

PRELIMINARY NOTICE OF DETERMINATION.
3rd August 2020

Reference is made to the following Tribunal:

1. Date of the Tribunal	28th July 2020
2. Tribunal that heard the case	General Purpose Tribunal (GPT)
3. Tribunal reference number	GPT 19-39
4. Tribunal Members	David LEWIS (Chair), Mendo CKLAMOVSKI Jacquie SEEMANN
5. Venue of Tribunal	88 Pitt Street Redfern Board Room & via Video
6. Time of Tribunal	6.30pm
7. Respondent	Player X

This document constitutes a Preliminary Notice of Determination resulting from the Tribunal hearing listed above.

Charges against the **Respondent** under Sections 9.2 and 16.4 of Football NSW Grievance and Disciplinary Regulations 2019 for alleged breaches of the Football NSW Regulations and the FFA Code of Conduct related to incidents during the Champions of Champions U17 Match between Auburn Sports Club (the **Club**) and Narellan Rangers Soccer Club at Lynwood Park on 22 September 2019.

Summation of the Tribunal:

The Tribunal found that the evidence and submissions:

Supported the Charge brought against the Respondent.

Charges and Pleadings:

Charge 1

During the Champions of Champions U17 Match between Auburn Sports Club and Narellan Rangers Soccer Club at Lynwood Park on 22 September 2019, Auburn Sports player, Player X (#14), (**Respondent**) was shown a Red Card for Violent Conduct. The Respondent violently assaulted three (3) opposition Players causing bodily harm.

This conduct was alleged to be in breach of Section 16.4(d) of the Football NSW Grievance and Disciplinary Regulations – Schedule 3, Table A, R2, Offence Code 04-01 – *“Serious Violent Conduct that has caused bodily harm or responsibility for a Melee (Grade 2)”*.

Pleadings & Evidence

The Respondent pleaded GUILTY to the Charge in his Notice of Response to FNSW.

FNSW supplied a video of the relevant incidents at the Hearing.

The Referee, who was in close proximity to the Respondent at all relevant times, and who had a clear view of the incident, wrote in his report:

“After sending off Number 13 for Auburn, he pushed the head down of the Ranger player he fouled, players came and separated players. Whilst this is going on Number 14 for Auburn comes in and starts to push at random Rangers players and starts to throw punches and kicks in which he brings his knee to his chest and extends from the chest. His team mates grab him and try to pull him away but he goes back again and players with the same kick until he again gets away from players and lands a kick to a Rangers chest/face area before being pulled away by players. I showed him a straight red in the 39th minuet (sic.). All up he threw 3 kicks and punches.”

At the Hearing the Respondent advised that he was no longer registered at Auburn Sports Club and had trialled and trained with Parramatta FC since November 2019. He was represented by Ms Susy Bruneau from Parramatta FC.

The Respondent gave evidence by written statement and in person via video. He admitted the offence and sincerely apologised for his behaviour and actions. He did not challenge any of the evidence tendered to the Tribunal and simply sought to be heard on the issue of the sanction that would be applied to him given his plea of Guilty.

The Respondent gave evidence that at the time of the events in question he was with the wrong crowd and that he felt pressured to support them and that he expressed this in an unacceptable way. He stated that he now understood that his actions were completely unacceptable and that he had taken steps to improve himself.

Ms Bruneau from Parramatta FC gave evidence that her club had shown an interest in the Respondent signing with them after he attended trials in November 2019. At that time they had no idea that he was the subject of an investigation by FNSW and potentially liable to a suspension. It was only when they attempted to register the Respondent that they became aware of the current matter. The Charge was not issued until 12 February 2020.

Parramatta FC expressed a strong desire to support the Respondent and they still wished to register him with their club. They confirmed the evidence given by the Respondent and gave him a strong character reference.

Determination of the Tribunal

The Tribunal found the Respondent **GUILTY** of Charge 1.

Whilst noting the contrition of the Respondent and his early guilty plea, the Tribunal found that the actions of the Respondent were violent, repeated and without justification of any kind. The Respondent had to be restrained by his teammates from whom he broke free so he could further assault opposition players. Three opposition players were injured and it was only good luck that they did not suffer more serious injury. Therefore, a significant suspension was warranted.

