

IN THE ALCOHOL REGULATORY AND LICENSING AUTHORITY
TE MANA WAETURE TAKE WAIPIRO

[2026] NZARLA 17

UNDER:	The Sale and Supply of Alcohol Act 2012
BETWEEN	FIREBALLS IMPORTS LIMITED. <i>Appellant</i>
AND	MASTERTON DISTRICT LICENSING COMMITTEE <i>First Respondent</i>
AND	DAVID GALLAGHER, Licensing Inspector for the Masterton District Licensing District <i>Second Respondent</i>

Hearing: 4 February 2026 at Wellington

Authority: Judge R L B Spear
Mr R J A Amohau
Mr P M Jones

Counsel: Mr D J S Parker for the Appellant
Mr A J Cummings for the Second Respondent

Judgment: 9 February 2026

RESERVED DECISION

**Application by the Second Respondent to lift the
Stay on the Decision of the Masterton District
Licensing Committee**

1. On 12 November 2025, the Masterton DLC released its decision declining to renew the on-licence and off-licence held by Fireballs Imports Ltd (Fireballs) in respect of the *Whakataki Hotel* (also known as the *Castlepoint Hotel*) situated at Castlepoint and directing that “the final day of the current licence will be the 22nd November 2025”.

2. On 19 November 2025, Fireballs applied to the Authority for a stay of that decision pending hearing of an appeal against that decision. An appeal was duly filed on 25 November 2025.
3. Pursuant to s 153 of the Act, the decision of the DLC has effect¹ unless the Authority orders that the decision not have effect while the appeal is pending².
4. The Authority heard the application for the stay on 17 December 2025. The application was formally opposed by Inspector Gallagher. However, during the course of the hearing, counsel came to appreciate that in the circumstances a stay would be appropriate and agreement was reached on certain conditions to cover the interim position pending the hearing of the appeal. In a decision given on 18 December 2025³, the Authority granted the stay subject to those conditions. At paragraph [10] of that decision, the Authority reserved leave to Inspector Gallagher to apply for the stay to be lifted in the event of a breach of those conditions or an offence under the Act:

[10] The Authority reserves leave to the District Licensing Inspector to apply for the stay to be lifted in the event of any breach of the conditions of either the licences or this stay order (as above), or the commission of any offence under the Act. The Authority has indicated to the parties that in the event of any such breach or an offence under the Act, the Authority will hear an application to lift the stay on an urgent basis.

5. On 28 January 2026, the Inspector applied for the stay to be lifted alleging various breaches by the licensee of the stay conditions and of offences under the Act. Fireballs gave notice that it opposed that application. The application is opposed. It has been brought on for an urgent hearing with evidence filed both for and against the application to lift the stay. This was notwithstanding that the appeal had by then been set down for hearing on 25 February 2026.
6. Our consideration of the application to lift the stay focussed upon, and was to a degree limited to, the allegations made by and on behalf of the Inspector of various breaches of the stay conditions and of further offending. However, the stay related to a decision

¹ Sale and Supply of Alcohol Act 2012: s 153(2)

² Sale and Supply of Alcohol Act 2012: s 153(3)

³ Minute of the Authority of 18 December 2026

of the District Licensing Committee not to renew the licenses held by Fireballs and that was essentially because the DLC did not consider that Fireballs was a suitable entity to hold the licences. At paragraph [6] of our decision to grant the stay, we said:

[6] *The essence of the opposition to the renewal of the licences relates to allegations against Fireballs of numerous and repeated breaches of the conditions of the licences and the commission of offences against certain provisions of the Act. The documentation filed in support of both the appeal and application for the stay indicates that some of the allegations are denied and others are subject to explanation that diminishes their level of seriousness. Given that the appeal will by way of a rehearing⁴, it is clear that the Authority when hearing the appeal will need not only to consider the evidence that was adduced before the DLC, but likely also further evidence about the allegations in question. At present, we do not have a sufficient record of the evidence adduced before the DLC.*

7. The stay conditions that were agreed upon by the Inspector and Fireballs are set out below and they were clearly directed towards requiring strict compliance by Fireballs of the conditions of the licences and the Act and, in particular, for close monitoring of its compliance.

