



**TERMS OF REFERENCE FOR A REVIEW INTO ALLEGATIONS ABOUT THE CULTURE OF THE
CYCLING NEW ZEALAND HIGH PERFORMANCE PROGRAMME INCLUDING THE
ACTIONS OF CYCLING NEW ZEALAND AND HIGH PERFORMANCE SPORT NEW ZEALAND
IN RESPONSE TO SUCH ALLEGATIONS**

1. Background

- 1.1 Cycling New Zealand (“Cycling NZ”) is the national body responsible for cycling in New Zealand. It manages a high performance programme based in Cambridge focussing on supporting the best and most promising cyclists to achieve optimal results on the world stage.
- 1.2 As part of High Performance Sport New Zealand’s (“HPSNZ”) strategy to deliver world leading support to impact National Sports Organisation, coach and athlete performance, HPSNZ has invested \$4.4M into the Cycling NZ High Performance Programme in 2018. This investment supports a systems-based approach (athlete, coach, facilities, innovation, talent development) which provides the best opportunity for athletes to succeed on the world stage.
- 1.3 HPSNZ invests in high performance sport for the many benefits it brings to the whole country including the national pride felt with New Zealanders standing on the podium. The most successful athletes and their coaches act as role models. They also inspire other New Zealanders to be successful. Integrity is an important value of HPSNZ and of high performance sport in New Zealand. It is imperative that the trust and confidence in HPSNZ and the Cycling NZ High Performance Programme is maintained to the highest level.
- 1.4 It is also the role of HPSNZ to create a sustainable winning culture across the high performance system which both respects the rights of, and satisfies the duty of care required for, all athletes to ensure they can perform to their potential.
- 1.5 There are 45 carded athletes, 7 coaches and 12 other support personnel including sports scientists in the Cycling NZ High Performance Programme. There are also several employees of HPSNZ working with or assisting the Cycling NZ High Performance Programme.
- 1.6 On 30 May 2018, Cycling NZ announced the resignation of its head sprint coach, Anthony Peden. The reason given was that Peden and Cycling NZ were not “aligned”¹.

¹ Cycling NZ Media Release, “Track Cycling Sprint Coach To Step Away From the Role”, 30 May 2018
<https://www.cyclingnewzealand.nz/news/track-cycling-sprint-coach-to-step-away-from-the-role>

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- 1.7 HPSNZ has become aware of several allegations against Peden and the Cycling NZ High Performance Programme more generally of bullying, inappropriate behaviour, inappropriate personal relationships, a dysfunctional culture², and a drinking culture³ as well as allegations of lack of accountability⁴ including questions on the follow up and use of information obtained in a debrief held after the 2016 Rio Olympic Games (“Rio Debrief”)⁵.
- 1.8 It is paramount that all athletes, coaches and support personnel are safeguarded from inappropriate behaviour. These allegations also impact on the integrity and reputation of high performance sport in New Zealand, as well as Cycling NZ, HPSNZ and the athletes, coaches and other support personnel in the Cycling NZ High Performance programme (including Anthony Peden).
- 1.9 For this reason, HPSNZ wishes to undertake a review (with the agreement of Cycling NZ) to determine if the allegations are true and to examine the culture of the Cycling NZ High Performance Programme including the extent to which Cycling NZ and HPSNZ knew of these allegations, when they knew of them and how they responded to them.
- 1.10 HPSNZ has established this review in accordance with the Relationship Agreement⁶ it has with Cycling NZ. Cycling NZ has agreed to participate in this Review and agreed to these Terms of Reference.

2. Scope of Review

The scope of the Review is to:

Cycling NZ

- 2.1 determine whether the allegations of inappropriate behaviour in the Cycling NZ High Performance Programme, as described in these Terms of Reference, are true;

² Exclusive: More people coming forward to speak out against Cycling NZ’, 2 June 2018, TVNZ 1 News, <https://www.tvnz.co.nz/one-news/sport/other/exclusive-more-people-coming-forward-speak-against-cycling-nzs-handling-departed-coach-anthony-peden>

³ TVNZ 1 News “Exclusive: Kiwi cyclists accuse NZ coach Anthony Peden, who has stepped down, of inappropriate behaviour and bullying”, 30 May 2018, <https://www.tvnz.co.nz/one-news/sport/other/exclusive-kiwi-cyclists-accuse-nz-coach-anthony-peden-has-stepped-down-inappropriate-behaviour-and-bullying>

