



TRIATHLON NEW ZEALAND 2022 BIRMINGHAM COMMONWEALTH GAMES NOMINATION POLICY

12 August 2021

1. Introduction

- 1.1 **Scope:** This Nomination Policy explains how Tri NZ will nominate Athletes to the NZOC for the men's and women's individual triathlons (**Individual Triathlon**) and the mixed team relay triathlon (**Mixed Team Relay**) for the Games.
- 1.2 **Aim:** The primary aim of Tri NZ in nominating Eligible Athletes for the Games is to win one or more medals in Individual Triathlon and/or a medal in the Mixed Team Relay. The secondary aim of Tri NZ is the delivery of a top 6 outcome in the Individual Triathlon.
- 1.3 **Application:** This Nomination Policy is issued by the Tri NZ Board and takes effect from 1 July 2021. This Nomination Policy applies to:
- (a) all Athletes wishing to be considered for nomination and selection to the Games Team; and
 - (b) the Selectors, in undertaking their role and responsibilities in considering nominations to the NZOC for the Games Team.
- 1.4 **Steps:** Consideration to represent New Zealand in the Individual Triathlon and Mixed Team Relay is a four-step process:
- (a) **Step 1 – Application/Eligibility:** Application by the Athlete to Tri NZ to be considered for nomination and selection;
 - (b) **Step 2 – Nomination:** Nomination by Tri NZ to the NZOC; and
 - (c) **Step 3 – Selection:** Selection by the NZOC to the Games Team.
 - (d) **Step 4 – Selection to Start in the Mixed Relay Team:** If required (because there are more than 4 Selected Athletes), selection by the Selectors to the Mixed Relay Team.
- 1.5 **Definitions:** Clause 13 of this Policy sets out the meaning of certain words used in this Policy.

2. Qualification of Quota Places

- 2.1 **Qualification Criteria:** New Zealand has been allocated 5 initial quota places in the Event, to be considered across the Individual Triathlon, with a maximum of 3 places per gender, which will also encompass the Mixed Relay Team.

- 2.2 **Additional Places:** Should additional places become available at any stage, through the redistribution of unused quota places by NZOC and/or additional quota places offered to the NZOC by the CGF (**Reallocation Process**), Athletes will be considered using this same Nomination Policy. The Reallocation Process, if any, will take place on or before 3 June 2022. There is no guarantee that Tri NZ will be allocated any additional places as a result of the Reallocation Process.
- 2.3 **Reserves:** Tri NZ may nominate Eligible Athletes to the Games Team as Reserves for the Individual Triathlon and/or the Mixed Team Relay and such Reserves will compete in the relevant event if a Selected Athlete is unavailable to attend the Games through injury or otherwise. Reserves will only be considered for the Initial quota places. No reserves may be nominated by Tri NZ in the Reallocation Process.
- 2.4 **No Obligation:** Tri NZ is not obliged to nominate the maximum number of Athletes or reserves permitted to fill the quota places available or nominate any Athletes under any Reallocation Process.
- 2.5 **Participation in Games Team:** In the event that an Athlete is nominated to the Games Team as either a Selected Athlete or a Reserve and that Athlete chooses not to accept that nomination (without having, in the opinion of Tri NZ, good reason not to accept it) then Tri NZ reserves the right to direct the Selectors to take this fact into consideration when assessing that Athlete's commitment under nomination and/or selection policies for future pinnacle events (such as the Paris 2024 Olympic Games).

3. Step One – Application and Eligibility for Nomination

- 3.1 **Eligibility:** The Selectors may only consider an Athlete for nomination who is an Eligible Athlete as at the Nomination Date. An Athlete will only be an “**Eligible Athlete**” if the Athlete:
- (a) is eligible to represent New Zealand under the CGF Constitution and NZOC Nomination and Selection Regulation; and
 - (b) is a member of Good Standing of Tri NZ; and
 - (c) has fully completed the application requirements set out in clause 3.2 of this Nomination Policy; and
 - (d) has demonstrated to the satisfaction of the Selectors that they are not suffering any physical or mental impairment that would prevent them from competing in the Games to the best of their ability; and
 - (e) has in the view of the Selectors not acted in such a manner so as to bring the Athlete, the sport, Tri NZ, the CGF or the NZOC into public disrepute; and
 - (f) to Tri NZ's knowledge, has not used or administered any substance which, if it had been detected as being present in the Athlete's body tissue or fluids, would have constituted doping, or used any prohibited method or committed any other doping offence as defined in the WADA Code, Tri NZ's, World Triathlon's or NZOC's Integrity Regulation (a copy of which is available at

