

HARNESS RACING NEW SOUTH WALES APPEALS PANEL

Richard Williams
Appellant

Harness Racing New South Wales
Respondent

Determination

Background and the Notice of Appeal

- 1 Richard Williams (**Appellant**) is a licensed harness racing driver. The Appellant was first licensed to drive in the 2001 season and has held an A Grade drivers licence issued by Harness Racing New South Wales (**Respondent**) since 9 September 2003.
- 2 On 7 May 2026, the Respondent's Stewards conducted an inquiry at the Tamworth Harness Racing Club into the tactics adopted by the Appellant when driving the horse Unit Forty One in race 3 conducted at that day's Tamworth meeting, named the Grandmas Girls – Clare Mackney Pacing For Pink Pace (**Race**). The Race was conducted over a 1,609 metre course, with a mobile start. The inquiry was conducted by Mr S Cullen (**Chairman**) and Mr D Westwood.
- 3 The horse Unit Forty One, which is trained by the Appellant's father Mr Barry Williams, began the Race from barrier 6, the widest of the front row draws. Unit Forty One started at a price of \$81.00, the outsider of the ten-horse field, and finished tenth and last, beaten by 42.4 metres. The horse Yella, driven by Mr Tom Ison, started the \$2.00 favourite and finished fifth, beaten 14.6 metres.
- 4 At the conclusion of the inquiry the Stewards charged the Appellant with a breach of Rule 149(2) of the Australian Harness Racing Rules (**AHRR**), which is in the following terms:

149(2) A person shall not drive in a manner which in the opinion of the Stewards is unacceptable.
- 5 The particulars of the Stewards' charge are that the Appellant, as the driver of Unit Forty One in the Race:

... did drive unacceptably when, after entering the back straight on the first occasion, you drove with excessive force and applied unsustainable pressure, failing to give proper consideration to your circumstances until near the 500 metres, whereby, as a result of your actions, Unit Forty One commenced to weaken, hung in, and made contact with Rocknroll Rambo, resulting in Unit Forty One sustaining a flat tyre, which, in the opinion of the stewards, was inconsequential relative to your obligation to provide your drive with the intent of affording it the best possible run in transit, or obtaining the best possible position at the finish.
- 6 The Appellant pleaded *not guilty* to the charge. The Stewards found the charge proved.
- 7 As to penalty, the Stewards commenced with the starting point of a 10-week suspension prescribed by the Harness Racing New South Wales Penalty Guidelines for a breach of AHRR

149(2), and reduced that starting point by four weeks on account of the breach being the Appellant's first offence against the rule. The Stewards accordingly suspended the Appellant's drivers licence for a period of six weeks (**Stewards' Decision**).

- 8 The Appellant declined the deferral of the commencement of that suspension, which was offered to him, with the consequence that the suspension commenced at midnight on 7 May 2026 and would, absent the intervention of this appeal, expire on 18 June 2026.
- 9 The Appellant duly lodged with the Respondent a Notice of Appeal in respect of the Stewards' Decision, together with the prescribed appeal fee of \$250. The Notice of Appeal is dated and was lodged on 11 May 2026, and the Notice of Appeal is lodged in time by reference to Harness Racing NSW Local Rules 181C(2) and (4).
- 10 The Appellant appeals against both the finding that he breached AHRR 149(2) and the severity of the penalty imposed.
- 11 No stay of the suspension was sought or granted; the Appellant has therefore been serving the suspension throughout the period these proceedings have been on foot, and as at the date of the hearing before the Harness Racing New South Wales Appeals Panel (**Appeals Panel**) had served slightly more than five of the six weeks imposed.
- 12 The Appeals Panel convened to hear the appeal on 12 June 2026. The Appellant was self-represented. Mr Brett Day appeared on behalf of the Stewards for the Respondent.
- 13 Each of Mr Day and the Appellant made oral submissions; each was asked questions by the members of the Appeals Panel; and each was afforded, and took, the opportunity to ask questions of the other.
- 14 Each party took the Appeals Panel to video footage of the subject race, other races that Unit Forty One competed in on 16 and 30 April 2026, and another race not involving Unit Forty One that the Appellant relied on for precedential value.

