



Director-General of Licensing

Decision Notice

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| Matter: | Variation of Conditions of Liquor Licence |
| Premises: | Viva La Vida Wine and Tapas Bar Shop M19 and M18B Paspalis Centrepoint 48-50 Smith Street Mall DARWIN NT 0800 |
| Licensee: | Fatchops Pty Ltd |
| Legislation: | Section 33 of the <i>Liquor Act</i> |
| Decision of: | Director-General of Licensing |
| Date of Decision: | 08 June 2016 |

BACKGROUND

1. Fatchops Pty Ltd is the holder of an on-licence liquor licence for premises known as Viva La Vida Wine and Tapas Bar ("Viva La Vida") located in the Smith Street Mall, Darwin. The alfresco area of the premises is situated on land owned by the City of Darwin.
2. Viva La Vida's liquor licence currently includes the following licence condition:

"The alfresco area is to be occupied in accordance with City of Darwin's Outdoor Dinning Policy 011."
3. As part of a wider strategy, City of Darwin has recently amended the Policy to include a total ban on smoking in alfresco dining areas on City of Darwin land. As a consequence, the restrictions imposed by the Policy are considerably more restrictive than the restrictions imposed by the *Tobacco Control Act*. Enforcement of the restrictions included in the Policy is essentially a matter for the City of Darwin and outside the jurisdiction of the Director-General under the *Tobacco Control Act*.

CURRENT SITUATION

4. On 22 May 2016 I wrote to Ms Kate Staples, Manager of Viva La Vida, pursuant to section 33(2) of the *Liquor Act* advising that I intended to remove the licence condition set out in paragraph above.
5. By email dated 26 May 2016 Ms Staples responded advising that she agreed to the removal of the licence condition relating to the alfresco dining area of the premises.

DECISION

6. For the reasons set out above, and in accordance with section 33(3) of the *Liquor Act*, I have determined to amend the conditions attached to the liquor licence for Viva La Vida by removing the licence condition relating to compliance with City of Darwin's Outdoor Dining Policy.
7. Following this decision compliance with the City of Darwin Outdoor Dining Policy will be a matter between the Licensee and the City of Darwin.
8. The Licensee is still required to adhere to the relevant provisions of the *Tobacco Control Act* which remain under the jurisdiction of Licensing NT.

REVIEW OF DECISION

9. Section 120ZA of the *Liquor Act* provides that a decision of the Director-General, as specified in the Schedule to the Act, is a reviewable decision. A variation of liquor licence conditions by the Director-General under section 33 of the *Liquor Act* is specified in the Schedule and is a reviewable decision. Section 120ZC of the Act provides that a person affected by this decision may seek a review before the Northern Territory Civil and Administrative Tribunal ("NTCAT"). Any application for review of this decision must be lodged with NTCAT within 28 days of the date of this decision. For the purpose of this decision, and in accordance with section 120ZB(c) of the *Liquor Act*, the affected person is the Licensee for Viva La Vida.



CINDY BRAVOS

Director-General of Licensing

08 June 2016