



TAS / CAS

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

CAS 2026/A/12134 Hugh McAdam v Snow Australia Limited

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Sole Arbitrator: The Hon. Arthur Emmett AO KC, Australia

Ad hoc Clerk: Ms Tahlia Rodrigues, Australia

in the arbitration between

Mr Hugh McAdam, Australia

Represented by Mr Brenden Miller (Garland Hawthorn Brahe)

- Appellant -

and

Snow Australia Limited, Australia

Represented by Mr Ian Fullagar (Lex Sportiva) and Mr Michael Kennedy, Mr Ben Wordsworth,
and Mr Shawn Fleming (Snow Australia Limited)

- Respondent -

and

Australian Olympic Committee, Australia

Represented by Mr Mason Cohen (Legal Counsel, Australian Olympic Committee)

- Affected Party -

and

Mr Harry Laidlaw

- Affected Party -

I. THE PARTIES

1. Mr Hugh McAdam (**the Appellant**) is an Australian athlete who competes in the sport of Alpine Skiing under the jurisdiction of Snow Australia Limited (**SAL**).
2. SAL is the Australian National Federation (**the NF**) responsible for the administration, development and promotion of the sport of Alpine Skiing in Australia, including the nomination to the Australian Olympic Committee (**the AOC**) of athletes for inclusion in the Australian Olympic Team to compete at the 2026 Milano Cortina Winter Olympic Games (**the Milano Games**).
3. Mr Harry Laidlaw (**the Nominee**) is also an Australian athlete who competes in the sport of Alpine Skiing under the jurisdiction of SAL.
4. SAL is the Respondent in this arbitration, and the AOC and the Nominee are 'Affected Parties' as defined in the *Australian Olympic Committee Olympic Team Nomination and Selection By-Law* dated 23 March 2023 (**the By-Law**).

II. INTRODUCTION AND BACKGROUND FACTS

5. A dispute has arisen concerning the nomination of the Nominee to the AOC for selection to represent Australia in Men's Alpine Skiing at the Milano Games (**the Dispute**).
6. The Milano Games are scheduled to commence on 4 February 2026. Nominations of the athletes to compete at the Milano Games were required to be submitted to the International Olympic Committee by no later than 11:00pm (AEDT) on 26 January 2026.
7. On 20 January 2026, the nomination panel appointed by SAL to identify athletes for nomination (**the Panel**) decided to nominate the Nominee to the AOC for selection in the Australian Olympic Team for the Milano Games.
8. Also on 20 January 2026, SAL notified the Appellant that the Panel had determined that he would not be nominated (**the non-nomination decision**). The Appellant acknowledged receipt of the Respondent's non-nomination decision that day.
9. By email sent on 21 January 2026, SAL set out the reasons of the Panel for the non-nomination decision (**the First Reasons**). On 22 January 2026, SAL notified the Appellant that it had nominated the Nominee to the AOC.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

10. On 23 January 2026, the Appellant submitted a Statement of Appeal to the Court of Arbitration for Sport (**the CAS**). By his Statement of Appeal, the Appellant appeals the non-nomination decision. The Appellant appeals pursuant to the Fast Track Appeal process set out at clause 9.9 of the By-Law. No party suggested that the matter was not appropriately dealt with as a Fast Track Appeal under clause 9.9 of the By-Law. By his

Statement of Appeal, the Appellant seeks an order that SAL reconvene a new nomination panel to assess who should be nominated to the AOC. The Appellant has notified the Oceania Registry of the CAS that the non-refundable filing fee of CHF500 required under clause 9.9 of the By-Law had been paid and provided supporting evidence to this effect.

