From: Samual Wilks
To: Legislative Scrutiny Committee
Subject: Submission on the Racing and Wagering Amendment Bill 2026
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21 March 2026

The Secretary
Legislative Scrutiny Committee
Legislative Assembly of the Northern Territory
GPO Box 3721
DARWIN NT 0801

Dear Secretary

Submission on the Racing and Wagering Amendment Bill 2026

I make this submission in response to the Legislative Scrutiny Committee's call for submissions on the *Racing and Wagering Amendment Bill 2026*. I note the Committee is to inquire into whether the Assembly should pass the Bill, whether it should amend the Bill, and whether the Bill has sufficient regard to the rights and liberties of individuals and to the institution of Parliament.

I have reviewed the Bill and the Explanatory Statement. In my view, the Bill broadly does what it says it is trying to do. It is a genuine restructuring Bill. It removes racing-related responsibilities from the Commission, narrows the Commission to wagering functions, transfers substantial racing powers to the Director, and introduces new conflict, governance, complaints and enforcement provisions said to arise from a technical review, industry reviews, and concerns about Commission membership and conflicts of interest.

That said, the fact that a Bill matches its explanatory notes provided is not enough. The real question is whether it does so without creating fresh avenues for overreach, diluted accountability, or administrative misuse. On that point, my position is clear -

The Assembly should amend the Bill before passing it.

Some clauses are sensible and should proceed. Others are drafted too broadly and create foreseeable risks of concentrated power, weakened accountability, complaint-delay abuse, and regulatory arrangements that can undermine public confidence.

My General position

The Bill's core structural aim is plain enough. The Explanatory Statement says the purpose is to amend the 2024 Act following a technical review, reviews into the thoroughbred and greyhound industries, and a review into Commission membership and conflicts of interest. The Bill gives effect to that by removing racing functions from the Commission, renaming it in effect as a wagering-only body, and shifting racing control, supervision, investigation, complaints and

enforcement powers to the Director.

That basic restructuring is not, in itself, objectionable. The difficulty lies in how much of the resulting scheme depends on executive discretion, delegation, Gazette notices, and one office-holder carrying far too many roles at once in my opinion.

The Delegation by the Commission is too broad

Clauses affected - Clause 9 / section 17.

What the Proposed Bill does -

The Bill allows the Commission to delegate any of its powers and functions. The Explanatory Statement says the previous regulation-based limit was found to be restrictive and inefficient, and that delegation will still be limited to the Director or a suitably qualified public servant.

My Concerns are -

This is a classic efficiency clause that becomes an accountability clause in disguise. Once a statutory body can delegate any of its powers, the practical question becomes which decisions are still truly made by the body Parliament created and which are simply made inside the bureaucracy under delegated authority. That's a real problem.

It creates at least three risks. First, substantive decisions can be pushed downward away from the body intended to exercise independent judgement. Second, affected persons may be forced into technical disputes about whether the delegate was properly authorised or suitably qualified. Third, the Commission may become a shell that formally exists while real decisions are made elsewhere.

My Recommendations -

It require immediate clarity. The Bill should be amended so that core adjudicative, disciplinary and high-impact licensing powers are not delegable. At minimum, any delegation should require -

- a written instrument;
- public availability of the delegation instrument;
- identification of the class of decision delegated; and
- annual reporting on the number and type of decisions made under delegation.

KPI's determine success and accountability.

The Conflict rules are improved, but the validity-saving clause actually weakens them

Clauses affected - Clause 11 / sections 19A to 19C.

What the Proposed Bill does -

The Bill bars Commission members from holding wagering accounts with NT licensees, bars them from owning racing animals while in office, and requires disclosure to the Minister of direct or indirect interests that conflict or may conflict with their functions. However, section 19C(4) states that failure to comply does not affect the validity of a Commission decision. The Explanatory Statement says this is to avoid invalidating decisions because of oversight or because a member did not think an interest was a conflict.

