



The Review Applicant Duxford Street Paddington NSW 2021	Ms Eleanor Banfield Licensee, Royal Hotel c/- Mr Sherif Mouakkassa Thomson Geer Lawyers <a href="mailto:smouakkassa@tglaw.com.au">smouakkassa@tglaw.com.au</a>	Mr John Coady Manager, Regulatory Interventions Team Delegate of the Secretary of the NSW Department of Enterprise, Investment and Trade <a href="mailto:john.coady@liquorandgaming.nsw.gov.au">john.coady@liquorandgaming.nsw.gov.au</a>
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Dear Sir/Madam

21 December 2022

<b>Application No.</b>	A21/0018748
<b>Applicant</b>	A Resident of Duxford Street, Paddington
<b>Application for</b>	Review of a decision made under section 81 of the <i>Liquor Act 2007</i> (NSW) by a delegate of the Secretary of the NSW Department of Customer Service.
<b>Licence name</b>	Royal Hotel
<b>Premises</b>	237 Glenmore Road Paddington NSW 2021
<b>Date of Reviewable Decision</b>	23 February 2022
<b>Legislation</b>	Section 36A of the <i>Gaming and Liquor Administration Act 2007</i> (NSW)

**Decision of the Independent Liquor and Gaming Authority – Application for review of a decision made under section 81 of the *Liquor Act 2007* (NSW) by a delegate of the Secretary of the NSW Department of Customer Service – Royal Hotel, Paddington**

The Independent Liquor and Gaming Authority (“Authority”) has completed its review of a decision made by a delegate of the Secretary of the then NSW Department of Customer Service (“Delegate”) under section 81 of the *Liquor Act 2007* (“Act”) in response to your complaint under section 79 of the Act alleging that the operations of the Royal Hotel (“Hotel”), a licensed hotel located at 237 Glenmore Road, Paddington NSW 2021 and/or the behaviour of its patrons, were causing undue disturbance to the quiet and good order of the neighbourhood.

On 23 February 2022, the Delegate made a finding that the Hotel had, at times, unduly disturbed the quiet and good order of the neighbourhood. As such, the Delegate decided to impose a Plan of Management condition on the Hotel’s liquor licence (“Reviewable Decision”).

The Authority has decided, pursuant to section 36A(4)(b) of the *Gaming and Liquor Administration Act 2007* (NSW) (“GALA Act”), to vary the decision under review and impose a condition on the Royal Hotel (LIQH400105223) that:

“From 8:00PM until close on Fridays and Saturdays, there should be one (1) security guard on duty for every 150 patrons. One (1) of the security guards on duty should be charged with patrolling the nearby streets to ensure there are no patrons loitering in the vicinity causing disturbance to local residents and also to ensure that the noise from music emanating from the premises is not at a level that would disturb local residents.”

The condition will become effective on 4 January 2023 to enable the Hotel to be able to put measures into place to meet the requirements of the condition.

On 21 December 2022, a duly authorised delegate of the Secretary, NSW Department of Enterprise, Investment and Trade, gave effect to the Authority’s decision and imposed the condition pursuant to section 36A(6) of the GALA Act.

Attached is a statement of reasons for the Authority's decision, prepared in the context of a high-volume liquor and gaming jurisdiction, in which the Authority is required to publish reasons for its decisions as soon as practicable.

If you have any enquiries about this letter, please contact the Office of ILGA via email to [office@ilga.nsw.gov.au](mailto:office@ilga.nsw.gov.au)

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Murray Smith', is positioned above the typed name.

Murray Smith

**Deputy Chairperson**

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

## Statement of Reasons

### Reviewable Decision

1. Section 36A(1)(a)(iv) of the *Gaming and Liquor Administration Act 2007* (NSW) (“GALA Act”) provides that a decision made under section 81 of the *Liquor Act 2007* (NSW) (“Act”) is a reviewable decision. Pursuant to section 36A(2) of the GALA Act, a person aggrieved of a reviewable decision may seek review by the Authority.
2. On 23 March 2022, the Independent Liquor & Gaming Authority (“Authority”) received an application for review (“Review Application”) from the complainant (“Complainant”) in a disturbance complaint (“Complaint”) made to the Secretary of the New South Wales Department of Customer Service (“Department”).
3. The Complaint was made under section 79 of the Act, alleging that the operations of the Royal Hotel, a full hotel licensed premises located at 237 Glenmore Road, Paddington NSW 2021 (“Hotel”) and/or the behaviour of its patrons, were causing undue disturbance to the quiet and good order of the neighbourhood.
4. On 23 February 2022 a delegate of the Secretary of the Department (“Delegate”) determined the Complaint, finding that the Hotel had, at times, caused undue disturbance. The Delegate determined under section 81 of the Act to impose a plan of management condition on the Hotel’s liquor licence (“Reviewable Decision”).
5. The Complainant seeks review of the Reviewable Decision on the bases summarised below.

### The Complaint

6. On 21 April 2021, the Complainant lodged the Complaint, along with supporting material, and the required Complainant Authorisation forms signed by 12 authorised residents. On the same day, Liquor & Gaming NSW (“L&GNSW”) contacted the Complainant regarding issues with three of the Complainant Authorisation forms accompanying the Complaint.
7. On 22 April 2021, the Complainant responded to L&GNSW, who advised that two of the residents were unable to be contacted regarding issues with their forms and that the Complaint could proceed without them. Additionally, the Complainant provided an updated form for the other resident, which was accepted as valid by L&GNSW.
8. As such, the Complaint was made by a resident in the neighbourhood of the Hotel and was verified, for the purposes of section 79(3) of the Act, by 10 other residents in the neighbourhood. The Complainant and all the authorising residents acknowledged that the details in the application form would be provided to the licensee.
9. The Authority is satisfied that the Complaint was validly made.
10. The Complainant alleges disturbance is due to patron noise both from inside the Hotel and while patrons are leaving the Hotel. Disturbances inside the Hotel are exacerbated by doors and windows remaining open until close, a recently renovated balcony being overcrowded, excessive patron noise and loud music being played frequently. Disturbances outside the Hotel are caused by patrons leaving in large groups and loitering outside the Hotel after close.
11. The Complainant also alleges disturbance is caused by a substantial increase in taxi and ride-sharing usage, and from the poor behaviour of patrons outside the Hotel, including

urinating in gardens and on footpaths, and empty bottles being littered. The Complainant also alleges noise from delivery trucks arriving before 6:00AM, and rubbish and glass collection before 6:00AM contribute to the disturbance. The disturbance allegedly occurs daily, particularly noting Monday to Saturday mornings before 6:00AM, Friday, Saturday, and Sunday evenings up to and after 12:00 midnight, and on Sunday afternoons from 3:00PM.

