

GENERAL PURPOSES TRIBUNAL
OF FOOTBALL NEW SOUTH WALES
FINAL DETERMINATION
IN THE FOLLOWING MATTER:

GPT 15/29

<p>Respondents</p>	<p>Ms Linda O'Neill – Blacktown Spartans player Ms Christina Palumbo – Blacktown Spartans player Blacktown Spartans</p> <p>Ms Leena Khamis – Macarthur Rams player Ms Kylie Ledbrook – Macarthur Rams player Macarthur Rams</p>
<p>Attendees</p>	<p>Wayne Lenardon (Referee Branch Secretary) Helen Roesch - Referee Caitlin Hort – Assistant Referee Geoff Leverton – Match Official Assessor</p> <p>Jack Taylor – CEO BDSFA (representing Blacktown Spartans) Dane Sims – President, Blacktown Spartans X – Blacktown Spartans player Paul Costantini – Blacktown Spartans coach Rachel Doyle – Blacktown Spartans player Mark Easthope – Blacktown Spartans manager Linda O'Neill – Blacktown Spartans player Christina Palumbo – Blacktown Spartans player Stephen Peters – Blacktown Spartans assistant coach Alix Roberts – Blacktown Spartans player Y – Blacktown Spartans player</p> <p>Armando Gardiman – Legal Representative (representing Macarthur Rams) Rob Laws – President, Macarthur Rams Norm Boardman - Macarthur Rams coach Renee Rollason - Macarthur Rams player</p>
<p>The basis upon which the matter is before the General Purposes Tribunal</p>	<p>Grievance and Disciplinary Regulations Sections 8.2 and 15.3</p>
<p>Key Words/Phrases</p>	<p>Unsportsmanlike or unprofessional conduct, bringing the game into disrepute, violent conduct</p>

Date of Hearing	24 August 2015
Date of Final Determination	31 August 2015
General Purposes Tribunal Members	Mr Andrew Barnes (Chair) Mr Mendo Cklamovski Mr Louis Fayd'herbe

A. INTRODUCTION

1. Football NSW has established this General Purposes Tribunal pursuant to Section 5 of the Football NSW Grievance and Disciplinary Regulations 2014 ("Regulations").
2. A General Purposed Tribunal (GPT) is responsible for hearing and determining:
 - 2.1. Breaches of Misconduct and Disrepute as set out in Section 8.2 of the Regulations;
 - 2.2. Grievances between Members as set out in Section 8.3 of the Regulations;
 - 2.3. Matters referred by Football NSW's Disciplinary Committee as set out in Section 8.4 of the Regulations;
 - 2.4. Any other matter Football NSW considers important to the interests of football in the State, at its absolute discretion, as set out in Section 8.1 (a) (iii).
3. The GPT makes determinations as set out in Section 8.5 of the Regulations.

B. NOTICES OF CHARGE

4. Football NSW issued a Notice of Charge against Ms Linda O'Neill dated 19 August 2015, alleging breaches of:

Section 15.3(b), (d), (e), (f), (g) and/or (h) of the Football NSW Grievance and Disciplinary Regulations; AND/OR Clauses 2.1 and 2.2(c), (d) and/or (k) of the Football Federation Australia Code of Conduct.
5. The conduct alleged in the Notice was as follows:

During the second half of the 1st Grade Major Semi Final Match of the Women's National Premier League 1 (WNPL1) between Macarthur Rams and Blacktown Spartans, it is alleged that the Participant (Linda O'Neill), from Blacktown Spartans, punched a Macarthur Rams Player (Leena Khamis) a number of times.
6. Ms O'Neill pleaded not guilty in a Notice of Response dated 23 August 2015.
7. Football NSW issued a Notice of Charge against Ms Christina Palumbo dated 19 August 2015, alleging breaches of:

Section 15.3(b), (d), (e), (f), (g) and/or (h) of the Football NSW Grievance and Disciplinary Regulations; AND/OR Clauses 2.1 and 2.2(c), (d) and/or (k) of the Football Federation Australia Code of Conduct.
8. The conduct alleged in the Notice was as follows:

During the second half of the 1st Grade Major Semi Final Match of the Women's

National Premier League 1 (WNPL1) between Macarthur Rams & Blacktown Spartans it is alleged that the Participant (Christina Palumbo) from the Macarthur Rams Football Club was involved in a melee. The Participant was wearing the Number 8 jersey.