Material before the Appeals Panel

- 15 The material put before the Appeals Panel comprised:
 - a) The Notice of Appeal.
 - b) The transcript of the proceedings before the Stewards on 7 May 2026 (**Transcript**).
 - c) The official race fields and results for the Tamworth meetings conducted on 7 May 2026 and 30 April 2026, together with the Stewards Report for the meeting of 30 April 2026.
 - d) The Respondent's written submissions dated 4 June 2026 (**Respondent Submissions**), together with the three decisions relied on in those submissions: the decision of the Victorian Racing Appeals Tribunal in *Mifsud* (26 June 2007); the decision of the New South Wales Racing Appeals Tribunal in *Panella* (15 March 2012); and the decision of the Tasmanian Racing Appeal Board in *Pullicino* (5 February 2008).
 - e) The Appellant's offence report and his career driving statistics.
 - f) Two emails sent by the Appellant on 5 June 2026, by which the Appellant placed before the Appeals Panel (i) a comparative analysis, supported by still frames, of a race conducted at Newcastle some days after the Race, in which another horse raced without cover for the entirety of the journey without attracting a charge; and (ii) extracts of various Stewards Reports published by the Respondent which record instances of horses sustaining flat sulky tyres in races, and the manner in which the Stewards on those occasions treated the effect of those flat tyres on the horses' performances.

- g) Video evidence of the Race, comprising multiple camera angles, to which both parties took the Appeals Panel during the hearing.
- 16 No objection was taken by the Respondent to the admission of the further evidence constituted by the Appellant's two emails of 5 June 2026, and the Appeals Panel admitted and has considered that material.
- 17 The Appellant also gave oral evidence before the Appeals Panel, including in answer to questions from the Panel concerning the mechanism and effect of the flat tyre sustained by Unit Forty One, and concerning the frequency of his race driving in recent seasons. Also, the Appellant gave evidence as to the particular racing style of Unit Forty One, in that the horse is a dour horse and a "grinder".

AHRR 149(2) and the proper approach to its application

- 18 These proceedings before the Appeals Panel constitute a hearing *de novo*, in which the Appeals Panel stands in the shoes of the Stewards and determines the matter afresh on the whole of the evidence before it. It follows that although AHRR 149(2) is expressed by reference to "*the opinion of the Stewards*", on a rehearing of this character the relevant opinion is that of the Appeals Panel, formed for itself; the question is not confined to whether the opinion formed by the Stewards on 7 May 2026 was one reasonably open to them. The onus of establishing the breach rests on the Respondent, on the balance of probabilities, bearing in mind the seriousness for a licensed person of a finding of this kind and of the suspension which follows it.
- 19 The proper construction and application of AHRR 149(2) is well settled, and neither party submitted otherwise. In *Mifsud*, Judge Williams of the Victorian Racing Appeals Tribunal restated the observations of Judge Goran in *Honan* (1983), being that the rule does not permit the mere substitution of the Stewards' view as to how a particular horse should have been driven for the view of the driver; that the rule does not seek to punish a mere error of judgment during the race on the part of the driver; and that the driver's conduct must be culpable in the sense that, objectively judged, it is found to be blameworthy. Judge Williams in *Mifsud* added his own formulation, since often repeated, that the culpability required to constitute a breach might be such that a reasonable and knowledgeable harness racing spectator would be expected to exclaim words to the effect of "*What on earth is he doing?*", or some similar exclamation.
- 20 The Appeals Panel also accepts, as the Respondent submitted by reference to the decision of the Racing Appeals Tribunal of NSW comprised of Tribunal Member Armati in *Panella*, that the holder of an A Grade drivers licence is to be assessed against the standard of expertise which that licence category represents, and cannot hide behind inexperience (or, it may be added, infrequency of driving) as a shield against the application of the rule. The standard is set by the licence. That principle is, however, directed to the standard against which a drive is measured; it does not relieve the Appeals Panel of the obligation to assess culpability objectively, in the whole of the circumstances of the particular race and the particular driver.
- 21 Finally, the Appeals Panel notes that AHRR 149(2) sits beneath the heading "*Race to win or for best position*", alongside AHRR 149(1). The vice at which the rule is chiefly directed is driving which deprives a horse of the opportunity to compete to its best. A drive may offend the rule by reason of excessive and unrelenting use of a horse, as the Tasmanian Racing Appeal Board found in *Pullicino* (albeit under the more serious AHRR 149(1)); but the dividing line between a hard drive born of a misjudged but genuine pursuit of the best possible position, and a culpably unacceptable drive, is one of degree, and it must be located with care.