12. To address the Complainant's concerns, the Complainant seeks that:
- there be no waste collection or delivery prior to 6:00AM
  - the balcony area be decreased to 50% of current capacity
  - windows and doors be closed on levels above the ground floor at all times and that the balcony is not used from 10:00PM
  - the Hotel's operating hours be reduced so the Hotel closes at 10:00PM
  - security cameras be installed on the ground and first floors to cover Glenmore Road, Broughton Street and White Lane
  - music to only be played when the doors, windows and roof are closed
  - security is employed during operating hours
  - taxi and ride-share collections are limited to Glenmore Road.

### **Consultation on the Complaint**

13. A summary of the evidence and material before the Delegate, including the Former Licensee's response, is provided at Schedule 1.
14. The Delegate's consultation on the Complaint occurred between April 2021 and February 2022 and included consultation with Council, Eastern Suburbs Police Area Command of NSW Police ("Police"), the Former Licensee of the Hotel (including his legal representative at the time Mr Don McDougall) and the Complainant. This correspondence is briefly described in Schedule 1 to this letter.

### **Reviewable Decision**

15. Without repeating all of the matters discussed in the Reviewable Decision, the Delegate made the following findings on the statutory considerations to which a decision maker must have regard under section 81(3) of the Act:
- On the matter of the order of occupancy between the licensed premises and the Complainant (section 81(3)(a)) the Hotel has operated under the current liquor licence since 20 June 1960, which predates the Complainant, who has resided at their address for 21 years. The order of occupancy favours the Hotel.
  - On the matter of any changes to the licensed premises, or the Complainant's premises (section 81(3)(b)) the Hotel had structural changes made in 2006, 2011 and 2019 relating to alterations, additions and restoration of the first-floor balcony, and the reconfiguration of the Hotel's internal layout. On 1 October 2015, RHP Operations Pty Ltd commenced as the business owner of the Hotel. From 15 October 2020 until 19 May 2021, the Former Licensee held the position as licensee. On 20 May 2021, the Licensee commenced in the role and remain to this day. There is no indication any structural changes have been made to the Complainant's residence other than a kitchen renovation and the addition of a garage.

- On the matter of any changes in activities at the licensed premises (section 81(3)(c)) the Hotel has been operating in the same manner and offering the same entertainment since early 2000, with only cosmetic alterations completed at the Hotel in that period. The in-house DJ which has been newly advertised on the Hotel’s social media pages is attracting a different target demographic of 18–30-year-olds. Since the COVID-19 lockdown period in 2021, the first-floor balcony has been refurbished with a bar bench installed wrapping around the balcony, which has resulted in an increase in the number of patrons using the area.
16. On the ultimate issue of whether the Hotel has caused undue disturbance within the meaning of section 79 of the Act, the Delegate noted the layout of the Hotel and its close proximity to the Complainant and authorising residents. The Delegate also noted the recommendations and observations made by Police and Council, including numerous proposed conditions that were covered off in negotiations between the Hotel and Police in a Plan of Management (“PoM”). Additionally, the Delegate found it evident that the renovation of the Hotel’s first-floor balcony area coincides with an escalation of noise complaints received by Council.
17. After considering the submissions of Council, Police, the Former Licensee, engagements between the Former Licensee and Police regarding the development of a PoM and an inspection of the Hotel by L&GNSW on 19 December 2021, the Delegate was satisfied that:
- the Hotel has, at times, caused undue disturbance to the quiet and good order of the neighbourhood
  - the renovation to the Hotel’s first-floor balcony has increased its capacity limits and usage, and that in this context, the Hotel has significant responsibility to ensure it does not disturb the quiet and good order of the neighbourhood
  - the first-floor balcony’s current capacity of 50 patrons is concerning, and the Hotel should be minded to consider the safety of its patrons as paramount and that this matter would be more appropriately addressed by Council
  - the Hotel has raised noise mitigation strategies to reduce its noise impact, but the Delegate remains concerned that, as evidenced in the Police and Council submissions, these are not effectively being implemented and have failed to have an impact on noise reduction
  - the Hotel has recently developed and intends to adopt a PoM and its ongoing consultation with Police regarding this has been encouraging, and should continue
  - on the issue of imposing the PoM condition, the Delegate took into consideration the voluntary measures currently being undertaken at the Hotel and determined that the imposition of a formal PoM condition will provide regulatory certainty and enforceability
  - as such, the Hotel will take measures to ensure patrons do not loiter and cause disturbance, and that noise generated from within the Hotel is adequately addressed
  - this is a balanced approach, considering the number of conditions proposed by both Police and Council and the desired outcomes of the Complainant.
18. On the question of remedial action, the Delegate balanced the statutory objects and considerations in section 3 of the Act and noted that the new PoM will be enforceable through the operation of a licence condition numbered “11000” on the Hotel’s licence record. This requires the Hotel to be operated at all times in accordance with the PoM, as varied from time to time after consultation with the local Police Area Commander.

19. The Delegate directed the Licensee to provide the Hotel's updated and signed PoM to local Police within 28 days. In the circumstances of this new enforceable PoM, the Delegate was satisfied that imposing a PoM condition on the Hotel's liquor licence was the appropriate course of action. The Delegate notes that in the event of fresh undue disturbance it will be open for the matter to be reconsidered and for further regulatory intervention to occur. The Former Licensee provided the signed PoM to L&GNSW on 24 February 2022.

### **Review Application**

20. In an email to the Authority dated 21 March 2022, the Complainant sought a review of the Reviewable Decision. The Complainant, however, provided an incorrect form to commence the Review Application.
21. On 23 March 2022, the Authority contacted the Complainant and advised them that the form provided on 21 March 2022 was incorrect. The Complainant promptly completed and then provided the correct application form, signed and dated on 23 March 2022. Also provided with the form was a copy of the redacted Reviewable Decision.
22. The Complainant is aggrieved by the Delegate's decision as they believe there was a failure to properly consider two key issues and that they did not have an opportunity to review the PoM and that it does not address their concerns.
23. The Complainant's two primary issues include noise, which mainly emanates from the first-floor balcony, and disturbances in the neighbourhood caused by inadequate security. The Complainant submits the Reviewable Decision should be amended by requiring the Hotel to:
  - close the balcony area so it cannot be used after 10:00PM on each evening
  - employ four security personnel on Friday and Saturday evenings and on occasions of special events.
24. On 31 March 2022, the Authority invited submissions from Police, Council, and the licensee, Ms Eleanor Banfield ("Licensee") in response to the Review Application.

