APPEAL PANEL OF RACING NEW SOUTH WALES

IN THE MATTER OF THE APPEAL BY BRIAN CAREY

Heard at the officers of Racing NSW

Appeal Panel:	**Alec Leopold SC; Mr James Murphy and Mr Colin Tuck**
Representatives:	**For the Appellant – Mr Peter Morris**
	For Racing NSW - Mr Daniel Hadley
Date of hearing:	**16 June 2026**
Date of orders:	**16 June 2026**
Date of reasons:	**18 June 2026**

REASONS FOR DECISION

1. This appeal was heard on 16 June 2026.

2. At the conclusion of the hearing, after a period of deliberation, the Appeal Panel made the orders set out at the end of these reasons. These are the reasons for the making of those orders.

3. These reasons are detailed, particularly because the penalty imposed by the Stewards on the Appellant was a very significant one: a 16-month disqualification (until 21 May 2027) of his Racing NSW licence.

Background

4. The Appellant, Brian Carey (who is 64 years of age), was at material times a licensed stablehand, a trackwork rider and also, separately, the registered owner of the now deceased gelding "*City Limits*". It is only in relation to his latter capacity (ownership of *City Limits*) that the charge against him arises, but the sanction imposed extends to his ownership of any horses and all other aspects of the Appellant's involvement in horse racing.

5. Following a barrier trial on 14 October 2025, *City Limits* suffered a tendon injury and, in light of the fact that the vet suggested a 12-month spell in a paddock (transcript line 292 – page 7), on 21 October 2025 (transcript line 1409 – page 31) the Appellant transported the horse to his property in Maryborough,

Victoria, where his 64-year-old brother, his nearly 90-year-old mother and his 40-year-old nephew lived (**Property**). See transcript pages 32-33.

6. On 12 January 2026 (83 days after being transported to the Appellant's Property) *City Limits* was found deceased at that Property.

7. Racing NSW was notified of the death and on 19 January 2026 its Investigator (Mr Lavorato) conducted an interview with the Appellant and with the trainer of *City Limits*, Ms Diane Poidevin Laine, and obtained photographic evidence.

8. On 20 January 2026 the Appellant was charged by the Stewards under LR114(2)(a), which relevantly provides that "*A registered owner … that … has in his or her control … any horses … must ensure that … such horses are provided at all times with proper and sufficient nutrition and water*" (emphasis added) (**Charge**).

9. On 18 February 2026 Racing NSW Stewards conducted a Stewards Inquiry in respect of the Charge (**Inquiry**).

10. At the Inquiry the Appellant (who was not represented at that stage) pleaded not guilty to the Charge.

11. Mr Lavorato had prepared a brief of evidence (**Brief**), which was tendered at the Inquiry (along with other documentary evidence); and oral evidence was given by *City Limits*' trainer, Ms Diane Poidevin Laine, Ms Lisa Simpson (who owned a property across the road from the spelling property in which *City Limits* died), the Appellant himself and the Racing NSW Official Veterinarian Dr Rose Bensley.

12. At the conclusion of the Inquiry the Stewards found the Appellant guilty and disqualified his licence for a period of 16 months, commencing on 21 January 2026 (being the date on which he was stood down) and expiring on 21 May 2027.

13. The penalty therefore prevented the Appellant from carrying out his employment by Ms Poidevin Laine as a stablehand until at earliest 21 May 2027, even assuming that that position would still be open to him at that time.

14. The Appellant appealed to the Appeal Panel against the finding of guilt made by the Stewards at the Inquiry. He maintained that stance until just 6 days before the hearing before the Appeal Panel. At that point he changed his plea to a plea of guilty, having maintained the plea of not guilty for nearly 5 months.

15. The Appeal by the Appellant is in the nature of a rehearing, in which the evidence to be considered is the evidence adduced at the hearing in respect of the decision appealed against (that is, the decision of the Stewards following the Inquiry) (LR106(7)).

16. The Appellant sought at the hearing before the Appeal Panel to rely upon a statutory declaration declared by him on 14 June 2026. Under LR106(11) any fresh evidence was required to be served on the Appeals Co-ordinator at least 5 clear days prior to the date set down for the hearing of the appeal. The statutory declaration was served after that time had expired.

17. It is by no means clear that the Appeal Panel has the power to extend the time under LR106(11). There is an express power conferred by LR106(12) to extend the time for the commencement of the hearing on appeal, but there is no express power to extend the time specified in LR106(11) for the service of fresh evidence. However, Mr Hadley on behalf of Racing NSW took no issue with the service of the statutory declaration and in those circumstances it was admitted into evidence.

The relevant Standards

18. Underlying LR114(2)(a) is the "*Minimum Standards & Guidelines of Equine Welfare*" propounded by Racing NSW (**Standards**). The Standards are expressed to apply to (amongst others) <u>all owners</u> of horses in the NSW Thoroughbred Racing Industry. Relevantly, the Standards seek to "*affirm <u>and ensure</u>*" the provision of, amongst other things (collectively **Freedoms**):

    (1) "*Freedom from hunger and thirst by ready access to fresh water and diet to maintain health and vigour*";

    (2) "*Freedom from discomfort, by providing an appropriate environment including shelter and a comfortable resting area*";

…

(5) "*Freedom from fear and distress by ensuring conditions and treatment that avoid mental suffering*".