11. On 23 January 2026, the Appellant wrote to the Nominee, notifying him that the Appellant had lodged an appeal against the non-nomination decision. The Appellant served the Statement of Appeal and supporting material on the Nominee and informed him that he may be an 'Affected Party' under the By-Law. The Nominee did not participate in the arbitration.
12. On 24 January 2026, SAL filed its response to the Statement of Appeal, requesting that the CAS dismiss the Appellant's appeal (**the Response**). With the Response, SAL filed a document (**Annexure A**) specifying the steps taken by the Panel in nominating the Nominee and expanding on its rationale for that nomination. Annexure A was not before the Panel when it made the non-nomination decision. Rather, it is a report of the deliberations of the Panel, and an explanation of the reasoning process adopted by the Panel in making the non-nomination decision. The arbitration proceeded on the basis that Annexure A is an exhaustive statement of the material and matters that were taken into account by the Panel.
13. On 24 January 2026, the Oceania Registry of the CAS informed the parties, pursuant to clause 9.9(d)(i)(B) of the By-Law and Article R54 of the Code of Sports-Related Arbitration published by the CAS in force from 1 July 2025 (**the Code**), that the President of the Appeals Arbitration Division of the CAS had appointed The Hon. Arthur Emmett AO KC as Sole Arbitrator to decide the present matter.
14. By Order of Procedure signed on 25 January 2026, the Appellant, SAL and the AOC agreed that the CAS has jurisdiction to determine the Dispute by arbitration and agreed to refer the Dispute to the CAS for determination by arbitration. The parties agreed with the composition of the Panel.
15. The Appellant and SAL submitted written material. No written material was submitted by either of the Affected Parties. The Sole Arbitrator has also had the benefit of oral addresses on behalf of the parties. In particular, Mr Marcus McAdam, the Appellant's father, was permitted to outline in some detail the Appellant's complaints concerning the approach adopted by the Panel in its deliberations. Although the Sole Arbitrator has considered all the legal argument, facts and evidence submitted by the parties in the proceedings, this award refers only to the submissions, facts and evidence considered necessary to explain my reasoning.
16. The hearing was conducted under some pressure having regard to the time limits for resolution of the Dispute. The deadline for athlete nomination to the AOC was 11:00pm (AEDT) on 26 January 2026. The pressure was increased to some extent by the fact that, Annexure A, which SAL asserts explains in more detail the non-nomination decision, was not brought into existence until 24 January 2026, when it was first made available to the Appellant and his advisers.

17. The hearing of the appeal was conducted by videoconference pursuant to Article R44.2 of the Code, commencing at 11:00am (AEDT) on 25 January 2026. The Sole Arbitrator was assisted by Ms Tahlia Rodrigues, Solicitor in Sydney, Australia, as ad hoc clerk. The following persons attended the hearing by video-link:

For the Appellant

- a. Mr Marcus McAdam
- b. Mr Brenden Miller

For SAL

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

For the AOC

- f. Mr Mason Cohen

18. At the conclusion of the hearing, the parties confirmed that they had been heard and did not have anything further to raise.

IV. JURISDICTION

19. 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.

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

21. 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 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.
22. The 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 By-Law.
23. The 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.
24. The Sole Arbitrator therefore confirms that the CAS has jurisdiction to hear this appeal.

V. ADMISSIBILITY OF THE APPEAL

25. Article R49 of the Code provides that, 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 21 days from the receipt of the decision appealed against.
26. As indicated above, the parties agreed that the By-Law regulates the resolution of the Dispute. Clause 9.9 of the By-Law sets a timeline for the commencement of a Nomination Fast Track Appeal and specifies that time limit runs from when a non-nominated athlete receives notice of his or her non-nomination and further specifies a time limit for the filing of all relevant documentation. Each identified step in the Nomination Fast Track Appeal timeline allows a party only 24 hours to file under the Fast Track procedure. The parties did not raise any objections regarding the admissibility of this appeal and, accordingly, this appeal is admissible.