The conditions agreed by the parties are as follows:

- a. *On licence hours*
 - *Sunday to Thursday - 11:00am to 10:00pm*
 - *Friday and Saturday- 11:00am to 11:00pm (last drinks to be served by 10:30pm and licensed area vacated and closed by 11:00pm, with qualified security staff holding current Certificate(s) of Approval (COA) between 8:00pm and 11:00pm.*
 - *New Years Eve - 31 December -11:00am to 1:00am the following day with qualified security staff holding current COA between 7:00pm and 1:00am.*
- b. *Off licence hours*
 - *Monday through Sunday: 11am-8pm*
- c. *Alcohol will not be sold or supplied to any person who is intoxicated.*
- d. *Intoxicated persons are not permitted to be or remain on the licensed premises.*
- e. *The licensee will not permit any person to become intoxicated on the licensed premises.*
- f. *No owner or director may consume alcohol on the premises while working or overseeing staff. Any consumption by owners while off duty must occur out of staff areas and under the direction of the duty manager.*

⁴ Sale and Supply of Alcohol Act 2012: s 157

- g. *The licensee must have CCTV that covers all the licensed premises at all times.*
- h. *CCTV footage must be retained for 90 days, and available upon request by Police and Licensing Inspectors.*
- i. *All staff involved in sale or supply of alcohol must complete intoxication identification training;*
 - *SCAB or equivalent impairment-assessment training; and*
 - *host responsibility refresher training within 30 days.*
- j. *Ongoing engagement of Hince Hospitality Limited for:*
 - *staff training;*
 - *system design and incident-log review;*
 - *monthly operational oversight; and*
 - *reporting (see below).*
- k. *Monthly written reports from Hince Hospitality Limited to the Licensing Inspector confirming:*
 - *staff training completed;*
 - *host responsibility practices;*
 - *intoxication management compliance;*
 - *adherence to the SCAB model;*
 - *incident log audits; and*
 - *any recommended improvements.*
- l. *Maintain a training register available to Police and the Inspector on request.*
- m. *Maintain a detailed incident log, recording:*
 - *refusals of service;*
 - *removal of intoxicated patrons;*
 - *disorderly behaviour;*
 - *Police attendance; and*
 - *transport arrangements for impaired patrons.*
- n. *Weekly copies of the incident log to be supplied to the District Licensing Inspector and Police during the stay period.*
- o. *the top floor be removed from the licensed area, to be utilised as an appropriate "place of safety" should any intoxicated patron be identified.*

8. While this hearing was not to be a trial run of the appeal issues, the Authority considered that the context required it to recognise that the decision of the DLC was primarily based on its assessment that Fireballs was not a suitable entity to hold the licences because of its performance and that the stay was conditioned accordingly.

9. It is, however, for the Inspector to satisfy us that there have been breaches and/or offences since the stay was imposed that would justify the stay being lifted. That notwithstanding, we appreciate that if the stay is lifted, it will mean that the hotel will effectively have to close down until the appeal is finally determined as it did reportedly for some 3 ½ weeks from 22 November 2025 to 18 December 2025 following the expiry

of the licences and until the stay was imposed. It is the only hotel in the relatively remote coastal settlement of Castlepoint, some 50 minutes' drive from Masterton. Accordingly, it would not only be Fireballs that would suffer from such a closure but also a number of people in that community. The lifting of the stay is not a decision that we would take lightly.

10. A stay is not imposed as a matter of course. This was addressed by the High Court in the *Cats Nightclub*⁵ case:

this Court is unlikely to grant suspension unless it is satisfied the appeal is bona fide; unless it is satisfied that there is some substantive merits in the appeal; and unless the consequences of the appeal are such it would be completely unjust not to allow the suspension.

The application to lift the stay

11. The Inspector alleged that Fireballs has breached the agreed conditions and the Act as follows:

- a. Intoxicated persons remained on the premise in contravention of condition (d)
- b. Patrons were permitted to become intoxicated on the premises in contravention of condition (e)
- c. CCTV does not cover the entire licensed premises in contravention of condition (g)
- d. Failed to provide CCTV footage to Police and the Licensing Inspector in contravention of condition (h)

12. In support of the application, affidavit evidence was filed by six witnesses although the Inspector abandoned an allegation relating to the requirement to maintain and provide an incident report. Accordingly, the evidence of the Inspector was not required. Three of the Inspector's witnesses were called, their affidavit evidence accepted as their evidence in chief and they were then subject to questioning by counsel. The affidavits of the remaining two witnesses were accepted without the need for them to be called.

