

Decision No. **101/2014**

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by **Baller
Entertainment Limited** pursuant to
s.136 of the Act for a Temporary
Authority order.

BEFORE THE WHANGAREI DISTRICT LICENSING COMMITTEE

Chairman: Councillor John Williamson
Member: Paul Dimery
Member: Mark Vincent

DECISION (ON THE PAPERS)

This is an application for a Temporary Authority Order by Baller Entertainment Limited in order to carry on the sale and supply of alcohol at premises known as "The Ballroom", situated at 43 Bank Street, Whangarei, under authority of licence (002/ON/15/2010) currently in force.

Section 136 of the Act provides as follows:

A licensing committee may, on the application of a person who appears to the committee to have any right, title, estate, or interest in any premises, or any business conducted in any premises, for which an on-licence or off-licence is in force, make an order authorising the applicant (or some suitable person nominated by the applicant) to carry on the sale and supply of alcohol for a period, not exceeding 3 months, stated in the order.

The applicant

The applicant is a private company incorporated on 22 February 2013. Sarah Armstrong and Darcy Peter Wilson are the directors of the company. The applicants are new to the Hospitality Industry. In investigating the application the Police initially raised concerns about historic convictions held by Darcy Wilson but advise that Darcy Wilsons involvement in the day to day running of the business will be limited. Sarah Armstrong will ultimately be the overall manager of the business and will eventually apply for a manager's certificate, once she has obtained her Licence Controller Qualification and amassed sufficient experience under certificated managers. Police concerns were satisfied by this arrangement.

Duty managers

We have concerns about the immediate arrangement relating to how the sale of alcohol will be managed. The inspector has indicated that while two people holding managers certificates would be on duty to cover the relatively extensive hours that the premises will operate under the on licence, it became evident that one of these people has now withdrawn from this role leaving a single manager in charge. The applicant has indicated that the current licensee, Mr Sorenson and his duty manager, Rhys Gurney, will stay on to assist the new owners into the business for a three month period, but we note that Mr Sorenson has his own business to attend to (Tikipunga Tavern) and that Mr Gurney will also assist with Mr Sorenson at this other place. Mr Sorenson is also facing enforcement action for his part in selling alcohol to a minor. We believe that neither party will be able to be effective duty managers on the premises.

We are guided by the Whangarei District Council Liquor Licensing Policy which provides in clause 15 a formula for determining the number of managers who need to be employed to cover hours a

premises is trading. It is deemed that a single manager can only cover 60 hours of trading time each week.

Because we are of the view that the applicant will only have the single manager to rely upon and because we have reservations about how the sale of alcohol will be managed, we intend to place a condition on the licensee restricting hours of operation to a maximum of 60 hours per during the time the temporary authority, where granted is in force. We believe that this is reasonable in the circumstances. We have asked the licensing Inspector to confirm with the applicant what those days and hours will be and these will be the trading times which will be stated on the temporary authority order.

Right, title, estate or interest in the premises/business

The applicant company has provided a 'sale and purchase' agreement and a letter from the building owner (the landlord) dated 5 March 2014 giving consent to the lease of the building. On the basis of this document the applicant has shown that they have an interest in the premises and are entitled to the grant of a temporary authority.

DECISION

The committee has received reports on the application from the Police and the Licensing Inspector and none have raised matters in opposition. Accordingly we deal with the matter on the papers without notice.

We are satisfied that the applicant has a right, title, estate or interest in the premises and make an order authorising the applicant to carry on the sale and supply of alcohol on the premises for a 3 month period subject to the following conditions:

- 1. In addition to ensuring compliance with the conditions of the on licence the applicant must ensure that drinking water is freely available (free of charge) while the premises are open for business at the bar counter and through out the premises.**
- 2. Baller Entertainment Limited is restricted to trading for no more than 60 hours each week during those days and hours advised by the applicant and which will be stated on the temporary authority order.**
- 3. The Temporary Authority shall issue on the 4 April 2014 and expire on the 4 July 2014.**

DATED at Whangarei this 1st day of April 2014

Chairman
Whangarei District Licensing Committee