



SECTION A

2019 UCI Mountain Bike, Trials and 2020 Cyclo-Cross World Championships

– All Disciplines **UPDATED 7-3-2019 TO INCLUDE E-MTB**

Section A: General Selection Eligibility Criteria and Appeals Guide APPLIES TO

ALL TEAMS and must be applied in unison with the specific selection criteria for each discipline.

These are:

- Section B:
- B1: Cross Country Olympic (XCO)
 - B2: Down Hill Individual (DHI)
 - B3: Cross Country Marathon (XCM)
 - B4: Cyclo-cross (CX)
 - B5: Trials
 - B6: 4 Cross (4X)
 - B7: Cross Country Eliminator (XCE)
 - B8: E-Mountain Bike (E-MTB)**

Section A is the higher-level document and athletes cannot be nominated if they fail to meet Section A criteria. In the event of a discrepancy between Section A and any other Section, Section A will be applied.

1. OBJECTIVES

- 1.1. The National Selection Committee (the Selectors) will nominate athletes pursuant to the objectives laid out in the discipline specific criteria B1 – **B8**.

2. GENERAL INFORMATION

- 2.1. **MTBA Endorsement** - Athletes are nominated to an Australian mountain bike team by the Selection Committee. Once nominations are endorsed by the Mountain Bike Australia (MTBA) CEO they become selections to the team.
- 2.2. **Eligibility – Selection in National squads and Australian teams** - To be eligible for selection in a National squad or an Australian team, athletes must:
 - 2.2.1. Be an Australian citizen.
 - 2.2.2. Have a current racing license issued by MTBA.
 - 2.2.3. Apply for selection using the official application process. All sections of the form must be completed for the application to be valid. Application forms will be available on the International Representation page of the MTBA website from March 2019.
 - 2.2.4. Read and agree to the terms and conditions in the 2019 Cycling Australia (CA) National Team Agreement and the Cycling Australia No Doping Declaration Policy.
 - 2.2.5. Have met the Specific Selection Criteria as set out for the respective cycling disciplines in Sections A, and B1-**B8** of this document.
 - 2.2.6. Agree to participate in and meet Australian Team competition, training and participation requirements as required unless granted extenuating circumstances approval.
 - 2.2.7. Be available for sample collection and have provided accurate and up to date whereabouts information on a regular basis as directed by the UCI and/or the Australian Sports Anti-Doping Authority (ASADA), pursuant to the policies of the UCI, MTBA, CA and the World Anti- Doping Code.
 - 2.2.8. Not have breached the Anti-Doping Policies of the UCI, MTBA or CA nor have had a sanction imposed which has not been completed. For the purpose of considering eligibility for selection a breach of the Anti- Doping Policy may include;

- a. An athlete under investigation for an Anti-Doping rule violation (ADRV) where an infraction notice has been issued or the athlete has been stood down pursuant to the provisions of the UCI and/or MTBA, CA Anti-Doping Policies; or
 - b. A failure to comply with an athlete's obligations under UCI, MTBA or CA Anti-Doping Policy, even if such a breach does not result in an ADRV.
- 2.2.9. Not have outstanding monies owing to MTBA unless a repayment plan has been agreed between the Athlete and MTBA;
- 2.2.10. Not be under suspension.
- 2.2.11. Not, in the sole opinion of the MTBA Board, have brought the sport of Mountain Biking or any of the UCI Off-Road Disciplines into disrepute.
- 2.2.12. Not be an athlete who, after 1 January 2013, has been found guilty of an Anti-Doping Rule Violation and where the consequent penalty applied is a two-year suspension or greater.
- 2.2.13. Not be an athlete who is currently under investigation as a result of any indictable criminal charge (even where such charge has been heard summarily) having been brought against them or is currently serving a penalty issued by the Courts as a result of an indictable criminal charge being proven unless he/she is able to satisfy the MTBA Board or the Board of CA (at its sole discretion) that exceptional circumstances apply. This application must be made to the MTBA Board in writing at the time the athlete applies to be a member of the team or within 7 days of the athlete being charged, whichever is the latter. Where the MTBA Board is satisfied that exceptional circumstances apply, the athlete may be considered for selection in the national cycling team in accordance with the selection criteria set out in this document.