The Race and the evidence

- 22 It is convenient to record at the outset what the Stewards themselves accepted, at the commencement of the inquiry: that Unit Forty One is a horse which races forward; that it had

raced outside the leader at its recent starts; and that it was reasonable for the Appellant to attempt to obtain that position if that accorded with his pre-race plan. The Appellant's evidence, which the Appeals Panel accepts, was that his instructions from the trainer were to drive the horse to its established forward racing pattern. The Stewards' criticism of the drive was expressly confined to the period from approximately the entrance to the back straight on the first occasion until the horse sustained the flat tyre near the 500 metres, which later became a flat tyre which dislodged itself from the rim of the left-side wheel of the sulky only to then become visibly entangled in the wheel and bearing mechanism.

- 23 The video evidence, the Transcript and the Appellant's evidence establish the following narrative, which was not materially in dispute:
- a) From the widest front row draw, the Appellant drove Unit Forty One forward with vigour from the start, and the horse was positioned four wide rounding the first turn, covering more ground than any other runner.
 - b) Approaching and into the first bend the Appellant attempted to obtain cover by slotting in behind a runner to his inside. The Chairman of Stewards conceded at the inquiry, fairly, that the Appellant attempted to obtain cover and that the attempt failed through no fault of the Appellant, the available gap having closed when another runner assumed the position.
 - c) Thereupon exposed three wide, the Appellant elected to improve forward to challenge Mr Ison on Yella for the position outside the leader. The Appellant's evidence was that he observed Mr Ison take hold as Yella reached the position outside the leader, and assumed that Mr Ison would hand up; that Yella, on its exposed form, was not a horse which races outside the leader; and that Unit Forty One had won from precisely that position two starts prior, in a mile race approximately a second faster than that recorded in the Race. Mr Ison did not yield. Mr Westwood, during the inquiry (see at page 8 of the Transcript from line 30), accepted that the decision to go forward at that point was fair; his concern, and that of the Stewards, was with how long the challenge persisted and with the pressure applied after it had failed.
 - d) The Appellant remained three wide without cover thereafter, continuing to urge the horse, including with use of the whip, through the run to the bell. Unit Forty One was racing in second position, albeit under pressure, as the field passed the winning post with a lap remaining.
 - e) Near the 500 metres, Unit Forty One, weakening and hanging in, made contact with the sulky of Rocknroll Rambo to its inside, and sustained a flat tyre to its left-side, inside sulky wheel. The Appellant accepted at the inquiry that the contact occurred because the horse was tiring and hanging in as a result of the run it had been afforded.
 - f) On the evidence as it developed before the Appeals Panel, the tyre initially punctured but remained on the rim; the Appellant shifted his weight and pressed on; at or about the 400 metres the tyre came off the rim entirely and lodged in the wheel and bearing mechanism, locking against the wheel's rotation such that while the wheel could rotate, it did so against a fair degree of resistance caused by the tangled tyre. From that point Unit Forty One was, in a practical sense, dragging a fouled wheel to the line. It finished last, beaten 42.4 metres.
- 24 The Respondent also relied on Unit Forty One's performance at Tamworth seven days earlier, on 30 April 2026, when driven by Mr Ison: from barrier 10 the horse worked three wide for approximately 400 metres to reach the position outside the leader, weakened from the 600 metres, and finished sixth beaten 30 metres.
- 25 The Respondent submitted that nothing in that performance supported a conclusion that the horse could withstand a materially longer exposed run, and that an experienced driver was bound to factor that recent performance into his in-race decision-making. The Appeals Panel accepts

that the 30 April 2026 run was a relevant data point which told against the prospects of the tactics ultimately adopted, although it also notes the Appellant's point that the horse's winning form two starts prior was recorded from the very position he was attempting to secure.