VI. FRAMEWORK FOR THE ARBITRATION

27. Before dealing with the issues, it is desirable to say something about the regulatory framework that governs the nomination process. Clause 5.1 of the By-Law relevantly provides that, where the AOC is awarded athlete quota positions for a sport contested at an Olympic Games (**the Games**), the NF that governs the sport may nominate athletes to the AOC for selection in the team for that Games. Clause 5.2 of the By-Law provides that, in order to nominate athletes for selection, the NF must adopt nomination criteria that applies to that NF's sport for that Games.
28. In this case, SAL is the relevant NF. Pursuant to clause 9.9 of the By-Law, the selection of athletes by SAL for nomination to AOC for the purposes of the Milano Games is regulated by a document entitled "*Nomination Criteria Olympic Winter Games Milano Cortina 2026 Alpine Skiing*" published by SAL (**the Nomination Criteria**). Clause 6.1 of the Nomination Criteria provides that, if the AOC obtains quota places in accordance

with the qualification system for Alpine Skiing in respect of the Milano Games, SAL will nominate athletes identified by a panel appointed by it for that purpose.

29. Clause 6.3 of the Nomination Criteria provides that the Panel is to use a tiered priority system to identify athletes to be nominated. If, after the application of criteria in Tiers 1, 2 and 3 there remain quota places that have not been allocated to athletes, the Panel is to apply Tier 4 criteria to allocate further quota of places to athletes. Under clause 6.3(h), SAL is to nominate athletes who, “in the opinion of the Panel, in its absolute discretion”, will be most likely to achieve the highest competitive results in the Milano Games. Clause 6.3(i) provides that, in making such a determination with respect to an athlete, the 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;
 - (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 Panel is relevant to achieving the objective of choosing the Athlete/s who will achieve the highest competitive results at the Games.
- The criteria listed in this clause are not arranged in any order of priority or importance.
30. Clause 9.9 of the By-Law specifies a fast-track appeal process that is to be applied where a non-nominated athlete receives notice of non-nomination within 14 days of the date on which entries to a Games must be submitted by the AOC. In such a case, the non-nominated athlete may bring a fast-track appeal to the CAS in accordance with the process set out in that clause. Under clause 9.9(b)(i), the non-nominated athlete may bring such an appeal to the CAS only on one or more of the following grounds:
- (A) In making the decision, one or more of the procedures for the nomination of athletes was not applied;
 - (B) The Nomination Criteria were not properly applied;
 - (C) The decision was affected by actual bias with respect to the Non-Nominated Athlete; or
 - (D) There was no material on which the decision could be reasonably based.

VII. ISSUES IN THE APPEAL

31. In his Statement of Appeal, the Appellant relied on grounds (B), (C) and (D) in clause 9.9 of the By-Law. However, in the course of the hearing, the Appellant abandoned reliance on ground (C). In its Response, SAL contended that, at all times, the

Nomination Criteria were properly applied and that the non-nomination decision was a reasonable decision on the material before the Panel. SAL asserts that, in effect, the Appellant is seeking review on the merits of the non-nomination decision.

VIII. DETERMINATION

32. The primary contention advanced on behalf of the Appellant is that the material before the Panel was inadequate and skewed in favour of the Nominee. That is to say, the information available to the Panel was such that no reasonable mind could arrive at the non-nomination decision based on the information before the Panel. That contention was developed in the Statement of Appeal, which responded to the First Reasons, and by Mr McAdam, who dealt with Annexure A.

A. The First Reasons

33. The First Reasons relevantly stated:

- The Qualification Period was defined as 1 July 2024 to 18 January 2026.
- Performances of all eligible athletes across the entire Qualification Period were considered, with the 2025/26 season generally regarded as the most indicative of current competitive capability.
- Ski and Snowboard Federation (known as FIS) Points and World Rankings of all eligible athletes were considered for context alongside competition level, field strength, performance relative to the field, age of results, and injury protection mechanisms.
- World Cup represents the highest-level competition, followed by Europa Cup. Results at lower-tier competitions (Nor-Am, Australia and New Zealand Cup, Far East Cup and FIS Races) were considered for context. World Cup starts alone did not constitute a performance.
- In determining “Highest Competitive Result”, a comparative and holistic assessment considering both nominal finishing position and performance relative to the size and strength of the field.
- Athletes were assessed primarily in their strongest discipline.

34. In dealing with “Performance Considerations” of the Appellant, the First Reasons record that, during the 2025/26 season, the Appellant recorded:

- a. six World Cup Slalom starts. Of these six, four resulted in DNFs, and in the remaining two, the Appellant did not qualify for the second run, finishing last and third last respectively; and
- b. two Europa Cup Slalom starts, both resulting in DNFs.