9. Ms Palumbo pleaded not guilty in a Notice of Response dated 23 August 2015.
10. Football NSW issued a Notice of Charge against Blacktown Spartans FC dated 19 August 2015, alleging breaches of:
Section 15.3(b), (d), (e), (f), (g) and/or (h) of the Football NSW Grievance and Disciplinary Regulations; AND/OR Section 16.8(a) part (iv) of the Football NSW Grievance and Disciplinary Regulations; AND/OR Clauses 2.1 and 2.2(c), (d) and/or (k) of the Football Federation Australia Code of Conduct.
11. The conduct alleged in the Notice was as follows:
During the second half of the 1st Grade Major Semi Final Match of the Women's National Premier League 1 (WNPL1) between Blacktown Spartans & Macarthur Rams it is alleged that a number of Players from the Blacktown Spartans Football Club (Club) were involved in a melee. The melee resulted in the Match Official abandoning the match.
12. Blacktown Spartans FC pleaded not guilty in a Notice of Response dated 23 August 2015.
13. Football NSW issued a Notice of Charge against Ms Leena Khamis dated 19 August 2015, alleging breaches of:
Section 15.3(b), (d), (e), (f), (g) and/or (h) of the Football NSW Grievance and Disciplinary Regulations; AND/OR Clauses 2.1 and 2.2(c) of the Football Federation Australia Code of Conduct.
14. The conduct alleged in the Notice was as follows:
During the second half of the 1st Grade Major Semi Final Match of the Women's National Premier League 1 (WNPL1) between Macarthur Rams & Blacktown Spartans it is alleged that the Participant (Leena Khamis) from the Macarthur Rams Football Club threw punches at a Player from the Blacktown Spartans Football Club (Linda O'Neill).
15. Ms Khamis pleaded not guilty in a Notice of Response dated 24 August 2015.
16. Football NSW issued a Notice of Charge against Ms Kylie Ledbrook dated 19 August 2015, alleging breaches of:
Section 15.3(b), (d), (e), (f), (g) and/or (h) of the Football NSW Grievance and Disciplinary Regulations; AND/OR Clauses 2.1 and 2.2(c), (d) and/or (k) of the Football Federation Australia Code of Conduct.
17. The conduct alleged in the Notice was as follows:
During the second half of the 1st Grade Major Semi Final Match of the Women's National Premier League 1 (WNPL1) between Macarthur Rams & Blacktown Spartans it is alleged that the Participant (Kylie Ledbrook) from the Macarthur Rams Football Club was involved in a melee. The Participant was wearing the Number 10 jersey.
18. Ms Ledbrook pleaded not guilty in a Notice of Response dated 24 August 2015.

19. Football NSW issued a Notice of Charge against Macarthur Rams FC dated 19 August 2015, alleging breaches of:

Section 15.3(b), (d), (e), (f), (g) and/or (h) of the Football NSW Grievance and Disciplinary Regulations; AND/OR Section 16.8(a)(iv) of the Football NSW Grievance and Disciplinary Regulations; AND/OR Clauses 2.1 and 2.2(c), (d) and/or (k) of the Football Federation Australia Code of Conduct.

20. The conduct alleged in the Notice was as follows:

During the second half of the 1st Grade Major Semi Final Match of the Women's National Premier League 1 (WNPL1) between Macarthur Rams & Blacktown Spartans it is alleged that a number of Players from the Macarthur Rams Football Club (Club) were involved in a melee. The melee resulted in the Match Official abandoning the match.

21. Macarthur Rams FC pleaded not guilty in a Notice of Response dated 23 August 2015.

C. DECISIONS OF THE GPT

22. The Tribunal determined that Linda O'Neill was guilty of a breach of Football NSW Grievance and Disciplinary Regulation 15.3 (e) – unprofessional conduct - for pushing a Macarthur Rams player. As penalty, Linda O'Neill is **SUSPENDED** for ONE (1) FIXTURE. Any fixtures already served should be applied against this sentence.

23. The Tribunal determined that Linda O'Neill was not guilty of breaches of Football NSW Grievance and Disciplinary Regulation 15.3 (b), (d), (f), (g), or (h), or of the FFA Code of Conduct.

24. The Tribunal determined that Christina Palumbo was not guilty of breaches of Football NSW Grievance and Disciplinary Regulation 15.3 (b), (d), (e), (f), (g), or (h), or of the FFA Code of Conduct.

25. The Tribunal determined that Blacktown Spartans FC was not guilty of breaches of Football NSW Grievance and Disciplinary Regulation 15.3 (b), (d), (e), (f), (g), (h), or 16.8 (a)(iv), or of the FFA Code of Conduct.

