



TAS / CAS

TRIBUNAL ARBITRAL DU SPORT
COURT OF ARBITRATION FOR SPORT
TRIBUNAL ARBITRAL DEL DEPORTE

CAS 2026/A/12132 Greta Small v Snow Australia Limited

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Sole Arbitrator: The Hon. Dr Annabelle Bennett AC SC, Australia

Ad hoc Clerk: Mr Thomas Salmon, Australia

in the arbitration between

Ms Greta Small, Australia

- Appellant -

and

Snow Australia Limited, Australia

Represented by Mr Ian Fullagar (Lex Sportiva), Australia

- Respondent -

and

Australian Olympic Committee, Australia

Represented by Maryann Muggleston (General Counsel and Company Secretary)

- Affected Party -

and

Ms Madison Hoffman

- Affected Party -

and

Ms Phoebe Heaydon

- Affected Party -

I. THE PARTIES

1. Ms Greta Small (the “the Athlete”, "Appellant" or "Ms Small") is an Australian athlete who competes in the sport of Alpine Skiing. Her chosen events are Downhill and Super-G.
2. The Respondent is the Australian National Federation ("NF") responsible for the administration, development and promotion of the sport of Alpine Skiing in Australia, including the nomination of athletes to the Australian Olympic Committee ("AOC") for inclusion in the Australian Olympic Team to compete at the 2026 Milano Cortina Winter Olympic Games (the "Milano Cortina Games").
3. Ms Madison Hoffman and Ms Phoebe Heaydon (each an "Affected Party" and, together with the AOC, the "Affected Parties") are Australian athletes who compete in the sport of Alpine Skiing. Each of Ms Hoffman and Ms Heaydon compete in Slalom events.

II. INTRODUCTION

4. The Appellant appeals pursuant to the Fast Track Appeal process set out at clause 9.9 of the *Olympic Team Nomination and Selection By-Law* dated 23 March 2023 (the "AOC By-Law"). She appeals against the decision of the Respondent dated 20 January 2026 to not nominate her to the AOC for selection as a competitor representing Australia in Alpine Skiing at the Milano Cortina Games which are scheduled to commence on 4 February 2026.
5. No party objected to the jurisdiction of the Panel nor to the admissibility of the Statement of Appeal, nor was there any suggestion that the matter was not appropriately dealt with as a Fast Track Appeal under clause 9.9 of the AOC By-Law.
6. The Appellant notified the Oceania Registry of the Court of Arbitration for Sport (the "CAS") that the non-refundable filing fee of CHF500 had been paid and provided supporting evidence to this effect.
7. Nominations of the athletes to compete at the Milano Cortina Games were required to be submitted to the International Olympic Committee ("IOC") by no later than 11:00pm AEDT on 26 January 2026.

III. BACKGROUND FACTS

8. The Respondent published the Snow Australia Olympic Nomination Criteria for the Milano Cortina Games (the "Nomination Criteria"). The Nomination Criteria provided for nomination of "Athletes" to the AOC for selection to the Milano Cortina Games who participated in Alpine Skiing (which included Downhill, Super-G, Slalom, Giant Slalom

and Team Combined events) and who were recognised as eligible for nomination to the AOC.

9. The Appellant has not sought to invalidate or otherwise challenge the Nomination Criteria. The fact that the Nomination Criteria were published seven months into a specified period of qualification is addressed, to the extent that it is relevant to this appeal, later in these reasons.
10. The AOC had been allocated two quota spots for female athletes to represent Australia at the Milano Cortina Games in Alpine Skiing.
11. The Respondent constituted a nomination panel consisting of the following individuals for the purpose of assessing which athletes should be nominated to the AOC to fill the quota spots:
 - a. Scott Kneller (Chair, Director of the Respondent);
 - b. Alice Chilcott (Athlete Representative);
 - c. Steve Cooper (Board Member, Director);
 - d. Nicolle Greentree (Independent Member, Director of Biathlon Australia and principal at Jones Partners);
 - e. Shawn Fleming (National Discipline Committee Chair / Representative, Alpine Director for the Respondent);
 - f. Michael Kennedy (non-voting board invitee, Chief Executive Officer of the Respondent); and
 - g. Ben Wordsworth (non-voting board invitee, General Manager – Sport of the Respondent).

