



Ms Margaret Pratt Manager Wisemans Ferry Bowling Club [REDACTED]	Mr John Coady Manager Compliance Liquor & Gaming NSW [REDACTED]	Senior Sergeant Matthew Hamilton North West Metro Region Licensing Coordinator Hawkesbury Police Area Command [REDACTED]
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8 July 2019

Dear Ms Pratt

**Reference No.** DOC19/115586  
**Matter** Notification of a potential first strike offence  
**Notification submitted by** Mr John Coady, Manager Compliance, Liquor & Gaming NSW  
**Manager** Ms Margaret Pratt  
**Licence name** Wisemans Ferry Bowling Club Ltd  
**Licence no.** LIQC300243745  
**Licence type** Liquor – club licence  
**Premises** Old Northern Road, WISEMANS FERRY NSW 2775  
**Issue** Whether a first strike should be imposed against Wisemans Ferry Bowling Club Ltd  
**Legislation** Section 144I of the *Liquor Act 2007*

**Determination of a potential first strike offence in relation to  
Wisemans Ferry Bowling Club Ltd**

On 11 April 2019, Mr John Coady, Manager Compliance, Liquor & Gaming NSW (L&GNSW) submitted to the Independent Liquor and Gaming Authority (Authority) notification that Wisemans Ferry Bowling Club Ltd (Club) had committed a prescribed offence and potentially incurred a first strike (Notification).

At its meeting on 19 June 2019, the Authority considered the Notification and submissions made by L&GNSW, NSW Police (Police) and the Manager of the Club in response to the Notification.

The Authority, based on the information before it, is satisfied that the Club committed the prescribed offence of *'licensee/employee sell/supply liquor to intoxicated person'* and has determined to impose a first strike against the Club in accordance with section 144I of the *Liquor Act 2007* (Act).

The first strike will commence from 9 July 2019 and will expire on 9 July 2022.

The Authority considers it appropriate for the purposes of managing or reducing the risks that contributed to the commission of the prescribed offence, subject to consideration of any final

submissions, to take further remedial action against the licence of Wisemans Ferry Bowling Club Ltd (LIQC300243745).

The Authority, pursuant to section 144J(1) 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.*

### **Training for governing body of the Club**

*The members of the governing body of the club are required to undertake additional training in the form of both the Licensee and Advanced Licensee training courses.*

For information in relation to the Advanced Licensee and Licensee training courses, please access the following page on the L&GNSW website: <https://www.liquorandgaming.nsw.gov.au/working-in-the-industry/training-to-work-in-the-industry/getting-trained/training-courses>

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 condition on the licence:

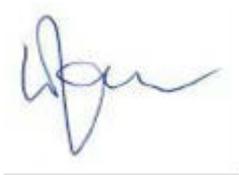
### **RSA Training**

*All staff responsible for the sale and supply of alcohol including security personnel and RSA marshals are required to undertake a responsible service of alcohol (RSA) training course conducted by an approved Registered Training Organisation (RTO). The training is required to be completed by all staff within a 2 month period from the date of the decision.*

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](mailto:ilga.secretariat@liquorandgaming.nsw.gov.au).

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Philip Crawford', enclosed in a thin black rectangular border.

Philip Crawford  
**Chairperson**

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

## STATEMENT OF REASONS

### Decision

1. On 11 April 2019, Mr John Coady, Manager Compliance, Liquor & Gaming NSW (L&GNSW) submitted to the Authority a notification that the Wisemans Ferry Bowling Club (Club) had committed a prescribed offence (Notification).
2. The Notification included evidence that NSW Police (Police) issued the former Club Manager a Penalty Notice (PN) for the prescribed offence (Offence) of '*licensee/employee sell/supply liquor to intoxicated person*' in relation to an incident that occurred at the Club on 25 January 2019.
3. The Notification also included evidence, by way of Revenue NSW data, that the penalty notice was paid on 18 March 2019.
4. The Authority is satisfied that the Club has committed a prescribed offence and there are no other strikes in force against the Club licence.
5. In accordance with section 144I of the *Liquor Act 2007* (Act), the Authority has decided to impose a first strike against the Club.
6. The Authority also considers that it may be in the public interest, subject to consideration of any final submissions, to take further remedial action against the Club under section 53(1)(b) of the Act. Notice of this action is provided at the end of this statement of reasons.
7. In reaching its decision, the Authority has had regard to the material before it, the legislative provisions under sections 3, 53, 144B, 144C, 144I, 144J, 144M of the Act and the Liquor Regulation 2018 (Regulation).
8. The first strike will commence from 9 July 2019 and will expire on 9 July 2022

