



Mr Nicholas John Beath Former Licensee Ivy [REDACTED] cc: [REDACTED]	Mr Justin Gill A/Manager Compliance Liquor & Gaming NSW [REDACTED] [REDACTED]	Senior Sergeant Jacqueline Barlow Central Metropolitan Region Licensing Co-ordinator Sydney City Police Area Command [REDACTED] cc: [REDACTED]	Mr Jaimie Masson Licensee Ivy [REDACTED] [REDACTED]
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6 September 2019

Dear Mr Beath

Reference No. DOC19/144106
Matter Notification of a potential first strike offence
Notification submitted by Mr Justin Gill, A/Manager Compliance, Liquor & Gaming NSW
Former Licensee Mr Nicholas John Beath
Licence name Ivy
Licence no. LIQH400102283
Licence type Liquor – hotel licence
Premises 320-346 George St SYDNEY NSW 2000
Issue Whether a first strike should be imposed against Mr Nicholas John Beath
Legislation Section 144E of the *Liquor Act 2007*

**Determination of a potential first strike offence in relation to
Mr Nicholas John Beath, the former licensee of Ivy**

On 9 May 2019, Mr Justin Gill, A/Manager Compliance, Liquor & Gaming NSW (L&GNSW) submitted to the Independent Liquor & Gaming Authority (Authority) notification that the former licensee, Mr Nicholas John Beath (Former Licensee) of Ivy had committed a prescribed offence and potentially incurred a first strike (Notification).

At its meeting on 17 July 2019, the Authority considered the Notification and submissions made by L&GNSW, NSW Police and Mr Antony Jones, Merivale Chief Commercial Officer, on behalf of the Former Licensee.

The Authority, based on the information before it, is satisfied that the Former Licensee committed the prescribed offences of *'licensee permit intoxication on licensed premises'* and *'licensee permit indecency/violence/ quarrelsome conduct on licensed premises'* and has determined to impose a first strike against the Former Licensee in accordance with section 144E of the *Liquor Act 2007* (Act).

The first strike will commence from 7 September 2019 and will expire on 7 September 2022.

The Authority, pursuant to section 53(2)(b) of the Act, is minded, subject to consideration of any final submissions, to vary the current CCTV condition (400) to reflect the following:

CCTV

- 1) *The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:*
 - (a) *the system must record continuously from opening time until one hour after the premises is required to close (or, in the case of a premises that is not required to cease trading, continuously at all times),*
 - (b) *recordings must be in digital format and at a minimum of six (6) frames per second,*
 - (c) *any recorded image must specify the time and date of the recorded image,*
 - (d) *the system's cameras must cover the following areas:*
 - (i) *all entry and exit points on the premises,*
 - (ii) *the footpath immediately adjacent to the premises, and*
 - (iii) *all publicly accessible areas (other than toilets) within the premises.*
- 2) *The licensee must also:*
 - (a) *keep all recordings made by the CCTV system for at least 30 days,*
 - (b) *ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and*
 - (c) *provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.*

Enclosed with this letter is a statement of reasons for the Authority's decision. At the end of the statement of reasons, the Authority gives notice of its consideration to take the above measures and invites NSW Police, the Compliance Operations Unit of L&GNSW and the current Licensee to provide submissions before making a final decision. The timetable for the making of submissions is provided at the end of the statement of reasons.

Details regarding the right to apply to the Authority after a six month period to seek a review of its decision to impose the first strike or to seek a review of the Authority's decision by the NSW Civil and Administrative Tribunal are also provided at the end of the statement of reasons.

If you have any questions about this letter, please contact the Reviews and Secretariat Unit via email at ilga.secretariat@liquorandgaming.nsw.gov.au.