19. The word "*ensure*" in effect imposes a strict duty on the owner of a racehorse in relation to the provision of the Freedoms to that racehorse.

20. In addition, clause S1.2 of the Standards provides that "*Horses must be inspected at an appropriate frequency to ensure their welfare needs are met at all times*".

21. Clause S2.1 provides that "*Horses must have free access to an adequate amount of water to meet their physical needs*" and that an inspection must be carried out at least daily to ensure adequacy of water.

22. Clause 3 provides that "*Horses must be provided with a diet of sufficient quantity and quality to maintain good health, growth, body condition and meet their physiological requirements*" and that they must not be deprived of access to food for more than 12 hours.

23. The Standards provide, at least, very important context for the application of LR114(2)(a).

24. The Appellant rightly (eventually) pleaded guilty to the Charge in circumstances in which:

(a) it is clear that he did not "*ensure*" that *City Limits* was afforded the Freedoms set out in paragraph 17 above;

(b) he did not, as mandated by the Standards; inspect *City Limits* at an appropriate frequency to ensure its welfare needs were met at all times (there being a period of 74 days in which he did not inspect *City Limits* at all);

(c) *City Limits* did not, for a substantial period of time prior to its death, have free access to an adequate amount of water to meet its physical needs and was not provided with a diet of sufficient quantity and quality to

maintain good health, growth, body condition and to meet its physiological requirements, as also mandated by the Standards.

Nature of the hearing before the Appeal Panel

25. LR 106(7) provides that the nature of this appeal is that (subject to any fresh evidence – here the Applicant's statutory declaration) it is a rehearing, with the evidence to be considered being the evidence adduced at the Inquiry before the Stewards.

26. That is not to say that the Appeal Panel is bound to treat the view of the Stewards as to the appropriate penalty as irrelevant. The Appeal Panel is entitled to take into account the views of the Stewards, including as to the appropriate penalty.

Evidence given at the Inquiry

Evidence of Ms Lisa Simpson

27. At the Inquiry, Ms Lisa Simpson gave evidence via Microsoft Teams. The Appellant complained to the Stewards about Ms Simpson (who lives in Victoria in a property adjoining that in which *City Limits* died) not being personally present at the hearing, but the Stewards ruled against him on that issue. The Appeal Panel is of the view that it was not inappropriate for the evidence of Ms Simpson to be taken by audiovisual link. It has become commonplace since the COVID outbreak for evidence of interstate or overseas witnesses in court proceedings to be taken by audiovisual link.

28. Ms Simpson gave evidence at the Inquiry that *City Limits* looked in "*good condition*" (shortly afterwards she used the phrase "*very good condition*") upon its arrival at the Appellant's Property (which, according to the Appellant, was on about 21 October 2025) (transcript page 14). Ms Simpson said that the relevant paddock contained no grass at all, but "*lots of weeds*". She said that, on the day that *City Limits* died, the water troughs in its paddock were "*very dry*" (Inquiry transcript page 16). (A photograph taken by Ms Simpson on 12 January 2026, which was the day *City Limits* died, does appear to depict a dry water trough – see page 24 of the "*Brief of Evidence Covering Sheet*.)

29. Using a false name (in an endeavour to protect her identity as a person who lived just across the road from the Appellant's property), Ms Simpson engaged in text message correspondence with the Appellant on 1 November 2025, drawing attention to what she stated, in effect, were poor conditions in the Appellant's paddock for existing horses. Although the text message exchanges largely focused on an old mare (*Ponderosa Glow*) owned by the Appellant which was in a paddock adjoining *City Limits*' paddock, the communications from Ms Simpson drew attention to what she stated in substance, in the messages, were inadequate conditions for the agistment of horses. Further, she specifically drew attention to the fact that *Ponderosa Glow* was "*extremely underweight*".

30. Those text messages were sent only 2 days after the Appellant last visited *City Limits* (which was on 30 October 2025).

31. Subsequently, Ms Simpson took photographs of *City Limits* when the horse (appearing to be emaciated) was lying dead in the paddock, which according to the evidence was on 12 January 2026. Those photographs became Exhibit 5 at the Inquiry (see pages 22-23 of the Brief prepared by Mr Lavorato for the purposes of the Inquiry). Ms Simpson described the condition of *City Limits* in its deceased state as "*skin and bone*" (transcript page 21).

32. Ms Simpson gave evidence generally describing the state of the paddock in which *City Limits* was situated at the time the horse was there. She said that there was "*No grass at all*" and no hay in the paddock and that it was a little yard "*with lots of weeds in it*", although over time the weeds were eaten away. She saw *City Limits* a few times a week. She said that the horse had a rug on it and, for that reason, the condition of the horse was not obvious to her. See transcript pages 22-23.

