

**DISCIPLINARY AND ETHICS COMMITTEE OF THE FOOTBALL FEDERATION OF AUSTRALIA**

**DETERMINATION IN THE FOLLOWING MATTER:**

<b>Player and club</b>	Roy O'Donovan, Newcastle Jets
<b>Alleged offence</b>	Serious foul play (e.g. when challenging for the ball)
<b>Date of alleged offence</b>	Saturday 05.05.2018
<b>Occasion of alleged offence</b>	2018 Hyundai A-League Grand Final match between Newcastle Jets and Melbourne Victory
<b>Date of Disciplinary Notice</b>	Monday 7 May 2018
<b>Basis the matter is before the Committee</b>	A referral: see clause 3.3(a) and 9.14(b)
<b>Date of Hearing</b>	Tuesday 15.05.2018
<b>Date of Determination</b>	18.05.2018
<b>Committee members</b>	John Marshall SC, Chair Lachlan Gyles SC Rob Wheatley

**A. INTRODUCTION**

1. The 2018 A-League Grand Final match between Newcastle Jets and Melbourne Victory was played on Saturday, 5 May 2018 and Melbourne Victory won the game 1-0.

In the 93<sup>rd</sup> minute, trailing 1-0, the Newcastle Jets striker Roy O'Donovan made a flying kick. O'Donovan took off from his left foot running forward towards the 6 yard box. With both feet off the ground and leading with his right boot at head height he collided with the Melbourne Victory goalkeeper who was inside the 6 yard box. O'Donovan's right boot struck the left-hand side of the face of the goalkeeper.

It is difficult to describe in words the action of O'Donovan. The images to the right and below are immediately before the collision occurred.



Image 1



2. Disciplinary Counsel did not refer to the flying kick as a tackle or challenge and only referred to what happened as a “challenge” in quotes. *If* it could be described as a challenge, there has never been a challenge like it before in the A-League and hopefully there will never be one like it again. O’Donovan was shown a red card. This is O’Donovan’s 4<sup>th</sup> red card in only 3 seasons in the A-League. All 4 of those red cards involved him making contact with the head of an opposing player. These are the reasons of the Committee for the lengthy sanction which it imposes.

#### **B. FORMAL MATTERS AND JURISDICTION**

3. The Committee has jurisdiction under clause 4.3 of the FFA “Hyundai A-League Disciplinary Regulations” applicable to the 2017-2018 A-League season (**the Disciplinary Regulations**) to determine matters which have been referred to it pursuant to the Disciplinary Regulations. When a matter is duly referred, clause 3.3(a) provides that the Committee must determine the matter and impose such sanctions as are authorised and appropriate to the determination.
4. In this matter there has been a referral under clause 11.23 of the Disciplinary Regulations. Prior to a referral under clause 11.23 the player will have been given a direct red card by the referee. The consequence is that the player will have an automatic Mandatory Match Suspension (in this case 1 match). No part of the above process is able to be referred to the Committee and hence cannot be appealed. Further, the Match Review Panel (**the MRP**) also will have formed the view that, on the material available to the MRP, an additional sanction of greater than 4 matches

including the Mandatory Match Suspension was warranted. That is what has happened here.

5. This matter concerns a high challenge by a player in which the player's studs connected with the head of the opposing team's goalkeeper. The function of the Committee in such a case is solely to determine the question of what additional sanction should be imposed over and above the Mandatory Match Suspension which must be served. Nevertheless, in this particular case the player's representative has admitted the offence which is apparent from the video footage.
6. The FFA issued Roy O'Donovan (**the player**), with a Disciplinary Notice dated 7 May 2018. The Category 1 Offence stated on the Disciplinary Notice is Offence 3 (R1 for Players) – *Serious foul play (e.g. when challenging for the ball)*. Paragraphs 1-5 of the Disciplinary Notice state:
  1. You were issued with a direct Red Card while you were playing for your Club against Melbourne Victory on Saturday, 5 May 2018 in or around the 93rd minute of the match.
  2. Pursuant to clause 11.19 of the Regulations, the MRP will apply the Range at the Players Table of Offences to determine what sanction it proposes should apply in addition to the Minimum Sanction (inclusive of the Mandatory Match Suspension). The MRP on the basis of the evidence reviewed, has proposed a sanction of greater than four (4) matches;
  3. In accordance with "Annexure A – 6. Players Table of Offences" of the Regulations, the MRP has determined that the Red Card Offence constitutes Offence No.3 being "Serious foul play (e.g. when challenging for the ball)" (the Offence);
  - 4 The Minimum Sanction for the Offence under the Regulations is the Mandatory Match Suspension;
  5. In accordance with clause 11.23 of the Regulations, as the MRP has proposed a sanction of greater than four (4) matches, the MRP refers this matter to the Disciplinary and Ethics Committee for hearing to determine what additional sanction above the Mandatory Match Suspension (which must always be served) should be imposed;

### **C. THE HEARING**

7. On the evening of Tuesday 15.05.2018 the Committee heard the referral of the above matter. At the conclusion of the hearing the Committee reserved its decision. These are the written reasons of the Committee in the "*shortest form reasonably practicable*" (see clause 22.3(c)). In order to deal with the seriousness of the offence and the length sanction it has been necessary to make the reasons longer than they ordinarily would have been.
8. At the hearing Disciplinary Counsel was Ivan Griscti and the player was represented by Simon Philips.
9. The evidence at the hearing comprised Hawkeye and Fox Sports footage of the incident from several angles, numerous still photos, the Disciplinary Notice, the referees' incident report, the player's disciplinary record and other documents collated in a spiral binder prepared by the FFA. In that spiral binder are the written submissions on behalf of the player and Disciplinary Counsel and those submissions make reference to further materials. All those further materials have been treated as being before the Committee as evidence for what utility and relevance they may have.