Yours faithfully



Philip Crawford
Chairperson
For and on behalf of the **Independent Liquor and Gaming Authority**

STATEMENT OF REASONS

Decision

1. On 9 May 2019, Mr Justin Gill, A/Manager Compliance, Liquor & Gaming NSW (L&GNSW) submitted to the Authority a notification that the former licensee, Mr Nicholas John Beath (Former Licensee) of Ivy (Premises) had committed a prescribed offence (Notification).
2. The Notification included evidence that NSW Police (Police) issued the Former Licensee Penalty Notices (PNs) for the prescribed offences of '*licensee permit intoxication on licensed premises*' and '*licensee permit indecency/violence/ quarrelsome conduct on licensed premises*' in relation to an incident that occurred at the Premises on 30 August 2018.
3. The Notification also included evidence, by way of Revenue NSW data, that the PNs were paid on 19 April 2019.
4. As the prescribed offences occurred within a single 24 hour period they are to be treated as a single prescribed offence pursuant to section 144C(3) of the *Liquor Act 2007* (Act).
5. The Authority is satisfied that the Former Licensee has committed a prescribed offence and there are no other strikes in force against him.
6. In accordance with section 144E of the Act, the Authority has decided to impose a first strike against the Former Licensee.
7. The Authority is minded, subject to consideration of any final submissions, to vary the current CCTV condition (400) to reflect the Authority's standard CCTV condition pursuant to section 53(2)(b) of the Act. Notice of this action is provided at the end of this statement of reasons.
8. In reaching its decision, the Authority has had regard to the material before it, the legislative provisions under sections 3, 53, 144B, 144C, 144E, 144F, 144G, 144H, 144M of the Act and the Liquor Regulation 2018 (Regulation).
9. The first strike will commence from 7 September 2019 and will expire on 7 September 2022.

Material considered by the Authority

10. The Authority has considered the Notification and all submissions received in relation to the Notification.
11. The Authority is satisfied that procedural fairness was afforded to the Former Licensee and interested parties regarding this decision, as all parties required to be notified were provided with the opportunity to make submissions.
12. A list of the material considered by the Authority in making this decision is set out in Schedule A at the end of this statement of reasons.

Legislative framework

13. The Authority has considered the Notification in the context of the relevant legislative provisions as set out in Schedule B.

Key findings

14. The Authority is satisfied that at the time of the Offence, based on the liquor licence document and the application to transfer liquor licence provided in the Notification, Mr Beath was the licensee of Ivy.
15. The Authority accepts NSW Police's account of the Offence contained in Computerised Operational Policing System (COPS) event report (number 69575908) which records the following information:

- a. On Thursday, 30 August 2018 at 10:10pm, Police attended the Premises for a business inspection and were escorted around by the Former Licensee. Police indicate that there were approximately 180 patrons assessed as being moderately affected by alcohol.
 - b. Police made their way onto level six where they observed the door to the main room was closed and only accessible with a swipe card. Police knocked on the door several times before a manager opened it. Police inspected this area and continued to walk around the Premises before hearing a loud noise from the gaming machine area.
 - c. An unknown patron approached Police and apologised on behalf of his friend who was 'intoxicated' and 'about to leave.' Police observed the patron to be well intoxicated due to his bloodshot eyes and unsteadiness on his feet.
 - d. The manager informed Police that the patron did not have a lot of alcohol and was 'okay up until he was leaving.' Police returned to the Premises on 5 September 2018 and requested CCTV footage together with the Incident Register. The CCTV footage was presented to Police on 11 September 2018 and identified an intoxicated patron.
16. The Authority acknowledges L&GNSW's submission that the poor practices exhibited at the Premises contributed to an increased risk of alcohol-related harm and compromised the safety of the patron.
 17. The Authority notes the Police submission which asserts that no prescribed steps were taken by the licensee or staff of Ivy to prevent intoxication on the licensed premises.
 18. The Authority further notes the additional information provided by Police in relation to their review of the CCTV footage. The intoxicated patron is alleged to have been "served in excess of twelve times. He was so intoxicated that he removed his penis from his pants and flopped it about for other patrons to view".
 19. The Authority acknowledges Police's submission that intoxicated patrons are at risk of becoming victims of crime upon leaving the Premises. Police further note the associated costs that alcohol-related incidents have on the community, local government and emergency services.
 20. The Authority acknowledges the submission from Mr Jones on behalf of the Former Licensee. Mr Beath has been employed by Merivale for over four years in senior operational roles and remains a valuable employee who has consistently demonstrated a sound and comprehensive knowledge of licensing regulation and venue management protocols.
 21. The Authority notes Mr Jones' submission that on the night of the prescribed offence, the Premises had in excess of 1,500 patrons as well as Merivale staff. At this time, the Premises was staffed by the Former Licensee with support from nine senior management, 60 RSA certified staff and 41 licensed security personnel.

