registered as a greyhound racing industry participant is a fit and proper person to do so. The Commission has developed the FPPF as a tool to enable assessment of any application for registration, and in particular, to ensure that the person making an application is a fit and proper person to hold a registration.
10. In their consideration of the application for registration made by Mr Whitelaw, the AAP made the determination that Mr Whitelaw failed criterion 12 or 15 of the FPPF. Criterion 12 and 15 relevantly read:

Criterion	Criminal history or background of applicant	Commission's likely position given the history and background of the applicant
12	Applicant has previously been charged or convicted of any criminal offence but did not disclose this on their application.	Applicant will be asked for further information. Application may be refused.
15	Industry Interest Consideration – section 49(3) of the <i>Greyhound Racing Act</i>	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. On that basis, the AAP made the decision to refuse the application for registration submitted by Mr Whitelaw.
12. The AAP issued correspondence advising Mr Whitelaw of this decision on 3 July 2023.

Internal Review Application

13. Mr Whitelaw has now applied for an internal review of the original decision of the AAP to refuse him registration as both a Greyhound Owner and Greyhound Attendant.
14. The internal review has been conducted on the papers.
15. As the internal reviewer, I have had regard to all the evidence considered by the AAP. I have referenced the following materials including:
- Application for an Owner Trainer registration submitted by Mr Whitelaw on 13 February 2023;
 - A New South Wales Police Force Certificate issued on behalf of Mr Whitelaw dated 30 May 2023;
 - Minutes of the AAP that relate to the decision to refuse the application made by Mr Whitelaw dated 22 June 2023;
 - Application refusal letter dated 3 July 2023.
16. In addition, I have also had reference to a Certificate of Conviction issued by the Broken Hill Local Court for offences committed by Mr Whitelaw and for which he was sentenced on 30 July 2021.

Decision

17. Mr Whitelaw seeks a review of a decision made by the AAP made on the 3 July 2023 to refuse an application by Mr Whitelaw for both a Greyhound Owner and Greyhound Attendant registration (“**Decision**”).
18. I have had regard to all the evidence, as itemised at paragraphs [15] and [16].
19. In his application for review, Mr Whitelaw states that his failure to disclose his prior criminal convictions was an oversight, and that there was no intent to conceal those convictions from the AAP.
20. In considering this occurrence, in my view there are only two possibilities. They are that Mr Whitelaw:
 - i. failed to recall his criminal convictions and made an honest mistake in completing his registration application: or
 - ii. he lied by omission, in failing to provide the relevant and correct information on his registration application with the intent to deliberately hide or otherwise mislead the Application Assessment Panel.
21. In relation to the first possibility, I am satisfied that given the recency of the criminal convictions being recorded against Mr Whitelaw that it is not reasonable to accept that the failure to disclose those same convictions was merely an oversight on behalf of Mr Whitelaw. Further I note that at least within the jurisdiction of New South Wales, Mr Whitelaw has only been arrested and charged with criminal charges on one occasion, albeit for several charges. It is my view, that the reasonable person would be expected to recall the singular time that they faced charges before a criminal court in order be able to disclose as part of a routine registration application response, especially as the matters involved offences involving animals and specifically dogs at that.
22. Moreover, I note that Mr Whitelaw’s Certificate of Conviction indicates that his matters were determined on the 30 July 2021. In the case of one charge, he received a ‘community correction order’ of 15 months, which would have only expired on the 30 October 2022. As Mr Whitelaw’s application was submitted on the 20 July 2023, this means there was only a period of some nine months between the completion of the community correction order and him submitting his application to GWIC. I find it difficult to believe he would have failed to remember these convictions when considering their pronounced recency.
23. In relation to the second possibility, if it is the case, that Mr Whitelaw has failed to provide the relevant and correct information on his registration application with the intent of deliberately hiding or otherwise misleading the Application Assessment Panel, then in my view this is a clear indicator that he is not a fit and proper person entitled to be registered with GWIC as he sought.
24. I now turn to the substance of the criminal charges proven against Mr Whitelaw and their impact upon consideration of his application. On review of the Certificate of Conviction relating to Mr Whitelaw’s prior criminal offending, it is evident that the charges relating to the

use of a non-prescribed electrical device were brought under section 16(2)(a) of the *Prevention of Cruelty to Animals Act 1979* (“**POCTAA**”). It was further confirmed by the Broken Hill Local Court that the charges were brought due to the use of Garmin shock collars upon the subject dogs by Mr Whitelaw.

25. As these convictions were for conduct against animals resulting in breaches of the POCTAA, I consider that these offences amount to animal cruelty offences.
26. I note that in considering his application, the AAP considered Mr Whitelaw’s suggested membership of a Facebook group known as the “Mildura Porker Stalkers Association”. I have no knowledge as to whether Mr Whitelaw is a member of this group or otherwise, but in my view, this matter does not require consideration due to the other more significant matters which I have referred to above. As such, I have had no regard for this matter in undertaking my review.
27. In conclusion, having considered the FPPF, I consider that the application submitted by Mr Whitelaw fails criterion 12 and 14 of the FPPF. Criterion 12 and 14 relevantly read:

Criterion	Criminal history or background of applicant	Commission’s likely position given the history and background of the applicant
12	Applicant has previously been charged or convicted of any criminal offence but did not disclose this on their application.	Applicant will be asked for further information. Application may be refused.
14	Applicant was previously convicted of criminal charges for an animal cruelty offence.	Application will be refused.

28. Central to my assessment of the application made by Mr Whitelaw against the FPPF is the direction in criterion 14 that a prior conviction of criminal charges for animal cruelty offences will likely result in an application for registration being refused.
29. In determining the matter as an Internal Review under Section 91 of the Act, I must consider the reviewable decision under the Act. The decision I consider reviewable in this instance is the decision of the AAP to refuse an application for registration as both a Greyhound Owner and Greyhound Attendant made by Mr Whitelaw.
30. Considering all the evidence and the submissions made by Mr Whitelaw, I am satisfied that I should confirm the decision made by the AAP on 3 July 2023 perhaps though, for slightly different reasons.

31. In accordance with section 91(7)(a) of the Act, I confirm the decision of the Application Assessment Panel to refuse a registration to Mr Whitelaw as either a Greyhound Owner or as a Greyhound Attendant.



Brenton (Alby) Taylor MPPA, Dip Law (LPAB), GDLP, GCAM, GAICD
Chief Commissioner