### **Council Response to Review Application**

25. Council provided its response to the Review Application with a submission via email dated 21 April 2022. In summary, Council:
  - continues to receive regular noise complaints regarding the Hotel and patron behaviour, including six complaints received between 11 February and 22 March 2022
  - the complaints received all refer to loud noise and anti-social behaviour from patrons
  - requested a copy of the occupation certificate for the first-floor balcony and other certification from the Licensee on 4 April 2022
  - submit the first-floor balcony cannot be lawfully occupied until an occupation certificate is issued together with an engineer's report on the integrity of the balcony, including patron numbers
  - submit that appropriate and robust conditions must be imposed on the Hotel's liquor licence to assist with enforcement and to ameliorate ongoing disturbances to neighbours.

## **Police Response to Review Application**

26. Police provided its response to the Review Application with a two-page submission dated 28 April 2022. In summary, Police:
- submit despite requiring consultation with NSW Police, there is no requirement that the Hotel needs to obtain approval from Police, Council, L&GNSW or any other regulatory body to amend the PoM
  - do not think the Reviewable Decision will prevent the Hotel from, at times, unduly disturbing the quiet and good order of the neighbourhood and that a suite of robust licence conditions is required to be imposed on the Hotel's liquor licence to prevent further undue disturbance.

## **Licensee Response to Review Application**

27. The Licensee provided its response to the Review Application with a 15-page submission made through its solicitor, Thomson Geer Lawyers, dated 6 May 2022.
28. In summary, the Licensee:
- contends the Hotel's maximum capacity is 600 patrons, meaning that it is unnecessary and inappropriate for the Hotel to have four security guards at all times and that security related protocols are adequately addressed in the PoM
  - contends the Hotel is in an area with vibrant nightlife, with nearby venues also causing disturbance to the neighbourhood, and rejects claims there was ample evidence in the Reviewable Decision about excessive noise from patrons leaving the Hotel and vomiting on the streets adjacent to the Hotel
  - submits that Police concerns are adequately addressed in the PoM
  - highlights recent Police engagement at the Hotel has resulted in positive feedback
  - submits the Police submission, without evidence, is insufficient to support a change of operation by the Hotel and Police have had no issues regarding noise since the implementation of the PoM
  - cannot agree to close the balcony as significant renovations were completed so the balcony can be utilised, with the blinds and balcony doors closing at 10:00PM to minimise noise emanating from the Hotel's interior
  - submits that PoMs are not the subject of review by parties other than the Licensee, Police, L&GNSW or the Authority and are enforced by the Authority or Police
  - submits the Review Applicant has no right to review the PoM
  - submits the standard LA10 noise condition is included in the PoM, which removes the need for there to be any noise testing before the Reviewable Decision was made
  - denies the Review Applicant was not given the benefit of procedural fairness or otherwise
  - submits that noise tests conducted by the Review Applicant should be discarded as the suitability of equipment is unknown, and they are neither independent nor qualified to carry out noise testing
  - submits the Hotel is an all-encompassing hotel which does not target a certain demographic or conduct nightclub or ticketed events

- submits the amended PoM limits entertainment to a maximum 3-piece ensemble and requires any amplification equipment to be controlled by an RMS noise limiter
- submits that Council does not provide any evidence for its submission and the suggested conditions to be imposed are unwarranted
- submits that none of Council's development consents impose a patron capacity for the balcony, noting the most recent development consent was issued in 2019
- contends the Hotel has a good compliance record with no demerits and since COVID-19, venues have been encouraged to use outdoor spaces
- submits the Hotel has been operating in the same manner and offering the same type of entertainment since early 2000 and the business owner has had a good compliance record since taking over the Hotel in 2015
- submits the PoM only became effective from 28 February 2022 and the Licensee should be given a reasonable opportunity to comply with it, noting it contains sufficient measures which if implemented and complied with, will minimise any disturbance to the neighbourhood
- submits the Hotel's order of occupancy means the requirement for it to comply with the amended PoM is a proportionate response to any risks of undue disturbance to the neighbourhood raised by the Review Applicant and residents
- submits that any further conditions being imposed on the Hotel's licence, including the use of the first-floor balcony, is contrary to the policy objectives of recent changes to the Act.

29. The Licensee concludes with a request that the Authority makes no variation to the Reviewable Decision.

### **Complainant Reply Submissions**

30. The Complainant provided a six-page response to the submissions received by Council, Police and the Licensee dated 19 May 2022. In response, the Complainant submitted:

- the Licensee wishes to uphold the Reviewable Decision, which would mean the Hotel accepts the Delegate's findings and cannot now challenge the findings
- the PoM must be prescriptive in the critical areas of noise control and disturbances
- the Complainant and residents support Council and Police's submissions, which largely repeat submissions made in the original complaint
- the Complainant reiterates the Delegate made a finding of undue disturbance in the original complaint
- the Complainant raised 12 issues relating to matters discussed in several paragraphs of the Hotel's submissions
- a compromise on engaging security personnel would be to amend the PoM to require one additional security guard, thereby increasing the number to three on Saturday evenings at the very least
- the PoM deals with noise and disturbances inadequately, this is the view of Police, Council, and residents, and as such, the PoM should be updated in the following areas:
  - the first-floor balcony should cease to operate at 10:00PM to be consistent with the closure of all doors and windows elsewhere at that time as the blinds are not designed for and are manifestly ineffective to control noise



- an RMS noise limiter should control all electronically generated music including that played through the Hotel's inhouse system and be calibrated to conform with Council's noise conditions
- more security is needed, appropriate to the number of patrons as two security personnel for up to 600 patrons is "absurd".

### **Consideration at the Authority's June board meeting**

31. The Review Application was first considered by the Authority at its board meeting on Wednesday 15 June 2022.
32. The Authority noted the number of issues raised by the Complainant which mainly referred to noise, amenity issues and anti-social behaviour from patrons. The Authority also noted the first-floor balcony is being used outside of its design specification based on the submissions received. The Authority noted that the first-floor balcony cannot be lawfully occupied until an occupation certificate is issued, together with a structural engineer's report on its integrity and the number of patrons permitted on the balcony.
33. The Authority considered the proposed conditions from the Complainant, Police and Council, and whether it should impose any conditions to address the Complainant's concerns. The Authority found it appropriate to request further information from Council clarifying whether the occupation certificate has been provided for usage. Additionally, the Authority decided to request L&GNSW to confirm whether a boundary check had been completed for the Hotel.
34. As such, the Authority resolved to defer consideration of the Review Application until further information had been provided by Council and L&GNSW.