Incurring a first strike

22. Under section 144E of the Act, the Authority, when determining whether a first strike should be incurred against a licensee or approved manager, must be satisfied that:
 - a. the person has committed a prescribed offence, and
 - b. there is currently no other strike in force against them, and
 - c. the seriousness of any harm that may have resulted from or been associated with the commission of the offence warrants a first strike being imposed.

23. In accordance with section 144C of the Act, a person commits a prescribed offence if a penalty notice enforcement order under the *Fines Act 1996* is made against the person in respect of the offence.
24. Based on the material before it, the Authority notes that the Licensee was issued PNs for the prescribed offences of '*licensee permit intoxication on licensed premises*' and '*licensee permit indecency/violence/ quarrelsome conduct on licensed premises*' which occurred on 30 August 2018.
25. As the prescribed offences occurred within a single 24 hour period they are to be treated as a single prescribed offence in accordance with section 144C(3) of the Act.
26. The Authority is satisfied that the Former Licensee has committed a prescribed offence pursuant to section 144C of the Act. This finding is made based on the Revenue NSW evidence provided in the Notification, which confirms the PNs were paid on 19 April 2019.
27. The Authority, based on the material before it, is also satisfied there is no evidence suggesting any other strike is currently in force against the Former Licensee.
28. The Authority is satisfied that the offence in this instance warrants a first strike being imposed due to the failure of the Former Licensee or staff of the licensed premises under his control to take any prescribed action or preventative measure to prevent the occurrences of intoxication or indecency.
29. The Authority considers the responsible service of alcohol to be a fundamental responsibility of a liquor licence holder and a basic harm minimisation measure and therefore warrants the imposition of a first strike against the Former Licensee.

Statutory considerations under section 144M(1)(c) of the Act

The Authority is satisfied:

- (i) Based on Schedule 4 of the Act, the licensed premises has been consistently classified as either a 'Level 1' or 'Level 2' venue as part of the Violent Venues Scheme. At the time of the offence, the Premises was recorded as a 'Level 1' venue within Round 19 of the Scheme. Currently, the Premises is classified as a 'Level 2' venue.
- (ii) On the basis of the material provided by L&GNSW, there is no evidence to suggest the Premises size and patron capacity at the time hindered the Former Licensee's ability to prevent the prescribed offence from occurring.
- (iii) On the basis of the material provided by L&GNSW, the Former Licensee had previously been issued with penalty notices for the offences of '*licensee fail to comply with conditions of licence — general*' on 19 April 2017 and '*licensee permit intoxication on licensed premises*' on 11 February 2018. The Former Licensee elected to challenge the offence of '*licensee permit intoxication on licensed premises*' at court. The matter is listed for special fixture on 16 December 2019.
- (iv) On the basis of the submission made by L&GNSW, there have been 345 incidents of violence connected to the venue since 26 January 2008.
- (v) On the basis of the submission made by L&GNSW, the Former Licensee completed the Advanced Licensee Training Course on 18 April 2019 prior to being employed as the licensee of the George Street Bar which is also owned by Merivale.
- (vi) On the basis of the material provided by L&GNSW, since 29 January 2007 the Premises has had five previous licensees prior to the Former Licensee. The Former Licensee was licensee of the Premises from 31 January 2017 to 18 December 2018. Mr Jaimie Masson commenced as licensee from 19 December 2018.

