

## Nomination Criteria

### Paris 2024 Olympic Games

#### Sailing

## 1. Purpose

- 1.1 The objectives of this Nomination Criteria are to nominate Athletes to the Australian Olympic Committee (AOC) for selection to the Team. This Nomination Criteria has been devised to identify and nominate Athletes that have the best potential to accomplish the National Federation's strategic goal of medal race performances (top 10s) at the Games, with the ultimate aim of winning Gold medals.

## 2. Overview

- 2.1. This Nomination Criteria was drafted and prepared by the National Federation, provided to the National Federation's Athlete Leadership Group and the National Federation's High Performance Advisory Group for review and feedback, and was approved by the National Federation's Board of Directors on 15 December 2022. This Nomination Criteria will take effect on and from the date of approval by the AOC and the publication on the Australian Sailing Team (AST) website ([www.australiansailingteam.com.au](http://www.australiansailingteam.com.au)) on 16 January 2023 in accordance with clause 4.1. In addition to this publication, the National Federation may also communicate and distribute this Nomination Criteria, including any amendments, to relevant athletes through other communication channels available to the athletes.
- 2.2. Any amendments made to this Nomination Criteria by the National Federation pursuant to clause 12 are deemed to come into effect immediately upon publication on the AST website in accordance with clause 4.1. Additional publication of the amended Nomination Criteria will be made by whatever means and wherever the original Nomination Criteria was published. The National Federation will communicate amendments directly to athletes who have signed and submitted their 2024 Long List Agreement Form, which is set out at Schedule 1 of this Nomination Criteria.

## 3. Definitions and Interpretation

### 3.1. Definitions

Unless otherwise defined below, capitalised terms in this Nomination Criteria have the meaning given to them in the AOC Olympic Team Nomination and Selection By-Law, certain of which have been reproduced below for the sake of convenience.

**AOC** means the Australian Olympic Committee Inc and any of its officers, employees or agents and any committee it convenes including the AOC Selection Committee.

**AOC Olympic Team Nomination and Selection By-Law** means the document adopted by the Executive which governs, among other things, the nomination and selection of Athletes to a team for an Olympic Games or Olympic Winter Games and which is available at Schedule 2 of this Nomination Criteria and at <https://www.olympics.com.au/the-aoc/athlete-guidelines/>.

**AOC Selection Committee** means the committee established by the AOC to select athletes to the Australian Olympic Team for the Games.

**AOC Selection Criteria** means the criteria adopted by the AOC in respect of the Games which outlines the requirements for an athlete to be selected by the AOC to participate in the Games and which appears at Schedule 5 of this Nomination Criteria

**AST** means Australian Sailing Team, being the National Federation's national representative team for the sport of sailing.

**Athlete** means a person who:

(a) participates in the Sport; and

(b) is recognised by the National Federation or the AOC as eligible for nomination to the AOC for selection to the Team pursuant to this Nomination Criteria.

**Baseline Performance** means the achievement by a Crew of the required result in a regatta listed in Schedule 4 (as referred to in clause 9.3) in the Event for which the Crew is seeking nomination to the AOC for selection to the Paris 2024 Australian Olympic Team.

**Crew** means:

- a) the Athlete seeking nomination to the AOC for selection to the Team in a single person (Single Handed) Event;  
or
- b) the two Athletes who together are seeking selection for the nomination to the AOC for selection to the Team in a two-person (Double Handed) Event.

**Early Nomination** has the meaning given in clause 10.1.

**Early Nomination Date** has the meaning given in clause 10.4.

**Event** means each of the following events in the Sailing program for the Games:

- a) Event - Men's Windsurfer, Equipment - iQfoil;
- b) Event - Women's Windsurfer, Equipment - iQfoil;
- c) Event – Men's Kite, Equipment – Formula Kite;
- d) Event – Women's Kite, Equipment – Formula Kite;
- e) Event - Men's One Person Dinghy, Equipment – ILCA 7;
- f) Event - Women's One Person Dinghy, Equipment - ILCA 6;
- g) Event - Men's Skiff, Equipment - 49er;
- h) Event - Women's Skiff, Equipment - 49erFX;
- i) Event - Mixed Two Person Dinghy, Equipment - 470; and
- j) Event - Mixed Two Person Multihull, Equipment - Nacra 17.

**Executive** means the Executive of the AOC.

**Extenuating Circumstances** means:

- a) injury or illness;
- b) equipment failure;
- c) travel delays;
- d) bereavement or disability arising from death or serious illness of an immediate family member, which means a spouse, de facto partner, child, parent, grandparent, grandchild or sibling; or
- e) any other factors considered by the National Federation to constitute extenuating circumstances.

**Final Nomination Date** has the meaning given in clause 10.4.

**Forward Hand** means an Athlete who sails with a helmsperson in a two-person (Double Handed) Event.

**Games** means Paris 2024 Olympic Games.

**High Performance Advisory Group** means a group appointed by the National Federation's Board of Directors that is comprised of subject matter experts who provide the High Performance Director and Technical Director with high performance-related guidance and recommendations with respect to policies and activities relating to the high-performance program.

**International Federation** means World Sailing, being the world governing body for the sport of sailing, officially recognised by the International Olympic Committee.

**Long List** means a list of prospective members of the Team.

**National Federation** means Australian Sailing, being the national organisation for the sport of sailing in Australia.

**Nomination Date**, for each Event, means the date that the National Federation nominates an Athlete to the AOC for selection to compete in that Event, being either the Early Nomination Date or the Final Nomination Date.

**Qualification System** means the eligibility, participation and qualification criteria for the Sport in respect of the Games issued by the International Federation, which is set out in Schedule 3 of this Nomination Criteria and which is available on the International Federation's website at: <https://paris2024.sailing.org/racing/qualification-system/>

**Sport** means Sailing.

**Sport Entries Deadline** means the date on which entries to a Games must be submitted by the AOC, being 8 July 2024.

**Team** means the team of athletes and officials selected and appointed, respectively, by the AOC to participate in the Sport at the Games.

**World Sailing Regulations** means the regulations governing issues on the administration and organisation of the sport of sailing published on the World Sailing website, which is available at <https://www.sailing.org/inside-world-sailing/rules-regulations/>

### 3.2. Interpretation

- a) Unless the context otherwise requires, reference to:
  - (i) a clause is to a clause of this Nomination Criteria;
  - (ii) the singular includes the plural and the converse also applies;
  - (iii) persons include incorporated and unincorporated bodies, partnerships, joint ventures and associations and vice versa and their legal personal representatives, successors and permitted assigns and substitutes; and
  - (iv) a party includes the party's executors, administrators, successors and permitted assigns and substitutes.
- b) If a person to whom this Nomination Criteria applies consists of more than one person, then this Nomination Criteria binds them jointly and severally.
- c) A reference to time, day or date is to time, day or date of Sydney, Australia.
- d) Headings are for convenience only and do not form part of this Nomination Criteria or affect its interpretation.

## 4. General

- 4.1. This Nomination Criteria is issued by the Board of the National Federation. The National Federation must make available this Nomination Criteria (other than the Baseline Performance (objective criteria) referred to in clause 9.3 and contained in Schedule 4) to all Athletes participating in the Sport, including by publishing this Nomination Criteria on the National Federation's AST website. The Baseline Performance in Schedule 4 will only be made available to Athletes who have signed and submitted a 2024 Long List Agreement Form set out at Schedule 1, which sets out an Athlete's agreement to keep the details of the Baseline Performance (objective criteria) confidential. **The deadline for submitting a 2024 Long List Agreement Form is 1 February 2024.**
- 4.2. The National Federation may only nominate Athletes to the AOC in accordance with this Nomination Criteria.
- 4.3. This Nomination Criteria will take effect on and from the date of approval by the AOC and will cease to have effect at the conclusion of the Games.
- 4.4. This Nomination Criteria applies to:
  - a) all Athletes;
  - b) the National Federation; and
  - c) the AOC.
- 4.5. The terms of the AOC Olympic Team Nomination and Selection By-Law are incorporated by reference into this Nomination Criteria. The National Federation must provide and make available on the National Federation's AST website, the AOC Olympic Team Nomination and Selection By-Law to all Athletes, which is set out at Schedule 2 of this Nomination Criteria.

## 5. Nomination Panel

- 5.1. The role of the National Federation's Nomination Panel is to determine which Athletes will be nominated by the National Federation to the AOC for selection to the Team in accordance with clause 9. The nomination to the AOC will include details of the Crew.
- 5.2. The National Federation Board will appoint a six **to seven** person Nomination Panel. The Nomination Panel shall comprise:
  - a) The President of the National Federation or his/her nominee
  - b) The National Federation High Performance Director,

- c) The National Federation Technical Director, and
- d) **Up to 4** individuals (**but no less than 3**) selected by the National Federation Board having regard to their knowledge and expertise in high performance sailing and/or high level competitive sport.

If any individual appointed to a position in (a) to (d) above become unavailable for the Nomination Panel, the National Federation Board may replace that individual with an individual that next closely matches the skills/expertise of that panel member.

- 5.3. In addition to the (**six to seven**) voting members appointed under clause 5.2, the National Federation Board will appoint an independent Chairperson to chair the Nomination Panel. The Chairperson must not be a National Federation Board member or employee. The Chairperson will not be a voting member of the Nomination Panel unless the decision of the Nomination Panel voting members has resulted in a split decision, in which case the Chairperson will have the casting vote.

## **6. Long List**

- 6.1. For the purpose only of identifying prospective members of the Team, the National Federation or AOC may maintain a Long List of Athletes.
- 6.2. Subject to clause 8(b), membership of the National Federation's Long List or the AOC's Long List does not increase, decrease or otherwise affect an Athlete's prospects of being nominated by the National Federation, or being selected by the AOC, to the Team.

## **7. Athlete Quota Positions**

- 7.1. The National Federation may only nominate Athletes to the AOC for selection to the Team where, pursuant to the Qualification System, the International Federation has awarded the AOC or the National Federation athlete quota positions.
- 7.2. The National Federation may not nominate more Athletes than the number of athlete quota positions awarded to the AOC or the National Federation under the Qualification System.
- 7.3. The National Federation may nominate less Athletes than the number of athlete quota positions awarded to the AOC or the National Federation under the Qualification System.

## **8. Eligibility Criteria**

The National Federation will not nominate an Athlete unless, as at the Nomination Date, the National Federation is satisfied on reasonable grounds that the Athlete:

- a) is an Australian citizen;
- b) has completed and returned the "Australian Sailing Long List Agreement Form" (Schedule 1);
- c) is a financial member of a club affiliated to the National Federation and registered with the National Federation;
- d) has 'Competition Eligibility' and 'World Sailing Eligibility' as detailed in the International Federation Regulation 19 'Eligibility Code' of the World Sailing Regulations;
- e) satisfies the Qualification System;
- f) will satisfy the AOC Selection Criteria set out in Schedule 5 of this Nomination Criteria;
- g) has not breached the AOC Anti-Doping By-Law, unless the Athlete has been sanctioned for the breach and has completed the sanction imposed; and
- h) does not, and is not likely to in the foreseeable future, suffer from any physical or mental impairment that would prevent the Athlete from competing at the Games to the highest possible standard for that Athlete.

## **9. Athlete Nomination Criteria**

- 9.1. The National Federation will use one or both of Baseline Performance (objective criteria) and Nomination Panel discretion (subjective criteria) as required by this clause 9, in determining the Athletes to be nominated for selection to the Team for the Events.
- 9.2. The Nomination Criteria will be used in the following manner:

- a) If only one Crew achieves a Baseline Performance for an Event, then the National Federation will nominate the Athletes who form part of that Crew to the AOC for selection;
- b) If more than one Crew achieves a Baseline Performance for an Event, then the Nomination Panel will use its absolute discretion (as detailed in clause 9.4) to determine which of the Crews who achieved a Baseline Performance in its opinion will achieve the best result at the Games and the Athletes who form part of that Crew will be nominated;
- c) If no Crew achieves a Baseline Performance for an Event, then the Nomination Panel will determine in its absolute discretion (as detailed in clause 9.4):
  - (i) whether or not to nominate a Crew for selection for that Event; and
  - (ii) if the National Federation decides to nominate a Crew for selection for that Event, which Athletes will be nominated to form part of that Crew.

### 9.3. Baseline Performance (objective criteria)

The details of the Baseline Performance (objective criteria) are outlined within Schedule 4 of this Nomination Criteria. This information is restricted to Athletes who have signed and submitted a 2024 Long List Agreement Form set out in Schedule 1. Confidentiality is required in order that athletes of other countries and their performance support teams are not aware of the regattas at which a Baseline Performance can be achieved by Athletes. This will provide each Athlete seeking selection a fair opportunity to achieve a Baseline Performance.

### 9.4. Nomination Panel discretion (subjective criteria)

In making its determination under clauses 9.2(b), 9.2(c) or 9.8, the Nomination Panel may have regard to any, all, or none of the following considerations, in its absolute discretion:

- a) performance (including performance trend) at the Paris Test Event held in Marseille France in August 2023 and at regattas graded by World Sailing as at least 100-Point Events, that are held between 1 January 2023 and the end date of the last regatta at which a Crew can achieve a Baseline Performance for that Event;
- b) wind and sea conditions and race quality at regattas referred to in 9.4(a);
- c) the recommendation of the National Federation High Performance Director, National Federation Technical Director, and the relevant AST Coach for each Event;
- d) Crew composition and compatibility on and off the water;
- e) the Crew's physical form and fitness;
- f) the likelihood that the Crew will exacerbate an existing injury in the lead up to or during the Games;
- g) the benefit or detriment of the Crew's membership of the Team with respect to team dynamics, team behaviour and team performance; and
- h) the extent to which the Crew has demonstrated, while this Nomination Criteria has effect:
  - (i) discipline;
  - (ii) motivation; and
  - (iii) commitment to the Sport of sailing and to the AST.

9.5. Crew access to support, services, resources and facilities provided by, through or to the National Federation is always at the absolute discretion of the National Federation. Crews nominated for selection to the AOC after achieving a Baseline Performance will have priority access to support, services, resources and facilities provided by, through or to the National Federation, in the lead up to and at the Games.

9.6. If a Crew achieves a Baseline Performance in more than one Event, the Nomination Panel has the absolute discretion to determine for which Event or Events the Athletes who form part of that Crew will be considered for nomination to the AOC for selection.

9.7. In a two-person (Double Handed) Event, the achievement of a Baseline Performance vests with the helmsperson of the Crew (and not the Forward Hand).

9.8. A helmsperson of a Crew that has achieved a Baseline Performance may make an application for a change of Athlete who sails with that helmsperson (the Forward Hand). Application for a change of Forward Hand must be made in writing to the National Federation Performance Director at [pd@sailing.org.au](mailto:pd@sailing.org.au). Changes will be considered at any time prior to the Nomination Date. Approval for a change of Forward Hand will be determined by the Nomination Panel in its absolute discretion (as detailed in clause 9.4) and is not guaranteed.

## 10. Submission of Nominations

- 10.1. The Nomination Panel has the discretion to nominate Athletes who form part of a Crew following the completion of at least three of the regattas listed for that Event in Schedule 4 (**Early Nomination**), provided all of the following conditions have been met:
  - 10.1.1. Only one Crew has achieved a Baseline Performance;
  - 10.1.2. Australia has qualified a quota place to participate in that Event at the Games; and
  - 10.1.3. The National Federation Performance Director and National Federation Technical Director recommend to the Nomination Panel that selection at this time will benefit the preparation towards winning a medal in that Event.
- 10.2. The Nomination Panel will meet within two weeks following the completion of the third regatta listed for each Event in Schedule 4 to determine if an Early Nomination will be made under clause 10.1.
- 10.3. For any Event where the conditions in clause 10.1 have not been satisfied and no Athlete(s) have been nominated under that clause, the National Federation may only nominate Athlete(s) after all the regattas for that Event listed in Schedule 4 are completed.
- 10.4. Once all regatta dates for each Event listed in Schedule 4 are confirmed, the National Federation will immediately notify the AOC and the Athletes relevant to that Event in writing of the earliest possible date on which nominations may be made under clause 10.1 (**Early Nomination Date**) and the date on which nominations will be made if clause 10.3 applies (**Final Nomination Date**).
- 10.5. The Final Nomination Date for all Events will be no later than 30 May 2024.
- 10.6. The National Federation must nominate Athletes to the AOC by the Final Nomination Date. The AOC may, in its absolute discretion extend the Final Nomination Date for the National Federation for any reason.
- 10.7. The National Federation must inform Athletes of their nomination or non-nomination by no later than:
  - a) 48 hours prior to the Nomination Date, where such written notice would be received by the Athlete 14 days prior to the Sport Entries Deadline; or
  - b) 24 hours prior to the Nomination Date, where such written notice would be received by the Athlete within 14 days of the Sport Entries Deadline,or such later date as the AOC advises the National Federation.
- 10.8. Nominations submitted to the AOC must be in the form prescribed by the AOC or in a form that is otherwise acceptable to the AOC and include any such information that is required pursuant to the AOC Olympic Team Nomination and Selection By-Law.
- 10.9. The AOC may, in its absolute discretion, accept a nomination submitted after the Final Nomination Date where it is submitted by the National Federation as a result of an appeal brought in accordance with the AOC Olympic Team Nomination and Selection By-Law (Schedule 2).

