

INTRODUCTION

1. The Result Decision of this Tribunal, dismissing the appeal, was delivered on 14 June 2026. The Tribunal now sets out its reasons for that decision.

BACKGROUND

2. The Appellant (Ms. Lilo) filed an urgent appeal against the decision of the Respondent (“Boxing NZ”) not to nominate her for selection by the New Zealand Olympic Committee (“NZOC”) to the 2026 Glasgow Commonwealth Games (“the Games”) in the Women’s 75kg boxing division.¹ Ms. Lilo was one of 11 New Zealand boxers (male and female, competing in various weight divisions) who were competing for the six places that NZOC initially allocated to boxing in the New Zealand team for the Games. Boxing NZ was required to rank its eligible boxers in accordance with specified criteria, but Ms. Lilo was not ranked in the top six and was not nominated for selection in the Games team in the first round of nominations. NZOC subsequently had additional selection spots available and invited sports to put forward nominations for their reallocation process. Boxing NZ nominated two additional boxers through that reallocation process, but Ms. Lilo was not one of them.
3. At a pre-hearing conference convened on 27 May 2026, the Tribunal posed two questions to Ms. Lilo (“the Questions”), relating to the basis for her appeal under NZOC’s “Nomination and Selection Regulation (“the NZOC Regulation”) and Boxing NZ’s Glasgow 2026 Commonwealth Games Nomination Criteria (“the Criteria”). The Questions were provided in writing to Ms. Lilo early on 28 May 2026, and she was directed to provide written answers to the Questions by 5pm on 29 May 2026. The Tribunal also directed Boxing NZ to file its statement of defence to the appeal, and its response to Ms. Lilo’s answers to the Questions, by 5pm on 2 June 2026.
4. Ms. Lilo filed her responses to the Questions on 29 May 2026, together with written submissions in support of her answers.
5. Boxing NZ filed its Statement of Defence (Form 5) on 1 June 2026. It did not then provide any separate response to Ms. Lilo’s answers to the Questions or her supporting submissions.

¹ Ms. Lilo was formally notified that she had not been nominated for the Games on 14 May 2026, by email from the President of Boxing NZ. The President noted in his email that, due to certain circumstances, Ms. Lilo had not been able to provide the selectors with the material she would have liked to meet the Nomination criteria. The President went on to say: “The selectors have to nominate athletes on the information in front of them. The six athletes who were nominated for [Games] selection have provided the selectors with material via international competition to make a case for nomination....”

6. On 5 June 2026 the Tribunal directed that the appeal would be heard on 13 June 2026, and gave directions for the filing of statements of evidence in advance of the hearing. The sole ground of appeal filed was whether the Tribunal should find that there was no reasonable basis for the selectors' decision not to nominate Ms. Lilo.
7. The hearing was convened by video conference (by Microsoft Teams) at 10am on 13 June 2026. Ms. Lilo represented herself with her support person (Ms L'Tanya Lilo, her sister). Mr Wharehinga and Mr Watt appeared on behalf of Boxing NZ. Ms Pryor appeared for NZOC, as an interested party. Statements of evidence were provided by Ms. Lilo and Ms. L'Tanya Lilo, and by Mr. Watt and Mr. Wharehinga for Boxing NZ. Mr. Watt was cross-examined by Ms. Lilo. The Tribunal heard submissions from the parties and from Ms. Pryor for NZOC.

The nomination criteria

8. The Criteria materially provided:

4. Nomination Criteria

- 4.1 **Nomination Criteria:** In considering any Athlete for nomination to the NZOC, the Selectors shall consider:
 - (a) the Over-riding Nomination Criteria specified in clause 5.1; or
 - (b) the evidential requirements in clause 5.2; and
 - (c) the Specific Nomination Factors specified in clause 5.3; and
 - (d) any Ranking specified in clause 5.4; and
 - (e) any Extenuating Circumstances in accordance with clause 6.
- 4.2 **Relevance and weighting:** The Selectors may determine the relevance and weight that they wish to place on any Specific Nomination Factor(s) and any Extenuating Circumstances as they consider appropriate. No Specific Nomination Factor shall be weighed more or less significantly based on the order in which it appears in this Nomination Criteria unless expressly specified.
- 4.3 **Own Enquiries:** In considering the Specific Nomination Factors, the Selectors may make such enquiries of the Athlete, or other persons, as they see fit.
- 4.4 **Conditions:** In considering any results and performances of an Athlete at any Key Events and Trials, the Selectors may, but are not obliged, to take into account the conditions in which the results and performances were obtained such as, but not limited to, weather conditions and the strength of the field of competitors.
- 4.5 **Extenuating Circumstances:** In any decision regarding the nomination of Athletes to the Games Team, the Selectors may, in their sole discretion, take into account any Extenuating Circumstances in accordance with clause 6 below.