<https://www.olympic.org.nz/assets/Uploads/Integrity-regulation-2020-final-7-May-2020.pdf> or any amendments to these documents

- (g) meets any additional eligibility criteria imposed by Tri NZ, World Triathlon, NZOC or otherwise in connection with the Games and notified by Tri NZ on its website after the date of this Nomination Policy.
- 3.2 **Application Procedure:** Athletes wishing to be considered by Tri NZ for nomination to the NZOC for the Games Team must:
- (a) return a completed Athlete Application to the NZOC prior to the Application Date; and
 - (b) return a completed Athlete Agreement to the NZOC prior to the Nomination Date 2021; and
 - (c) provide their name and contact address details to the NZOC for the purposes of out of competition drug testing by DFSNZ prior to 28 January 2021 (or such later date as agreed by the NZOC Board).
- 3.3 **No Nomination:** If an Athlete does not meet all of the eligibility requirements specified in clause 3.1 by his or her Nomination Date, the Athlete cannot be considered by Tri NZ for nomination to the NZOC unless there are exceptional reasons and it is agreed by Tri NZ and the NZOC.

4. Step 2 – Nomination by Tri NZ

- 4.1 **Nomination:** Tri NZ will decide (in accordance with this Nomination Policy) if it will nominate Eligible Athletes to the NZOC to be considered for selection to the Games Team, and if it does, it will do so by the Nomination Date.
- 4.2 **Nomination Date:** The Nomination Date for all nominations shall be on or before 18th May 2022.
- 4.3 **Selectors:** The Selectors shall consider the Athletes to be nominated in accordance with the process set out in the Selectors' Terms of Reference.
- 4.4 **Nomination Criteria and Factors:** In deciding on the Athletes to nominate, the Selectors, must:
- (a) apply the eligibility criteria in clause 3;
 - (b) apply the nomination criteria in clause 5;
 - (c) consider any Extenuating Circumstances in accordance with clause 6;
 - (d) consider any other factors in accordance with clause 7; and
 - (e) in all other respects, comply with this Nomination Policy.
- 4.5 **Provision of Data:** Data to support an application may be provided by each Athlete and his or her coach or coaches directly to the Selectors as well as by Tri NZ. In addition, the Selectors may request any Athlete or Tri NZ to provide Data to assist

with its consideration of that Athlete. All Data must be provided on or before 13th May 2022 or it cannot be considered by the Selectors (with the exception of any Data that is provided to the Selectors at their request after that date). Tri NZ must ensure that a copy of any Data provided by Tri NZ to the Selectors is also provided to the relevant Athlete.

5. Nomination Criteria

5.1 Nomination Criteria: Eligible Athletes will be nominated to NZOC, in the following priority order:

(a) Primary Criteria

Subject to clauses 5.2, 5.3, 7 and 8, any Eligible Athlete that obtains two or more top 3 Individual Triathlon placings at any of the Nomination Events will be nominated.

Please note that nomination to the Games Team through the Primary Criteria does not guarantee nomination or selection for the MR Team. Nomination and selection to the Mixed Relay Team is decided in accordance with clause 5.3.

(b) Secondary Criteria

In the event there are remaining quota places after the Primary Criteria in clause 5.1(a) has been applied, and subject to clauses 5.2, 5.3, 7 and 8, each Eligible Athlete who is the first New Zealander in their respective gender at the 2022 Oceania Triathlon Sprint Championship Event will be nominated provided the Selectors' are satisfied that the Eligible Athlete has demonstrated he or she is capable of meeting the MR Criteria and/or demonstrating he or she is capable of a top 6 placing at the Games in the Individual Triathlon event.

