

**IN THE MATTER**

of the Sale and Supply of  
Alcohol Act 2012

AND

**IN THE MATTER**

of an application by  
Alexandre Limited for the  
application of a ON-License  
pursuant to s.99 of the Act  
in respect of premises  
situated at 173 Burnett  
Street ASHBURTON known  
as “Flashbacks”.

**DECISION OF THE ASHBURTON DISTRICT LICENSING COMMITTEE**

**Chairperson:** Mrs Robin Kilworth

**Members:** Mr Simon McDonnell

Ms Tracy McIlraith

**Applicant:** Ms Joanna Alexandre trading as Alexandre Ltd

**Present:** Miss Shaquille Faatili, Mr Cliff Downes, Ms Paula Brooke,

**In Attendance:** Ms Julie Clements, Ms Briar Gaynor, Sgt. Gordon Narbey (Zoom)

Mr Rick Catchpowle, Ms Cara Badger, Ms Carol McAtamney,

Mr Cameron Duff, Ms Paula Williams, Miss Krystal Cooper,

Mr Isaac Price, Miss T Ribbon

**Introduction**

This is a hearing for a new on licence pursuant to s.99 of the Act. The premise to be licenced is known as Flashbacks, formerly the Shed. The applicant is currently employed in the industry. The Licensing Inspector, the NZ Police and MOH have all opposed the application on the grounds of suitability of the applicant to operate a nightclub type premises, the lack of appropriate staff, systems and training, and the ability to achieve the object of the Act. The premise is situated in a laneway between two central streets and is approximately 100 metres from an existing nightclub which is

accessible to patrons through a side alley which is shared by both premises. The hours originally applied for are 11.00am-9.30pm Sunday-Wednesday and 11.00am-2.00am Thursday-Saturday.

### **The Hearing**

Ms Alexandre was sworn in. In her evidence she stated that Flashbacks is an entertainment venue with a target audience of teens aged 13 to 18 (for daytime and early evening) and 30 to 45 year olds (later evening). It is a space focused on entertainment and a place for socialising with family and friends, a function venue and a community venue. Family, children, young adults are able to visit and enjoy family friendly activities. The premise is to be undesignated until 8pm and supervised from 8pm until closing. Ms Alexandre further stated that the main focus will be on entertainment, and a liquor licence will add to the options on offer. She disagreed with how she had been portrayed in the reports and stated that the reports do not reflect her character.

### **Hearing Panel – Questions to Applicant**

The Panel questioned Ms Alexandre's experience. Ms Alexandre has 15 years experience in the hospitality industry working in admin and several short periods which total four years of working behind the bar selling alcohol. This bar experience ceased in 2010 and her current Managers Certificate was granted six months ago. She was asked what actual experience she was having in using her Managers Certificate in her current employment. She answered that she was Duty Manager on a casual basis for the MSA Club.

The questions from the Panel covered the number of security personnel, sale of quart bottles, other options to increase income, availability of experienced Duty Managers, pricing of alcohol, intended hours of operation, knowledge of operating this type of venue.

Ms Alexandre's answers showed her lack of understanding in all of these areas. The hours of operation had differed from the original application which was followed by a second application with different hours and the answers given were at times confused by lack of experience and understanding of the Act.

Ms Alexandre called her first witness Shaquille Faatili who was sworn in. Ms Faatili is currently employed by Ms Alexandre at Flashbacks which is operating as a games/restaurant unlicensed premise. Ms Faatili stated that she was in support of the concept as applied for by Ms Alexandre.

When questioned by the panel Ms Faatili answered that she did not have a Managers Certificate but intended to apply for one. She had experience working at Arcadia a nightclub which was now closed.

Ms Alexandre called her second witness Mr Cliff Downes the General Manager of the Ashburton MSA a chartered club, and her employer. Mr Downes stated that he was here

as a character witness more than to discuss the operational policies of the proposed venue.

Mr Downes answered from the panel regarding numbers of bar staff in his establishment, similarities between his and the proposed venue, the proposed business plan, his knowledge of other establishments that operate in a similar manner. Mr Downes had not seen the business plan, there are minimal similarities, two different types of clientele, couldn't see a problem if the 8.00pm handover can be managed. Mr Downes knew of other premises which operate in this way – namely Holey Moley.

### **Alcohol Licensing Inspector**

Ms Clements spoke to her submission in opposition. She stated that her submission is based on facts and is not personal. It is not clear what exactly is being applied for and the concept of the business.