5 Over-riding Nomination Criteria and Specific Nomination Factors

- 5.1 **Over-riding Nomination Criteria:** In determining whether or not to nominate an Athlete to a Boxing Event, the Selectors must be satisfied overall that the Athlete:
 - (a) is or are capable of achieving a top 6 placing at the Games in the Boxing Event;
or

- (b) has or have a track record of sufficient quality and depth that the Selectors believe demonstrates that the Nominated Athlete will be competitive at the Games and will perform creditably in that Boxing Event.

5.2 Evidence:

In determining whether or not the Athlete satisfies the Over-riding Nomination Criteria for Boxing Events in clause 5.1, the Selectors shall have regard to the results and performances in the Boxing Event at the following Key Events during the Qualification Period:

Compulsory Event: The Athlete must compete at least **ONE** of the following Key Events:

- World Boxing World Championships, 4-15 September 2025, England
- World Boxing Cup # 1, February 2026 (date and location to be determined)
- World Boxing Cup # 2, April 2026 (date and location to be determined)
- World Boxing Challenge Cups 2026 within the Qualification Period (dates and locations to be determined)

Additional Events: the Athlete must compete at a minimum of TWO of the following Key Events:

- Boxing Queensland Open International Golden Gloves, 2025
- Queen of the Ring (Australia), October 2025
- King of the Ring (Australia) March 2026

For the sake of clarification, in the event an Athlete competes at more than ONE of the Compulsory Events, the Compulsory Events over and above the minimum will be considered an Additional Event.

5.3 Specific Nomination Factors: When considering the Over-riding Nomination Criteria above, the Selectors may also take into account any one or more of the following factors about an Athlete within the Qualification period:

- (a) any other performances or results in competitions / events in addition to the Key Events;

....

5.4 Ranking: The Selectors shall, no later than 1 May 2026, examine the credentials of all Athletes for Boxing Events. If there are more Athletes who meet the Over-riding Criteria set out in clause 5.1 than quota places available, then nomination will be decided by the Selectors having regard to one or more of the following factors:

- (a) ability to medal;
- (b) performance results at the Key Events within the field of Commonwealth athletes at the Key Events; and
- (c) any other information the Selectors consider relevant.

6 Extenuating Circumstances

6.1 Extenuating Circumstances: In considering the nomination of Athletes in accordance with this Nomination Criteria, the Selectors may, in their sole discretion, give weight to any Extenuating Circumstances which may include, but are not limited to, the following:

- (a) injury or illness;
- (b) travel delays;
- (c) equipment failure;
- (d) bereavement or personal misfortune; and/or
- (e) any other factors reasonably considered by the Selectors to constitute extenuating circumstances.

6.2 Athlete to Advise: Athletes unable to compete at Key Events or other attendances required under this Nomination Criteria, must advise the President of the Extenuating

Circumstances and reasons in writing, with as much advance notice as possible and ideally seven (7) days prior to the commencement of the Key Event or other attendance. If the President is not notified of any Extenuating Circumstances in accordance with this Nomination Criteria, then the Selectors have no obligation to rely on such circumstances.

....

- 6.4 **Case by Case:** In the case of any Extenuating Circumstance/s, the Selectors will make a decision on a case- by- case basis.

7 Nomination and Selection

....

- 7.2 **Nomination with Conditions:** [Boxing NZ] may nominate an Athlete with any conditions, for example, conditions relating to recovery from injury or continuing to meet specified performance levels. If the conditions are not met to the satisfaction of the Selectors, they will not be eligible for selection, unless the NZOC decides to select the Nominated Athlete subject to those or other conditions.

....

11 Definitions

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- 11.9 **Extenuating Circumstances** means the inability to perform at an optimum level arising from one or more of the reasons set out in clause 6.1.

....

- 11.15 **Nomination Date** means on or before 5 May 2026 (and includes any alternative date as agreed between NZOC and [Boxing NZ], by which [Boxing NZ] must submit any Nominated Athletes to the NZOC.

....

- 11.21 **Qualification Period** means the period between 1 July 2025 to 1 May 2026.