## 11. Extenuating Circumstances

- 11.1. In determining whether an Athlete has satisfied the subjective criteria set out in clause 9.4, the Nomination Panel may have regard to Extenuating Circumstances. For the avoidance of doubt, the National Federation will not have regard to Extenuating Circumstances in determining whether an Athlete has satisfied the Baseline Performance (objective criteria) set out in clause 9.3 and Schedule 4.
- 11.2. In the event that an Athlete determines that he or she is unable to attend a competition, camp, training session or other event which is referred to in this Nomination Criteria (**Nomination Event**), that Athlete must notify the National Federation of his or her non-attendance in writing as soon as practicable.
- 11.3. For the purpose of the subjective criteria set out in clause 9.4, the National Federation may consider an Athlete's non-attendance at a Nomination Event to be an Extenuating Circumstance in its absolute discretion. The National Federation may require an Athlete to undergo a medical examination as a condition of treating the Athlete's non-attendance at a Nomination Event as an Extenuating Circumstance.

## 12. Appeals

- 12.1. A non-nominated athlete may only appeal against their non-nomination (***Nomination Appeal***) in accordance with the procedure set out in clause 9.6 or clause 9.9 of the AOC Olympic Team Nomination and Selection By-Law (***AOC By-Law***).
- 12.2. Any Nomination Appeal arising out of this Nomination Criteria which is commenced under clause 9.6 of the AOC By-Law will be heard by the NST General Division in accordance with clause 9.6(c) of the AOC By-Law. For clarity, clause 12.1 does not apply to appeals against non-nomination commenced under clause 9.9 of the AOC By-Law (***Nomination Fast Track Appeal***).

### **13. Amendments**

- 13.1. This Nomination Criteria may only be amended with the written consent of the AOC Selection Committee.
- 13.2. The AOC may amend the AOC Selection Criteria from time to time in its absolute discretion. If advised by the AOC of such an amendment, the National Federation must update Schedule 5 to this Nomination Criteria and re-upload an updated Nomination Criteria to the National Federation's AST website and advise Athletes of the amendment.
- 13.3. Where the AOC forms a reasonable opinion that this Nomination Criteria (other than Schedule 5) requires amendment, the AOC must notify the National Federation of the required amendments. The National Federation must work collaboratively with the AOC in good faith to amend this Nomination Criteria to the satisfaction of the AOC.

### **14. Governing Law**

This Nomination Criteria is governed by the laws of the State of New South Wales.

### **15. Priority of Documents**

To the extent of any inconsistency, the following documents shall be given the following descending order of precedence:

- a) the AOC Constitution;
- b) the AOC Olympic Team Nomination and Selection By-Law (including AOC Selection Criteria); and
- c) this Nomination Criteria.

## SCHEDULE 1

### Long List Agreement Form

<b>Athlete Name:</b>	(Full Name)
<b>Date of Birth:</b>	(DD/MM/YYYY)
<b>World Sailing Number:</b>	
<b>Australian Sailing Number:</b>	
<b>Nomination Criteria Document Version:</b>	
<b>Baseline Performance Regatta Document Number:</b>	

I hereby notify the National Federation that I wish to be on the National Federation's Long List. Being on the Long List means that:

- (a) I wish to be considered for nomination to the Team for the sport of Sailing.
- (b) I have read, had the opportunity to seek legal advice and agree to be bound by the Nomination Criteria for the 33<sup>rd</sup> Olympic Games for the sport of Sailing (Nomination Criteria), including the AOC Olympic Team Nomination and Selection By-Law.
- (c) I acknowledge that confidential information of the National Federation, and in particular the details contained in the "*Nomination Criteria 2024 – Sailing Baseline Performance Regattas*" document, is of great value and importance to the National Federation such that the unauthorised use, disclosure or duplication of it would result in significant harm to the National Federation. I shall hold all information contained in the "*Nomination Criteria 2024 – Sailing Baseline Performance Regattas*" document in the strictest confidence and shall not disclose this information to anyone unless expressly authorized by the National Federation in writing. Accordingly, I agree that the National Federation will have the right to seek and obtain immediate injunctive relief against a breach of this Agreement, in addition to any other rights and remedies the National Federation may have.
- (d) I have read and understand clause 9.5 of the Nomination Criteria.
- (e) I understand that the Board of the National Federation will appoint a Nomination Panel as set out in clause 9.2 of the Nomination Criteria who will either make recommendations to the Board of the National Federation regarding nominations or will be authorised by the Board of the National Federation to make the Nominations to the AOC.
- (f) I have read the International Federation's document Qualification System – Games of the XXXIII Olympiad – Paris 2024, in particular clause C – ATHLETE ELIGIBILITY.

Agreed by:

**ATHLETE**

**DATE:**

Signature: \_\_\_\_\_

Print Full Name: \_\_\_\_\_

**WITNESS**

**DATE:**

Signature: \_\_\_\_\_

Print Full Name: \_\_\_\_\_



**PARENTAL CONSENT**

(if the Athlete is under 18 years of age at the time of signing this Long List Agreement Form)

I have read the Nomination Criteria for the 33<sup>rd</sup> Olympic Games for the Sport of Sailing (Nomination Criteria) and agree to the person who signed above to be bound to this Agreement.

Furthermore, I acknowledge that Confidential Information of the National Federation, and in particular the details contained in the “Sailing Baseline Performance Regattas” document, is of great value and importance to the National Federation such that the unauthorised use, disclosure or duplication of it would result in significant harm to the National Federation. Accordingly, I agree that the National Federation will have the right to seek and obtain immediate injunctive relief against a breach of this Agreement, in addition to any other rights and remedies the National Federation may have.

Agreed by:

**PARENT / GUARDIAN:**

**DATE:**

Signature: \_\_\_\_\_

\_\_\_\_\_

Print Full Name: \_\_\_\_\_

**WITNESS**

**DATE:**

Signature: \_\_\_\_\_

\_\_\_\_\_

Print Full Name: \_\_\_\_\_

## SCHEDULE 2

### AOC Olympic Team Nomination and Selection By-Law



## Olympic Team Nomination and Selection By-Law

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**AUSTRALIAN OLYMPIC COMMITTEE INC** ABN 33 052 258 241 | REGISTRATION NO. A0004778J

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Recognised by  
the International Olympic Committee

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# 1 Definitions and Interpretation

## 1.1 Definitions

The following definitions apply unless the context requires otherwise.

<b><i>Affected Party</i></b>	has the meaning given in clauses 9.5(c) and 9.5(g).
<b><i>AOC</i></b>	means the Australian Olympic Committee Inc.
<b><i>AOC Anti-Doping By-Law</i></b>	means the Anti-Doping By-Law adopted by the AOC that is in force and amended from time to time and available at <a href="https://www.olympics.com.au/the-aoc/governance/">https://www.olympics.com.au/the-aoc/governance/</a> .
<b><i>AOC Constitution</i></b>	means the Constitution of the AOC.
<b><i>AOC Executive</i></b>	means the Executive elected or appointed in accordance with the AOC Constitution.
<b><i>AOC Selection Committee</i></b>	means the committee established by the AOC to select Athletes and appoint Officials to a Team.
<b><i>Appeal</i></b>	means a Nomination Appeal or Selection Appeal, and does not include a Fast Track Appeal.
<b><i>Appeal Forum</i></b>	means an Appeal Tribunal, the NST General Division or the Appeals Arbitration Division of CAS.
<b><i>Appeal Tribunal</i></b>	means a tribunal convened by the NF for the purpose of hearing a Nomination Appeal in accordance with clause 9.6(b).
<b><i>Appellant</i></b>	means an Athlete or other person who has commenced an Appeal or Fast Track Appeal.
<b><i>Athlete</i></b>	<p>means a person who:</p> <ul style="list-style-type: none"><li>(a) participates in a sport that is included in the sports programme of a Games; and</li><li>(b) is recognised by the NF governing that sport as eligible for nomination to the AOC for selection to a Team.</li></ul> <p>Where this By-Law refers to individuals who are selected by the AOC to participate in a Team, those individuals will also be referred to as Athletes.</p>
<b><i>AUD</i></b>	means Australian Dollars.
<b><i>Business Day</i></b>	means a day other than a Saturday, Sunday or public holiday in Sydney, New South Wales.
<b><i>CAS</i></b>	means the Court of Arbitration for Sport.
<b><i>CAS Statement of Appeal</i></b>	means the statement of appeal which meets the requirements of Rule 48 of the CAS Code of Sport-related Arbitration a copy of which is, a copy of which is available at <a href="https://www.olympics.com.au/the-aoc/athlete-guidelines/">https://www.olympics.com.au/the-aoc/athlete-guidelines/</a> .
<b><i>CAS Code</i></b>	means the Code of Sports-related Arbitration as amended from time to time.
<b><i>CAS Costs</i></b>	means the costs and expenses of the CAS of and incidental to an appeal to the CAS as provided for in clause 9.10.
<b><i>Chief Executive</i></b>	means Chief Executive Officer and any representative of a Chief Executive Officer.
<b><i>CHF</i></b>	means Swiss Franc.
<b><i>Child</i></b>	means a person under the age of 18 years.

<b>Child Abuse</b>	<p>means physical, emotional, psychological, harming or exploitation of children, whether in person or online, whether a one-off incident or a series of incidents, whether sexual or otherwise and includes, but not limited to:</p> <ul style="list-style-type: none"> <li>(a) derogatory or inappropriate behaviour;</li> <li>(b) non-accidental injury to children;</li> <li>(c) inappropriate touching;</li> <li>(d) physical, emotional, psychological or sexual abuse including groomed or forced involvement in sexual behaviour, verbal or physical conduct or gesture of a sexual nature (e.g. the use of offensive stereotypes based on gender, sexual jokes, threats, intimidation);</li> <li>(e) insensitivity towards children with cultural or religious differences; or</li> <li>(f) neglect of an individual, being the failure of a person with a duty of care towards another person to provide a minimum level of care to that person, which is causing harm, allowing harm to be caused, or creating an imminent danger of harm</li> </ul>
<b>Competition</b>	means a race, match, game or sport contest.
<b>Fast Track Appeal</b>	means a Nomination Appeal or Selection Appeal heard according to the Fast Track Appeal Process.
<b>Fast Track Appeal Process</b>	means the process for resolving Athlete nomination and selection disputes where time is of the essence, in accordance with clause 9.9.
<b>Games</b>	means any one of the Olympic Games, Olympic Winter Games, Youth Olympic Games and Winter Youth Olympic Games.
<b>Games Period</b>	means the period of time between the Sport Entries Deadline and the date that is three days after the "Closing Ceremony" of that Games.
<b>IOC</b>	means the International Olympic Committee.
<b>International Federation</b>	means an international non-governmental organisation recognised as an international federation by the IOC pursuant to the Olympic Charter.
<b>Late Athlete Replacement</b>	means the replacement of an Athlete under any Late Athlete Replacement rules or policies issued by the International Olympic Committee or an Organising Committee of the Olympic Games.
<b>Long List</b>	means Athletes who are recognised by an NF or the AOC as prospective members of a Team.
<b>Long List Member</b>	means a member of the Long List.
<b>National Anti-Doping Organisation</b>	has the meaning given to that term in the World Anti-Doping Code issued by the World Anti-Doping Agency, as amended from time to time.
<b>National Federation</b>	means an Australian organisation affiliated to an International Federation which governs a sport included in the sports programme of the next Olympic Games or the next Olympic Winter Games.
<b>National Integrity Policies</b>	<p>means:</p> <ul style="list-style-type: none"> <li>(a) the policies required by SIA as part of its National Integrity Framework; or</li> <li>(b) policies (whether combined or separate) which address member protection, child safeguarding, improper use of</li> </ul>

drugs and medicine, competition manipulation and sports wagering and complaints management,

which are adopted and implemented by a National Federation and which underpin integrity in the National Federation's sport.

**National Sports Tribunal  
(or NST)**

means the Australian Government entity known as the National Sports Tribunal established by the *National Sports Tribunal Act 2019* (Cth).

**NST Act**

means the *National Sports Tribunal Act 2019* (Cth).

**NST Application Form**

Means the form titled "Application Form" available at <https://www.nationalsportstribunal.gov.au/resources/application-form>.

**NST Legislation**

means the NST Act and any legislative instruments made under the NST Act as may be in force from time to time, including the National Sports Tribunal Rule 2020 (Cth), National Sports Tribunal (Practice and Procedure) Determination 2021 (Cth) and National Sports Tribunal Act 2019 - Principles for Allocating a Member to a Dispute 2020.

**NST Preliminary  
Conference**

means a conference between the NST and the parties of a Nomination Appeal to discuss, among other things, the likely timing and costs of the Nomination Appeal.

**NST Procedure**

means the process and procedure by which the NST operates, including as set out in the NST Legislation in effect at the time of the commencement of a Nomination Appeal.

**NST Registry**

means the NST registry located within the Australian Government Department of Health which provides case management and administrative support.

**NST Service Charges**

means the charges that may be payable to the NST to cover the cost of the arbitration under section 46 of the NST Act.

**NF**

means National Federation.

**NF's Sport**

has the meaning given to that term in clause 4.1(a).

**Nomination Appeal  
Nominated Athlete**

has the meaning given to that term in clause 9.4(a).

means an Athlete that is nominated for selection to the Team for a Games in accordance with the provisions of clauses 5.1(f) & 5.2(d) and the procedure set out in clause 5.3(c).

**Nomination Appeal  
Application**

has the meaning given to that term in clause 9.6(b)(iii).

**Nomination Criteria**

means the criteria outlining the requirements for an Athlete to be nominated by an NF to the AOC for selection as a member of a Team for a Games, or failing nomination by an NF governing a sport in the Olympic Winter Games or Winter Youth Olympic Games, the criteria determined for that sport by the AOC in its sole and absolute discretion.

**Nomination Date**

has the meaning given to that term in clause 5.3(b).

**Nomination Date Deadline**

has the meaning given to that term in clause 5.3(a).

**Nomination Fast Track  
Appeal**

means a Nomination Appeal heard according to the Fast Track Appeal Process.