- (vii) On the basis of the submission provided by Mr Jones, since the prescribed offence Ivy has implemented further measures including disciplinary discussions with level 6 management, updates to operating procedures, compulsory quarterly training, training from Sydney City Licensing Police, ongoing monthly RSA refreshers and training, as well as an external security audit and a review of the plan of management.
- (viii) On the basis of the material provided by L&GNSW, there are no other matters prescribed by the Regulation the Authority is required to consider.

Conclusion

- 30. Having regard to the material before it, the Authority has determined to impose a first strike against Mr Beath under section 144E of the Act.
- 31. The first strike will commence from 7 September 2019 and will expire on 7 September 2022.
- 32. The Authority, pursuant to section 53(2)(b) of the Act, is minded, subject to consideration of any final submissions, to vary the current CCTV condition (400) to reflect the Authority's standard CCTV condition.
- 33. NSW Police and L&GNSW are invited to provide submissions in response to the Authority's proposal to take further remedial action and will have until 20 September 2019 should they wish to do so.
- 34. Pursuant to section 53(4) of the Act, the current Licensee of Ivy will then have until 4 October 2019 to provide any final submissions in reply to the Authority's proposal to take the proposed action pursuant to section 53(2)(b) of the Act.
- 35. Submissions should be made to the Reviews and Secretariat Unit via email at ilqa.secretariat@liquorandgaming.nsw.gov.au and a copy provided to each of the parties to whom this letter is addressed.

Yours faithfully



Philip Crawford

Chairperson

For and on behalf of the **Independent Liquor and Gaming Authority**

Important Information:

In accordance with section 144O of the *Liquor Act 2007* the licensee or manager of whom the strike relates may, after a period of 6 months following the date on which the strike was imposed, apply to the Authority for a review of its decision to impose the strike.

An application under this section must be accompanied by the fee prescribed by the regulations.

In accordance with section 144N of the *Liquor Act 2007* a relevant person (a person who was required to be notified of the decision) who is aggrieved by this decision may apply to NCAT for an administrative review under the *Administrative Decisions Review Act 1997*.

An application to NCAT must be made within 21 days after the person receives notification and be accompanied by the fee prescribed by the regulations.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney. The NCAT website is at <http://www.ncat.nsw.gov.au/>.

This decision may be published on the Liquor and Gaming website at:

<https://www.liquorandgaming.nsw.gov.au/independent-liquor-and-gaming-authority/ilga-and-l-and-gnsw-decisions/decisions-of-interest>.

All strikes in force are also recorded on a public Three Strikes Register, which is available at:

<https://www.liquorandgaming.nsw.gov.au/resources/three-strikes-scheme>.

Schedule A – Material Considered by the Authority

1. Notification of potential first strike from L&GNSW, dated 9 May 2019, which comprised of:
 - a. Copy of COPS event 69575908.
 - b. Penalty Notices 4943369420 & 4943369485.
 - c. Current Liquor Licence LIQH400102283 as at 29 April 2019.
 - d. Liquor Licence LIQH400102283 from 20 March 2018 showing Mr Beath as licensee.
 - e. Application to Transfer Liquor Licence lodged on 27 November 2018.
 - f. Extract of Revenue NSW data as at 23 April 2019.
2. Submission from L&GNSW in relation to the Notification, dated 9 May 2019.
3. Submission from NSW Police in relation to the Notification, dated 29 May 2019.
4. Submission from Mr Antony Jones, Merivale Chief Commercial Officer on behalf of the Former Licensee, dated 19 June 2019 which comprised of:
 - a. Ivy - LIQH400102283 - Compliance History Report
 - b. Ivy Plan of Management
 - c. Character Reference for Mr Beath from Mr P Paroz dated 18 June 2019.
5. Material sourced by the Authority's Secretariat which comprised of JusticeLink records for *R v Nicholas John Beath* (Case number 2018/00325021-001) as at 15 August 2018.

Schedule B – Legislative Framework

3 Objects of Act

(1) The objects of this Act are as follows:

- (a) to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community,
- (b) to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,
- (c) to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.