### Material considered by the Authority

9. The Authority has considered the Notification and all submissions received in relation to the Notification.
10. The Authority is satisfied that procedural fairness was afforded to the Club and interested parties regarding this decision, as all parties required to be notified were provided with the opportunity to make submissions.
11. 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

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

### Key findings

13. The Authority accepts NSW Police's account of the Offence contained in Computerised Operational Policing System (COPS) event report (number 70949408) which records the following information:
  - a. On Saturday 26 January 2019, Police attended the Club following the death of a patron from a traffic collision the previous night.
  - b. Police conducted inquiries at the Club and obtained CCTV footage, copies of the incident register and statements by bar staff.

- c. As a result of these investigations, Police ascertained that liquor was sold to the intoxicated patron, liquor was sold outside approved hours, and that the Former Manager permitted intoxication on licensed premises. Cautions were issued for the latter two offences.
14. The Authority accepts L&GNSW's submission that remedial action under 144J(1) of the Act in the form of requiring the manager of the Club premises to undergo training would be appropriate in this instance.
15. The Authority acknowledges the Police submission which states that the patron was refused service due to his intoxication, however refused to leave the Club. As an incentive to leave, a staff member sold the intoxicated male a takeaway beer that he then consumed at the Club. The intoxicated patron was then served more takeaway beer by another staff member prior to departing in his vehicle. Police were not contacted to assist in the removal of the intoxicated patron and soon after the intoxicated patron was involved in a fatal single vehicle collision.
16. The Authority acknowledges the Police submission raising concerns that there may be a high-risk drinking culture at the Club as shown by the actions of the staff and informal reports from the public.
17. The Authority notes the Club Manager's submission that the Club has taken remedial action since the incident including additional training, implementing policies and procedures, staff meetings and a review of the Club's plan of management.
18. The Authority also notes the Club Manager's submission that the Club does not have an adverse compliance history, has made changes to its leadership team and has also reviewed the Club's day to day operations to ensure compliance.

#### Incurring a first strike

19. Under section 144I of the Act, the Authority, when determining whether a first strike should be incurred against a Club licence, must be satisfied that:
  - a. the manager of the club premises commits a prescribed offence, and
  - b. no other strike is in force in respect of the licence, and
  - c. the Authority decides to impose the strike because of the seriousness of any harm that may have resulted from, or been associated with, the commission of the offence.
20. 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.
21. Based on the material before it, the Authority notes that the former Club Manager was issued a PN for the prescribed offence of '*licensee/employee sell/supply liquor to intoxicated person*' which occurred on 25 January 2019.
22. The Authority is satisfied that the Club 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 PN was paid on 18 March 2019.
23. 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 Club licence.
24. The Authority is satisfied that the offence in this instance warrants a first strike being imposed due to the seriousness of alcohol-related harm that resulted in a fatal car accident.

## 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 is not a declared premises.
- (ii) On the basis of the submissions made by L&GNSW, there is no evidence to indicate that venue size and patron capacity contributed to the offence.
- (iii) On the basis of the L&GNSW submission, the former Club Manager has no history of committing prescribed offences.
- (iv) On the basis of the submission made by L&GNSW, within the past 36 months, the Club has one violent incident recorded. This relates to an indecent assault which occurred in January 2017.
- (v) On the basis of the submission made by L&GNSW, remedial action in the form of the imposition of a condition requiring the Club Manager to undergo training is recommended.
- (vi) On the basis of the submission made by L&GNSW, there have not been any changes to the Club's licence. The Authority notes that Mr Thomsen has since ceased to be manager and Mrs Margaret Pratt was appointed as Manager on 16 April 2019.
- (vii) On the basis of the submission made by the Club Manager, since the date of the incident she has completed both the Licensee and Advanced Licensee course and will be active in the Local Liquor Accord. Additionally, the Club has implemented a Code of Conduct, revised the staff handbook and held regular staff meetings to debrief all staff on the correct process for removing intoxicated patrons.
- (viii) On the basis of the material provided by L&GNSW, there are no other matters prescribed by the regulations the Authority is required to consider.