**Official**

means a person who administers, manages, coaches, supports, assists or is otherwise involved with a Team including, but not limited to, armourers, assistant team leaders, boat people, caddies, chiropractors, coaches,

	conditioners, farriers, gear stewards, grooms, medical practitioners, mechanics, meteorologists, nutritionists, physiotherapists, psychologists, shipwrights, soft-tissue therapists, sports scientists, team leaders, technicians, veterinarians, wax technicians and other officials of the Team.
<b>Ap Alternate Athlete</b>	Means a non-competing athlete who has not been selected in the Team but has been identified as an “Ap Alternate Athlete to be issued with a limited accreditation and who can only become a competing athlete under a Late Athlete Replacement rule issued by the International Olympic Committee or an Organising Committee of the Olympic Games.
<b>Qualification System</b>	means the eligibility, participation and qualification criteria for a sport in respect of a Games as determined by the IF controlling that sport and the IOC in accordance with the Olympic Charter.
<b>Reserve Athlete</b>	means a competing Athlete who has been selected in the Team and who is entered by the AOC in a specific event but may be substituted for another athlete entered in a different event until the time of the final confirmation of entries for that event.
<b>Selection Appeal</b>	has the meaning given to that term in clause 9.4(b).
<b>Selected Athlete</b>	has the meaning given to that term in clause 6.2(e).
<b>Selection Criteria</b>	means the criteria adopted by the AOC in respect of a Games which outlines the requirements for an Athlete to be selected by the AOC to the Team for that Games and will be made available at <a href="https://www.olympics.com.au/the-aoc/governance/">https://www.olympics.com.au/the-aoc/governance/</a> .
<b>Selection Fast Track Appeal</b>	means a Selection Appeal heard according to the Fast Track Appeal Process.
<b>SIA</b>	means Sport Integrity Australia and includes any successor thereto established by the Australian Government as the <i>National Anti-Doping Organisation</i> for Australia.
<b>Sport Entries Deadline</b>	means the date on which entries to a Games must be submitted by the AOC.
<b>Team</b>	means the team of Athletes and Officials who are selected and appointed, respectively, by the AOC to participate in and compete at a Games.
<b>Team Member</b>	means an Athlete or Official selected or appointed by the AOC as a member of a Team.
<b>Team Membership Agreement</b>	means either or both of the AOC’s Team Membership Agreement for Athletes and the AOC’s Team Membership Agreement for Officials issued by the AOC in respect of a Games which governs an Athlete’s or an Official’s participation in that Games.
<b>Team Sponsor</b>	means an entity or organisation which has entered into a sponsorship or similar arrangement with the AOC pursuant to which the entity or organisation has provided financial support or goods and/or services to the AOC in exchange for the AOC providing the entity or organisation with sponsorship rights and benefits.
<b>World Anti-Doping Code</b>	means the anti-doping code adopted and implemented by the World Anti-Doping Agency.
<b>Written Notice</b>	means notice in writing by letter, email or other written means of communication.

## 1.2 Interpretation

- (a) Words not defined in this By-Law have the meaning ascribed to them in the AOC Constitution unless a contrary meaning appears from the context.
- (b) Unless the context otherwise requires, reference to:
  - (i) a clause is to a clause of this By-Law;

- (ii) the singular includes the plural and the converse also applies;
  - (iii) persons include incorporated and unincorporated bodies, partnerships, joint ventures and associations and vice versa and their legal personal representatives, successors and permitted assigns and substitutes; and
  - (iv) a party includes the party's executors, administrators, successors and permitted assigns and substitutes.
- (c) If a person to whom this By-Law applies consists of more than one person, then this By-Law binds them jointly and severally.
  - (d) A reference to time, day or date is to time, day or date of Sydney, Australia.
  - (e) The meaning of general words is not limited by specific examples introduced by including, for example or similar expressions.
  - (f) A rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of the document or any part of it.
  - (g) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
  - (h) Headings are for convenience only and do not form part of this By-Law or affect its interpretation.

## **2 Application**

This By-Law applies to:

- (a) Athletes;
- (b) Officials;
- (c) NFs; and
- (d) the AOC.

## **3 NF Continuous Disclosure**

- (a) Where an NF has a reasonable suspicion that an Athlete, Official, Team Member or Long List Member has:
    - (i) engaged in conduct (whether publicly known or not), which:
      - (A) has brought, brings or would have the tendency to bring, the individual or the individual's sport into disrepute or censure;
      - (B) is, or would have the tendency to be inconsistent with, contrary to, or prejudicial to the best interests, reputation or values of the AOC, or the Olympic Movement; or
      - (C) indicates that the individual's association with the AOC or the Olympic Movement would not be, or would not likely be, in the best interests of the Team, AOC or the Olympic Movement; or
    - (ii) been convicted of, or charged with, any offence involving violence, alcohol or drugs, Child Abuse, any sex offence or offence relating to betting or gambling on sport, or any offence which is punishable by imprisonment,
- that NF must honestly and fully disclose all relevant information to the AOC as soon as reasonably practicable.



- (b) The information that an NF is required to disclose to the AOC pursuant to clause 3(a) includes, but is not limited to, information regarding:
  - (i) the individual concerned;
  - (ii) the individual's conduct;
  - (iii) the circumstances surrounding the individual's conduct; and
  - (iv) the terms of any sanction imposed or proposed to be imposed by the NF or any other body (as far as the NF is aware) in respect of such conduct.

## 4 Long List

### 4.1 NF Long List

- (a) For the purposes of identifying prospective Team Members and assisting the AOC in the administration of Team Members only, an NF may, in respect of the sport for which it is the governing body (**NF's Sport**), choose to recognise Athletes who are eligible for nomination by the NF to a Team, or who are eligible for selection by the AOC to a Team, by identifying those Athletes as members of the NF's Long List.
- (b) Membership of an NF's Long List does not increase, decrease or otherwise affect an Athlete's prospects of being nominated by an NF, or being selected by the AOC, to a Team.

### 4.2 AOC Long List

- (a) For the purpose of identifying prospective Team Members only, the AOC may choose to identify Athletes who are eligible for nomination by an NF to a Team, or who are eligible for selection by the AOC to a Team, by designating such Athletes as members of the AOC's Long List.
- (b) The AOC may, in its absolute discretion:
  - (i) recognise an Athlete who is a member of the NF's Long List as a member of the AOC's Long List; and
  - (ii) recognise an Athlete who is not a member of an NF's Long List as a member of the AOC's Long List.
- (c) Membership of the AOC's Long List does not increase, decrease or otherwise affect an Athlete's prospects of being nominated by an NF, or being selected by the AOC, to a Team.

## 5 Nomination of Athletes

### 5.1 General

- (a) Where pursuant to a Qualification System the AOC is awarded athlete quota positions for a sport contested at a Games, the NF governing that sport may nominate Athletes to the AOC for selection to the Team for that Games.
- (b) An NF may only make a nomination pursuant to clause 5.1(a) where the NF has adopted and is compliant with:
  - (i) National Integrity Policies; and
  - (ii) an anti-doping policy that:
    - (A) conforms with the World Anti-Doping Code; and

- (B) conforms with the AOC Anti-Doping By Law.
- (c) In the event an NF elects to nominate an Athlete pursuant to clause 5.1(a), the NF must:
  - (i) only nominate the Athlete in accordance with the Nomination Criteria adopted by the NF pursuant to clause 5.2; and
  - (ii) submit its nomination in accordance with the procedure set out in clause 5.3.
- (d) An NF may not nominate more Athletes than are permitted to be nominated under the Qualification System applying to the NF's Sport.
- (e) An NF controlling a sport on the program of the Olympic Games or the Youth Olympic Games may nominate pursuant to 5.1(c) less Athletes than are permitted under the applicable Qualification System.
- (f) An NF controlling a sport on the program of the Olympic Winter Games must nominate all Athletes permitted under the applicable Qualification System.
- (g) In the event an NF controlling a sport on the program of the Olympic Winter Games or the Winter Youth Olympic Games elects to nominate less Athletes than are permitted under the Qualification System, the AOC may in its sole and absolute discretion nominate Athletes for selection to a Team in place of the NF, provided the AOC gives reasonable notice to the NF and:
  - (i) nominates Athletes in accordance with the Nomination Criteria adopted by the NF pursuant to clause 5.2; or
  - (ii) where the NF has not adopted a Nomination Criteria pursuant to clause 5.2, the AOC nominates Athletes in accordance with a Nomination Criteria that is adopted by the AOC and that nomination criteria complies with the obligations set out in clause 5.2.
- (h) The AOC is not responsible for and assumes no liability in respect of any injury or illness suffered by an Athlete who is nominated by an NF, or by the AOC under clause 5.1(g), for selection to a Team.
- (i) In the event the AOC makes a nomination pursuant to clause 5.1(g), the provisions of this clause 5 will apply, with references to the nominating NF to be taken as references to the AOC in respect of such nomination.

## 5.2 **Nomination Criteria**

- (a) In order to nominate Athletes for selection to a Team for a Games pursuant to clause 5.1(a), an NF must adopt a Nomination Criteria that applies to the NF's Sport for that Games.
- (b) Unless otherwise authorised by the AOC, a Nomination Criteria adopted by an NF must:
  - (i) be in a form acceptable to the AOC;
  - (ii) comply with this By-Law;
  - (iii) comply with the Qualification System applying to the NF's Sport for the Games;
  - (iv) include provisions which state:
    - (A) how objective criteria, if included, will be assessed in determining the nomination of Athletes;

- (B) how subjective criteria, if included, will be assessed in determining the nomination of Athletes; and
  - (C) how, where both objective and subjective criteria is included, the nomination of Athletes will be assessed according to both categories of criteria; and
- (v) append or include reference to the AOC's Selection Criteria.
- (c) Prior to publication, an NF must submit its proposed Nomination Criteria in draft form to the AOC for approval by such date as is specified by the AOC.
- (d) The AOC may, in its absolute discretion, approve an NF's draft Nomination Criteria and impose any terms or conditions of approval that the AOC sees fit. If an NF controlling a sport on the program of an Olympic Winter Games or Winter Youth Olympic Games fails to nominate an athlete who has qualified under the applicable Qualification System, the AOC, in its sole and absolute discretion, will determine whether the Athlete will be deemed to be nominated or proposed for the purpose of By-Law 2.1 to Rules 27 and 28 of the Olympic Charter.
- (e) Where the AOC forms a reasonable opinion that an NF's draft Nomination Criteria requires amendment, the AOC must notify the NF of the required amendments. The NF must work collaboratively with the AOC in good faith to amend its draft Nomination Criteria to the satisfaction of the AOC.
- (f) Once approved by the AOC, an NF may not amend or otherwise alter its Nomination Criteria without the AOC's prior written approval.
- (g) An NF must adopt a finalised Nomination Criteria by the latter of:
  - (i) 12 months prior to the first nomination event specified in the Nomination Criteria; or
  - (ii) such other date as the AOC may in its absolute discretion determine for the NF's Sport for the Games.
- (h) Once finalised, an NF must make its Nomination Criteria available to all Athletes participating in the NF's Sport including by publishing the Nomination Criteria on the NF's website.
- (i) If, at any time following approval, the AOC forms a reasonable opinion that an NF's finalised Nomination Criteria requires amendment, the NF must work collaboratively with the AOC in good faith to amend the Nomination Criteria to the satisfaction of the AOC and resubmit the Nomination Criteria to the AOC for approval. Once approved, the NF must then communicate the change to Athletes and republish the Nomination Criteria on the NF's website.

### 5.3 Procedure for Nomination of Athletes

- (a) For each Games, the AOC Selection Committee must set a time and date by which all NFs must submit Athlete nominations to the AOC Selection Committee (**Nomination Date Deadline**). The AOC Selection Committee must notify NFs of the Nomination Date Deadline.
- (b) The Nomination Criteria for each NF's Sport must include the Nomination Date for that Sport (**Nomination Date**). Each NF must inform each of the Athletes participating in the NF's Sport of the Nomination Date. The AOC Selection Committee may, in its absolute discretion, extend the Nomination Date or the Nomination Date Deadline for one or more NFs for any reason.

- (c) An NF must deliver notice to the AOC Selection Committee by the Nomination Date of each Nominated Athlete. Notice provided by an NF under this clause 5.3(c) must:
  - (i) include such particulars regarding Nominated Athletes as is requested by the AOC Selection Committee; and
  - (ii) be accompanied by written confirmation signed by the Chief Executive of the NF (or equivalent) that each Nominated Athlete has met the NF's Nomination Criteria.
- (d) The AOC Selection Committee may, in its absolute discretion, accept a nomination submitted after the Nomination Date or the Nomination Date Deadline for any reason, including where it is submitted by an NF as a result of an appeal brought in accordance with clause 9.
- (e) Each NF must provide written notice to the Athletes participating in the NF's Sport of their nomination or non-nomination (as the case may be) by no later than:
  - (i) 48 hours prior to the Nomination Date, where such written notice would be received by the Athlete more than 14 days prior to the Sport Entries Deadline; or
  - (ii) 24 hours prior to the Nomination Date, where such written notice would be received by the Athlete within 14 days of the Sport Entries Deadline,
 or such later date as the AOC advises the NF in accordance with clause 5.3(b).

## **6 Selection of Athletes**

### **6.1 AOC Selection Committee**

- (a) The AOC Selection Committee is solely responsible for selecting Nominated Athletes to a Team.
- (b) The AOC Selection Committee will be comprised of:
  - (i) the Chef de Mission;
  - (ii) the Chief Executive of the AOC; and
  - (iii) member(s) appointed by the AOC Executive.
- (c) Three members of the AOC Selection Committee will constitute a quorum. A decision of the AOC Selection Committee is carried if a majority of members vote in favour of the decision. If votes are divided equally on a question, the Chief Executive of the AOC has a second or casting vote.
- (d) The AOC Selection Committee must adopt a Selection Criteria in respect of each Games. The AOC will communicate its Selection Criteria in respect of each Games to NFs for inclusion as an appendix or by reference in their Nomination Criteria. The AOC retains absolute discretion to amend its Selection Criteria from time to time.

### **6.2 Selection Requirements**

- (a) Subject to clauses 6.2(c) and 6.2(f), in respect of each Games, the AOC Selection Committee may only select a Nominated Athlete to the Team for a Games if the AOC Selection Committee is satisfied that the Nominated Athlete:
  - (i) has satisfied the Qualification System applying to the Athlete's sport;
  - (ii) has satisfied the Nomination Criteria applying to the Athlete's sport and that the Nomination Criteria was properly applied by the NF in nominating the Athlete, or nominated by the AOC pursuant to clauses 5.1(g) and/or 5.2(d); and

- (iii) has satisfied the Selection Criteria adopted by the AOC Selection Committee in respect of the Games ( ' ).
- (b) The Selection Criteria adopted by the AOC Selection Criteria for each Games will include the following requirements, provided that for each Games the AOC Selection Committee may modify these requirements, remove any of these requirements or impose any additional requirements determined by the Selection Committee, in its absolute discretion, as appropriate for that Games:
  - (i) the Nominated Athlete has been nominated to the AOC by their National Federation;
  - (ii) the Nominated Athlete has met and continues to meet the eligibility requirements for Australian competitors outlined in the Olympic Charter;
  - (iii) the Nominated Athlete has met the requirements of rules 40 and 41 of the Olympic Charter;
  - (iv) the Nominated Athlete has signed and will comply with the Team Membership Agreement for Athletes for the Games and has agreed to sign any entry form required by the International Olympic Committee, AOC or the Organising Committee for the Games;
  - (v) the Nominated Athlete has not at any time engaged in conduct (whether publicly known or not) which:
    - (A) has brought, brings or would have the tendency to bring the Nominated Athlete or the Athlete's sport into disrepute or censure;; or
    - (B) is or would have the tendency to be inconsistent with, contrary to or prejudicial to the best interests, reputation or values of the AOC or Team Sponsors, or as a result of which the Nominated Athlete's membership would not be or would not likely be in the best interests of the Team;
  - (vi) the Nominated Athlete has not at any time been convicted of any offence involving violence, alcohol or drugs, Child Abuse, any sex offence, or any offence relating to any betting or gambling activities on sport, or any offence which is punishable by imprisonment;
  - (vii) the Nominated Athlete has not at any time been charged with any offence involving violence, alcohol or drugs, Child Abuse, any sex offence, or any offence relating to any betting or gambling activities on sport, or any offence which is punishable by imprisonment (unless such charges have subsequently been withdrawn or the offences have been found to be not proven)
  - (viii) the Nominated Athlete has disclosed any criminal offence of whatever nature, with which the Athlete has been charged, or of which the Athlete has been convicted, and has consented to the Nominated Athlete's NF and the AOC making enquiries to relevant authorities for any details of the Nominated Athlete's criminal record (if any), including details of any charges pending or any spent convictions disclosable by law, and consents to those authorities providing that information in answer to those enquiries;
  - (ix) the Nominated Athlete has complied with the AOC Constitution;
  - (x) the Nominated Athlete has not breached the AOC Anti-Doping By-Law or any other By-Law adopted by the AOC from time to time , unless the Nominated

Athlete has already been sanctioned for the breach and has completed the sanction imposed;