Ms. Lilo's performances in the Qualification Period

9. The one-year Qualification Period for nomination for the Games was shorter than either NZOC or Boxing NZ would have preferred. As the Tribunal understood Ms. Pryor's submissions, a qualification period of up to two years is preferred. In this case, the qualification period was fixed at only one year, largely on account of the withdrawal of Melbourne and the relatively late substitution of Glasgow as the host city for the Games. The result was that athletes had a shorter period within which to meet nomination performance criteria than would normally have been the case.
10. There were also difficulties for the athletes and for the selectors in the timing of some of the events that had been prescribed in clause 5.2 of the Criteria as Compulsory Events. For example, the World Boxing Cup # 2, which was expected to be held in China in April 2026, was moved to a date in mid-June. This date became impractical from a nomination/selection perspective considering the top 6 (who had met the applicable Nomination Criteria) Boxing athletes were to be submitted by Boxing NZ to NZOC in May 2026; it would have come too close in time to the sport entry date for the

Games to allow fair consideration of any results by either Boxing or NZOC. Thus, in his evidence, Mr. Watt said that in practice there were only two Compulsory Events that Ms. Lilo might have attended.

11. Mr. Watt's evidence was that Ms. Lilo fought in only five bouts within the Qualification Period, and only one of those was in a prescribed Compulsory Event or Additional Event listed at [5.2] of the Criteria. Ms. Lilo travelled to Brazil in April 2026 for the first of the two World Boxing Cup Compulsory Events, but her only fight at the event (against a highly ranked Norwegian boxer) was stopped after only 1 minute 30 seconds when the bout was awarded to the Norwegian boxer. Ms. Lilo was critical of some of the referee's decisions in the fight, and it appears that Boxing NZ agreed with her criticisms of at least some of those decisions.
12. Of the prescribed Additional Events, Ms. Lilo attended the Australian "King of the Ring" Event but found when she arrived at the Event that she had no competition in her weight division. She was therefore the winner in her class by default, but there was no performance the selectors could use to assess her credentials for nomination for the Games team. Ms. Lilo did not attend either the (October 2025) "Queen of the Ring" Event in Western Australia, or the Queensland "Golden Gloves" Event (July 2025). She said in her evidence that in September 2025 she discussed with Boxing NZ's High-Performance Director the possibility of travelling to Western Australia for the Queen of the Ring Event, and in the course of that discussion she asked what the position would be about qualifying for nomination for the Games if it turned out that there were no other competitors in her weight division. She said that the High-Performance Director, who was not a selector for the Games, did not know the answer to that but that it would go to selectors and may be recorded as a win if she went unopposed. Boxing NZ did not call any evidence from its High-Performance Director in response to Ms. Lilo's evidence about the September 2025 discussion. In the end, Ms. Lilo elected not to travel to the event, and in her evidence given at the hearing she said that the decision not to go was influenced at least in part by her work commitments as a member of New Zealand's Defence Force (the "NZDF").² She said that there were in fact no competitors in her weight division at the Queen of the Ring event but did not contest Boxing NZ's contention that she only learned that after the event. Had she registered

² In an email sent to the High-Performance Director on 23 January 2026, Ms. Lilo confirmed that she did not attend any of the 2025 Australian events. She said that "if an exemption letter is needed for IOC selection committee, I can do this – For Queen of the Ring and Queensland Golden Gloves I was away for work (military commitments in...)." The High-Performance Director replied advising that the High-Performance committee had met and discussed Ms. Lilo's circumstances. He advised that the committee felt that Ms. Lilo should write to the convenor of selectors and he would forward on Ms. Lilo's request to the NZOC who would have to agree to this as well as his fellow selectors.

to attend the event before it was held, Boxing NZ argued that her registration might have attracted another competitor or competitors who would have provided her with some valuable competition. Ms. Lilo did not travel to the Golden Gloves event. Her evidence was that she was committed to an important deployment with the NZDF at the time of the Golden Gloves event, and that she could not obtain leave to attend.

