



AUSTRALIAN OLYMPIC COMMITTEE INC
ABN 33 052 258 241
Registered Number A0004778J

SUBMISSION

concerning

INQUIRY INTO THE PRACTICE OF SPORTS SCIENCE IN AUSTRALIA

- 1 The Australian Olympic Committee (AOC) welcomes the Inquiry into the practice of sports science in Australia and the opportunity to make a submission concerning the issues identified in the Terms of Reference.
- 2 The AOC has addressed each of the terms of reference, below.
- 3 It making these submissions, the AOC has assumed that the context of the Inquiry is primarily, though not necessarily exclusively, with respect of doping in sport and the role of sports scientists, if any, in possessing, trafficking or administering Prohibited Substances or Prohibited Methods (as defined in the World Anti-Doping Code 2009).
- 4 References to an “Australian Olympic Team” in these submissions includes athletes and officials appointed to a Team by the AOC. Officials means all persons who administer, manage, coach, support, assist or are otherwise involved with any Team, the AOC or Team sponsors. Accordingly sports scientists/sports medicine personnel are regularly members of Australian Olympic Teams.
- 5 Australia has long enjoyed a reputation in international sporting arenas for having leading sports science/sports medicine practices and personnel. In that regard, sports science and sports medicine has played a significant role in the success enjoyed by many Australian Olympic athletes.
- 6 Innovation, applied to the sporting field forms part of the fabric of Australia’s sporting competitive advantage. For example the use of probiotics, beetroot juice and beta alanine originated from Australian Institute of Sport (AIS) studies and are now commonly used in elite sport worldwide. There is a role for research approved by ethical standards in the future sporting success of this nation.

- 7 Accordingly, a balance must be found between a regulatory framework and innovation. Rules and regulations, whilst necessary for protecting the integrity of sport, should not have the effect of putting Australia at a competitive disadvantage to other nations, nor indirectly stifle innovation and cutting edge research that has a place in this nation's sporting success.

The current scope of practice, accreditation and regulation arrangement for the profession

- 8 Defining the scope of the sports science profession is arguably the initial challenge for an inquiry of this nature.
- 9 The lack of an overarching regulatory framework, or even a common set of minimum qualifications and standards which are specific to sports and athletic performance, means that the role of a 'sports scientist' is left to individual sporting organisations and institutions to determine. The role of a sports scientist in one sport may be entirely different to the role of a sports scientist in another. Accordingly, when considering any regulatory framework it must consider the impact it will have on a wide range of experts, not a select few scientists in laboratories.
- 10 The definition of 'sports science' may include sports medicine, physiotherapy, dieticians, biomechanists, biochemists, performance analysts, physiologists, psychologists and other sport analysis or health-related disciplines.
- 11 It is the AOC's observation that sports scientists, particularly those on Australian Olympic Teams, are generally employed in or contracted to sports institutes (for example the Australian Institute of Sport (AIS) one of the State/Territory Institutes/Academies of Sport or a university) tend to operate in a far more controlled environment. Employment processes tend to ensure that individuals have appropriate qualifications for the services required and that their work practices are heavily monitored and regulated by the institutes themselves. In addition, these institutions tend to have government style management practices in place in the form of Risk Management, Ethics and Supplements Committees, with responsibility for reviewing and ensuring adherence to policies and procedures developed in areas such as supplements. Further, these institutes tend to follow system wide quality assurance standards including laboratory accreditation thereby providing some safeguards against unethical or inappropriate practices.
- 12 However, it is our observation that 'freelance' sports scientists largely working with professional sporting codes tend to operate outside of any institutionalised regulatory framework. Government funding of sporting organisations or the heavy reliance by sporting organisations on the provision of services by institute employed sports scientists tends to result in a stronger regulatory framework being in place. The same

cannot necessarily be said for sporting codes where government or statutory entities such as the AIS tend to be less influential.