## **Conclusion**

- 25. Having regard to the material before it, the Authority has determined to impose a first strike against the Club licence under section 144I of the Act.
- 26. The first strike will commence from 9 July 2019 and will expire on 9 July 2022.
- 27. Due to the seriousness of harm that occurred as a result of the prescribed offence, the Authority also considers that it may be in the public interest, subject to consideration of any final submissions, to take further remedial action against the licence of the Wisemans Ferry Bowling Club Ltd (LIQC300243745) in the form of licence conditions.
- 28. NSW Police and L&GNSW are invited to provide submissions in response to the Authority's consideration to take additional action against the licence and will have until 22 July 2019 should they wish to do so.
- 29. Pursuant to section 53(4) of the Act, the Club Manager of Wisemans Ferry Bowling Club Ltd will then have until 5 August 2019 to provide any final submissions in reply to the Authority's proposal to take further remedial action under section 144J and section 53(1)(b) of the Act.
- 30. Submissions should be made to the Reviews and Secretariat Unit via email at [ilga.secretariat@liquorandgaming.nsw.gov.au](mailto:ilga.secretariat@liquorandgaming.nsw.gov.au) and a copy provided to each of the parties to whom this letter is addressed.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'P Crawford', enclosed in a thin black rectangular border.

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 will be published on the Liquor and Gaming 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 potential first strike from L&GNSW, dated 11 April 2019, which comprised of:
  - a. Copy of COPS event 70949408.
  - b. Copy of Penalty Notice number 4940824103.
  - c. Liquor Licence number LIQC300243745 as at 21 March 2019.
  - d. Extract of Revenue NSW data as at 18 March 2019.
2. Submission from L&GNSW in relation to the Notification, dated 11 April 2019.
3. Submission from NSW Police in relation to the Notification, dated 23 April 2019.
4. Submission from the Club Manager in relation to the Notification, dated 28 May 2019.
5. Material sourced by the Authority's Secretariat, which comprised of Liquor Licence number LIQC300243745 as at 17 April 2019.

## 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.

#### **144I Incurring strikes—club licences**

(1) A first strike is incurred on a club licence if:

- (a) the manager of the club premises commits a prescribed offence, and
- (b) no other strike is in force in respect of the licence, and
- (c) the Authority decides to impose the 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 on a club licence if:

- (a) the manager of the club premises commits a prescribed offence, and
- (b) one strike was in force in respect of the licence when the offence was committed, and
- (c) the Authority decides that a second strike should be incurred 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 on a club licence if:

- (a) the manager of the club premises commits a prescribed offence, and
- (b) 2 strikes were in force in respect of the licence 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.

#### **144J Remedial action—imposition of licence conditions**

##### **(1) Remedial action for one strike**

If one strike is incurred on a club licence and the strike 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 club premises,
- (b) the prohibition of the use of glass or other breakable containers on the club premises,
- (c) the engagement of persons to promote the responsible service of alcohol at the club premises,
- (d) the notification of persons, by the licensee, that the strike or strikes have been incurred,
- (e) requiring the manager of the club premises or the members of the governing body of the club to undergo training,
- (f) any other matter that may be prescribed by the regulations.

##### **(2) Remedial action for 2 strikes**

If 2 strikes are incurred on a club licence and the strikes are in force, the Authority may impose conditions on the licence that relate to any one or more of the following:

- (a) the persons who may be appointed as a manager of the club premises,
- (b) the implementation of security measures in respect of the club premises,
- (c) the prohibition of the sale or supply of liquor on the club premises before 10 am or after 11 pm (or both),
- (d) the prohibition of patrons entering the club premises at certain times,
- (e) the prohibition of the sale or supply of certain types of liquor on the club 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 club 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 3 strikes are incurred on a club licence and the strikes are in force, the Authority may do any one or more of the following:

- (a) by order in writing, disqualify (permanently or for a specified period) a person who held any of the following positions at the time the prescribed offence resulting in the third strike being incurred was committed from holding any of those positions:
  - (i) secretary of the club,
  - (ii) manager of any of the premises of the club,
  - (iii) member of the governing body of the club,

- (b) by order in writing, disqualify (permanently or for a specified period) any such person from being the secretary of any other registered club, holding any licence or being appointed to manage any other licensed premises,
- (c) by order in writing, appoint a person to administer the affairs of the club who, on appointment and until the Authority orders otherwise, has, to the exclusion of any other person or body of persons, the functions of the governing body of the club,
- (d) impose a condition on the club licence that a person who is disqualified under paragraph (a) must not be employed or otherwise engaged as an employee or agent of the club or of the manager of any of the club's premises,
- (e) impose a condition on the club licence relating to any matter referred to in subsections (1) and (2),
- (f) impose, vary or revoke any other condition on the club licence that is not inconsistent with this Act.

#### **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.