- (xi) the Nominated Athlete has been available for sample collection for the purpose of conducting anti-doping testing and has provided accurate and up to date whereabouts information within the 3-strike policy allowed for athletes under the World Anti-Doping Code;
- (xii) the Nominated Athlete has, if required by the AOC, signed a statutory declaration regarding child protection, anti-doping matters and any other matter determined by the AOC to require declaration from time to time;
- (xiii) the Nominated Athlete has completed or will complete a medical assessment to the satisfaction of the AOC Selection Committee, if required; and
- (xiv) the Nominated Athlete has and must honestly and fully disclose until the end of the Games Period information concerning any conduct that would cause an actual or potential breach of clauses 6.2(b)(i) to 6.2(b)(xiii) to their National Federation and the AOC, and consent to:
  - (A) their National Federation and the AOC making enquiries with relevant authorities regarding any disclosures; and
  - (B) consent to relevant authorities providing information to their National Federation and the AOC in relation to those enquiries; and
- (c) The AOC Selection Committee has sole and absolute discretion to determine whether a Nominated Athlete has satisfied the Selection Criteria. For the avoidance of doubt, where the AOC Selection Committee forms the view that a Nominated Athlete has not satisfied the requirements in clauses 6.2(b)(v) to 6.2(b)(vii), the AOC Selection Committee may still select the Nominated Athlete to the Team in its absolute discretion.
- (d) To enable the AOC Selection Committee to satisfy itself that a Nominated Athlete has met the Selection Criteria, upon request by the AOC Selection Committee, an NF must provide to the AOC Selection Committee any information that the NF has in its possession and control regarding a Nominated Athlete's compliance with the Selection Criteria or about which it is aware.
- (e) Subject to clause 6.2(f), where the AOC Selection Committee is satisfied that a Nominated Athlete has met the Selection Criteria, the AOC Selection Committee must select that Nominated Athlete to the Team for a Games (**Selected Athletes**).
- (f) Notwithstanding clauses 6.2(a) and 6.2(b), where the AOC Selection Committee is not satisfied that a Nominated Athlete has met one or more of the Selection Criteria, the AOC Selection Committee may, in its absolute discretion, select that Nominated Athlete on the condition that the Nominated Athlete satisfy certain additional requirements by a date that is prior to the commencement of the Games Period, such additional requirements to be determined by the AOC Selection Committee in its absolute discretion and notified in writing to the Nominated Athlete. Where the AOC Selection Committee is satisfied that a Nominated Athlete has met all additional requirements imposed pursuant to this clause 6.2(f), the AOC Selection Committee may confirm the Nominated Athlete's selection to the Team, at which time the Nominated Athlete will be deemed a Selected Athlete.
- (g) The AOC Selection Committee may amend the Selection Criteria adopted for each Games (including by modifying requirements, removing requirements or imposing additional requirements) at any time in its absolute discretion. The AOC Selection Committee must provide NFs with Written Notice of any amendments made to the Selection Criteria pursuant to this clause 6.2(g)f. An NF is responsible for notifying all Athletes participating in the Selection Criteria pursuant to this clause 6.2(g)f. An NF is responsible for NF's

Sport of any such amendments.

- (h) Where there is no NF that is a Member of the AOC (pursuant to clause 7.2 of the AOC Constitution) for a sport on the programme of a Games, the AOC Selection Committee will have the authority to nominate and select athletes to a Team in accordance with this By-Law. This authority extends to any activity required to be completed by a NF as part of the nomination process under this By-Law, such as (without limitation) adopting a Nomination Criteria.

### **6.3 Procedure for Selection of Athletes**

- (a) The AOC Selection Committee must notify each NF of the Selected Athletes who participate in the NF's Sport.
- (b) In respect of Athletes participating in the NF's Sport, an NF must notify Selected Athletes of their selection and immediately advise each Nominated Athlete not selected of their non-selection.
- (c) An NF may not publish or make public any information disclosed by the AOC to the NF regarding the selection of Athletes until advised by the AOC. An NF may not publish or make public any information relating to the selection of Athletes which the AOC has classified as confidential, or which a reasonable person in the position of the NF would recognise as confidential, at any time, except to the extent required by law.
- (d) An NF must ensure its Athletes, directors, officers, employees, agents and contractors are bound to observe an obligation of confidentiality substantially similar to that which is set out in clause 6.3(c).
- (e) A Team Membership Agreement will not be effective in respect of a Selected Athlete until such time as it signed by the Selected Athlete.

## **7 Appointment of Officials**

### **7.1 General**

- (a) The AOC Selection Committee is solely responsible for appointing Officials to a Team and will make appointments in its absolute discretion.
- (b) The AOC Selection Committee will determine the number and type of Officials that will be appointed to a Team and allocated to each sport within that Team in its absolute discretion. The AOC Selection Committee may revise any decision made under this clause 7.1(b) at any time in its absolute discretion.

### **7.2 Recommendation by NF**

- (a) An NF may recommend Officials to the AOC Selection Committee for appointment to the Team provided:
  - (i) the NF is an NF of a Selected Athlete;
  - (ii) each Official who is recommended:
    - (A) is a member of the NF, a member of an affiliated organisation of the NF or has entered into an employment or other contract for service with the NF; and
    - (B) in the opinion of the NF based on reasonable grounds:

- (1) is suitable and qualified to fill the required positions for the NF's Sport in the Team;
  - (2) will work effectively and harmoniously with the Chef de Mission and Deputy Chefs de Mission; and
  - (3) satisfies any additional standards for the appointment of officials adopted by the AOC from time to time.
- (b) Any recommendation made by an NF pursuant to clause 7.2(a) must be in the form prescribed by, or as otherwise acceptable to, the AOC Selection Committee and must include information to support that the relevant Official has satisfied the requirements set out in clause 7.2(a)(ii).

### **7.3 Procedure for Appointment of Officials**

- (a) The AOC Selection Committee may determine a date by which NFs must submit recommendations for Officials. The AOC Selection Committee may accept recommendations for Officials after this date in its absolute discretion.
- (b) The AOC Selection Committee must consider any recommendation made pursuant to clause 7.2(a) but is not obliged to appoint to a Team any Official recommended by an NF.
- (c) Subject to clause 7.3(d), The AOC Selection Committee may only appoint Officials to a Team if the AOC Selection Committee is satisfied that:
  - (i) the requirements set out in clause 7.2 have been met; and
  - (ii) the Official:
    - (A) has signed and will comply with the Team Membership Agreement for Officials for the Games and has agreed to sign any entry form required by the International Olympic Committee, AOC or Organising Committee for the Games;
    - (B) has, if required by the AOC Selection Committee, signed a statutory declaration in relation to:
      - (1) Child Abuse;
      - (2) compliance with the AOC Anti-Doping By Law or any other anti-doping policy or code as directed by the AOC; and
      - (3) any other matter that the AOC requires to be declared, from time to time;
    - (C) has not at any time engaged in conduct (whether publicly known or not) which:
      - (1) has brought, brings or would have the tendency to bring the Official or the Official's sport into disrepute or censure; or
      - (2) is or would have the tendency to be inconsistent with, contrary to or prejudicial to the best interests, reputation or values of the AOC or Team Sponsors, or as a result of which the Official's appointment would not be or would not likely be in the best interests of the Team;
    - (D) has not at any time been convicted of any offence involving violence, alcohol or drugs, Child Abuse, any sex offence, or any offence relating to



- any betting or gambling activities on sport, or any offence which is punishable by imprisonment
- (E) has not at any time been charged with any offence involving violence, alcohol or drugs, Child Abuse, any sex offence, or any offence relating to any betting or gambling activities on sport, or any offence which is punishable by imprisonment (unless such charges have subsequently been withdrawn or the offences have been found to be not proven);
  - (F) has disclosed any criminal offence of whatever nature, with which the Official has been charged, or of which the Official has been convicted, and has consented to the Official's NF and the AOC making enquiries to relevant authorities for any details of the Official's criminal record (if any), including details of any charges pending or any spent convictions disclosable by law, and consents to those authorities providing that information in answer to those enquiries;
  - (G) has complied with the AOC Constitution;
  - (H) has not breached the AOC Anti-Doping By-Law or any other By-Law adopted by the AOC from time to time, unless the Official has already been sanctioned for the breach and has completed the sanction imposed;
  - (I) has, if required, assisted SIA in any anti-doping or sport integrity matter or investigation and will continue to do so if required, including by:
    - (1) fully and truthfully answering questions;
    - (2) attending interviews;
    - (3) disclosing information;
    - (4) producing documents; and
  - (J) has, if required, satisfactorily completed a "Working with Children Check", or any equivalent check as required by the AOC.
- (d) The AOC Selection Committee has sole and absolute discretion to determine whether the requirements set out in clauses 7.3(c) have been satisfied. For the avoidance of doubt, where the AOC Selection Committee forms the view that an Official has not satisfied the requirements in clauses 7.3(c)(ii)(A) – 7.3(c)(ii)(J), the AOC Selection Committee may still appoint that Official to the Team in its absolute discretion.
  - (e) To enable the AOC Selection Committee to satisfy itself that an Official has met the requirements set out in clause 7.3(c), upon request by the AOC Selection Committee, an NF must provide to the AOC Selection Committee any information that the NF has in its possession and control regarding an Official's compliance with those requirements or about which it is aware.
  - (f) For each Games, the AOC Selection Committee must advise NFs of Selected Athletes of the Officials who have been appointed to the Team in respect of that NF's Sport.
  - (g) An Official who is not recommended for, or appointed to, a Team by the AOC Selection Committee has no right of appeal.

## 8 Priority of Documents

8.1 To the extent of any inconsistency, the following documents shall be given the following descending order of precedence:

- (a) the AOC Constitution;
- (b) this By-Law;
- (c) the Selection Criteria;
- (d) an NF's Nomination Criteria.

8.2 To the extent permitted by law, if there is any inconsistency between this By-Law and the NST Procedure, this By-Law will prevail.

## 9 Appeals

### 9.1 Definitions

For the purposes of clause 9 only, the following definitions apply unless the context requires otherwise:

**Games** means the Olympic Games and Olympic Winter Games.

**Nominated Athlete** means any Athlete nominated by their NF for selection to a Team for a Games.

**Non-Nominated Athlete** means any Athlete who is not nominated by their NF for selection to a Team for a Games.

**Non-Selected Athlete** means any Athlete who is not selected by the AOC Selection Committee to a Team for a Games.

**Selected Athlete** means any Athlete selected by the AOC Selection Committee to a Team for a Games.

**Team** means the team of Athletes representing Australia at a Games.

### 9.2 Application

For clarity, the appeal process set out in clause 9 applies to nomination and selection disputes for Teams of an Olympic Games and Olympic Winter Games only. Subject to clause 9.11(c), the appeal process set out in clause 9 does not apply to nomination and selection disputes for teams of an Olympic Youth Games, Olympic Youth Winter Games or any other games or Competition for which the AOC selects a team of Athletes.

### 9.3 Olympic Appeal Consultant

- (a) All Athletes, including Nominated Athletes, Non-Nominated Athletes, Selected Athletes and Non-Selected Athletes, are eligible to consult with an independent party appointed by the AOC to provide advice to Athletes about the Appeal and Fast Track Appeal process (**Olympic Appeal Consultant**).
- (b) Pursuant to this By-Law, the Olympic Appeal Consultant is authorised to provide:
  - (i) advice about procedural aspects of the Appeal and Fast Track Appeal process, including but not limited to, advice regarding:
    - (A) the operation of provisions under this By-Law which deal with:
      - (1) the nomination of Athletes;
      - (2) the selection of Athletes; and

- (3) the Appeal and Fast Track Appeal process;
- (B) the costs involved in commencing and progressing an Appeal and Fast Track Appeal;
- (C) the prospects of a successful and unsuccessful Appeal and Fast Track Appeal;
- (D) Appeal and Fast Track Appeal success rates based on historical data; and
- (ii) information that is specific to the circumstances of the Athlete, including explanations in 'plain English' of:
  - (A) the Nomination Criteria and Selection Criteria that applies to the Athlete;
  - (B) where an Athlete is a Non-Nominated Athlete or a Non-Selected Athlete:
    - (1) the reasons for the Athlete's non-nomination or non-selection, as the case may be; and
    - (2) how that decision interacts with the Nomination Criteria or Selection Criteria that applies to the Athlete.
- (c) All correspondence, advice and information provided by the Olympic Appeal Consultant to an Athlete must be:
  - (i) kept confidential; and
  - (ii) cost-free to the Athlete.
- (d) By way of this By-Law, an Athlete who seeks information or advice from the Olympic Appeal Consultant acknowledges and irrevocably declares that neither the AOC nor the NF is liable for any loss or damage caused to the Athlete due to any information or advice provided, or not provided, to the Athlete by the Olympic Appeal Consultant.
- (e) An NF may not appoint an Olympic Appeal Consultant to an Appeal Tribunal where that consultant has, pursuant to clause 9.3(a), advised an Athlete involved in, or affected by the outcome of, the appeal before that Appeal Tribunal.

#### 9.4 Appeal Categories

- (a) A Non-Nominated Athlete may appeal against their non-nomination (**Nomination Appeal**) in accordance with the procedure set out in clause 9.6. A Nominated Athlete has no right of appeal in respect of their nomination or non-nomination to a particular event or discipline within the programme of a Games.
- (b) A Non-Selected Athlete may appeal against their non-selection (**Selection Appeal**) in accordance with the procedure set out in clause 9.7.
- (c) For clarity, the procedures set out in clauses 9.6 to 9.8 (inclusive) do not apply in respect of Fast Track Appeals, in which case the procedure set out in clause 9.9 will apply.

#### 9.5 General Rules

- (a) No later than 12 months prior to the commencement of the Games Period for a Games, the AOC will provide each NF with a list of individuals who are available to sit on an Appeal Tribunal convened in accordance with clause 9.6(b)(v). The list of individuals must include, at minimum:
  - (i) 3 individuals who are solicitors or barristers qualified to practice law in Australia and who could serve as Chairperson; and

- (ii) 3 individuals who are experienced in Nomination Appeals and Selection Appeals.

The AOC is responsible for amending or updating the list of individuals provided under this clause 9.5(a) if required, and notifying NFs of any such amendments or updates.

- (b) Within 28 days following the provision of the list of individuals under clause 9.5(a), the NF must elect whether all first instance Nomination Appeals will be heard:

- (i) by the Appeal Tribunal convened in accordance with clause 9.6(b) or
- (ii) by the NST General Division in accordance with clause 9.6(c); and

clearly communicate the chosen forum to all Athletes participating in the NF's Sport including by publishing the Nomination Criteria on the NF's website. For clarity, the election under this clause 9.5(b) does not apply in respect of Fast Track Appeals which follow the procedures set out in clause 9.9.

- (c) In the event that two or more Appeals or Fast Track Appeals are brought under this clause and it appears to an Appeal Forum that:

- (i) the Appeals or Fast Track Appeals involve a common question, sport, team, Athlete or NF; or
- (ii) the relief claimed in them are in respect of, or arise out of, the same instance of nomination or selection; or
- (iii) there is some other reason for it being desirable to have the Appeals or Fast Track Appeals consolidated,

the Appeals or Fast Track Appeals must, so far as practicable, be consolidated and heard together and the Athletes involved in the Appeals or Fast Track Appeals must provide reasonable assistance to the Appeal Forum to achieve this outcome.

- (d) An Appeal Forum may in its absolute discretion identify a person who is interested in the outcome of an Appeal or Fast Track Appeal as an Affected Party. An Appeal Forum must inform a person of his or her identification as an Affected Party.
- (e) Unless otherwise determined by an Appeal Forum, an Affected Party:
  - (i) must receive notice of the Appeal or Fast Track Appeal from the Appellant;
  - (ii) must be given the opportunity to make submissions in the Appeal or Fast Track Appeal and give evidence;
  - (iii) must receive a copy of the award handed down by the Appeal Forum; and
  - (iv) will be bound by any such award.
- (f) An Affected Party may appeal a decision or award that is made by an Appeal Forum in an Appeal or Fast Track Appeal for which it is an Affected Party.
- (g) A person who receives notice from an Appeal Forum of his or her identification as an Affected Party pursuant to clause 9.5(d) may decline his or her identification as an Affected Party, in which case that person will automatically waive the rights set out in clauses 9.5(e) and 9.5(f).
- (h) The AOC is an Affected Party for the purposes of clause 9.5(d) for all Appeals or Fast Track Appeals heard by the CAS.