35. The First Reasons state that “when assessed comparatively, the lack of completed runs and competitive finishes during the prioritised 2025/26 season did not support nomination” and conclude that, based those considerations, the Appellant was not nominated.

36. In support of the ground in clause 9.9(b)(i)(D) of the By-Law, that there was no material on which the non-nomination decision could reasonably be based, the Statement of Appeal complains about the extent to which the Panel failed to have proper regard to matters such as:
- a. World rankings as the primary indicator;
 - b. Start position advantages;
 - c. Dual discipline advantage;
 - d. Comparison of previous rankings;
 - e. Competition performance by the Appellant;
 - f. Future potential of the Appellant; and
 - g. Absence of material evidence.
37. The Statement of Appeal amounts to a disagreement with the discretion and judgment exercised by the Panel rather than demonstrating that reasonable and honest minds could not arrive at the non-nomination decision based on the information available to the Panel. The non-nomination decision was not manifestly untenable, perverse or absurd or at all unreasonable. The Appellant has not shown that the Panel has adopted erroneous reasoning.
38. Thus, in the Response, SAL answers the complaints made by the Appellant under this ground as follows:
- a. Whilst world ranking may provide contextual information, it is not identified in the Nomination Criteria as a decisive factor for nomination. Rankings are historical in nature and may be influenced by factors such as injury protection and limited participation. The Panel considered world ranking contextually, alongside actual performance outcomes during the Qualification Period.
 - b. The Nomination Criteria do not identify Olympic start position as a nomination or selection determinant. Whilst start order may influence race dynamics, it is one of many variables and does not, of itself, establish competitive readiness. The Panel was entitled to consider demonstrated performance outcomes rather than inferred advantages.
 - c. Competing in more than one discipline does not, of itself, increase an athlete's likelihood of achieving the highest competitive result. Consistent with the Nomination Criteria, athletes were considered primarily in their strongest discipline. The Panel did not consider breadth of participation to outweigh demonstrated competitiveness.
 - d. The Panel undertook a comparative assessment of all eligible athletes under Tier 4 and concluded that, on balance, the Nominee demonstrated a higher likelihood of competitive performance.
 - e. Participation in World Cup events was considered by the Panel but World Cup starts alone do not constitute competitive performance. The Panel assessed not only participation but finishing position relative to field strength, consistency of execution, and ability to complete runs competitively.

- f. The Nomination Criteria do not specifically require the Panel to prioritise development trajectory or future potential. The Panel's assessment focused on likelihood of achieving the highest competitive result at the Milano Games. The Panel was entitled to assess current performance indicators rather than projected improvement.
 - g. The Panel considered extensive performance data, competition results, trends, and comparative indicators.
39. Having regard to the language of clause 6.3 of the Nomination Criteria, it is not for the CAS, in dealing with the grounds in clause 9.9(b)(i) of the By-Law, to resolve differences of opinion. The Response indicates that there was material on which the non-nomination decision could reasonably have been based.
40. In support of the ground in clause 9.9(b)(i)(B), that the Nomination Criteria were not properly applied, the Statement of Appeal asserts that any selection must be by reference to supportable performance results during the Qualifying Period. The Statement of Appeal goes on to say that since the Appellant has a lower World Ranking compared to the Nominee, he will have the most competitive starting position in an Olympic alpine race and is therefore better placed to achieve the highest competitive result at the Milano Games. Therefore, it is alleged, the Panel failed to apply the Nomination Criteria in reaching the non-nomination decision.
41. However, that assertion ignores the wording of clause 6.3(h) of the Nomination Criteria, which requires the Panel to nominate the Athletes who the Panel, **in its absolute discretion**, considers will be most likely to achieve the highest competitive result at the Milano Games.
42. Clause 6.3(i) of the Nomination Criteria lists considerations to which the Panel may have regard to when nominating an athlete to the Games. The Statement of Appeal asserts that it would be reasonable to expect that, in making a discretionary decision, the Panel would have had regard to those considerations. Again, that contention ignores the clear wording of clause 6.3(i) that the Panel may have regard to some, none, or all of the considerations, in its absolute discretion. There is no requirement to notify athletes of any other considerations to which the Panel might have had regard to in exercising its discretion.
43. The Statement of Appeal draws attention to several factors and asserts that, if those factors were not advised to the Panel by SAL as relevant in forming a nomination evaluation, then the Nomination Criteria have not been properly applied by the Panel. The factors and SAL's Response are as follows:
 - The Appellant had two injuries during the Qualifying Period that were no longer affecting his fitness. SAL was aware of both of these injuries but it was not known whether they were advised to the Panel. SAL's Response is that the first injury was not raised by the Appellant or his support team and was not a matter considered by the Panel. The Appellant's hand injury was discussed with the Panel and the Panel was advised by the Appellant's coach that only a short interruption to training was anticipated, and no

