Case number: NST-E25-342730

Case Title: Lauren Ryan v Australian Athletics

Determination

National Sports Tribunal

General Division

sitting in the following composition:

Member: The Honourable Steven Strickland KC

in the arbitration between

Lauren Ryan Applicant

Self-represented

And

Australian Athletics Respondent

Represented by Briar Sefo, General Manager – Integrity

And

Linden Hall Interested Party

Self-Represented



INTRODUCTION

- 1. This is a first instance selection appeal by Lauren Ryan (the Applicant), being heard by way of an arbitration, from her non-selection by Australian Athletics (the Respondent) in the 5,000 metres event in the Australian Athletics Team for the World Athletics Championships to be held in Tokyo, Japan from 13 to 21 September 2025 (the Championships).
- 2. The Applicant was notified of her non-selection by the Respondent on Wednesday, 27 August 2025.
- 3. The Australian Athletics Selection Policy for the Championships (the Selection Policy) includes at its appendix 1, the Selection Appeals Procedure for any Non-Selected Athlete. Clause 10.6.1 of the Selection Appeals Procedure provides that a selection appeal cannot be commenced by a Non-Selected Athlete unless the provisions of that clause have been complied with. The National Sports Tribunal (the Tribunal) is told that that requirement has been satisfied and the appeal was able to be commenced.
- 4. On Friday, 29 August 2025, the Applicant lodged her application with the Tribunal seeking to appeal her non-selection.
- 5. Clause 10.5.3.3 of the Selection Appeals Procedure provides for an "Interested Party" to be a party to a selection appeal. The three Selected Athletes for the Championships' 5,000 metres event were identified by Australian Athletics as potential Interested Parties, and as a result they received notice of the appeal. Of the three, Georgia Griffith and Rose Davies declined to be parties to the appeal. However, the third Athlete, Linden Hall, confirmed that she wished to be an Interested Party, and she was given the opportunity to make submissions and give evidence. In that regard, on Tuesday, 2 September 2025, she lodged a submission with supporting material.

THE JURISDICTION OF THE TRIBUNAL

- 6. The jurisdiction of the Tribunal is engaged by section 23(1) of the *National Sports Tribunal Act* 2019 (Cth) and the Selection Policy.
- 7. Because of the need for this appeal to be dealt with on an urgent basis, and the worldwide location of the parties, a pre-hearing conference was not able to be held and an arbitration agreement was not able to be prepared and executed by the parties. Nevertheless, the NST Member was informed that the parties were advised by the Tribunal of the scope of this arbitration, and of its confidentiality requirements.
- 8. Absent an arbitration agreement, and in order to progress this appeal, a procedural timetable was formulated by the Tribunal and agreed upon by the parties as follows:



- 8.1 The Applicant to file with the NST Registry and serve on the other parties her written submissions and any witness statement(s), evidence, and other documents she wishes to rely on by 5:00pm AEST on Tuesday, 2 September 2025.
- 8.2 The Respondent and the Interested Party to file with the NST Registry and serve on the other parties their written submissions and any witness statement(s), evidence, and other documents they wish to rely on by 5:00pm AEST on Wednesday, 3 September 2025.
- 8.3 The Applicant to file with the NST Registry and serve on the other parties her written submissions and any witness statement(s), evidence, and other documents she wishes to rely on in reply by 5:00pm AEST on Thursday, 4 September 2025.
- 8.4 A hearing (if required) to occur on Friday, 5 September 2025.
- 9. Save and except in one respect, the parties have complied with this timetable and the Tribunal has before it the submissions and supporting material of each party. The one exception is that the Applicant did not avail herself of the opportunity to lodge any submissions or material in reply.
- 10. As for a hearing, pursuant to section 52 of the *National Sports Tribunal (Practice and Procedure)*Determination 2024 (Cth) (the **NST Determination**), where the Tribunal considers it appropriate to do so, and all the parties agree, the Tribunal may determine the dispute without a hearing. There is a similar provision in clause 10.7.1 of the Selection Appeals Procedure.
- 11. The Tribunal considered it appropriate to determine the appeal without a hearing, and all the parties agreed to that course being adopted.
- 12. No party objected to the proposed arbitration, the arbitrator, or the procedure adopted by the Tribunal for the purposes of the arbitration.