13. In opposition to the application, affidavit evidence was filed by eight witnesses. Five

⁵ *Cats Nightclub [1991] Limited v Police* [1996] 3 NZLR 581 9HC)

of Fireball's witnesses were called, their affidavit evidence accepted as their evidence in chief and they were then subject to questioning by counsel. The affidavits of the remaining three witnesses were accepted without the need for them to be called.

14. The application to lift the stay relies primarily on certain events that are alleged to have occurred at the hotel on New Year's Eve, the night of 31 December 2025.

15. Fireballs is a company that is owned by its 100% shareholder, Ashley Lloyd Thomas of Masterton. At the time of the stay application, Mr Thomas indicated that he had had extensive experience at operating licensed premises and that he had recently taken on the position of General Manager of Fireballs⁶ to ensure that the hotel operated as required. While Mr Thomas gave extensive evidence by affidavit at the hearing of the application for a stay as to control or management steps that would be taken to ensure compliance, no evidence was received from him in opposition to the application to lift the stay.

16. Of significance is the statement by Mr Thomas at paragraph 12 of his second affidavit filed in support of the application for stay:

12 Under my management as General Manager, duty managers retain full independent authority over alcohol service decisions. I have reinforced and continue to reinforce, that owners and management do not override duty managers.

17. The evidence before the Authority was that the directors of Fireballs are Mr Jason Osborne and Mr Jason Le Grove, again both of Masterton. Both Mr Osborne and Mr Le Grove were present at the hotel that night of 31 December 2025 but not in any official role in relation to the management of the hotel. It appears that they were there for the social occasion of the New Year's Eve celebrations although Mr Le Grove indicated that he spent quite some time out the back of the hotel fixing an issue relating to the water supply.

⁶ Affidavit of Ashley Lloyd Thomas dated 11 December 2025 – filed in support of the application for a stay

18. The duty manager that night was Mr Aaron Carmichael and he was assisted by three bar staff. Security was provided by Mr Viliame (Bill) Cavubati who had been employed in the role shortly after the hotel reopened once the stay was granted on 18 December 2025.

Ricardo

19. Much of this evidence relating to that evening centred on a Mr Ricardo Blankin (Ricardo) who arrived at the hotel between 6:00 pm and 6:30 pm that evening. He explained that he was from Masterton and that he was an agricultural contractor. He explained that he was with friends and that he had been drinking before his arrival at the hotel but that he was not intoxicated. He was known to the duty manager Mr Carmichael who noticed his arrival and that he appeared to Mr Carmichael to be under the influence of alcohol although not to the point where he was intoxicated.

20. Mr Carmichael stated that he told Ricardo to have some water and that “we could reassess in half an hour” – which we take to mean that an assessment would then be made whether Ricardo would be served alcohol. Mr Carmichael stated that Ricardo was someone whom he decided that he should keep an eye on. However, despite regular ½ hour rounds of the hotel, he stated that he did not see Ricardo again until about 12:35 am when he noticed Ricardo outside the hotel at closing time waiting for a ride home in the courtesy van. He stated that he had heard earlier that Ricardo had been removed from the hotel for vaping.

21. There is no dispute that Ricardo was distinctively dressed wearing, in particular, an East Coast rugby jersey with the number 4 on the back. There is no dispute that the various witnesses’ reference to the man wearing the East Coast rugby jersey with Number 4 on the back is a reference to Ricardo.

22. Ricardo denied that he was asked to drink water at the time of his arrival. He stated that he bought beer from one of the female bar staff. This is the first inconsistency in the evidence of Ricardo and other witnesses.

23. Ricardo was also known to the Fireballs’ director Mr Le Grove whom he knew as

"Grover". He stated in his evidence before us that he saw Mr Le Grove when he arrived, greeted him but had no other interaction with him that evening.