- 26 As to the Appellant's further evidence: the extracts of the Respondent's own Stewards Reports record, among other examples, a horse at Leeton on 29 April 2025 whose driver's explanation that carrying a flat tyre for the final 800 metres while racing outside the leader contributed to it being beaten 48.9 metres was accepted by the Stewards without criticism of the drive; a horse whose flat tyre sustained shortly after the start was recorded as "*placing them at a disadvantage*"; and further instances at Tamworth on 27 November 2025 and Newcastle on 16 December 2025 of flat tyres being recorded as bearing upon performance. The comparative still-frame analysis of the Newcastle race is addressed below.

Consideration of the appeal against the finding of a breach

- 27 The Appeals Panel wishes to record, plainly and at the outset, that it does not commend the Appellant's drive in the Race. It was a bad drive, and on the Appellant's own concessions at the inquiry a regretted one: he accepted, with the benefit of hindsight, that it would have been better had he not been in the position in which he found himself at all, and that there were points in the Race at which restraint was open to him. Nothing in this Determination should be read as endorsing the tactics adopted, or as suggesting that the Stewards were wrong to inquire into the drive. They were plainly right to do so.
- 28 But the question for determination is not whether the drive was a bad one, judged in hindsight. Most drives, on outsiders in particular, can be improved upon in hindsight. The question, on the authorities the Respondent itself relies upon, is whether the drive crossed the line which separates an error of judgment - even a serious or compounding one - from driving which is culpable and blameworthy when objectively judged, such that it is properly characterised as unacceptable within the meaning of AHRR 149(2).
- 29 On that question, and in what the Appeals Panel regards as a genuinely borderline case, the Appeals Panel has concluded that the Respondent has not discharged its onus. The Panel's reasons follow.
- 30 *First*, the predicament in which the Appellant found himself was not wholly, nor even principally, of his own making. Unit Forty One drew barrier 6 over a 1,609 metre mobile at Tamworth: a draw from which, if the horse was to be driven to its accepted forward pattern (a pattern, and an ambition, which the Stewards expressly accepted as reasonable), substantial early work was inevitable. The Appellant's attempt to mitigate that work by taking cover at the first opportunity failed through no fault of his own, as the Stewards properly conceded. The Appellant therefore arrived at the critical sequence of decisions already exposed, and already having done work which the Stewards do not criticise.
- 31 *Secondly*, the decision then to go forward and challenge for the position outside the leader rested on an assumption that Mr Ison on Yella would hand up. That assumption proved wrong, and it may fairly be described as heroic. But it was not irrational, and it was not made in disregard of the form: Yella had no exposed history of racing outside the leader, and Unit Forty One had won from that position only two starts prior in faster time than the Race was ultimately run. Mr Westwood himself accepted at the inquiry that the decision to go forward at that point was a fair one (see page 8 of the Transcript from line 30). The rule does not permit the substitution of the Stewards' view of that judgment call for the driver's.
- 32 *Thirdly*, once the challenge had failed, the Appellant was – as he put it, and as the Appeals Panel finds – in a lose-lose position. He was damned if he did continue forward, and damned if he did not. Pulling back to last at or approaching the bell would have surrendered 30 to 40 metres in a

race being run at a 1:58.5 mile rate, on a dour horse the Appellant's unchallenged evidence described as unsuited to being restrained and balanced for a sprint; sitting three wide and merely rating the horse was theoretically open but of doubtful practical utility once, in the Appellant's words, the horse was already "*going downhill*"; and pressing on courted precisely the criticism the Stewards ultimately made. The Tasmanian Racing Appeal Board in *Pullicino*, the very authority on which the Respondent leans, acknowledged in materially identical circumstances that none of the alternatives available to a driver caught in that position is a particularly attractive position to find one's self in.