⁴ “Cycling: Shock exit of NZ coach Anthony Peden raises questions”, Newshub, 30 May 2018, <https://www.newshub.co.nz/home/sport/2018/05/cycling-shock-departure-of-nz-coach-anthony-peden-raises-plenty-of-questions.html>; “High Performance Sport NZ to Investigate Cycling Coach Anthony Peden’s departure”, Stuff.co.nz, 31 May 2018, <https://www.stuff.co.nz/sport/other-sports/104321837/anthony-peden-splits-from-cycling-new-zealand>; “Cycling: Investigation to be held into departure of Cycling NZ coach Anthony Peden amid claims of inappropriate behaviour”, NZ Herald, 31 May 2018, https://www.nzherald.co.nz/sport/news/article.cfm?c_id=4&objectid=12062341; “HPSNZ to investigate Peden Departure”, 31 May 2018, Radio NZ; <https://www.radionz.co.nz/news/sport/358653/hpsnz-to-investigate-peden-departure>; “No place for bullying – Answers wanted over Anthony Peden’s exit from Cycling NZ”, 1 June 2018 NZ Herald, <https://www.stuff.co.nz/sport/other-sports/104321837/anthony-peden-splits-from-cycling-new-zealand>

⁵ “Exclusive: Former Cycling NZ Coach Anthony Peden had access to deeply personal and damning confidential athlete interviews with High Performance Sport NZ “, 1 June 2018 1News, <https://www.tvnz.co.nz/one-news/sport/other/exclusive-former-cycling-nz-coach-anthony-peden-had-access-deeply-personal-and-damning-confidential-athlete-interviews-high-performance-sport>

⁶ Clause 10.4 of NSO Relationship Agreement, dated 19 September 2013

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- 2.2 review Cycling NZ's response to such allegations and behaviours and assess whether such response was adequate and appropriate, including the actions taken by Cycling NZ following the Rio Debrief and the extent to which Cycling NZ was aware of the allegations described in these Terms of Reference prior to their public disclosure on 30 May 2018;
- 2.3 consider any other information of alleged inappropriate relationships, bullying, or other inappropriate behaviour in the Cycling NZ High Performance Programme that may be brought to the attention of the Reviewer;
- 2.4 assess the culture of the Cycling NZ High Performance Programme including allegations of a "toxic environment"⁷ including attitudes and tolerances to inappropriate behaviour, and make recommendations on the steps to be taken to ensure a high performance culture of excellence in all respects;
- 2.5 review the rules, policies, procedures, codes of conduct and systems of Cycling NZ relating to the management of athletes, coaches, other support personnel in the Cycling NZ High Performance Programme, and assess whether the conduct of any Cycling NZ employees or contractors in relation to the Rio Debrief or otherwise arising out of matters within the scope of this Review, may have breached any of them; and to also assess whether such rules, policies, procedures, codes of conduct and systems adequately safeguard and protect athletes, coaches and other high performance personnel at Cycling NZ including their privacy and confidentiality;
- 2.6 refer any information obtained about employees or contractors of Cycling NZ which may give rise to further action, to the Cycling NZ Chief Executive (unless such information relates to the Cycling NZ Chief Executive, in which case refer the information to the Cycling NZ Chairperson);
- 2.7 provide advice and recommendations on the steps Cycling NZ should take as a result of the findings of the Reviewer, consistent with HPSNZ's ambition to create a world leading sustainable high performance sport system;

HPSNZ

- 2.8 identify, in detail, the information received and steps taken by HPSNZ in the Rio Debrief including whether there were any allegations made or evidence alleged of inappropriate behaviour within the Cycling NZ High Performance Programme, and if so, when and how that occurred;
- 2.9 identify whether HPSNZ received any other information from the beginning of 2016 or after, containing any allegations or evidence of alleged inappropriate behaviour within the Cycling NZ High Performance Programme;
- 2.10 review HPSNZ's response to all such allegations and behaviours and assess whether or not the steps taken by HPSNZ from the information it received about any allegations and behaviours in the Rio Debrief or at any other time, was adequate and appropriate;

⁷ See footnote 2

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- 2.11 identify how information was obtained by HPSNZ in the Rio Debrief and how and when it obtained any other information about alleged inappropriate behaviour; identify how such information was held, used and disclosed by HPSNZ (and to whom any such disclosure was made); and identify any steps HPSNZ should take to improve and ensure the proper security and use of personal and confidential information;
- 2.12 review the rules, policies, procedures, codes of conduct and systems of HPSNZ relating to the management of athletes, coaches, other support personnel in the Cycling NZ High Performance Programme, and assess whether the conduct of any HPSNZ employees or contractors in relation to the Rio Debrief or otherwise arising out of matters within the scope of this Review, may have breached any of them; and to also assess whether such rules, policies, procedures, codes of conduct and systems adequately safeguard and protect athletes, coaches and other high performance personnel including their privacy and confidentiality;
- 2.13 refer any information obtained about employees or contractors of HPSNZ which may give rise to further action, to the HPSNZ Chief Executive (unless such information relates to the HPSNZ Chief Executive, in which case refer the information to the HPSNZ Chairperson); and,
- 2.14 provide advice and recommendations on the steps HPSNZ should take as a result of the findings of the Reviewer, consistent with HPSNZ's ambition to create a world leading sustainable high performance sport system.

