



Mr John Coady Manager Compliance Liquor & Gaming NSW 323 Castlereagh Street SYDNEY NSW 2000 [REDACTED]	Mrs Kelly Clancy Licensee Minto Mirage [REDACTED]	Senior Sergeant Peter Boyce South West Metropolitan Regional Licensing Coordinator Camden Police Area Command Cnr Camden Valley Way and Wilson Crescent NARELLAN NSW 2567 [REDACTED]
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8 March 2019

Dear Mrs Clancy

Reference No. DOC19/027033
Matter Notification of a potential first strike offence
Notification submitted by John Coady, Manager Compliance, Liquor & Gaming NSW
Licensee Mrs Kelly Clancy
Licence name Minto Mirage
Licence no. LIQH400123027
Licence type Liquor – hotel licence
Premises Surrey St, MINTO NSW 2566
Issue Whether a first strike should be imposed against Mrs Kelly Clancy
Legislation Section 144E of the *Liquor Act 2007*

**Determination of a potential first strike offence in relation to
Mrs Kelly Clancy, the licensee of Minto Mirage**

On 14 November 2018, Mr John Coady, Manager Compliance, Liquor & Gaming NSW (L&GNSW) submitted to the Independent Liquor and Gaming Authority (Authority) notification that the licensee, Mrs Kelly Clancy (Licensee) of Minto Mirage, Minto had committed a prescribed offence and potentially incurred a first strike (Notification).

At its meeting on 23 January 2019, the Authority considered the Notification and submissions made by L&GNSW, NSW Police and JDK Legal on behalf of the Licensee in response to the Notification.

The Authority, based on the information before it, was not satisfied that the Licensee has committed a prescribed offence pursuant to section 144C(1)(a) of the Liquor Act 2007 (Act). Therefore, in accordance with section 144E of the Act, the Authority has decided a first strike should not be incurred by the Licensee.

However, in consideration of the seriousness of harm that resulted from the commission of the offence, the Authority considers that it may be in the public interest to take further remedial action against the licence of Minto Mirage (LIQH400123027).

The Authority, of its own initiative, pursuant to section 53(1)(b) of the Act, is minded, subject to consideration of any final submissions, to impose the following conditions on the licence:

Plan of Management

- 1) *The licensee must engage a person who holds a class 2A security licence, or is otherwise suitably qualified, to prepare a plan of management (POM) for the licensed premises and submit the POM to the Authority for approval within 1 month*

The plan should be systems based and adopt a continuing approach to address the following:

- 1) *Compliance with licence conditions and liquor laws.*
- 2) *The responsible service of alcohol.*
- 3) *Minimising disturbance to the neighbourhood particularly addressing effective management of patrons:*
 - a) *who are approaching intoxication, intoxicated, violent, quarrelsome or disorderly,*
 - b) *queuing to gain entry to the premises, and*
 - c) *within and departing the premises.*
- 4) *Effective management and deployment of venue staff particularly addressing:*
 - a) *maintaining an incident register,*
 - b) *security and patron safety,*
 - c) *crime scene management procedures, and*
 - d) *induction and training*
- 5) *Appropriate responses to concerns raised by NSW Police or residents affected by the operation of the licensed premises.*

- 2) *The premises is to be operated at all times in accordance with the Plan of Management dated <insert date> as may be varied from time to time after consultation with NSW Police. A copy of the Plan of Management is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.*

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.*

Incident Register

- 1) *An Incident Register will be maintained at the premises. The incident register shall be used at all times the hotel is trading and be readily available for inspection at any time the premises are trading*

by NSW Police and Inspectors of Liquor and Gaming NSW(L&G). The Incident Register shall record the occurrence, at any time of the day, of:

- (a) any incident involving violence or anti-social behaviour occurring on the licensed premises;
- (b) any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the licensed premises and that involves a person who has recently left, or been refused admission to, the premises;
- (c) any incident that results in a person being turned out of the licensed premises under section 77;
- (d) any other incident of a kind prescribed by the Liquor Regulation 2008 with regard to requirements for the maintenance of an Incident Register;
- (e) any third-party disturbance complaint received by the Hotel in relation to the premises; and
- (f) any malfunction of breath analysis equipment, CCTV or noise limitation equipment, and the action taken in relation to all such matters.

