

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

GPT 17/21

Date of Hearing	By Submission
Date of Final Determination	8 September 2017
Respondent	Mr X, Participant, U16 Rockdale City Suns FC
Attendees, Witnesses & Documents	This matter was heard in absence of the Participant, with consent, on the basis of submissions by the Participant, FNSW and on evidence submitted by both parties.
The basis upon which the matter is before the General Purposes Tribunal	Football NSW Grievance and Disciplinary Regulations Section 9.2, 16.4(d), FFA Code of Conduct and Football NSW Competition Regulations.
Key Words/Phrases	Violent Conduct, Headbutt to opposing player from behind, Length of Suspension due to age of Participant.
General Purposes Tribunal Members	Mr David P. Lewis (Chair) Mr Ben Jones Mr Tyrone Dutt

A. INTRODUCTION AND JURISDICTION

1. The General Purposes Tribunal (GPT) has been established by Football NSW (FNSW) pursuant to Section 4 of the Football NSW Grievance and Disciplinary Regulations (“Regulations”). This matter was determined pursuant to the 2017 Regulations: The GPT may impose sanctions in accordance with Schedule 3 of the Regulations.

B. NOTICES OF CHARGES

2. On 23 June 2017, Football NSW (FNSW) issued a Notice of Charge on the Respondent, Mr X, a Participant with the U16 team from Rockdale City Suns FC relating to his conduct during the NPL Youth U16s grade match between Rockdale City Suns FC and Manly United FC at Linden Sports Centre on 17 June 2017.
3. The Notice to the Respondent specified the following charge:
4. “During the National Premier League Youth (NPL Youth) U16s match between Rockdale City Suns FC and Manly United FC at Linden Sports Centre on 17 June 2017, X (the **Participant**) headbutted the back of the head or neck of a Player from Manly United FC.”
5. The Respondent was charged under section 9.2 of Football NSW Regulations (Regulations) for alleged breaches by the Respondent of sections 16.4(d) of the Football NSW Grievance and Disciplinary Regulations 2017, namely Schedule 3, Table A, Offence Code 03-01:

Proposed Sanction

6. Under the Regulations, Football NSW has a discretion to deal with matters without taking the matter to a hearing, provided the Participant agrees to plead guilty to the charge proposed. If the Participant does not agree, then the matter will proceed to a hearing.
7. After reviewing the reports and evidence provided, and based on reference to other similar matters dealt with by Football NSW, the Respondent was offered the following sanction by FNSW in respect of the Charge if the Respondent agreed to plead guilty to the Charge:
8. **Charge One** – a suspension from all Football Related Activity for a period of nine (9) months.
9. The Respondent declined this offer. He pleaded Guilty to the Charge and stated in his Notice of Response: *“I accept the charge and plead guilty but wish to challenge the proposed sanction.”*

C. THE HEARING

10. The Tribunal and the Participant agreed to have this matter determined by way of written submission thereby obviating the necessity for a Hearing.
11. The Participant tendered two written submissions through his Solicitor, Mr P. Vergotis dated 28 July (Submission 1) and 31 August 2017 (Submission 2).
12. Football NSW tendered undated submissions to the Tribunal on or about 4 August 2017.

D. BACKGROUND, SUBMISSIONS & EVIDENCE

13. Video evidence clearly showed that the Respondent had headbutted an opposing player in the back of his head or neck from behind. The opposing player was not facing the Respondent and did not see the assault coming.

14. The Respondent did plead Guilty at the first opportunity and has sought to mitigate the FNSW proposed sanction of nine (9) months suspension on the basis set out in both submissions.
15. The Respondent has also sought to distinguish his conduct from other matters brought before the Tribunal as well as other sports tribunals.

E. CONSIDERATION & DETERMINATIONS

16. Whilst the Tribunal has taken note of all the matters raised in Submission 1, we specifically refer to the response in Submission 2 as that document deals with the FNSW Submission to the Tribunal on the appropriate sanction to be applied in this matter. The references below to Paragraph numbers are those taken from Submission 2. The Tribunals response to the matters raised by the respondent are as follows:
 17. Paragraph 9
The Respondent submitted that R1 and R2 Red Card Offences were not materially different. The Tribunal rejected that submission for the reasons stated by FNSW.
 18. Paragraph 13
The Respondent submitted that the action of pushing by the Manly Player was relevant to the sanction that should be issued by the Tribunal to the Respondent. This is not relevant to the conduct with which the Respondent was charged and the Tribunal dismissed this submission.
 19. Paragraph 19(d)
This is a submission by FNSW and does not require 'expert evidence' as suggested by the Respondent particularly as the Tribunal is not a Court of Law. The Tribunal should and will give relevant weight as is appropriate.
 20. Paragraph 19(f)
The Respondent's submission that the contact by the Respondent "was not severe nor was it malicious" is rejected as it is clear from the video that the FNSW submission is supported by the evidence.
 21. Paragraph 21(c)
Whilst the state of mind of the Respondent cannot be discerned from the video, that video speaks for itself and the Tribunal has applied appropriate weight to this submission.
 22. Paragraph 21(e)
The Respondent's submission that expert evidence is required is rejected as it is clear from the video that the FNSW submission is supported by the evidence.
 23. Paragraph 21(f)
The Respondent's submission that expert evidence is required is rejected as it is clear from the video that the FNSW submission is supported by the evidence.
 24. Paragraph 22
The Tribunal has made its Determination based on a range of matters principally from the video evidence. The crux of FNSW's submission in this Paragraph is that the action of the Respondent was taken whilst the MUFC Player had his back turned to the Respondent. The Respondent's submission that expert evidence is required is rejected.
 25. Paragraph 23
FNSW's submission in this paragraph is valid and was considered by The Tribunal based on previous sanctions issued by the Tribunal.