### **Council response to the Authority's further inquiries**

35. On 20 June 2022, the Authority wrote to Council requesting information relating to the occupation certificate. Council provided a response on the same day which indicated that no occupation certificate had been issued for the use of the first-floor balcony. The Authority responded to Council requesting the current permissible use of the balcony.
36. On 21 June 2022, Council responded to the Authority confirming that an occupation certificate is required prior to the use of the first-floor balcony and that the timeline for when it would be provided was unclear.

### **L&GNSW response to the Authority's further inquiries**

37. On 20 June 2022, the Authority requested L&GNSW conduct an inspection of the Hotel.
38. On Saturday 30 July 2022, L&GNSW inspectors attended the Hotel between 11:00PM and 12:00 midnight to conduct covert and overt observations of the Hotel. As part of their observations and discussions with the Hotel manager, the inspectors identified that:
  - security personnel were present at the Hotel, with one being stationed at the Hotel entrance and two others being positioned on the corner of Heeley Street and Glenmore Road
  - the first-floor balcony was not in use and all windows appeared to be closed
  - the demographic of the Hotel was predominantly a younger age group and appeared to be moderately affected by alcohol

- The music being played throughout the premises was supplied by a DJ on the first floor via an internal audio system
- the Hotel manager advised the first-floor balcony is not in use at any time and that he had four security guards, three managers and 12 staff members on duty, along with 130-150 patrons in the Hotel
- the Hotel has a noise limiter installed on the internal audio system to mitigate noise emanating from the Hotel
- at the close of trade, security guards and managers are positioned at the entrance to the Hotel to disperse groups of patrons loitering
- staff were monitoring the entry door and would open and close the door when patrons left the Hotel, which resulted in a decline in music levels emanating from the premises
- no anti-social behaviour or excessive patron noise occurred when patrons left the Hotel due to the actions of staff and security
- the PoM was being complied with as per the recently imposed licence condition and the Hotel was complying with its obligations under its licence and the Act
- the Hotel manager was responsive and fully cooperated with inspectors during the inspection.

#### **Consideration at the Authority's September board meeting**

39. The Authority considered the additional information from L&GNSW and Council at its board meeting on 19 September 2022. The Authority noted there were no recommended resolutions in respect of the new information received.
40. The Authority resolved to defer consideration of the Review Application and deal with it out of session.

#### **The Authority's consideration of additional information out of session**

41. On 27 September 2022, the Office of ILGA provided the Authority the recommended resolutions in respect of the new information received, which were requested at the Authority's board meeting on 15 September 2022.
42. On 18 October 2022, the Authority considered the recommended resolutions, the Review Application material and the additional information received from Council and L&GNSW.
43. The Authority noted that the results of L&GNSW's inspection suggest the Licensee has deployed sufficient security staff (at least at the time of the inspection) and is not using the first-floor balcony at this time, pending receipt of an occupation certificate. As a result, the Authority suspected the harms and potential for disturbance were reduced at this time, but not necessarily permanently addressed. The Authority considered that further information was required to ensure the use of the balcony was appropriately addressed and whether any further regulatory action was required.
44. In order for the Authority to make its determination in respect of the Review Application, the Authority resolved to:
  - seek an update from Council and the Licensee regarding the status of the occupation certificate process, and if not yet approved, what further steps and/or work is required for that process to be completed and what conditions or patron number limitations are likely to be imposed

- request a copy of the Hotel's complaints register, which is referred to in the Hotel's PoM, to investigate the extent of complaints over a 12-month period.

### **Council's response to the Authority's second request for further information**

45. On 18 October 2022, the Authority requested Council provide further information regarding an update on the occupation certificate process.
46. On 19 October 2022, Council responded to the Authority and advised that:
  - a final occupation certificate was issued on 13 October 2022
  - the only mechanism to impose conditions is via the development consent issued in 2019 (DA326/2019), with the only operational condition in that consent relating to outdoor lighting
  - the occupation certificate would not impose any patron numbers as it would need to revert to the development consent.
47. Council also checked whether the Statement of Environmental Effects for the development application made any reference to patron numbers, which it did not.
48. On 21 October 2022, Council provided a further response to the Authority, advising that:
  - there is a patron number condition associated with DA131/2011, being condition A1
  - there are live and dead load calculations in the structural engineering report, although this does not assist with patron numbers.

### **The Licensee's response to the Authority's second request for further information**

49. On 19 October 2022, the Authority requested the Licensee provide further information regarding the occupation certificate and a copy of the complaints register from the past 12 months for the Authority's consideration.
50. On 20 October 2022, the Licensee's solicitor provided a response, advising that:
  - the only relevant development consent conditions are contained in DA131/2011
  - the balcony forms part of the first floor, which has a patron capacity of 180 patrons under that development consent condition
  - the PoM submitted to Council, Police, and the Authority, and referred to in the Hotel's liquor licence, provides that no more than 50 persons are permitted on the first-floor balcony at any one time
  - the Hotel landowner has paid a significant amount of money to Council to obtain its occupation certificate pursuant to condition H.2 of DA326/2019, which required "compensation" for use of Council's air space over the public footway, despite the first-floor balcony being in existence for over 100 years.
51. The Licensee also provided a copy of the Hotel's complaints register with dates ranging between 4 December 2021 and 19 October 2022. The Licensee submits that most complaints are made by the one household/resident, being the Complainant, and of those only a small number of those would appear to be attributed to the balcony's use. On the remainder of the complaints, the Licensee submits they relate to music rather than balcony noise.

52. On 8 December 2022, noting two months had elapsed after the occupation certificate for the first-floor balcony was provided, the Authority requested an updated complaints register from the Hotel. On 12 December 2022, the Licensee's solicitor provided an updated copy of the Hotel's complaints register with dates ranging from 4 December 2021 to 10 December 2022.