24. Ricardo stated further that at around 9:00 pm the "bouncer" Mr Cavubati grabbed him just as Ricardo was about to vape. Mr Cavubati then removed him from the hotel premises for what Ricard stated was because he was about to vape. A short time later, Ricardo stated that he hopped over the back fence and went in with a crowd under a gazebo where he could not be seen. He stated that he did not go back to the bar nor did he speak with Mr Le Grove or any of the bar staff after he was kicked out.
25. When Ricardo left the hotel later that night around 12:30 am, he said that he spoke to two male policemen outside the hotel. He was asked why he had returned after being removed and he told them that "Grover" had allowed him back providing that he stayed in the corner and that he did not purchase alcohol. However, at the hearing he stated that this was not correct and that Mr Le Grove had not given him permission to return. He was unable to explain why he informed the police officers that Mr Le Grove had allowed him to return. It would surely require the police to have been aware that he had been kicked out but had returned.
26. Mr Cavubati started work at the hotel at around 8:00 pm. Shortly thereafter, about 8:10 pm, a police patrol consisting of Sergeant Hawkins and Constable Chu arrived at the hotel for a routine check. Ricardo was in a group at a table that was the subject of a brief discussion between Mr Cavubati and the police to the effect that there was a need to keep an eye on that group.
27. At around 9:00 pm to 9:30 pm, Mr Cavubati assessed Ricardo and another man as intoxicated and he kicked them out of the hotel. He stated that he told Ricardo that he was too drunk even to notice that he was vaping. Mr Cavubati was adamant, in the face of direct cross-examination on the point, that he had kicked Ricardo out for being intoxicated and not for vaping or attempting to vape.
28. About 15 minutes after he kicked Ricardo out, Mr Cavubati saw that Ricardo had

returned and was back with his group. He states that he was making his way over to Ricardo when Mr Le Grove approached him and told him (to the effect) that it was on him (Mr Le Grove) and that they (Ricardo and the other man who had been kicked out) could stay in the corner so long as they did not buy any drinks.

29. It is this issue relating to Mr Cavubati's evidence that Mr Le Grove gave Ricardo and the other man permission to return after being kicked out that is of importance. It is argued for the Inspector that this indicates wrongful interference by a director of the licensee Fireball's in management or operational issues.

30. Mr Cavubati stated that he was particularly annoyed at Mr Le Grove's interference as he felt that this undermined his position and that it could put his security guard licence at risk. However, he felt that he couldn't ignore a direction from someone whom he believed one of the owners of the hotel. Even though Mr Le Grove was a director and not an owner of the hotel, we can easily understand how Mr Cavubati may have made that assumption of ownership.

31. When the police patrol returned around 12:20 am and at the time that the hotel was closing down, Mr Cavubati met with the police outside the hotel. He pointed out to Sergeant Hawkins both Ricardo and the other man whom he had kicked out and told Sergeant Hawkins that he felt undermined by management as Mr Le Grove had let them back in. He told the Sergeant that he was going to finish out the night but that he had decided that he would not work this hotel again.

32. Shortly thereafter, Constable Chu joined Sergeant Hawkins outside the hotel where patrons were leaving with some waiting for the courtesy van. Sergeant Hawkins was at that time being confronted by two males whom he described as being "belligerent", confrontational and abusive. Constable Chu assessed them as intoxicated. Sergeant Hawkins felt that they were clearly affected by alcohol "if not intoxicated". The two men then left for the courtesy van.

33. Sergeant Hawkins then informed Constable Chu that Ricardo (identified by his rugby shirt), who was also outside the hotel at that time, had been kicked out by Mr Cavubati

but allowed to return by Mr Le Grove. The two police officers then approached Ricardo and Sergeant Hawkins took down his details. Constable Chu assessed Ricardo as intoxicated. Constable Chu explained that Ricardo dropped his bank card while talking to the police officers but did not realise that he had done so. Ricardo informed the two police officers that the bouncer had removed himself and two others from the hotel but that “Grover” had allowed them back into the bar providing that they stayed in the bar and that they did not purchase alcohol.

34. Sergeant Hawkins records that at about 1:10 am he noted the following details of his conversation with Ricardo:

BLENKIN stated “I am Fucked”

Q: when did you have your last drink”

A: about 10 pm

Q: where did you get the drink from?

A: from my pocket

Q: did the doorman ask you to leave, what happened with that?

A: We spoke to Grover, and he said we could stay

35. The police then asked the duty manager Mr Carmichael about Ricardo who responded that he had not served him that night.

36. Mr Le Grove gave evidence via AVL. He stated that he knew Ricardo who was a young man who worked for a friend of his in a contracting business. Mr Le Grove stated that he saw Ricardo at the hotel that night with a group from Castlepoint Station. He recalled saying hello to Ricardo early in the evening but,

“Beyond that, I did not speak with him, mingle with him or notice him for the rest of the night. I was not aware that he had been ejected by security. I did not have any discussions about Ricardo or anyone else being able to remain after being ejected. I did not and would not question the decision of security and hotel staff to eject a patron”.⁷

37. Mr Osborne recalled seeing Ricardo (identified by the East Coast rugby jersey

⁷ Affidavit of Jason Le Grove dated 2 February 2026 at [15]

numbered 4) around 8 pm and later hearing from Mr Cavubati that he had removed Ricardo. He also recalls seeing Mr Cavubati leaving around 1:15 am which gave him cause to reflect as Mr Cavubati had been paid through to 1:30 am.