26. Paragraph 24

The Respondent's submission in relation to the nature of R1 and R2 offences is rejected as it is clear from the video that the FNSW submission is supported by the evidence. The lack of divergence in the maximum penalty range for these offences is not a basis for a claim that they are identical offences.

27. Paragraphs 25 & 26

These precedents are relevant insofar as they exhibit the length of Suspension issued to Players and a Team Official. The Tribunal uses precedents to assist with the length of Suspension imposed as well as the Regulations.

28. Paragraph 27

The Tribunal has recourse to many resources in reaching a decision on an appropriate sanction. We stress that the Tribunal is not a court of law and executes its function in accordance with the Regulations, past precedent as well as other FFA documents.

29. Paragraph 28

The Tribunal noted that the Respondent had been stood down by his club and had not played in any competition matches since 17 June 2017.

30. Paragraph 30

The Tribunal considered the Respondent's subjective features in making this Determination.

31. Paragraph 31

As noted above, the Tribunal takes into account many things including sanctions handed down since 2005 albeit subject to the 2017 FNSW Regulations.

32. Paragraph 32

The Respondent submitted that a 9 month sanction would be excessive and serve no useful purpose given the age and personal circumstances of the Respondent. This submission was noted and was considered.

F. FINDINGS

33. The Tribunal found the Respondent **Mr. X GUILTY** of the Charge.

34. The Tribunal was satisfied that the Respondent's conduct was at the higher end of the scale given that it was:

- an R2 offence, that is Violent Conduct (ball out of play); and
- an assault on the Player from behind and that increases the severity.

35. The behaviour of the Respondent was unacceptable and was found to be in breach of FNSW Regulations.

36. The Tribunal accepts that the Respondent has been stood down since 17 June 2017. Subject to confirmation from FNSW that the Respondent has not participated in any Football Related Activity from this date, the Respondent will commence his suspension from that date. The Respondent is therefore suspended for a period of nine (9) months starting on 17 June 2017 and ending on 16 March 2018.

G. SANCTIONS

37. The Tribunal imposed sanctions on the Respondent under Schedule 3, Table A, Red Card Grading: R2, Offence Code 03-01 - *"Serious and/or premeditated Violent Conduct when the ball is not in play or playing distance"*.

38. The Respondent is suspended for **nine (9) months** from ALL Football Related Activities in relation to Charge 1 to be served in accordance with Section 15 of the Regulations.
39. Given that the Respondent did not accept the sanction proposed in the Notice of Charge, it is open to the Tribunal, and usual for the Tribunal, to impose a longer sanction. The age of the Respondent has been considered to be a mitigating factor and therefore the Tribunal has determined to only impose the FNSW proposed sanction.
40. The Tribunal determined that the Respondent also pay the costs of the Tribunal processes as determined by FNSW.

Aggrieved parties to a determination of the FNSW General Purposes Tribunal may lodge an appeal to the FNSW Appeals Tribunal in accordance with articles 9.6 and 10 of the FNSW Grievance and Disciplinary Regulations 2017. Any appeal must be submitted by completing the online Notice of Appeal form (Prescribed Form 12) to tribunal@footballnsw.com.au with the relevant Application Fee within seven (7) working days of this Final Determination being issued.



David P. Lewis

Chairman

8 September 2017

The Schedule

Index of Documents

FOOTBALL NSW RULES AND REGULATIONS	Football NSW Grievance and Disciplinary Regulations
ANNEXURE A	Video of Incident
STATEMENT #1	Statement#1 of Response for the Respondent by Paul Vergotis (Solicitor) dated 28 July 2017
FNSW SUBMISSION	Submission by Lorenzo Crepaldi for FNSW (Undated)
STATEMENT #2	Further Statement#2 of Response for the Respondent by Paul Vergotis (Solicitor) dated 31 August 2017
ANNEXURE MO1	Match Official Report – Vinzelett Vine (Referee) dated 21st June 2017
ANNEXURE MO2	Match Official Report – Manwel Liminios (Assistant Referee) dated 22nd June 2017
ANNEXURE MO3	Match Official Report – Joel Perry (Assistant Referee) dated 17th June 2017