THE APPEAL

- 13. Clause 10.6.1.10 of the Selection Appeals Procedure sets out the grounds on which a Non-Selected Athlete may bring an appeal to the Tribunal, noting that the Applicant bears the onus of making out the grounds of the appeal.
- 14. In her initial submission, the Applicant did not frame her appeal around any of the grounds of appeal.
- 15. In its initial submission in response, the Respondent referred to this failure of the Applicant to identify a ground of appeal, but did not submit that that was fatal to the appeal. Instead, the Respondent "delineate(d) the selection process of the Selection Committee, and address(ed) the points raised by the (Applicant)" in its submissions. The Respondent then concluded that in taking



into account what the Applicant submitted, she in effect failed to make out any of the four possible grounds of Appeal that were able to be relied upon by her.

- 16. It is an open question whether an Applicant needs to identify and rely on one or more of the grounds of appeal available in the Selection Appeals Procedure, and one reason for that is the use of the word "may" in the relevant clause. In any event, the Tribunal gave the Applicant the opportunity to indicate in her reply which ground(s) of appeal she relied upon, but as referred to above, she failed to lodge a reply within the timeframe permitted. However, when responding on Friday, 5 September 2025 to whether she agreed with this member of the Tribunal's view that it was appropriate to determine the appeal without a hearing, she did identify the grounds of appeal on which she relied.
- 17. The grounds of appeal in clause 10.6.1.10 of the Selection Appeals Procedure are as follows:
 - 17.1 a Selected Athlete whom the Applicant seeks to replace does not meet the Athlete Eligibility Criteria;
 - 17.2 the Applicant's omission from the Team was a result of a failure by the Selection Committee to properly apply the selection criteria set out in the Selection Policy;
 - 17.3 Australian Athletics was affected by actual bias in making its decision to not select the Non-Selected Athlete;
 - 17.4 there were no grounds on which the selection decision could reasonably be based.
- 18. Of these grounds of appeal, the Applicant relied on the second and third grounds.
- 19. As a result of the circumstance of the Applicant advising the grounds of appeal on which she relied following the closure of the times permitted for the lodging of any submissions, this Member of the Tribunal made the following Directions pursuant to section 29 of the NST Determination) on Friday, 5 September 2025:
 - 19.1 By 7:00pm AEST on Friday, 5 September 2025, the Respondent and the Interested Party may file with the NST Registry and serve on the other parties a response (if any) to Applicant's email which identifies the grounds of appeal sought to be made out under the relevant policy;
 - 19.2 If no response is filed and served by the deadline within Direction 1 this member will determine that the Respondent and the Interested Party are satisfied and do not wish to respond;
 - 19.3 Alternatively, the Respondent and the Interested Party may inform the NST that they do not wish to respond prior to the deadline within Direction 1;
 - 19.4 This matter remains being heard on the papers.

20. At 6:50pm AEST on Friday, 5 September 2025, the Respondent provided submissions in response to the grounds of appeal relied upon by the Applicant. The Interested Party advised the Tribunal that she did not wish to respond to the grounds of appeal relied on by the Applicant.

OUTCOMES

- 21. The Applicant sought that she be selected in the 5,000 metres event in the Australian Athletics Team for the Championships.
- 22. The Respondent sought that the appeal be dismissed.
- 23. The Interested Party did not formally seek an outcome, but the tenor of her submissions was that she sought the appeal be dismissed.

THE SELECTION POLICY

- 24. The Selection Policy sets out the basis on which Australian Athletics will select its representative team for the Championships.
- 25. Clause 2 of the Selection Policy provides its Aims, which are to:
 - 2.1 Send the most competitive possible athletics team to represent Australia at the 2025 World Athletics Championship;
 - 2.2 Select athletes and relay teams with the realistic potential to win a medal or finish in the top eight at the 2025 World Athletics Championships or future World Athletics Championships and Olympic Games;
 - 2.3 Use all available Australian places for athletes in individual events and teams and relays considering:
 - 2.3.1 The rules related to the Competition for qualification and entry purposes and;
 - 2.3.2 Maximum numbers of athletes per nation;
 - 2.4 Reward participation in the Australian Championships and participation in the Australian Athletics Summer Series ...;
 - 2.5 In all cases, the Selection Committee will consider each athlete's competitive record and demonstrated ability to plan the peak of their season at a major championship. Those athletes who, when given international opportunities, repeatedly fail to meet or exceed the levels they achieved to gain selection cannot assume to be selected and this clause specifically overrides paragraph number 2.3 above.