38. Mr Osborne rang Mr Cavubati around 11:00 am the next morning, 1 January 2026. Mr Cavubati told Mr Osborne that “Grover” had allowed Ricardo back onto the premises after Mr Cavubati had removed him. He told Mr Osborne that he was no longer comfortable working at the hotel because he felt that his authority had been undermined by Mr Le Grove and that he would not return.

39. Mr Osborne then contacted Mr Le Grove who denied emphatically that he had allowed Ricardo back onto the premises. This was then relayed to Mr Cavubati with a request that he discuss this directly with Mr Le Grove but Mr Cavubati declined to do so.

40. In his police statement given on 6 January 2026, Mr Cavubati is recorded as stating:

13 I spoke to Jason OSBORNE, who is the owner of the pub, and he said Jason LE GROVE said they can stay in the pub as long as they stay in the corner they were in and didn't buy any drinks.

41. However, in his evidence, Mr Cavubati stated that it was indeed Mr Le Grove who spoke directly to him and that this was not relayed through Mr Osborne. We recognise that the statement to the police was taken some five days after the phone calls with Mr Osborne on 1 January 2026. Both Mr Osborne and Mr Le Grove have the Christian name, Jason. We accept that there is a credible explanation for the difference between the police statement and the evidence. We consider that the statement recorded by the police and signed off by Mr Cavubati has somehow conflated Mr Cavubati's account of events between New Year's Eve and the phone calls with Mr Osborne the following day, an error that Mr Cavubati picked up and corrected in his evidence.

42. Ricardo came back to the hotel the following day to apologise.

43. There is, accordingly, a clear conflict in the evidence as to whether Mr Le Grove over-

rode or undermined the actions of Mr Cavubati and that he allowed Ricardo to return to the hotel after being kicked out. There are a few issues that arise that require the conflict to be resolved:

- a. First, was Ricardo kicked out of the hotel by Mr Cavubati because he was intoxicated or because he was vaping or attempting to vape?
 - b. Secondly, did Mr Le Grove give permission to Ricardo to return to the hotel about 15 minutes after being kicked out by Mr Cavubati and when he knew that Ricardo had been kicked out?
 - c. Thirdly, if so then was Mr Le Grove aware that Mr Cavubati had kicked Ricardo out of the hotel because he was intoxicated
 - d. Finally, if so, and given the uncontested evidence from Constable Chu that Ricardo was intoxicated when he left the hotel at closing time and when he spoke with Sergeant Hawkins and Constable Chu, does this amount to permitting an intoxicated person to remain on the premises?
44. Mr Cavubati was clear in his evidence that Ricardo was kicked out because he was intoxicated. This was between 3 and 3½ hours after Ricardo had arrived at the hotel and by his own admission “with a good buzz” as he had been drinking beforehand. That was indeed observed by Mr Carmichael. We are in no doubt that this young man would have continued to drink over those 3 to 3½ hours and indeed he admits purchasing a beer at the time of his arrival.
45. It is simply incredible to suggest that he was kicked out just because he was attempting vape although that may be Ricardo’s drunken reconstruction of events given that Mr Cavubati told him that he was too drunk even to be able to vape.
46. We are in no doubt that Ricardo was kicked out of the hotel by Mr Cavubati around 9:00 pm to 9:30 pm because he was intoxicated.

47. The more contentious issue is whether Mr Le Grove allowed him to return.

48. This needs to be considered first along this sequence of events:

- a. Mr Cavubati states that he was told by Mr Le Grove that Ricardo could return;
- b. Mr Cavubati felt aggrieved at this but did not feel that he could do anything about it at the time given that he considered Mr Le Grove to be an “owner” of the hotel
- c. Mr Cavubati told Sergeant Hawkins outside the hotel just after midnight that Ricardo had been kicked out but allowed to return by Mr Le Grove. Furthermore, that Mr Cavubati felt aggrieved as he had been undermined by Mr Le Grove and to the point that he had decided that he would not work at the hotel again but would finish the night
- d. Shortly thereafter, Ricardo was spoken to by the police and he told Sergeant Hawkins that “Grover” had allowed him back notwithstanding that he had been kicked out by Mr Cavubati. This was overheard by Constable Chu
- e. The following day, Mr Cavubati told Mr Osborne that Mr Le Grove had undermined his (Mr Cavubati’s) authority by allowing Ricardo to return