## **Decision**

53. The Authority has considered the Complaint having regard to sections 79 to 82 of the Act and all the statutory objects and considerations in section 3 of the Act, as extracted in the attached Schedule 2.
54. The Authority is satisfied for the purposes of section 81(3)(a), that the order of occupancy favours the Hotel, on the information and evidence provided in the Reviewable Decision and the Licensee Review Submission.
55. The Authority is satisfied, for the purposes of section 81(3)(b) that there have been gradual structural changes in the licensed premises between 2006 and 2019 and management changes between 2015 to date. These changes included alterations, additions and the restoration of the first-floor balcony, and the reconfiguration of the Hotel's internal layout. The management changes include the commencement of a new business owner of the hotel and a recent change in the licensee position in 2021.
56. The Authority is satisfied, for the purposes of section 81(3)(c), that the activities and entertainment offering at the Hotel has been largely the same since 2000. The Authority finds however that the Hotel's social media marketing has attracted a different target demographic of 18–30-year-olds. The first-floor balcony has been refurbished with the installation of a bar bench, wrapping around the balcony, which has resulted in an increase in the number of patrons using the area. Use of the first-floor balcony might also be characterised as a change in the "activities" conducted on the licensed premises.
57. The Authority notes the response from Police and its submission that a suite of conditions is required to prevent further undue disturbance. The Authority is satisfied that most of the conditions proposed to be imposed in the Complaint have been addressed in the PoM, as submitted by the Licensee. The Authority notes however that conditions relating to the closure of the first-floor balcony by 10:00PM and that there is a ratio of one security guard per 150 patrons on each day the Hotel trades, were not included in the PoM.
58. The Authority notes the responses from Council regarding noise complaints received between February and March 2022, the occupation certificate for the first-floor balcony was issued on 13 October 2022 and Council's advice with respect to occupation limits and conditions.
59. The Authority notes the Licensee's responses regarding the provision of security personnel, the closure of the balcony, blinds, and doors, that Council and Police concerns are addressed in the PoM and that the Hotel should be provided a reasonable opportunity to operate under the PoM, which only came into effect on 28 February 2022. The Authority also notes the Licensee's responses that it is an 'all-encompassing hotel' and has a good compliance record. Finally, the Authority notes the Licensee's response regarding occupation limits and conditions relating to first-floor balcony, and the complaints register extracts provided on 20 October and 12 December 2022.

60. The Authority notes the concerns of the Review Applicant, primarily being the risk of undue disturbance being caused by the operation of the first-floor balcony, and disturbances in the neighbourhood which would be mitigated by an increased security presence. The Authority further notes the Complainant's suggested resolution which would involve the PoM being updated to include a requirement to increase the security presence at the Hotel to mitigate noise disturbance and to close the first-floor balcony by 10:00PM.
61. The Authority is satisfied that the Reviewable Decision gave weight to the creation, negotiation and implementation of the PoM and the harm minimisation measures included within it. The Authority notes that during this Review Application, an inspection was undertaken by L&GNSW inspectors, which indicated that the Hotel is complying with its PoM. This included the engagement of sufficient security personnel who were active in mitigating noise disturbance from the hotel and from anti-social behaviour. The Authority also notes the Hotel appears to have a noise limiter installed which mitigates noise emanating from the Hotel and that this is also recorded in the PoM.
62. The Authority is mindful however that this inspection was on one occasion and that, while the harms and potential for disturbance were reduced at the time, and that the PoM measures do not necessarily permanently address potential harms. As such, the Authority is concerned with whether the operation of the Hotel and the conduct of its patrons has caused *undue disturbance* to the quiet and good order of the neighbourhood. The Authority notes the Delegate found that, at times, the Hotel caused undue disturbance to the neighbourhood and notes the Licensee's rejection that there is ample evidence of noise disturbance being caused by the Hotel. The Authority also notes the Complainant's submission that the Licensee wishes to uphold the Reviewable Decision, which would mean the Hotel accepts the Delegate's findings and cannot now challenge the findings of undue disturbance.
63. The Authority finds that disturbance has occurred subsequent to the Review Application dated 23 March 2022, based on the material from the Hotel's complaints register, which records complaints during the period from 4 December 2021 and 10 December 2022, and shows a significant level of complaints, specifically:
- in the 25 weeks to 28 May 2022 – 23 complaints relating to noise, mainly on Fridays and Saturdays between the hours of 9:45PM and 12:15AM, including:
    - i. 15 from one resident,
    - ii. eight unknown or unidentified complainants,
  - in the subsequent 16 weeks to 17 September 2022 – 4 complaints relating to noise, mainly on Saturdays between the hours of 9:27PM and 11:22PM approximately, including:
    - i. two from one resident,
    - ii. two unidentified complainants.
  - In the subsequent 12 weeks to 10 December 2022 – there are 18 entries indicating that either no complaints or phone calls were received.
64. The Authority finds that while the rate of complaints has reduced from the period of approximately six months to May 2022, it seems evident that there is a record of disturbance to neighbours on Friday and Saturday evenings. Specifically, the complaints listed in the register focus on levels of music and noise from patrons either queuing to enter the Hotel or

when leaving the Hotel. The Hotel is frequently busy on those nights and should be required to implement measures to mitigate noise disturbance, including the employment of sufficient security and other personnel to ensure the operation of the Hotel does not disturb the local amenity.

65. The Authority notes the Licensee's submission that no acoustic testing was conducted prior to the Reviewable Decision being made due to the standard LA10 noise condition being included in the PoM.
66. Further, the L&GNSW inspectors indicated during their inspection on 30 July 2022 that the Hotel had engaged four security guards for approximately 130-150 patrons. The Authority finds that this example is reflective of how the potential for noise disturbance can be addressed by the regular engagement of sufficient security personnel to open/close doors, disperse groups of patrons loitering and supervise both inside and outside the Hotel and ensure music levels are turned down if noise emanating from the hotel is sufficient to disturb local residents.
67. To ensure regulatory certainty that this is achieved, the Authority has decided to impose a condition on the Hotel's liquor licence requiring the engagement of security personnel on Friday and Saturday nights and to perform associated duties with patrolling the immediate surrounds of the Hotel. The Authority notes the PoM already provides for the Hotel to employ two security guards on Fridays and Saturdays, however it does not provide that any additional security is required depending on patron limits. Additionally, based on the L&GNSW inspection on 30 July 2022, the Authority is satisfied the Hotel will be able to abide by this condition considering the security guards on duty for the number of patrons on that night. The Authority finds that the condition should strike a balance between the Hotel's ability to engage sufficient security and the remedial objectives of the Complainant.
68. The Authority has also had significant regard for the issues related to the use of the Hotel's first-floor balcony. The Authority noted at its June board meeting that the first-floor balcony appeared to be being used outside of its design specification based on the submissions received. The Authority made relevant inquiries with Council, L&GNSW and the Licensee regarding the lawful occupation of the balcony, which included inquiries relating to an occupation certificate and the number of patrons permitted on the balcony.
69. The Authority notes L&GNSW's inspection indicated the first-floor balcony was not in use at the time, presumably as the Hotel was waiting on the receipt of the occupation certificate. The occupation certificate was provided to the Hotel on 13 October 2022. The Authority is unaware of the precise chronology of when the balcony was closed or for how long. The Authority also notes the Licensee's submission that the doors to the balcony, and the fold-down blinds, are closed at 10:00PM to minimise noise from the Hotel and that similar controls are built into the PoM.
70. The Authority concurs with the Delegate's decision to leave noise related issues regarding the Hotel's first-floor balcony to Council, noting the occupation certificate being only recently issued in October 2022. The Authority considers that it may be too early to ascertain the ongoing impact of the first-floor balcony since the issuance of the occupation certificate. This is despite the updated complaints register indicating no further noise complaints were received in the approximately two-month period since the occupation certificate was issued.

