



DOCUMENT: Triathlon NSW Appeal Policy  
REFERENCE: 2019 / 2020 **Runaway Bay** Youth Junior Triathlon Series – Quota Policy Appeal Document

## A. INTERPRETATION

**CEO** means the person appointed to the position of Chief Executive Officer of Triathlon NSW or his/her nominee.

**Team** means the Team selected under this policy to race at the **Runaway Bay** Youth Junior Triathlon Event.

**Triathlon NSW Appeals Tribunal (TNSWAT)** means the Triathlon NSW Appeals Tribunal appointed by Triathlon NSW to hear and determine appeals under this policy.

**Triathlon NSW** means Triathlon NSW Limited ACN 007 356 907, the State Sport Organisation for the sports of triathlon/ duathlon/ aquathlon and which is affiliated with Triathlon Australia.

## B. Appeals Process

### 1. Right of Appeal

(a) An Eligible Athlete who fails to be allocated a place in the Race for the Team pursuant to the process and criteria set out in the relevant Quota Policy may appeal against omission from the Team as set out in this document.

(b) The sole grounds of any appeal are that:

i. The Athlete's omission from the TEAM was as result of a failure by TNSW to properly apply the Quota Policy;

For the avoidance of any doubt, an Athlete's right of appeal is limited to procedural grounds and does not extend to an investigation of the merits of any individual athletes who have / have not gained a race start.

(c) Any appeal under this clause will proceed in accordance with the procedure set out below.

### 2. Notice of Appeal

(a) Any eligible Athlete wishing to appeal against his/her omission from the Race must lodge a Notice of Appeal in writing in the form set out at Annexure 1 to this document to be received by the CEO of TNSW by 5:00pm on the second business day following the communication to eligible athletes.

**The Notice of Appeal must set out the grounds upon which the appeal is made.**

(b) After lodging the Notice of Appeal as set out in subclause 2(a) above, the appellant (the Athlete making the appeal) **must** file a summary of all the arguments and/or submissions that the Athlete wishes to be considered in support of his/her appeal together with an outline of all the evidence that will be relied upon in support of those arguments and/or submissions.

This document **must** be received in the timelines set out above.

(c) The summary of arguments and submissions in support of the Athlete's appeal must be accompanied by an appeal fee of \$100.

(d) The appellant can withdraw an appeal at any time.

(e) The time limits for lodging the Notice of Appeal, summary of arguments and submissions and the appeal fee are mandatory, failure to comply with these time limits will, at the absolute discretion of the TNSWAT, result in the appeal being dismissed without consideration on the merits.

### 3. Composition of TNSWAT

- (a) The TNSWAT shall be composed by any three persons available to hear the appeal, which must include the following:
  - (i) a person with a thorough knowledge of Triathlon;
  - (ii) another person of experience and skills suitable to the function of the TNSWSAT; and
  - (iii) a barrister or solicitor who will chair the TNSWSAT.
- (b) No member of the TNSWAT may be a party to or directly interested in the matter under consideration.

#### 4. Functions of the TNSWAT

The TNSWAT has no power of reallocation of Race entries. The TNSWAT may review the matter(s) set out in the appeal and may (as appropriate) refer the matter back to TNSW for consideration.

#### 5. Hearing of the Appeal

- (a) The TNSWAT shall, as soon as practical after receiving the appeal documents, investigate and consider the matter and determine whether:
  - (i) the matter should be dismissed because, in the opinion of the TNSWAT, there is no credible evidence, submission or argument upon which the TNSWAT could be satisfied that a ground of the appeal can be made out; **or**
  - (ii) the appeal should be the subject of a hearing as set below.
- (b) If the TNSWAT determines the matter should be dismissed under clause 5(a)(i) above that decision is final and the appeal has failed.

If the TNSWAT determines that the appeal should be dismissed without a hearing, the appellant's appeal fee of \$100 is forfeited to TNSW as the costs of the appeal.

If the TNSWAT determines the matter warrants a hearing, the TNSWAT will advise the appellant and set the date for such a hearing as soon as practicable and necessary having regard to the timing of selection and the proximity of relevant events.

- (c) The TNSWAT must conduct any appeal hearing in accordance with clause 5(b) as follows:
  - (i) it must observe the principles of natural justice;
  - (ii) it is not bound by the rules of evidence and may inform itself as to any matter in such manner as it thinks fit;
  - (iii) it will conduct its hearings with as little formality and technicality and with as quickly noting the proper consideration that the matter requires;

- (iv) hearings may occur in such manner as the Chairman decides, including telephone or video conferencing;
  - (v) the appellant must establish one or more grounds of appeal to the reasonable satisfaction of the TNSWAT with full regard to the importance and gravity of the issue;
  - (vi) the parties to an appeal may be represented at a hearing but not by a barrister, solicitor or a legally qualified person;
- (d) Following consideration of all information that the TNSWAT considers relevant, the TNSWAT shall arrive at a finding. A decision of the TNSWAT may be by a majority decision;
- (i) the TNSWAT shall notify the CEO of its finding as soon as practicable;
  - (ii) if the TNSWAT considers the ground(s) alleged by the appellant to be established it shall recommend that TNSW reconsider the allocation of entries.
  - (iii) where the TNSWAT considers that a ground of appeal has been established, it may stipulate that all or part of the appeal fee be refunded to the appellant;
  - (iv) TNSW shall comply with any direction of the TNSWAT to reconsider the allocation of Race Entries
  - (v) any further decision of TNSW under the direction of the TNSWAT shall be final and binding, and no other further appeal shall be available to the appellant in respect of that decision.

**Triathlon NSW Limited**

**TRIATHLON NEW SOUTH WALES**

**NOTICE OF APPEAL**

To: Chief Executive Officer  
Triathlon New South Wales  
Suite 509, 55 Holt Street  
Surry Hills NSW 2010  
Email: [adam.wicks@nsw.triathlon.org.au](mailto:adam.wicks@nsw.triathlon.org.au)

1. I \_\_\_\_\_ advise that I wish to appeal my non-selection to the  
2019 / 2020 Junior Development Program  
**The grounds on which my appeal is based are as follows:**

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[attach additional pages if necessary]

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2019

Signed:

..... **Appellant**  
..... **Parent/Guardian**