- 2.3. **National Selection Committee (The Selectors)** - The role of assessing athletes against the selection criteria is the responsibility of the Selection Committee who are appointed by the MTBA CEO in accordance with MTBA Policies.
- 2.3.1. The Selection Committee consists of the MTBA Sport Manager acting as a non-voting Chair of Selectors, and a minimum of 3 and a maximum of 5 Selectors, who are appointed by the MTBA CEO.
- 2.3.2. The Chair of Selectors shall be responsible for facilitating and monitoring the nomination procedure in accordance with the policy and criteria.
- 2.3.3. Once the Selection Committee nominations have been endorsed by the MTBA CEO, the MTBA CEO will administer the processes of advice to athletes.
- 2.4. **Amendments to Selection Criteria** - These criteria and Sections B1 to B8 may be amended or supplemented, particularly where matters arise which have not been provided for in these criteria. All amendments must be approved by the MTBA CEO. Once approved, the MTBA CEO will ensure these amendments or supplements are published on the MTBA website.

3. AUSTRALIAN CHAMPIONSHIPS

Athletes seeking selection in an Australian MTB team must compete in the Australian Championships for their cycling discipline which precedes the World Championships they seek selection for.

4. EXTENUATING CIRCUMSTANCES

- 4.1. In considering the performances of athletes at events, trials, training camps or other attendances required under these criteria, the MTBA Sports Manager may approve exemption for extenuating circumstances.
- 4.2. For the purposes of article 4.1, extenuating circumstances means an inability to compete, attend training camps or perform at an optimum level arising from:
- 4.2.1. Injury or illness;
 - 4.2.2. Travel delays;
 - 4.2.3. Equipment failure, where the failure is not the result of a racing incident or known fault of the equipment used;
 - 4.2.4. Educational requirements for junior athletes;
 - 4.2.5. Bereavement or personal misfortune; or

- 4.2.6. Any other factors reasonably considered by the MTBA Sport Manager to constitute extenuating circumstances.
- 4.3. Athletes unable to compete at events, trials, training camps or other attendances required under these criteria must advise the MTBA Sport Manager prior to the commencement of the event, trial, training camp or other attendance that may be required under this selection criteria. Where exemption is not approved the Sport Manager must advise the athlete prior to the event, trial, training camp or other attendance required under this selection criteria.
- 4.4. In the case of injury or illness, athletes must get written evidence from a medical practitioner.
- 4.5. A decision in each case of extenuating circumstances will be made by the Sport Manager on an individual basis. The Sport Manager's decision may be appealed by the athlete (see Section A, article 6).

5. SCHEDULE FOR SELECTION PROCESS

The timeframe for the selection process of the Australian cycling team to contest World Championships is set out in each specific discipline Section (B1 – B8).

6. APPEALS

An athlete may lodge an appeal against their non-inclusion in a National squad or Australian team or the rejection of an application for extenuating circumstances. The process for the lodgement and hearing of such an appeal is detailed in article 6. The submission of an appeal will not prejudice subsequent considerations of the athlete for selection in future squads or teams or in a different discipline.

In the appeals process, where the athlete is a minor (under 18 at the time of lodging the appeal), all references to the athlete include the addition of a Parent or Guardian and the appeal is to be signed by the Parent/Guardian in addition to the athlete.

6.1. Grounds of Appeal - An appeal may be lodged on the grounds that a decision of the Selectors was not made in accordance with this policy by reason of the Selectors making an error of fact and/or failing to apply and implement the selection criteria correctly.

