



Mr Sean Goodchild Director, Compliance Liquor and Gaming NSW Level 9 323 Castlereagh Street SYDNEY NSW 2000 Sean.goodchild@liquorandgaming.nsw.gov.au	Mrs Wendy Weakley Licensee Namoi Hotel 49 Maitland Street NARRABRI NSW 2390 namoi_hotel@bigpond.com	Stephen Duffy Senior Sergeant Western Region Licensing Coordinator Orana Mid-Western Police District 143 Brisbane Street DUBBO NSW 2830 duff1ste@police.nsw.gov.au
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4 September 2018

Dear Mrs Weakley

Reference No.	DOC/164213
Matter	Notification of a potential first strike offence
Notification submitted by	Sean Goodchild, Director of Compliance Operations, Liquor and Gaming New South Wales
Licensee	Mrs Wendy Weakley
Licence name	Namoi Hotel
Licence no.	LIQH400116780
Licence type	Liquor - hotel licence
Premises	49 Maitland Street NARRABRI NSW 2390
Issue	Whether a first strike should be imposed against Mrs Wendy Weakley
Legislation	Section 144E of the <i>Liquor Act 2007</i>

Determination of a potential first strike offence in relation to Mrs Wendy Weakley, the licensee of Namoi Hotel

On 14 May 2018, Mr Sean Goodchild, Director Compliance Operations, Liquor and Gaming NSW (L&GNSW) submitted to the Independent Liquor and Gaming Authority (Authority) notification that the licensee, Mrs Wendy Weakley (Licensee) of Namoi Hotel had committed a prescribed offence and potentially incurred a first strike (Notification).

At its meeting on 15 August 2018, the Authority considered the Notification and submissions made by L&GNSW and the Licensee in response to the Notification. The Authority notes that NSW Police did not make any further submissions.

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

The first strike will commence from 5 September 2018 and will expire on 5 September 2021.

Given the potential for serious harm to have occurred as a result of the prescribed offence, the Authority considers it to be in the public interest to take further remedial action against the licence of Namoi Hotel (LIQH400116780).

The Authority is proposing to take the following additional action against the licence:

1. under section 144G(1) of the Act, impose a condition on the licence requiring the Licensee to engage a person with a class 2A security licence or otherwise suitably qualified to prepare a Plan of Management (POM),
2. under section 144G(1) of the Act, impose a condition on the licence requiring the Premises to be operated in accordance with an approved POM at all times.

At the end of the statement of reasons, the Authority gives notice of its proposal to take the above measures against the licence and invites NSW Police, 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 a review of the Authority's decision 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

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 14 May 2018, Mr Sean Goodchild, Director Compliance Operations, Liquor and Gaming NSW (L&GNSW) submitted to the Authority notification that the licensee, Mrs Wendy Weakley (Licensee) of Namoi Hotel (Premises) had committed a prescribed offence (Notification).
2. The Notification included evidence that NSW Police (Police) issued the Licensee two 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 16 November 2017.
3. The Authority notes that the staff member responsible for serving the intoxicated patron was also issued a penalty notice for the prescribed offence of '*licensee/employee sell/ supply liquor to intoxicated person*'. Under section 149 of the Act, the licensee is also liable for the acts of her employee.
4. The Notification also included evidence, by way of Revenue NSW data, that the penalty notices were paid on 1 January 2018.
5. The Authority notes that because the two offences in relation to the licence occurred within a single 24 hour period, they are considered to be a single prescribed offence (Offence) for the purposes of section 144C of the Act.
6. The Authority is satisfied the Licensee has committed a prescribed offence and there are no other strikes in force against her and that permitting intoxication and quarrelsome behaviour could have led to serious harm.
7. In accordance with section 144E of the Act, the Authority has decided to impose a first strike against the Licensee.
8. The Authority has also decided to take further remedial action against the licence under section 144G(1) of the Act. Notice of this action is provided at the end of this statement of reasons.
9. In reaching its decision, the Authority has had regard to the material before it, the legislative provisions under sections 3, 144B, 144C, 144E, 144F, 144G, 144H, 144M and Liquor Regulation 2008.
10. The first strike will commence from 5 September 2018 and will expire on 5 September 2021.