In answer to questions from the panel the Inspector responded that concerns were not alleviated by the new proposed 10.30pm closing. There were still concerns over security when the existing environment for hospitality experienced issues such as side loading, preloading, migration between premises, noise, vandalism, vomit etc. The previous operation known as the Shed had issues.

With regard to the applicant's experience the Inspector stated that she would be more comfortable with more experience but that experience comes with time, but is not a cure, if the premise is not well managed there will be issues.

With regard to the business if it could guarantee a profit – the Inspector remains of the view that if the business is relying on alcohol sales to make a profit this would still be a concern.

### **Medical Officer of Health – Briar Gaynor (Health Protection Officer)**

Ms Gaynor submitted her concerns which covered suitability, staff systems and training. She commented on the Facebook post which claimed that the business couldn't open because it had not obtained a liquor licence. There were other issues – no building warrant of fitness, no evacuation scheme etc. She stood by her opinion that even with the reduced hours offered it was difficult to see how the two types of clienteles would mix together.

In answer to questions from the Panel Ms Gaynor stated That the risk rating even with reduced hours would remain high. She didn't see migration as a problem as the area was flood lit. She was not clear how the changeover process would be undertaken. The time for alcohol sales between 8.00-10.30pm is a very short time to make a profit.

### **Public Excluded – to discuss Financials submitted with the application and updated for the Hearing.**

The panel questioned the applicant in depth with regard to the following areas of the financials:

The paid up capital of the shares, the loan requirements, interest payments, security for the loan, alcohol supplier, food purchases, conflict of interest between being the

employer and having Duty Managers whose point of view may differ when issues arise, current employment arrangement.

### **NZ Police – Sargeant Gordon Narbey**

Sgt Narbey made his submission via Zoom. His objection covered lack of transparency regarding her neglect to mention at the time of applying for her Manager's Certificate that she was intending to establish a new night club in Ashburton.

The proposed hiring of Krystal Cooper as Duty Manager who at the time of the initial meeting with the tri-agency did not have a Manager's Certificate. Whilst both Ms Alexandre and Ms Cooper had experience in the hospitality industry neither had relevant experience running a night club. Amenity and good order were also a concern around this venue. Migration and pre/side loading are a major factor in Ashburton's drinking culture.

The panel questioned Sgt Narbey on the effect of the change of hours to 11.00pm, his knowledge of the new security company to be engaged by the applicant, the likelihood of the hours attracting the age group the applicant is wishing to attract, issues with regard to unsupervised under 18 year olds. Sgt Narbey remained unconvinced that the change of hours would have a positive or any effect. He did not think the operation would attract the age group intended as they tended to want to stay out later and was adamant in his view of the problems that would be caused by unsupervised under 18 year olds. The security company mentioned by the applicant was a Christchurch based company not known to Sgt Narbey.

### **Concluding Statements**

The applicant and the tri agency opted to provide written concluding statements. Both the Inspector and the Health Protection Officer reiterated their opposition to the application.

### **Site Visit**

The Panel undertook a site visit to consider the capability of the site to achieve management the operation referred to in the application, to gauge separation distances and sight lines of the proposed designated areas.

The Panel arranged to obtain a copy of the Holey Moley Decision from the Christchurch DLC for comparison of the premise purposes.

### **Decision**

In coming to a decision, the Panel considered the following:

The experience of the Applicant in this type of establishment or related.

The experience of the Applicant in business.

The business plan and financials presented by the applicant.

The confusion of the application with regard to hours and clientele.

The capability of staff to manage the site, security and amenity and good order.

The capability of the owner to attract suitably experienced staff.

The ability of staff to manage the sale of alcohol to patrons given the limited space between designated areas.

The panel is of the unanimous view that the applicant does not satisfy the s 105 and s 106 criteria with regard to the object of the Act, suitability, staff, systems and amenity and good order.

The application is therefore **Declined**.

This decision is guided by case law:

Patels Superette 200 Ltd v Muir (2019) NZAELA 75 at 228. Where reporting agencies oppose an application, the applicant must provide sufficient evidence to respond to and rebut such opposition. "while there is no onus of proof on an applicant, it does have an evidential burden in that it is for an applicant to put its best foot forward if it expects a DLC to favour the application over significant opposition which is itself supported by evidence."

The Authority stated, in Re Jays LLA 994/94, 15 July 1994, that: Differing aspects of suitability will be given different weight by decisionmakers under the Act. Among them are experience in the hospitality industry, management ability and personal integrity.

**DATED** at Ashburton this 19th day of March 2025



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R Kilworth

**Chairperson**

**Ashburton District Licensing Committee**