

FINAL NOTICE OF DETERMINATION
22 March 2023

Reference is made to the following Tribunal:

1. Date of the Tribunal	21st March 2023
2. Tribunal that heard the case	General Purpose Tribunal (GPT)
3. Tribunal reference number	GPT 23-08
4. Tribunal Members	David LEWIS (Chair) Ben JONES Lara NURPURI
5. Venue of Tribunal	Football NSW
6. Time of Tribunal	6.30pm
7. Respondent	Player X
8. Key Words	Serious Foul Play, Schedule 3, Table A, R1, Offence Code 05-01 – <i>“Conduct causing serious injury”</i> . <i>Guilty plea.</i>
9. Finding & Sanction	Guilty Suspended for twelve (12) Fixtures, three (3) suspended.

This document constitutes a Final 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 2022 for alleged breaches of the Football NSW Regulations and the FA National Code of Conduct and Ethics related to incidents during a Football NSW Boys’ Youth League One U15’s match between SD Raiders FC (**SDFC**) and Apia Leichhardt FC (**APIA**) on 18 February 2023 at Ernie Smith Reserve Field No 1.

Summation of the Tribunal:

The Respondent pleaded GUILTY to the Charge and the Tribunal found that the evidence and submissions:

Supported the Charge brought against the Respondent.

Charges and Pleadings:

The Charge

In or around the 44th minute of the Football NSW Boys' Youth League One U15's match between SD Raiders FC (SDFC) and APIA Leichhardt FC (APIA) on 18 February 2023 at Ernie Smith Reserve Field No. 1 (Match), Player X (Respondent) attempted to challenge for the ball by engaging in a sliding tackle at high speed with excessive force and with studs showing, making contact with the upper part of the right ankle of the APIA Player, Player Y, resulting in the APIA Player sustaining a broken tibia and fibula.

This conduct was alleged to be in breach of Section 16.4(d) of the Football NSW Grievance and Disciplinary Regulations 2023:

Schedule 3, Table A, Offence Code 05-01 – *“Serious Foul Play - Conduct causing serious injury”*.

The Respondent was initially shown a Yellow Card however on the advice of AR2 to the Referee this was upgraded to a Red Card as the Referee's view at the moment of contact was obscured.

On 3 March 2023, Football NSW issued the Respondent with a Notice of Interim Suspension, suspending the Respondent from playing in any Fixture for SDFC until advised otherwise by Football NSW.

Pleadings & Evidence

The Respondent pleaded GUILTY to the Charge in his Notice of Response to FNSW and at the earliest opportunity.

High quality video evidence was available and the Tribunal was able to view the actions of the Respondent. However, the actual moment of contact of the foot of the Respondent with the Apia player is hard to see. Notwithstanding this fact, the speed and “nature” of the tackle is clear.

Football NSW Submissions Prior to the Hearing

Football NSW did not propose a sanction and instead directly referred the matter to the General Purposes Tribunal for hearing.

Match Officials' Evidence

The Respondent accepted the evidence of the Match Officials and did not wish to challenge that evidence with the exception that he noted that the video did not show that he “lunged with both feet”. The Tribunal agreed with that assertion.

Given the plea of GUILTY and the acceptance of the above evidence by the Respondent, there was no requirement to examine the evidence of the Match Officials.

Respondent's Statement

The Respondent was represented by his father and Mr Nicholas Carle, Technical Director of SD Raiders.

In his undated written submission, the Respondent, through his father, noted the following:

"It was an unfortunate accident that led to the injury of ██████ on the 18th of February 2023, during SD Raiders and APIA match. I believe, ██████ did not directly target and would not intentionally and maliciously harm ██████ as was claimed by Joe Garufi, Youth Convenor of APIA LFC.

██████ is a good and friendly player who ensures that his fellow players are comfortable in and around the field. ██████, on the day of that fateful accident walked side by side with ██████ to the field and was having a chat without any issues. ██████ also mentioned that ██████ was the player who welcomed him and made sure he felt comfortable during his first day of TSP at the Valentine's Park. It appears ██████ and ██████ does not have any issues; hence I find it very difficult to believe that ██████ will "directly and intentionally target" ██████ to harm him as claimed.

Prior to this accident, ██████ have had a clean record playing for NPL 2 & NPL 1 clubs. He has never had any altercations or disagreement with any player, match officials or the clubs he played for. ██████'s record as a FNSW participant and his conduct on and off the field as well as his relationship with fellow players, coaches and match officials can testify to that.

Having watched the video footage sent by FNSW closely, it appeared ██████ run into the tackle with speed, but he did not "lunged with both feet" as reported by the referees. It also appears from the video footage that ██████ at first did not realise the enormity of his tackle until he noticed that ██████ could not lift himself off the ground by which time, he approached ██████ to offer assistance and was pushed away on the chest by the APIA coach.

As a parent, I appreciate what ██████ and his parents could be going through. We have reached out to ██████'s parents to check on him and have offered to go and visit him if possible. However, ██████'s parents said they need time and will let us know when they are ready for a visit. We respected their decision.

I think it is reasonable to conclude by saying, that in a bid to seek severe punishment or vengeance for the unfortunate accident, APIA and the referees used statements in their letter and reports which are not consistent with the video footage we received from FNSW to discredit ██████. That said, we will respect any decision taken by the General Purposes Tribunal with regards to this issue, however we hope the GPT will take into consideration ██████'s playing records and his conduct over the years in their deliberations regarding this issue."