- 33 The true content of the charge accordingly reduces to the degree of vigour applied by the Appellant over a span of perhaps 500 to 700 metres after the failed challenge, in an invidious position he had arrived at through a combination of a wide draw, a legitimate pre-race plan, a blameless failure to obtain cover, and a bold but defensible tactical assumption. Whether the pressure applied across that span passed from misjudged to culpably unacceptable is a question of fine degree on which reasonable and knowledgeable minds may, and in this case did, differ. The Appeals Panel is not persuaded that a reasonable and knowledgeable spectator, apprised of those circumstances, would have been moved to the exclamation Judge Williams described, as distinct from a more resigned observation that the Appellant was making the best of a bad situation, badly.
- 34 *Fourthly*, there is the flat tyre. The particulars of the charge characterise it as "*inconsequential*" relative to the Appellant's obligations. On the evidence as it evolved before the Appeals Panel, that characterisation cannot stand. One cannot view the race in a vacuum, and one cannot divorce from one's memory the vision of the sulky's tyre tangled around the wheel bearing on the outside of the rim and therefore in full view.
- 35 The Appeals Panel finds that the puncture near the 500 metres, followed by the tyre coming off the rim at or about the 400 metres and lodging in the wheel and bearing mechanism, had a material adverse effect on Unit Forty One over the concluding stages of the Race; and that had the tyre not punctured and come off the rim, the horse likely would have finished in a materially better position, considerably closer to the winner.
- 36 That finding is consistent with the horse's position in the body of the field as late as the 500 metres; with the unchallenged mechanical evidence as to where the tyre ended up and the Appellant's evidence as to the effect this had on the horse and sulky mechanism from that point until the end of the Race; and with the Respondent's own Stewards Reports, placed in evidence by the Appellant, which repeatedly treat flat tyres – including one carried for the final 800 metres by a horse racing outside the leader, beaten 48.9 metres without criticism of its driver – as materially explanatory of beaten margins.
- 37 The Appeals Panel accepts, as the Stewards emphasised at the inquiry, that the charge is directed to the decisions made by the Appellant before the tyre was sustained, and the Panel further accepts the probability that the contact which caused the puncture occurred because the horse, under pressure, had commenced to weaken and hang in.
- 38 But the flat tyre matters to the question of breach in two ways. The first is that the Respondent put it in issue by particularising it as inconsequential; it was not. The second, and more substantial, is that the visual collapse of the horse over the final 400 metres, and the eventual beaten margin of 42.4 metres, inevitably colour any overall impression that the drive left the horse with no chance.
- 39 Once the true and material effect of the fouled wheel is stripped out, the picture which remains – a horse racing in second position at the bell and still within the body of the field at the 500 metres, in a quickly-run race for the grade – sits uneasily with the conclusion that the pre-tyre pressure was so excessive, and so devoid of judgment, as to be culpable in the *Honan* sense.