My Concerns are -

The Bill strengthens conflict rules with one hand and weakens them with the other. If non-disclosure never affects decision validity, even where the undisclosed interest is serious, the practical incentive to comply is reduced and the burden shifts to outsiders to challenge the outcome through review or other proceedings. This look like theatre.

It is at best structurally poor. The law should not assume every undeclared conflict is trivial. Some, as we have already experienced previously, will be material. When they are, the decision should be capable of being revisited without forcing the affected party through unnecessary lawfare.

My Recommendation -

Section 19C(4) should be immediately amended so that immaterial non-disclosure does not invalidate a decision, but material non-disclosure may ground reconsideration, rehearing, or review where impartiality could reasonably be affected.

Ministerial control over race control bodies is far too open-ended

Clauses affected - Clause 19 / sections 46 and 46A, and Clause 21 / section 48A.

What the Proposed Bill does -

The Minister may appoint an eligible body corporate as race control body, appoint the Director instead if there is no suitable body corporate or where appointment is revoked, determine criteria for governing members by Gazette notice, and issue a charter that the race control body must act consistently with. The Explanatory Statement says this is intended to improve governance, broaden skills, and address confusion and misalignment between race control bodies and race clubs.

However, My Concern -

Too much of the real governance architecture is left to Gazette notices and ministerial discretion rather than hard statutory criteria. That invites doubts about consistency, independence, and whether appointments are made on merit or convenience. It also allows the operating framework of race control bodies to be shaped by charter rather than by legislation scrutinised in the usual way.

The point is not that a Minister will necessarily misuse their power. The point is that the Bill leaves too much room for it to occur.

My Recommendation -

The Bill should contain minimum statutory criteria for eligibility and governance competence rather than leaving the field largely to Gazette notice. Any charter or criteria notice should be tabled in the Legislative Assembly and subject to a consultation requirement before taking effect.

We've seen millions spent without the appropriate scrutiny, lets not allow the appearance of that level of perceived corruption again.

Too much power is concentrated in the Director

Clauses affected - Clause 15 / sections 30 and 30A; Clauses 27 to 32.

What the Proposed Bill does -

The Director is given functions and powers to control, supervise and regulate the

racing industry; monitor compliance; take disciplinary action; prosecute offences; appoint and supervise inspectors; oversee the Fund; investigate complaints; determine complaints; issue racecourse licences; give directions to race control bodies; and make racing guidelines.

My Obvious Concern -

This is a large concentration of investigative, administrative, disciplinary and prosecutorial authority in one office. Systems that depend too heavily on the quality or restraint of one office-holder are brittle systems. Good law separates powers where possible, it does not stack them.

Review rights exist for “some” Director decisions, which is better than nothing. But merits review after the event is weaker than front-end statutory limits on power. We’ve seen this before.

My Recommendation -

Key Director decisions “must” require written reasons. Published decision-making criteria should be mandatory. The legislation should also more clearly separate, where practicable, complaint investigation from final disciplinary decision-making.
You might seek some help from federal guidelines from the AFP, CDPP and these types of appointments, the opportunity for corruption is very obvious.

Direction powers backed by strict liability but need stronger limits

Clauses affected - Clause 22 / section 50.

What the Proposed Bill does -

The Director may direct a race control body in writing in the exercise of its powers and functions. Failure to take all reasonable steps to comply is a strict-liability offence punishable by up to 50 penalty units, subject to reasonable excuse. The Explanatory Statement says this replaces the previous, much harsher offence and reflects the transfer of the direction power from the Commission to the Director.

My Concern -

The lower penalty does not solve the real issue. The issue is breadth. A broad direction power, combined with strict liability, can become a coercive device unless the purposes and limits of the direction are tightly defined. The recipient is then left to either comply or later argue reasonable excuse.

That is a heavy compliance lever.

My Recommendation -

Section 50 should be amended so that directions may only be made for specified statutory purposes, must be proportionate, must be supported by written reasons, and must be no more restrictive than reasonably necessary.

Allowing the race control body to keep its own fine revenue is a really poor incentive structure

Clauses affected - Clause 23 / section 52(7).