## **9.6 Nomination Appeal**

### **(a) Alternative Dispute Resolution**

- (i) A Non-Nominated Athlete must not commence a Nomination Appeal in an Appeal Tribunal or in the NST General Division unless the provisions of this clause 9.6(a) have been complied with.
- (ii) Within 48 hours of the time that a Non-Nominated Athlete receives notice of their non-nomination, the Non-Nominated Athlete must provide Written Notice to the Chief Executive of their NF that the Non-Nominated Athlete disputes their non-nomination. The Non-Nominated Athlete must provide reasons to support their notice of dispute.
- (iii) Within 24 hours of the Chief Executive of the NF receiving a Non-Nominated Athlete's notice of dispute in accordance with clause 9.6(a)(ii), the Chief Executive of the NF must provide the Non-Nominated Athlete with a written statement of the NF's reasons for not nominating the Non-Nominated Athlete.
- (iv) Within 24 hours of a Non-Nominated Athlete receiving the NF's written statement in accordance with clause 9.6(a)(iii), the Non-Nominated Athlete must provide a written response to the Chief Executive of the NF which articulates whether the Non-Nominated Athlete intends to proceed to a hearing of their Nomination Appeal in accordance with clause 9.6(b).
- (v) The parties must use their best endeavours, acting in good faith, to resolve the dispute through communication in accordance with clause 9.6(a), such communication to be made on a without prejudice basis and kept confidential between the parties.
- (vi) If the dispute is not resolved within 3 Business Days of the Non-Nominated Athlete providing Written Notice to the NF in accordance with clause 9.6(a)(ii) (or longer, if agreed between the parties), then the Non-Nominated Athlete may proceed to a hearing of their Nomination Appeal in accordance with clause 9.6(b) or 9.6(c).

**(b) First Instance Appeal to Appeal Tribunal**

- (i) Subject to clause 9.6(b)(ix)(G) and where an NF has made an election in accordance with clause 9.5(b)(i), a Nomination Appeal must be heard by an Appeal Tribunal in the first instance.
- (ii) A Non-Nominated Athlete may bring a Nomination Appeal to an Appeal Tribunal for hearing on one or more of the following grounds:
  - (A) in making its decision, the NF did not satisfy one or more of the requirements set out in clause 5.3;
  - (B) the applicable Nomination Criteria was not properly applied by the Non-Nominated Athlete's NF;
  - (C) the NF was affected by actual bias in making its decision with respect to the Non-Nominated Athlete; and
  - (D) there was no material on which the NF's decision could be reasonably based.
- (iii) A Non-Nominated Athlete wishing to pursue a hearing of a Nomination Appeal by an Appeal Tribunal must produce a written application to commence a Nomination Appeal (**Nomination Appeal Application**) that:
  - (A) identifies the ground or grounds on which the Nomination Appeal is brought; and

- (B) encloses a non-refundable sum of AUD\$250.00 payable to the NF.
- (iv) An Appellant must serve a copy of their Nomination Appeal Application on the Chief Executive of the NF and the AOC on the same date, being not more than 24 hours after the date on which the period referred to in clause 9.6(a)(vi) expires.
- (v) Within 24 hours of the Chief Executive of the NF receiving the Appellant's Nomination Appeal Application, the NF must convene an Appeal Tribunal to hear the Appellant's Nomination Appeal. The Appeal Tribunal must be composed of the following individuals, selected by the NF:
  - (A) from among the list of individuals provided by the AOC in accordance with clause 9.5(a):
    - (1) a Chairperson; and
    - (2) one individual who is a qualified legal practitioner; and
  - (B) one individual who possesses a thorough knowledge of the NF's Sport.
- (vi) A person may not be appointed to an Appeal Tribunal by an NF if that individual:
  - (A) is a member of the Board of the NF;
  - (B) was directly involved in the NF's decision to not nominate the Appellant;
  - (C) is personally interested in the outcome of the Nomination Appeal; or
  - (D) would not for any other reason be considered by a reasonable person to be an impartial member of the Appeal Tribunal.
- (vii) The Appellant or an Affected Party may dispute one or more members appointed by an NF to an Appeal Tribunal, such disputes to be determined by the Chairperson sitting alone and in the event the appointment of the Chairperson is the subject of the dispute, by the Chief Executive of the AOC.
- (viii) The following rules apply in relation to the hearing of a Nomination Appeal by an Appeal Tribunal:
  - (A) The onus is on the Appellant to establish, to the reasonable satisfaction of the Appeal Tribunal, that the decision of the NF to not nominate the Appellant is reviewable, based on one or more of the grounds of appeal set out in clause 9.6(b)(ii).
  - (B) Decisions of the Appeal Tribunal, including its determination regarding the outcome of the Nomination Appeal, will be made according to the opinions of the majority. Where the Appeal Tribunal is equally divided in opinion, the decision will be made according to the opinion of the Chairperson.
  - (C) The rules of natural justice must be observed.
  - (D) The hearing must be conducted with as little formality and technicality, and with as much expedition, as the requirements of the matters at hand permit.
  - (E) Hearings may take place in the manner that is determined by the Chairperson, including by telephone or teleconference.
  - (F) The parties to a hearing may have legal representation at their own cost.

- (ix) The following rules apply in relation to the determination of a Nomination Appeal by an Appeal Tribunal:
- (A) An Appeal Tribunal may uphold or dismiss a Nomination Appeal.
  - (B) Subject to clause 9.6(b)(ix)(C), where an Appeal Tribunal determines to uphold a Nomination Appeal, the Appeal Tribunal must refer the decision regarding the Appellant's non-nomination back to the Appellant's NF for reconsideration and redetermination.
  - (C) Notwithstanding clause 9.6(b)(ix)(B), the Appeal Tribunal may itself determine the issue of the Appellant's nomination where the Appeal Tribunal determines that:
    - (1) it would be impractical to refer the issue of the Appellant's non-nomination back to the NF in the time available; or
    - (2) in making its original decision, the NF had such disregard for proper application of the Nomination Criteria that a reasonable person would apprehend that it is unlikely that the Nomination Criteria would be applied properly by the NF if the decision regarding the Appellant's non-nomination was referred back to the NF.
  - (D) Prior to making a determination under clause 9.6(b)(ix)(C), the Appeal Tribunal must advise the parties and all Affected Parties (if any) that the Appeal Tribunal intends to make such a determination and provide the parties with a reasonable opportunity to make submissions in relation to the Appeal Tribunal's proposed determination. The Appeal Tribunal must give proper consideration to any submissions it receives pursuant to this clause 9.6(b)(ix)(D).
  - (E) The Appeal Tribunal must provide Written Notice to the parties of its determination regarding the outcome of the Nomination Appeal as soon as reasonably practicable after the conclusion of the hearing and in any event within 3 Business Days of the conclusion of the hearing. The Appeal Tribunal must provide the parties with a statement of the reasons for its determination within 3 Business Days of notifying the parties of its determination.
  - (F) The determination of an Appeal Tribunal is final and binding on the parties and, subject only to an appeal to the Appeals Arbitration Division of CAS (the **CAS**) pursuant to clause 9.6(c), neither party may institute proceedings in any other court or tribunal. For the avoidance of doubt, without restricting the generality of the provisions of the *Commercial Arbitration Act 2010* (NSW), the parties agree that neither party will have the right of appeal under sections 34 or 34A or to apply for the determination of a question of law under section 27J of the *Commercial Arbitration Act 2010* (NSW) or equivalent legislation in any of the Australian States or Territories.
  - (G) Where the Appeal Tribunal refers the decision regarding the Appellant's non-nomination back to the Appellant's NF in accordance with clause 9.6(b)(ix)(B), the NF must observe the principles of natural justice. Any decision made by the NF regarding the Appellant's nomination after such

referral, is final and binding on the Appellant, subject only to the Appellant commencing an appeal to the CAS in accordance with clause 9.6(c).

**(c) First Instance Appeal to the General Division of the NST**

- (i) Subject to clause 9.6(c)(vi)(G) and where an NF has made an election in accordance with clause 9.5(b)(ii), a Nomination Appeal must be heard in the General Division of the NST in the first instance.
- (ii) A Non-Nominated Athlete may bring a first instance Nomination Appeal to the General Division of the NST for hearing on one or more of the following grounds (which the Appellants bears the onus of making out):
  - (A) in making its decision, the NF did not satisfy one or more of the requirements set out in clause 5.3;
  - (B) the applicable Nomination Criteria was not properly applied by the Non-Nominated Athlete's NF;
  - (C) the NF was affected by actual bias in making its decision with respect to the Non-Nominated Athlete; and
  - (D) there was no material on which the NF's decision could be reasonably based.
- (iii) A Non-Nominated Athlete wishing to make an application for a Nomination Appeal by the General Division of the NST must, within 24 hours after the date on which the period referred to in clause 9.6(a)(vi) expires:
  - (A) complete and lodge the required NST Application Form with the NST Registry in accordance with the NST Procedure, setting out the grounds of appeal relied on by the Appellant;
  - (B) pay the AUD\$500 application fee required by the NST; and
  - (C) notify the AOC that he or she has lodged the NST Application Form with the NST Registry.
- (iv) Unless agreed by the NF and the Non-Nominated Athlete, an extension of time to make an application for a first instance Nomination Appeal may be granted by the NST under this clause only in extenuating circumstances outside the control of the Appellant;
- (v) The Nomination Appeal will proceed in accordance with the NST Procedure including with respect to the specific procedural matters set out below:
  - (A) the Chief Executive Officer of the NST will appoint a panel of one or more NST members to deal with a dispute before the NST in accordance with the NST Procedure;
  - (B) NST Service Charges may also be payable to the NST in connection with the Nomination Appeal which will be negotiated as between the parties and the NST at the NST Preliminary Conference and determined by the Chief Executive Officer of the NST. Generally, NST Service Charges will be apportioned evenly between the Appellant and the NF;
  - (C) at the NF's request or where the NST considers necessary, an expert may be appointed by the Chief Executive Officer of the NST to assist the NST in the arbitration of the Nomination Appeal in accordance with



section 68 of the *NST Act* and section 34 of the *National Sports Tribunal Practice and Procedure Determination 2021*;

- (D) where the NST considers it appropriate to do so and all parties to the Nomination Appeal agree, the NST may determine the Nomination Appeal without a hearing in accordance with section 52 of the *National Sports Tribunal Practice and Procedure Determination 2021*;
  - (E) the length of the Nomination Appeal procedure will vary depending on time available and the processes set out in the NST Procedure (for example, regarding the expedited resolution of disputes); and
  - (F) the onus is on the Appellant to establish, to the reasonable satisfaction of the NST, that the decision of the NF to not nominate the Appellant is reviewable, based on one or more of the grounds of appeal set out in clause 9.6(c)(ii).
- (vi) The following rules apply in relation to the determination of a Nomination Appeal by the NST:
- (A) the NST may uphold or dismiss a Nomination Appeal;
  - (B) Subject to clause 9.6(c)(vi)(C), where the NST determines to uphold a Nomination Appeal, the NST must refer the decision regarding the Appellant's non-nomination back to the Appellant's NF for reconsideration and redetermination;
  - (C) Notwithstanding clause 9.6(c)(vi)(B), the NST may itself determine the issue of the Appellant's nomination where the NST determines that:
    - (1) it would be impractical to refer the issue of the Appellant's non-nomination back to the NF in the time available; or
    - (2) in making its original decision, the NF had such disregard for proper application of the Nomination Criteria that a reasonable person would apprehend that it is unlikely that the Nomination Criteria would be applied properly by the NF if the decision regarding the Appellant's non-nomination was referred back to the NF;
  - (D) prior to making a determination under clause 9.6(c)(vi)(C), the NST must advise the parties and all Affected Parties (if any) that the NST intends to make such a determination and provide the parties with a reasonable opportunity to make submissions in relation to the NST's proposed determination. The NST must give proper consideration to any submissions it receives pursuant to this clause 9.6(c)(vi)(D);
  - (E) the NST must provide Written Notice to the parties of its determination regarding the outcome of the Nomination Appeal as soon as reasonably practicable after the conclusion of the hearing and in any event within 3 Business Days of the conclusion of the hearing. The NST must provide the parties with a statement of the reasons for its determination within 3 Business Days of notifying the parties of its determination;
  - (F) the determination of the NST is final and binding on the parties and, subject only to an appeal to the Appeals Arbitration Division of CAS (the **CAS**) pursuant to clause 9.6(d), neither party may institute proceedings in any other court or tribunal, including the NST Appeals Division. For the

avoidance of doubt, without restricting the generality of the provisions of the *Commercial Arbitration Act 2010* (NSW), the parties agree that neither party will have the right of appeal under sections 34 or 34A or to apply for the determination of a question of law under section 27J of the *Commercial Arbitration Act 2010* (NSW) or equivalent legislation in any of the Australian States or Territories; and

- (G) where the NST refers the decision regarding the Appellant's non-nomination back to the Appellant's NF in accordance with clause 9.6(c)(vi)(B) the NF must observe the principles of natural justice. Any decision made by the NF regarding the Appellant's nomination after such referral, is final and binding on the Appellant, subject only to the Appellant commencing an appeal to the CAS in accordance with clause 9.6(d).

**(d) Second Instance Appeal to CAS**

- (i) A Non-Nominated Athlete may appeal:
  - (A) a determination made by an Appeal Tribunal in accordance with clause 9.6(b)(ix);
  - (B) a determination made by the NST in accordance with clause 9.6(c)(vi); and
  - (C) a decision made by an NF after the question of non-nomination is referred back to the NF by an Appeal Tribunal in accordance with clause 9.6(b)(ix)(G) or the NST in accordance with clause 9.6(c)(vi)(G), (both the Appeal Tribunal's determination, the NST's determination and the NF's decision, the ***Impugned Decision***), to the CAS.
- (ii) A Non-Nominated Athlete may bring a Nomination Appeal to the CAS on one or more of the following grounds:
  - (A) in making the Impugned Decision, the Appeal Tribunal, NST or the NF, as the case may be, did not observe the rules of natural justice; and
  - (B) the Impugned Decision was in error on a question of law.
- (iii) A Non-Nominated Athlete wishing to pursue a hearing of a Nomination Appeal by the CAS must:
  - (A) within 48 hours of the Non-Nominated Athlete receiving Written Notice of the Impugned Decision, provide Written Notice to:
    - (1) the Chief Executive of their NF; and
    - (2) the Chief Executive of the AOC,
 that the Non-Nominated Athlete intends to appeal the Impugned Decision.
  - (B) by no later than 3 Business Days after providing Written Notice in accordance with clause 9.6(c)(iii)(A) (or such other amount of time as the CAS may allow):
    - (1) file a CAS Statement of Appeal with the CAS Oceania Registry that sets out the grounds of appeal to the CAS; and
    - (2) pay the non-refundable filing fee of CHF500 to the CAS.

For clarity, an extension of time may be granted under this clause 9.6(c)(iii)(B) only in extenuating circumstances outside the control of the Non-Nominated Athlete concerned; and

- (C) within 24 hours of filing their CAS Statement of Appeal with the CAS Oceania Registry, the Non-Nominated Athlete must provide a copy of their CAS Statement of Appeal to their NF, the AOC and any Affected Party.
- (iv) The rules set out in clauses 9.8(a) and 9.8(b) apply with respect to the hearing and determination of a Nomination Appeal by the CAS.

## 9.7 Selection Appeal

### (a) Alternative Dispute Resolution

- (i) A Non-Selected Athlete must not commence a Selection Appeal in the CAS unless the provisions of this clause 9.7(a) have been complied with.
- (ii) Within 48 hours of the time that a Non-Selected Athlete receives notice of their non-selection, the Non-Selected Athlete must provide Written Notice to the Chief Executive of the AOC that the Non-Selected Athlete disputes their non-selection. The Non-Selected Athlete must provide reasons to support their notice of dispute.
- (iii) Within 24 hours of the Non-Selected Athlete providing Written Notice to the Chief Executive of the AOC in accordance with clause 9.7(a)(ii), the Chief Executive of the AOC must provide the Non-Selected Athlete with a written statement of the AOC's reasons supporting the non-selection of the Non-Selected Athlete.
- (iv) Within 24 hours of a Non-Selected Athlete receiving the AOC's written statement in accordance with clause 9.7(a)(iii), the Non-Selected Athlete must provide a written response to the Chief Executive of the AOC which articulates whether the Non-Selected Athlete intends to proceed to a hearing of their Selection Appeal in accordance with clause 9.7(b).
- (v) The parties must use their best endeavours, acting in good faith, to resolve the dispute through communication in accordance with this clause 9.7(a), made on a without prejudice basis and kept confidential between the parties.
- (vi) If the selection dispute is not resolved within 3 Business Days of the Non-Selected Athlete providing Written Notice to the NF in accordance with clause 9.7(a)(ii) (or longer, if agreed between the parties), then the Non-Selected Athlete may proceed to a hearing of their Selection Appeal by the CAS in accordance with clause 9.7(b).

