

FINAL NOTICE OF DETERMINATION
6 July 2023



Reference is made to the following Tribunal:

1. Date of the Tribunal	4th July 2023
2. Tribunal that heard the case	General Purpose Tribunal (GPT)
3. Tribunal reference number	GPT 23-04
4. Tribunal Members	David LEWIS (Chair) Anthony SCARCELLA Mendo CKLAMOVSKI
5. Venue of Tribunal	Football NSW
6. Time of Tribunal	6.00pm
7. Respondents	Macarthur Rams FC & Bonnyrigg White Eagles FC
8. Key Words	Disciplinary Regulations: Schedule 3, Table C, Offence Code 11-01 - <i>“Participating in a Melee (Grade 1)”</i> . Schedule 3, Table C, Offence Code 12- 01 - <i>“Instigator of a Melee (Grade 1)”</i> . Competition Regulations Section 2, Article 31 <i>“Abandoned Matches”</i> .
9. Finding & Recommendations	Macarthur Rams FC Club Officials were responsible for the abandonment of the Match.

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

Charges against the **Respondents** under Sections 9.2, 16.4 and 16.6 of Football NSW Grievance and Disciplinary Regulations 2023 for alleged breaches of the Football NSW Regulations related to incidents during a Football NSW League One Men’s First Grade match between Macarthur Rams FC (MRFC) and Bonnyrigg White Eagles FC (BWEFC) on 11 February 2023 at Lynwood Park.

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Summation of the Tribunal:

The Tribunal was asked to:

- (a) determine whether the Club or Clubs were responsible for the abandonment of the Match; and
- (b) recommend to Football NSW whether any charges should be brought against Participants from either or both Clubs.

The Respondents were also charged with being an Instigator of or Participating in a Melee.

High quality video of the Match was made available to the Tribunal. The Tribunal found that the evidence and submissions:

Supported that Charge brought against the Respondents in that it found both the Respondents had Participated in a Melee.

Charges and Pleadings:

Charge 1

In or around the 94th minute of the League One Men's 1st Grade match between Macarthur Rams FC (MRFC) and Bonnyrigg White Eagles FC (BWEFC) at Lynwood Park on Saturday, 11 February 2023 (**Match**) a melee/confrontation ensued between Players and Team Officials of both clubs.

Players and/or Team Officials of MRFC and BWEFC instigated and/or participated in that melee/confrontation.

Both Respondents conceded that they Participated in a Melee and both submitted that the Melee was very short, 39 seconds, and was minor in nature and effect.

Football NSW charged the Respondents under:

- Schedule 3, Table C - Offence Code 11-01 "*Participating in a Melee (Grade 1)*"; or, in the alternative,
- Schedule 3, Table C - Offence Code 12-01 "*Instigator of a Melee (Grade 1)*" or, in the alternative,
- Section 16.4(d) and section 17.9(b)(iv) (Team Misconduct) of the Football NSW Grievance and Disciplinary Regulations, or in the alternative,
- Section 16.4(f) and/or section 16.4(g) and section 16.6 (Misconduct - Club Liability) of the Football NSW Grievance and Disciplinary Regulations.

The Football NSW Notice of Charge incorrectly listed "*Instigator of a Melee (Grade 1)*" under Schedule 3, Table C - Offence Code 10-01. The correct Offence Code is 12-01.

Pleadings

Bonnyrigg White Eagles FC (BWEFC) pleaded GUILTY to the Charge of Participating in a Melee in its Notice of Response to Football NSW.

Macarthur Rams FC (MRFC) pleaded NOT GUILTY to the Charge of Participating in a Melee in its Notice of Response to Football NSW. However, MRFC changed that plea to GUILTY before the Tribunal.

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Bonnyrigg's Evidence

Bonnyrigg tendered written statements from several Players and Club Officials. These statements all denied responsibility for Instigating the Melee.

Bonnyrigg was represented by Mr George Mandic, Head of Football and Club Director and Mr Dusan Zivanovic, Club Director.

Messrs Mandic and Zivanovic restated that position and denied that Bonnyrigg was responsible and they relied on the video evidence to substantiate that claim.

Bonnyrigg did not call any of their witnesses to give oral evidence and Football NSW did not seek to cross examine any of these witnesses. The Tribunal agreed that it was unnecessary to take oral evidence.

Macarthur's Evidence

Macarthur tendered written statements from:

Mr Brett Hewit, Head Coach, Senior Men;
Mr Brevis Ashton, Men's Senior Convenor;
Mr Michael Giusti, Chairman; and
Mr Paul Bertolissio, Head of Football

These statements also denied responsibility for Instigating the Melee.

In **Mr Brett Hewit's** written statement, he notes in paragraph 7:

"As a result of the whistle and numerous persons on the pitch [substitutes, physios, etc.], I formed the view that the game had ended supported by the standard practice for the end of a game for the assistant referee to enter the field of play and join the match referee. My immediate concern in these circumstances was the duty of care for my injured player (#3 Alex Golan) as this was his first start since a meniscus operation in 2022."

Macarthur was represented by Mr Michael Giusti, Mr Paul Bertolissio and Ms Aimee Perfremment, Board Member.

Messrs Giusti and Bertolissio claimed that there was confusion when the Referee sought medical attention for the injured Bonnyrigg Player as to the status of the Match. They asserted that they also thought the Match had been terminated by the Referee and they explained Mr Hewit's decision to enter the Field of Play on that basis.

They conceded that Mr Hewit had entered the Field of Play without permission of the Referee however sought to claim that several Bonnyrigg substitutes had done likewise.