What the Proposed Bill does -

Fines imposed under racing rules are payable to the Territory if the Director is the race control body, otherwise to the relevant race control body. The Explanatory Statement openly says this ensures the race control body receives the money for

the fines it hands down.

My Concern -

An enforcement body should not have even the appearance of a direct financial interest or gain in the penalties it imposes. Even if no actual abuse occurs, the structure itself invites suspicion. Enforcement should be about integrity, not revenue capture.

My Recommendation -

Fine revenue should be paid into consolidated revenue or into an independently administered statutory fund, not to the race control body that imposed or benefits from the penalty framework. This looks really bad

Power to add new conditions to existing licences really needs clearer limits

Clauses affected - Clause 25 / section 154 and regulation 19 replacement.

What the Proposed Bill does -

The Commission may vary or revoke a licence condition or impose a new condition on an existing licence in accordance with the regulations. The Explanatory Statement says this restores a power that existed under previous legislation and fixes an omission in the 2024 Act.

My Concern -

The fact that a power existed previously does not answer whether it is appropriately constrained now. A power to add new conditions to an existing licence can become regulation by ambush if the grounds for doing so are not clear and objective.

My Recommendation -

The Bill should state that new conditions may only be imposed on existing licences for defined reasons such as integrity risk, consumer harm, compliance failure, public safety, or demonstrated operational necessity. Cause and effect use.

Complaint extensions may help resolution, but they may also be used to wear the complainants down – This can be used as obvious lawfare

Clauses affected - Clause 18 / section 44(2A), Clause 26 / section 221, Clause 28 / section 222A.

What the Proposed Bill does -

The ordinary complaint period is increased from 14 days to 60 days, with later complaints permitted up to two years if allowed by the Director or Commission. The Explanatory Statement says the increase is intended to give the operator sufficient time to consider and resolve the complaint and reduce premature complaints being lodged externally.

My Concern -

That rationale is understandable in the current disarray of the NT's judicial system a, but it has an obvious downside. More time for internal resolution can also mean

more time for delay, drift, document decay and complainant exhaustion. A consumer or complainant with limited resources is often the weaker party. What is presented as flexibility will become attrition. Justice delayed is justice denied, and this quite obviously imposes mot double but over 4 times the wait.

My Recommendation -

The Bill should require -

- prompt written acknowledgement of complaints by the operator;
- preservation of relevant records once a complaint is made;
- notice to the complainant of the external complaint deadline; and
- a stop-clock mechanism where the operator fails to respond within a prescribed time.

The public is getting really rightfully frustrated at continual bureaucratic delays.

Provisions that may proceed with little concern

Several parts of the Bill appear broadly sensible and low risk. These include: in my opinion -

- removing racing functions from the Commission and confining it to wagering functions;
- introducing clearer conflict restrictions on Commission members;
- creating a cooling-off period after Commission service;
- correcting the reporting responsibility for the Fund; and
- creating separate racecourse licensing provisions to reflect the shift of racing responsibilities to the Director.

Those measures broadly align with the stated purpose and do not raise the same level of rights, accountability or institutional concern that I have otherwise highlighted..

My Conclusion

The *Racing and Wagering Amendment Bill 2026* is not merely some rhetorical packaging. It is a real restructuring Bill. But several provisions go too far in the direction of executive discretion, concentration of power, and flexible administration without enough hard statutory constraint.

For those reasons, I respectfully submit that the Assembly should amend the Bill before passing it. The most important amendments are those that -

- limit delegation of core Commission powers;
- qualify the validity-saving rule for undisclosed material conflicts;
- place firmer statutory limits on ministerial governance powers;
- constrain the Director's direction power;
- prevent enforcement bodies from benefiting directly from fine revenue; and
- strengthen complaint-handling safeguards so extended timeframes do not become a tool of attrition.

Thank you for considering this submission.

Kind Regards,

Sam Wilks
DIP SRM, DIP WHS, ADIP GOV, CIVSM, CIVTAE CIVRE
[redacted]

"Safety and Security for your assets"