- 26. Clause 3 of the Policy sets out the criteria for Athletes to be eligible for selection in the Team. There is no issue here that all Athletes considered for selection in the 5,000 metres event satisfied these criteria.
- 27. Clause 4 of the Policy sets out the Selection Procedure, and relevantly provides for three Phases, with Phase 1 Initial Selection (clause 4.9 of the Policy), and Phase 3 Final Selection (clause 4.11 of the Policy) applying here.
- 28. None of the Athletes considered for selection in the 5,000 metres event were eligible for selection in Phase 1, as determined by the Selection Committee when it met on Sunday, 13 April 2025. However, the Selection Committee was then able to exercise its discretion, under Phase 3, to select three Athletes to the event and name one reserve (as permitted by World Athletics Qualification System and entry standards for the Championships).
- 29. The relevant clauses under Phase 3 Final Selection are as follows:
 - 4.11.1 The Selection Committee may exercise discretion to select additional athletes, provided they meet the governing body's rules on field size and eligibility. For those events for more then three qualified athletes, selectors will prioritise those who best align with Aims of this Policy (Section 2). This discretion is absolute and may or may not be exercised.

[...]

- 4.11.3 Athletes eligible for Selection Phase 3 must meet all policy eligibility requirements and qualify within the field size (via standard or ranking) and demonstrate recent form comparable to their qualification performances).
- 4.11.4 When more than three athletes are eligible, the Selection Committee will consider the following factors in no particular order of priority:
 - 4.11.4.1 Likelihood of a top-8 finish.
 - 4.11.4.2 Whether an athlete qualified via performance standard or ranking.
 - 4.11.4.3 Demonstrate (sic) high-level performance throughout the Qualification Period.
 - 4.11.4.4 Proven ability to peak at major championships.
 - 4.11.4.5 Proven ability to meet or exceed qualification-level performances during international competitions.
 - 4.11.4.6 Participation in the 2025 Australian Track and Field Championships and the Summer Series...in their relevant event(s).
 - 4.11.4.7 Any additional factors deemed relevant by the Selection Committee in consultation with the National Federation General Manager High Performance.

BACKGROUND FACTS

- 30. The Respondent is the governing body for athletics in Australia.
- 31. The Selection Committee for the Australian Team to compete at the Championships comprised:
 - 31.1 Peter Hamilton (Chair), Competitions Manager, International Technical Official and past Team Manager;
 - 31.2 Marian O'Shaughnessy, past International Athletics Representative;
 - 31.3 Caitlin Pincott, past International Athletics Representative;
 - 31.4 Shaun Creighton, past International Athletics Representative;
 - 31.5 Nicole Boegman-Stewart, Head Coach and past Athletics International Representative as both athlete and coach; and
 - 31.6 Chris Erickson, past International Athletics Representative as athlete and manager.
- 32. There were a total of five Athletes in the women's 5,000 metres event who met the World Athletics Rules for eligibility for entry, namely:
 - 32.1 Rose Davies:
 - 32.2 Georgia Griffith;
 - 32.3 Lauren Ryan;
 - 32.4 Linden Hall; and
 - 32.5 Maudie Skyring.
- 33. On Thursday, 14 August 2025, the Chair of the Selection Committee wrote to each of the five Athletes inviting them to present a submission to be considered by the Committee. Three of the five Athletes responded and provided a submission, namely the Applicant, Maudie Skyring, and the Interested Party.
- 34. In preparation for the meeting of the Selection Committee, the Chair compiled a document comparing the Athletes, and included the following information:
 - 34.1 The list of eligible Athletes;
 - 34.2 The list of all 5,000 metres performances (times) of Australian Athletes in the qualification period;
 - 34.3 The results of the Australian Athletics Championships (selection trial) 5,000 metres;
 - 34.4 The international representative performances of eligible Athletes (Maudie had none); and



34.5 The head-2-head results between the Athletes.

This document was distributed to all members of the Selection Committee as well as the submissions of the three Athletes who responded to the invitation of the Chair.