(the "Selection Panel")
12. The Selection Panel held two meetings to consider which athletes to nominate to the AOC for the Milano Cortina Games for Alpine Skiing, the first on 15 January 2026 and the second on 19 January 2026.
13. The Selection Panel chose to nominate Ms Madison Hoffman and Ms Phoebe Heaydon to the AOC to fill the two female quota spots in Alpine Skiing for the Milano Cortina Games.
14. On 20 January 2026, the Respondent informed the Appellant of the decision not to nominate her to the AOC for selection for the Milano Cortina Games.

IV. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

15. On 21 January 2026, the Appellant received the Respondent's statement of reasons for the non-nomination decision (the "Decision").

16. The Appellant filed a Statement of Appeal dated 22 January 2026 in Austria, which was received by the Oceania Registry of the CAS on 22 January 2026.
17. On 23 January 2026:
 - a. The CAS Oceania Registry informed the Parties, pursuant to clause 9.9(d)(i)(B) of the AOC By-Law and Article R54 of the *Code of Sports-related Arbitration* in force from 1 July 2025 (the "Code"), that the President of the CAS Appeals Arbitration Division, had appointed The Hon. Dr Annabelle Bennett AC SC as Sole Arbitrator to decide the present matter.
 - b. The Respondent filed its Response to the Appellant's Statement of Appeal in reply (the "Response"). The Response incorporated a document titled "ANNEXURE A TO SNOW AUSTRALIA'S RESPONSE TO AN APPEAL AGAINST NON-NOMINATION BY GRETA SMALL" ("Annexure A").
18. On 24 January 2026 at 2:23am AEDT, Ms Small sought advice from the CAS on whether she was able to submit a written reply to the Response. The CAS advised that Ms Small may file any documents strictly in reply to the Response by 10:00pm AEDT on 24 January 2026.
19. On 24 January 2026 at 8:39am AEDT, Ms Phoebe Heaydon informed the CAS that she did not intend to appear at the hearing.
20. On 24 January 2026 at 5:53pm AEDT, Ms Madison Hoffman informed the CAS that she would not be attending the hearing.
21. On 24 January 2026 at 7:20pm AEDT, the CAS informed the Parties of a concern from the Sole Arbitrator regarding the provenance of Annexure A and whether (or not) the document represented a transcript of the Nomination Panel's consideration of the non-nomination decision. The CAS requested the Respondent clarify whether it intended to call evidence, or prepare a statement, concerning the preparation of the Annexure.
22. On 24 January 2025 at 9:48pm AEDT, Ms Small filed her Reply to the Response (the "Reply").
23. On 25 January 2026 at 8:51am AEDT, the Respondent filed a statement from Ben Wordsworth regarding the preparation of Annexure A.
24. On 25 January 2026, prior to the commencement of the hearing of the appeal, the Appellant, the Respondent and the AOC signed and returned the Order of Procedure to the Oceania Registry of the CAS.

25. At 5:00pm AEDT on 25 January 2026, the hearing of the appeal commenced. The hearing took place by videoconference pursuant to Article R44.2 of the Code. The Sole Arbitrator was assisted by Mr Thomas (Tom) Salmon, Solicitor in Sydney, Australia, as ad hoc clerk. The Appellant appeared without legal representation. The following persons attended the hearing (as present on the video conference):

For the Appellant

- a. Ms Greta Small
- b. Mr Thomas Phelan (as a support person)

For the Respondent

- c. Mr Ian Fullagar
- d. Mr Ben Wordsworth
- e. Mr Shawn Fleming

For the AOC

- f. Ms Maryann Muggleston

(together, the "Present Parties")

26. At the commencement of the oral hearing, on 25 January 2026, the Present Parties were invited to raise any issue they had with the procedures of the proceeding to date, the admissibility of the proceeding, the constitution of the Panel or the jurisdiction of the CAS. No Present Party raised any concern with respect to any of these matters.
27. At the conclusion of the hearing, the Appellant and the Respondent confirmed that their right to be heard had been fully respected.

V. JURISDICTION

28. Article R47 of the Code provides as follows:

An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body.

29. It was agreed that clause 9.9(a) of the AOC By-Law applied to this appeal. Clause 9.9(a) provides:

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.