## Conclusion

71. The Authority has considered whether additional remedial action of the kind proposed by the Complainant is the correct and preferable course to take in the circumstances prevailing at the time of this decision. The Licensee seeks that no further action be taken, and the Reviewable Decision be upheld by the Authority.
72. The Authority finds that the PoM has already achieved most of the regulatory objectives that were required to address the issues present in the Complaint. The Authority, however, agrees with the Complainant that two security guards are insufficient to patrol both the Hotel and its immediate surrounds for a venue with a patron capacity of 600 persons. The Authority finds the Hotel could do more in terms of ensuring a consistent security presence is maintained at the Hotel on busier nights, such as Fridays and Saturdays, which could effectively mitigate the potential for noise disturbance to be caused both within and outside the Hotel and its immediate surrounds. The Authority finds L&GNSW's inspection on Saturday 30 July 2022 to be a positive example of how the Hotel can effectively mitigate disturbance with a sufficient security presence.
73. To achieve this, the Authority has decided to vary the Reviewable Decision and impose a condition on the Hotel's liquor licence requiring the Hotel to employ one security guard for every 150 patrons on Friday and Saturday nights and to perform associated duties regarding the supervision of the Hotel's immediate surrounds. This condition will ensure that an appropriate security presence is maintained at the Hotel on busier nights when the Hotel reaches near capacity.
74. The Authority notes that the Complainant's concerns regarding the use of the first-floor balcony, and considers that they should be more appropriately addressed by Council, including issues relating to patron capacity and conditions. The Authority finds that, following review of the updated complaints register, the Hotel has received no formal noise complaints since the occupation certificate for the first-floor balcony was enforced on 13 October 2022. While this is a relatively short period of time, the Authority encourages the Hotel to remain vigilant in mitigating the potential for noise disturbance on the first-floor balcony, including related requirements under the PoM. Additionally, the Authority expects the additional security will assist with the prompt opening and closing of doors to and from the Hotel's ground floor and first-floor entrances and exits, to minimise the impact of music or patron noise emanating from the premises.
75. Ultimately, while the Authority is satisfied that the Delegate's decision to impose a PoM condition was correct, the Authority is of the view that an additional security condition is required to address concerns regarding noise disturbance caused by the Hotel. This combination of conditions should help alleviate the Complainant's concerns with respect to noise disturbance. The Authority also expects the Licensee to have complied with all other representations that it has made in submissions to the Delegate and the Authority with respect to noise disturbance mitigation.
76. As noted by the Delegate, it would be open to the Department to take further regulatory action should fresh conduct giving rise to undue disturbance be established. Considering the engagement of Police and Council in this matter, it is open to any person to complain to Departmental compliance officers, or Police, should the Hotel operate in breach of condition 11000 and the incoming security condition. Breach of a licence condition by a licensee is an

offence against section 11(2) of the Act, punishable by a maximum penalty of \$11,000, imprisonment for 12 months, or both.

77. As such, the Authority **varies** the Reviewable Decision under section 36A(4)(b) of the GALA Act and imposes a condition that:
- From 8:00PM on Fridays and Saturdays, there should be one (1) security guard on duty for every 150 patrons. One (1) of the security guards on duty should be charged with patrolling the nearby streets to ensure there are no patrons loitering in the vicinity causing disturbance to local residents and also to ensure that the noise from music emanating from the premises is not at a level that would disturb local residents.
78. The condition will become effective on 4 January 2023 to enable the Hotel to be able to put measures into place to meet the requirements of the condition.
79. On 21 December 2022, a duly authorised delegate of the Secretary, NSW Department of Enterprise, Investment and Trade, gave effect to the Authority's decision and imposed the condition pursuant to section 36A(6) of the GALA Act.
80. If you have any questions, please contact [office@ilga.nsw.gov.au](mailto:office@ilga.nsw.gov.au).

Yours faithfully



Murray Smith

**Deputy Chairperson**

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



## **Schedule 1 – Material considered by the Authority Royal Hotel**

1. Disturbance Complaint form FM2002 (“Complaint”), received by the Secretary of the New South Wales Department of Customer Service (“the Department”) on 21 April 2021 in respect of the Royal Hotel (“Hotel”) and accompanied by four “Attachment A” Complainant Authorisation forms, signed by 12 separate local residents dated from 23 March to 7 April 2021 and a submission which included:
  - a. email correspondence from the Complainant and authorising residents with the former licensee Mr Regan Shepherd (“Former Licensee”) regarding concerns and incidents of disturbance in January 2021 and February 2021
  - b. email correspondence with Woollahra Municipal Council (“Council”) regarding complaints from authorising residents concerning alleged disturbance from the Hotel in November 2020, January 2021, February 2021, and March 2021.
2. Email from the complainant (“Complainant”) to Liquor & Gaming NSW (“L&GNSW”) dated 22 April 2022 confirming the Complaint will proceed with 10 authorising residents.
3. Submission from the licensee of the Hotel at the time, Mr Regan Shepherd (“Former Licensee”) dated 18 May 2021, providing a short comment on noise caused by delivery/rubbish removal, caused outside the Hotel and from patrons leaving the Hotel and 30 points regarding mitigation strategies and desired outcomes for the Complaint. Provided with the submission were three copies of tank beer delivery receipts, the ‘Royal Hotel House Policy 2021’, and a screenshot of a photo of the Hotel.
4. Submission from Woollahra Municipal Council (“Council”) to L&GNSW dated 18 May 2021 summarising 18 disturbance complaints made in relation to the Hotel from 23 November 2020 and 12 April 2021, development consents limiting the manner of operation and other matters. Council also provided copies of DA661/2006 (alterations and additions to the existing rooftop deck area) and DA326/2019 via email on 19 May 2021 alongside the letter.
5. Email from Council dated 20 May 2022 providing a copy of DA 131/2011.
6. Submission from Eastern Suburbs Police Area Command of NSW Police (“Police”) to L&GNSW dated 20 May 2021, noting information regarding the Hotel, the Complaint, Police observations and actions and Police comments, including the proposal of 14 conditions. 10 annexures accompanied the Police submission.
7. Submission from the Complainant to L&GNSW dated 6 June 2021, providing responses to the submissions of Police, Council and the Former Licensee and the Complainant’s conclusions.
8. Email from Council to L&GNSW dated 9 June 2021, providing copies of three emails demonstrating several management practices and voluntary undertakings made by the Former Licensee to Council and Police on 21 April 2021 are still not being followed, and a list of seven proposed licence conditions.
9. Submission from Mr Don McDougall on behalf of the Former Licensee to L&GNSW dated 26 August 2021 regarding, among other things, the Former Licensee’s responses to Police and Council, a proposed Plan of Management (PoM), resident concerns and desired outcomes. Also provided was a copy of the proposed PoM dated 26 August 2021.
10. Submission from Police to L&GNSW dated 19 September 2021 regarding Police comments on the Hotel’s proposed PoM.
11. Submission from Mr Don McDougall on behalf of the Former Licensee to L&GNSW dated 1 October 2021 in response to the Police submission regarding the proposed PoM. Also provided was a copy of the amended PoM dated 1 October 2021.
12. File note of a L&GNSW inspection at the Hotel which occurred on 19 December 2021 and dated 20 December 2021.
13. 24-page decision letter of Mr John Coady, Manager Regulatory Interventions Team, Delegate of the Secretary of the Department (“Reviewable Decision”) dated 23 February 2022.