(2) In order to secure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following:

- (a) the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour),
- (b) the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,
- (c) the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

53 Authority may impose, vary or revoke licence conditions

(1) Without limiting any other provision of this Act, the Authority may at any time:

- (a) on application by the Secretary or the Commissioner of Police, or
 - (b) on the Authority's own initiative,
- impose conditions on a licence.

(1A) The conditions that may be imposed by the Authority on a licence under this section include, but are not limited to, conditions:

- (a) prohibiting the sale or supply of liquor on the licensed premises before 10 am or after 11 pm (or both), and
- (b) restricting the trading hours of, and public access to, the licensed premises.

(2) The Authority may at any time:

- (a) on application by the licensee, the Secretary or the Commissioner of Police, or
 - (b) on the Authority's own initiative,
- vary or revoke a condition of a licence that has been imposed (or taken to have been imposed) by the Authority under this Act.

(3) An application under subsection (1) or (2) must:

- (a) be in the form and manner approved by the Authority, and
- (b) in the case of an application by a licensee—be accompanied by the fee prescribed by the regulations, and
- (c) be accompanied by such information and particulars as may be prescribed by the regulations, and
- (d) if required by the regulations to be advertised—be advertised in accordance with the regulations, and
- (e) comply with such other requirements as may be approved by the Authority or prescribed by the regulations.

(4) The Authority must not impose a condition on a licence after it has been granted, or vary or revoke a condition that has been imposed (or taken to have been imposed) by the Authority, unless the Authority has:

- (a) given the licensee a reasonable opportunity to make submissions in relation to the proposed decision, and
- (b) taken any such submissions into consideration before making the decision.

(5) Any person may, subject to and in accordance with the regulations, make a submission to the Authority in relation to an application under this section to vary or revoke a condition to which a licence is subject.

(6) If any such submission is made to the Authority, the Authority is to take the submission into consideration before deciding whether or not to vary or revoke the licence condition.

144B Definitions

(1) In this Part:

business owner, in relation to a licence, means an owner of the business carried on under the licence.

prescribed offence means an offence against any of the following provisions of this Act or any other provision of this Act or the regulations that is prescribed by the regulations for the purposes of this definition:

- (a) section 9 (sale or supply of liquor contrary to licence), but only where the offence relates to the sale or supply of liquor on or in relation to licensed premises outside of the trading hours of the premises,
- (b) section 11 (2) (breach of licence conditions), but only in respect of a condition imposed under:
 - (i) Division 4 of Part 6, or
 - (ii) Division 2 or 3 of this Part, or
 - (iii) Schedule 4,

that restricts the trading hours of licensed premises or prohibits patrons from entering licensed premises at certain times,

- (c) section 73 (1) (a) or (b) (permitting intoxication or indecent, violent or quarrelsome conduct),
- (d) section 73 (2) (selling or supplying liquor to an intoxicated person),
- (e) section 74 (1) (b) or (2) (permitting the sale, possession or use of a prohibited plant or drug),
- (f) section 75 (3) (failure to comply with a direction given by the Secretary),
- (g) section 82 (6) (failure to comply with a short-term closure order),
- (h) section 84 (7) (failure to comply with a long-term closure order),
- (i) section 102A (2) (failure to comply with a notice issued by the Secretary),
- (j) section 117 (1), (2) or (8) (selling or supplying liquor to a minor or allowing such sale or supply),
- (k) section 149 (licensees and managers liable for act of employees etc) in respect of a contravention of section 73 (2), 75 (3) or 117 (1) or (2).

remedial action means any action that the Authority is authorised to take under section 144F, 144G or 144J.

reviewable decision means a decision (including a decision to impose a condition on a licence) made by the Authority under this Part.

(2) A reference in this Part to the licensee or manager of licensed premises includes a reference to a former licensee or manager of licensed premises.

144C Committing prescribed offence

(1) For the purposes of this Part, a person commits a prescribed offence if:

- (a) a court convicts the person for the offence (whether or not it imposes any penalty), or
- (b) an amount is paid under a penalty notice in respect of the offence, or
- (c) a penalty notice enforcement order under the Fines Act 1996 is made against the person in respect of the offence.