30. Article R57 of the Code provides that the CAS has full power to review the facts and the law. In accordance with clause 9.9(d)(i)(D) of the AOC By-Law, the power of the Sole Arbitrator to review the facts and the law pursuant to Article R57 of the Code will be initially limited to determining whether the Appellant has made out one or more of the grounds of appeal.
31. The Present Parties acknowledged in signing the Order of Procedure dated 25 January 2026 that the CAS has jurisdiction to determine this dispute pursuant to clause 9.9 of the AOC By-Law.
32. The Present Parties also acknowledged in the Order of Procedure that the dispute has been filed in the Appeals Division of the CAS and that the decision of the CAS will be final and binding on all Parties.
33. The Sole Arbitrator confirms that the CAS has jurisdiction to hear this appeal.

VI. ADMISSIBILITY

34. Article R49 of the Code provides:

In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against.

35. As above, in accordance with the Order of Procedure, the Present Parties agreed the AOC By-Law are the relevant rules which apply in this dispute.
36. Clause 9.9 of the AOC By-Law sets a time line for the commencement of a Nomination Fast Track Appeal. It specifies the time limit runs from when the non-nomination athlete receives notice of his or her non-nomination and sets out time limits for the filing of all relevant documentation.
37. Each identified step in the Nomination Fast Track Appeal timeline allows a party only 24 hours to file relevant documentation.

38. The Present Parties did not raise any objections regarding the admissibility of this appeal and explicitly agreed in the Order of Procedure that the appeal was admissible. The Sole Arbitrator considers this appeal is admissible.

VII. MERITS

39. The Sole Arbitrator has considered all of the written and oral submissions and evidence presented by the Parties in this proceeding. In this Award, the Sole Arbitrator refers only to those submissions, facts and evidence considered necessary to explain her reasoning.

The decision of non-nomination

40. On 20 January 2026, the Appellant was informed by email that she would not be nominated to the AOC for selection to the Milan Cortina 2026 Australian Olympic Winter Team. That email stated that the Selection Panel had applied the Nomination Criteria and considered performances across the Olympic Qualification Period, together with available quota places.
41. That email also informed the Appellant of an ability to appeal and stated that upon receipt of a notice of intention to appeal, the Respondent would provide written reasons for the non-nomination.
42. On 21 January 2026, the Decision was provided. The Decision provided:

Nominations to the Australian Olympic Committee (AOC) are made in accordance with the published Snow Australia (SA) Nomination Criteria. [Hyperlink to: Alpine Nomination Criteria] (**Criteria**).

The information below sets out the reasons for your non-nomination, including the selection framework applied, the manner in which the Nomination Criteria were considered, and the undertaken by the Nomination Panel (**Panel**) under Tier 4 (**Discretionary**). The information is intended to explain the process followed and the basis on which the Panel reached its de

Selection Framework Applied

- Australia has been allocated two (2) female quota places in Alpine Skiing for the Milan Cortina 2026 Olympic Winter Games.
- No athlete satisfied the performance requirements under Tiers 1, 2 or 3 of the Criteria.
- As a result, all eligible athletes were assessed under Tier 4 (Discretionary) of the Criteria.
- Tier 4 involves a comparative assessment of eligible athletes, with the objective of identifying the athlete most likely to achieve the highest competitive result at the Games. Tier does not require the Panel to consider all or any of the matters in clause 6.3(i) of the Criteria.

Additional Information Considered by the Nomination Panel

- Qualification Period: The Qualification Period is defined as 1 July 2024 to 18 January 2026 (Central European Time).
- Relevance of Performances: Performances of all eligible athletes across the entire Qualification Period were considered, with the 2025/2026 season generally regarded as the most competitive capability.
- Use of FIS Points and Rankings: FIS Points and World Rankings of all eligible athletes were considered for context alongside competition level, field strength, performance relative to injury protection mechanisms.
- Competition Level Context: World Cup represents the highest level of competition, followed by Europa Cup. Results at lower-tier competitions i.e. Nor-Am, ANC, FEC, FIS Race World Cup starts alone did not constitute a performance.
- Definition of Highest Competitive Result: A comparative and holistic assessment considering both nominal finishing position and performance relative to the size and strength of
- Event Specialisation: Athletes were assessed primarily in their strongest discipline.