<u>Evidence of Ms Poidevin Laine</u>

33. *City Limits*' trainer, Ms Poidevin Laine, gave evidence at the Inquiry that, following the death of *City Limits*, the Appellant rang her and told her that the horse was deceased and that "*they*" believed that the cause of death was "*a snake bite*" (line 395 – transcript page 9). There is no suggestion in the

evidence that the horse died from a snake bite, but it is possible that that was something initially conveyed to the Appellant by his brother or nephew, so the Appeal Panel refrains from drawing the inference that the Appellant lied to Ms Poidevin Lane in what he said to her about the death of City Limits resulting from a snake bite.

Evidence of the Appellant at the Inquiry

34. Returning to the persons who resided at the Appellant's Property (his elderly mother, his brother and his nephew – see above), the Appellant gave evidence at the Inquiry that his elderly mother had a heart complaint and that his brother (Peter) had a colostomy bag (which limited his mobility) and was "*lazy*" (the Appellant said that his brother just gets out of bed and sits in front of a computer). As for his nephew (who has the name Brian, which is also the name of the Appellant), during the investigative interview with Mr Lavorato the Appellant described him as having ADHD and the mind of an 8 or 10-year-old.

35. It seems on the face of it rather unsatisfactory that, in his evidence at the Inquiry, he significantly revised that evidence by saying that his initial statement in the investigative interview with Mr Lavorato had "*probably*" been an exaggeration and that the nephew "*probably*" had the mind of "*about a 20-year-old*" (line 1594 - transcript page 35), which was a radically different proposition from the nephew having the mind of an 8 or 10-year-old. See transcript pages 30-36.

36. At the Inquiry the Appellant sought to sheet home to his brother the blame for the death of *City Limits*, saying "*my brother should be here. Not me*" (line 183 – transcript page 4). That evidence is, in the view of the Appeal Panel, very significant because it seems to demonstrate a failure on the part of the Appellant to appreciate the obligations (referred to above) imposed upon him as the registered owner of City Limits.

37. Also at the Inquiry the Appellant gave evidence that he sent a message to *City Limits*' trainer, Ms Poidevin Laine, on 24 December 2025 asking her about the cost per day for horses spelling at the property of Mr Steven Hills, who Ms Poidevin Laine knew had good safe paddocks and looked after her horses

(lines 356-361 – transcript page 8; 452-453 – transcript page 10; and Exhibit 3) and she responded specifying the cost. He did not pursue that option. The fact that he did not pursue that option (or some other option providing satisfactory agistment conditions for *City Limits*) gives rise to the inference that the Appellant was not prepared to pay for a standard of agistment that conformed with his obligations under LR114(2)(a) and that he would prefer to breach his obligations than to pay for appropriate agistment. That is important because 24 December 2025 was still 19 days before *City Limits* died (and some 9 weeks after its arrival at the Property).

38. The Appellant stated in his evidence at the Inquiry that he rang his nephew every week and his first priority when speaking to his nephew was to ask if *City Limits* was okay and that his nephew answered in the affirmative (lines 524-526 - transcript page 12; and see also line 1868 - transcript page 41). However, he accepted that he knew that in the last 12 months his brother had "*dropped the ball*" and had been "*lazy*", although he qualified that by saying "*I didn't know it was this lazy. I didn't know it was this bad until all this happened with City Limits*". Further, the responsibility for buying feed for the horses in the 3 weeks before City Limits died had been left with his nephew, who the Appellant had conceded had limited intellectual capacity: transcript page 37.

39. When asked at transcript page 38 whether, in all the circumstances, he considered that his brother and nephew would have been capable of monitoring the horses on a day-to-day basis, the Appellant responded that they "*should*" have been. That is, however, a very different thing from saying that he was affirmatively satisfied that they were in fact capable of carrying out that task. The Appellant, as a registered owner, had a duty to "*ensure*" that the horses owned by him were treated in accordance with the mandated Freedoms and the Standards. To talk in terms of what the capability of his brother and nephew "*should*" have been demonstrates a failure on the part of the Appellant to appreciate the obligations imposed by LR114(2)(a) upon him as an owner.

40. When at transcript page 38 the proposition was put to the Appellant that he had known for the previous 12 months that his nephew, Brian, was not capable of looking after the horses, he answered "*I wasn't sure he wasn't doing it*"

(emphasis added). That was in effect an admission by the Appellant that he strongly suspected that his nephew was not looking after the horses properly, but was not sure of that (i.e., that his nephew was not looking after them properly). Moreover, he agreed (still on page 38 – line 1728) that he did not make any enquiries as to whether his nephew was in fact looking after the horses properly. Importantly, the Appellant also accepted that he did not ask his brother expressly if he (his brother) could go and feed the horses (still at transcript page 38). Those admissions were damning.

41. Importantly, the Appellant accepted (page 39 – line 1756) that, when he went on a trip on 1 January 2026, he had "*concerns*" about agistment when he noticed it was getting dry across the border from New South Wales into Victoria. That made him think that it would also be dry on his own Property. The Appellant accepted that, despite that, he did not ring his brother and make an enquiry about what was happening with his horses in light of the fact that he had just been driving further south and it was very dry there. See transcript page 40.