49. Against that, there is the denial by Mr Le Grove that he gave permission to Ricardo to return.

50. We cannot accept Mr Le Grove’s evidence on this point. Either he has forgotten that he allowed Ricardo to return or he is endeavouring to cover up his actions. To accept Mr Le Grove’s evidence on the point would mean that Mr Cavubati has lied first to the police that night and subsequently in his evidence. What possible motivation could he have for doing so? Indeed, the sequence of events supports Mr Cavubati’s evidence.

51. Mr Cavubati expressed his concerns to the police about Mr Le Grove's actions before Ricardo was spoken to by the police. There is no suggestion that Mr Cavubati had spoken to Ricardo after Ricardo had returned to the hotel. Yet, Ricardo volunteered the same explanation for his return - that Mr Le Grove had allowed him to return.
52. We are in no doubt that Mr Le Grove did over-ride Mr Cavubati that night and allowed Ricardo, and possibly another man, back onto the hotel premises after they had been kicked out.
53. Finally, there can be also no doubt that Mr Le Grove knew that Ricardo had been kicked out for being intoxicated yet he allowed him to return. Clearly, that was why he required him to stay in the corner and not to purchase alcohol.
54. The actions of Mr Le Grove, a director of Fireballs and believed by Mr Cavubati to be an owner, can be viewed as the actions of Fireballs on this occasion. Not only did Mr Le Grove over-ride an operational decision by the security guard on duty that night, he also thereby permitted an intoxicated person to remain on the licensed premises.
55. We also have concerns about the credibility of the duty manager Mr Carmichael who states that he never saw Ricardo after his arrival. This is despite Mr Carmichael stating that he made regular half hourly trips around hotel to check that all was well yet Ricardo was only out of the hotel premises for approximately 15 minutes before returning. Notwithstanding that there were upwards of 100 patrons at the hotel that night at its peak, it is still surprising to us that a careful and regular sweep of the premises by the duty manager would not have detected Ricardo, a person known to the manager, a person known by the manager to have been affected by alcohol as early as 6:30 pm when he arrived, a person distinctively dressed and also known to have been kicked out during the night by Mr Cavubati.
56. We consider that Ricardo must have subsequently come to the sober realisation, once he realised that his actions had caused difficulties for Fireballs and thus his local hotel,

that he needed to distance Mr Le Grove from those difficulties. That can be the only credible explanation for his evidence that he made up his explanation to the police that night that “Grover” had allowed him back in after having been kicked out. We do not accept his evidence in that respect.

57. We find, accordingly, that Ricardo was allowed by Fireballs to remain on the premises despite being intoxicated and that this was specifically because of the actions of Mr Le Grove to permit him to return notwithstanding that Mr Le Grove must have known that Ricardo had been kicked out for being intoxicated.

58. We note that the decision of the DLC as to the suitability of Fireballs included concerns by the DLC⁸ relating to:

- a. the obstruction of duty managers trying to fulfil their legal obligations under The Act; and
- b. one of the owner’s interference stating “it was his pub” – although that related to Mr Thomas and not Mr Le Grove;
- c. Police evidence of “multiple intoxicated persons”

59. Accepting, as we do, that Mr Le Grove over-rode Mr Cavubati’s decision to remove Ricardo from the hotel that night and allowed this intoxicated young man to return to and remain on the premises, this appears to be a continuation of the licensee’s conduct that was found unacceptable by the DLC.

Lana

60. The second issue concerning patron intoxication relates to an assessment made by Constable Chu of a female patron, Ms Lana McCullough (Lana). This relates to when Constable Chu and the Sergeant returned at approximately 12:23 am and when there were still approximately 40 to 50 patrons at the hotel.