Greta Small – Performance Considerations

- During the Qualification Period, you did not achieve results in Super-G that met the minimum standard for participation at the Olympic Winter Games (80.00Pts as defined in Sec Alpine Qualification System. Your current FIS points and eligibility are a result of injury status prior to the commencement of the qualification period. [Hyperlink to: Alpine Qualification System]
- During the Qualification Period you finished in the last 10% of the field in every World Cup Downhill race.
- During the qualification period you have only two downhill results that satisfy the minimum standard for participation at the Olympic Games (80.00pts as defined in section C). Your minimum standard of 80 points at world cup downhill events in the 2025-2026 season.
- During the Qualification Period, you recorded one (1) Europa Cup Downhill result, finishing 49th out of 74 competitors (last 33% of the field).

Nomination Outcome

Based on the above considerations you were not nominated to the available female quota places for Milan Cortina 2026.

(with letters and words missing, as in original evidence)

The grounds of appeal

43. The grounds for appeal are among those prescribed in the Olympic Nomination and Selection By-Law, namely:

- a. Clause 9.9 (b)(B): The applicable Nomination Criteria was not properly applied by the Non-Nominated Athlete's NF.
- b. Clause 9.9 (b)(D): There was no material on which the NF's decision could be reasonably based.

44. The NF in this case is the Respondent.

The Nomination Criteria

- 45. In order to determine the appeal, it is necessary to understand the relevant structure and content of the Nomination Criteria.
- 46. There is no dispute that the Appellant and the two nominated athletes fulfilled the Eligibility Criteria as set out in clause 5 of the Nomination Criteria.
- 47. Clause 6 deals with "*Nomination Criteria – Individual Alpine Skiing Event*". Clause 6 applies to quota places obtained by the AOC and clause 6.1 provides that the National Federation will nominate athletes in accordance with clause 6.
- 48. The clause then provides for a tiered priority system. Tiers 1 to 3 refer to athletes who have placed in named events, such as a FIS World Cup or FIS Alpine Ski World Championship during the Qualification Period and, in certain cases, priority is given to World Cup points in the 2025/2026 Season. By clause 1.1 of the Nomination Criteria, "*2025/2026 Season*" means the 2025-2026 FIS World Cup Season and "*Qualification Period*" means 1 July 2024 to 18 January 2026.
- 49. No Australian athlete under consideration for nomination, including Ms Small, came within the criteria for Tiers 1 to 3.
- 50. Clause 6 then provides for "*Tier 4 Criteria (Discretionary)*":
 - (h) The National Federation will nominate Athletes who, in the opinion of the NF Selection Panel, in its absolute discretion, will be most likely to achieve the highest competitive results at the Games.
 - (i) In making its determination under clause 6.3(h) with respect to an Athlete, the NF Selection Panel may have regard to some, none, or all of the following considerations, in its absolute discretion:
 - (i) the Athlete's current physical form and fitness including any injury issues relating to the Athlete (following consultation with the program medical staff and the OWIA Chief Medical Officer);

(ii) the Athlete having demonstrated the ability to produce a medal winning result or having demonstrated future medal winning potential at International Benchmark Competitions;

(iii) the Athlete’s experience at major events and Individual Alpine Skiing Event performances during the Qualification Period; and

(iv) any other factor that, in the opinion of the NF Selection Panel is relevant to achieving the objective of choosing the Athlete/s who will achieve the highest competitive results at the Games.

(emphasis added)

51. The Sole Arbitrator notes the following matters:

- a. Nomination is based upon the opinion of the Selection Panel in its absolute discretion.
- b. The Selection Panel may have regard to specified considerations, again in its absolute discretion.
- c. One such consideration is performances (not results) during the Qualification Period.
- d. The Selection Panel may have regard to any other factor that the Selection Panel considers relevant to achieving the objective in (iv).
- e. There is no reference to the 2025/2026 Season.
- f. There is no reference to particular events such as the World Cup.
- g. There is a reference to future medal winning potential at International Benchmark Competitions.

The Consideration by the Selection Panel

The evidence of the decision-making process by the Selection Panel

52. Annexure A was entitled “*Alpine Nomination Rationale Appeal – Women’s*” and was said to “*outline the applicable nomination and selection framework, the steps undertaken by [the Respondent] and the composition and operation of [the Selection Panel] in accordance with the published criteria and governance instruments*”.
53. Annexure A included “*Criteria Notes*” which, in turn, noted a number of matters including:

- a. Headings such as: qualification period; use of FIS points and rankings; competition level context; definition of “*highest competitive result*” and event specialisation and a discussion of each.
 - b. A statement that assessing highest competitive result involved “*a holistic assessment of an athlete’s performance, including both nominal finishing position and performance relative to the size and strength of the field*”.
 - c. After setting out a discussion of the criteria, a consideration of female athlete nomination under criteria clause 6.3, with sub-headings addressing the matters set out in that clause as matters that may be taken into consideration in exercising the discretion for nomination: current physical form and fitness including injury; a demonstrated ability to produce a medal winning result; experience at major events and individual alpine skiing event performances during the Qualification Period; and “any other factor”. Under each heading, there was a table listing the relevant data for each of the four athletes under consideration for the nomination to the two quota places.
 - d. Under the heading “Nomination”, a summary of “*performance considerations*” for each athlete. In the case of the Appellant, the conclusion was “*Non selection of Greta – lack of results and data to inform a nomination*”.
54. The Appellant has, in effect, challenged the provenance of Annexure A, suggesting that it was created purely for the purposes of this appeal. It was not provided to her as part of the Decision emailed to her by the Respondent. It was produced in the Appeal, as stated above, annexed to the Response.
55. The Respondent provided evidence as to the creation and use of Annexure A, as well as further detail of the basis of the discussion that took place in the Selection Panel’s consideration.
56. Mr Ben Wordsworth, the General Manager – Sport for the Respondent provided a written statement and gave oral evidence. He denies that Annexure A was contrived or “*reverse engineered*”. The effect of his evidence is that Annexure A was an iterative document. It was presented to the Selection Panel at its first meeting on 15 January 2026 in an early form or draft for review and discussion. Commentary from that discussion was incorporated into the document which was then considered at the second meeting of the Panel on 19 January 2026. He states that Annexure A reflects the information and considerations discussed across both meetings and formed the material relied upon by the Panel in reaching its final decisions. It was the document submitted with the final nomination materials on 23 January 2026. He gave evidence that the Selection Panel members all contributed to the discussion and checked and challenged all criteria. Mr Wordsworth also stated that Annexure A represented a summary of the

discussion, approved by the Selection Panel, which included the consideration of other information and spreadsheets. He said that there had been no changes to the content of that record since it was provided to the Selection Panel.

57. Mr Wordsworth also explained, after questioning by the Appellant, that the Decision as provided to her by email was prepared and sent in accordance with the Respondent's policy, as "*reflective of the information in Annexure A*".
58. In answering questions from the Appellant as to why her status as the only athlete under consideration with a World Cup result in the 2025/2026 season was not determinative, Mr Wordsworth drew a distinction for the purposes of the Nomination Criteria for Tier 4, between "performance" and "result", the word "performance" being used in clause 6.3(i)(iii).
59. Further evidence as to the decision of the Selection Panel was given by Mr Shawn Fleming, a member of that panel and the Respondent's Alpine Director. The Appellant did raise a "potential" conflict of interest on the part of Mr Fleming based on his employment responsibilities with the Respondent, which included advising athletes on which races to pursue and entering athletes into those races. The Appellant, however, did not identify any specific conflict of interest present in the circumstances, nor how it might affect Mr Fleming's giving of evidence. The Appellant said that she was not suggesting that he should not have been on the Selection Panel. There were five voting members of the Panel, including an athlete representative and an independent member.
60. Mr Fleming emphasised that the overarching rationale of the Decision centred around the highest competitive result, rather than numerical rank. He explained that the Selection Panel looked at a wide variety of factors across and within disciplines and that sheer participation at any level was not necessarily deemed competitive. The Appellant submitted that there would be benefits of selecting athletes from different disciplines (that is her discipline of Downhill racing and the discipline of Slalom for the two quota positions rather than the two nominated Slalom athletes) for the purposes of participation by Australia in a "team event" which was being introduced at the Milano Cortina Games. Mr Fleming responded that the Selection Panel decided to look at the strongest disciplines and that multiple events were neither a priority nor an overriding factor for the panel. He conceded that the Selection Panel had regard to the Appellant's Super G results as well as her best event results in Downhill. He also said that there were difficulties in using such matters as past FIS points to assess current performance and future performance for the Milano Cortina Games.

Consideration

Reliance on the fact that the Decision as sent to the Appellant was not Annexure A, nor the full record of the meetings of the Selection Panel, nor the minutes of those meetings.