42. As a result of his observations on that trip, he made a note to bring *City Limits* and his other horse (*Ponderosa Glow*) "*back*", but that did not in fact occur due to a broken axle (see transcript page 54 - line 2445). However, the mere fact of a broken axle cannot excuse the failure on the part of the Appellant as registered owner to "*ensure*" that a horse owned by him enjoy the mandated Freedoms to which it was entitled. The simple fact is that, despite a broken axle, some other arrangements had to be made by him in relation to his horse.

43. At the Inquiry there was a very pointed question from the Chairman (transcript page 40) as to whether the Appellant conceded that, on 7 December 2025 when making those observations about how dry it was in Victoria, it would have been appropriate to ring his brother and ask "*How are those horses? It's very dry down here*". The Appellant responded, rather damningly: "*I think I didn't actually give it a thought because I wasn't planning [on] the horse dying*" (emphasis added). Further, he said he was planning on picking up the horse 3 weeks later when travelling south again for his nephew's birthday party (which in fact never eventuated). In the event, he did not ring his brother on or shortly

after 7 December 2025 despite his observations about the dryness in Victoria (transcript page 41).

44. There was further significant evidence at transcript pages 40-41. Asked by the Chairman of the Inquiry why he didn't pick up *City Limits* (and *Ponderosa Glow*) on the way back to Sydney (on 7 December 2025), he answered that that would have involved going out of his way (line 1826 – transcript page 40). That concession alone was a significant one in the context of the responsibility imposed on the Appellant to "***ensure***" that *City Limits* had its mandated Freedoms. That was despite the concerns he agreed he had as at 7 December 2025 about the possibility that his Property at Maryborough was suffering from the same dryness that he had observed in Victoria. That is also despite the fact that the Property was only a 3 hour drive from where he was in Victoria.

45. When it was put to him on the basis of earlier evidence that he was planning to come back to Maryborough about 3 weeks after 7 December, the Appellant contradicted his earlier evidence by stating that he was not in fact planning to do that (line 1855 – transcript page 41). Then even more curiously he asserted that 3 weeks should have been sufficient time for the grass to grow (in Maryborough) (line 1860). The Chairman pointed out that it was unlikely that that would occur in the middle of summer, a proposition to which the Appellant did not properly respond (lines 1862-1864).

46. The Appellant stated that he would have had to go between 3 and 4 hours out of his way in order to "*pick up a horse to bring back to Sydney*" (lines 1879-1881 - transcript page 42), as if it was self-evident that that was an untenable proposition (despite the severe heat of summer and the unsatisfactory conditions at the Maryborough property). In fact, what the Appellant failed to recognise in that response was that the position was quite the opposite – the Appellant had a responsibility imposed on him to "***ensure***" that *City Limits* had its mandated Freedoms.

47. At transcript page 43 the Appellant was asked whether, in hindsight, he accepted that his family members may have not been capable of adequately caring for *City Limits* and the Appellant conceded: "*Looking at it now, yeah*". That concession was consistent with his ultimate plea of guilty.

48. The Appellant stated at transcript page 45 that on 30 October 2025 he went to Maryborough to bring his mother "*back*" (presumably to his home, which was at Horsley – line 2202 - transcript page 49) for a week. On that visit to Maryborough he said that he bought $400 worth of horse feed (but could not produce a receipt, saying that he paid cash). He had intended to return subsequently when travelling to his nephew's party, but did not end up doing that (as noted above, he did not ultimately attend that party). The result is that he dropped *City Limits* off at the Property on 21 October 2025; he went back on 30 October 2025 to bring his mother back; and he never again, over the next 74 days before the death of City Limits, travelled to the Property prior to the death of the horse (on 12 January 2026) – see transcript pages 46-47. That conduct fell well short of "*ensuring*" that City Limits enjoyed the benefit of the Freedoms (and fell well short of compliance with the Standards).

49. Vary significantly from the point of view of penalty, the Appellant was reminded at transcript pages 49-50 of the fact that in his interview with the Investigator, Mr Lavorato, when he was asked how many times he had seen the *City Limits* at the Property, he stated that he would have seen the horse about a dozen times. He agreed "*I've told a lie there*". It ought to go without saying that for a registered owner of a horse, under investigation by the Stewards, to lie to the Stewards about a matter at the heart of the investigation is unacceptable. The Appellant agreed that it was "*probably*" the case that the reason he told that lie was to make the Investigator think that he had been maintaining proper oversight over the deceased horse (line 2266). That was most discreditable conduct; and a most important factor in the consideration of penalty.

50. The Appellant agreed at transcript page 50, lines 2268-2282 that, although he did enquire about the horses when ringing his mother or nephew once or twice a week, he did not ever enquire about whether they were losing weight. He then apparently contradicted that evidence at transcript pages 50-51 by saying that he specifically asked his nephew whether he was feeding the horses in accordance with "*the feeding program*" and that he specifically asked whether *City Limits* was losing weight, to which the nephew is said to have responded in the negative. However, the Appellant agreed at transcript page 51, line 2314 that he knew that his nephew "*wasn't a horse person*". That meant that not

much weight could or should have been attached by the Appellant to the answer his nephew gave him.