(c) Final Criteria

In the event there are remaining quota places after the Primary Criteria in clause 5.1(a) and Secondary Criteria in clause 5.1(b) have been applied and subject to clauses, 5.2, 5.3, 6, 7 and 8, then as a Final Criteria, the Selectors may, in their sole discretion, nominate Eligible Athletes in the following priority order:

- (i) any Eligible Athlete who the Selectors believe has demonstrated at Nomination Events that he or she is capable of a top 6 placing in the Individual Triathlon at the Games AND that he or she meets the MR Criteria;
- (ii) any Eligible Athlete who the Selectors believe has demonstrated at Nomination Events that he or she meets the MR Criteria;
- (iii) any Eligible Athlete who the Selectors believe has demonstrated at Nomination Events that he or she is capable of a top 6 placing in the Individual Triathlon at the Games;

- (iv) Any Eligible Athlete who the Selectors believe has demonstrated at the Trial Day that he or she is capable of a top 6 placing in the Individual Triathlon at the Games and/or meets the MR Criteria.

5.2 **Tied Athletes:** If, as a result of applying the Nomination Criteria in clause 5.1 above, there are more Eligible Athletes at a particular priority level who meet the criteria, than quota places available, nomination will be decided by the Selectors, who must have regard to one or more of the following factors:

- (a) when considering Eligible Athletes in relation to the Individual Triathlon, priority will be given to sprint distance races over Olympic distance races;
- (b) the Eligible Athletes' comparative performances in the Nomination Events, with particular consideration given to those Nomination Events which are likely to have similar circumstances to those at the Games in terms of factors such as, but not limited to, the course, the distance, and the climate at the Games compared;
- (c) the potential of an Eligible Athlete for the Paris 2024 Olympic Games;
- (d) an Eligible Athlete's attendance, attitude, and conduct at past competitions, training sessions, training camps, trials and other events;
- (e) which of the tied Eligible Athletes demonstrates (when taken together with those Eligible Athletes who are already nominated) the most capability in Mixed Team Relay in accordance with the MR Criteria; and
- (f) any other information the Selectors consider relevant.

5.3 **Selection to Start in the Mixed Team Relay:** If the Games Team comprises more than four Selected Athletes who are fit to compete in the Mixed Team Relay, subject to agreement by the NZOC, a minimum of two Selectors will (at their sole discretion) select the final Mixed Relay Team to race at the Games following completion of the Individual Triathlon at the Games. The Selectors may use all available information to make that decision, including but not limited to nomination Data and results from the Individual Triathlon event at the Games.

5.4 **Permission to Start:** In addition, at the sole discretion of the NZOC and subject to the Sport Manual and Sport Entry Rules for the Games, Eligible Athletes who qualify for nomination in accordance with this Nomination Policy, on Tri NZ's request to the NZOC and if they are selected to the Games Team by the NZOC, request permission to start in the Individual Triathlon event or Mixed Team Relay where they are selected in accordance with this clause 5 and where competing in the a second event will not have any detrimental effect on the event they have already been selected for.

5.5 **Trial Day:** If the Tri NZ Board believes, in its sole discretion, that international conditions during the Nomination Period have been such (or are likely to be such), that New Zealand Athletes have not been afforded the ability to travel to a sufficient number of Nomination Events and/or Mixed Relay Nomination Events and/or the Oceania Sprint Championships Event and/or the Oceania MTR Event (both safely and without undue insurance risk), such that the primary aims of this Nomination

Policy cannot be met, it may, in its sole discretion, instruct the holding of a trial day, which may be in the form of a nominated domestic race or other event or one or a series of time trials (**Trial Day**) for the purposes of assisting the Selectors to assess the capability of Eligible Athletes in relation to the Individual Triathlon and/or the Mixed Team Relay. At least 8 weeks' notice of any Trial Day must be given by Tri NZ.