The Respondent had asserted in his initial written response to the Charge that he was provoked by racist taunts from the opposition team. In response, the Tribunal noted that whilst racist conduct of this nature was totally unacceptable, a violent response was also totally inappropriate. The Respondent said that he understood this now.

The Tribunal had no other evidence before it of the alleged racist taunts from the opposition team and made no findings in relation to this allegation.

However, the Tribunal was impressed both with the Respondent and Ms Bruneau from Parramatta FC and that club's commitment to provide ongoing support to the Respondent.

As a result the Tribunal determined that there are exceptional circumstances to be considered in imposing sanctions on the Respondent.

Sanctions Imposed

In relation to Charge 1, the Tribunal found that the actions of the Respondent constituted an offence under Schedule 3, Table A, R2, Offence Code 04-01 - *"Serious Violent Conduct that has caused bodily harm or responsibility for a Melee (Grade 2)"*.

1. The Respondent is suspended from 23 September 2019 for a period of **eighteen (18) months**. His Red Card is to be treated as part of the same incident consistent with the principle of totality.
2. In recognition of the Respondent's:
 - (a) sincere contrition;
 - (b) his age;
 - (c) his significant actions to rehabilitate himself; and
 - (d) the outstanding assistance of the Parramatta Club to support and assist him;

the Tribunal has exercised its discretion under section 15.5(c) of the FNSW Regulations to the benefit of the Respondent.

Notwithstanding the "non-playing period" that is excluded from any Time Suspension, all time will be counted in his suspension during the 18 months. This would mean that his suspension commences on 23 September 2019 and terminates on 22 March 2021.

3. The Tribunal will permit The Respondent to train with the Parramatta Club during his suspension, provided that FNSW facilitate his registration with that Club and the Tribunal recommends that it does so, as well as play in any trial and pre-season matches. The Respondent may also act as a mentor to younger players at that Club during this period in any manner that the Parramatta Club deems appropriate subject to the exclusions noted below.

4. The Respondent could therefore recommence playing in FNSW competitions from 23 March 2021.

5. For the balance of the 2021 season the Respondent will be placed on a good behaviour bond so that if he is found guilty of a Violent Conduct charge an additional year's suspension will be added to any sanction imposed by any later Disciplinary Committee.

The Tribunal wishes to commend the Parramatta Club for its support of the Respondent and it is congratulated for the role that it is clearly taking to assist the Respondent at a difficult time in his life.

The Respondent is to serve the Time Suspension generally in accordance with section 15.5 of the FNSW Regulations save for the exceptions noted above.

For clarity, the Respondent is free to train with the Parramatta club during the Time Suspension, attend matches and may play in both Trial and pre-season matches. He may also spectate during the Time Suspension however he may not do any of the other activities set out in section 15.5(e) (i) to (iii) or (v) and (vi).

Fines Imposed

NIL.

Bonds Imposed

Good Behaviour Bond as above.

Additional Matters and Fees as per the Notice of Costs:

The Respondent is to pay the costs of the Tribunal process as assessed by Football NSW. A full written Determination will not be produced.

Aggrieved parties to a determination of the FNSW General Purposes Tribunal may lodge an appeal to the FNSW Appeals Tribunal in accordance with sections 9.6 and 10 of the FNSW Grievance and Disciplinary Regulations. Any appeal must be submitted on the Notice of Appeal form (Prescribed Form 12) to tribunal@footballnsw.com.au with the relevant Application Fee within 7 working days of the Preliminary Determination of the GPT (or the Final Determination, where the GPT has indicated one will be issued) being sent to the Respondent.



**David P. Lewis
Chairman**

Football NSW Limited

PO Box 6146, Baulkham Hills BC NSW 2153 | 235 – 257 Meurants Lane, Glenwood NSW 2768
Phone: +61 2 8814 4400 | Fax: +61 2 9629 3770 | www.footballnsw.com.au | ABN 25 003 215 923

GENERAL PURPOSES TRIBUNAL

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PO Box 6146, Baulkham Hills BC NSW 2153 | 235 – 257 Meurants Lane, Glenwood NSW 2768
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