### (b) First and final instance appeal to the CAS

- (i) A Selection Appeal must be heard by the CAS in the first instance.
- (ii) A Non-Selected Athlete may bring a Selection Appeal to the CAS for hearing on one or more of the following grounds:
  - (A) in making its decision, the AOC did not satisfy one or more of the requirements set out in clause 6.3;
  - (B) the Selection Criteria was not properly applied by the AOC with respect to the Non-Selected Athlete;
  - (C) the Non-Selected Athlete was not afforded a reasonable opportunity by the AOC to satisfy the Selection Criteria;

- (D) the AOC was affected by actual bias in making its decision to not select the Non-Selected Athlete; and
  - (E) there was no material on which the AOC's decision could be reasonably based.
- (iii) A Non-Selected Athlete wishing to pursue a hearing of a Selection Appeal by the CAS must, within 24 hours of the expiry of the period referred to in clause 9.7(a)(vi) (or within such time as the CAS may allow):
- (A) provide Written Notice that the Non-Selected Athlete intends to pursue an appeal to the CAS to:
    - (1) the Chief Executive of their NF; and
    - (2) the Chief Executive of the AOC;
  - (B) file a CAS Statement of Appeal with the CAS Oceania Registry that sets out the grounds of appeal relied on by the Non-Selected Athlete; and
  - (C) pay the non-refundable filing fee of CHF500 to the CAS.

For clarity, an extension of time may be granted by the CAS under this clause only in extenuating circumstances outside the control of the Non-Selected Athlete concerned.

- (iv) Within 24 hours of filing their CAS Statement of Appeal, the Non-Selected Athlete must provide a copy of their CAS Statement of Appeal to the AOC and any Affected Party.
- (v) The rules set out in clauses 9.8(a) and 9.8(c) apply with respect to the hearing and determination of a Selection Appeal by the CAS.

## 9.8 CAS Procedural Rules

- (a) The following rules apply in relation to the hearing of an Appeal by the CAS:
  - (i) Subject to the Olympic Charter and this By-Law, any Appeal to the CAS under this By-Law must be resolved by the Appeals Arbitration Division of CAS, according to the CAS Code and applying the law of New South Wales.
  - (ii) All Appeals to CAS will be heard by a panel of arbitrators which will be comprised of three arbitrators, unless the parties agree to a sole arbitrator hearing the Appeal pursuant to Rule 50 of the CAS Code.
  - (iii) The parties are deemed to consent to the following aspects of an Appeal being made public:
    - (A) the grounds of appeal;
    - (B) the names of the arbitrators;
    - (C) the date of the hearing;
    - (D) the award; and
    - (E) the reasons supporting the award.
  - (iv) The power of the CAS panel of arbitrators to review the facts and the law pursuant to Rule 57 of the CAS Code will be initially limited to determining whether the Appellant has made out one or more of the grounds of appeal.
- (b) The following rules apply in relation to the determination of a Nomination Appeal by the CAS:

- (i) The CAS may uphold or dismiss a Nomination Appeal.
- (ii) Subject to clause 9.8(b)(iii), where the CAS determines to uphold a Nomination Appeal, the CAS must refer the decision regarding the Appellant's non-nomination back to the Appellant's NF for reconsideration and redetermination.
- (iii) Notwithstanding clause 9.8(b)(ii), the CAS may itself determine the issue of the Appellant's nomination where:
  - (A) the CAS determines that:
    - (1) it would be impractical to refer the issue of the Appellant's non-nomination back to the NF in the time available; or
    - (2) in making its original decision, the NF had such disregard for the proper application of the Nomination Criteria that a reasonable person would apprehend that it is unlikely that the Nomination Criteria would be applied properly by the NF if the decision regarding the Appellant's non-nomination was referred back to the NF; and
  - (B) prior to making its determination under clause 9.8(b)(iii), the CAS advises the parties and all Affected Parties (if any) that the CAS intends to itself determine the issue of the Appellant's nomination provides the parties with a reasonable opportunity to make submissions in relation to its proposed determination. The CAS must give proper consideration to any submissions it receives pursuant to this clause 9.8(b)(iii)(B).
- (iv) Where CAS refers the decision regarding the Appellant's non-nomination back to the Appellant's NF in accordance with clause 9.8(b)(iii), any decision made by the NF regarding the Appellant's nomination after such referral is final and binding on the Appellant.
- (c) The following rules apply in relation to the determination of a Selection Appeal by the CAS:
  - (i) Subject to clause 9.8(c)(ii), where the CAS determines to uphold a Selection Appeal, the CAS must refer the decision regarding the Appellant's non-selection back to the AOC for reconsideration and redetermination.
  - (ii) Notwithstanding clause 9.8(c)(i), the CAS may itself determine the issue of the Appellant's selection where:
    - (A) the CAS determines that:
      - (1) it would be impractical to refer the issue of the Appellant's non-selection back to the AOC in the time available; or
      - (2) in making its original decision, the AOC had such disregard for the proper application of the Selection Criteria that a reasonable person would apprehend that it is unlikely that the Selection Criteria would be applied properly by the AOC if the decision regarding the Appellant's non-selection was referred back to the AOC; and
    - (B) prior to making its determination under clause 9.8(c)(ii), the CAS advises the parties and all Affected Parties (if any) that the CAS intends to itself determine the issue of the Appellant's selection and provides the parties with a reasonable opportunity to make submissions in relation to its

proposed determination. The CAS must give proper consideration to any submissions it receives pursuant to this clause 9.8(c)(ii)(B).

- (iii) Where CAS refers the decision regarding the Appellant's non-selection back to the AOC in accordance with clause 9.8(c)(i), any decision made by the AOC regarding the Appellant's selection after such referral is final and binding on the Appellant.
- (iv) The award handed down by the CAS with respect to an Appeal is final and binding on the parties, subject only to any right of appeal available to an Appellant under the CAS Code, and it is agreed that neither party may institute or maintain proceedings in any court or tribunal other than CAS. In particular, and without restricting the generality of the provisions of the Commercial Arbitration Act 2010 (NSW), neither party will have the right of appeal under sections 34 or 34A or to apply for the determination of a question of law under section 27J of the Commercial Arbitration Act 2010 (NSW) or equivalent legislation in any of the Australian States or Territories.

## 9.9 Fast Track Appeal Process

- (a) Where, within 14 days of the Sport Entries Deadline:

- (i) a Non-Nominated Athlete receives notice of their non-nomination; or
- (ii) a Non-Selected Athlete receives notice of their non-selection,

the Non-Nominated Athlete or the Non-Selected Athlete, as the case may be, may bring a Fast Track Appeal to the CAS in accordance with the Fast Track Appeal Process set out in this clause 9.9.

### (b) Procedure for commencement of Nomination Fast Track Appeal

- (i) A Non-Nominated Athlete may bring a Nomination Fast Track Appeal to the CAS only on one or more of the following grounds:
  - (A) in making its decision, the NF did not satisfy one or more of the requirements set out in clause 5.3;
  - (B) the applicable Nomination Criteria was not properly applied by the Non-Nominated Athlete's NF;
  - (C) the NF was affected by actual bias in making its decision with respect to the Non-Nominated Athlete; and
  - (D) there was no material on which the NF's decision could be reasonably based.
- (ii) A Non-Nominated Athlete wishing to pursue a hearing of their Nomination Fast Track Appeal must, within 24 hours of receiving notice of their non-nomination, (or within such time as the CAS may allow) provide the Chief Executive of their NF and the Chief Executive of the AOC with Written Notice that the Non-Nominated Athlete intends to pursue a Nomination Fast Track Appeal to the CAS.
- (iii) Within 24 hours of the NF receiving Written Notice of the Non-Nominated Athlete's intention to pursue a Fast Track Appeal in accordance with clause 9.9(b)(ii), the NF must provide the Non-Nominated Athlete with a written statement of the NF's reasons supporting the non-nomination of the Non-Nominated Athlete.

- (iv) Within 24 hours of receipt of the NF's written statement in accordance with clause 9.9(b)(iii), the Non-Nominated Athlete must:
  - (A) where the Non-Nominated Athlete does not intend to pursue a Nomination Fast Track Appeal, provide Written Notice to the NF articulating that intention; or
  - (B) where the Non-Nominated Athlete does intend to pursue a Nomination Fast Track Appeal:
    - (1) file a CAS Statement of Appeal with the CAS Oceania Registry that sets out the grounds of appeal relied on by the Non-Nominated Athlete; and
    - (2) pay the non-refundable filing fee of CHF500 to the CAS.

For clarity, an extension of time may be granted by the CAS under this clause only in extenuating circumstances outside the control of the Non-Nominated Athlete concerned.

- (v) Within 24 hours of filing their CAS Statement of Appeal with the CAS Oceania Registry, the Non-Nominated Athlete must provide a copy of their CAS Statement of Appeal to the NF, AOC and any Affected Party.
- (vi) By no later than 24 hours after receipt of the Non-Nominated Athlete's CAS Statement of Appeal, the NF and any Affected Parties may respond to the Non-Nominated Athlete's grounds of appeal with written submissions to the CAS. The NF and any Affected Parties must file their submissions with the CAS Oceania Registry.
- (vii) In circumstances where the AOC or a NF receives a reallocated quota place under an IF Qualification System less than 72 hours before the Sport Entries Deadline, a Non-Nominated Athlete may pursue a Nomination Appeal directly to CAS in accordance with clause 9.9(b)(iv)(B), without being required to comply with clause 9.9(b)(ii). For the avoidance of doubt, the Non-Nominated Athlete may only bring a Nomination Appeal on one or more of the grounds set out in clause 9.9(b)(i).

**(c) Procedure for commencement of Selection Fast Track Appeal**

- (i) A Non-Selected Athlete may bring a Selection Fast Track Appeal to the CAS only on one or more of the following grounds:
  - (A) in making its decision, the AOC did not satisfy one or more of the requirements set out in clause 6.3;
  - (B) the Selection Criteria was not properly applied by the AOC with respect to the Non-Selected Athlete;
  - (C) the Non-Selected Athlete was not afforded a reasonable opportunity by the AOC to satisfy the Selection Criteria;
  - (D) the AOC was affected by actual bias in making its decision to not select the Non-Selected Athlete; and
  - (E) there was no material on which the AOC's decision could be reasonably based.
- (ii) A Non-Selected Athlete wishing to pursue a hearing of their Selection Fast Track Appeal must, within 24 hours of receiving notice of their non-selection, (or within

such time as the CAS may allow) provide the Chief Executive of the AOC with Written Notice that the Non-Selected Athlete intends to pursue a Selection Fast Track Appeal to the CAS.

- (iii) Within 24 hours of the AOC receiving Written Notice of the Non-Selected Athlete's intention to pursue a Selection Fast Track Appeal in accordance with clause 9.9(c)(ii), the AOC must provide the Non-Selected Athlete with a written statement of the AOC's reasons supporting the non-selection of the Non-Selected Athlete.
- (iv) Within 24 hours of receipt of the AOC's written statement in accordance with clause 9.9(c)(iii), the Non-Selected Athlete must:
  - (A) where the Non-Selected Athlete does not intend to pursue a Selection Fast Track Appeal, provide Written Notice to the NF articulating that intention; or
  - (B) where the Non-Selected Athlete does intend to pursue a Selection Fast Track Appeal:
    - (1) file a CAS Statement of Appeal with the CAS Oceania Registry that sets out the grounds of appeal relied on by the Non-Selected Athlete; and
    - (2) pay the non-refundable filing fee of CHF500 to the CAS.

For clarity, an extension of time may be granted by the CAS under this clause only in extenuating circumstances outside the control of the Non-Selected Athlete concerned.

- (v) Within 24 hours of filing their CAS Statement of Appeal with the CAS Oceania Registry, the Non-Selected Athlete must provide a copy of their CAS Statement of Appeal to the AOC and any Affected Party.
- (vi) By no later than 24 hours after receipt of the Non-Selected Athlete's CAS Statement of Appeal, the AOC and any Affected Parties may respond to the Non-Selected Athlete's grounds of appeal with written submissions to the CAS. The AOC and any Affected Parties must file their submissions with the CAS Oceania Registry.
- (vii) In circumstances where the AOC or a NF receives a reallocated quota place under an IF Qualification System less than 72 hours before the Sport Entries Deadline, a Non-Selected Athlete may pursue a Selection Appeal directly to CAS in accordance with clause 9.9(c)(iv)(B), without being required to comply with clause 9.9(c)(ii). For the avoidance of doubt, the Non-Selected Athlete may only bring a Selection Appeal on one or more of the grounds set out in clause 9.9(c)(i).

**(d) Procedure for hearing of a Fast Track Appeal**

- (i) The following rules apply in relation to the hearing of a Fast Track Appeal by the CAS:
  - (A) Subject to the Olympic Charter and this By-Law, any Fast Track Appeal to the CAS must be exclusively resolved by the Appeals Arbitration Division of CAS, according to the CAS Code and applying the law of New South Wales.
  - (B) All Fast Track Appeals to CAS will be heard by a sole arbitrator;



- (C) The parties are deemed to consent to the following aspects of a Fast Track Appeal being made public:
    - (1) the grounds of appeal;
    - (2) the names of the arbitrators;
    - (3) the date of the hearing;
    - (4) the award; and
    - (5) the reasons supporting the award.
  - (D) The power of the CAS arbitrator to review the facts and the law pursuant to Rule 57 of the CAS Code will be initially limited to determining whether the Appellant has made out one or more of the grounds of appeal.
- (e) **Procedure for determination of a Fast Track Appeal**
  - (i) The CAS may uphold or dismiss a Fast Track Appeal.
  - (ii) With respect to the determination of a Nomination Fast Track Appeal:
    - (A) Subject to clause 9.9(e)(ii)(B), where the CAS determines to uphold a Nomination Appeal in the Fast Track Appeal Process, the CAS must refer the decision regarding the Appellant's non-nomination back to the Appellant's NF for reconsideration and redetermination.
    - (B) Notwithstanding clause 9.9(e)(ii)(A), the CAS may itself determine the issue of the Appellant's nomination where the CAS determines that:
      - (1) it would be impractical to refer the issue of the Appellant's non-nomination back to the NF in the time available; or
      - (2) in making its original decision, the NF had such disregard for the proper application of the Nomination Criteria that a reasonable person would apprehend that it is unlikely that the Nomination Criteria would be applied properly by the NF if the decision regarding the Appellant's non-nomination was referred back to the NF.
    - (C) Prior to making a determination under clause 9.9(e)(ii)(A), the CAS must advise the parties and all Affected Parties (if any) that the CAS intends to itself determine the issue of the Appellant's nomination and provides the parties and any Affected Parties with a reasonable opportunity to make submissions in relation to its proposed determination. The CAS must give proper consideration to any submissions it receives pursuant to this clause 9.9(e)(ii)(C).
    - (D) Where CAS refers the decision regarding the Appellant's non-nomination back to the Appellant's NF in accordance with clause 9.9(e)(ii)(B), any decision made by the NF regarding the Appellant's nomination after such referral, is final and binding on the Appellant and there is no further right of appeal.
  - (iii) With respect to the determination of a Selection Fast Track Appeal:
    - (A) Subject to clause 9.9(e)(iii)(B), where the CAS determines to uphold a Selection Appeal, the CAS must refer the decision regarding the Appellant's non-selection back to the AOC for reconsideration and redetermination.

- (B) Notwithstanding clause 9.9(e)(iii)(A), the CAS may itself determine the issue of the Appellant's selection where the CAS determines that:
    - (1) it would be impractical to refer the issue of the Appellant's non-selection back to the AOC in the time available; or
    - (2) in making its original decision, the AOC had such disregard for the proper application of the Selection Criteria that a reasonable person would apprehend that it is unlikely that the Selection Criteria would be applied properly by the AOC if the decision regarding the Appellant's non-selection was referred back to the AOC.
  - (C) Prior to making a determination under clause 9.9(e)(iii)(A), the CAS must advise the parties and all Affected Parties (if any) that the CAS intends to itself determine the issue of the Appellant's selection and provide the parties with a reasonable opportunity to make submissions in relation to its proposed determination. The CAS must give proper consideration to any submissions it receives pursuant to this clause 9.9(e)(iii)(C).
  - (D) Where CAS refers the decision regarding the Appellant's non-selection back to the AOC in accordance with clause 9.9(e)(iii)(B), any decision made by the AOC regarding the Appellant's nomination after such referral, is final and binding on the Appellant and any Affected Parties. There is no further right of appeal.
- (iv) The award handed down by the CAS with respect to a Fast Track Appeal is final and binding on the parties, subject only to any right of appeal available to an Appellant under the CAS Code, and it is agreed that neither party may institute or maintain proceedings in any court or tribunal other than CAS. In particular, and without restricting the generality of the provisions of the Commercial Arbitration Act 2010 (NSW), neither party will have the right of appeal under sections 34 or 34A or to apply for the determination of a question of law under section 27J of the Commercial Arbitration Act 2010 (NSW) or equivalent legislation in any of the Australian States or Territories.