6. Extenuating Circumstances

- 6.1 **Application:** The Selectors may, in their sole discretion, consider and place weight upon any Extenuating Circumstances when considering an Eligible Athlete for nomination under clause 5.1(c) of this Nomination Policy.
- 6.2 **Notification:** An Eligible Athlete who wishes the Selectors to take Extenuating Circumstances into account in considering that Eligible Athlete's potential nomination, must advise the Chair of Selectors of the specific Extenuating Circumstances in writing, with as much advance notice as reasonably possible, and:
- (a) if the Extenuating Circumstances prevent an Eligible Athlete from competing or performing in Nomination Events, then ideally 7 days and no later than 2 hours prior to the relevant race;
 - (b) if the Extenuating Circumstances occur during a Nomination Event, then as soon as practicable but in no event later than 24 hours after the completion of the race;
 - (c) Notwithstanding (a) and (b) above, if the Extenuating Circumstances occur at any other time, then as soon as reasonably practicable after it occurs.
- 6.3 **Where no Notification:** If the Chair of Selectors is not notified of any Extenuating Circumstances in accordance with clause 6.2, then the Selectors will not be obliged to consider such circumstances.
- 6.4 **Injury/Illness:** If the Extenuating Circumstances are injury or illness, Eligible Athletes may be required by the Selectors to provide a medical certificate and/or to undergo an examination by a health practitioner(s) nominated by the Selectors, and to provide that opinion and/or report to the Selectors. Any failure to agree to such a request may result in the Selectors being unable to consider the injury or illness as an Extenuating Circumstance.
- 6.5 **Verification:** If the Extenuating Circumstances are circumstances other than injury or illness, the Selectors may request evidence to verify the existence and details of the Extenuating Circumstances.

7. Other Factors

7.1 **Demonstration:** In considering any Eligible Athlete for nomination, the Selectors must, in their sole discretion, be satisfied that each Eligible Athlete has demonstrated:

- (a) the commitment to maintain an appropriate level of fitness, training and competition to compete in the Games to the best of their ability; and
- (b) a strong team ethic, including, a commitment to attend relevant Tri NZ training camps, to promote Tri NZ in a positive manner, and to uphold Tri NZ team agreements.

7.2 **Opportunity to be Heard:** If the Selectors consider that an Eligible Athlete, who they are considering for nomination, has not or may not have demonstrated the requirements in clause 7.1, the Selectors shall, prior to any nomination:

- (a) inform the Eligible Athlete of the specific requirement in clause 7.1 which the Selectors consider has or may not have been demonstrated;
- (b) give the Eligible Athlete an opportunity to respond, including an opportunity to provide evidence demonstrating they have satisfied the requirements.

7.3 **Actions:** If, having received and considered the Eligible Athlete's response in clause 7.2(b), the Selectors consider, in their sole discretion, that the specific requirement has not been met or an unsatisfactory response has been given, the Selectors may:

- (a) decide not to nominate that Eligible Athlete;
- (b) require the Eligible Athlete to take specific steps to satisfy the requirements before the Nomination Date;
- (c) nominate the Eligible Athlete but notify the NZOC that the Eligible Athlete should not be selected without conditions relating to that requirement; or,
- (d) nominate the Eligible Athlete.

8. Process & Consequences of Nomination

8.1 **Notification:** All Eligible Athletes will be informed by Tri NZ whether or not they have been nominated to the NZOC as Nominated Athletes.

8.2 **Requirements:** Every Nominated Athlete must:

- (a) maintain an appropriate level of fitness, training and competition as determined by Tri NZ prior to the Games;
- (b) keep the Selectors apprised of their fitness via the Tri NZ High Performance Director (or such other person as may be nominated by the Tri NZ Board). Ordinarily this will include race results and/or training data provided on a fortnightly basis;