6.2. Procedure for Appeal

- 6.2.1. Any appeal against a decision of the Selectors must be lodged within the scheduled 48 hour period outlined in the specific selection criteria as set out for the respective cycling disciplines in Sections B1-B8 of this document.
- 6.2.2. The appeal must be lodged in writing, preferably by email in electronic form, to the CEO MTBA and accompanied by the prescribed fee (\$250) and a notice of appeal. If the appeal is successful the appeal fee will be refunded in full.
- 6.2.3. The notice of appeal must set out:
- The decision of the Selectors in question,
 - The grounds on which the appeal is made
 - The reasons or circumstances supporting the alleged grounds of appeal, and
 - The outcome sought.

The appellant should note that he or she is not able to raise other grounds, reasons or circumstances at a later date in the course of the appeal process and he or she will be restricted to arguing the grounds, reasons and circumstances outlined in the notice of appeal.

- 6.2.4. Nothing in this policy prevents the withdrawal of an appeal at any time in writing in which case, the fee will not be refunded.
- 6.2.5. On receipt of a notice of appeal in accordance with this policy:
- The MTBA CEO must forward the notice of appeal to the Selection Review Panel (SRP) without delay and, in any event, no later than 48 hours after the lodgement of the notice of appeal; and
 - The Selectors must forward all documents in their possession (including, but not limited to any relevant email correspondence, notes and summaries) which contain or refer to considerations by the Selectors in relation to the selection or non-selection of athletes to the SRP without delay and, in any event, no later than 72 hours after the lodgement of the notice of appeal.
 - In the absence of adequate supporting documentation from Selectors, the benefit of doubt shall be given to the athlete.

6.3. Constitution of selection review panel

- 6.3.1. The MTBA CEO will appoint a SRP that will be constituted by any three persons available to hear the appeal, which must include the following:
- a. A person with legal training, experience in dispute resolution, or suitable experience in the process of determining selection appeals in sport, who will act as Chair of the SRP;
 - b. A person with experience and understanding of cycling or high performance sport and with suitable skills for membership of the panel;
 - c. A current or former elite cyclist who has competed in MTB World Championship events and does not wish to be considered for current or future Australian Mountain Bike Teams.
- 6.3.2. No member of the SRP may be a current Selector or have been a party to, or directly interested in, the matter under consideration.
- 6.3.3. The MTBA CEO may identify SRP candidates prior to the announcement of the selections on the MTBA website in order for the SRP to hear and determine in a timely manner as possible any notice of appeal lodged in relation to that announcement. However, to avoid conflict of interest, the final composition of the SRP can only be determined by the MTBA CEO once the identity of the appellant(s) is known.

6.4. Functions of the Selection Review Panel

- 6.4.1. The SRP must review the matters set out in the appeal notice and any material provided to it by the Selectors and consider whether the Selectors have erred in making their decision in not selecting an athlete, by reason of the Selectors making an error of fact and/or failing to apply and implement the selection criteria.
- 6.4.2. Where the SRP determines that the Selectors have made a material error of fact or a material error in applying the selection criteria, the SRP have the right and power to overturn the Selectors' decision and order that the applicant be included in the final MTB Team and that decision is final.
- 6.4.3. In article 6.4.2, a material error is an error which has the potential to alter the outcome of the Selectors' decision to not select an athlete. However, where Selectors have:
- a. Made an error of fact, but if the Selectors had not made that error they still could have, acting reasonably, decided not to nominate the athlete as a result of properly applying other facts (about which there was no error), that error is not a "material error" for the purpose of selection.
 - b. Made an error in applying a certain criteria, but if the Selectors had properly applied that criteria they still could have, acting reasonably, decided not to nominate the athlete as a result of properly applying another criteria (about which there was no error), that error is not a "material error" for the purpose of selection.