## 9.10 **Costs and Expenses of Appeal Process**

- (a) In accordance with Rule 64 of the CAS Code, in respect of an Appeal heard by the CAS, the provisions set out in this clause 9.10(a) apply with regard to the costs of the Appeal.
  - (i) Appeal to a sole arbitrator
    - (A) The party instituting the Appeal must pay the CAS court office fee of CHF1000 to the CAS.
    - (B) Where the parties have agreed to have their Appeal determined by a sole arbitrator, the AOC will pay the CAS Costs which, by agreement between CAS and the AOC, are fixed at AUD\$2,500.
    - (C) If such an appeal heard by a sole arbitrator is upheld, the AOC will reimburse the court office fee of CHF1000 to the party who paid it.
    - (D) If such an appeal heard by a sole arbitrator is dismissed, the AOC will not reimburse the court office fee and, in its absolute discretion, the AOC may also require the unsuccessful party to repay to the AOC one half of the CAS Costs referred to in clause 9.10(a)(i)(B), namely AUD\$1,250.

- (ii) Appeal to a panel of arbitrators
  - (A) The party instituting the Appeal must pay the CAS court office fee of CHF1000 to the CAS.
  - (B) Where the parties do not agree to a sole arbitrator pursuant to clause 9.8(a)(ii), the AOC will contribute the sum of AUD\$2,500 towards the CAS Costs and the parties will, subject to any award of CAS to the contrary, be liable to pay to CAS, in equal shares, any CAS Costs in excess of AUD\$2,500.
  - (C) In the event that the CAS requires payment in advance of the estimated CAS Costs, the parties shall make such advance payment in equal shares.
  - (D) As part of its award in respect of any appeal heard by a panel of three arbitrators, the CAS may make a ruling regarding the payment of the CAS Costs in excess of AUD\$2,500 including a ruling that one party reimburse to the other party on account of estimated CAS Costs.
  - (E) If such an appeal heard by a panel of three arbitrators is upheld, the AOC will reimburse the court office fee of CHF1000 to the party who paid it.
  - (F) If such an appeal heard by a panel of three arbitrators is dismissed, the AOC will not reimburse the court office fee and, in its absolute discretion, the AOC may also require the unsuccessful party to repay to the AOC one half of the contribution towards the CAS Costs which the AOC has made pursuant to clause 9.10(a)(ii)(B) namely a reimbursement of AUD\$1,250.
- (b) In accordance with Rule 64 of the CAS Code, with respect to a Fast Track Appeal, the provisions set out in this clause 9.10(b) apply with regard to the costs of the Fast Track Appeal.
  - (i) Where a Fast Track Appeal is resolved by the Fast-Track Appeal Process, the Athlete must pay half the CAS court office fee, being the sum of CHF500. The NF must pay the remaining half of the CAS court office fee, being the sum of CHF500.
  - (ii) The AOC will contribute the sum of AUD\$2,500 towards the CAS Costs and the parties will, subject to any award of CAS to the contrary, be liable to pay to CAS, in equal shares, any CAS Costs in excess of AUD\$2,500.
  - (iii) In the event that the CAS requires payment in advance of the estimated CAS Costs, the parties shall make such advance payment in equal shares.
- (c) **Award of Costs**
  - (i) In any Appeal or Fast Track Appeal heard by the CAS, the costs of the successful party will be limited to the sum of AUD\$5,000.
  - (ii) In exercising its discretion with respect to making an award of costs, the CAS may have regard to:
    - (A) the extent to which the Appellant consulted with an Olympic Appeal Consultant before commencing his or her Appeal or Fast Track Appeal;
    - (B) the extent to which the NF cooperated with, and provided reasonable assistance to, the Olympic Appeal Consultant consulting the Appellant, if any;

- (C) the extent to which any party incurred excessive costs relative to the matter at hand (including with respect to the level of legal representation engaged by any party);
- (D) the extent to which any party failed to observe a ruling or direction by the CAS;
- (E) the extent to which any party failed to properly disclose to any other party, matters of factual or legal relevance;
- (F) the matters referred to in Rule 64.5 of the CAS Code; and
- (G) any other matter that the CAS determines in its absolute discretion to be relevant.

#### 9.11 Other Appeals

- (a) Subject to clause 9.11(c), there is no right of appeal for an Athlete who is not nominated by their NF in connection with the replacement of a Nominated Athlete or a Selected Athlete pursuant to any rule regarding Reserve Athletes, Late Athlete Replacements or Ap Alternate Athletes issued by the International Olympic Committee or an Organising Committee of the Olympic Games.
- (b) Subject to clause 9.11(c), there is no right of appeal for an Athlete who is not nominated by their NF to:
  - (i) a Team for:
    - (A) a Youth Olympic Games; or
    - (B) a Winter Youth Olympic Games; or
  - (ii) any other games or Competition for which the AOC selects a team of Athletes.
- (c) An Athlete may appeal their non-nomination to a Team pursuant to clauses 9.11(a) and 9.11(b)(i) or team pursuant to clauses 9.11(b)(ii), if each party to the appeal, including the NF, the AOC and any Affected Party, provides their written consent, such appeal to be brought on the grounds set out in clause 9.6(b)(ii) and heard by the CAS in accordance with the procedure set out in clauses 9.6(c)(iii) or, where an Athlete receives notice of their non-nomination within 14 days of the Sport Entries Deadline for the relevant games or Competition, in accordance with clause 9.9(b).
- (d) With respect to the determination of an appeal pursuant to this clause:
  - (i) The CAS may uphold or dismiss the appeal.
  - (ii) Subject to clause 9.11(d)(iii), where the CAS determines to uphold the appeal, the CAS must refer the decision regarding the Appellant's non-nomination back to the Appellant's NF for reconsideration and redetermination.
  - (iii) Notwithstanding clause 9.11(d)(ii), the CAS may itself determine the issue of the Appellant's nomination where the CAS determines that it would be impractical to refer the issue of the Appellant's non-nomination back to the NF in the time available.
  - (iv) Any award handed down by the CAS pursuant to clause 9.11(d) is final and binding on the parties and the Appellant will have no further right to appeal the award.
  - (v) Where the CAS refers the decision regarding the Appellant's non-nomination back to the Appellant's NF in accordance with clause 9.11(d)(ii), any decision

made by the NF regarding the Appellant's nomination after such referral, is final and binding on the Appellant and there is no further right of appeal.

- (e) There is no right of appeal for an Athlete who is not selected by the AOC to a team pursuant to clauses 9.11(a) or 9.11(b).

## **10 Indemnity**

- (a) Each NF must indemnify the AOC and its directors, officers, employees, servants and agents from and against all claims, demands, actions, proceedings, costs and expenses (including reasonable legal costs calculated on a solicitor and client basis) and liability to third parties arising out of or incidental to any breach of this By-Law by the NF.
- (b) The AOC must indemnify each NF and its directors, officers, employees, servants and agents from and against all claims, demands, actions, proceedings, costs and expenses (including reasonable legal costs calculated on a solicitor and client basis) and liability to third parties arising out of or incidental to any breach of this By-Law by the AOC.

## **11 Governing Law**

This By-Law is governed by the laws of the State of New South Wales.

ADOPTED as a By-Law of the AOC by the Executive on 1 February 2002  
AMENDED by the Executive on 22 March 2002 effective immediately  
AMENDED by the Executive on 21 March 2003 effective immediately  
AMENDED by the Executive on 19 June 2003 effective immediately  
AMENDED by the Executive on 20 November 2003 effective immediately save for the continued application of Clause 5.1 in respect of nomination and selection of athletes for the 2004 Olympic Games AMENDED by the Executive on 3 June 2004 effective immediately  
AMENDED by the Executive on 19 November 2004 effective immediately AMENDED by the Executive on 18 November 2005 effective immediately AMENDED by the Executive on 20 March 2008 effective immediately AMENDED by the Executive on 30 June 2008 effective immediately AMENDED by the Executive on 21 November 2008 effective immediately AMENDED by the Executive on 21 April 2009 effective immediately AMENDED by the Executive on 19 August 2011 effective immediately AMENDED by the Executive on 23 November 2011 effective immediately AMENDED by the Executive on 8 February 2013 effective immediately AMENDED by the Executive on 15 March 2013 effective immediately AMENDED by the Executive on 22 November 2013 effective immediately AMENDED by the Executive on 6 August 2015 effective immediately  
AMENDED by the Executive on 6 May 2016 effective immediately save for the introduction of Clause 7.1(2) which shall apply after the Closing Ceremony of the 2016 Olympic Games  
AMENDED by the Executive on 3 April 2018 effective immediately  
AMENDED by the Executive on 30 August 2018 effective immediately  
AMENDED by the Executive on 29 August 2019 effective immediately  
AMENDED by the Executive on 10 June 2020 effective 1 July 2020  
AMENDED by the Executive on 20 July 2020 effective immediately.  
AMENDED by the Executive on 23 March 2023 effective immediately.

## SCHEDULE 3

### World Sailing Official Qualification System – Paris Olympic Games



#### QUALIFICATION SYSTEM – GAMES OF THE XXXIII OLYMPIAD – PARIS 2024

#### WORLD SAILING (WS)

#### SAILING

##### A. EVENTS (10)

Men's events (4)	Women's events (4)	Mixed events (2)
Windsurfing Kite Dinghy Skiff	Windsurfing Kite Dinghy Skiff	Dinghy Multihull

##### B. QUOTA PLACES

###### B.1. Total athlete quota places for Sailing:

	Athlete quota places	Host country athlete quota places	Universality Places	Total
Men	156	7	2	165
Women	156	7	2	165
<b>Total</b>	<b>312</b>	<b>14</b>	<b>4</b>	<b>330</b>

###### B.2. Maximum number of athletes per National Olympic Committee (NOC):

	Athlete quota places per NOC	Event Specific Quota
Men	7	1 boat per Event
Women	7	1 boat per Event
<b>Total</b>	<b>14</b>	

###### B.3. Type of allocation of quota places:

Athlete quota places are allocated to the NOC.



## C. ATHLETE ELIGIBILITY

### C.1. Compliance with the Olympic Charter and other relevant rules

All athletes must respect and comply with the provisions of the Olympic Charter currently in force, including but not limited to Rule 41 (Nationality of Competitors) and Rule 43 (World Anti-Doping Code and the Olympic Movement Code on the Prevention of Manipulation of Competitions).

Only those athletes who respect and comply with the Olympic Charter, the World Anti-Doping Code and the Olympic Movement Code on the Prevention of the Manipulation of Competitions, including the conditions of participation established by the IOC, plus the rules of World Sailing, may participate in the Olympic Games Paris 2024.

### C.2. Age requirements

Athletes under 18 years of age shall present a signed and completed parent (or guardian) consent and declaration form to the OCOG by their Delegation Registration Meeting.

### C.3. Additional IF eligibility criteria

Athletes must also comply with the following criteria:

- a. Shall be registered as a World Sailing Sailor and provide their Sailor Identification Number to the OCOG during the entry process.
- b. Shall have appeared on the official World Sailing World Ranking List for their qualified Class at any time between 1 July 2022 and 30 June 2024.
- c. Shall have competed in at least one of the Olympic qualification events mentioned in section **D. Qualification Pathway** in their qualified Event.
- d. Shall be fully paid members of the relevant international class association as required by their rules.
- e. Shall hold a valid insurance certificate showing proof of third-party liability with a minimum coverage per incident of €2,000,000 or equivalent, if deemed to be the "person in charge".

## D. QUALIFICATION PATHWAY

Only the World Sailing Technical Delegates are responsible for this qualification system and therefore only the Technical Delegates are authorised on behalf of World Sailing to make decisions under the qualification system.

### D.1. QUOTA PLACES

D.1.1 The qualification events are listed in hierarchical order of qualification in the table D.1.2. below, irrespective of the actual calendar of the events. Where two qualification events have the same hierarchy, the qualification order will be based on the date the qualification event is scheduled to conclude. The World Sailing Olympic qualification event requirements and validity standards for quota allocation can be found in the relevant support documentation on available on the World Sailing website.



ONE Number of boats quota places	Qualification events
45 Men 45 Women 17 Mixed (Total 107 boats)	<b>2023 Sailing World Championships, The Hague, Netherlands, 10-20 August 2023</b>  The highest placed NOCs in each of the ten Sailing events at the 2023 Sailing World Championships will be qualified as per the quotas in the table below.
7 Men 7 Women (Total 14 boats)	<b>2024 ILCA World Championships, various</b>  The highest placed NOCs not already qualified at the 2023 Sailing World Championships, in each of the two Sailing events at the 2024 ILCA World Championships will be qualified as per the quotas in the table below.
31 Men 31 Women 12 Mixed (Total 74 boats)	<b>2023/2024 Continental Qualification events, various</b>  The highest placed NOCs from each continent not already qualified at the 2023 Sailing World Championships, or the 2024 ILCA World Championships, in each of the ten Sailing events at the respective continental qualification competitions (as defined in the qualification events supporting document on available on the World Sailing website), will be qualified as per the quotas in the table below.
16 Men 16 Women 7 Mixed (Total 39 boats)	<b>2024 Last Chance Regatta, Hyeres, FRA, 18-27 April 2024</b>  The highest placed NOCs not already qualified at the 2023 Sailing World Championships, the 2024 ILCA World Championships, or the 2023/2024 Continental Qualification events in each of the ten Sailing events at the 2024 Last Chance Regatta will be qualified as per the quotas in the table below.
2 Men 2 Women (Total 4 boats)	<b>Emerging Nations - 2024 Last Chance Regatta, Hyeres, FRA, 18-27 April 2024</b>  The highest placed NOCs who are current members of the World Sailing Emerging Nations Program (as defined in the Emerging Nations supporting document on available on the World Sailing website), not already qualified at the 2023 Sailing World Championships, the 2024 ILCA World Championships, the 2023/2024 Continental Qualification events, or the 2024 Last Chance Regatta in each of the four Sailing events at the 2024 Last Chance Regatta will be qualified as per the quotas in the table below.





D.1.3 Quota Allocation Table

	2023 Sailing World Championships	2024 ILCA World Championships	Africa	Asia	Central & South America	Europe	North America & Caribbean	Oceania	2024 Last Chance Regatta	Emerging Nations
M Windsurfing	11		1	1	1	1	1	1	5	1
W Windsurfing	11		1	1	1	1	1	1	5	1
M Kite	8		1	1	1	1	1	1	5	
W Kite	8		1	1	1	1	1	1	5	
M Dinghy	16	7	2	3	2	2	2	2	3	1
W Dinghy	16	7	2	3	2	2	2	2	3	1
M Skiff	10		1	1	1	1	1	1	3	
W Skiff	10		1	1	1	1	1	1	3	
MX Dinghy	8		1	1	1	1	1	1	4	
MX Multihull	9		1	1	1	1	1	1	3	

D.1.4 For Kite and Windsurfing Events, where two (2) boats have a tied final rank at a qualification event and only a one (1) boat quota place is available, the tie shall be broken in favour of the boat with the higher Opening Series rank.

## D.2. HOST COUNTRY PLACES

The host country will be allocated fourteen (14) athlete quota places, seven (7) for men and seven (7) for women athletes. The host country will automatically qualify one boat in each of the 10 Sailing events on the condition that the entered athletes meet the eligibility requirements described in section **C. Athlete Eligibility** of this document. The host country must also comply with the following criteria:

- The NOC has at least one boat compete in the respective event during the 2023 Sailing World Championships or the relevant continental qualification event.

## D.3. UNIVERSALITY PLACES

D.3.1 Four (4) Universality places are made available to eligible NOCs at the Olympic Games Paris 2024: two (2) Men's Dinghy and two (2) Women's Dinghy.