- 35. The Selection Committee met on Sunday, 24 August 2025 to determine which Athletes would be selected in Phase 3.
- 36. For transparency, the Tribunal was advised that at that meeting Andrew Faichney and Kat Austin from Australian Athletics' High Performance Department were present as observers.
- 37. However, it is concerning to the Tribunal that when the minutes of that meeting were sought by way of a Direction pursuant to section 29 of the NST Determination, the Respondent advised that "no minutes were taken". With respect, minutes of every Selection Committee meeting should be taken to ensure complete transparency in the decision-making process not only for the purposes of that decision, but for the purposes of any appeal process.
- 38. Here then, the Tribunal is entirely reliant on the relevant paragraphs of the affidavit of the Chair of Selectors in determining whether any of the grounds of appeal relied upon by the Applicant are made out. That said there is no suggestion from the Applicant, and nor could there be, that the Tribunal is unable to rely on what the Chair deposed to in his affidavit in this regard. The relevant paragraphs of the affidavit are as follows:
 - 20. "The committee agreed that, considering the Selection Policy, Rose Davies was by far the athlete who was the most competitive in the 5,000 m. The Committee then discussed the next available places and agreed that, considering the Selection Policy, Georgia Griffith and Linden Hall were more competitive than either Lauren Ryan or Maudie Skyring.
 - 21. Georgia Griffith and Linden Hall had never been defeated by Lauren Ryan at 5,000 m and both are proven at World/Olympic level to progress beyond the first round in a multi-round competition, Lauren has never achieved this.
 - 22. It was noted that Lauren does have a faster personal best time then Linden Hall but this did not sway the Selection Committee compared to the other factors, and was not considered to be the sole determining factor for selection.
 - 23. Maudie Skyring was also considered for selection but her case for selection was not considered strong as she has a slower personal best and does not have the head-2-head superiority over any of the other vying for selection.
 - 24. The decision to select Georgia Griffith and Linden Hall was agreed by all members of the Selection Committee."

DISCUSSION

The First Ground of Appeal – The Applicant's omission from the Team was a result of a failure by the Selection Committee to properly apply the Selection Criteria set out in the Selection Policy

39. The submission of the Applicant in support of this ground is as follows:

"The Selection Policy is not clearly applied as they using Nationals placing for some events and not others. Therefore bias is coming into play. Clearly that are emphasising the point being my placement at Nationals however in other events athletes were selected over other athletes who place behind them similarly in this case which proves bias in the decision." (as per the original)

- 40. That submission is difficult to follow, but in summary it seems to be suggesting that although the Applicant did not place above any of the Selected Athletes at the National Championships, the Selection Committee could still have selected the Applicant because allegedly that is what happened in other events.
- 41. That submission does not satisfy the onus that the Applicant has to make out this ground of appeal. It is irrelevant under this ground to refer to what might have been the case in relation to other events. Indeed, no evidence has been presented by the Applicant to support what is alleged to have occurred in other events. That said, what the Applicant needs to demonstrate here is that in relation to this specific event for which her selection was under consideration, the Selection Committee failed to properly apply the Selection Criteria. Turning to that issue, and although not expressed in terms of this ground of appeal, it is still necessary for the Tribunal to consider the initial submissions of the Applicant that have relevance to the application of the Selection Criteria by the Selection Committee.
- 42. In summary, the Applicant makes the following points in her initial submissions:
 - 42.1 Since the National Championships, which was the selection trial for the Championships, she has changed her coach and she has made "drastic progress" demonstrated by the fact that she has achieved personal bests in four races, one of 1,500 metres one of 3,000 metres, and two of 5,000 metres.
 - 42.2 This progression satisfies clause 4.11.4.4 of the Selection Criteria by providing proven ability to peak at major championships.
 - 42.3 Her performance in the 10,000 metres at the Paris Olympic Games where she placed 13th when seeded 14th satisfies clause 4.11.4.5 of the Selection Criteria by demonstrating she can meet or exceed qualification-level performances during international competition.