- (c) inform the Tri NZ High Performance Director (or such other person as may be nominated by the Tri NZ Board) and the Tri NZ HP Chief Medical Officer of any illness or injury that could impact on the Nominated Athlete's capability to compete at the Games to the best of their ability, on the understanding that the Tri NZ Chief Medical Officer will inform the Selectors of any fitness concern while upholding confidentiality; and
 - (d) comply with all reasonable instructions given by NZOC in relation to the Games Team (including but not limited to directions not to travel, quarantine and isolation and other health and safety instructions as required); and
 - (e) attend all meetings, training camps and other events required by the NZOC and/or Tri NZ; and
 - (f) comply with their obligations to Tri NZ, including but not limited to, reasonable instructions given by Tri NZ (including but not limited to directions not to travel, quarantine and isolation and other health and safety instructions as required) in relation to triathlon events.
- 8.3 **Replacement Athlete:** If prior to selection by the NZOC, a Nominated Athlete does not satisfy a requirement of their nomination (under clause 8.2), the Selectors may, in their sole discretion, replace the Nominated Athlete with a Reserve to the NZOC in accordance with this Nomination Criteria.

9. Step 3 – Selection by NZOC

- 9.1 **Selection:** The NZOC will decide if the Nominated Athletes will be selected to the Games Team in accordance with the NZOC Selection Policy.
- 9.2 **Conditions:** NZOC may select a Nominated Athlete, subject to conditions. For example, conditions may include those noted below or any other conditions specified by the NZOC:
- (a) recovery from injury to the satisfaction of the NZOC, after consultation with Tri NZ, by a specified date; and
 - (b) meeting a specified performance or testing requirement.
- 9.3 **Satisfying Conditions:** If selection of a Selected Athlete is conditional, the specified conditions must be met to the satisfaction of the NZOC, after consultation with Tri NZ, before that Selected Athlete's selection is made unconditional. If they are not met, then the Selected Athlete will immediately cease to be a Selected Athlete upon being informed by NZOC that the condition(s) has not been satisfied.
- 9.4 **Notification:** Tri NZ will inform all Nominated Athletes whether or not they have been selected by the NZOC to the Games Team, in the manner and timeframe as required by the NZOC.
- 9.5 **Announcement of the NZ Team:** The NZOC shall, on or around the Selection Date, publicly announce the Selected Athletes.

- 9.6 **Requirements:** In addition to any requirements in the Athlete Agreement, every Selected Athlete must train as directed by Tri NZ, and agree to compete in events and competitions as directed by Tri NZ.
- 9.7 **Replacement Athlete:** If prior to the Selection Date, a Selected Athlete does not satisfy a condition of their selection (under clause 9.3), or is removed by NZOC as a Selected Athlete in accordance with the Athlete Agreement, the Selectors may, in their sole discretion, request a Selected Reserve Athlete replace the removed Athlete. This process does not apply to any Reallocation Process.

10. Appeals

- 10.1 **Non-Nomination Appeal:** An Eligible Athlete may appeal to Tri NZ against their non-nomination in accordance with the Tri NZ Olympic and Commonwealth Games Nomination / Non-Nomination Appeals Policy.
- 10.2 **Non-Selection Appeal:** An Eligible Athlete may appeal to NZOC against their non-selection in accordance with the NZOC Agreement.

11. Status

- 11.1 **Status:** This Nomination Policy overrides all other correspondence, discussions, and representations (whether written or oral) by Tri NZ regarding nomination or selection to attend the Games.
- 11.2 **Inconsistency:** In the event there is any inconsistency between this Nomination Policy and the NZOC Nomination and Selection Regulation, the NZOC Nomination and Selection Regulation shall prevail.
- 11.3 **Higher Standard:** If this Nomination Policy imposes a higher qualification standard or a lesser number of participants than stated by the rules of the Event, this shall not be regarded as an inconsistency.

12. Amendments to this Nomination Policy

- 12.1 **Amendment:** This Nomination Policy may be amended from time to time by the Tri NZ Board, provided the prior approval of the NZOC has been obtained.
- 12.2 **Notice:** The Tri NZ Board will give as much notice as possible of any amendment to this Nomination Policy to persons it considers may be affected by any such amendment.

13. Definitions

In this Nomination Policy, the following definitions apply:

- 13.1 **Application Date** means 28 November 2021 (or such other dates as specified by the NZOC) by which Athletes must submit a completed Athlete Application to the NZOC in accordance with clause 8.3 of the NZOC Nomination and Selection Regulation.

