

PRELIMINARY DETERMINATION.

Reference is made to the following Tribunal:

Date of the Tribunal	12 October 2017
Tribunal that heard the case	General Purpose Tribunal (GPT)
Tribunal reference number	17/46
Tribunal Members	Ben Jones (Chair), Louis Fayd'herbe Tyrone Dutt
Venue of Tribunal	FNSW Headquarters
Time of Tribunal	6:30pm
Respondent	APIA Leichhardt Tigers FC

This document constitutes a Preliminary Determination under section 9.5(g) of the Football New South Wales (FNSW) Grievance and Disciplinary Regulations 2017 (**Regulations**), resulting from the GPT listed above. Pursuant to section 9.5(h) of the Regulations, the GPT determined not to issue a Final Determination in relation to this matter.

Charges

The Respondent was charged by FNSW under sections 9.2 and 16.4 of the Regulations for alleged breaches by the Respondent of sections 16.4(d) of the Regulations, namely:

- Schedule 3, Table C, Offence Code 14-01 - instigator of a violent melee; or
- Schedule 3, Table C, Offence Code 13-01 - participating in a violent melee; or
- Schedule 3, Table C, Offence Code 12-01 - instigator of a melee (non-violent); or
- Schedule 3, Table C, Offence Code 11-01 - participating in a melee (non-violent).

The charge related to a melee which occurred between the Respondent's players and Sydney United 58 FC (SU) at Lambert Park on 26 August 2017 during a National Premier League U20s match.

Evidence

FNSW provided video evidence of the incident which clearly demonstrated that a melee had taken place (**Video**). The Respondent's players were clearly identifiable in the Video. The Video showed that the Respondent's Players were involved in the melee and that the melee had been instigated by a number of players from the Respondent's club who came from different areas of the field to become involved in the initial incidents.

Submissions of the Respondent

The Respondent acknowledged that its players had participated in the melee, and submitted that the melee was not violent as its players did not engage in any violent conduct. The Respondent made no submissions as to who was responsible for instigating the melee, and noted that they were not aware of the Regulations requiring them to assume responsibility for the actions of their players in the circumstances at hand.

Following acknowledgement of its player's involvement in the melee, the Respondent submitted that they should be sanctioned with the minimum sanction available.

In support of this submission, the Respondent made reference to the Club's good standing in relation to disciplinary matters, and to the assistance they had sought to provide FNSW with this matter, evidenced by the fact that it had provided FNSW with the Video despite it showing the melee. The Respondent also pointed to its club representatives on the Video who were visibly attempting to disrupt and disperse the melee.

Determination of the GPT

Section 16.6 of the Regulations provides that a Club is deemed to have committed an offence under section 16.4 of the Regulations where one of its participants has allegedly committed any offence outlined in section 16.4. In a related matter, FNSW has alleged that at least one of the Club's participants has committed an offence in relation to the melee outlined in section 16.4. The relevant participant was found guilty of that offence, such that the Respondent is deemed to have committed the offence themselves.

1. The GPT determined that a melee had occurred and accepted the admission from the Respondent that its players had been involved in a melee.
2. The GPT determined that the Respondent's players had instigated the melee as it was their players who had been the initial persons to join the original incident and cause it to escalate. Were it not for the Respondent's players becoming involved in the original incident the melee is unlikely to have occurred.
3. The GPT determined that the melee was a non-violent melee as there was insufficient Video evidence to establish that violent conduct had occurred.

Based on the above, the GPT found the Respondent guilty of breaching the Regulations, through the instigation of a melee by its players and the participation by its players in a non-violent melee.

Sanction

Subject to section 13.12 of the Regulations, section 9.5(c) of the Regulations requires the sanction imposed by the GPT in respect of an offence not to be below the applicable minimum sanction or suspension. The minimum sanction for the established breaches of section 16.4(d) of the Regulations, by way of Schedule 3, Table C:

- Offence Code 11-01, is \$500; and
- Offence Code 12-01, is \$1000.

Having regard to the submissions provided by the Respondent, acknowledging that the objective seriousness of the incident was at the lower end of the spectrum, the Respondent's good disciplinary record and their openness to admit participation in the melee, the GPT further determined that the Respondent be issued with the minimum suspension in relation to the breaches.

The Respondent is therefore fined:

- \$500 in relation to the participation of its players in a non-violent melee; and
- \$1000 in relation to the instigation of a non-violent melee by its players,

(together, the **Fine**).

The GPT directs the Respondent to section 13.25 of the Regulations, and in particular the requirement to pay the Fine within thirty (30) days after the date on which this determination is issued to it.

Additional Matters

The GPT notes that each club is responsible for the conduct of its players encourages each club to communicate this with its players.

Pursuant to section 13.17 of the Regulations, the Respondent is to pay the costs of the GPT process as assessed by Football NSW.

The Respondent may appeal this Preliminary Determination of the GPT to the Appeals Tribunal in accordance with the Regulations, and in particular section 9.6. Any appeal must be submitted on the Notice of Appeal form (Prescribed Form 12) to tribunal@footballnsw.com.au with the relevant Application Fee (\$750), within 7 days of this Preliminary Determination of the GPT being issued by Football NSW.

Sincerely,

Ben Jones
Vice Chair
GENERAL PURPOSES TRIBUNAL