- 42.4 Her progression in the 5,000 metres event satisfies clause 4.11.4.1 of the Selection Criteria in that there is a likelihood of her achieving a top-8 finish.
- 42.5 Her most recent performance in a 5,000 metres event places her number 3 all time for Australia behind Rose Davies and Georgia Griffith, two of the three Selected Athletes.
- 42.6 The relevance of current form going into the Championships.
- 42.7 The timing of the events in the Championships allows for a greater recovery time between the 10,000 metres and the 5,000 metres (which she would be competing in) then the 1,500 metres and the 5,000 metres (which the third Selected Athlete, Linden Hall, would be competing in).
- 42.8 Her personal best places her third amongst the Selected Athletes with the third Selected Athlete's personal best placing her fourth.
- 42.9 A suggestion that the third Selected Athlete is more interested in competing in the 1,500 metres event then the 5,000 metres event.
- 42.10 She has broken 15 minutes for the event five times in her career and the third Selected Athlete only twice.
- 43. The question then becomes whether these submissions demonstrate that the Selection Committee failed to properly apply the Selection Criteria in selecting the Athletes to compete in the 500 metres event at the Championships.
- 44. In response to the points made by the Applicant, the Respondent says this, using the same paragraph point numbering as appears above:

44.1 1, 2, 4, 5, 6, 8 and 10:

- i. There is no dispute that the Applicant has made progress since the selection event, but that progress in the 5,000 metres event has been to bring her best performance on a par or close to the performances of the Selected Athletes. Rose Davies and Georgia Griffith have run in the low 14.30's, and Linden Hall has run in the low 14.40's in the Qualification Period. Thus, the improved performance of the Applicant does not demonstrate "definitive separation" between any of the athletes such that the Selection Committee has failed to properly apply clauses 4.11.4.1, 4.11.4.2, 4.11.4.3 or 4.11.4.4 of the Selection Criteria.
- In relation to point 8 above, the Interested Party relevantly comments that although she has a slightly slower time then the Applicant, her world ranking is much higher.
 A world ranking reflects consistency as it is calculated from each athlete's top 3 results in a twelve month period.







44.2 2, 3 and 4:

- i. The Applicant has not progressed past the heats in the 5,000 metres event in major international track events in the last two years. In the 2023 World Championships she came 18th in her heat (39/40 overall) and in the 2024 Olympic Games she came 13th in her heat (30/41 overall). In comparison, all of the selected athletes have progressed past the heats at major championships and this demonstrates that they have been more competitive then the Applicant at major championships.
- ii. Pausing there, in this context, the Applicant places great store in her placing 13th in the 10,000 metres event in the Paris Olympic Games. However, the event under consideration is the 5,000 metres event, and the 10,000 metres event at the Olympic Games was a straight out final without any heats.
- iii. Significantly, when competing against the selected athletes, the Applicant has never been able to defeat any of them in a 5,000 metres event, with the Interested Party defeating her by a considerable margin on the two occasions that they have competed against each other. And for what it is worth, the Applicant has only once defeated any of the selected athletes, namely Georgia Griffith, but this was in a 3,000 metres event.
- iv. Tellingly, as required by clause 4.11.4.6 of the selection criteria, the Selection Committee took into account the results of the athletes at the selection trial, namely the National Championships. There, Georgia Griffith came second, Rose Davies came third, the Interested Party came fourth and the Applicant came eighth, approximately 37 seconds behind the Interested Party.
- v. Thus, again the Applicant's submission in this regard does not demonstrate that the Selection Committee failed to properly apply clauses 4.11.4.1, 4.11.4.4, 4.11.4.5, or 4.11.4.6 of the Selection Criteria.

44.3 7:

- i. This timing will only affect the Interested Party who has been selected to compete in the 1,500 metres event and the 5,000 metres event. However, at the National Championships the Interested Party defeated the Applicant in the 5,000 metres event having competed in the 1,500 metres heats and final, the latter taking place the day before the 5,000 metres event.
- ii. In any event, this issue does not appear to be a factor that is required to be taken into account under the Selection Criteria, and thus it cannot be suggested that this was a matter that the Selection Committee failed to properly take into account.

44.4 9:

- i. The Respondent rightly submits that this is not an issue that has any relevance to the proper application of the Selection Criteria.
- 45. From this analysis, it is plain that the Selection Committee properly applied the Selection Criteria in the Selection Appeals Procedure, not forgetting that it is not only clause 4.11.4 that is relevant, but also the Selection Policy Aims in clause 2. To repeat, clause 2.1 provides for Australian Athletics to "send the most competitive possible athletics team to represent Australia at the 2025 World Athletics Championships". It is readily apparent that the Selection Committee were guided by that Aim in applying the Selection Criteria.
- 46. This ground of appeal fails.