## D. FACTS

### (1) *The incident leading to the red card*

10. In around the 93<sup>rd</sup> minute of the game a free kick was delivered into the Melbourne Victory penalty box. The player moved in the direction of the flight of the ball and commenced an action which resulted in a flying kick. The player took off from his left foot running forward towards the 6 yard box. With both feet off the ground and leading with his right boot at head height he collided with the Melbourne Victory goalkeeper who was inside the 6 yard box. The players right boot struck the left-hand side of the face of the goalkeeper. The player was shown a direct red card.
11. The very experienced referee described what occurred in his incident report as follows:

In the 93rd minute of the match, Newcastle Jets played a free kick into the Melbourne Victory penalty area. The ball was in the air travelling towards the Melbourne Victory goal. The Melbourne Victory goal keeper, Lawrence Thomas, came towards the ball and jumped in the air to catch the ball inside the goal area. Roy O'Donovan was moving towards the ball and jumped in the air to challenge Thomas. O'Donovan jumped towards Thomas from the front, with his right leg extended, at high speed, making contact with the studs of his extended leg to Thomas' face. Thomas was in possession of the ball when contact was made. The challenge by O'Donovan was made with excessive force and brutality, that endangered the safety of Thomas. I was approximately 15m from the incident with a clear view. I immediately stopped play and showed O'Donovan the red card for Serious Foul Play, and sent him from the field. There was a mass confrontation following this incident, and Thomas received medical treatment. Once O'Donovan had left the field of play, and Thomas had received treatment, I restarted play with a direct free kick to Melbourne Victory from where the incident occurred.

(underlining added)

12. The incident can be seen in stills taken from the Fox sports footage. Whilst the effect can be seen from stills, the video is more significant in this case than can be captured by still images.
13. The incident started with a free kick taken by Newcastle.

Image 2

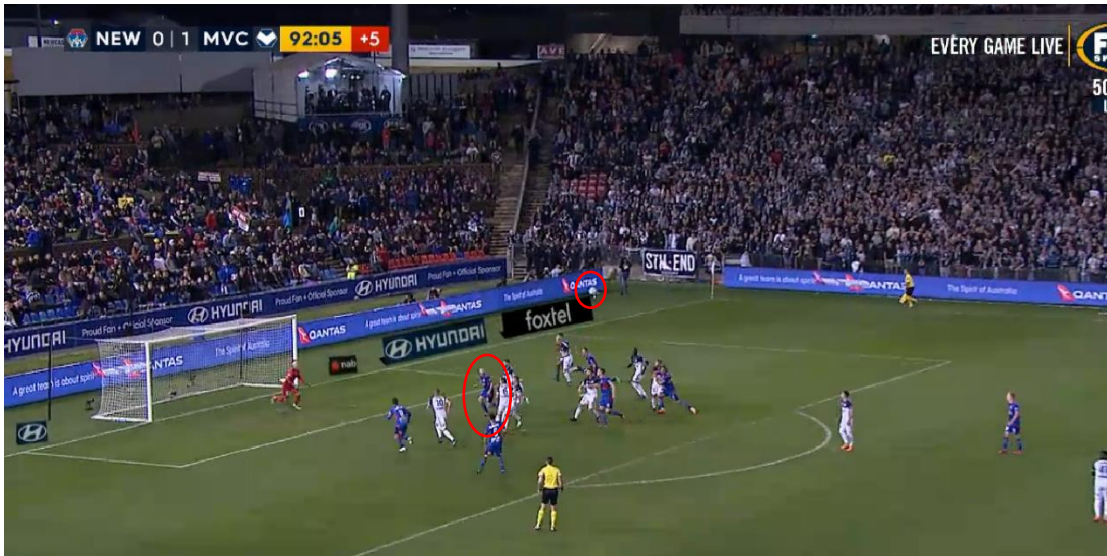


Players from both sides ran back from the edge of the penalty box towards the "six-yard box" (which is 5.5 m from the goal line) as the ball was delivered. The player



ran towards the goal, with his eyes turned away from the goal towards the ball arriving over his left shoulder. The player and the ball are each marked with a red circle in the still below.

Image 3



14. The Melbourne Victory goalkeeper ran towards the ball from the goal-line. Therefore the goalkeeper was moving in the opposite direction to the other players. That can be seen in the still below:

Image 4



15. The footage shows that just outside the six-yard box, the player jumped at speed off his left leg raising his right leg very high; this was at the same time as the goalkeeper went to catch the ball. As the player sprung off his left leg to jump, he had turned his head back towards the goal so that the goalkeeper was in his field of vision. This can be seen from a number of different angles in the screenshots below:

Image 5

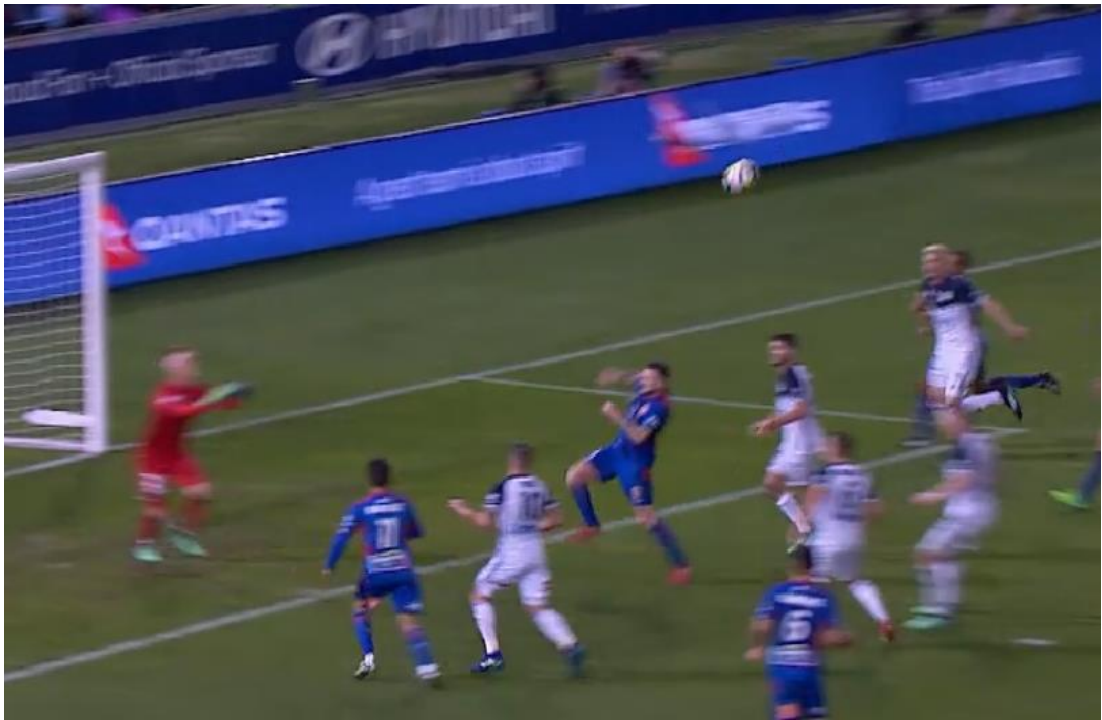


Image 6



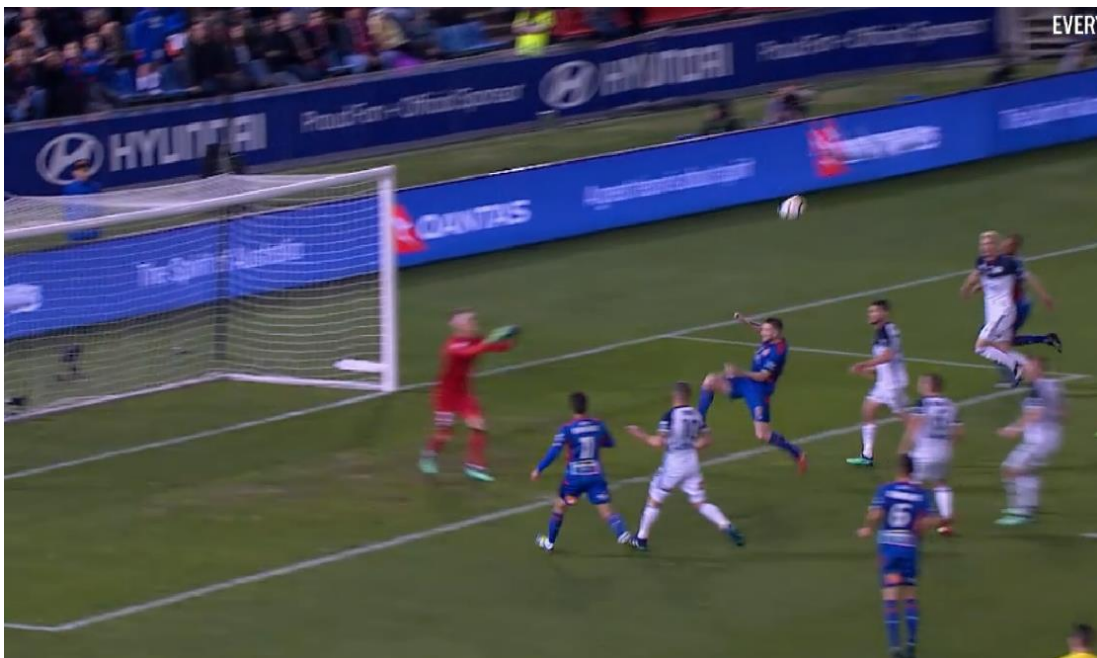


Image 7



16. The video footage shows the player's head was turned towards the goalkeeper and not the ball throughout his jump. The same can be seen in stills:

Image 8



*Image 9*

17. In the still above it is possible to contrast what the goalkeeper is looking at with what the player is looking at by reference to the angle of their heads and the position of the ball. It should be noted that the ball is clearly visible in this still. The goalkeeper's head is angled towards the ball and the goalkeeper seems to have his eyes clearly on the ball. By contrast the player has his head angled directly towards the goalkeeper and not at the ball. Nevertheless the ball may well have been in the peripheral vision of the player.
18. The contrast in the above image is again apparent in the next image below.