13. It appears that Ms. Lilo did not write to the President of Boxing NZ (Mr. Wharehinga) to make a case for Extenuating Circumstances under clause 6.2 of the Criteria before either the Queen of the Ring or the Golden Gloves events, and she did not produce any subsequent email or letter to the convenor of selectors following up on the suggestion made by the High-Performance Director in his email dated 29 January 2006 that she should raise her exemption request with the convenor.
14. As mentioned above, Mr. Watt said that the selectors only had five fights within the Qualification Period that they could use in their assessment of Ms. Lilo for possible nomination for the Games. He said that Ms. Lilo was not active in boxing for almost two years in the period immediately prior to the commencement of the Qualification Period, and when she returned to boxing in July 2025, she lost her first bout against another New Zealand boxer. She also lost at the New Zealand Nationals event in September 2025, and she lost again in the first round of her fight at the World Boxing Cup Event in Brazil in April 2025. She won at the New Zealand Trials event in December 2025 (which secured her a place for the Boxing World Cup squad) and had another win against a boxer at an Association Tournament. Mr. Watt also gave evidence that, since this appeal commenced, Ms. Lilo lost in the 75kg. division at the South Australia Adelaide Club Champs event. Her opponent there was the No. 2 – ranked Australian boxer in the 75kg. division.
15. Subject to the concerns she expressed about some of the referee's decisions in her bout at the Boxing World Cup event in Brazil, Ms. Lilo did not contest Mr. Watt's evidence on the extent and details of her performance record during the Qualification Period.

GROUND OF APPEAL & SUMMARY OF ARGUMENTS

Ms. Lilo

16. Ms. Lilo's sole ground of appeal was that there was no material on which the non-nomination decision could reasonably be based. In her submissions, she acknowledged that she did not meet the Criteria on its face, but contended that this was due to circumstances outside her control, not lack of ability or effort. She submitted

that the decision not to nominate her did not fairly assess her abilities and was based on limited and unreliable material.

17. Ms. Lilo submitted that her bout with the Norwegian boxer at the World Boxing Cup in Brazil represented the primary material on which the selectors must have relied. That bout was against a boxer who is ranked number one in the world in the division, but it was stopped prematurely by the referee and lasted only about 1 minute 30 seconds. Ms. Lilo submitted that the selectors have acknowledged that they thought that the 8-counts in this bout were premature.³ She submitted that the fight should not have been stopped early, as it was. In Ms. Lilo's submission, a single short-duration bout was insufficient to assess ability, the premature stoppage of the bout undermined its reliability for use in nomination or selection decisions, and it was unreasonable to base a non-nomination decision primarily on such limited material. Accordingly, there was insufficient material on which the selectors' decision could reasonably be based.
18. In her written submissions, Ms. Lilo also raised arguments that she was not afforded a reasonable opportunity to meet the Criteria, that there were certain deficiencies in the selectors' implementation of the Criteria, and that there had been a failure to consider relevant parts of the Criteria, in particular the broader considerations at clause 5.3 of the Criteria including an athlete's commitment and team contributions, and an athlete's dedication and leadership at previous international competitions. In the Tribunal's Minute dated 5 June 2026 the Acting Chair ruled that any allegations of failure by Boxing NZ to provide a reasonable opportunity to Ms. Lilo to meet the Criteria, and any alleged deficiencies by the selectors' in following and implementing of the Criteria, could not be considered as they had not been raised in the Notice of Appeal.⁴
19. In response to the Questions, Ms. Lilo submitted on Question 1 (directed to the sufficiency or otherwise of the assessment material) that the material available to the selectors was insufficient to support either a definitive positive or negative conclusion, and a final exclusion decision was not reasonably open. On Question 2 (directed to the issue of what she says the selectors should have done), Ms. Lilo submitted that the selectors could have and should have found that there were Extenuating Circumstances, including (a) the absence of opponents, (b) her inability to generate

³ In an email from Mr. Watt to Ms. Lilo dated 6 May 2026.

⁴ The NZOC Regulation lists four possible grounds of appeal, but Ms. Lilo limited her appeal to only one of them – the ground in clause 13.1 (d) of the NZOC Regulation that "There was no material on which the nomination decision could reasonably be based". She did not plead the appeal grounds in clauses 13.1 (a) or (b) of the NZOC Regulation. Those grounds respectively provide that a non-nomination appeal may be brought where "the applicable Nomination Criteria was not properly followed and / or implemented" (subclause 13.1 (a), and where "The Athlete was not afforded a reasonable opportunity by the NF [in this case Boxing NZ] to satisfy the applicable Nomination Criteria" (subclause 13.1(b)).

results, (c) the timing of the Criteria; and (d) her inability to attend a Key Event (the “Golden Gloves” Event) due to mandatory obligations arising from her role within the NZDF. In relation to (d), above, Ms. Lilo emphasised that this was not a matter of personal choice. She was required to perform duties which directly prevented her attendance, and her obligations were not discretionary. Ms. Lilo also submitted that the combination of circumstances raised was capable of meeting the threshold for a conditional nomination, and that possibility required proper consideration. In summary, she submitted that where an athlete has not been given a genuine opportunity to meet the criteria, it is not reasonable to make a definitive non-nomination decision on an inadequate evidential basis.