The Second Ground of Appeal – Australian Athletics was affected by actual bias in making its decision to not select the Non-Selected Athlete.

47. The submission of the Applicant in support of this ground is as follows:

"In this instance, bias was used because of placing emphasis on Nationals for some events and not others. Secondly, when looking at the decision email, they were using bias based on multiple points stating "we think" this person will make a final. When you say we think that simply is an opinion based decision not FACTS. Hence the points laid out in my initial email where I believe that the decision made by the Selection Panel was unjust, and not putting the best athlete clearly the 3rd fastest Australia all-time to compete in the event.

Secondly, Linden stating she tried to race at Brussels Diamond League similarly here we did too. However, my agent Stephen Hass were able to obtain entry, hence we opted to race the 3km at Silesia Diamond League to prove form in the event and was the 2nd placed Aussie beating Georgia Griffith who was the Australian record holder in that event. Where I clearly showed fitness and formed in the event category in the relevant period close to the World Championships." (as per the original)

- 48. This ground can be disposed of relatively easily.
- 49. The ground requires the Applicant to satisfy the Tribunal that the Respondent was affected by actual bias in not selecting her.
- 50. That requirement does not seem to be appreciated by the Applicant, and certainly there is no evidence that has been put before the Tribunal that there was actual bias in the decision making.
- 51. As this member of the Tribunal said in *Athlete* v *Gymnastics Australia (NST-E25-191272)* at [99] and [100]:



"99. The claim of actual bias carries a heavy onus; it requires cogent evidence and the allegation must be distinctly made and clearly proved. As it was said by North J in Sun Zhan Qui v Minister of Immigration and Ethnic Affairs (1997) 91 FCR 71 at 134, "actual bias exists where the decision-maker has prejudged the case against the applicant, or acted with such partisanship or hostility as to show that the decision-maker has a mind made up against the applicant and was not open to persuasion in favour of the applicant.

(Also see Gleeson CJ and Gummow J in Minister for Immigration and Multicultural Affairs v Jia Legeng (2001) 205 CLR 507, at [35] – [36], R v Rich [2009] VSC 32, Valdez v Frazier (No. 2) [2016] FamCAFC 55 and NACB v Minister for Immigration and Multicultural and Indigenous Affairs [2002] FCAFC 236).

- 100. The enquiry is wholly subjective and requires analysis of the likely or actual thought processes of the decision maker..."
- 52. There is no analysis of the thought processes of the decision maker here and there is no evidence demonstrating any prejudgement by the Selection Committee.
- 53. The Applicant seems to be suggesting that the bias is demonstrated by the Selection Committee "placing emphasis on Nationals for some events and not others". However, the Tribunal has rejected that submission already, and there is no evidence to support it even if it could be categorised as "actual bias".
- 54. The next submission made suggests that the bias is demonstrated by the Selection Committee basing its decision on opinion rather than facts, and that it was "unjust" to not select the "best athlete". The Selection Committee in reaching its decision clearly has to make predictions as to how each Athlete will perform at the Championships, but predictions are based on the facts of the respective Athlete's performances prior to the Selection Committee's meeting, and that is not evidence of bias. Further, the fact that the Applicant has a better time compared to the Interested Party is not the only factor which must be considered by the Selection Committee when applying the Selection Criteria. The Selection Committee were well aware of the individual times of the eligible Athletes, and clearly took those times into account with all of the other criteria that they were obliged to take into account, pursuant to the Selection Criteria.
- 55. The second paragraph of the Applicant's submission does not require a response. It says nothing about how the Selection Committee went about applying the Selection Criteria in making the selection.

This ground of appeal also fails.

CONCLUSION

56. Neither of the grounds of appeal relied upon have merit, and for completeness the initial submissions presented by the Applicant insofar as they go further than any of the grounds of appeal do not provide any basis for the appeal to be allowed, and thus the appeal must be dismissed.

THE TRIBUNAL THEREFORE DETERMINES

1. The appeal be dismissed.

Date: 8 September 2025 (Determination given 6 September 2025)

The Honourable Steven Strickland KC