- 13 Unless the employment process is sufficiently rigorous and there are effective policies and procedures in place continuously monitor the work of a sports scientist, there will not be effective safeguards in place to deal with the pressure of achieving a 'performance edge' and the financial rewards for doing so. Safeguards are needed to ensure the same controls are placed on 'freelance' sports scientists as within the more structured sporting institutions.
- 14 The AOC supports the approach recommended by the AIS Sports Science/Sports Medicine Best Practice Principles calling for the establishment of an accreditation or other regulation system for sports scientists.

The role of boards and management in the oversight of sports scientists inside sporting organisations

- 15 The AOC notes that in the Australian Sports Commission's (ASC) *Mandatory Sport Governance Principles*, published in March 2013, there is a requirement for National Sporting Organisations (NSO) to sign up to ASC integrity measures on anti-doping and protocols for sports science. The AOC applauds and supports this position in an effort to improve the corporate governance practices across the Australian sporting industry.
- 16 Similarly the AOC supports the oversight and reporting framework recommended in the AIS Sports Science/Sports Medicine Best Practice Principles to assist sporting organisations' Board and senior management discharge their obligations to be informed about and to oversee the organisation's sport science and sports medicine practices.
- 17 The AOC firmly believes that Boards should have in place proper investigation, supervision and reporting practices in relation to the sports science practices within their sport/club. A "don't ask, don't tell" mentality should never be a satisfactory position for Boards to adopt.
- 18 The recent circumstances surrounding the Cronulla Sharks Rugby League Team provide an example of a Board not fully exercising their responsibility in this regard.
- 19 While not confined to just the context of sports science, the AOC Executive has recently introduced a number of measures aimed at ensuring that no person on an Australian Olympic Team or within the Australian Olympic Committee more broadly, has an involvement in doping in sport. Most significantly is the requirement for all such personnel to make statutory declarations regarding anti-doping matters. These initiatives are detailed in the section "Other related matters", below. The

leading role taken by the AOC Executive on these matters should be considered and emulated by other Boards of sporting organisations.

The duty of care of sports scientists to the athletes, and the ethical obligations of sports scientists in relation to protecting and promoting the spirit of sport

- 20 In our experience, the sports scientists working with athletes more often than not carry the weight of the authority of the club or organisation to which the athlete belongs. They will come with the tacit support and implied imprimatur of the coaching and technical staff, and the club/organisation. Athletes will rely on and trust their judgement – sometimes erroneously.
- 21 Therefore, it is imperative that sports scientists have a duty of care to the athletes they work with, to ensure not only that the athletes health and welfare are protected, but specifically that the athletes are able to meet their obligations under the applicable anti-doping rules and policies.
- 22 As a pre-condition to any official (including sports science/sports medicine personnel) being appointed to an Australian Olympic Team, the AOC requires them to sign a Team Membership Agreement. In so doing, they agree to the following obligations:

As a member of the Team, I shall:

- (2) *respect the spirit of fair play and non-violence and behave accordingly;*
- (3) *conduct myself so as to obtain and maintain the best possible mental and physical fitness and health of myself and all Australian Olympic Team Members, to perform to the highest possible standard at the Games and carry out my duties to the Team to the best of my ability;*
- (4) *not at any time engage in conduct (whether publicly known or not and whether before or after the date of my selection), which has brought, brings or would have the tendency to bring me or my sport into disrepute or censure, or which is or would have the tendency to be inconsistent with, contrary to or prejudicial to the best interests, image or values of the AOC or Team Sponsors, or as a result of which my continued membership would not be or would not likely be in the best interests of the Australian Olympic Team;*

I will uphold the A.S.P.I.R.E. values developed by the AOC's Athletes' Commission:

- (1) **Attitude** – *My positive attitude is essential in overcoming obstacles to help me improve and give of my best. My positive attitude is a key ingredient to success and leadership.*
- (2) **Sportsmanship** – *I recognise that sport is greater than the individual; that cheating reduces the stature of sport and all who love it; that class, race and creed are never factors in the attitude of true sports people and those who respect the virtues and values of sport.*
- (3) **Pride** – *Pride drives me when the temptation is to settle for something less. I am proud to have been chosen to represent our country.*
- (4) **Individual responsibility** – *I alone am responsible for my performance but I will be generous in acknowledging the support of others.*
- (5) **Respect** – *I respect sport, the efforts of my competitors, my team mates and officials. I respect Australia, our Olympic past and the spirit of Olympism.*

- (6) **Express** – *I have an opinion and will express my view with thought and consideration to others. In showing my emotions I do so with individuality and, where possible, good humour.*

Together we aspire to achieve our highest level of performance and conduct, thus providing the finest expression of Olympism.