51. Evidence which was to some extent in favour of the Appellant is that he said that he spoke to his brother (Peter) after speaking to his nephew and asked Peter whether *City Limits* was losing weight, to which Peter responded "*no, he's all good*" (lines 2320-2323 - transcript page 51). That assurance given to the Appellant in relation to a specific enquiry by him of his brother as to the weight of *City Limits* is of some significance. (The Appellant said that he did not ask his family for any photos because, he said, they don't use iPhones and there was no proper mobile phone reception: lines 2325-2329.)

52. At transcript page 52 (lines 2338-2341), the Appellant stated that when he was at his property in Maryborough in October 2025 "*Half the paddock was in grass, so I dunno what happened with it over the time from the last time I was there to when he's passed away, I dunno what's happened with it*". That answer was not satisfactory given that, as noted above, 74 days passed between the date when the Appellant had last attended the property on 30 October 2025 (approximately in the middle of Spring) and the date of City Limits' death on 12 January 2026 (approximately in the middle of Summer).

Statutory declaration of the Appellant

53. The Appellant affirmed in his statutory declaration that:

(a) he commenced an apprenticeship at age 14;

(b) he has been a horse owner for over 20 years;

(c) he has a sizeable horse transport business (which will be affected by his disqualification);

(d) he has committed that no horses will be at the Property in future without his "*direct supervision*";

(e) as a result of the events the subject of this appeal, he has suffered emotionally and financially, he feels shame and he has been subjected to a series of messages through social media.

Evidence of Dr Rose Bensley

54. Dr Bensley, an expert horse veterinarian who is the official veterinarian of Racing NSW, stated (transcript page 54) that horses can survive for 3 to 6 days without water, but "*they will start to have critical life-threatening dehydration in as little as 24 to 48 hours, particularly in hot weather*".

55. Dr Bensley also said (transcript page 55) that, because water consumption increases in hot weather, and because horses require sweating to cool themselves, hot weather increases the amount of water which horses need to consume. Further, where, as here, there was apparently no pasture evident, horses are more reliant on the existence of a water source.

56. Dr Bensley concluded her evidence at transcript page 56 by stating that, in her opinion, on the balance of probabilities, having reviewed the photographs in the brief, which showed that there was no pasture or groundcover in the relevant paddock, in combination with the poor body condition of the deceased horse, it was "*likely that inadequate calorie intake contributed to the significant weight loss and therefore affected the welfare of the horse*". That was significant evidence as to the cause of death of *City Limits*.

57. All of Dr Bensley's evidence was unchallenged by the Appellant.

58. Her evidence reflected basic common sense - the Applicant must have known that to fail to ensure the hydration of *City Limits* would expose the horse to a cruel death or at least to the real possibility of a cruel death.

Decision

59. Although the Appellant ultimately pleaded guilty, the Appeal Panel has no doubt, having regard to all of the evidence summarised above, that he was indeed guilty of the Charge.

60. Despite the plea of guilty, it is necessary to set out the regulatory and factual background in some detail so as to enable the decision on penalty to be understood in its context.

Regulatory and factual background

61. As noted above, the Appellant was the owner of *City Limits* and, as such, LR114(2)(a) applied to him.

62. It is clear on the evidence that *City Limits* was, for at least part of the time during which it was kept at the Property, deprived of the Freedoms (in particular, from hunger and thirst, from discomfort and from distress) and, at least in large part, of some of the welfare needs specified in the Standards.

63. The Introduction to the Standards provides: "*Given that responsibility for a horse may be shared between several people, it is important that there is clarity as to who is directly responsible for the horse at any one time. The person in charge must take reasonable steps to ensure that the horse will be managed in accordance with the [above Standards] whilst in the care of others. e.g., Agistment providers*" (emphasis added).

64. As the owner of the relevant Property the Appellant himself was on one view the relevant "*Agistment provider*", but it may be that those occupying the Property (particularly his brother and his nephew) are to be regarded as the relevant Agistment providers.

65. However, either way, it fell to the Appellant himself, as the owner of *City Limits* and therefore, in accordance with the introductory section of the Standards, as the (or at least one of the) "*persons in charge*" of that horse, to "*ensure*" compliance with the Standards.

66. As such, it fell to him to "*ensure*" that City Limits at all times during his ownership of that horse enjoyed the benefit of the Freedoms.

67. Within the meaning of LR114(2)(a), the Appellant, as the registered owner of *City Limits*, decided to take "*control*" of the horse on 21 October 2025, by moving the horse from the custody of its trainer and transporting the horse to his Property and choosing to leave the horse in the custody of those living at that property owned by him.

68. Having chosen to exercise that "*control*" as owner of *City Limits*, it fell to him to ensure that the facilities at the Property which would be afforded to the horse

were sufficient to ensure the specified Freedoms of the horse and to ensure compliance with the Standards.

69. That required the Appellant to ensure, amongst other things, that the facilities at his Property, including the human resources at the Property, were adequate.