26. The Tribunal determined that Leena Khamis was guilty by admission of a breach of Football NSW Grievance and Disciplinary Regulation 15.3 (e) – unprofessional conduct - for pushing a Blacktown Spartans player. As penalty, Leena Khamis is **SUSPENDED** for ONE (1) FIXTURE. Any fixtures already served should be applied against this sentence.

27. The Tribunal determined that Leena Khamis was not guilty of breaches of Football NSW Grievance and Disciplinary Regulation 15.3 (b), (d), (f), (g), or (h), or of the FFA Code of Conduct.

28. The Tribunal determined that Kylie Ledbrook was not guilty of breaches of Football NSW Grievance and Disciplinary Regulation 15.3 (b), (d), (e), (f), (g), or (h), or of the FFA Code of Conduct.

29. The Tribunal determined that Macarthur Rams FC was not guilty of breaches of Football NSW Grievance and Disciplinary Regulation 15.3 (b), (d), (e), (f), (g), (h), or 16.8 (a)(iv), or of the FFA Code of Conduct.

30. The Tribunal determined that Blacktown Spartans FC and Macarthur Rams FC will share any costs associated with the hearing.

D. THE HEARING

31. The Hearing was held at Football NSW on 24 August 2015.
32. All witnesses were cautioned on the need for accurate and honest testimony.
33. All parties were invited to make submissions on jurisdiction and competence. No submissions were made.

E. EVIDENCE & SUBMISSIONS

34. The Tribunal accepted as evidence a set of statements submitted by Football NSW with the Notice of Charges that included:
 - 34.1. Report by Referee – Helen Roesch
 - 34.2. Report by Assistant Referee – Caitlin Hort
 - 34.3. Report by Assistant Referee - Mikaela Cameron
 - 34.4. Report by Referee Assessor - Geoff Leverton
 - 34.5. Report by Match Commissioner – Brett Hill
 - 34.6. Six (6) photographs supplied by FNSW Official Photography
 - 34.7. Team Sheet – Macarthur Rams vs Blacktown Spartans NPLW 1 16/08/15
 - 34.8. Statement by Alix Roberts
 - 34.9. Statement by Christina Palumbo
 - 34.10. Statement by Diyana Lusic
 - 34.11. Statement by X
 - 34.12. Statement by Linda O'Neill
 - 34.13. Statement by Mark Easthope
 - 34.14. Statement by Y
 - 34.15. Statement by Paul Costantini
 - 34.16. Statement by Rachael Doyle
 - 34.17. Statement by Samantha Huynh
 - 34.18. Statement by Sarah Easthope
 - 34.19. Statement by Stephen Peters
 - 34.20. Statement by Teigen Allen
 - 34.21. Statutory Declaration by Leena Khamis
 - 34.22. Statutory Declaration by Kylie Ledbrook
 - 34.23. Statutory Declaration by Renee Rollason
 - 34.24. Statutory Declaration by Rob Laws (Stat Dec A)
 - 34.25. Statutory Declaration by Rob Laws (Stat Dec B)
 - 34.26. Statutory Declaration by Norm Boardman
35. The Tribunal accepted video evidence of the match.