20. The sub-issues for determination are whether:
 - a. when regard is had to Criteria clause 5.3 factors identified by Ms. Lilo, the selectors had no reasonable basis for declining to nominate her for selection;
 - b. the selectors (or Boxing NZ as appropriate) had no reasonable basis for declining to make a finding of Extenuating Circumstances;
 - c. the selectors had no reasonable basis for declining to nominate Ms. Lilo conditionally on the basis that she would be required to meet stipulated additional performance criteria by a stated time; and
 - d. the selectors had no reasonable basis for not exercising some other discretion to arrange additional bouts for Ms. Lilo, to assist in making a nomination decision.
21. The overall issue remains that raised by Ms. Lilo in her Notice of Appeal, namely whether she has shown that there was no material on which the [non-] nomination decision could reasonably be based. That ultimate issue must be assessed objectively, on the basis of the material that the selectors had available to them when they made their decision not to nominate Ms. Lilo for the Games.

Boxing NZ

22. In its Statement of Defence, Boxing NZ contended that Ms. Lilo had not displayed sufficient quality that she would be capable of achieving a top six finish at the Games. It referred to her performance record in the Qualification Period as discussed above, noting that Ms. Lilo’s loss in the 2025 New Zealand Championships was to the highest ranked boxer in the 70kg division who had moved up in weight to secure a bout at the Championships. Boxing NZ also noted that Boxing Australia representatives were competing in Europe for the majority of March and April 2026, so it made it difficult for any alternative bouts to be organised against ranked Australian boxers before the

nomination date of 5 May 2026. Boxing NZ concluded that Ms. Lilo had not displayed, through domestic and limited international performances, that she was capable of a top six finish at the Games and therefore all four selectors did not rank her within Boxing NZ's top six boxers for the team to be nominated to the NZOC.

23. On the issue of Extenuating Circumstances, Mr. Watt said in his evidence that Boxing NZ's view was that there were no Extenuating Circumstances. He referred to her non-attendance at the Queen of the Ring and Queensland Golden Gloves events, stating that no reason was given to Boxing NZ for her non-attendance at the Queen of the Ring Event in Western Australia, and that she did not attend the Golden Gloves event for work reasons. He expressed the view that an athlete's employment does not amount to Extenuating Circumstances (relying on advice to that effect he had received in the course of a conversation he had had with Ms. Pryor), and he referred to her performance record in the two Key Events that Ms Lilo did attend (she was unmatched in the King of the Ring Event and was stopped in the first round in the Boxing World Cup event).
24. Mr. Watt also referred to the selectors' ranking of the boxers under clause 5.4 of the Criteria. Under that clause the selectors had nominated six boxers for selection, all of whom were considered as meeting the Over-riding Nomination Criteria at clause 5.1. He concluded that "at no point during the last 18 months has [Ms. Lilo] displayed an ability to medal at [the Games]".

REASONS FOR THE TRIBUNAL'S DECISION

25. It is apparent that Ms. Lilo faced a high bar when she commenced her appeal.
26. She acknowledges that, by the end of the Qualification Period, she had not satisfied the Nomination Criteria on their face. That concession appears to accept that, subject only to (i) the selectors' alleged failure to properly consider certain clause 5.3 Specific Nomination Factors, (ii) their decision not to find that there were Extenuating Circumstances that prevented her from meeting the clause 5.1 nomination requirements, and (iii) their decisions not to arrange other bouts for her or to nominate her for the Games on a conditional basis, Ms. Lilo had not by the nomination date satisfied either of the Over-riding Nomination Criteria in clause 5.1.
27. The difficulties for Ms. Lilo were compounded by the fact that the selectors only had six available nomination slots for the Games, and that when they carried out the ranking process required by clause 5.4, they considered that there were at least six boxers (who they considered did meet the Over-riding Nomination Criteria) who were ahead of Ms. Lilo in the rankings.

28. It is also important also to note that Ms. Lilo's appeal was limited to the clause 13.1 (d) ground of appeal in the NZOC Regulation – "There was no material on which the [non-] nomination decision could reasonably be based." The Tribunal is not asked to find that Boxing NZ failed to follow or implement the applicable Nomination Criteria (a possible appeal ground under clause 13.1 (a)), or that the limited opportunities that were available to Ms. Lilo to satisfy those Criteria were attributable to fault on the part of Boxing NZ in failing to afford her a reasonable opportunity to satisfy the Nomination Criteria (a possible appeal ground under clause 13.1 (b)).
29. The Tribunal now turns to address the issues that require determination.