70. That in turn required ongoing superintendence on his part of the provision, by the persons he chose to leave in charge of his Property, of the Freedoms to which *City Limits* was entitled.

71. It is plain, consistently with the Appellant's eventual plea of guilty, that for at least a substantial part of the period after which *City Limits* was transported to the Property, that horse, owned by him, was deprived of those Freedoms and that there was non-compliance with the Standards.

72. There can also be no real doubt, in the circumstances, that it was the fact that City Limits was deprived of those Freedoms that led to his demise; and there can be no doubt at all that his demise (starving to death) was excruciatingly painful, distressing and terrifying.

73. The evidence summarised above demonstrates very clearly that the Appellant did not take all reasonable steps to "*ensure*" that City Limits had the benefit of the Freedoms and that there was compliance with the Standards.

74. First, to satisfy that requirement the Appellant could have sent *City Limits* to a professional agistment farm with adequate facilities and staffing. He clearly recognised that that was available option because on 24 December 2025, as the summer weather was unfolding, he sent a message to his trainer, Ms Poidevin Laine, asking where she agisted her horses and how much that cost per day and she responded (see lines 356-357 – transcript page 8). However, instead of pursuing that option, he transferred *City Limits* to his Property and left him there throughout the heat of summer.

75. There was no evidence of substance as to the Appellant's financial position (in order to be able to afford the cost of using a professional agistment farm), but it is to be noted that he was – apparently – able to afford the training fees of Ms Poidevin Laine. Further, he ran a horse transport business (see his statutory declaration).

76. Secondly, the Appellant did not properly oversee the condition of *City Limits* – his last visit to his Property prior to the death of *City Limits* on 12 January 2026 was on 30 October 2025, when he picked up his mother. Over the next 73 days after 30 October 2025 up to and including the death of the horse on 12 January 2026 the Appellant did not physically check on the condition of the horse.

77. Thirdly, the Appellant did not take adequate steps to "*ensure*" that members of his family who were residing at his Property were doing so. Despite being aware of the heat over summer, the Appellant took no steps to ensure that *City Limits* was properly fed or properly cared for by his family members in the severe heat of summer. That was in circumstances in which he well knew that the members of his family who resided at his Property all suffered from either physical or mental limitations.

78. Fourthly, apart from the $400 of feed which the Appellant acquired on 30 October 2025, he acquired no further feed, and took no steps to fund the acquisition of any further feed, for City Limits.

79. Fifthly, the breach by the Appellant of LR114(2)(a) (understood in the context of the Standards) was a very serious one indeed. A horse owned by him was clearly deprived of its mandated Freedoms, particularly its entitlement to sufficient nourishment by way of food and water and, as such, suffered what must have been an agonising death.

80. Sixthly, the plea of not guilty by the Appellant, maintained by him until just 6 days before the hearing before the Appeal Panel, demonstrates that, even after the Investigation by Mr Lavorato, he still did not properly appreciate the gravity of his failure to "*ensure*" that *City Limits* was *provided at all times with proper and sufficient nutrition and water*" in conformity with LR114(2)(a). On the other hand, the Appellant made the plea of not guilty before the Stewards without the benefit of any legal representation.

81. Seventhly, as noted above in the summary (see paragraphs 34 to 52 above) of the evidence given by the Appellant at the Inquiry, he still, by the time of the Inquiry, failed to understand the reality and gravity of his failings in relation to

City Limits. And some of his evidence given at the Inquiry was, as pointed out in paragraphs 34 to 52 above, unsatisfactory.

Plea

82. The Appellant initially pleaded not guilty to the Charge (transcript page 5 – line 213). That suggests that he had a very poor understanding of the serious obligations imposed upon him as the owner of a racehorse sent to his Property for agistment. It was not open to him to leave the horse with his elderly mother, his ailing brother and his nephew (whose ability to care for *City Limits* was at least questionable) without taking at least all reasonable steps to "*ensure*" that they provided *City Limits* with the Freedoms which the horse was entitled have on an ongoing basis throughout its agistment at the Appellant's Property. (As noted above, it was not until 6 days before the hearing before the Appeal Panel that the Appellant finally pleaded guilty.)

Penalty

83. The Appellant did not adduce any specific or precise evidence as to the impact of a lengthy disqualification on his financial position. However, it may be inferred that his being deprived of the ability to earn income from his horse transport business, as a stablehand and as a trackwork rider for a lengthy period of more than a year would constitute a very significant penalty.

84. Nevertheless, the factual outline above demonstrates that a significant penalty is justified. And Mr Morris on behalf of the Appellant accepted that the offence was objectively serious.

85. The Appellant gave oral evidence as to his assets and liabilities, which the Appeal Panel accepts. The Appellant also gave evidence that he would, in the face of disqualification, have no income at all. He said that he could apply for unemployment benefits but that he would not do so as a matter of principle. His wife obtains a pension of around $1000 per fortnight. His assets include 2 houses (the Maryborough property and a home in Horsley), 2 cars and a float. The Appellant said that he would not apply for social security benefits as a matter of principle because "*it's for bludgers*".