6.5. Procedures for the Selection Review Panel

- 6.5.1. The SRP shall, as soon as practical after receiving the notice of appeal and in any event, within 7 days of receiving that notice, either refer the appeal for a formal hearing or dismiss the appeal due to lack of merit in accordance with article 6.5.
- 6.5.2. **Preliminary Assessment** - Upon referral of the appeal to the SRP by the CEO, the Chair of the SRP will conduct a preliminary assessment of the matters raised in the notice of appeal and the material provided by the Selectors in order to assess whether the appeal has sufficient merit and warrants a formal hearing.

In undertaking the preliminary assessment in accordance with this article, the SRP Chair:

- a. May make contact with the appellant, Selectors and/or other relevant persons who have knowledge of any relevant matters referred to in the notice of appeal and/or the material provided by the Selectors, should it be required, for clarification or for the purpose of gathering additional information for the purpose of the preliminary assessment phase; and
- b. Must consult with the other members of the SRP to:
 - i. Advise them of any relevant information gathered as a result of contacting the appellant, the Selectors and/or any other relevant persons;
 - ii. Discuss whether the SRP should refer the matter to a formal hearing or dismiss the appeal for lack of merit.

- iii. On the basis of the preliminary assessment, the SRP will then, at its sole discretion and subject only to article 6.6, refer the appeal to a formal hearing or dismiss the appeal for lack of merit in accordance with the following:
 1. If one or more members of the SRP believe the appeal warrants a formal hearing, the SRP will refer the appeal to a formal hearing of the appeal, on the basis that preliminary assessments indicate the case warrants a formal hearing by informing the MTBA Board and CEO of that decision; or
 2. If each of the members of the SRP unanimously believe that the appeal does not warrant a formal hearing and it should be dismissed, the SRP will dismiss the appeal and not progress to a formal appeal hearing, ruling the case closed due to lack of merit. Where the SRP dismisses the appeal and rules the case closed due to lack of merit:
 1. It will report that decision to the MTBA Board and CEO and will set out the basis for that decision in writing; and
 2. The CEO will report that decision to the appellant within 24 hours of receiving that decision and that notice in writing, including advice of the remaining appeal option available under article 6.6.

In relation to the decision in paragraph 6.5.2 above, the SRP should only dismiss the appeal on the basis that it lacks merit if they believe that the appellant is, on the balance of probabilities, unlikely to adduce any further evidence (other than evidence to support the matters raised in the notice of appeal) in support of his or her appeal, which would lead to the SRP reaching a finding that the Selectors had made an error of fact or had erred in applying the selection criteria.

- 6.5.3. If the matter is referred to a formal hearing in accordance with 6.5.2.a. above, the SRP shall, as soon as practicable and in any case within 7 days of receiving the notice of appeal, direct the CEO to serve a notice in writing on the appellant, within 24 hours of receiving the SRP's direction, advising him or her that the matter has been referred to a formal hearing and:
- a. Stating that the appellant may address the decision of the Selectors (as set out in the notice of appeal) at a hearing to be held as soon as practicable, and no later than ten days from the date of the CEO's notice that the matter will be referred to a formal hearing;
 - b. Stating the date, place and time of that hearing; and
 - c. Informing the appellant that he or she may do any one or more of the following:
 1. Attend that hearing personally, by teleconference or video-link or by his or her representative, not being legally trained or qualified; or
 2. Give the SRP, no later than 24 hours before the time of that meeting, a further written statement setting out relevant information surrounding the appeal in substitution for, and not in addition to, attending the hearing in person, by teleconference or video-link with or by his or her representative.
- 6.5.4. If the matter is referred to a formal hearing, the CEO will notify, as soon as possible and in any case within 24 hours of receiving the SRP's notice of that decision, any other athlete or athletes that may be directly affected by the outcome of an appeal (to the extent that if the appeal is allowed, that other athlete's selection for the Final MTB Team may be affected) shall and in that notice, the CEO will;
- a. Advise that athlete or those athletes of the appeal and the grounds submitted in support of the appeal; and
 - b. Provide that athlete or those athletes with the opportunity to lodge a written submission or attend a hearing and provide evidence or be represented at the hearing by a nominated person or persons, not being legally trained or qualified.
- 6.5.5. If the matter is referred to a formal hearing, the CEO will notify, as soon as possible and in any case within 24 hours of receiving the SRP's notice of that decision, the relevant Selectors that they are required to lodge, not less than 24 hours prior to the time of the hearing, a written statement outlining the basis for their decision not to nominate the appellant and the facts, circumstances and evidence that that bore upon that decision. In addition, the Selectors may attend a hearing (by telephone or video-link) and may be represented at the hearing by a nominated person/s not being legally trained and where the Selector(s) or nominated person requested to attend does not attend, the SRP may draw an adverse inference from that failure to attend.