When regard is had to the (Criteria) clause 5.3 factors identified by Ms. Lilo, has she shown that the selectors had no reasonable basis for declining to nominate her for selection?

30. On her clause 5.3 Specific Nomination Factors argument, Ms. Lilo could not reasonably have relied on clause 5.3 (a) – [during the Qualification Period], "any other performances or results in competitions / events in addition to the Key Events". During the Qualification Period, she had only five bouts, three of which she lost. The most important of those bouts was the World Boxing Cup event in Brazil, where the fight was stopped after approximately 1 minute and 30 seconds. Regardless of the merits of some of the decisions made in that bout, the Tribunal cannot say that the results and details of the five fights, considered together, were such as to compel a conclusion that Ms. Lilo was either capable of achieving a top six placing at the Games, or that she had a track record of sufficient quality and depth as to demonstrate to reasonable selectors that she would be competitive at the Games and would perform creditably in the 75kg Division (the Over-riding Nomination Criteria). Put another way, Ms. Lilo has not shown that reasonable hypothetical selectors considering her fights in the Qualification Period (additional to her fights at Key Events) could have had no reasonable basis for declining to nominate her for the Games.
31. In her clause 5.3 argument, Ms. Lilo also referred to broader performance considerations, including commitment and team contribution. She referred to her dedication and leadership at previous international competitions, that had been positively acknowledged. She submitted that those relevant factors had not been meaningfully considered.
32. The first difficulty with these submissions is that Specific Nomination Factors, to be considered at all by the selectors, had to be factors about the athlete *within the Qualification Period*. When Ms Lilo states she demonstrated her dedication and leadership at previous international competitions is unclear. However, if Ms. Lilo is

referring to international competitions before 1 July 2025, then her contributions at those competitions could not have been considered under clause 5.3. Another point is that clause 4.2 of the Criteria gave the selectors the discretion to determine the relevance and weight to be given to each of the clause 5.3 Special Nomination Factors, and it appears that the selectors in this case placed greater weight on a boxer's capability to perform well at the Games than they did on such matters as commitment to training and demonstrated compatibility with others in a team environment. It was for the selectors to determine which of the clause 5.3 factors were relevant, and if relevant, what weight to place on them, and it is not for the Tribunal to substitute its own views for those of the selectors on matters of that sort. In circumstances where the selectors were required by clause 5.4 to rank their boxers who met the Over-riding Nomination Criteria in accordance with criteria that included "ability to medal", and "performance at Key Events...", and Ms. Lilo was not ranked among the top six boxers, it seems most unlikely that further consideration of Ms. Lilo's broader qualities such as commitment and team leadership would have made any difference to the decision not to nominate her for the Games. For those reasons, the Tribunal concludes that Ms. Lilo has not shown that the selectors' alleged failure to meaningfully consider clause 5.3 Specific Nomination Factors justifies a conclusion that there was no reasonable basis for the selectors' decision not to nominate her for the Games.

Has Ms Lilo shown that there was no reasonable basis for the selectors to decline to find that Extenuating Circumstances had been established by her? Has Ms. Lilo shown that there was no reasonable basis for the selectors to find that she should not be nominated with conditions?

33. As any finding of Extenuating Circumstances would require consideration of what the selectors could have and should have done on making that finding, it will be convenient to deal with these two issues together.
34. In her appeal, Ms. Lilo said that the selectors should have accepted that her work commitments at critical times, coupled with the difficulties she encountered finding competitive bouts in the Qualification Period, and her consequent difficulty generating results, warranted a finding of Extenuating Circumstances.
35. In an email sent to Ms. Lilo on 6 May 2026, and in his evidence, Mr. Watt denied that Ms. Lilo had shown any Extenuating Circumstances. In that email, he said that "being at work was not acceptable to NZOC".⁵

⁵ Mr. Watt said in his evidence that he spoke to Ms. Pryor at NZOC and was given advice to the effect that work obligations would not normally be regarded as an extenuating circumstance.