86. As a result of the disqualification the Appellant has had to sell his horse *Willipunter*; and a rising 2-year-old filly has had to be sold to a Mrs Carson.

87. The Appellant gave evidence that he had been in the equine "*industry*" for approximately 50 years (including ownership of 5 horses over about the last 25 years) and that this was the first occasion on which any issue had arisen as to his care of horses (a proposition which Mr Hadley on behalf of Racing NSW accepted). On one view, though, it might be thought that the seniority of the Appellant gives rise to higher expectations of his conduct in respect of his horses.

88. Mr Morris on behalf of the Appellant accepted the importance of general deterrence (in order to shore up public confidence in the racing industry, which depends on its participants ensuring that horses are appropriately cared for, including when they are spelling, retired from racing or placed in the care of others) in fixing the appropriate penalty in addition to specific deterrence in respect of the Appellant himself.

89. Mr Morris also pointed out that the Appellant was one step removed from the geographic source (his property at Maryborough) of the animal welfare issues the subject of the Charge (given that he did not reside there).

90. Mr Morris also pointed to the evidence given by the Appellant to the Stewards in the Inquiry (transcript page 30 – lines 1352-1354) that the Appellant gave instructions to his nephew about the feeding of horses and the nephew wrote instructions down.

91. However, Mr Hadley on behalf of Racing NSW submitted (and the Appeal Panel accepts) that responsibility for equine welfare is not displaced merely because day-to-day care has been entrusted to another person; and, further, "*omission-based welfare offending*" may well be objectively serious.

92. The factors relevant to the penalty to be imposed in relation to an offence concerning animal welfare issues were summarised by The Hon GJ Bellew AM SC, sitting as the NSW Racing Appeals Tribunal, in *Samantha Murphy v Racing NSW* (28 April 2026) (see also the earlier decision of 2 April 2026 in which Mr Bellew made a finding of guilt).

93. That was also a case in which the Appellant was the owner of a horse which had been found deceased in a paddock. The Stewards imposed a disqualification of 16 months. On appeal to the Appeal Panel the period of disqualification was reduced to 12 months. Mr Bellew upheld the finding of guilt and, in his subsequent decision on penalty, confirmed the penalty imposed by the Appeal Panel. The following is noteworthy in Mr Bellew's decision on penalty:

(a) paragraph 9: the importance which must be attached to the necessity to ensure animal welfare arises from "*a fundamental obligation placed on all registered industry participants to ensure that any animal(s) in their care are appropriately fed and maintained and generally cared for*" (emphasis added);

(b) paragraph 10: "*that obligation extends beyond what might be described as general care, to ensuring that any animals(s) are provided with such veterinary care which is necessary and appropriate*" (emphasis added);

(c) paragraph 11: "*the vital importance, to the racing industry, of vigorously maintaining high standards of care is such that misconduct [involving animal welfare issues] threatens the integrity of, and public confidence in, the racing industry*";

(d) paragraph 16: the subjective case of an offender will always be relevant, but a subjective case, however strong, "*cannot be permitted to result in the imposition of a penalty which fails to properly reflect the objective seriousness of the offending*";

(e) paragraph 17: the Appellant "*did not … lack the capacity to intervene and ensure that [her horse] was properly cared for*";

(f) paragraph 18: although Ms Murphy's culpability was constituted by an omission rather than a positive act, "*that will almost inevitably be the case in matters of this kind*" and it did not "*materially reduce the Appellant's culpability, particularly in circumstances where it was open to her to intervene, and also having regard to the time over which the offending occurred*";

(g) paragraph 19: "*any breach of a provision directed to the preservation of animal welfare must inevitably meet with a significant penalty. Whilst penalty must be determined according to the facts and circumstances of the individual case, it is difficult to envisage a set of circumstances in which conduct which threatens animal welfare would meet with anything less than a substantial period of disqualification*" (emphasis added);

(h) paragraph 23: the Appellant had a blemish-free history and was a person of prior good character;

(i) paragraph 24: the conduct of the Appellant in this instance should, having regard to the evidence, "*be regarded as an aberration*";

(j) paragraphs 25-26: the Appellant's offending had been the subject of media reporting. That constituted "*extra-curial punishment which should be taken into account in the Appellant's favour*";

(k) paragraph 28: in conclusion the 12-month disqualification imposed by the Appeal Panel was appropriate.

94. In *Murphy*, for the purposes of the appeal to the Racing Appeals Tribunal 4 charges were relevant and Ms Murphy maintained her plea of not guilty to 3 of those charges. Here, as noted above, the Appellant pleaded guilty 6 days prior to the hearing before the Appeal Panel.

95. Mr Hadley on behalf of Racing NSW accepted that the Appellant had already suffered a degree of reputational harm in the Maryborough area by virtue of an article in the *Maryborough Advertiser* about the death of *City Limits* (although Mr Morris submitted in reply that media coverage cuts both ways in the sense that the article had the effect of publicly humiliating the Appellant). (See also the adverse publicity about the Appellant on social media referred to in paragraph 53(e) above.)