- 6.5.6. If the matter is referred to a formal hearing, the SRP may conduct a hearing convened in accordance with article 6 (or any adjournment thereof) in such manner as it sees fit, but shall:
- a. Give to both the appellant and the Selectors every opportunity to be heard in relation to the matters raised in the notice of appeal;
 - b. Give due consideration to any written statement by the appellant;
 - c. Allow the appellant to be present at the hearing along with his or her representative (not being legally trained or qualified). Request that:
 1. The appellant attend the hearing (in person, by telephone or by video-link) to give evidence in support of the appeal; and/or
 2. Request that any other person, whose evidence, observations or advice is either relied upon by the appellant or the Selectors give evidence either in support of the appellant or the Selectors' decision, attend the hearing (in person, by telephone or by video-link), and
 3. Where that appellant or person requested to attend does not attend, the SRP may draw an adverse inference from that failure to attend.
 - d. Following consideration of all relevant and available information, the SRP shall arrive at a decision, by majority, as to whether the Selectors erred in deciding not to nominate the appellant. Where the SRP determines that:
 1. The Selectors have made a material error of fact or, a material error in applying quantifiable Selection Criteria, the SRP have the right and power to overturn the Selectors' decision and order that the applicant be included in the Final MTB Team and that decision is final, or
 2. The Selectors have made a material error in applying discretionary Selection Criteria, the SRP have the right and power to overturn the Selectors' decision and order that the applicant be included in the Final MTB Team and that decision is final
 - e. Within 24 hours of making that decision, the SRP
 1. Will report that decision to the MTBA Board and CEO and will set out the basis for that decision in writing; and
 2. The CEO will, in turn, report that decision to the appellant within 24 hours of receiving that decision and that notice in writing. Including the final appeal option available under article 6.6.
 - f. Any further decision of the SRP, in accordance with 6.5.6.d.2 above, shall be final, and the only further appeal available to the appellant in respect of Selection shall in accordance with article 6.6.

6.6. Court of Arbitration for Sport (CAS)

- 6.6.1. **Right of Appeal to the Court of Arbitration for Sport** - The right to appeal to CAS is only available after first exhausting any appeal process through the SRP. A person who wishes to appeal against a further selection decision of the SRP may appeal to the Court of Arbitration for Sport (CAS). The decision of the CAS will be final and binding on the parties and it is agreed that neither party will institute or maintain proceedings in any court or tribunal other than the CAS.
- 6.6.2. **Time in which appeal to the CAS can be lodged** - A person wishing to appeal to the CAS must give written notice of that fact to the CEO within 48 hours of the announcement of the decision against which the appeal is made and must then file his or her statement of appeal with the CAS within a further 48 hours.
- 6.6.3. **Failure to observe time limits** - Failure of the appellant to observe the above time limits will render any appeal a nullity provided that a person may apply to the MTBA Board for an extension of time in which to commence an appeal. The MTBA Board may grant such an extension at its sole discretion and only in extenuating circumstances outside the control of the aggrieved person.

CONTACTS

1. MTBA Chief Executive Officer
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