NEW SOUTH WALES

HARNESS RACING

APPEAL PANEL

APPEAL PANEL MEMBERS

D Kane
J Murphy
B Judd

DETERMINATION

2 November 2026

APPELLANT TONY HIGGS

RESPONDENT HRNSW

AUSTRALIAN HARNESS RACING RULES

163(1)(a)(iii)

ORDERS

The Panel orders and directs:

(a) Pursuant to NSWLR 181F(a), the appeal is dismissed.

(b) The decision of the Stewards of 30 September 2026 to suspend the Appellant's licence to drive in races for a period of 35 days commencing at midnight on 30 September 2026 is confirmed.

(c) Pursuant to NSWLR 181F(e), the appeal fee of $250 paid by the Appellant under NSWLR 181C(6) is forfeited.

(d) There is no order as to costs.

(e) The Secretary of the Panel is to provide a copy of this decision to the Appellant and to HRNSW within 7 days.

HARNESS RACING NEW SOUTH WALES APPEALS PANEL

Anthony Patrick Higgs
Appellant

Harness Racing New South Wales
Respondent

Determination

Introduction

1. Anthony Patrick Higgs (the **Appellant**) is a Grade A driver licensed by Harness Racing New South Wales (**HRNSW**). He has held a driver's licence since the 1982/83 season, has driven in more than 3,000 races and has won 350 of them. On 30 September 2026 the Stewards found him guilty of a charge under **rule 163(1)(a)(iii)** of the Australian Harness Racing Rules (**AHRR**; the AHRR and the Local Rules of Harness Racing New South Wales (**NSWLR**) together the **Rules**) arising from Race 10 at Bathurst on 23 September 2026, and suspended his licence to drive in races for 35 days commencing at midnight on 30 September 2026.

2. By a Notice of Appeal lodged on 2 October 2026, the Appellant appealed against the severity of the penalty only. The finding of guilt is not challenged. The grounds stated in the Notice of Appeal are, in their entirety: "*Driver charged, not horse. Severity of suspension.*" The Appellant did not seek leave to be legally represented, did not foreshadow any further evidence, and did not apply for a stay of the suspension under **NSWLR 181C(7)**. The suspension has accordingly been running since 30 September 2026 and, as at the date of the hearing, had approximately seven days left to run.

3. The appeal was heard on 28 October 2026. The Appellant appeared on his own behalf. HRNSW was represented by Steward Brett Day, who took the Panel through the race footage and relied upon HRNSW's written submissions dated 21 October 2026 (**RS**). At the conclusion of the hearing the Panel announced that the appeal was dismissed, and that written reasons would follow. These are those reasons.

4. The material before the Panel comprised the Notice of Appeal; the Stewards' Report for the Bathurst meeting of 23 September 2026 and the race results for that meeting; the transcript of the Stewards' inquiry conducted on 30 September 2026 (**TOI**); the race footage; the Appellant's offence record and career driving statistics; the HRNSW Penalty Guidelines (**Guidelines**); RS; and the decision of the Racing Appeals Tribunal in *Blythe* (7 May 2019).

The incident and the Stewards' decision

5. The following matters are not in dispute. In the home straight on the final occasion, the Appellant drove Marabelle into the sprint lane to the inside of the leader, Cam I Am, driven by Toby Glazebrook. Marabelle then shifted outwards, under pressure and while being driven forward, over a sustained period and distance until, approaching the 150 metres, Cam I Am was placed in restricted room, made contact with Marabelle and fell. Jasperstimetoshine, trailing Cam I Am, was severely checked and also fell. A third runner was checked and broke. Marabelle finished third.

6. The consequences were serious. Both Cam I Am and Jasperstimetoshine sustained lacerations, were treated by the on-course veterinarian, were stood down for 10 days and were required to produce veterinary clearances before racing again. Both drivers were dislodged. Mr Glazebrook was transported by ambulance to Orange hospital and was required to obtain a medical clearance before driving again. The Panel was told, and accepts, that both horses have since returned to racing.