- 23 A further pre-condition for any sports science/sports medicine personnel (as with any Olympic Team official) seeking selection to an Australian Olympic Team is a requirement to sign a Statutory Declaration regarding anti-doping matters. This is further detailed at “Other related matters”.
- 24 The AOC fully supports the notion of strict liability with respect to doping in sport, however, unethical individuals operating with perceived authority may present a threat to athletes meeting those ongoing obligations.
- 25 As recent events have shown, preventing the scourge of doping in sport is tantamount to protecting and promoting the integrity and spirit of sport.

Avenues for reform or enhanced regulation of the profession

- 26 It is not the role of government to legislate morality. But it is only government that can play the central role required to establishing a framework within which all sports science sports medicine personnel must operate. In so doing, it will provide greater safeguards against immoral and unethical conduct and thereby encourage appropriate choices.
- 27 The AOC supports the adoption of the AIS Sports Science/Sports Medicine Best Practice Principles – not just by those sporting organisations receiving government funding. In particular the recommendation for the National Integrity of Sport Unit (NISU) to lead work on the establishment of an accreditation or other regulation system for sports scientists.
- 28 Encourage the widespread adoption of statutory declarations as a pre-condition to employment/engagement of any sporting association. If organisations system-wide require and enforce this, the safe-havens for the unethical sports science sports medicine practices and personnel will be rapidly and significantly reduced/eliminated.

Other related matters

- 29 The AOC has often been at the forefront of measures which help to protect the integrity of sport and the health of our athletes.
- 30 Most recently, the AOC introduced a number of important anti-doping measures aimed at ensuring that no person on our Australian Olympic Teams has an

involvement in doping in sport, and to facilitate greater cooperation with ASADA to vigorously pursue all potential anti-doping rule violations within its jurisdiction.

- 31 In February 2013 the AOC Executive amended our Ethical Behaviour By-Law to require a range of relevant persons, excluding minors, to make a statutory declaration regarding anti-doping matters. Sample AOC statutory declaration attached.
- 32 The statutory declaration requires the relevant person to declare either that:
- (a) they have not, at any time, breached an applicable anti-doping rule or policy; or
 - (b) they have breached an applicable anti-doping rule of policy but either the sanction in respect of such breach(s) was formally eliminated or waived by the relevant organisation having the authority to do so, or they have completed the sanction imposed in respect of such breach.
- 33 Generally, the declaration does not capture the use of recreational drugs outside of competition unless specifically prohibited by the applicable anti-doping policy. Further, the declaration does not capture the use of prohibited substances or methods for which the person has received a Therapeutic Use Exemption.
- 34 Any person who does not make the statutory declaration or who, in the AOC's opinion, falsely makes the statutory declaration, will be ineligible for membership of any Australian Olympic Team or Shadow Team, or to receive funding from or to hold any position within the AOC unless otherwise determined by the AOC.
- 35 In addition, any person who wilfully and corruptly makes a declaration knowing it to be untrue in any material particular, will be guilty of a criminal offence (Section 25 Oaths Act 1900 (NSW)). If the offence is dealt with summarily, the penalty is up to 2 years imprisonment or a fine of currently \$5,100, or both. If the offence is dealt with on indictment, the penalty is up to 5 years imprisonment.
- 36 In May 2013, the AOC Executive amended the AOC's Anti-Doping By-Law and the 2014 Team Membership Agreements for Athletes, Officials and Associate Officials to require Athletes and Athlete Support Personnel to co-operate with and assist ASADA, including by:
- (a) attending an interview to fully and truthfully answer questions;
 - (b) giving information; and
 - (c) producing documents,

in an investigation being conducted by ASADA, even if to do so might tend to incriminate them or expose them to a penalty, sanction or other disciplinary measure.