36. “Extenuating Circumstances” is defined in clause 11.9 of the Criteria as “the inability to perform at an optimum level arising from one or more of the reasons set out in clause 6.1 [of the Criteria]”.
37. Clause 6.2 of the Criteria provides that: “If the President is not notified of any Extenuating Circumstances in accordance with [the Criteria] then the selectors have no obligation to rely on such circumstances.” In his evidence, Mr. Watt noted that, for at least one Key Event (the Queen of the Ring” Event in Western Australia), Ms. Lilo does not appear to have complied with her obligation to give advance written notice to the President of Boxing NZ stating that she was unable to compete at the event. Boxing NZ does not appear to have taken that point with Ms. Lilo missing the Golden Gloves event in 2025, but nor did Ms. Lilo produce a copy of any letter to the President of Boxing NZ seeding a finding of Extenuating Circumstances in respect of her inability to attend that event.
38. As a general proposition, the Tribunal can see some merit in the view that an athlete’s work commitments should not normally be sufficient to amount to Extenuating Circumstances under the Criteria. Looking at the definition of Extenuating Circumstances in the Criteria, and the examples of Extenuating Circumstances set out in clause 6.1, it appears that the principal purpose of the Extenuating Circumstances provisions was to provide scope to the selectors to make allowances for misfortunes of one kind or another that have prevented an athlete from competing at their “optimal level” at a Key Event or at some other event where the athlete’s performance at the event was likely to be a factor in the decision whether to nominate the athlete.
39. While under clause 6.3 of the Criteria Extenuating Circumstances had to be dealt with on a case-by-case basis, it seems likely that a number of other athletes competing for Games selection would have had to deal (to a greater or lesser extent) with difficulties arising from the shortened Qualification Period and inability to find adequate competition in the time available, to establish their performance credentials, and it seems unlikely that the Criteria (and similar nomination criteria adopted in other Games sports) would have contemplated that all such athletes would be entitled to determinations of Extenuating Circumstances on that account alone.
40. A number of athletes might be in occupations where their employment prevented them from taking time off to attend a Games nomination qualifying event, but their inability to attend the event for that reason does not in the Tribunal’s view readily fit with the concept of a circumstance that prevents the athlete from performing at his or her “optimal level”. It seems to the Tribunal to be more likely that the intention of the

Criteria was that in the great majority of cases such inability would be addressed not by the selectors making findings of Extenuating Circumstances under clause 6, but by the selectors considering the athlete's other performances during the Qualification Period under clause 5.3 (a) – something the selectors were required to do anyway under clause 4.1 (c). The selectors did have a discretion under clause 6.1 (e) of the Criteria to determine that matters additional to those set out in clause 6.1 (a)–(d) might be considered as Extenuating Circumstances, and any material produced by the athlete had to be considered under that provision, on a case-by-case basis, by the sport and by NZOC as might be appropriate. The Tribunal can foresee that there might be some exceptional employment factors in a given case that selectors might appropriately determine fell within that provision, but for the reasons set out at [36]–[40] of these Reasons the Tribunal is not satisfied that Ms. Lilo has shown that this is such a case.

41. For those reasons, the Tribunal is of the view that Ms. Lilo has not shown that the selectors had no reasonable basis for declining to make a finding of Extenuating Circumstances.
42. Even if, contrary to the Tribunal's view, the matters relied upon by Ms. Lilo did amount to Extenuating Circumstances under clause 6, that would not have availed Ms. Lilo. That is because the selectors still had the sole discretion whether to take any Extenuating Circumstances into account in their nomination decision.⁶ That is the effect of clause 4.5 of the Criteria, and the introductory part of paragraph 6.1. In the Tribunal's view the selectors would have been entitled to consider the broader picture and exercise their discretion not to nominate Ms. Lilo for selection (whether conditionally or unconditionally) notwithstanding that there may have been Extenuating Circumstances.
43. The selectors did have a discretion to make a conditional nomination under clause 7.2 of the Criteria in an appropriate case, but in the Tribunal's view it is highly unlikely that any reasonable selector considering the material the Boxing NZ selectors had available to them would have made any conditional nomination. Looking at the wording of clause 7.2, there was no issue of allowing Ms. Lilo a few weeks to fully recover from an injury, nor any issue of her "*continuing* to meet specified performance levels" (emphasis added). What she now seeks is an opportunity not to *continue* to perform

⁶ Noting, however, that even a 'sole discretion' will rarely if ever be totally unfettered – see, for example, *Collin v Paddle Australia*, NST-E23-97851 at [44] – [46], where the Australian National Sports Tribunal said that an absolute discretion must still be exercised in good faith, informed by the objectives and aims of the relevant selection policy, and will be subject to an "unreasonable review" in an appropriate case.

at the required level, but to have further opportunities, after the Qualification Period, to demonstrate capabilities that she had not demonstrated during the Qualification Period. Nor could the selectors have considered nomination separately under the NZOC Regulation 9.6, which provides for the possibility of conditional nomination, but only “in accordance with the [national sports federation’s] Nomination Criteria”, and only in the event that the national sports federation has determined that there are extenuating circumstances.