Image 10



19. To the extent that it is not clear from the stills, the moving footage does indicate that the goalkeeper would (or should) have been visible to the player.
20. With both feet off the ground, the player extended his right leg above his head. His right foot was 1.8m or higher off the ground. This can be seen from two different angles in the screenshots below:

Image 11



Image 12



21. After the goalkeeper had caught the ball, the studs of the player's extended leg made contact with the goalkeeper's jaw and the left side of his face. The goalkeeper was in possession of the ball when contact was made. The challenge by the player was made with excessive force and brutality, which endangered the safety of the goalkeeper. The player made no discernible attempt to move his body to prevent or minimise the contact with the goalkeeper, even after the goalkeeper had caught the ball. When he gave his evidence the player did not assert that he did anything to pull out of the play or minimise the impact with the goalkeeper.
22. The next image shows the position of the player as the goalkeeper catches the ball:

*Image 13*



23. The next screenshots show the contact:

*Image 14*





*Image 15*

24. The force of the impact cannot be fully captured in screenshots. The speed and timing of the player's action can only be fully appreciated by viewing the footage at normal speed.
25. The effect of the footage when reviewed and the evidence at the hearing was that the player missed the ball by "about a foot" (as Mr McKinna said) or in metric about 30 cm.
26. After the collision both the player and the goalkeeper fell to the ground and the referee halted play.

Image 16



27. The goalkeeper held his face and players from both sides checked on his wellbeing. The goalkeeper required medical treatment by the trainer but was able to play the final remaining minutes of the game.

Image 17



*(2) Earlier incident in which the player received a facial injury*

28. Earlier in the match, before the incident in question, the player was challenging for the ball in the goal area and came into contact with the arm of an opposing striker. He suffered a facial injury at that time. Footage of that facial injury was provided to the Committee. There was also a medical report from the club doctor. The player was reviewed at the time of receiving the injury. There was no evidence of concussion. The 2<sup>nd</sup> and 3<sup>rd</sup> reviews later in the day did not indicate any concussion. There was a complaint by the player of blurring of vision in his left eye. The

examination found no evidence of hyphema (pooling or collection of blood inside the anterior chamber of the eye). A follow-up examination involved medical imaging and that apparently confirmed a facial fracture of nasal bones with the player referred to a surgeon and an ophthalmologist.

*(3) Oral evidence of the player*

29. The player did not attend the hearing in person. He attended by video link. He was able to hear what occurred during hearing and see what was being shown on the large screen television during the course of the hearing.
30. The player made a statement that he had *never in his entire career intended to hurt an opposing player*. He said this on more than one occasion during the hearing. That is to be considered against his disciplinary record. The disciplinary record is referred to below. During his 3 year period in the A-League there have been 3 prior red card offences.
31. The first of those was on 31 December 2015. When that matter came before the Committee (differently constituted) on that occasion the player gave evidence that he had not head-butted the opposing player. His evidence on that occasion was that without looking at the opposing player he leaned his head across to defend himself from what he anticipated would be an attack. The Committee rejected that evidence. In relation to that red card, on this occasion the player described the incident as one where he head-butted the opposing player as a reaction to provocation. There is a difference between the 2 versions. The latter version given during this hearing more realistically describes what occurred but is inconsistent with his evidence at the earlier hearing and his statement at this hearing and the prior hearing that he never intended to hurt an opposing player.
32. The 3<sup>rd</sup> red card of the player in the A-League was earlier this season. It was referred to in the disciplinary record and the submissions of Disciplinary Counsel who provided a link to the relevant incident. That incident was during a match against Sydney FC. When that footage was played an observation was made by the Committee that it appeared the player had made a deliberate strike to the head of the opposing Sydney FC player and this may be something which the player may wish to address in his evidence. The player was asked about the incident by his counsel. At the hearing on this occasion, referring to that earlier incident, he said he was trying to pull the other player away from the ball and had not meant to make contact with his face. He accepted that in fact accidentally he had made contact with the face and that on seeing the video he agreed it was a red card offence. The footage (see link in paragraph **57(2)** below) and the stills below taken from the footage of that incident indicate to the Committee that the player did in fact deliberately strike the face of the opposing Sydney FC player. In those stills the action of the player's right arm (in the number 9 shirt) can be seen to be such that there is a swing of the right arm to the face of the opposing player from Sydney FC wearing the number 5 shirt.



Image 18



Image 19



Image 20



Image 21



33. The actions of the player in the above sequence are also inconsistent with the statement, repeatedly made by the player during the hearing, that he had *never* intended to hurt an opposing player.
34. In relation to the particular game in which the incident before this Committee arose, the player gave evidence about an incident in about 68<sup>th</sup> minute when he received an injury to his face. The Committee was provided with video footage of that incident which is referred to in paragraph **28** above. In relation to that incident the

player told the Committee that the vision in his left eye was blurred for the remainder of the game.