37 Any sports scientist seeking selection to an Australian Olympic Team would be required to meet these obligations.

38 The AOC strongly encourages other sporting organisations and institutions to adopt similar practices to better protect against individuals (including sports scientists) who might aid and abet doping in sport.

Public Hearing

39 The AOC would not seek to appear as a witness should the Senate Rural and Regional Affairs and Transport References Committee hold a public hearing.

CRAIG PHILLIPS
AOC Secretary General

KIMBERLEY CROW
AOC Athletes' Commission Chair

31 May 2013



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NOTES

STATUTORY DECLARATION REGARDING ANTI-DOPING MATTERS

- This is a statutory declaration made in accordance with New South Wales law. The information below is a guide only. You are strongly encouraged to seek independent legal advice before making the statutory declaration.

ABOUT THE STATUTORY DECLARATION

- The declaration relates to the anti-doping policies applicable to you as a participant in sport. This includes any policies applicable to you as an athlete or official today, as well as those that would have been applicable to you as an athlete or official in the past.
- There are three options:
 - (1) If you have never breached an applicable anti-doping policy, then you should declare the first statement.
 - (2) If you have breached an applicable anti-doping policy but either the sanction for that breach was eliminated or waived by the relevant organisation, or you have completed the sanction, then you should declare the second statement.
 - (3) If you have breached an applicable anti-doping policy but neither of the exceptions in option (2) above apply to you, then you will not be able to make the declaration required and must contact the Director of Sport, Australian Olympic Committee (AOC) on +61 2 9247 2000 for further guidance.
- Generally, the declaration does not capture the use of recreational drugs outside of competition unless specifically prohibited by the applicable anti-doping policy. Further, the declaration does not capture the use of prohibited substances or methods for which you received a Therapeutic Use Exemption.

HOW TO MAKE THE STATUTORY DECLARATION

- An example of a completed statutory declaration is attached at the back of these notes.
- You must delete either statement 1 or 2 in full depending on which is a true statement of fact by you, by drawing a line through every line in the statement. You and your witness must initial the deletion.

- However, you must not make any amendments to the statements or delete only part of a statement. If you are unable to declare either statement 1 or statement 2 in full, you will not be able to make the statutory declaration.
- The declaration must be witnessed by an authorised person as applicable within New South Wales, outside New South Wales in another State or Territory, or in another country. Failure to do so will render it invalid (see list at end of declaration).

CONSEQUENCES OF NOT MAKING A DECLARATION OR MAKING A FALSE DECLARATION

- **Making a false declaration is a criminal offence and may attract significant penalties. In particular, any person who wilfully and corruptly makes a declaration knowing it to be untrue in any material particular, will be guilty of a criminal offence** (Section 25 Oaths Act 1900 (NSW)). If the offence is dealt with summarily, the penalty is up to 2 years imprisonment, or a fine of \$5,100, or both. If the offence is dealt with on indictment, the penalty is up to 5 years imprisonment.
- In addition to these penalties any person who does not make the statutory declaration or who, in the AOC's opinion, falsely makes the statutory declaration, will be ineligible for membership of any Australian Olympic Team or Shadow Team, or to receive funding from or to hold any position within the AOC unless otherwise determined by the AOC.
- The AOC will share information regarding the statutory declarations with relevant anti-doping organisations and law enforcement agencies, on a case by case basis. This includes if you do not make the statutory declaration as required by the AOC from time to time or if the AOC wishes to verify the contents of any declaration given.