61. The Appellant points out that she did not receive Annexure A as part of the Decision, nor has she been furnished with the minutes of the meetings of the Selection Panel. The Respondent asserts that it followed its policy in formulating the Decision, taken from Annexure A, which reflected the discussions of the Panel and that it was not obliged to supply the minutes of the meetings.
62. In the view of the Sole Arbitrator, the Respondent was entitled to formulate the Decision for the purposes of informing the Athlete of written reasons for her non-nomination, which was forwarded to her within 24 hours of receipt of her notice of intention to appeal. It has not been shown that the Decision failed to reflect the reasons of the Selection Panel nor that it failed to accord with Annexure A, although it gave less detail than the latter. The Appellant has not demonstrated inconsistency, nor prejudice in this Appeal, from the lack of early receipt of Annexure A. She has had the opportunity to question Mr Fleming and Mr Wordsworth who were both present at the meetings of the Selection Panel.
63. The Appellant has not provided any good reason why she should be given the minutes of the meetings, other than a desire to see them. The unchallenged evidence is that Annexure A reflected the discussions at the meetings and was endorsed as a record of those meetings by the Selection Panel members.
64. To the extent that this concern forms a basis of a ground of appeal, it is rejected.

The Nomination Criteria were published some seven months into the Qualification Period

65. The Appellant referred to the fact that the Nomination Criteria were published some seven months into the Qualification Period. She stated that this delay gave athletes less time to target specific events to meet the requirements for nomination. The Appellant suggested she was particularly impacted because the Nomination Criteria were published only four days after the 2025 World Championships in which she sustained a season-ending injury. However, the Appellant has not, in her grounds of appeal, sought to invalidate or otherwise challenge the Nomination Criteria. Nor has she raised a ground of appeal on this basis. Her grounds of appeal concern the application of the Nomination Criteria by the Selection Panel.
66. The Appellant explained that after she returned from injury, she targeted high level events, in particular the World Cup in the 2025/2026 Season. Her submissions are to the effect that the Selection Panel gave insufficient weight to her World Cup 2025/2026 results and excess weight to lesser or less demanding events entered by the two nominated athletes outside 2025/2026 season. The evidence from the Respondent is that the Selection Panel did consider the 2025/2026 season the most relevant with respect to timing of results but looked also at a wide variety of factors, such as the strength of the field in a race, to determine the highest competitive result.

67. The Athlete apparently made a decision to concentrate on the World Cup and relied on her results in the 2025/2026 Season (as defined in the Nomination Criteria) to obtain nomination. That may have been of assistance for the purposes of consideration under Tiers 1 to 3 but these were not applicable.
68. There has been no suggestion in this Appeal that the Tier 4 Criteria were inapplicable. As the Tier 4 Criteria are not confined to a particular time period, the Appellant has not shown that they were not properly applied or not reasonably based by reason of consideration of events outside the World Cup or over the whole of the Qualification Period.

The comparative assessment of results of eligible athletes

69. The Appellant does not contend that the decision of the Selection Panel was made in bad faith. The Appellant submits that the Selection Panel's comparative assessment was fundamentally flawed and that there is no material evidence of such an asserted "*comparative and holistic*" assessment provided. She has provided detailed analysis of the comparative World Cup (race Level 0) results of herself and the two nominated athletes over the Qualification Period. This demonstrates that the Athlete completed the majority of her races (6 from 9 starts) while the other two athletes either did not finish or did not qualify. Her analysis included the Europa Cup (race Level 1), where she finished the one race that she entered whereas one of the nominated athletes did not enter and the other finished 2 out of 5 races.
70. The Athlete emphasises the differences between Level 0 and Level 1 races and the greater physical demands and skill required for the former. She asserts that the World Cup, a Level 0 race, provides a better basis for consideration for nomination to the Olympics, also a Level 0 race. Similarly, she challenges the comparison between FIS points for Downhill and Slalom events, which are treated as entirely separate discipline events by the FIS. She submits that in deciding which athlete is most likely to achieve the highest competitive results at the Milano Cortina Games, as set out in clause 6.3(i)(iv) as one of the factors to which the Selection Panel may have regard, the Selection Panel failed to apply the Nomination Criteria because the Panel favoured lower level race results over those of the level comparable to the Olympic Games.
71. She submits that an objective assessment should be that, in considering which athlete has the higher likelihood of achieving the most competitive result in the Milano Cortina Games, she has demonstrated a consistent ability to finish World Cup races at Level 0 while one of the other nominated athletes did not finish a World Cup race and had not entered the Europa Cup events and the other nominated athlete demonstrated an inconsistent ability to finish Europa Cup races and a consistent inability to finish World Cup races. Thus, her submission is that an objective assessment based on World Cup and Europa Cup results (relevant races for comparison to Olympic Events) should have led to her nomination ahead of the other two athletes who were nominated to the two

quota positions. She submits that a reasonable Selection Panel would have come to the conclusion that her highest competitive results eclipsed those of the other eligible athletes.