- 13.2 **Athlete** means a person seeking nomination and selection to the Games Team, and other than in clauses 1.3(a), 2 and 3, means an Eligible Athlete, unless stated otherwise.
- 13.3 **Athlete Agreement** means the agreement that must be completed by any Athlete wishing to be considered for nomination and selection for the Games Team.
- 13.4 **Athlete Application** means the application form which must be completed by any Athlete applying to be nominated and selected to the Games Team.
- 13.5 **CGF** means Commonwealth Games Federation.
- 13.6 **CGF Constitution** means the constitutional documents of the CGF.
- 13.7 **Data** means any relevant data concerning an Eligible Athlete or his or her performance (in whatever format) that may be provided to the Selectors for their consideration but does not include the results from any World Triathlon races that Tri NZ does not enter New Zealand athletes into, pursuant to the Tri NZ International Travel Policy.
- 13.8 **DFSNZ** means Drug Free Sport New Zealand.
- 13.9 **Eligible Athlete** has the meaning given to it in clause 3.1.
- 13.10 **Event** means the men's triathlon event, the women's triathlon event and the mixed team relay event at the Games, unless specified otherwise.
- 13.11 **Extenuating Circumstances** means the inability of an Eligible Athlete to compete or perform to an optimum level due to factors which occur to them (during a race, event, in testing or at any other time) including, but not limited to, the following:
- (a) Injury or illness;
 - (b) Travel delays;
 - (c) Equipment failure;
 - (d) Bereavement or personal misfortune; and/or
 - (e) Any other factors reasonably considered by the Selectors to constitute extenuating circumstances.
- 13.12 **Final Criteria** means the criteria set out in clause 5.1(c).
- 13.13 **Games** means the Commonwealth Games to be held in Birmingham, United Kingdom, from 28 July to 8 August 2022.
- 13.14 **Games Team** means the New Zealand team of all the Eligible Athletes selected by the NZOC, and other personnel appointed by it, to attend the Games.
- 13.15 **Good Standing** means the Athlete must be a current registered member of Tri NZ and/or of a club affiliated to Tri NZ, and not be subject to any sanction or disciplinary action from Tri NZ or their club.

- 13.16 **World Triathlon** means World Triathlon, being the international federation of Tri NZ.
- 13.17 **Mixed Relay Nomination Events** means (a) all World Triathlon Championship Series mixed relay races held between 1 July 2021 and 12 May 2022 (details of which will be published by Tri NZ, once known); (b) Tokyo Olympic Games 2020 – Mixed Relay race; (c) the Oceania Triathlon Relay Championship race, and (d) Oceania Triathlon Sprint Championship and Cup races between 1 July 2021 and 12 May 2022.
- 13.18 **Mixed Relay Team** means the team of four athletes (two male, two female) participating in the Mixed Team Relay event at the Games.
- 13.19 **MR Criteria** means the criteria set out in Schedule 1.
- 13.20 **Nominated Athlete** means the Eligible Athletes which Tri NZ nominates to the NZOC, including those nominated subject to any conditions.
- 13.21 **Nomination Date(s)** means 18th May 2022 (and includes any alternative date as agreed between the NZOC and Tri NZ) by which Tri NZ must submit particulars of each Nominated Athlete to the NZOC for its consideration for selection to the Games Team.
- 13.22 **Nomination Events** means (a) the Tokyo Olympics 2020 – Individual Event, and (b) all World Triathlon Championship Series races held between 1 July 2021 and 12 May 2022 (details of which will be published by Tri NZ, once known).
- 13.23 **Nomination Policy** means this nomination policy.
- 13.24 **NZOC** means the New Zealand Olympic Committee Incorporated.
- 13.25 **NZOC Integrity Regulation** means the regulation adopted by the NZOC, in particular in relation to anti-doping, a copy of which is available at <http://www.olympic.org.nz/assets/Uploads/Integrity-regulation-2020-final-7-May-2020.pdf>.
- 13.26 **NZOC Nomination and Selection Regulation** means the regulation of the NZOC relating to the nomination and selection process for all Olympic and Commonwealth Games which is available at <https://www.olympic.org.nz/assets/Uploads/Selection-Regulation-July-2019.pdf>.
- 13.27 **NZOC Selection Policy** means the selection policy of the NZOC for the Games available at <https://www.olympic.org.nz/games/birmingham-2022/>.
- 13.28 **Oceania Event** means the individual 2022 World Triathlon Oceania Championships, further details of which will be published by Tri NZ, once known.
- 13.29 **Oceania MTR Event** means the 2022 World Triathlon Oceania Mixed Relay Championships, further details of which will be published by Tri NZ, once known
- 13.30 **Primary Criteria** means the criteria in clause 5.1(a).
- 13.31 **Reserves** means travelling or non-travelling reserves as designated by the Selectors.