14. A copy of the 'Royal Hotel Plan of Management' signed by the current licensee Ms Eleanor Banfield ("Licensee") and dated 28 February 2022.
15. Review Application emails from the Complainant to the Authority dated 21 and 23 March 2022 accompanied by a six-page AM066 *Application to review a decision made by the Secretary, NSW Department of Customer Service* form dated 23 March 2022 and including the following submission material, including:
  - a. eight pages of written submissions
  - b. a three-page statutory declaration completed by a resident of Glenmore Road, Paddington dated 17 March 2022
  - c. a two-page statutory declaration completed by the Complainant dated 20 March 2022
  - d. one page of noise readings taken by a Digitech Sound Level Meter QM 1591 between 27 February and 13 March at two separate locations in Paddington
  - e. two pages of website images showing recent activities hosted by the Hotel
  - f. four videos, including:
    - i. video 1 which shows a view of the entrance of the Hotel from Glenmore Road, Paddington at approximately 12 midnight on Sunday 30 January 2022
    - ii. video 2 which shows a view of the front entrance of the Hotel from Five Ways Paddington at approximately 11pm on Sunday 27 February 2022
    - iii. video 3 which shows a view toward the Hotel along Broughton Street, Paddington located at Heeley Street, Five Ways Paddington at approximately 6:30pm on Saturday 12 February 2022, and
    - iv. video 4 which shows a view of the front entrance of the Hotel from Glenmore Road, Paddington at approximately 11:59pm on Saturday 29 January 2022.
16. Email from Council to the Authority dated 21 March 2022 responding to the Reviewable Application.
17. Two-page response to the Review Application from Police dated 28 April 2022.
18. 15-page response to the Review Application from Thomson Geer Lawyers on behalf of the Licensee dated 6 May 2022 and including the following supporting material:
  - a. two documents relating to awards the Hotel's ownership group (Public House Management Group) have won between 2015 and 2019
  - b. two documents providing information on Public House Management Group, four photos of the Hotel's immediate vicinity
  - c. five videos of noise coming from nearby residents and businesses
  - d. a copy of a Sydney Morning Herald article titled 'As nightlife returns after COVID, so do noise complaints from angry locals' dated 4 April 2022
  - e. one document showing three social media excerpts regarding promotion of the Hotel.
19. Six-page submission from the Complainant dated 19 May 2022 replying to the Council, Police and Licensee submissions.
20. Emails from Council to the Authority dated 20 and 21 June 2022 regarding the status of the Hotel's first-floor balcony.
21. Inspection Report by L&GNSW regarding an inspection of the Hotel on 30 July 2022.
22. Emails from Council to the Authority dated 18 and 19 October 2021 regarding the status of the Hotel's first-floor balcony, whether there are any patron limits or conditions imposed on its use.
23. A copy of the Final Occupation Certificate No. 190341/1 by City Plan Services Pty Ltd regarding the reinstatement and replacement (restoration) of the existing dilapidated balcony on the first-floor level of the Royal Hotel dated 13 October 2022.

24. Email from Thomson Geer Lawyers on behalf of the License to the Authority dated 20 October 2022 regarding the status of the first-floor balcony (including occupation limits and conditions) and a copy of the Hotel's complaints register.
25. A copy of the Hotel's complaints register from 4 December 2021 to 19 October 2022.
26. Email from Thomson Geer Lawyers on behalf of the Licensee to the Authority dated 12 December 2022 regarding an updated copy of the Hotel's complaints register.
27. A copy of the Hotel's complaints register from 4 December 2021 to 10 December 2022.

## Schedule 2 – Extracts from the *Liquor Act 2007* (NSW) Royal Hotel

### 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.
  - (d) the need to support employment and other opportunities in the—
    - (i) live music industry, and
    - (ii) arts, tourism, community and cultural sectors.

### 79 Making of complaint

- (1) A person may complain to the Secretary that the quiet and good order of the neighbourhood of licensed premises are being unduly disturbed because of—
  - (a) the manner in which the business of the licensed premises is conducted, or
  - (b) the behaviour of persons after they leave the licensed premises (including, but not limited to, the incidence of anti-social behaviour or alcohol-related violence).
- (2) Such a complaint must be in writing and be made or verified by statutory declaration.
- (3) A complaint under this section may only be made by any of the following persons (referred to in this Division as **the complainant**)—
  - (a) a person authorised in writing by 3 or more persons residing in the neighbourhood of the licensed premises or a person who is such a resident and is authorised in writing by 2 or more other such residents,
  - (b) the Commissioner of Police,
  - (c) a person authorised by the local consent authority in relation to the licensed premises,
  - (d) a person who satisfies the Secretary that his or her interests, financial or other, are adversely affected by the undue disturbance to which the person's complaint relates.
- (4) A complaint may relate to more than one licensed premises.
- (5) In the application of this Division to an on-premises licence that relates to a catering service—
  - (a) a reference to licensed premises does not include private domestic premises, and
  - (b) a reference to the business of the licensed premises is a reference to the business of providing catering services on licensed premises (other than private domestic premises) under the licence.
- (6) This section does not apply to a complaint if—
  - (a) it is a complaint of a type prescribed by the regulations, and
  - (b) the local consent authority for the licensed premises has—
    - (i) a local plan to deal with complaints of that type, and
    - (ii) has, by written notice given to the Secretary, notified the Secretary that it will be dealing with complaints of that type.