⁸ Decision of the Masterton DLC dated 12 November 2025 at 10.12.6, 10.12.7 and 10.12.8

61. Constable Chu's attention was drawn to Lana, a woman in her 50s, who appeared to him to be weaving as she walked through the hotel. The constable approached her and spoke with her. He noticed that she was having difficulty forming some words, repeating herself, her eyes were bloodshot and glazed and he assessed her as being intoxicated. Lana informed the constable that she did not drink often but when she did, she would drink to excess. At that time, Lana did not have a drink with her.
62. Constable Chu then left Lana and went outside to check that Sergeant Hawkins was safe. He then returned inside the hotel a few minutes later and heard the "last drinks" call. He noticed that Lana was talking to the duty manager Mr Carmichael and that she was holding an almost full bottle of beer. The constable put it to Mr Carmichael that Lana was intoxicated and inquired whether Mr Carmichael had served her. Mr Carmichael did not respond. Lana then said quite loudly that she was "*fucked*" at a volume that would have been clearly heard by Mr Carmichael. Lana kept talking and Constable Chu noticed that Mr Carmichael attempted to stop Lana talking by a cutting motion with his hand.
63. Mr Carmichael was asked again if he had served Lana with the bottle of beer which he denied and indicated that she must have got it from out the back. Lana then said that she had got it from a friend.
64. Constable Chu was in no doubt that Lana was intoxicated and that, in the short time that he was outside checking on Sergeant Hawkins, she had acquired a full or almost full bottle of beer and was with the duty manager who made no attempt to stop her drinking until Constable Chu started making inquiries as to whether Mr Carmichael had served her.
65. Lana gave evidence. She explained that she arrived at the hotel that night between 5:00pm and 6:00pm and left around 12:30 am. She stated that she went up to the bar about three times that night, each time buying two "quart" (745 mls) bottles of beer which she shared with her flatmate. At one point she was shouted a shot of whiskey of which she only had a sip. She stated that she stopped drinking around 10 pm and spent most the remaining time on the dance floor.

66. As to her presentation to Constable Chu, she stated that she suffers from small fibre polyneuropathy that affects her balance and her gait at times. She said that she struggles with forming words at times. Also, that her eyes may have appeared bloodshot as she does not usually wear mascara but did that night. She stated that she washed it off at some stage as it was getting into her eyes during the dancing and causing her eyes to smart. She stated further that the reason that she said that she was “fucked” is that because she was tired particularly from the dancing.

67. Constable Chu is an experienced police with over 14 years’ service, most of which being in the field of public safety or community policing. He explained that he has conducted a very large number of alcohol intoxication assessments over the years and on a regular basis. He stated that he was in no doubt that Lana was intoxicated notwithstanding that it was put to him that her balance and gait may have been affected by her medical condition and that her eyes were bloodshot because her mascara had run. Furthermore, it was when he asked Mr Carmichael if he accepted that Lana was intoxicated that Lana shouted out that she was “fucked”. Despite Lana’s attempt to explain that away as an indication that she was tired, given that this outburst occurred at the very moment that Constable was trying to obtain an acceptance from Mr Carmichael that Lana was intoxicated, it is clear that she had no inhibition at confirming the Constable’s assessment.

68. Regrettably, we find again that Lana, like Ricardo, subsequently came to realise that her conduct that night had caused difficulties for the hotel and, in the course of her evidence, she has accordingly attempted to discolour her conduct that evening. We do not accept her evidence that she was not intoxicated or her explanation as to how or why she presented to Constable Chu that night.

69. We accordingly find that Lana had clearly become intoxicated over the six or so hours that she had been at the hotel. Even when talking to the duty manager and holding a bottle of beer, no attempt was made by Mr Carmichael to take the bottle from her or to remove her. Constable Chu subsequently took the bottle from her.

CCTV

70. The final issue relates to:

- a. Stay condition (g) - that the licensee must have CCTV that covers all the licensed premises at all times; and
- b. Stay condition (h) - that CCTV footage must be retained for 90 days, and be available upon request by Police and Licensing Inspectors.

71. The Police requested CCTV footage from Fireballs for the period 8:00 pm on 31 December 2025 to 2:00 am on 1 January 2026. Difficulties arose with obtaining that CCTV footage. That has been explained for Fireballs.

72. We accept that a CCTV system was in place for Fireballs however we also accept that it was quite inadequate for a licensed establishment of this size. While CCTV footage was eventually provided over different times, at best this system only allowed the downloading of short individual clips typically of 30 seconds to a minute each.

73. Senior Sergeant Flower is the Wairarapa Crime Prevention Manager who was overseeing prevention staff working that New Year's Eve. She explained that attempts by the Police to obtain CCTV footage of that night proved difficult. She explains that the difficulties primarily arose because the footage was from a *Eufy* FB2 home station which she considered was not adequate for a pub. It provided only short segments.