- 13.32 **Secondary Criteria** means the criteria in clause 5.1(b).
- 13.33 **Selection Date** means the date on which the NZOC publicly announces which Nominated Athletes from Tri NZ have been selected to the Games Team.
- 13.34 **Selected Athlete** means a Nominated Athlete who is selected by the NZOC to the Games Team.
- 13.35 **Selectors** means the members of the Tri NZ Elite Selection Commission appointed by the Tri NZ Board in accordance with Selectors' Terms of Reference. The names of each of the Selectors will be published on the Tri NZ website.
- 13.36 **Selectors' Terms of Reference** means the terms of reference of the Tri NZ Elite Selection Commission dated June 2015, and as amended by the Tri NZ Board.
- 13.37 **Tri NZ** means Triathlon New Zealand Incorporated.
- 13.38 **Tri NZ Nomination Appeals Policy** means the nomination appeals policy attached as Schedule 2.
- 13.39 **Tri NZ Board** means the Board of Tri NZ.

SCHEDULE 1

MR Criteria

In determining whether or not to nominate a group of Eligible Athletes to a Mixed Relay Team, Selectors must be satisfied overall that the group of Eligible Athletes are capable of achieving medal placing at the Games in the Mixed Team Relay and the group of Eligible Athletes has a track record of sufficient quality and depth that the Selectors believe demonstrates that the group of Eligible Athletes will be competitive at the Games and will perform creditably in that Mixed Team Relay. In making such determination, the Selectors will consider (in whatever priority order they believe is appropriate at their discretion):

1. an Eligible Athlete's individual contribution to race results from any Mixed Relay Nomination Events that he or she has participated in;
2. an Eligible Athlete's race results from all Nomination Events; and
3. any Data provided in relation to the Eligible Athlete in accordance with clause 4.5, with priority given to the results from any Trial Day (if held).

SCHEDULE 2

OLYMPIC AND COMMONWEALTH GAMES

NOMINATION / NON-NOMINATION APPEALS POLICY

This Nomination/Non-Nomination Appeals Policy (**Policy**) sets out the procedures that must be followed for any appeal (**Selection Appeal**) against a decision by the Selectors regarding an Athlete's nomination or non-nomination to the New Zealand Olympic Committee Incorporated (NZOC) for consideration for selection to Olympic and Commonwealth Games teams. This Policy does not apply to the criteria or other content set out in the Selection Policy. Any appeals regarding the criteria or content set out in the Selection Policy must be lodged with the Sports Tribunal prior to the Selection Date.

The NZOC has agreed, pursuant to clause 13.3 of the NZOC Nomination and Selection Regulation ("**Regulation**"), to a variation of the appeals process for Olympic and Commonwealth Games ("**Games**").