(2) However, if:

- (a) the conviction is overturned on appeal, or
 - (b) the person elects, after an amount is paid under the penalty notice, to have the offence dealt with by a court, or
 - (c) the penalty notice, or the penalty notice enforcement order to the extent that it applies to the penalty notice, is withdrawn or annulled,
- any strike under this Part that is based on the conviction, penalty notice or enforcement order is revoked and any remedial action taken as the result of the strike ceases to have effect.

(3) Prescribed offences that are committed in relation to a particular licence or licensed premises within a single 24 hour period are taken, for the purposes of this Part, to be a single prescribed offence.

144E Strikes incurred by licensees or managers of licensed premises

(1) A first strike is incurred by a person who is the licensee or manager of licensed premises if:

- (a) the person commits a prescribed offence, and
- (b) no other strike is in force against the person when the offence was committed, and
- (c) the Authority decides to impose the first strike because of the seriousness of any harm that may have resulted from, or been associated with, the commission of the offence.

(2) A second strike is incurred by a person who is the licensee or manager of licensed premises if:

- (a) the person commits a prescribed offence, and
- (b) 1 strike was in force against the person when the offence was committed, and
- (c) the Authority decides to impose the second strike because of the seriousness of any harm that may have resulted from, or been associated with, the commission of the offence.

(3) A third strike is incurred by a person who is the licensee or manager of licensed premises if:

- (a) the person commits a prescribed offence, and
- (b) 2 strikes were in force against the person when the offence was committed, and
- (c) the Authority decides to impose the third strike after taking the following into account:
 - (i) the seriousness of any harm that may have resulted from, or been associated with, the commission of the offence,
 - (ii) any other matter that may be prescribed by the regulations.

144F Remedial action against licensee or manager of licensed premises

(1) If the licensee or manager of licensed premises incurs 1 strike that is in force, the Authority may, by order in writing, require the person to undertake such courses of training or instruction as the Authority considers appropriate for the purposes of managing or reducing the risks that contributed to the commission of the prescribed offence in respect of which the strike was incurred.

(2) If the licensee or manager of licensed premises incurs 2 strikes that are in force, the Authority may do any one or more of the following:

- (a) take any action specified in subsection (1),
- (b) reprimand the person,
- (c) order the person to pay, within the time specified in the order, a monetary penalty not exceeding 5 penalty units.

(3) If the licensee or manager of licensed premises incurs 3 strikes that are in force, the Authority may do any one or more of the following:

- (a) take any action specified in subsection (1) or (2),
- (b) by order in writing, disqualify (permanently or for a specified period) the person from being the licensee or manager of any licensed premises.

(4) Any monetary penalty ordered to be paid under this section is payable to the Secretary.

144G Remedial action—imposition of licence conditions

(1) Remedial action for 1 strike

If a person who is the licensee or manager of licensed premises incurs 1 strike that is in force, the Authority may impose conditions on the licence that relate to any one or more of the following:

- (a) the use of plans of management and incident registers in respect of the licensed premises,
- (b) the prohibition of the use of glass or other breakable containers on the licensed premises,
- (c) the engagement of persons to promote the responsible service of alcohol on the licensed premises,
- (d) the notification of persons, by the licensee, that the strike has been incurred,
- (e) any other matter that may be prescribed by the regulations.

(2) Remedial action for 2 strikes

If a person who is the licensee or manager of licensed premises incurs 2 strikes that are in force, the Authority may impose conditions on the licence that relate to any one or more of the following:

- (a) in the case where the licence is held by a corporation—the persons who may be appointed as a manager of the licensed premises,
- (b) the implementation of security measures in respect of the licensed premises,
- (c) the prohibition of the sale or supply of liquor on the licensed premises before 10 am or after 11 pm (or both),
- (d) the prohibition of patrons entering the licensed premises at certain times,
- (e) the prohibition of the sale or supply of certain types of liquor on the licensed premises (including liquor with a high alcohol content or liquor that is intended to be consumed rapidly such as a shot),

- (f) the prohibition of certain types of entertainment on the licensed premises,
- (g) any matter referred to in subsection (1),
- (h) any other matter that may be prescribed by the regulations.