35. In relation to the particular incident which led to the red card, the player said that he considered going for a header. He said that he had been successful with a few headers before even after he had received the injury in the 68<sup>th</sup> minute which he said had blurred his vision. He said those other headers were from the other side, his right side; which presumably was his explanation for why he was able to see the ball on those occasions. He had said that the blurring was only in his left eye not his right eye which was functioning normally. In this particular situation where the ball was delivered from a free kick he said he did not think that he would be able to get his head to the ball which is the reason he decided to try to kick the ball.
36. The player said that in a situation like this 99 times out of 100 the goalkeeper is going to come out. However in this case he said he believed he could get to the ball first. He said he was prepared to get cleaned up on the play.
37. He said this free kick was different to earlier occasions in the game because the headers he had before were not coming from his bad side as he put it.
38. On this occasion he said he had his eyes on the ball but that as he jumped he could not see the ball. This was, according to him, because he got to a horizontal position and the floodlights completely blinded him.<sup>1</sup> He said he was unable to see the ball at that stage. He also said that he was unable to see what contact he had made with the goalkeeper. He said that he did not know that his foot had struck the goalkeeper in the face until after the game when he spoke to the goalkeeper to give an apology.
39. He was asked further questions by his own counsel in which he again said that in such a situation 99 times out of 100 the goalkeeper would come out to the ball. He said that it was important to get to the ball first. He claimed that on this occasion he believed he had a chance to get to the ball first. He said that he hoped to use the outside of his boot to flick the ball back towards the goal.
40. As to that last point, the footage and the stills do not indicate that he flicked his foot at all and he came in only studs up straight to the goalkeeper's head.
41. At a later point in his evidence he was asked about his statement that 99 times out of 100 the goalkeeper would come out. He said that it would not necessarily result in a collision every time a goalkeeper came out but that on this occasion there was a high probability the goalkeeper would come out and make a play and that if that happened he was prepared to take the contact. He said that the goalkeeper is in the power position and able to clean him up. He was asked whether that would be so in this situation where he had his leg raised up to the height of the goalkeeper's head. He said that the goalkeeper was still in a position of power in that situation.
42. As to the last point, the Committee finds it difficult to accept and does not accept that the goalkeeper was in a position of relative power compared to the player who was flying through the air with his leg extended at head height.

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<sup>1</sup> He gave similar evidence later when he said that when he was horizontal to the floodlights he was blind to everything because of the floodlights.



43. He went on to say that he has never put a keeper down that way. That is hardly surprisingly given the bizarre nature of the play he engaged in. He continued by again saying that he did think he (meaning himself) might be cleaned up in the play.
44. In light of the footage and the stills which indicate that he did have the goalkeeper in his line of sight, he was asked whether he in fact saw the goalkeeper. His response was that he was blinded because of the floodlights. He was asked whether in the situation he was able to see the goalkeeper and he said "no".
45. In light of his evidence about himself being prepared to be cleaned up, he was asked whether he had considered what might happen to the goalkeeper. He said that he did not evaluate the risk to the goalkeeper. He said he expected the goalkeeper would be in a prime position to take him out. Presumably this is a reference back to his point that he claimed the goalkeeper was in the power position relative to him, being a point which the Committee does not accept in light of the flying kick action which he had adopted.
46. He was asked whether he regarded the play as reckless. His response was that it was *careless*. He did not accept that the play was reckless although it should be noted that his counsel candidly and properly did accept that the play was reckless.

*(4) Disciplinary record of the player*

47. The Committee was provided with the disciplinary record of the player. Relevant matters are:
  - (1) a red card for serious foul play on 1 November 2008 (no particular details);
  - (2) a yellow card on 3 March 2012 for "adopting threatening and/or aggressive attitude";
  - (3) a red card offence on 31 December 2015 for which this Committee has previously dealt with the player and imposed a sanction of 8 matches by the determination of 7 January 2016 - that red card offence involved player using a head-butt;
  - (4) a red card offence in the 2016-2017 A-League season which was for "serious foul play (when challenging for the ball)" - which involved a one match suspension;
  - (5) a red card offence earlier in this 2017-2018 A-League season for "assault on player (violent conduct when not challenging for the ball) including an attempted assault on player" - this involved a 2 match suspension; and
  - (6) numerous yellow cards at various points in time in addition to the one referred to in 2012.

*(5) Evidence of Lawrie McKinna*

48. The Committee also received a letter from Lawrie McKinna, the CEO of Newcastle Jets, who is a former player.
  - (1) In his letter he expressed an opinion as follows:

In my career as a striker there have been many instances where I have collided with players and goalkeepers when challenging for the ball, this is a result of having eyes only for the ball – a key attribute for a successful striker. Having looked at this incident in more detail, in my opinion when Roy left the ground to play the ball he

had no awareness of the goalkeeper's position and as such, an unfortunate collision occurred – this is an unfortunate result of the competitive nature of our sport.

In my experience, it is almost impossible for a striker to change their body position when already committed to a movement – particularly when jumping or lunging for the ball – regardless of changing factors around them.

(2) His letter goes on to say that the player is very committed and "*in a grand final his desperate attempt to get a foot to the ball can be understood*".

49. Mr McKinna was present throughout the hearing. He gave evidence which corresponded with his written statement and an earlier televised media interview he gave supporting the player. Mr McKinna went on to say that in his view it was *impossible* for a striker to pull out of a challenge in such a situation and *impossible* for the player to have done so in this situation.
50. That put the position extremely highly. In relation to his contention that it was "impossible" to pull out of a challenge, when asked about that, Mr McKinna said the job of the striker was to win the ball and a striker should not pull out of a challenge; he should try to win the ball - so he would not expect a striker to pull out. A striker should be trying to get the first touch.
51. In order to clarify this evidence McKinna was asked what emphasis he put on getting the first touch to the ball. His response was that if you get the first touch that is all that is needed. Mr McKinna was then asked specifically about this situation and whether, if a striker realised it was inevitable that there would be contact with the keeper, the striker should seek to pull out or minimise the impact. Mr McKinna made it clear that in his opinion the striker's job was not to pull out and was to seek to win the ball, in effect irrespective of the consequences to the opposing player.
52. The Committee is in the unfortunate position that a current CEO of an A-League club has chosen to give evidence formally before the Committee which the Committee cannot accept is applicable. In the situation where this evidence has been given for the player it is necessary for the Committee to deal with it. It would not be appropriate to let it pass without comment.
53. In the view of the Committee the approach to winning the ball described in the evidence of Mr McKinna does not represent the correct interpretation of the laws of the game or how they should be applied. In this regard see paragraphs **67-68** below which refer to particular aspects of the laws of the game that are inconsistent with the approach given in the evidence referred to above.
54. In closing argument counsel for the player was asked whether, in a situation where it became apparent to a striker that there would be contact to the head of an opposing player, it was incumbent on the striker to pull out of the play and/or minimise the extent of the contact. Counsel made it clear that no submission was made that a striker in such a situation should continue with the play. Further counsel made it clear that he was not putting a submission that a striker, who realises contact with the opposing player would be inevitable, has no obligation to minimise the impact. Without the negatives, counsel accepted that where a striker realised that the action would result in contact with the head of an opposing player, that striker should take steps to avoid or minimise the impact of the collision.