ELIGIBILITY FOR AUSTRALIAN OLYMPIC TEAMS OR POSITIONS WITHIN THE AOC

✓ means eligible

X means ineligible

	No past doping offences	Past doping offence and sanction served	No statutory declaration	Making a false statutory declaration
Athletes	✓	✓	X	X
Officials	✓	✓	X	X
AOC Executive, Committees and Commissions	✓	✓	X	X
AOC Staff	✓	✓	X	X



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STATUTORY DECLARATION
OATHS ACT 1900, NSW, EIGHTH SCHEDULE

[Important: you must delete either statement 1 or 2 below in full, depending on which is a true statement of fact by you. However, you must not make any amendments to the statements. If you are unable to declare either statement 1 or 2 in full, you will not be able to make the statutory declaration and must contact the Director of Sport, Australian Olympic Committee on +61 2 9247 2000 for further guidance.]

I, JOHN JAMES SMITH, of UNIT 1, 1 JAMES STREET, SYDNEY 2000
[name] [residence – full address]

do solemnly and sincerely declare that:

1. I have **not** at any time breached any applicable anti-doping rule or policy, including the World Anti-Doping Code 2009, the Australian Olympic Committee's Anti-Doping By-Law and the anti-doping rules and policies of applicable Anti-Doping Organisations, National Federations and International Federations (as those words are defined in the Australian Olympic Committee's Anti-Doping By-Law) (each an "Applicable Anti-Doping Rule or Policy").

-----OR-----

~~2. I have breached an Applicable Anti-Doping Rule or Policy; but~~

~~(a) the sanction in respect of such breach(es) was formally eliminated or waived by the organisation having the authority to do so; or~~

~~(b) I have completed the sanction imposed in respect of such breach(es).~~

and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act 1900 (NSW).

John Smith
[signature of person making the declaration]

Declared at: SYDNEY on 12 FEBRUARY 2013
[place] [date]

In the presence of an authorised witness, who states:

I, SARAH JANE JONES, a SOLICITOR ADMITTED IN NEW SOUTH WALES
[insert name of authorised witness] *[insert qualification to be authorised witness^A]*

certify the following matters concerning the making of this statutory declaration by the person who made it: *[*please cross out any text that does not apply]*

1. ~~*I saw the face of the person OR *I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and~~
2. ~~*I have known the person for at least 12 months OR~~ *I have confirmed the person's identity using an identification document^{*B} and the document I relied in was NSW DRIVER LICENCE NO. 001 001 001
[describe identification document relied on]

JS
SJ

Sarah Jones
[insert signature of authorised witness]

12 FEBRUARY 2013
[insert date]

*A: Persons who can witness the making of this statutory document are:

Within New South Wales

- a Justice of the Peace registered in New South Wales;
- an Australian legal practitioner;

Outside New South Wales

- an Australian legal practitioner;
- an Australian Notary Public;
- an Australian Consular Officer or British Consular Officer;
- any other person authorised by law to administer an oath in the country or place where the oath is administered.

*B: An **identification document** means any of the following unless it has expired or been cancelled (however an Australian passport is acceptable if it expired no more than 2 years ago):

• a driver's licence or permit with a photograph, whether issued in Australia or another country	• a birth certificate or birth extract, whether issued in Australia, another country or by the United Nations (with an English language translation if not in English)
• a NSW photo card issued under the <i>Photo Card Act 2005</i>	• a Centrelink pension card
• an Australian proof of age card which contains the person's photograph	• a credit card or passbook, or
• an Australian passport (either current or expired less than 2 years ago)	• an account from a bank, building society or credit union, or statement of account up to one year old
• a passport or similar document with the person's photograph and signature issued by another country or by the United Nations	• a Medicare card, pensioner concession card, Department of Veterans' Affairs entitlement card or other entitlement card issued by the Federal or any State Government
• a national identity card with the person's photograph and signature issued by another country or the United Nations (with an English language translation if not in English)	• an electoral enrolment card or other evidence of enrolment as an elector up to 2 years old
• an Australian citizenship certificate or a foreign citizenship certificate (with an English language translation if not in English)	• a student identity card, or a certificate or statement of enrolment up to 2 years old from an educational institution.