96. However, Mr Hadley submitted (by reference to some of the matters which have been summarised above and immediately below) that the breach in *Murphy* was objectively less serious than the breach by the Appellant. Mr Hadley further submitted that the image of racing depends on horses being adequately cared for.

97. Mr Hadley also pointed to the decision of the Appeal Panel in *Carroll v Racing NSW* (5 June 2023) at [27]: "*Rules relating to the welfare of horses are amongst the most important in the Australian Rules of Racing. Welfare standards must be high, and breach of these rules is likely to lead to substantial penalties*".

98. Mr Hadley correctly submitted that the penalty must reflect the objective seriousness of the conduct, together with any matters personal to the Appellant, whilst giving proper effect to the protective and deterrent purposes of the Rules.

99. The Appeal Panel substantially agrees with Mr Hadley's submissions. In particular, the penalty which should be imposed on the Appellant should be greater than that imposed in *Murphy* having regard to the following aspects of his evidence before the Stewards at the Inquiry:

    (a) The Appellant changed his evidence relating to his nephew in the manner referred to in paragraph 35 above;

    (b) He sought to shift the blame to his brother in the manner referred to in paragraph 36 above;

    (c) He put cost ahead of animal welfare in the manner referred to in paragraph 37 above;

    (d) He knew that his brother had "*dropped the ball*" and had been "*lazy*" in the last 12 months and left the responsibility for buying feed for the horses in the 3 weeks before *City Limits* died with his nephew, who he knew had limited intellectual capacity (see paragraph 38 above);

    (e) He spoke in terms of what the capability of his brother and nephew "*should*" have been rather than what their capability actually was, which demonstrated a failure on his part appreciate the obligations imposed upon him as an owner (see paragraph 39 above);

    (f) He in effect admitted that he strongly suspected that his nephew was not properly looking after the horses the Appellant owned, but was not sure that that that was so; he accepted that he did not affirmatively make enquiries in that regard; and he never asked his brother expressly if he could go and feed the horses (see paragraph 40 above);

(g) He admitted that on 7 December 2025 he had "*concerns*" about agistment when he noticed it was getting dry across the border from New South Wales into Victoria and, as a result, made a note to bring *City Limits* (and *Ponderosa Glow*) "*back*" and his reason for not doing so by at latest 1 January 2026 (that on that trip he broke an axle on his truck) was not an excuse for not ensuring the animal welfare of *City Limits*, by ensuring (by proper supervision) that his brother took appropriate steps in relation to the horse's animal welfare. Worse, he agreed that he did not even give a thought to bringing *City Limits* "*back*"and added that that would have involved going out of his way (see paragraphs 41-44 above);

(h) He made the nonsensical assertion that in the middle of the heat of summer (in December) the grass was likely to grow in the paddock in which *City Limits* was situated (see paragraph 45 above);

(i) He implied that going 3-4 hours out of his way in order to pick up a horse to bring back to Sydney was an untenable proposition (despite the severe heat of summer and the unsatisfactory conditions at the Maryborough property) (see paragraph 46 above);

(j) He accepted that, looking back now, his family members may have not been capable of adequately caring for City Limits (see paragraph 47 above);

(k) Perhaps most importantly, he maintained no <u>personal</u> supervision at all over the animal welfare of *City Limits* for a period of <u>74 days</u> (see paragraphs 48, 50 and 52 above) and he <u>told a lie</u> to the Investigator during his investigation of the death of *City Limits* (see paragraph 49 above);

(l) as noted above, the Appellant maintained a plea of not guilty until just 6 days prior to the hearing before the Appeal Panel.

100. Perhaps most significantly, that Appeal Panel agrees with the submission by Mr Hadley, by reference to some of the matters referred to above, that the Appellant had "*numerous warning signs*" as to the peril that *City Limits* was in, but did not act on them.

101. In all those circumstances, a disqualification for a greater period than that given to Ms Murphy is appropriate. A headline penalty of 14 months is appropriate.

102. On the other hand, the Appellant came before the Appeal Panel with a plea of guilty, albeit belated (only about 6 days before the hearing before the Appeal Panel commenced). He is entitled to some reduction of the penalty for that plea, but far less than the 25% reduction which is normal for a plea of guilty made at the outset. The Appeal Panel considered that a reduction of roughly ¼ that size (that is, about 6.25%) would be appropriate. 6.25% of 14 months is slightly less than one month.

103. Accordingly, in all those circumstances, the Appeal Panel considered that the disqualification of the Appellant's licence **for 13 months** was appropriate.

Conclusion

104. Having regard to all of the factors set out above, and for all the above reasons, the Appeal Panel made the following orders on 16 June 2026 after the conclusion of the hearing on that day:

(a) Appeal against penalty upheld;

(b) Decision of the Stewards on 18 February 2026 be varied so as to disqualify the Appellant's licence for a period of 13 months to commence on 21 January 2026 and expiring at midnight on 21 February 2027;

(c) 50% of the appeal deposit to be refunded.

18 June 2026



Alec Leopold

Acting Chair of the Appeal Panel