In **Mr Brevis Ashton's** written statement, he notes:

"..... my attention was drawn to the middle of the field as our First Grade Coach, Brett Hewit, was walking out onto the field.

Once reaching the middle of the field it appeared that Brett had been asked by the Referee to leave and he started to walk back to our technical area.

Two Bonnyrigg players were yelling at Brett as he was walking back and one of them pushed him. This action sparked a melee between players from both sides.

There were more players joining the melee and I held concerns for Brett's safety as I could see he was being pushed around by Bonnyrigg players.

Once I noticed a Bonnyrigg official and bench player coming onto the field and run towards the melee I came on with the intention of de-escalating the situation.

Whilst approaching the melee I was yelling at players to back away.

On reaching the melee I identified a Bonnyrigg player who appeared to have lost control of his behaviour. I have bent down to pull him back from the others and we have clashed heads. Whilst still holding onto this player I have then been pushed, grabbed and punched from behind.

I have felt myself starting to fall after being pushed and I let go of the player. When hitting the ground I have struck my head on the field surface.”

Video Evidence

The video clearly shows Mr Hewit walking slowly to the centre circle to converse with his players. As a few Bonnyrigg Players direct Mr Hewit to leave the Field of Play, words appear to be exchanged between Bonnyrigg and Macarthur Players leading to some pushing and grabbing that is clearly instigated by number 16 of Macarthur and then other players rush in and the formation of the Melee. At that stage the Melee is minor.

Mr Ashton’s entry to the Field of Play and his actions, as clearly seen on the video, are considerably different to his written evidence.

He clearly leads with his head in a dangerous and provocative manner towards one of the Bonnyrigg Players in what looks very much like an attempted headbutt.

Verbal evidence from Messrs Giusti and Bertolissio prior to viewing this event attempted to claim that Mr Ashton “fell” into the Bonnyrigg Player as he approached him. On viewing the video both Messrs Giusti and Bertolissio refreshed their memory and agreed that their recollection was incorrect and that Mr Ashton did in fact lead with his head.

Shortly after this incident, the Referee blew his whistle three (3) times to indicate that the Match was terminated.

Questions from the Tribunal

The Tribunal asked Messrs Giusti and Bertolissio from Macarthur why they thought the Match had terminated prior to Mr Hewit’s entry onto the Field. They claimed that the entry onto the Field by one of the ARs was consistent with the end of the Match.

The Tribunal asked them if they were familiar with the traditional three blasts of the whistle that always signals the end of a match and of course they were. As this did not happen until during the Melee and the fact that both Messrs Giusti and Bertolissio as well as Mr Hewit were all acknowledged highly experienced football people, the Tribunal could not accept this evidence as credible.

Further, the claim that the Bonnyrigg substitutes who were attending to the injured player were also guilty entering the Field of Play without permission of the Referee was rejected.

Determination of the Tribunal

The Tribunal was satisfied that the conduct as described in Charge 1 took place in that both Clubs participated in a Melee. As a result, the conduct was a breach of Schedule 3, Table C - Offence Code 11-01 “*Participating in a Melee (Grade 1)*”.

Both Respondents agreed that they were **GUILTY** of Charge 1.

The Tribunal was however asked to:

- (a) determine whether the Club or Clubs were responsible for the abandonment of the Match; and
- (b) recommend to Football NSW whether any charges should be brought against Participants from either or both Clubs.

It was clear to the Tribunal that, but for the actions of Mr Hewit entering the Field of Play prior to the completion of the Match, it is highly unlikely that the Melee would have taken place.

In fact, there was verbal evidence from both Clubs that the relationship between the teams and Clubs was strong and positive and that this Match had been played in very good spirit.

Further, when the Bonnyrigg Player was injured in the 91st minute, the video shows that it was a Macarthur Player who first went to his aid and quickly called for play to be halted so that medical attention could be provided. The Macarthur Goal Keeper was the second Player to assist. Clearly these were the actions of professional and respectful players.

Yet, Mr Hewit, by entering the Field of Play inappropriately, inflamed matters. A Macarthur Player, Michael Osei-Adomako, number 16, grabs and confronts a Bonnyrigg Player, probably Mason Versi, thereby leading to the Melee.

Mr Hewit is therefore the catalyst of the Melee and therefore Macarthur Rams is responsible for the abandonment of this Match.

Mr Ashton, also of the Macarthur Club, significantly inflames the Melee, as noted above, leading to the referee to exercise his discretion to abandon the match.

Both Messrs Hewit and Ashton should be charged by Football NSW with relevant offences under the Football NSW Grievance and Disciplinary Regulations.

Sanctions Imposed

The Tribunal imposed the following sanctions on both Respondents:

1. A fine of \$500 payable within 30 days; and
2. Football NSW should apply Section 2, Article 31 of its Competition Regulations in accordance with its Rules.

Fines Imposed

\$500 per Club.

Bonds Imposed

NIL.

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Additional Matters and Fees as per the Notice of Costs:

The Respondents are directed to pay the full costs of the Tribunal process as assessed by Football NSW.

APPEAL PROVISIONS

1. **Aggrieved parties to a determination of the FNSW GPT may lodge an appeal to the FNSW Appeals Tribunal in accordance with sections 9.8 and 10 of the GDR. 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 the issue of this Final Notice of Determination to Respondent.**
2. **The FNSW Appeals Tribunal may vary, by way of reduction or increase, any sanction, measure or order imposed by the FNSW GPT without the necessity to provide any prior notice to any party to the appeal of its intention to do so.**



David P. Lewis
Chairman
GENERAL PURPOSES TRIBUNAL