ongoing injury concerns were raised thereafter. Injury was not treated as a basis for non-nomination.

- During the Qualifying Period, the Appellant demonstrated the ability to produce medal winning results at International Benchmark Competitions, particulars of which were set out. SAL's Response asserts that the Panel considered all performances achieved by the Appellant, including results across multiple events, and assessed them comparatively in accordance with the Nomination Criteria and that no single result or competition was treated as determinative. That is within the Panel's discretion.
 - The Appellant changed ski brand and was not able to access High Performance Race Skis directly from the manufacturer but instead had to source lower performance skis from a retail store. SAL's Response is that equipment selection is commonplace among elite athletes and was not a factor considered relevant to the Panel's assessment, which focused on performance outcomes and their relevance to Olympic-level competition. There is no error in that approach.
44. Those contentions reflect disagreement with the Panel's assessment of the material before it rather than identification of some misapplication of the Nomination Criteria. SAL has no obligation to advise the Panel of anything as alleged in the Statement of Appeal.
- B. Annexure A**
45. Annexure A states that the Panel met on two occasions leading up to the non-nomination decision, on 15 January 2026 for one hour and on 19 January 2026 for one hour. At those meetings, the Panel considered athlete eligibility, international qualification outcomes, available national quota places and the application of the Nomination Criteria. In addition to the Appellant and the Nominee, the Panel considered two other athletes, Mr Henry Heydon and Mr Tom Hoffman. The latter two were not parties to the arbitration. While the Nominee was named as a party, he did not participate.
46. Annexure A also states that national quota places are allocated strictly in accordance with rankings and qualification rules of the FIS. Only athletes who contribute to, or are eligible within, the nation's allocated quota may be considered for nomination. Athletes who meet both the FIS qualification requirements and the Nomination Criteria are eligible to be considered for nomination to the AOC.
47. The Qualification Period for the purposes of the Nomination Criteria was 1 July 2024 to 18 January 2026. The Panel considered performances across the entire Qualification Period. In doing so, the Panel determined that performances achieved during the 2025/2026 season were generally the most indicative of current competitive capability. While the Panel considered FIS points and FIS world rankings as part of the overall body of information available it, at higher levels of competition, FIS points alone are recognised as having limitations, including the historical nature and the application of injury protection mechanisms. Accordingly, FIS points were considered only

contextually, in conjunction with the level of competition, field strength and the relevant athlete's performance relative to the field.

48. Annexure A asserts that World Cup events represent the highest level of competition, followed by Europa Cup, and that, while results at lower tier competitions were considered in context, they did not outweigh stronger performances achieved at higher tier international events.
49. Annexure A states that the Panel approached its task on the basis that "highest competitive result" required a holistic assessment of an athlete's performance, including both nominal finishing position and performance relative to the size and strength of the field. It asserts that, in some circumstances, "*finishing within a stronger percentage of a larger or more competitive field may be considered indicative of a higher competitive result than a marginally higher nominal placing achieved in a smaller or less competitive field*". The Panel recognised that athletes specialise in particular disciplines and therefore, when determining the likelihood of a particular athlete achieving the highest competitive result at the Milano Games, assessed each athlete primarily on the basis of that athlete's strongest event.
50. Annexure A contains a section entitled "Consideration of Male Athlete Nomination under Criteria clause 6.3", which addresses the considerations referred to in clause 6.3(i) of the Nomination Criteria. The section contains tables setting out the respective performances of the four athletes under consideration, dealing with their results in World Championships, World Cup, Europa Cup, Far East Cup, Australia and New Zealand Cup and NorAm Cup.
51. In dealing with consideration (iv) in clause 6.3(i) of the Nomination Criteria, Annexure A says as follows:

Harry Laidlaw – Performance Considerations (Nominated)

It is the opinion of the Panel that Harry Laidlaw is the most likely to achieve the highest competitive results at the Games. Harry was injured for much of the Olympic Qualification period including the entire 24/25 international season. Harry has returned to competition this 25/26 international season and has secured a top 30 Europa Cup Performance, 2 x NorAm top 30 Performances, has the highest single FIS point result and has 3/5 of the highest single FIS points results across the Australian Males. EC result skiing through the field

- In the 2025/26 season Harry has had a Top 30 Europa Cup result, finishing 27th from a starting bib of 69 and a Europa Cup 41st from bib 72.
- In the 2025/26 season Harry has two Top 30 results in NorAm placing 17th and 22nd.
- In the northern 2025/26 season Harry also has multiple other FIS level results including a 23.00 (5 sub 30pts results).
- In the 2025/26 northern season Harry has 3/5 of the highest single FIS points results across the Australian Males.
- Harry has competed in 13 events in the 2025/26 Northern season with only 3 DNFs.
- In the qualification period Harry had the single best FIS result of all athletes scoring 20.00 FIS points.

Hugh McAdam – Performance Considerations (Non-Nomination)

In considering nominations for the Milan Cortina 2026 Olympic Winter Games, the Panel considered Hugh McAdam's performances across the Olympic Qualification Period, with

particular emphasis on the 2025/26 international season, consistent with the Nomination Criteria and Notes.

The following performance considerations were relevant to the Panel's assessment:

- During the 2025/26 season, Hugh recorded six (6) World Cup Slalom starts. Of these:
 - four (4) resulted in DNFs, and in two (2) starts he did not qualify for the second run, finishing last and third last in the finishing field respectively.
- During the 2025/26 season, Hugh recorded two (2) Europa Cup Slalom starts, both of which resulted in DNFs.
- When assessed comparatively against other eligible athletes, the lack of completed runs and competitive finishes during the prioritised 2025/26 season did not support the conclusion that Hugh McAdam was the athlete most likely to achieve the highest competitive result at the Games.

52. The Appellant contends that close examination of the First Reasons and Annexure A demonstrates that the material before the Panel was skewed in the way in which it was presented and that the Panel did not exercise its discretion properly because of the skewed manner in which material was presented to it. In his address at the hearing, Mr McAdam gave particular attention to the section of Annexure A quoted above and made several specific complaints concerning the assessment of the Appellant and the Nominee in that section, including the following:

- a. The material relating to the Nominee was positive whereas the material relating to the Appellant was negative.
- b. There should have been more information concerning the quality of the respective competitors with whom the two candidates were respectively competing.
- c. The Panel appears to have discounted the Appellant's results in the Australia and New Zealand Cup.
- d. The Panel improperly had regard to the performances of the Nominee outside the Qualifying Period without affording the Appellant the same opportunity.
- e. The Panel placed too much emphasis on performances in recent months rather than over the full Qualification Period.
- f. The Panel failed to take account of performances of the Appellant in events where he did not finish prior to the point at which the Appellant finished. That is to say, prior to the incident that prevented him from finishing, the Appellant was said to have been performing well and the Panel did not take this into account.
- g. The Panel failed to take adequate account of the fact that the Appellant competes in both Slalom and Giant Slalom events whereas the Nominee competes only in Giant Slalom events.
- h. The Panel failed to take account of the fact that the Nominee competes up to two or three levels below the Appellant.
- i. There were cases where both the Appellant and the Nominee sought to qualify for a particular race but the Appellant qualified for the race and the Nominee did not. The Panel did not deal with those cases.