72. One matter that the Appellant raised was that the Selection Panel considered not only the 2025/2026 Season (defined in the Nomination Criteria as the "*2025-2026 FIS World Cup Season*") on which she had concentrated her efforts for the purpose of nomination, but also the Qualification Period (defined in the Nomination Criteria to mean "*1 July 2024 to 18 January 2026 Central European Time (CET)*"). Her submission seemed to suggest that it was unfair or inappropriate for the Selection Panel to take account of the longer period when the Nomination Criteria referred to the World Cup season. It is to be noted that Tier 4 Criteria makes no reference to either the 2025/2026 Season or the Qualification Period, as a limitation or otherwise, as matters that may be taken into account in the exercise of the absolute discretion provided to the Selection Panel.
73. A further effect of the Appellant's contentions is that the Selection Panel in effect conceded that it should have given preference to results in the 2025/2026 FIS World Cup season over results in other events. She points to a statement in the Decision accepting that the 2025/2026 season is generally regarded as the most indicative of current competitive capability. She also emphasises that, under the Nomination Criteria, "2025/2026 Season" is a defined term meaning the "*2025/2026 FIS World Cup Season*". It can be seen that the former cites the uncapitalised "season" and the latter the capitalised "Season". The Appellant submitted that "2025/2026 season" had the same meaning as "2025/2026 Season" on the basis that the Decision stated "*Nominations to the Australian Olympic Committee (AOC) are made in accordance with the published Snow Australia (SA) Nomination Criteria.*" Mr Fleming gave evidence that "2025/2026 season" was a term used in a wide range of materials published by FIS and may not exclude talking about non-World Cup events.
74. While it may not be determinative, the Respondent's use of an uncapitalised "season" as opposed to "Season" may indicate that the Respondent intended to refer generally to any events (not just World Cup events) taking place throughout the 2025/2025 season; this is supported by Mr Fleming's evidence. In any event, the words of the Decision could represent a possible concession by the Respondent that the World Cup results for that season are generally regarded as the most indicative of current competitive capability.
75. This analysis is relied on by the Athlete to support both grounds of appeal.
76. The Respondent relies on the absolute discretion provided in clause 6.3(h) and (i) of the Nomination Criteria. It also points out that the considerations listed in clause 6.3(i) are not arranged in any priority or order of importance. The Respondent notes that it considered not only the Appellant's World Cup results, but also those results of the Appellant and the other athletes in the context of the strength of field, finishing rank and

time relative to field. It says that World Cup participation in itself was not seen as a stronger performance over lower level competitions such as the Europa Cup. It points out that the Selection Panel considered, among other matters, performances across the Qualification Period, the recency of results, the level and strength of competition, the performance relative to field, the reliability of execution and demonstrated competitiveness at international events. The Respondent submits that the Nomination Criteria do not require numerical scoring systems, tabulated rankings or mathematical weighting models for the purposes of Tier 4 nominations. It submits that the Selection Panel was entitled to conclude that consistent finishes in the lower decile of World Cup fields did not demonstrate a higher likelihood of Olympic competitiveness. It also said that the Selection Panel was entitled to look at results outside the Qualification Period by reason of that coming within “any other factor” that may be considered as set out in the Tier 4 Criteria.