44. Quite apart from the issue of jurisdiction under clause 7.2 of the Criteria, a reasonable selector considering the possible application of that clause would inevitably have focussed on the fact that Ms. Lilo had not satisfied the Over-riding Nomination Criteria, and that consideration of her performances or results in competitions / events (in addition to Key Events) under clause 5.3 (a) would not have changed that fact. The hypothetical reasonable selector would also have inevitably focussed on the reality that Boxing NZ only had six available Games positions allocated to boxing, and that there were at least six other boxers that the selectors considered *did* satisfy the Over-riding Nomination Criteria. Furthermore, on what the Tribunal considers to be the unlikely hypothesis that a reasonable selector in the position of the Boxing NZ selectors would have been prepared to consider a conditional nomination for Ms. Lilo (whether or not that selector considered that Extenuating Circumstances had been established), any such consideration would inevitably have raised the question of how the situation could be remedied. It appears that Boxing NZ had made efforts to find other competitive bouts for Ms. Lilo to assist her, but those efforts had proved unsuccessful. In the end, when the nominations were made in early May 2026, the selectors were left to make their “capability” assessment on the basis of only the five bouts Ms. Lilo had during the Qualification Period, with no identified forward performance programme that might have formed the basis for any conditional nomination.
45. For all those reasons, the Tribunal concludes that Ms. Lilo has not shown that the selectors had no reasonable basis for declining to nominate her for selection, whether at all or conditionally on the basis that she would be required to meet stipulated additional performance criteria by a stated time.

Has Ms. Lilo shown that the selectors had no reasonable basis for not exercising some other discretion to arrange additional bouts for Ms. Lilo, to assist in making the nomination decision?

46. Ms. Lilo did not identify any other pathway under the Criteria that the selectors might have taken to allow her additional time to satisfy the Over-riding Nomination Criteria. At the hearing, she acknowledged that her case depended on a finding that there were

Extenuating Circumstances (that would have justified further consideration leading to a conditional nomination). Those matters have been considered above, and the Tribunal has come to the view that Ms. Lilo's arguments could not be sustained.

The Overall Issue on the Appeal: Has Ms. Lilo shown that there was no material on which the [non-] nomination decision could reasonably be based?

47. For the reasons set out above, the Tribunal has concluded that Ms. Lilo has *not* shown that there was no material on which the selectors' non-nomination decision could reasonably be based.

OUTCOME

48. For the reasons set out above, the Tribunal's decision was to dismiss the appeal.

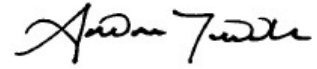
AFTERWORD

49. Without suggesting that any other ground of appeal might have been made out had it been argued by Ms Lilo, the Tribunal considers that there were some ways in which improvements to communications from Boxing NZ might have been helpful in these circumstances that may be of guidance to other NSOs.
50. First, the Tribunal notes that, once Boxing NZ became aware of changes to the international competition programme (including the potential loss of the China World Cup #2 event as a nomination opportunity due to developments within World Boxing), it was important that this information be communicated clearly and promptly to affected athletes. Boxing NZ, and other NSOs, may wish to include in such communications not only advice to athletes of the changes and their potential impact on nomination pathways, but also invite athletes to engage with them to discuss their individual circumstances and develop an appropriate plan for the remainder of the nomination period. Athletes are entitled to understand the reality of their situation so that they can make informed decisions regarding their preparation, competition opportunities, and nomination prospects.
51. Secondly, the Tribunal further considers that athletes should be encouraged by coaches and selectors to submit an Extenuating Circumstances application, in accordance with the applicable selection criteria, whenever they believe their circumstances may be relevant, even where the athlete themselves (or the NSO) are uncertain or unconvinced as to whether the application will ultimately be successful. This approach ensures that all potentially relevant information is available for consideration and supports a fair and transparent nomination process.

Dated: 26 June 2026



Warwick Smith
Acting Chair



Andrea Twaddle
Deputy Chair



Pippa Hayward
Tribunal Member