Crime Scene Preservation

- 1) Immediately after the person in charge of the licensed premises or a staff member becomes aware of any incident involving an act of violence causing injury to a person on the premises, the person in charge of the licensed premises and/or staff member must:
 - a) take all practical steps to preserve and keep intact the area where the act of violence occurred,
 - b) retain all material and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by NSW Police, as published from time to time on the Liquor and Gaming NSW website,
 - c) make direct and personal contact with NSW Police to advise it of the incident, and
 - d) comply with any directions given by NSW Police to preserve or keep intact the area where the violence occurred.
- e) In this condition, 'staff member' means any person employed by, or acting on behalf of, the licensee of the premises, and includes any person who is employed to carry on security activities (e.g. crowd controller or bouncer) on or about the premises.

Local Liquor Accord

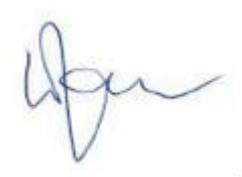
- 1) The licensee must join and be an active participant in the local liquor accord.

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 against the licence and invites NSW Police, the Compliance Operations Unit of L&GNSW and the 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 seek review of the Authority's decision not to impose a first strike by the New South Wales 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 14 November 2018, Mr John Coady, Manager Compliance, Liquor & Gaming NSW (L&GNSW) submitted to the Authority a notification that the licensee, Mrs Kelly Clancy (Licensee) of the Minto Mirage (Premises) had committed a prescribed offence (Notification).
2. The Notification included evidence that NSW Police (Police) issued the Licensee a Penalty Notice (PN) for the prescribed offence of '*licensee permit intoxication on licensed premises*' in relation to an incident that occurred at the Premises on 29 June 2018 (Offence). In addition, the staff member involved in the commission of the prescribed offence was issued a PN for the prescribed offence of '*employee sell/supply liquor to intoxicated person*.'
3. The Authority notes that on 9 October 2018, the Licensee was found guilty without conviction and the matter was dismissed in court under section 10(1)(a) of the *Crimes (Sentencing Procedures) Act 1999*.
4. Consequently, the Authority, based on the information before it, was not satisfied that the Licensee has committed a prescribed offence pursuant to section 144C(1)(a) of the *Liquor Act 2007* (Act).
5. In accordance with section 144E of the Act, the Authority has decided a first strike should not be incurred by the Licensee.
6. In reaching its decision, the Authority has had regard to the material before it, as well as the legislative provisions under sections 3, 53, 144B, 144C, 144E, 144F, 144G, 144H, 144M and Liquor Regulation 2018.

Material considered by the Authority

7. The Authority has considered the Notification and all submissions received in relation to the Notification.
8. The Authority is satisfied that procedural fairness was afforded to the Licensee and interested parties regarding this decision, as all parties required to be notified were provided with the opportunity to make submissions.
9. 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

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

Key findings

11. The Authority accepts Police's account of the Offence contained in Computerised Operational Policing System (COPS) event report (number 68515675) which records the following information:
 - a. On 29 June 2018 at 10:50pm, NSW Police attended the hotel as part of a routine business inspection.
 - b. Police observed a male patron displaying signs of intoxication such as slurred speech, swaying and splashing a schooner of beer as he attempted to drink. During this time Police are reported to have observed a security guard walk past the intoxicated patron without making any attempt to remove him from the premises.
 - c. Police approached the Licensee behind the bar and requested that she accompany them to speak to the intoxicated patron.

- d. Police introduced themselves and informed the patron that due to his level of intoxication, he would need to leave the premises immediately. The intoxicated patron then unsuccessfully attempted to reach for his beer before being escorted out of the premises by Police.
 - e. Upon questioning with Police, the bartender acknowledged that she should not have served the patron at all due to his high level of intoxication.
 - f. The Licensee however, assessed the patron as being moderately affected by alcohol. She further suggested to Police that the signs of intoxication displayed may be as a result of illicit substance consumption. The Licensee acknowledged that no attempt was made by staff to refuse service to the patron or remove him from the Premises.
12. The Authority notes L&GNSW's submission that the staff member involved in the commission of the prescribed offence was issued with a PN for the prescribed offence of '*employee sell/supply liquor to intoxicated person*' under section 73(2) of the Act.
 13. The Authority has considered L&GNSW's contention that the Licensee is liable for the actions of her employees under section 149 of the Act. Section 144B of the Act defines a prescribed offence for the purposes of Part 9A which includes section 149 but only in respect to contraventions of sections 73(2), 75(3) or 117(1) or (2).
 14. The Authority acknowledges the Licensee's submission that to have been found to have committed a prescribed offence pursuant to section 149 of the Act, it was obligatory for Police to have issued Mrs Clancy with a PN for a breach of section 73(2) of the Act.
 15. The Authority, based on the information before it, is not satisfied that the Licensee has committed a prescribed offence pursuant to section 144C(1)(a) of the *Liquor Act 2007* (Act).
 16. The Authority acknowledges Police's submission that the Licensee has been issued with six verbal warnings for gaming offences since 2015. Furthermore, Police hold concerns in relation to the measures in place at the Premises to prevent intoxication.
 17. The Authority considers that it may be in the public interest, subject to consideration of any final submissions, to take additional action against the licence of the Minto Mirage (LIQH400123027).

