

LIQUOR CONTROL REFORM ACT 1998
ENFORCEABLE UNDERTAKING
SECTION 133F

The commitments in this undertaking are offered to the Director of Liquor Licensing by:

Joseph Paul Deangelis
193 Corio Street
SHEPPARTON VIC 3630

1. Description of the licensee and other relevant particulars

- 1.1 Joseph Deangelis ABN 75 260 898 834 (**the licensee**) is an individual/sole trader active from 18 August 2003.
- 1.2 The licensee holds a Restaurant and Café liquor licence no. 32252035 (**the licence**) which authorises the licensee to supply liquor up to and including 31 December 2011 in accordance with the conditions of the licence.
- 1.3 The licensee trades under the name 'Shepparton Espresso Bar' and operates from premises situated at 193 Corio Street, Shepparton, Victoria 3630 (**the premises**).
- 1.4 The premises are a single story shop front with a small area for tables and chairs and an unused food service area, including the register area. The building then leads on to a large room out the back with tables, chairs and a television. The premises operates as a coffee shop, serving pizza on a Friday night only.
- 1.5 In this undertaking -

Act means the *Liquor Control Reform Act 1998*;

Director means the Director of Liquor Licensing;

Licensed premises has the same meaning as in the Act; and

RAV means Responsible Alcohol Victoria.

2. Description of conduct that RAV investigated

Supply of liquor not in accordance with the licence contrary to section 108(1)(a) of the Act

- 2.1 The licence granted to the licensee permits liquor to be supplied on the premises for consumption on the premises during specified trading hours.
- 2.2 Pursuant to the licence, liquor must only be supplied on the premises where the predominant activity carried out at all times on the premises is the preparation and service of meals to be consumed on the premises.
- 2.3 On 7 October 2009, Compliance Inspectors from RAV conducted an unannounced inspection of the premises. Compliance Inspectors observed that contrary to the licence, the predominant activity at the premises at all

times was not the preparation and serving of meals for consumption on the premises.

- 2.4 In addition, the licensee failed to produce a copy of the plan of the premises approved by the Director (**the red line plan**) when requested to do so.
- 2.5 Compliance Inspectors also observed that the licensee failed to display the required notices within the defined area shown by a red line on the red line plan (**the red line area**).
- 2.6 As a result of the inspection carried out on 7 October 2009, Compliance Inspectors issued infringement notices to the licensee on 19 March 2010 for offences against sections 108(1)(a)(i), 101B(1) and 102(1) of the Act. However, the infringement notices were not paid.
- 2.7 On 31 May 2011, Compliance Inspectors conducted a further unannounced inspection of the premises. Compliance Inspectors observed that contrary to the licence, the predominant activity carried out at all times at the premises was not the preparation and serving of meals for consumption on the premises.
- 2.8 The licensee indicated to the Compliance Inspectors that the licensee would be prepared to vary the category of licence to better reflect the needs of the business.

3. Brief details of the investigation by RAV

- 3.1 On 7 October 2009, a Compliance Inspector from RAV conducted a compliance inspection of the premises where the conduct described above in paragraph 2 was first identified.
- 3.2 On 31 May 2011, a Compliance Inspector from RAV conducted a follow up compliance inspection of the premises where the conduct described above in paragraph 2 was further identified.

4. Explanation as to why the Director considers that the conduct contravenes the Act

- 4.1 The Director considers that the conduct described in paragraph 2 above constitutes a contravention of section 108(1)(a)(i) of the Act, in that:
 - (a) the licensee has supplied liquor other than in accordance with the licence by supplying liquor where the predominant activity carried out at all times on the licensed premises is not the preparation and serving of meals for consumption on the premises.

Accordingly, the Director considers that the conduct of the licensee demonstrates poor management practices which are conducive to or encourage the misuse or abuse of alcohol, and an insufficient knowledge of the requirements of the Act and of the licence.

5. Acknowledgement of the breach

5.1 The licensee acknowledge the contraventions of the Act and the concerns of the Director set out in paragraph 4 above, and admit the facts, matters and circumstances described in paragraph 2 above.

6. Undertakings given by the licensee

6.1 The licensee agrees to undertake the following remedial action with the aim of ensuring that it does not contravene the Act in future:

- (a) Submit an application to the Director to vary the category of the licence to an On-Premises Licence **within three (3) months of the date of execution of this undertaking;**
- (b) Complete, at his own cost, the 'Licensee Compliance Certificate' available through Franklyn Scholar Hospitality **within six (6) months of the date of execution of this undertaking;**
- (c) Ensure that each relevant person supplying alcohol undertakes approved Responsible Service of Alcohol (RSA) training and undertakes an approved RSA refresher program; and
- (d) Maintain an up-to-date RSA training register and keep copies of all RSA certificates of person's involved in the supply of liquor on the premises.

7. Commencement and duration of the undertaking

7.1 This undertaking:

- (a) comes into effect when:
 - (i) it is executed by the licensee; and
 - (ii) the Director accepts and signs the undertaking.
- (b) continues in effect for a period of one (1) year from the date of commencement.

8. Acknowledgement by licensee

8.1 The licensee acknowledges that:

- (a) The Director and other interested parties specified in the Act may make an application to the Victoria Civil and Administrative Tribunal to conduct an inquiry pursuant to section 90(1)(bb) of the Act on the basis of any contravention of this undertaking by the licensee;
- (b) Pursuant to section 133G of the Act, the Director will register this undertaking in the register of undertakings on the Department of Justice website and the undertaking will be available for public inspections;

- (c) The Director and/or Minister for Consumer Affairs may from time to time publicly refer to this undertaking; and
- (d) This undertaking in no way derogates from any of the rights and remedies available to any other person in the State of Victoria arising from the conduct which is the subject of this undertaking, or a breach of the Act or regulations.

9. Execution of undertaking

EXECUTED BY


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Joseph De Angelis
 Name of licensee (print)

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Joe De Angelis
 Signature of licensee

IN THE PRESENCE OF

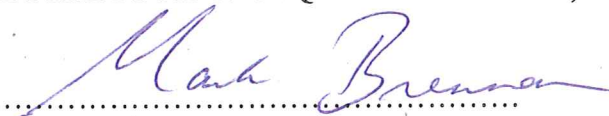
.....
Karen McCluskey
 Name of witness (print)

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 Signature of witness

Dated this 8 day of December 2011.

Accepted by:

THE DIRECTOR OF LIQUOR LICENSING, VICTORIA

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 Director of Liquor Licensing

Dated this 12th day of DECEMBER 2011