

MEDIA RELEASE 27 SEPTEMBER 2024

Tribunal awards costs of \$15,000 against Cycling New Zealand

Mountain biker Sammie Maxwell brought an appeal to the Sports Tribunal against the decision of Cycling New Zealand (CNZ) not to nominate her for selection to the New Zealand Olympic Team in June 2024. The basis for her non-nomination was that Ms Maxwell had failed to meet the CNZ eligibility criteria, which required her to demonstrate that she had no mental or physical impairment that would prevent her from performing to the highest possible standard at the Olympics.

Following a substantive hearing, the Tribunal upheld her appeal on the grounds that CNZ had relied on out of date and inaccurate medical information and that there were flaws in the selection process, including serious breaches of natural justice.

The Tribunal took the unusual step of nominating Ms Maxwell for Olympic selection. Ms Maxwell was selected to the Olympic team by the New Zealand Olympic Committee and competed in the Mountain Biking event finishing an outstanding 8th place and earning an Olympic Diploma.

Ms Maxwell incurred substantial legal costs in bringing her appeal to the Tribunal which, even though discounted, amounted to just over \$31,000. Given that she had been successful in her appeal and was an athlete with limited resources Ms Maxwell applied to the Tribunal for an award of costs against CNZ.

Traditionally the Tribunal does not make awards of costs very often and when it does, the awards tend to be modest. It is only in exceptional cases that the Tribunal will make substantial awards.

The Tribunal decided that Ms Maxwell's case was exceptional (that is, unusual or out of the ordinary) which was reflected in the Tribunal taking the unusual step of nominating her for Olympic selection.

Ms Maxwell submitted that as CNZ had greater resources than she did it was unfair that she should have to meet such substantial costs to correct what the Tribunal found to be an erroneous decision.

CNZ opposed her application submitting that the Tribunal had no jurisdiction to consider her application and that Ms Maxwell should meet her own costs.

The Tribunal had hoped that the parties would resolve the matter by agreement and thereby avoid any publicity, but unfortunately that did not occur.

The Tribunal found that the circumstances of Ms Maxwell's case were exceptional and justified awarding her costs of \$15,000.

The Tribunal emphasises that this decision is based on the exceptional circumstances of the case and does not signal a departure from the Tribunal's long-established approach to awards of costs to successful parties; each case will continue to be assessed on its merits.