53. Those complaints do not establish that the Nomination Criteria were not properly applied or that the Panel did not have material on which the non-nomination decision

could reasonably be based. They are really an invitation to the CAS to re-exercise the Panel's discretion.

C. Conclusion

54. The hurdles faced by the Appellant in demonstrating that any of the grounds in clause 9.9(b)(i) of the By-Law has been made out are relatively high. Thus, the discretion conferred by clause 6.3 of the Nomination Criteria is extremely broad. Under clause 6.3(h), the task of the Panel was to form an opinion, **in its absolute discretion**, as to who will be most likely achieve the highest competitive results at the Milano Games. Clause 6.3(i) expressly states that the Panel may or may not, **in its absolute discretion**, have regard to certain considerations. In the event the Panel took those considerations into account, there has been no suggestion that the Panel misdirected itself as to those considerations.
55. Discretion entails a decision-making process where no single consideration and no combination of considerations will necessarily determine the result (see *Coal and Allied Operations Pty Limited v Australian Industrial Relations Commission* 201 CLR 194 at 294-5). On the other hand, the exercise of the discretion must be transparent and rational and it must not be arbitrary or capricious. Nevertheless, the fact that rational minds could legitimately have exercised the discretion differently is not a basis for concluding that the exercise of the discretion was invalid. Rational minds may have reached a decision that that the Appellant should be nominated. However, that is not a sufficient basis for concluding that the exercise of their discretion by the Panel was irrational.
56. The Appellant's case is that, in light of the way in which the material was presented to the Panel, the Panel did not properly exercise the discretion conferred upon it. It is said that the material before the Panel was inadequate and skewed in favour of the Nominee and that, in those circumstances, the First Reasons and Annexure A demonstrates that the Nomination Criteria were not properly applied and that the Panel did not have material on which the non-nomination decision could reasonably be based.
57. The complaints made in the Statement of Appeal and made orally by Mr McAdam are directed at the merits of the respective records of the two athletes and reflect disagreement with the Panel's evaluative judgment rather than demonstrate an error in process or in the application of the Nomination Criteria. The non-nomination decision was not an unreasonable exercise of the discretion conferred on it. It was not manifestly untenable or perverse or absurd or unreasonable. The Appellant's contentions reflect disagreement with the Panel's evaluative judgment, not an error in process or application of the Nomination Criteria. Reasonable and honest minds could arrive at the non-nomination decision based on that information available to the Panel.
58. The First Reasons, as expanded upon in Annexure A, set out the material considered by the Panel in exercising its discretion. The Panel was entitled to assess not only whether an athlete finished, but how competitively the athlete finished relative to the relevant field. The Panel concluded that consistent finishes in the lower decile of World Cup fields did not demonstrate a higher likelihood of Olympic competitiveness. That was a legitimate exercise of discretion in accordance with the Nomination Criteria. The non-

nomination decision was reached following a comparative assessment of all eligible athletes under Tier 4 of the Nomination Criteria.

59. As Annexure A demonstrates, the Panel had before it the records of performance of all four athletes. While it may well be that the Panel could reasonably have reached a different conclusion, it had material before it on which the non-nomination decision could reasonably be based. The Nomination Criteria required the formation of an opinion by the Panel as to which athlete would be most likely to achieve the highest competitive results in the Milano Games. That is what the Panel did, even if rational minds might have formed a different opinion. The Nomination Criteria were properly applied.
60. The Appellant has not established grounds that would warrant CAS intervention. It follows that the appeal must be dismissed.

IX. COSTS

(...)

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by Hugh McAdam on 23 January 2026 against the non-nomination decision rendered by Snow Australia Limited on 20 January 2026 is dismissed.
2. The decision of non-nomination of Hugh McAdam 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: 20 February 2026

THE COURT OF ARBITRATION FOR SPORT

The Hon. Arthur Emmett AO KC, Australia
Sole Arbitrator

Ms Tahlia Rodrigues
Ad hoc Clerk