F. CONSIDERATION & COMMENT

36. Armando Gardiman, representing Macarthur Rams FC and those Macarthur Rams players subject of complaint was invited to make an opening submission. Mr Gardiman was of the firm belief that the absence of an official video recording of the match was prejudicial to all parties. Mr Gardiman said that a video of the match may have prevented the need for a hearing at all. It was the feeling of both parties that such a match at this level would ordinarily be recorded by Football NSW or the host Club, and it was a surprise that it had not been.
37. Jack Taylor, representing Blacktown Spartans FC and those Blacktown Spartans players subject of complaint, similarly made an opening statement. Mr Taylor was concerned that evidence submitted in this case had not been shared with the other parties. While it is not always practice for Football NSW to share charges and reports with both parties in a matter such as this, the Tribunal notes that some reports contained evidence against the other party, and that these at a minimum should have been provided to all parties in the interests of procedural fairness.
38. In light of the fact that neither party had seen the totality of evidence, the Tribunal offered both parties the opportunity for a short recess to review the balance of the submissions. Mr Gardiman and Mr Taylor graciously agreed to proceed with the hearing without delay.
39. Mr Gardiman asked Referee Helen Roesch about the absence of punches in the photographs submitted into evidence. Ms Roesch explained that the photographs had been taken subsequent to any punches.
40. Ms Roesch agreed that there was not a long time between the beginning of the incident and the abandonment of the match. Ms Roesch said that she didn't believe it was safe for her or her assistant referees to continue the match because it was getting very heated, and that she wanted to get back to the change rooms as quickly as possible.
41. Ms Roesch explained that the tackle by Linda O'Neill on Leena Khamis had been reckless and that she was about to issue a caution to Ms O'Neill. Ms Roesch said that before she could do so, Ms Khamis had pulled herself on top of Ms O'Neill and began punching her. After further questioning Ms Roesch said that she could clearly recall one punch by Ms Khamis and one punch by Ms O'Neill.
42. Ms Roesch was unable to give a clearer description of how Ms Khamis came to be lying atop Ms O'Neill than "she pulled herself on top".
43. Assistant Referee Caitlin Hort described Leena Khamis as having propped herself up from the ground and then got on top of Linda O'Neill; she said that Ms Khamis had one knee either side of Ms O'Neill and threw a punch, and that Ms O'Neill had retaliated with one punch.
44. The testimony of Leena Khamis was that she had never thrown a punch, and that neither had Linda O'Neill. She explained that she had pushed against Ms O'Neill in an effort to disentangle herself.
45. Linda O'Neill claimed that she herself had not thrown any punches but had only pushed away the fists of Leena Khamis as she was punched near the face and neck.
46. Two attempts were made to contact Match Commissioner Brett Hill without success, so the Tribunal was unable to test his evidence vis-à-vis punches by the two players.
47. The tackle by Ms O'Neill and the subsequent close proximity of Ms O'Neill and Ms Khamis appears to have been the reason the remainder of the players ran toward the incident. Unfortunately there is no photographic or video evidence of that part of the incident and we are left to make a determination on the balance of probability based on evidence which differs significantly between sources.

48. Since there are potentially adverse impacts on the reputation and/or livelihood of one or more senior players subject of complaint, the Tribunal must be satisfied that there is sufficient evidence to prove the allegations made. In this case the Tribunal was unable to be satisfied that there were punches thrown by Leena Khamis or Linda O'Neill.
49. The Tribunal notes, however, that the pushes that may have been mistaken for punches would fall beneath the standard of conduct expected of professional or semi-professional players.
50. The fact that witnesses provide contradictory evidence does not necessarily mean one or more are not being truthful, and it can be the case that witnesses provide evidence in good faith that a Tribunal does not ultimately accept in its final determination.
51. The video evidence that was provided showed about ten seconds of the incident. It did not show anything that appeared to be violent in nature, and was useful only as far as establishing that the goal keepers of both teams approached the group of players near the centre of the field.
52. Photographs of the incident were deemed to show too little of the incident to properly contextualise. Certainly it was not sufficiently evident that the violence alleged is occurring in the photographs to make determinations of guilt.
53. Players and officials from both teams were surprised that the game had been abandoned. Assistant Referee Caitlin Hort said that several players had approached her politely after the game had been abandoned to ask why.
54. The Tribunal determined that the majority of the players approaching the incident acted in a way consistent with trying to protect their team mates. We hasten to add, however, that any incident such as this should be left to match officials to control, and that approaching an incident is far more likely to escalate it than diffuse it. There is no evidence that the brief exchange between two players was a life or death situation. In any event, attempts to protect one's team mates should be constrained to touching *only* one's team mates. We trust that both Clubs will continue to educate their participants on the appropriate conduct in such situations.
55. The report of Match Commissioner Brett Hill was that both Clubs had had the required number of Jacketed Officials; they had both complied with Technical Area regulations; and that the behaviour of Team Officials and Club Officials was "good". There is no evidence that anyone from outside the field of play entered the field of play or did anything else to become involved. As such, the Tribunal was unable to determine that either Club was guilty of failing to provide a safe environment, or of bringing the game into disrepute.

G. Right of Appeal

56. Aggrieved parties to a determination of the FNSW General Purposes Tribunal may lodge an appeal to the FNSW Appeals Tribunal in accordance with articles 8.6 and 9.2 of the FNSW Grievance and Disciplinary Regulations. Any appeal must be submitted on the Notice of Appeal form (Prescribed Form 13) to tribunal@footballnsw.com.au with the relevant Application Fee (\$750) within seven (7) working days of the Final Determination of the GPT being sent to the Club.

Andrew Barnes
Chairman
31 August 2015