7. At the inquiry the Appellant pleaded not guilty. His evidence, which he repeated before this Panel, was that Marabelle had ducked out on him on the final turn; that when he attempted to correct her there she

had taken hold of the bit and shifted further out; that in the straight, with only inches between his sulky and Cam I Am, he was not prepared to touch her head for fear that she would run out further and strike Mr Glazebrook; and that he instead kept driving her and flicked her on the off side in the hope that she would come back in. He accepted that he knew she was shifting out, that he knew interference to Mr Glazebrook was coming, and that he made no attempt to stop driving or to straighten her. Asked by the Stewards how far she had shifted, he estimated one to two cart widths. Before this Panel he accepted a shift of about one and a half cart widths, or roughly two metres. He also said, more than once, that if he had his time over he might have pulled her head straight back in.

8. The Stewards applied the Guidelines in the orthodox way. The starting point for a horse checked and broke within the final 200 metres is 35 days. They increased that by 14 days because the incident resulted in two falls and two drivers being dislodged, arriving at 49 days. They allowed no reduction for the plea. They then allowed the full 14-day reduction available for a good driving record, on the footing that the Appellant had not been suspended under these rules for more than two years, notwithstanding that he had driven in only 78 races in that period. The result was 35 days.

The nature of the appeal and the Panel's approach

9. Under **NSWLR 181D(1)** and **(2)** the appeal is conducted as a new hearing, on the evidence before the Stewards together with such further evidence as the Panel admits. No further evidence was tendered. The Panel has therefore reviewed the footage and the transcript for itself and reached its own view of the appropriate penalty. It has done so with due regard to the Stewards' decision, but it is not confined to asking whether that decision was open to them.

10. The Panel accepts, as HRNSW submits at RS [10]–[12] and as the Racing Appeals Tribunal observed in *Blythe* at [36], that the Guidelines are not tramlines, but that they serve consistency and certainty across the State and that there must be good reason to depart from them in an everyday driving matter of this kind. The question is whether a suspension of 35 days is excessive in the circumstances. For the reasons which follow, the Panel is firmly of the view that it is not.

"Driver charged, not horse"

11. The first ground, so far as it is a ground at all, misapprehends the rule. **AHRR 163(1)(a)(iii)** provides that a driver shall not cause or contribute to any interference. The rule is addressed to the driver because it is the driver, and only the driver, who can be held to account for what the horse does in a race. A horse cannot be charged. The particulars put to the Appellant were that he *allowed* his runner to shift up the track while driving it forward. The Panel has no doubt, and the Appellant did not seriously dispute, that the horse shifted out because he permitted it to do so. That Marabelle may be a difficult filly in the turns is not a defence. If anything, a driver who knows that his horse is inclined to shift under pressure bears a heightened obligation to control her, and in particular to refrain from driving her forward into a position where there is no margin for error.

The Appellant's explanation

12. The Panel accepts that the Appellant's account of what went through his mind is sincere. He is a vastly experienced horseman, he was plainly distressed by what happened to Mr Glazebrook, and the Panel does not doubt that his fear that Marabelle would react badly to being pulled was a genuine one. But the question is not whether the Appellant was frightened. It is whether, over the time and distance available to him, he did what the rule required of him, which was to take reasonable corrective action to prevent interference. He did not. On his own evidence he did nothing at all to check or straighten his horse; he continued to drive her forward and to urge her along while she worked her way steadily up the track into the leader.

13. The footage establishes two further things which tell against the explanation. First, the shift was neither sudden nor brief. It occurred progressively over a number of seconds and over a distance which HRNSW described, accurately in the Panel's view, as significant. There was ample opportunity to respond. Second, the Appellant was able to direct Marabelle when he chose to. He brought her back to the running line after she ducked out on the turn, and he directed her down into the sprint lane at the top of

the straight to secure the run that put him in the position of jeopardy to begin with. A driver who is able to move his horse inwards to gain an advantage, but says he was unable to move her inwards to avoid putting a fellow driver on the ground, is not in a strong position to contend that the fault lay with the horse.

14. The Panel is also conscious that the choice the Appellant describes, between pulling her head and "getting" Mr Glazebrook on the one hand, and continuing to drive forward on the other, was not a binary one. The Stewards put this squarely to him at TOI pages 16 and 17. The obvious alternative was to stop driving. The Appellant was contesting the race, Marabelle was making ground, and the Panel is left with the impression that the instinct to win contributed, with the instinct not to touch her head, to the course he took.