- 40 A punctured sulky tyre arising from incidental wheel contact is a commonplace racing incident; the catastrophic sequel of the tyre dislodging and fouling the wheel was misfortune, not driving.
- 41 *Fifthly*, as to the Appellant's experience: the Respondent pressed, by reference to *Panella*, the Appellant's 24 years as a licensed driver, his A Grade licence held since 2003, and his 1,411 career drives. The Appeals Panel accepts, and has applied, the *Panella* principle that the Appellant falls to be assessed against the standard his licence represents.
- 42 But the evidence before the Appeals Panel, including the Appellant's career statistics and his oral evidence, establishes that the Appellant has had fewer than 70 race drives in the four years preceding the Race. He is not, whatever the vintage of his licence, presently a driver of the level of match practice and current expertise which the Respondent Submissions assert. His own evidence – that because he does not drive often he lacked confidence in his initial forward move, which is why it was tentatively made and why the opportunity to cross was lost – is, the Panel finds, an honest account, and it bears on the objective assessment of the blameworthiness of the in-race judgments that followed. It is not an excuse; it is part of the circumstances.
- 43 *Sixthly*, the Appeals Panel was left with the clear impression, having heard and questioned the Appellant at some length, that his decisions in the Race were made in good faith and for a proper purpose: an attempt, on an \$81.00 outsider, to extract the best possible result from the horse by driving it to its established pattern and to his instructions.
- 44 The heading under which AHRR 149(2) sits is "*Race to win or for best position*", and the mischief at which the rule chiefly aims is the failure to compete. A drive infected by over-zealous, misjudged optimism in pursuit of the best position is different in kind from a drive lacking endeavour, and while the former is certainly capable of breaching the rule where the use made of the horse extinguishes its chances – *Pullicino* is such a case – the threshold of culpability must be assessed with that difference in mind.
- 45 *Pullicino* is, in any event, distinguishable. There, over a 2,698 metre journey, the driver persisted in driving his horse hard, three wide and without respite, for some 400 metres after it was made unmistakably clear that the position outside the leader would not be surrendered, with no intervening mechanical interference, and the horse was beaten approximately 70 metres; the breach found was of the more serious AHRR 149(1); and the appeal which succeeded was against penalty only.
- 46 The present case is shorter in journey, more compressed in the decisions it required, attended by a material mechanical failure which substantially explains the beaten margin, and – in the Appeals Panel's assessment – finer in the balance.
- 47 Two further matters should be recorded. The first concerns the Appellant's comparative still-frame analysis of the Newcastle race conducted some days after the Race, in which, the Appellant contends, another horse raced three-wide without cover throughout under sustained pressure without its driver being charged.
- 48 The Appeals Panel has considered that material but places limited weight upon it. Whether the Appellant's drive breached AHRR 149(2) falls to be determined on the evidence concerning the Race; it cannot be determined by reference to the treatment of other drives in other races, each of which turns on its own facts and the impressions of the officiating stewards. Arguments of consistency, whatever their rhetorical force, do not answer the question before the Panel, and the Panel has not answered it by reference to them.
- 49 The second is that nothing in this Determination diminishes the obligation, resting on every driver in every race, to keep their options genuinely under review as a race unfolds, and to give their horse relief when persistence has become futile. Had the evidence established that Unit Forty One was driven with unrelenting and unrelieved vigour to the point of exhaustion, with the flat

tyre a footnote to a horse already beaten, the outcome of this appeal may well have been different. That, however, is not what the evidence, taken as a whole and tested at the hearing, established to the Appeals Panel's satisfaction.

- 50 Weighing all of the above, the Appeals Panel – standing in the shoes of the Stewards and forming the relevant opinion for itself, afresh and on the whole of the evidence – is not satisfied, on the balance of probabilities, that the Appellant drove Unit Forty One in the Race in a manner which is unacceptable within the meaning of AHRR 149(2).
- 51 The drive was poor; the judgment calls were bold and, in hindsight, wrong; but in this borderline case the Respondent has not established that the drive was culpable and blameworthy in the sense the authorities require, as distinct from a compounding of errors of judgment made in good faith from an invidious position, the consequences of which were then materially aggravated by mechanical misfortune.
- 52 The charge is therefore not made out, and the appeal against the finding of a breach must be upheld.

The appeal against severity of penalty

- 53 In light of the Appeals Panel's conclusion on the appeal against the finding of a breach, the appeal against the severity of the penalty does not arise and it is unnecessary to determine it.
- 54 The Appeals Panel notes, with some regret, that by reason of the Appellant's own election not to defer the commencement of the suspension, and the absence of any stay, the Appellant has already served the substantial majority of the six-week suspension now set aside.
- 55 Nothing in the orders which follow can restore that period to him; the orders operate to set aside the finding and the penalty, and to bring the suspension to an immediate end to the extent it remains unserved.

Orders

- 56 The Appeals Panel makes the following orders:
- a) The Appellant's appeal against the finding that he breached AHRR 149(2) is upheld.
 - b) The Stewards' Decision of 7 May 2026, comprising the finding that the Appellant breached AHRR 149(2) and the six-week suspension of the Appellant's drivers licence imposed in consequence, is set aside.
 - c) To the extent that the suspension has not already been served, it ceases with immediate effect upon the delivery of this Determination.
 - d) The appeal fee paid by the Appellant is to be refunded to him by the Respondent.

13 June 2026

Darren Kane (Convenor)
Graeme Campbell OAM
Jim Murphy