Incurring a first strike

18. Under section 144E of the Act, the Authority, when determining whether a first strike should be incurred against a licensee, 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.
19. The Authority is satisfied that at the time of the Offence, based on the liquor licence document provided in the Notification, Mrs Clancy was the licensee of the Minto Mirage.
20. In accordance with section 144C of the Act, a person commits a prescribed offence if a court convicts the person, an amount is paid under a penalty notice or a penalty notice enforcement order is made against the person in respect of an offence.
21. Based on the material before it, the Authority notes that the Licensee was issued a PN for the prescribed offence of '*licensee permit intoxication on licensed premises*' in relation to an incident that occurred at the Premises on 29 June 2018 (Offence).

22. The Authority is not satisfied that the Licensee has committed a prescribed offence pursuant to section 144C(1)(a) of the Act. This finding is made based on the material provided in the Notification, which indicates the Licensee was found guilty without conviction and the matter was dismissed in court under section 10(1)(a) of the *Crimes (Sentencing Procedures) Act 1999* on 9 October 2018.
23. In accordance with section 144E of the Act, the Authority has decided a first strike should not be incurred by the Licensee.
24. On this basis, the Authority does not consider it relevant to the decision to take into account the statutory considerations under section 144M(1)(c) of the Act.

Conclusion

25. Having regard to the material before it, the Authority has decided a first strike should not be incurred by Mrs Kelly Clancy.
26. However, in consideration of the seriousness of harm that resulted from the commission of the offence, the Authority considers that it may be in the public interest to take further remedial action against the licence of Minto Mirage (LIQH400123027).
27. NSW Police and L&GNSW are invited to provide submissions in response to the Authority's consideration to take the above action and will have until 22 March 2019 should they wish to do so.
28. Pursuant to section 53(4) of the Act, the Licensee will then have until 5 April 2019 to provide any final submissions in reply before the Authority makes its final decision.
29. Submissions should be made to the Reviews and Secretariat Unit via email at ilga.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 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 will be published on the Liquor & Gaming NSW website at:
<http://www.liquorandgaming.nsw.gov.au/Pages/ilga/decisions-of-interest/decisions-of-interest.aspx>

Schedule A – Material Considered by the Authority

1. Notification of a potential first strike from L&GNSW, dated 14 November 2018, which comprised of:
 - a. Copy of COPS event report (number 68515675)
 - b. L&GNSW liquor licence records as at 14 November 2018.
 - c. Extract of Revenue NSW data as at 18 September 2018.
2. Submission from L&GNSW in relation to the Notification, dated 14 November 2018.
3. Submission from NSW Police in relation to the Notification, dated 28 November 2018.
4. Submission from JDK Legal on behalf of the Licensee in relation to the Notification, dated 20 December 2018.
 - a. Extract from the L&GNSW website on Prescribed Offences that lead to compliance risk loadings.
 - b. Unsworn Affidavit of Kelly Clancy .
 - c. Exhibit 'KC1' to Affidavit of Kelly Clancy with the following documents:-
 - i. L&GNSW liquor licence records as at 6 January 2014.
 - ii. BBMG New Employee Guide – Minto Mirage.
 - iii. Minto Mirage – Hotel Management Plan – 16 September 2011.
 - iv. Minto Mirage – Management meeting – 17 September 2018.
 - v. Minto Mirage – Alcohol Plan of Management.
 - vi. Minto Mirage – House Policy.
 - vii. Incident Register Extract (Part A Incident Log 6179101 to 6179103).
 - viii. Incident Register Extract (Part B Incident Report 2609501).
 - ix. Court Attendance Notice – Penalty notice number 4928934497 – 3 September 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.