(3) Remedial action for 3 strikes

If a person who is the licensee or manager of licensed premises incurs 3 strikes that are in force, the Authority may do any one or more of the following:

- (a) by order in writing, suspend the licence for up to 12 months,
- (b) by order in writing, cancel the licence and disqualify (for up to 12 months) any of the following persons from being granted a licence in respect of the premises to which the cancelled licence related (the subject premises):
 - (i) any person who was a business owner under the cancelled licence at the time the prescribed offence resulting in the third strike being incurred was committed,
 - (ii) any close associate of any such business owner,
- (c) impose a condition on the licence, or any subsequent licence issued in respect of the subject premises, that a person who is disqualified under paragraph (b) must not be employed or otherwise engaged as an employee or agent of the licensee or manager of those premises,
- (d) impose a condition on the licence relating to any matter referred to in subsections (1) and (2),
- (e) impose, vary or revoke any other condition on the licence that is not inconsistent with this Act.

144H Authority may impose other conditions in certain circumstances

(1) If, in relation to licensed premises, the Authority is satisfied that:

- (a) there is or has been a practice of terminating the employment of persons as the licensee or manager of the premises primarily for the reason of avoiding remedial action being taken in respect of the licence as a result of strikes incurred by such persons, and
- (b) there has been, with the subsequent employment of any person as the licensee or manager of the premises, no improvement in managing or reducing the risks that contributed to the commission of the prescribed offences in respect of which those strikes were incurred,

the Authority may impose conditions on the licence to limit the practice referred to in paragraph (a) or to manage or reduce the risk of the commission of prescribed offences on the licensed premises.

(2) The conditions that the Authority may impose under this section include conditions relating to the employment of a person as the licensee or manager of the licensed premises.

144M Requirements relating to making of reviewable decisions

(1) The Authority must, in making a reviewable decision:

- (a) notify the following persons in writing that the Authority is deciding the matter and invite those persons to make a submission within a specified period of at least 21 days:
 - (i) the licensee or manager in respect of whom the decision relates,
 - (ii) if the decision is whether a second or third strike should be imposed—each interested person in the business carried on under the licence concerned (but only if the person's name has been provided to the Authority under section 41 or 55) and the owner of the licensed premises,

(iii) any other person prescribed by the regulations, and

(b) take into account any submissions received before the end of the specified period from any of the following:

(i) a person referred to in paragraph (a),

(ii) the NSW Police Force,

(iii) Liquor and Gaming NSW, Department of Industry, and

(c) take into account each of the following to the extent that the Authority considers it to be relevant to the decision:

(i) whether the licensed premises were declared premises within the meaning of Schedule 4 when the offences that caused a strike are alleged to have been committed,

(ii) the size and patron capacity of the licensed premises and how this may impact on the ability of the licensee or manager to prevent the commission of prescribed offences,

(iii) the history and nature of the commission of prescribed offences by the licensee or manager,

(iv) the history and nature of violent incidents that have occurred in connection with the licensed premises,

(v) whether other action would be preferable,

(vi) whether there have been changes to the persons who are the licensee, manager or business owner,

(vii) whether there have been changes to the business practices in respect of the business carried on under the licence,

(viii) any other matter prescribed by the regulations.

(2) Subsection (1) does not prevent the Authority from taking into account any other matter that the Authority considers relevant to the proper making of a reviewable decision.

(3) The Authority must, as soon as practicable after making a reviewable decision, give notice in writing of the decision, the reasons for the decision and any right of review in respect of the decision to each person that is required to be notified by the Authority under subsection (1) (a) in respect of the decision.

(4) A submission provided to the Authority under subsection (1) (b) (i) may not be used for the purposes of prosecuting an offence under this Act.

(5) The regulations may prescribe guidelines setting out how the matters referred to in subsection (1) (c) are to be taken into account by the Authority.