The penalty

15. Measured against the Guidelines, the Panel considers that the Stewards' calculation was, if anything, favourable to the Appellant, in three respects:

    (a) The starting point of 35 days for a horse checked and broke within the final 200 metres is plainly the correct category. The Guidelines then provide for an increase of at least 7 days, on the merits, where an incident results in a fall or a driver being dislodged. Here there were two falls, two drivers dislodged, two injured horses and a hospitalised driver. An increase of 14 days for consequences of that order was moderate. The Guidelines further permit an increase of up to 21 days for a high degree of carelessness. That was not applied, although the Appellant's admitted failure to take any corrective step at all over the period available to him would have justified consideration of it.

    (b) The Appellant was entitled to plead not guilty and nothing is held against him for doing so. But a plea of not guilty earns no reduction, and none was given.

    (c) The full 14-day reduction for a good driving record was allowed on the basis that more than two years had elapsed since the Appellant's last suspension under these rules, on 22 February 2023. HRNSW drew attention, correctly, to two matters which qualify that generosity. The first is that the Appellant had driven in only 78 races in that period, so that the passage of time says far less about his driving than it would for a driver in regular work; the Guidelines' alternative threshold of 600 drives is instructive. The second is that in that same period he was reprimanded on four occasions under the very rule now in question, at Parkes on 23 February 2024 and at Bathurst on 15 January 2025, 29 January 2025 and 11 February 2026. A record of that kind is not, in any ordinary sense, a good one. HRNSW has not sought to disturb the reduction and the Panel does not do so, but it forecloses any suggestion that the Appellant has been dealt with harshly.

16. The Appellant's long career and his evidence that he had never previously caused a fall were taken into account by the Stewards and have been taken into account by the Panel. They do not warrant any further reduction. The Panel also notes, without placing weight upon it, that the Appellant's offence record extends over more than four decades and includes a considerable number of suspensions under this rule and its predecessors.

17. Two further matters were raised and should be addressed. The first is that both horses have returned to racing. That is fortunate, and the Panel is glad of it, but it does not diminish the seriousness of what occurred. Penalty is assessed by reference to the culpability of the driver and the consequences that his conduct produced and risked at the time, not by reference to how well the victims happened to recover. The second is the Appellant's reference at the inquiry to his financial circumstances. A breach of **rule 163(1)(a)(iii)** carries a suspension and not a fine, and the Appellant made clear that he preferred it that way; personal hardship of the kind described is a consequence of every suspension and cannot of itself justify a shorter one.

18. Finally, the Panel records that **rule 163** exists to protect the safety of drivers and horses. An incident in which two drivers are thrown to the track at racing speed in the final 150 metres, one of them requiring hospital attention, is close to the most serious outcome that the rule is designed to prevent. General deterrence has real work to do in such a case. A penalty of 35 days, arrived at after a full discount for

record, is in the Panel's view at the lenient end of the range that was properly open. It is certainly not excessive.

The appeal fee

19. Since the hearing the Appellant has enquired, through the Appeals Co-ordinator, whether the fee of $250 which accompanied his Notice of Appeal will be returned to him. It will not. **NSWLR 181C(6)** requires every appeal to be accompanied by that fee, and **NSWLR 181F(e)** confers on the Panel the power to make such order as it thinks appropriate with reference to the disposal of it. The prescribed form, which the Appellant signed, states in terms that the fee may be forfeited at the discretion of the Panel. The appeal has failed on every point. There is no reason why the fee should be refunded, and the Panel orders that it be forfeited.

Orders

20. The Panel orders and directs:

    (a) Pursuant to **NSWLR 181F(a)**, the appeal is dismissed.

    (b) The decision of the Stewards of 30 September 2026 to suspend the Appellant's licence to drive in races for a period of 35 days commencing at midnight on 30 September 2026 is confirmed.

    (c) Pursuant to **NSWLR 181F(e)**, the appeal fee of $250 paid by the Appellant under **NSWLR 181C(6)** is forfeited.

    (d) There is no order as to costs.

    (e) The Secretary of the Panel is to provide a copy of this decision to the Appellant and to HRNSW within 7 days.

Dated 2 November 2026

Darren Kane (Convenor)
Jim Murphy
Brian Judd