D.3.2 On 1 October 2023, the International Olympic Committee (IOC) will invite all eligible NOCs to submit their requests for Universality Places. The deadline for NOCs to submit their requests is 15 January 2024. The Tripartite Commission will confirm, in writing, the allocation of Universality Places to the relevant NOCs after the 2024 Last Chance Regatta.

D.3.3 Detailed information on Universality Places is contained in the "*Games of the XXXIII Olympiad, Paris 2024 - Olympic Games Universality Places - Allocation Procedure and Regulations*" document.



## E. CONFIRMATION PROCESS FOR QUOTA PLACES

### E.1 CONFIRMATION OF QUOTA PLACES

E.1.1 World Sailing will publish the results of the event within seven (7) working days after the last day of the qualification event on its website ([paris2024.sailing.org](https://paris2024.sailing.org)).

E.1.2 World Sailing will confirm in writing to the NOCs within ten (10) working days after the last day of each qualification event, the quota places they have obtained.

E.1.3 The NOCs will then have until midnight London time on the date in the table below to confirm to World Sailing using the World Sailing confirmation form via the specified email if they wish to use these quota places, as detailed in section **G. Qualification Timeline**.

Qualification Pathway	Confirmation date
2023 Sailing World Championships	One (1) month before 2024 Last Chance Regatta entries close : 14 March 2024
Host Country	
2024 ILCA World Championships	
2023 / 2024 Continental Qualification Events	
2024 Last Chance Regatta	Two (2) weeks from date of the invitation
Emerging Nations	
Universality Places	

E.1.4 NOCs shall enter all athletes to Paris 2024 by the entries deadline in section **G. Qualification Timeline**.

E.1.5 Quota places not confirmed by the deadline will be deemed declined and reallocated according to section **F. Reallocation of Unused Quota Places**.

### E.2 CONFIRMATION OF HOST COUNTRY PLACES

The host country must confirm in writing to World Sailing by the date defined in the table above the use of the host country places.

## F. REALLOCATION OF UNUSED QUOTA PLACES

### F.1 REALLOCATION OF UNUSED QUOTA PLACES

F.1.1 If an allocated quota place is not confirmed by the NOC by the confirmation of quota place deadline (see section **E. Confirmation Process for Quota Places**), or is declined by the NOC, the quota place will be reallocated according to the table below, respecting the maximum quota per gender and per NOC.



F.1.2 If a qualification event cannot be completed by the confirmation date set out in **section E. Confirmation Process for Quota Places**, the quota places from qualification event will be reallocated according to the table below.

Qualification Pathway	Reallocation
2023 Sailing World Championships	The quota place will be added to the event's 2024 Last Chance Regatta quota places.
Host Country	
2024 ILCA World Championships	
2023 / 2024 Continental Qualification Events	<p><u>Step 1</u> The quota place shall be reallocated to the event's highest ranked Developing Nation (as defined in the Developing Nations supporting document available on the World Sailing website) at the 2024 Last Chance Regatta not already qualified.</p> <p><u>Step 2</u> The quota place will be added to the event's 2024 Last Chance Regatta quota places.</p>
2024 Last Chance Regatta	<p><u>Step 1</u> The quota place shall be reallocated to the event's next highest ranked NOC not already qualified, at the 2024 Last Chance Regatta.</p> <p><u>Step 2</u> The quota place shall be reallocated to the event's highest ranked NOC not already qualified, at the event's most recent Class World Championships.</p> <p><u>Step 3</u> The quota place will be reallocated to the Dinghy Event of the same gender and reallocated to the highest ranked NOC in this Dinghy Event at the 2024 Last Chance Regatta not already qualified.</p> <p><u>Step 4</u> The quota place will be reallocated to the Windsurfing Event of the same gender and reallocated to the highest ranked NOC not already qualified in this Dinghy Event at the 2024 Last Chance Regatta.</p> <p><u>Step 5</u> Last resort process defined below in section F.1.3.</p>
Emerging Nations	<p><u>Step 1</u> The quota place shall be reallocated to the event's next highest ranked Emerging Nation not already qualified, at the 2024 Last Chance Regatta.</p>



	<p><u>Step 2</u></p> <p>The quota place will be added to the event's 2024 Last Chance Regatta quota places.</p>
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F.1.3 Should the entire reallocation process above be exhausted and athlete quota places remain available with reasonable time to meet the Sport Entry qualification deadline, the World Sailing Executive Office, shall take advice from the respective Class and prepare a ranked candidate list of NOCs with eligible named athletes for the World Sailing Board to select sufficient Athletes from to fill the athlete quota places. The candidate list shall be prepared in the following order:

1. Athletes of the original event quota place
2. Athletes of the opposite gender in the same event; not applicable for mixed events
3. Athletes of the original gender for the Dinghy Event
4. Athletes of the opposite gender for the Dinghy Event
5. Athletes of the original gender for the Windsurfing Event
6. Athletes of the opposite gender for the Windsurfing Event
7. Athletes of the same gender for any fleet racing event

F.1.4 The criteria, definition and eligible NOCs for Emerging Nations and Developing Nations quota places are defined in the relevant supporting document available on the World Sailing website.

F.1.5 If an NOC enters the same athlete in a one-person event and a two-person event, then an additional boat quota place shall be added to the same one-person event at the 2024 Last Chance Regatta, respecting the total athlete quota.

F.1.6 If an NOC enters the same athlete in two (2) one-person events or the same two (2) athletes in two (2) two-person events, then an additional boat quota place shall be added to the same event at the 2024 Last Chance Regatta for the event that was qualified lower in the qualification hierarchy (see section **D. Qualification Pathway**), respecting the total athlete quota. If the quota places are obtained at the same qualification event, then event in which the athlete's World Sailing Ranking is the lowest in the first rankings released following the 2024 Last Chance Regatta, shall have an additional boat quota place added at the 2024 Last Chance Regatta, respecting the total athlete quota. If the athlete's World Sailing Rankings are equal, then the Technical Delegates shall decide which event the additional quota place is assigned to at the 2024 Last Chance Regatta based on the event they think the athlete "second" event is.

## F.2. REALLOCATION OF UNUSED HOST COUNTRY PLACES

Unused host country place(s) will be reallocated to the 2024 Last Chance Regatta in the respective event, respecting the maximum quota per gender and per NOC.

## F.3. REALLOCATION OF UNUSED UNIVERSALITY PLACES

F.3.1 Any unused Universality place will be reallocated to the next highest-ranked eligible athlete of the same gender in the event, who has not yet qualified for the Olympic Games and respecting the maximum quota per gender and per NOC.



F.3.2 The highest-ranked eligible athlete regardless of the continent will obtain the quota place, respecting the maximum Universality Place quota per NOC. The process will be repeated until the quota has been filled for each gender.

F.3.3 If the Universality place reallocation process is exhausted and a quota place remains, the quota place will be added to the event's 2024 Last Chance Regatta quota.

## G. QUALIFICATION TIMELINE

Date	Milestone
Various events as per the calendar <a href="#">here</a>	Within 7 working days of each qualification event, World Sailing confirms in writing to the NOCs, the quota places obtained.
By 1 September 2023	World Sailing confirms in writing to the MNAs the athletes selected for the World Sailing Emerging Nations program.
1 October 2023	The International Olympic Committee (IOC) invites all eligible NOCs to submit their requests for Universality places
15 January 2024	The NOCs to submit their requests for Universality places
By 4 March 2024	World Sailing confirms in writing to the NOCs the quota places obtained.
By 14 March 2024	The NOCs to confirm to World Sailing the use of the allocated quota places.
By 20 March 2024	World Sailing to reallocate all unused quota places.
18-27 April 2024	2024 Last Chance Regatta, Hyeres, FRA
By 3 May 2024 TBC	World Sailing confirms in writing to the NOCs the quota places obtained at the 2024 Last Chance Regatta.
Two weeks after the invitation	The NOCs to confirm to World Sailing the use of the allocated quota places.
Within five days after each previous step	World Sailing to reallocate all unused quota places.
By 3 May 2024 (TBC)	The Tripartite Commission to confirm in writing the allocation of Universality Places to the NOCs (where applicable).
<b>8 July 2024</b>	<b>Paris 2024 Sport Entries deadline</b>
<b>26 July – 11 August 2024</b>	<b>Olympic Games Paris 2024</b>

G.1. All World Sailing supporting documents can be found on the World Sailing [website](#), including:

Emerging Nations criteria, definition and list

Developing Nations criteria, definition and list

World Sailing Member National Authorities by Continent

World Sailing Olympic Qualification Event Requirements

World Sailing Olympic Qualification Events and validity standards for quota allocation

## SCHEDULE 4

**CONFIDENTIAL**

### **Nomination Criteria 2024 – Sailing Baseline Performance Regattas**

*Schedule 4 will only be made available to Athletes who have signed and submitted a 2024 Long List Agreement Form (Schedule 1) agreeing to keep the details of the Baseline Performance (objective criteria) **confidential**.*

## SCHEDULE 5

### AOC Selection Criteria

# AUSTRALIAN OLYMPIC GAMES TEAM SELECTION CRITERIA – PARIS 2024

Approved 6 December 2022

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The AOC has adopted this Selection Criteria pursuant to the AOC's Olympic Team Selection By-Law. This criterion governs the selection of athletes to the Games by the AOC Selection Committee.

## 1 / Eligibility for Selection

An athlete who is nominated by a National Federation for selection to the Team (**Nominated Athlete**) must satisfy the following selection criteria in order to be selected by the AOC Selection Committee. A Nominated Athlete must:

- A. have met the requirements of the Qualification System applying to the Nominated Athlete's sport;
- B. have satisfied the Nomination Criteria adopted by their National Federation applying to the Nominated Athlete's sport;
- C. have been nominated to the AOC by their National Federation;
- D. have met and continue to meet the eligibility requirements for Australian competitors outlined in the Olympic Charter;
- E. meet the requirements of rules 40 and 41 of the Olympic Charter;
- F. have signed and will comply with the Team Membership Agreement for Athletes and agree to sign any entry form required by the International Olympic Committee, AOC or the Organising Committee for the Games;
- G. comply with the AOC Constitution and its by-laws as adopted from time to time, including the AOC Olympic Team Nomination and Selection By-Law, AOC Anti-Doping By-Law and AOC Ethical Behaviour By-Law;
- H. not have breached the AOC Anti-Doping By-Law, unless the Nominated Athlete has been sanctioned for the breach and has completed the sanction imposed;
- I. have been available for sample collection for the purpose of conducting anti-doping testing and have provided accurate and up to date whereabouts information within the 3-strike policy allowed for athletes under the World Anti-Doping Code;
- J. have, if required by the AOC, signed a statutory declaration regarding child protection, anti-doping matters and any other matter determined by the AOC to require declaration from time to time;
- K. not at any time have engaged in conduct (whether publicly known or not), which
  - i has brought, brings or would have the tendency to bring the Nominated Athlete or their sport into disrepute or censure; or
  - ii is or would have the tendency to be inconsistent with, contrary to or prejudicial to the best interests, image or values of the AOC or Team Sponsors, or as a result of which, the Nominated Athlete's continued membership would not be or would not likely be in the best interests of the Team;
- L. not at any time be convicted of, or charged with, any offence involving violence, Child Abuse, alcohol or drugs, or any sex offence, or any offence relating to any betting or gambling activities on sport, or any offence which is punishable by imprisonment;
- M. have disclosed any criminal offence of whatever nature, with which the Nominated Athlete has been charged, or of which the Nominated Athlete has been convicted, and has consented to the Nominated Athlete's National Federation and the AOC making enquiries to relevant authorities for any details of the Nominated Athlete's criminal record (if any), including details of any charges pending or any spent convictions disclosable by law, and consents to those authorities providing that information in answer to those enquiries;
- N. have and must continue to honestly and fully disclose until the end of the Games Period information concerning any conduct that would cause an actual or potential breach of clauses 1(A) and 1(M), to their National Federation and the AOC, and consent to:
  - (a) their National Federation and the AOC making enquiries with relevant authorities regarding any disclosures; and
  - (b) consent to relevant authorities providing information to their National Federation and the AOC in relation to those enquiries; and

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- O. completed medical assessments to the satisfaction of the AOC Selection Committee, if required.

A breach of, or a failure by a Nominated Athlete to comply with clauses 1(A) – (O) may render that Nominated Athlete ineligible for selection to the Team, at the complete and absolute discretion of the AOC Selection Committee.

## 2 / Selection

The AOC Selection Committee has the sole and absolute discretion to determine:

- A. whether a Nominated Athlete has met the requirements of this Selection Criteria;
- B. whether a Nominated Athlete is eligible for selection to the Team, having regard to the requirements of this Selection Criteria and any other circumstances or criteria the AOC Selection Committee considers appropriate;
- C. that a Nominated Athlete is ineligible for selection to the Team for any reason (irrespective of whether the Nominated Athlete has met some or all of the requirements of this Selection Criteria); and
- D. whether it will select the maximum number of athletes (or teams, where applicable) permitted for selection by the AOC under a Qualification System, regardless of how many Nominated Athletes meet the standards required under that Qualification System.

## 3 / No Extenuating Circumstances

In determining whether a Nominated Athlete has met the requirements for selection to the Team, the AOC Selection Committee will not have regard to any extenuating circumstances.

For the purposes of this clause, “**extenuating circumstances**” means an inability to compete in, or attend, events, trials, training camps or other competitions arising from:

- (a) injury or illness;
- (b) equipment failure;
- (c) travel delays;
- (d) bereavement or disability arising from death or serious illness of an immediate family member, which means a spouse, de facto partner, child, parent, grandparent, grandchild or sibling; or
- (e) any other factor or reason that is considered by AOC Selection Committee to constitute extenuating circumstances.

## 4 / Amendments

This Selection Criteria may be amended by the AOC Selection Committee from time to time.

## 5 / Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise. Unless otherwise defined in this Selection Criteria, capitalised terms used in this Selection Criteria have the meaning ascribed to them in the AOC Olympic Team Nomination and Selection By-Law.

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**AOC Olympic Team Nomination and Selection By-Law** means the AOC Olympic Team Nomination and Selection By-Law adopted by the AOC that is in force and amended from time to time, available at <https://www.olympics.com.au/the-aoc/governance/> .

**AOC Anti-Doping By-Law** means the Anti-Doping By-Law adopted by the AOC that is in force and amended from time to time and available at <https://www.olympics.com.au/the-aoc/governance/>.

**AOC Ethical Behaviour By-Law** means the AOC Ethical Behaviour By-Law adopted by the AOC that is in force and amended from time to time, available at <https://www.olympics.com.au/the-aoc/governance/>.

**Child** means a person aged under the age of 18 years.

**Child Abuse** means physical, emotional, psychological, harming or exploitation of children, whether in person or online, whether a one-off incident or a series of incidents, whether sexual or otherwise and includes, but not limited to:

- (a) derogatory or inappropriate behaviour;
- (b) non-accidental injury to children;
- (c) inappropriate touching;
- (d) physical, emotional, psychological or sexual abuse including groomed or forced involvement in sexual behaviour, verbal or physical conduct or gesture of a sexual nature (e.g. the use of offensive stereotypes based on gender, sexual jokes, threats, intimidation);
- (e) insensitivity towards children with cultural or religious differences; or
- (f) neglect of an individual, being the failure of a person with a duty of care towards another person to provide a minimum level of care to that person, which is causing harm, allowing harm to be caused, or creating an imminent danger of harm

**Games** means the Paris 2024 Olympic Games.

**Team** means the team of athletes and officials selection and appointed, respectively, by the AOC to participate in the Games.

**Team Membership Agreement** means the AOC Team Membership Agreement for Athletes which governs athletes' participation in the Games.

**Team Sponsors** means the sponsors, suppliers and licensees of the AOC and/or the Team. A reference to a clause or schedule is to a clause or schedule of this Selection Criteria.

- A. The singular includes the plural and the converse also applies.
- B. A reference to an agreement or document (including a reference to this agreement) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this agreement or that other agreement or document, and includes the recitals and schedules to that agreement or document.
- C. A reference to a party to this Agreement or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
- D. A reference to conduct includes an omission, statement or undertaking, whether or not in writing.
- E. A reference to time is to Sydney time, unless otherwise stated.
- F. Mentioning anything after includes, including, for example or similar expressions does not limit what else might be included.

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