Material considered by the Authority

11. The Authority has considered the Notification and all submissions received in relation to the Notification.
12. 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.
13. 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

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

Key findings

15. The Authority is satisfied that at the time of the Offence, based on the liquor licence document provided in the Notification, Mrs Weakley was the licensee of the Namoi Hotel.
16. The Authority accepts NSW Police's account of the Offence contained in Computerised Operational Policing System (COPS) event report (number 66817263) which records the following information:

- a. At about 22:00 on 16 November 2017, covert licensing police entered the Premises and immediately determined the intoxication level of most patrons to be unsatisfactory with several patrons identified as showing noticeable signs of intoxication at a prosecutable level.
 - b. Police observed a female staff member sell a male patron six rum and cokes and a beer within a two hour period.
 - c. At this time, the patron in question was displaying noticeable signs of intoxication including loud/boisterous behaviour, poor motor skills and a lack of balance resulting in him knocking over a rum and coke.
 - d. At about 23:30 that same evening, Police witnessed a violent altercation between the previous patron in question and another male patron. The first minor altercation involved pushing and shoving.
 - e. This escalated when the patrons re-engaged in quarrelsome behaviour before being separated by their respective associates. One party repeatedly made efforts to incite a violent altercation, challenging the other patron to fight in the vicinity of the Premises.
 - f. Police noted that between 22:00 and midnight no food was observed to be supplied or consumed by patrons. There were only two staff members on duty and there were no licensed security staff or RSA Marshalls working. During this time, no persons were refused service or asked to leave the Premises.
 - g. Police also noted that upon closure, patrons who left the Premises were noisy, yelling and swearing. A female patron was seen to carry a bottle of Jack Daniels and cola. According to the COPS report, no attempts were made to ensure patrons left the area without disturbing the neighbourhood.
17. The Authority acknowledges, on the basis of the Licensee's submission that on the night of 16 November 2017, she had been required to assist at the bar as a staff member had been sent home sick and as a result was removed from her usual marshalling duties.
 18. The Authority notes in the Licensee's submission that steps were taken to close the Premises early as a lack in staff was putting undue pressure on the remaining staff on duty. The Authority also notes that the COPS report indicates alcohol was served until 23:50, 10 minutes prior to the Premises closing at midnight.
 19. The Authority acknowledges that the Licensee has since taken steps to inform staff of their RSA and RCG responsibilities and has also liaised with Police in regard to attendance at the next staff meeting so further information and updates can be provided to staff.
 20. The Authority accepts L&GNSW's submission that the responsible service of alcohol is vital to ensuring that the sale, supply and consumption of liquor contributes to and does not detract from the amenity of community life. The poor practices exhibited at the Premises contributed to an increased risk of alcohol-related harm, neighbourhood disturbance and compromised the safety of patrons.
 21. The Authority is satisfied that the Licensee was fully aware of her requirements to ensure responsible service of alcohol. This finding is supported in the COPS report, in which the Licensee admitted to permitting intoxication and violence on the Premises.

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, 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 an amount is paid under a penalty notice in respect of an offence.
24. Based on the material before it, the Authority notes that the Licensee was issued two PNs for the prescribed offence of *'licensee permit intoxication on licensed premises and licensee permit indecency/ violence/ quarrelsome conduct on licensed premises'* on 16 November 2017.
25. The Authority further notes that because the two offences occurred on the Premises within a single 24 hour period, they are to be taken as a single prescribed offence in accordance with section 144C of the Act.
26. The Authority acknowledges that the PNs issued to the Licensee were paid on 1 January 2018, which triggered consideration of whether a first strike should be incurred against the Licensee.
27. The Authority is satisfied that the 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 1 January 2018.
28. 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 Licensee.
29. The Authority is satisfied, based on the COPs report evidence, a male patron was significantly intoxicated which resulted in two male patrons engaging in quarrelsome behaviour. The Authority considers this to be of a sufficiently serious nature to warrant the imposition of a first strike against the licensee.