## **E. SUBMISSIONS**

55. Reference was made to clause 13.2 of the Disciplinary Regulations which provides:

13.2 When determining any appropriate sanction in accordance with the Range at the Table of Offences, a Judicial Body may consider:

- (a) the nature and severity of the Offence, including whether it was intentional, negligent or reckless;
- (b) the Participant's past record and whether or not this is a repeated Offence;
- (c) the remorse of the Participant; and
- (d) any extenuating circumstances relevant to the commission of the Offence.

56. The matters submitted by Disciplinary Counsel included:

- (1) A high ball was launched towards the goal Newcastle Jets are attacking. The Victory goalkeeper, Lawrence Thomas, catches the ball in front of his face. He is slightly off the ground and just inside his 6 yard box. Moments after catching the ball Roy O'Donovan's right boot comes in contact with the side of the goalkeeper's face.
- (2) The player has launched himself acrobatically into the "challenge" with his right boot ultimately at or above head height. He is obviously aware of the presence of the keeper. Apart from the location on the pitch, the player can be seen glancing towards the keeper as he is approaching him. The still shots [supplied] also show the player looking in the direction of the keeper prior to making contact.
- (3) The challenge is unreasonable irrespective of where it occurs on the pitch. The player's boot is head high and dangerous, with the studs facing outwards. The incident occurs in circumstances where the player is aware of the presence of the goalkeeper, collecting the ball in his 6 yard box.
- (4) The player arrived late – contact is made after Lawrence Thomas has caught the ball. No attempt was made to pull out of the challenge.
- (5) The evidence supports the conclusion that the player behaved in a reckless fashion. The challenge had the potential to cause serious injury.
- (6) As to the ability of an experienced striker to modify his body position after initiating an action, the most significant factor is that the attempt to reach the ball with the leading foot was unreasonable in the first place. As is apparent from the footage no attempt was made to withdraw the challenge. Even though, after action was initiated, contact was inevitable, a late lowering of the foot could have avoided the player's boot coming in contact with the goalkeeper's face.

57. In relation to the prior red card offences in the A-League Disciplinary Counsel referred to the following:

- (1) 2016/17 season v Melbourne City – arm across the face - red card for serious foul play, mandatory match suspension:  
<https://www.youtube.com/watch?v=i1Brdn4Ln2o>
- (2) 2017/18 season v Sydney FC – slap or strike to the face – red card for assault on a player, 2 match suspension:  
<https://www.youtube.com/watch?v=SCDJsnDJAZQ>

58. Both of those incidents are referred to in the Disciplinary Record with which the Committee has been provided. Neither of those incidents came before the

Committee. Having seen the footage each situation seems to be one where it could fairly be said the sanction was lenient. The 2<sup>nd</sup> incident involving the Sydney FC player appears to the Committee to have been a deliberate strike to the head and face of the opposing player. This was his 3<sup>rd</sup> red card in the A-League and is referred to from paragraph **32** above.

59. The player's counsel accepted that the Offence had been established. The hearing was conducted on the basis that there was a guilty plea and that the only remaining issue was the appropriate sanction.
60. The matters submitted on behalf of the player included:
  - (1) it was the 93rd minute of the Grand Final - his team were 1-0 down – and he believed it would be the last opportunity for his team to score. As such, he wanted to do everything he could to get a touch on the ball;
  - (2) he made a genuine attempt for the ball, although he concedes that it was mistimed;
  - (3) his vision was impaired by the floodlights at the ground and by the swelling around his left eye, that he "completely lost where he was", and that he felt dazed when he landed after the attempt on the ball;
  - (4) his efforts for the ball were not malicious, but rather a desperate attempt to try and level the scores in the Grand Final;
  - (5) he did not "kick out" at Thomas - and felt he made contact on the way down;
  - (6) he never set out to kick or injure anyone - it was an honest mistake;
  - (7) after the game, O'Donovan sought out Thomas and apologised to him. Thomas accepted the apology;
  - (8) the Newcastle Jets Club Doctor advised him that, as a consequence of the injury he sustained to his eye socket earlier in the Match, his eye may have been sensitive to the floodlights.
61. Counsel for the player also referred to other incidents where a player had been sent off for a kick which had led to contact or a collision with a goalkeeper. There was also reference to the earlier decision in relation to Kevin Muscat in which Muscat was given a sanction of 8 matches. It was submitted that this incident was far less serious and therefore would deserve far less than 8 matches.
62. In relation to the past record of the player, it was said on behalf of the player that the head-butt offence was unrelated and the other offences were not particularly serious.
63. In relation to remorse it was said that the player made an apology to the goalkeeper.
64. In relation to extenuating circumstances, it was submitted by counsel for the player that there were 2 important factors. First was the injury which resulted in blurring of the vision in the left eye. The 2<sup>nd</sup> was that the floodlights blinded the player at the key moment so that he could not see the goalkeeper.