77. The Respondent submits that its decision of non-nomination of the Athlete constituted a legitimate exercise of discretion in accordance with the Nomination Criteria. It contends that, in exercising its discretion, the Selection Panel may legitimately prefer athletes with higher competitive potential over athletes with more consistent but less competitive results.
78. The Sole Arbitrator returns to the Tier 4 Criteria and the provision for absolute discretion on the part of the Selection Panel, including a provision that the Selection Panel may have regard to “*any other factor that, in the opinion of the NF Selection Panel is relevant to achieving the objective of choosing the Athlete/s who will achieve the highest competitive results at the Games*”. The Tier 4 Criteria make it clear that a nomination decision may be subjective. Thus, it is incumbent for the Appellant to demonstrate that it was in the nature of manifestly untenable, perverse, absurd or unreasonable or one that no reasonable Selection Panel to reach or that there was no material before the Selection Panel on which the Decision could be based.
79. The Appellant has submitted that there has been a failure to apply the Nomination Criteria by analysis of an objective comparison between her Level 0 results and those of the other athletes in Level 0 races and the use of results in Level 1 races, which she maintains are not comparable for the purposes of assessing likely competitiveness at an Olympic Games. If the Tier 4 Criteria provided for a strict comparison or a limitation as to Level 0 results or as to the results of the 2025/2026 Season, the Appellant might well have demonstrated why she was the better candidate for nomination. However, that is not what the Nomination Criteria specify. Tier 4 provides not only for discretion but also for “absolute discretion”; it suggests factors to be taken into account but makes it clear that these may or may not be considered; it then provides for consideration of any other factor that is relevant, in the opinion of the Selection Panel, to achievement of the highest competitive results. That does not lend itself to a challenge based on a different analysis of the facts and data considered or a different weighting given to those data.

80. The Appellant also took issue with Annexure A and the evidence which demonstrated that some matters were in fact given greater weight than others by the Selection Panel. In the Response, the Respondent states that clause 6.3(i) provides that the listed factors to which regard may be made are not accorded weight or priority. The Appellant's complaint in this regard is, in the view of the Sole Arbitrator, to confuse the Selection Panel's practical exercise of the afforded discretion in considering the criteria suggested in the Nomination Criteria, with the statement in the Nomination Criteria that no priority or relative importance is mandated by reason of the order or arrangement of those factors.
81. As part of her criticism of Annexure A's comparison of athletes, the Appellant noted Annexure A considered a result from Ms Hoffman from outside the Qualification Period where she came 25th in a World Cup event in November 2023, but ignored the Appellant's result of achieving 24th at the World Championships in February 2023. However, Mr Wordsworth's evidence was that Annexure A was not a record of all information considered by the Selection Panel. By reason of, at the least, the provision under Tier 4 of regard to "any other factor" considered relevant by the Selection Panel, the Appellant has not established that the Selection Panel could not have regard to results outside the Qualification Period.
82. The Appellant also stated that Annexure A described Ms Hoffman's injury in a positive light while the Appellant's own injury was presented in a negative light. Mr Fleming gave evidence that the injury status of both athletes was considered and discussed by the Selection Panel and that he believed that Annexure A contained only statements of fact. It is worth noting that the Selection Panel, in its absolute discretion and under clause 6.3(i)(i) of the Nomination Criteria, was able to consider the athlete injury issues as part of the selection process. In any case, Annexure A refers to results from both athletes after they returned to competition from injury.
83. The Appellant has not overcome the hurdle of establishing either of her grounds of appeal. That is, she has not demonstrated that the Tier 4 Criteria were not properly applied nor that there was no material on which the Decision could be reasonably based. Annexure A and the evidence in the Appeal provide the material before the Selection Panel and explanation of the way in which that material was considered. Unlike the criteria for Tiers 1 to 3, the criteria for Tier 4 allow for discretion and opinion by the Selection Panel and the consideration of any fact considered relevant, unfettered by reference to events or points.
84. The grounds of appeal have not been made out.

Eligibility

85. To the extent that the Appellant raises as a ground of appeal that the Respondent made a finding of her ineligibility, the Respondent says that her eligibility for selection was not in dispute. The Decision was not based on any lack of eligibility.

VIII. CONCLUSION

86. It follows that the Appellant's Appeal must be dismissed and the Decision by the Respondent of non-nomination of the Appellant be confirmed.

IX. COSTS

(...)

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by Greta Small on 22 January 2026 against the non-nomination decision rendered by Snow Australia Limited on 20 January 2026 is dismissed.
2. The non-nomination decision of Greta Small rendered by Snow Australia Limited on 20 January 2026 is confirmed.
3. (...)
4. (...).

Seat of arbitration: Lausanne, Switzerland
Operative Award Dated: 26 January 2026
Reasoned Award Date: 1 July 2026

THE COURT OF ARBITRATION FOR SPORT

The Hon. Dr Annabelle Bennett, Australia
Sole Arbitrator

Mr Thomas Salmon
Ad hoc Clerk