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

The Authority is satisfied:

- (i) Based on the current violent venue list in schedule 4 of the Act, the licensed premises is not a declared premises.
- (ii) On the basis of the material provided by L&GNSW, there is no evidence to suggest the venue size and patron capacity at the time hindered the Licensee's ability to prevent the prescribed offences from occurring. The Authority notes, from the COPs report evidence, that the male patron displayed noticeable signs of intoxication while on the Premises and venue staff continued to supply alcohol rather than stop service.
- (iii) On the basis of the material provided by L&GNSW, the Licensee does not have a prior history of committing prescribed offences. The Authority notes that L&GNSW records indicate the Licensee has been issued two infringement notices for a failure to comply with conditions of the licence in relation to staff being unable to produce a copy of their responsible service of alcohol certifications.
- (iv) On the basis of the submission made by L&GNSW, the licensed premises does not have a history of violent incidents.
- (v) On the basis of the submission made by L&GNSW, the Offences indicate a failure in management practices with no evidence to indicate the licensee had procedures and controls in place to prevent intoxication or manage violent/ quarrelsome conduct on the premises and therefore other action under section 144G(1) of the Act in the form of conditions is warranted in this circumstance.
- (vi) On the basis of the material provided by L&GNSW, there have not been any changes to venue management or ownership. The Authority notes that Mrs Weakley has also been the business and premises owner of the hotel since November 2005.
- (vii) While L&GNSW contends in its submission that no changes to business practices have been made, the Authority accepts the Licensee's information, provided in a later submission, that steps have been taken in respect of RSA training and further communication with Police. Nevertheless, in circumstances when there has been no change in ownership and control and when such new business practices are a very recent development, the Authority is not moved to decline to incur a first strike on this basis. Incurring a strike will provide a

spur for the Licensee and staff to exercise greater rigour with respect to regulatory compliance and the avoidance of committing prescribed offences.

- (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

30. Having regard to the material before it, the Authority is satisfied that the Licensee has committed a prescribed offence and there are no other strikes in force against her and there was potential for serious harm to have occurred as a result of the commission of the offence.
31. Accordingly, the Authority has decided to impose a first strike against Mrs Weakley under section 144E of the Act.
32. The first strike will commence from 5 September 2018 and will expire on 5 September 2021.
33. Given the potential of serious harm to have occurred as a result of the commission of the prescribed offence, the Authority considers it to be in the public interest to take further remedial action against the licence under section 144G(1) of the Act.
34. This action is intended to minimise the harm associated with the misuse and abuse of liquor and encourage responsible attitudes and practices towards the promotion, sale, supply and consumption of liquor.

Notice of proposed action against the licence under section 144G(1) of the Act

35. In accordance with section 144G(1) of the Act, the Authority is proposing to impose the following two Plan of Management related conditions on the licence:
 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.*
36. NSW Police and L&GNSW are invited to provide submissions in response to the Authority's proposal to take the above action and will have until 18 September 2018 should they wish to do so.

37. Pursuant to section 53(4) of the Act, Mrs Weakley will then have until 2 October 2018 to provide any final submissions in reply to the Authority's proposed action before the Authority makes its decision.
38. 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 13A of the *Gaming and Liquor Administration Act 2007* a relevant person (the Applicant or a person who was required to be notified of the prescribed Application and who made a submission to the Authority or the Secretary in respect of the prescribed Application) 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 28 days of notice of this decision being published on the liquor and gaming website <http://www.liquorandgaming.nsw.gov.au/Pages/ilga/decisions-of-interest/decisions-of-interest.aspx> 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/>.

Schedule A – Material Considered by the Authority

1. Notification of potential first strike from L&GNSW, dated 11 May 2018, which comprised of:
 - a. Copy of COPS event 66817263.
 - b. L&GNSW liquor licence records as at 7 May 2018 setting out the key liquor details for the licence of Namoi Hotel.
 - c. Extract of Revenue NSW penalty notice data as at 1 May 2018.
2. Submission from L&GNSW in relation to the Notification, dated 11 May 2018.
3. Submission from Mrs Weakley in relation to the Notification, dated 12 April 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.

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.