The Tribunal noted that it accepted the evidence of the other witnesses from both sides albeit it would give such weight to these statements as it deemed fit.

The Proceedings

The Respondent is a 14-year-old child playing in an under 15 football New South Wales elite competition. He is also a member of the elite FNSW TSP training squad and in fact the injured player is also a member of that same squad.

The Tribunal at the outset commended the Respondent for reaching out to the injured Apia player in the manner that is recorded in his statement. The Tribunal also thanked his father David and Mr Carle for their approach to this matter. Many times, the Tribunal has asked this question of a Respondent and, regrettably, Clubs, coaches and Respondents have ignored basic human needs - compassion.

The Tribunal noted that this would be taken into consideration as a mitigating factor in determining an appropriate sanction.

It was also clear from the video that the Respondent was visibly distressed on the field as it became clear the extent of the injury suffered by Player X. The Respondent approached Player X a number of times, clearly in concern for his well-being, and was asked to step back by an Apia official.

Whilst there was physical contact from that official with the Respondent, this was gentle and it certainly looked to be very minor. The Tribunal did not have evidence before it of the verbal exchange between the Apia official and the Respondent.

The video also provides a brief audio exchange, off camera, between a SD Raiders official and an Apia official. One of the officials is heard to thank the other official for his kindness.

Notwithstanding the above, the tackle by the Respondent was reckless, exhibited excessive force and clearly endangered the safety of his opponent. Further, it clearly satisfied the test in Offence Code 05-01 – *“Serious Foul Play - Conduct causing serious injury”*.

Football NSW Submissions

Football NSW submitted that the tackle by the Respondent was a more serious example of Offence Code 05-01 and should be sanctioned by way of a greater fixture suspension than that imposed in the following precedents:

- GPT 22-02 - Football NSW v Michael Cklamovski - 10 Fixtures;
- GPT 20-07- 7 Fixtures; and
- GPT 20-04 - Football NSW v David D’Apuzzo- 7 Fixtures.

Determination of the Tribunal

The Evidence

As noted above, the Respondent pleaded GUILTY and the Tribunal was satisfied that Offence Code 05-01 – *“Serious Foul Play - Conduct causing serious injury”* was the correct and appropriate Charge Code.

For these reasons the Tribunal found that the Respondent was **GUILTY** of the Charge.

Football NSW disclosed that the Respondent had received the following suspensions:

1 May 2021 – R2 – Red Card Violent Conduct – 1 Match
20 June 2021 – Accumulation of YCs – 1 Match; and
16 Feb 2022 – R7 – 2 YCs – 1 Match

For such a young player this was a concern to the Tribunal and it warned the Respondent that a fourth suspension is a considerable record for a 14-year-old.

Sanctions Imposed

The Charge

A Charge under Schedule 3, Table A, Offence Code 05-01 – “*Serious Foul Play – Conduct causing serious injury*” is a very serious R1 Charge and it carries a minimum Sanction of seven (7) Fixtures to a maximum of 24 months.

The Tribunal agreed with Football NSW that the minimum sanction was not appropriate as the tackle by the Respondent WAS more serious than past relevant GPT precedents.

However, the behaviour of the Respondent, his family and his Club post incident coupled with the early plea of Guilty were taken into account in relation to discounts on sanction.

The Respondent was therefore suspended for **twelve (12) Fixtures**.

Three (3) Fixtures are suspended as a discount in accordance with the above. However, if the Respondent is found guilty of a R1 or R2 Charge at any time during the balance of the 2023 or 2024 season, **an additional three (3) Fixtures** are to be added to any sanction imposed on the Respondent.

Total Sanction

The Fixture Suspension applies to playing only and is to be served generally in accordance with section 15.6 of the Regulations (in particular, sub-sections 15.6(i) and (j)).

For clarity: the Respondent is permitted to attend and participate in training sessions with his team and is encouraged to do so but must otherwise comply with sub-sections 15.6(i) and (j).

The Respondent has been stood down from four (4) Fixtures by his club as a result of this matter. The Respondent is to receive credit for those stand downs, subject to Football NSW being satisfied that those stand downs were genuine.

The Respondent is therefore required to serve a suspension of a further **Five (5) Fixtures**.

In order to satisfy Football NSW that this Fixture Suspension has been properly served in future competition matches, the Respondent’s club will need to record the Respondent as “stood down” on the team sheet for the relevant number of competition matches and SD Raiders FC will be required to submit those team sheets to Football NSW prior to the Respondent resuming playing.

Fines Imposed

NIL.

Bonds Imposed

Suspended part sanction as per above.

Football NSW Limited

Additional Matters and Fees as per the Notice of Costs:

The Respondent is to pay the full costs of the Tribunal process as assessed by Football NSW.

Aggrieved parties to a determination of the FNSW General Purposes Tribunal may lodge an appeal to the FNSW Appeals Tribunal in accordance with sections 9.8 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 Final Determination of the GPT (where the GPT has indicated one will be issued) being sent to the Respondent.



David P. Lewis
Chairman
GENERAL PURPOSES TRIBUNAL