Procedure

Any Athlete who is eligible for consideration under this Nomination Policy may appeal against their nomination or non-nomination in accordance with the procedures set out below:

1. A Nomination Appeal may be made on any one or more of the following grounds:
 - (a) That the Nomination Policy was not properly followed and/or implemented;
 - (b) The Athlete was not afforded a reasonable opportunity to satisfy the Nomination Policy;
 - (c) The nomination decision was affected by bias;
 - (d) There was no material on which the nomination decision could be reasonably based, or the nomination decision could not be reasonably based on the material available.
2. The procedure for a Nomination Appeal shall then be as follows:
 - (a) An Athlete wishing to appeal must give written notice of appeal ("**Notice of Appeal**") to the Chief Executive of Tri NZ or such other person nominated by the Tri NZ Board ("**the Chief Executive**") within 48 hours of being notified of the Elite Selection Commission's decision, stating:
 - (i) Full name and contact details;
 - (ii) Tri NZ membership (TRIBE) number;
 - (iii) The nomination or non-nomination they are appealing against;
 - (iv) The grounds of Nomination Appeal, with reference to those listed in clause 1, above;

- (v) A brief explanation of their case on those grounds and of how they meet the Nomination Policy (further evidence to be called during the procedure below).
 - (vi) The Notice of Appeal must be accompanied by a deposit of \$100 which is to be paid into a nominated Tri NZ bank account, fully refundable if the Nomination Appeal is successful.
- (b) Within 48 hours of receipt of Notice of Appeal, the Chief Executive shall:
- (i) Acknowledge receipt of the Nomination Appeal with the Athlete;
 - (ii) Advise the Elite Selection Commission that a Nomination Appeal has been received;
 - (iii) Make arrangements for the Tri NZ Ombudsman to process and hear the Appeal.

3. The role and powers of the Tri NZ Ombudsman are as follows:

- (a) The Tri NZ Ombudsman is tasked with examining whether the Elite Selection Commission correctly applied the Nomination Policy in relation to the grounds of Nomination Appeal. Hence, they will:
 - (i) Review the nomination process in person, by telephone or by video telephony as soon as possible and, in any event, no later than 10 days after the date the Notice of Appeal is received by the Chief Executive; and
 - (ii) Conduct any hearing on a confidential and without prejudice basis – in particular, the content of any matters discussed during such hearing may not be used by either party in respect of any further selection/nomination matters; and
 - (iii) Hear the views and position of both the Athlete and the Elite Selection Commission prior to making a decision.
 - (iv) If deemed necessary, hear the views of any other party that is impacted by the Non-Nomination Appeal (including Nominated Athletes).
- (b) The Athlete and the Elite Selection Commission may elect to have legal or other representation for the purposes of any hearing. The parties may call such evidence as they think fit.
- (c) The Ombudsman will be provided with the support of a Tri NZ Executive to assist with administration, independent of any of the Selectors.

4. Following review of Nomination Appeal, the Tri NZ Ombudsman may:

- (a) Make recommendation to the Tri NZ Board for changes it may wish to consider to the decision of the Elite Selection Commission, within the broader context of governing rules and claims of other athletes; or

- (b) Refer the case back to the Elite Selection Commission for reconsideration on the grounds of fresh evidence which could have materially affected the decision making of the Elite Selection Commission; or
- (c) Dismiss the Nomination Appeal.

5. Following the Tri NZ Ombudsman's review:

- (a) The Tri NZ Board will adopt as the outcome of the Nomination Appeal the Ombudsman's decision, as described in clause 3(c), above.
- (b) In the event that the Athlete wishes to have the decision of the Tri NZ Ombudsman reviewed then the Athlete must file an Application for Appeal with the Sports Tribunal of New Zealand (**Sports Tribunal**) and serve a copy of such Application for Nomination Appeal upon the Chief Executive within 5 days of the date of being notified of the Tri NZ Ombudsman's decision. A copy of such Application for Nomination Appeal to the Sports Tribunal shall at the same time be served upon the Secretary General of the NZOC.
- (c) Such Nomination Appeals shall be determined by the Sports Tribunal in accordance with its Rules.
- (d) Any party to any decision of the Sports Tribunal under this Policy may appeal such decision to the Court of Arbitration of Sport (**CAS**) in accordance with its rules.
- (e) The decision of CAS will be final and binding on the parties.
- (f) No party to a Nomination Appeal may institute or maintain proceedings in any Court or Tribunal other than as specified in this Agreement.