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**STATUTORY DECLARATION
OATHS ACT 1900, NSW, EIGHTH SCHEDULE**

[Important: you must delete either statement 1 or 2 below in full, depending on which is a true statement of fact by you. However, you must not make any amendments to the statements. If you are unable to declare either statement 1 or 2 in full, you will not be able to make the statutory declaration and must contact the Director of Sport, Australian Olympic Committee on +61 2 9247 2000 for further guidance.]

I, _____, of _____
[name] *[residence – full address]*

do solemnly and sincerely declare that:

1. I have **not** at any time breached any applicable anti-doping rule or policy, including the World Anti-Doping Code 2009, the Australian Olympic Committee’s Anti-Doping By-Law and the anti-doping rules and policies of applicable Anti-Doping Organisations, National Federations and International Federations (as those words are defined in the Australian Olympic Committee’s Anti-Doping By-Law) (each an “Applicable Anti-Doping Rule or Policy”).
_____ *[Initial]*
_____ *[Witness]*

----- - OR - -----

2. I have breached an Applicable Anti-Doping Rule or Policy; but
(a) the sanction in respect of such breach(es) was formally **eliminated or waived** by the organisation having the authority to do so; or _____ *[Initial]*
(b) I have **completed** the sanction imposed in respect of such breach(es). _____ *[Witness]*

and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act 1900 (NSW).

[signature of person making the declaration]

Declared at: _____ on _____
[place] *[date]*

In the presence of an authorised witness, who states:

I, _____, a _____
[insert name of authorised witness] [insert qualification to be authorised witness^A]

certify the following matters concerning the making of this statutory declaration by the person who made it:

*[*please cross out any text that does not apply]*

1. *I saw the face of the person OR *I did not see the face of the person because the person was _____
wearing a face covering, but I am satisfied that the person had a special justification for not removing _____
the covering, and *[Initial]*
2. *I have known the person for at least 12 months OR *I have confirmed the person's identity using _____
an identification document*^B and the document I relied on was _____
[describe identification document relied on] *[Witness]*

[insert signature of authorised witness]

[insert date]

***A:** Persons who can witness the making of this statutory document are:

Within New South Wales

- a Justice of the Peace registered in New South Wales;
- an Australian legal practitioner;

Outside New South Wales

- an Australian legal practitioner;
- an Australian Notary Public;
- an Australian Consular Officer or British Consular Officer;
- any other person authorised by law to administer an oath in the country or place where the oath is administered.

***B:** An **identification document** means any of the following unless it has expired or been cancelled (however an Australian passport is acceptable if it expired no more than 2 years ago):

<ul style="list-style-type: none"> • a driver's licence or permit with a photograph, whether issued in Australia or another country 	<ul style="list-style-type: none"> • a birth certificate or birth extract, whether issued in Australia, another country or by the United Nations (with an English language translation if not in English)
<ul style="list-style-type: none"> • a NSW photo card issued under the <i>Photo Card Act 2005</i> 	<ul style="list-style-type: none"> • a Centrelink pension card
<ul style="list-style-type: none"> • an Australian proof of age card which contains the person's photograph 	<ul style="list-style-type: none"> • a credit card or passbook, or
<ul style="list-style-type: none"> • an Australian passport (either current or expired less than 2 years ago) 	<ul style="list-style-type: none"> • an account from a bank, building society or credit union, or statement of account up to one year old
<ul style="list-style-type: none"> • a passport or similar document with the person's photograph and signature issued by another country or by the United Nations 	<ul style="list-style-type: none"> • a Medicare card, pensioner concession card, Department of Veterans' Affairs entitlement card or other entitlement card issued by the Federal or any State Government
<ul style="list-style-type: none"> • a national identity card with the person's photograph and signature issued by another country or the United Nations (with an English language translation if not in English) 	<ul style="list-style-type: none"> • an electoral enrolment card or other evidence of enrolment as an elector up to 2 years old
<ul style="list-style-type: none"> • an Australian citizenship certificate or a foreign citizenship certificate (with an English language translation if not in English) 	<ul style="list-style-type: none"> • a student identity card, or a certificate or statement of enrolment up to 2 years old from an educational institution.