3. Independent Reviewer

- 3.1 The Review will be undertaken by Michael Heron, Queens Counsel and former Solicitor General ("the Reviewer"). Michael Heron has significant experience in undertaking inquiries and investigations having most recently led the inquiry into conflicts of interest at the Canterbury Earthquake Recovery Authority for the State Services Commissioner (March 2017) and conducted the independent review into prosecutions decisions at the Ministry of Primary Industries (September 2016). He also has extensive knowledge of the sport sector in New Zealand most notably as former Chair of Drug Free Sport New Zealand, current conduct Commissioner for both NZ Cricket and the International Cricket Council and as Judicial Commissioner for SANZARR and NZ Rugby. Michael Heron also led the independent review into the All Blacks World Cup campaign in 2007.
- 3.2 During the course of the Review, the Reviewer shall provide regular updates on progress to the HPSNZ Chairperson and HPSNZ Chief Executive.
- 3.3 HPSNZ shall provide such administrative assistance to the Reviewer as may be necessary.

4. Review Methodology

- 4.1 The Review will commence immediately and be concluded by 31 August 2018, unless otherwise agreed between HPSNZ and the Reviewer.
- 4.2 The Reviewer will manage, respond to and retain the information received from the dedicated confidential email address established for the Review by HPSNZ to facilitate information being provided to the Review.
- 4.3 The Reviewer will seek to interview the following people:⁸
 - a. all athletes, coaches and support personnel in the Cycling NZ High Performance Programme, including Antony Peden, and those who have left Cycling NZ since 2016;
 - b. the Cycling NZ Board Chair, Chief Executive, High Performance Director and all other relevant employees and contractors of Cycling NZ working in the Cycling NZ High Performance Programme, including those who have left Cycling NZ since 2016; and,
 - c. the HPSNZ Board Chair, Chief Executive, the HPSNZ senior leadership team and all other relevant employees and contractors working in, (or managing employees and contractors working in), the Cycling NZ High Performance Programme, including those who have left HPSNZ since 2016.
- 4.4 The Reviewer may make such other enquiries of individuals and organisations as he considers relevant.
- 4.5 Cycling NZ and HPSNZ will provide all reasonable assistance to the Reviewer including the provision of documentation and materials and encourage their respective athletes, coaches, employees and contractors to be available for interviews.
- 4.6 In considering any recommendations, the Reviewer will review the Sport NZ publication on “Safe Sport for Children” and any other applicable sports policies on safeguarding athletes, together with recent reports in sport on safeguarding athletes⁹, including the steps being taken or proposed globally to ensure safe environments for elite sports performance.
- 4.7 In addition, the Reviewer may obtain such documents, materials or things which are within the possession Cycling NZ and HPSNZ which the Reviewer considers relevant to the Review.
- 4.8 The Reviewer will also liaise with any relevant authority, if he considers that appropriate, subject to obligations of privacy and confidentiality which the Reviewer agrees with individuals.

⁸ It is noted the Reviewer cannot compel individuals to participate in this Review.

⁹ (2017) Duty of Care in Sport Review (UK Government) <https://www.gov.uk/government/publications/duty-of-care-in-sport-review>; (2017) Report to USA Gymnastics on proposed Policy and Procedural Changes for the Protection of Young Athletes (Deborah Daniels) https://usagym.org/PDFs/About%20USA%20Gymnastics/ddreport_062617.pdf

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- 4.9 An obligation of confidence exists between the Reviewer and HPSNZ. The Reviewer will not publicly disclose information obtained during the Review, except to the extent set out in these Terms of Reference and noting that HPSNZ is subject to the Official Information Act 1982 and the Privacy Act 1993. The Reviewer will advise any persons whom they interview that:
- (i) the information they provide will, as far as possible, be anonymised and not identified in the final report so as to protect the person's privacy and the privacy of any person they make comments about;
 - (ii) if HPSNZ or Sport NZ receives a request for information under the Official Information Act, HPSNZ and Sport NZ will take all reasonable steps to protect information where necessary to protect privacy, but cannot provide a guarantee that such information can be withheld.
- 4.10 Except to the extent set out in these Terms of Reference, the Reviewer shall determine the procedure for the Review in accordance with the principles of natural justice.

5. Review Findings and Report

- 5.1 The Reviewer will provide a written report on his findings and recommendations on the matters specified in the Scope, to HPSNZ and Cycling NZ by 31 August 2018.
- 5.2 The Reviewer will make recommendations to HPSNZ on the extent to which the report or extracts of it should be made public.

6. Amendment of Terms of Reference

- 6.1 These Terms of Reference may be amended by agreement between HPSNZ and the Reviewer.

Approved by HPSNZ Board
5 June 2018