## F. CONSIDERATION AND FINDINGS.

65. As to what the player said, the Committee does not accept the evidence of the player except where noted in these reasons or in circumstances where it was against his own interest or corroborated by other matters. In light of that general finding there need not be numerous individual specific findings as to his evidence. Nevertheless there are some specific findings made and it may be apparent from those why the general finding has been made.
66. Turning to general matters not specific to this player, and important consideration is the safety of all players and relevant to this situation, the safety of an opposing player. The laws of the game are not silent on this topic.
67. For example, the laws of the game state:
- Although accidents occur, the Laws should make the game as safe as possible. This requires players to show respect for their opponents and referees should create a safe environment by dealing strongly with those whose play is too aggressive and dangerous. The Laws embody the unacceptability of unsafe play in their disciplinary phrases, e.g. 'reckless challenge' (caution = yellow card/ YC) and 'endangering the safety of an opponent' or 'using excessive force' (sending-off = red card/RC).
68. Further, the laws the game provide these definitions:
- (1) reckless
- Any action (usually a tackle or challenge) by a player which disregards (ignores) the danger to, or consequences for, the opponent.
- (2) serious foul play
- A tackle or challenge for the ball that endangers the safety of an opponent or uses excessive force or brutality; punishable by a sending-off (red card).
- (3) playing in a dangerous manner
- Playing in a dangerous manner is any action that, while trying to play the ball, threatens injury to someone (including the player themselves) and includes preventing a nearby opponent from playing the ball for fear of injury. A scissors or bicycle kick is permissible provided that it is not dangerous to an opponent.
69. The very last point made immediately above is about a scissors or bicycle kick being permissible in certain situations namely that such a kick "is not dangerous to an opponent". That indicates that the safety of an opponent is a prerequisite for such a kick. The particular play in this case is far more dangerous than a scissors or bicycle kick. The kick here was a flying lunge something like a kung fu kick in an action movie.
70. A question arises as to whether the Committee should accept the evidence of the player that he did not see the goalkeeper coming towards him. In that regard there were potentially two matters involved; one was the blurring of his vision in his left eye and the other was that once he was horizontal the floodlights blinded him.
71. In relation to the blurring of his vision, the Committee accepts that he may well have had some blurring of vision in his left eye. Nevertheless in the time after the injury to him in the 68<sup>th</sup> minute, he challenged for the ball on several occasions and was able to win the ball. In order to time headers and other plays it is necessary for some bilateral vision to be functioning. Whilst there may have been some blurring which the Committee accepts, the Committee does not accept that blurring in his left eye would have prevented him from seeing the goalkeeper. Indeed overall the

evidence of the player did not attribute the blurring in his left eye as the reason he did not see the goalkeeper. He largely attributed the result of the blurring to the reason why his timing was slightly out.

72. In relation to the floodlights blinding him, it is important to note that he claimed this was only once he was horizontal. It would be absurd to claim that the floodlights were so badly positioned that it routinely made it impossible for players to see the ball when seeking to score a goal at that ground. Accordingly his evidence was that once he was horizontal it was then the floodlights were such as to blind him. However, the footage and stills extracted above do not support his contention that his head was horizontal. Indeed the stills extracted above indicate very little of his body was horizontal in the lead up to his boot striking the goalkeeper's head. In none of the stills is his head horizontal.
73. The footage was further specifically reviewed to consider this question and it became clear from two separate sequences from two different angles that the player initially looked up in the air and then turned his head so as to directly look at the area in which the goalkeeper was moving towards the ball.
74. First sequence from one angle.
  - (1) In the first still the player's head is looking up towards the ball.

*Image 22*



- (2) In this next still the player has turned his head and is now looking directly at the goalkeeper. Note the position of the ball.

*Image 23*

- (3) In the next 2 stills the player can be seen to be looking directly towards the goalkeeper (continuing to maintain his eye line directly towards the goalkeeper) until the point when the ball was caught by the goalkeeper and the player's foot struck the goalkeeper's head.

*Image 24*

Image 25



75. The second sequence from a different angle shows the same thing.

Image 26



Image 27





Image 28



Image 29



76. Significantly in none of those images is the player horizontal. Further, once it is clear that the player has turned his head so as to be facing in the direction of the approaching goalkeeper it makes the evidence that the player was blinded by the floodlights implausible.
77. The Committee accepts the following key matters submitted by Disciplinary Counsel:
- (1) The player had to anticipate the presence of the goalkeeper given the position on the field. The evidence of the player concedes as much in that the player on more than one occasion said that 99 times out of 100 the keeper will come out. He also said that on this occasion he considered there was a high probability the goalkeeper would come out and if that happened he was prepared to take the contact and be cleaned up. The committee observes that in this situation where the attention of the goalkeeper was fixed on the ball, the goalkeeper was unable to take any preventative action to the impending collision and that it would be the goalkeeper that would be cleaned up by a kick to the face.