### 80 Dealing with complaints

- (1) The Secretary may, after receiving a complaint under section 79, decide—
  - (a) to deal with the complaint in accordance with this Division, or
  - (b) to take no further action under this Division in relation to the complaint.
- (2) If the Secretary decides to deal with the complaint, the Secretary may—
  - (a) convene a conference to hear submissions in relation to the complaint, or

- (b) invite written submissions from the licensee for the licensed premises to which the complaint relates, and from such other persons as the Secretary considers appropriate, and make a decision in relation to the complaint without convening a conference.
- (3) A conference, if convened, may deal with more than one complaint.
- (4) A complaint in relation to licensed premises that is being dealt with by the Secretary under this section may be extended to include other licensed premises if the Secretary is satisfied—
  - (a) that the evidence given in support of the complaint would support a complaint against the other licensed premises, or
  - (b) that, assuming that the complaint is shown to be justified, action taken in relation to the licensed premises the subject of the complaint will be ineffective unless similar action is taken in relation to the other licensed premises.
- (5) Any licensed premises in respect of which a complaint is extended as referred to in subsection (4) is, for the purposes of this Division, taken to be the subject of a complaint under this Division.
- (6) If, in relation to any such extended complaint, a conference is not convened, the Secretary must invite written submissions from the licensee for the licensed premises that are the subject of the extended complaint before making a decision in relation to the complaint.
- (7) If a conference is convened in relation to a complaint—
  - (a) notice of the time and place of the conference is to be given to all complainants and the licensee or licensees as specified by the Secretary, and
  - (b) the Secretary is not to make a decision in relation to the complaint unless each complainant and licensee who is present at the conference is given a reasonable opportunity to be heard.
- (8) A conference under this section is to be presided over by the Secretary and the procedure at the conference is to be determined by the Secretary.
- (9) Nothing in this section prevents the Secretary from taking other action in relation to a complaint under this Division or in relation to licensed premises that are the subject of a complaint under this Division.

#### 81 Decision by Secretary in relation to complaint

- (1) The Secretary may, after dealing with a complaint in accordance with section 80, decide to do any one or more of the following—
  - (a) impose a condition on the licence for the licensed premises the subject of the complaint,
  - (b) vary or revoke a condition to which the licence is subject,
  - (c) if a conference has been convened in relation to the complaint—adjourn the conference subject to implementation and continuation of undertakings given by the licensee,
  - (d) issue a warning to the licensee,
  - (e) take no further action in relation to the complaint.
- (2) The conditions that may be imposed on a licence include, but are not limited to, conditions relating to any one or more of the following—
  - (a) noise abatement,
  - (b) prohibition of the sale or supply of liquor before 10 am and after 11 pm,
  - (c) prohibition of, or restriction on, activities (such as promotions or discounting) that could encourage misuse or abuse of liquor (such as binge drinking or excessive consumption),
  - (d) restricting the trading hours of, and public access to, the licensed premises,
  - (e) requiring the licensee to participate in, and to comply with, a liquor accord.
- (3) The Secretary is to take the following matters into consideration before making a decision under this section—
  - (a) the order of occupancy between the licensed premises and the complainant,
  - (b) any changes in the licensed premises and the premises occupied by the complainant, including structural changes to the premises,
  - (c) any changes in the activities conducted on the licensed premises over a period of time.
- (4) For the purposes of subsection (3), **complainant** does not include a complainant who is the Commissioner of Police or a person authorised by the local consent authority.

#### Extract from Gaming and *Liquor Administration Act 2007 (NSW)*

#### 36A Review by Authority of certain decisions

- (1) In this section—
  - reviewable decision** means—
    - (a) any of the following decisions of the Secretary under the [Liquor Act 2007](#)—

- (i) a decision under section 54 to impose a condition on a licence or to vary or revoke any such condition,
  - (ii) a decision under section 54A to give a direction relating to the operation of a “sale on other premises” authorisation,
  - (iii) a decision under section 75 to give a direction relating to licensed premises,
  - (iv) a decision under section 81 in relation to a disturbance complaint,
  - (v) a decision under section 87 to make a late hour entry declaration,
  - (vi) a decision under section 90 to vary or revoke a late hour entry declaration,
  - (vii) a decision under section 101 to restrict or prohibit the sale or supply of undesirable liquor products,
  - (viii) a decision under section 102A to restrict or prohibit activities that encourage misuse or abuse of liquor,
  - (ix) a decision under section 102 to restrict or prohibit the undesirable promotion of liquor,
  - (x) a decision of the Secretary under section 116B(4) to designate licensed premises as a high risk venue,
  - (xi) a decision under section 136 to give a direction to contribute to the costs of promoting or giving effect to a local liquor accord,
  - (xii) a decision under section 136E to impose a condition on a licence requiring a licensee to participate in a precinct or community event liquor accord,
  - (xiii) a decision under section 136F to give a direction to contribute to the costs associated with the operation of a precinct liquor accord, or
  - (b) a decision of the Secretary to give a direction under section 44A (Location of gaming machines in venues) of the [Gaming Machines Act 2001](#), or
  - (c) a decision of the Secretary to give a direction to a registered club under the Registered Clubs Accountability Code within the meaning of the [Registered Clubs Act 1976](#), or
  - (d) a decision of a designated Public Service employee, or other Public Service employee, acting under a delegation given by the Authority in respect of an application made under a provision of the gaming and liquor legislation prescribed by the regulations for the purposes of this section (**delegated decision**).
- (2) Subject to subsection (2A), any person who is aggrieved by a reviewable decision may, in accordance with the regulations and on payment of such fee as may be prescribed by the regulations, apply in writing to the Authority for a review of the decision.
- (2A) An application for a review of a delegated decision may only be made by—
- (a) an applicant for, or the holder of, a gaming or liquor licence, or
  - (b) a person—
    - (i) who was required to be notified of the application the subject of the delegated decision, and
    - (ii) who made a submission to the Authority or the Secretary in respect of that application.
- (3) An application for such a review does not operate to stay the reviewable decision unless the Authority otherwise directs.
- (4) In determining an application for review under this section, the Authority may—
- (a) confirm the decision the subject of the application, or
  - (b) vary the decision, or
  - (c) revoke the decision.
- (5) However, in the case of a review of a decision of the Secretary under section 136F of the [Liquor Act 2007](#), the Authority may vary or revoke the Secretary’s decision only if the Authority is satisfied that the amount of the contribution directed to be paid was not determined in accordance with the terms of the relevant precinct liquor accord (within the meaning of that Act).
- (6) The Secretary is to give effect to any decision of the Authority under this section to vary or revoke the decision the subject of the application for review.
- (7) The Authority may not make any decision in relation to an application for review under this section unless a member of the Authority who is or has been a Judge, or has been an Australian lawyer for at least 7 years, is present at the meeting of the Authority or the committee of the Authority at which the decision of the Authority is made.