74. Mr Osborne did not refute the difficulties or inadequacies of the system in place on that New Year's Eve. He sought technical advice that led him to conclude that the primary difficulty arose from the cloud-based limitations of the *Eufy* FB2 system. Realising that this system was inadequate, a *Eufy* FB3 system was then installed that allows direct exporting of recordings by date and time range to external storage.

75. The evidence is that all CCTV recordings of that night in question have now been made available to the Police but that has been quite recent and there has not been time to fully evaluate it.

76. We accept that there has been a breach of the stay CCTV conditions but only to a technical or limited degree. We also accept that Mr Osborne responded reasonably quickly when he realised that the system that was in place was not adequate. We can readily understand how technical issues such as this can arise.

77. This is not an issue that has influenced our decision on whether the stay should be lifted.

Conclusion

78. The DLC decision was primarily to the effect that Fireballs was not a suitable entity to hold the licences for a number of reasons, but in particular as to those covered in paragraph 58 above. New Year's Eve saw a repetition of similar events such that we consider that Fireballs does not appear to be capable or perhaps prepared to ensure that this hotel is managed appropriately. It is of significance that this hotel is situated at a relatively remote coastal settlement where there is no manned police station. Accordingly, the monitoring of its performance as a licensee presents more difficulties to the authorities (the Police and the District Licensing Inspectors) than if it was in a town or city. The suitability of the licensee is, accordingly, a matter of even greater moment than if the hotel was in a larger urban area.

79. We are in no doubt that Ricardo was allowed to remain on the premises that New Year's Eve despite being intoxicated and having been removed from the hotel by security for that reason. Furthermore, that this was with the express permission of a director of the licensee company who deliberately over-rode the decision of the security guard who had removed Ricardo.

80. Furthermore, Lana was someone who again was allowed to become intoxicated during the 6 plus hours that she was at the hotel that evening without any apparent attempt to cut her off from drinking or to remove her.

81. The two men who confronted Sergeant Hawkins outside the hotel again were clearly affected by alcohol and probably intoxicated.

82. Fireballs was granted its licences for only one year as is customary – often described as the probationary year. The decision of the DLC was to decline a renewal of the licences. The stay was granted on an agreed basis so that certain factual issues could be resolved at the appeal hearing which would focus particularly on the suitability of the licensee.

83. The stay was allowed on clear and unambiguous conditions requiring a high degree of compliance with (what might be considered) quite fundamental and necessary conditions. Those conditions were directed towards ensuring that the hotel operated in a way that provided for the safe and responsible sale, supply and consumption of alcohol and that the harm caused by the excessive or inappropriate consumption of alcohol be minimised. This is, of course, a fundamental requirement of the Act⁹.

84. We have been left with insufficient confidence that the current management of Fireballs, and in this respect we refer particularly to Mr Le Grove as one of the directors of the licensee company and Mr Carmichael as a duty manager, either understands or is prepared to conduct itself in a way that enables this licensed establishment to operate in a safe and responsible manner as required.

85. Without wishing to address the issues that might be visited at the appeal hearing, we cannot ignore the following concluding observations of the DLC in its decision:

10.20 The Committee finds little in the evidence provided by the applicant of an understanding of or a willingness to actually take the responsibility necessary to hold either an on or off licence in what is a particularly remote part of the district.

10.21 It is however noted that while the Committee has major reservations, there is the potential ability to remedy the issue with a complete change in management structure, with clear devolved responsibilities and authority for the day-to-day operations by a trained, competent General Manager. Until such action is undertaken however, the Committee sees little potential for a new application being successful

⁹ Sale and Supply of Alcohol Act 2012: s 4(1)

86. For all these reasons, we do not consider that the current management of Fireballs can be trusted at this time with the responsibility of operating this hotel, or more exactly the licensed aspects of this hotel business, pending the hearing and final determination of the appeal.

87. We accordingly lift the stay which means that Fireballs no longer is licensed to sell or supply alcohol or allow it to be consumed on the hotel premises pending the hearing of the appeal. This decision has immediate effect.

Judge RLB Spear
District Court Judge | Kaiwhakawā o te Kōti ā-Rohe
Chair, Alcohol Regulatory and Licensing Authority
Date of authentication | Rā motuhēhēnga: 09/02/2026