- (2) The player looked towards the goalkeeper. The player made no attempt to pull out of the challenge.
  - (3) The player's boot was in a dangerous position, head high and with the studs facing out.
  - (4) The play was reckless and dangerous.
78. The action of the player showed a disregard for the danger that it posed to the goalkeeper in the event the goalkeeper did come off the goal-line and attempt to collect the ball from the free-kick. In this situation the player specifically thought it was probable the keeper would come off the goal-line. He said that he believed he would be cleaned up. That obviously carries with it an understanding that there would be a collision between himself and the goalkeeper. Again, obviously, if that were to occur such a collision would involve his boot, being the leading part of his body, striking the goalkeeper. Because his boot was about 1.8 m off the ground being head high, such a collision would be between his extended boot and the goalkeeper's head or raised arms. In this case it was with the goalkeeper's head. The play was undoubtedly reckless. If anyone was going to be cleaned up it would be the goalkeeper.
79. Further, the player used excessive force and brutality. The action of the player involved a flying kick of the kind seen in a martial arts contest not on a football field. The entire momentum of the player was behind that flying kick. The player could not have put more force into the kick considering his entire body weight was flying through the air. That was excessive force. Any contact, which there was, was bound to be brutal. The play was clearly such as to be serious foul play.
80. Finally it was play in dangerous manner because the action of the flying kick did threaten injury to the goalkeeper.
81. To anyone viewing the game on television the commentary of one experienced commentator would have been heard as it was heard by the Committee in the footage played during the hearing. The commentator described the play as "madness". In the view of the Committee that does not involve exaggeration but is a plain speaking description of what was visible. It was a ferocious and dangerous kick indicating a mental state devoid of any regard for the safety of the goalkeeper.
82. Apparently the goalkeeper did not suffer any significant long-term injury as a result of the collision. That is extremely fortunate. The potential for a serious injury is obvious. The entire weight of the player was behind the kick which struck the goalkeeper in the face. Permanent facial scarring, broken head bones and damage to the eyes of the goalkeeper were all possible by reason of such a flying kick. Even more serious injury was possible such as brain damage.
83. Whilst accidents can happen in sport and injuries can occur in football, it is the view of the Committee that no goalkeeper (or any other player) should be exposed to a flying kick of that kind. The action of the player was extremely reckless and viewed objectively showed no regard to the potentially horrendous consequences for the goalkeeper.
84. In the view of the Committee the fact that the player anticipated a collision makes the whole situation far more serious. That the player did so anticipate is the finding of this Committee and that finding is supported, at least, by the fact that the player accepted that 99 times out of 100 the goalkeeper would come out and that in this

case there was a high probability the goalkeeper would come out. He also said that he was prepared to be cleaned up. Further, an objective viewing of the footage and stills indicates that a professional footballer in the position of the player should anticipate a collision with the goalkeeper would result if the player went ahead with a flying kick from a dead ball play where the keeper was on his line and likely to move towards the ball.

85. The Committee has been referred to incidents of potential relevance in other football leagues.
- (1) The incident involving the Liverpool player Mane appears to be one where there is some similarity but some very significant differences. In that case the goalkeeper was outside of the area and as a consequence was unable to use his hands. The goalkeeper played at the ball with his head. Mane appears not to have sighted the goalkeeper at all or at least not until the last minute and the whole time had his eyes on the ball which was not in line with the goalkeeper.
  - (2) The incident involving Ibrahimovic is not particularly similar save that a striker and a goalkeeper were involved. In that case it appears Ibrahimovic had his eyes on an opposing defender and the ball. It was only at the point when contact was inevitable that Ibrahimovic seems to have seen the goalkeeper. One interpretation of the footage is that he actually bent his leg so as to minimise the contact.
86. Counsel for the player relied upon the decision of the FA in Mane and contended that it was not relevantly different to what had occurred in this case. The submission was to the effect that as Mane received only a total sanction of 3 matches that was an appropriate sanction in this case. In relation to sanctions in the FA there are special procedures which have the effect that when a player is sent off for serious foul play there is an automatic 3 match suspension applied as a standard sanction. The player and the FA each have a right to challenge the standard suspension of 3 matches. In that situation the player challenged the standard suspension and the challenge was unsuccessful.
87. Whilst the Committee accepts that decisions in other football leagues are potentially relevant, such decisions do not set a tariff. In this particular situation, there are differences between those other incidents and also the rules which apply as to sanctions in those other football leagues. In any event this Committee should give no more than consideration to what has been done in other leagues. On no occasion should the Committee defer to what has been done elsewhere. It is the function of the Committee to apply a sanction it considers appropriate on the facts before it in light of the relevant rules applicable to the league here being the A-League Disciplinary Regulations.
88. By way of contrast to the shorter sanctions in the decisions in other football leagues, the MRP in this case was of the view that the sanction should be greater than 4 matches and how much more is a matter for this Committee.
89. Turning to the record of the player, his record since joining the A-League has been poor. The player has received 2 further red cards since his first red card in the A-League in 2015. On the occasion the player came before the Committee for his first A-League red card, which was for a head-butt, the Committee described that incident as the most serious R2 Offence against another player which had until that

time come before the Committee and that such an offence should be sanctioned appropriately. The sanction imposed on that occasion was 8 matches. As noted earlier, in 3 seasons the player has received 4 red cards and all 4 red cards have been for contact with the head of an opposing player. He has been involved in 2 of the 3 most serious incidents to come before this Committee in the history of the A-League: a head-butt and a flying kick which collided with the face of an opposing player.

90. The flying kick used by the player which led to his red card is the most dangerous play which has ever come before the Committee. It is possibly the most dangerous play ever made in the A-League. Although (thankfully and luckily) it did not result in a serious injury, it was a more dangerous play than the one of Kevin Muscat which was sanctioned with an 8 match suspension.
91. Taking into account all the circumstances including the past record of the player, the appropriate sanction is a suspension for 10 matches.

**G. RESULT**

92. The sanction the Committee imposes is suspension for 10 matches.

*John Marshall*

J E Marshall SC, Disciplinary & Ethics Committee Chair  
Friday 18.05.2018