

Director-General of Licensing

Decision Notice – Review of Delegate’s Decision

MATTER:	Review of Delegate Decision – Refusal to grant liquor licence
PROPOSED PREMISES:	Big Ass Grill 16 Second Street Katherine NT
PROPOSED LICENSEE:	Big Ass Grill Pty Ltd as trustees for What Would I know Trust
APPLICANT FOR REVIEW:	Mr Stjepan (Stephen) Horvat
LEGISLATION:	Part III of the <i>Liquor Act</i> and Part 3 of the <i>Licensing (Director-General) Act</i>
DECISION OF:	Director-General of Licensing
DATE OF DECISION:	13 April 2017

BACKGROUND

1. The background to this application is set out in detail in the decision notice of the delegate of the Director-General of Licensing (the Director-General) published on 16 December 2016. For the purpose of this review, the background may be summarised as follows. By application dated 29 April 2016 Mr Stjepan Horvat, on behalf of Big Ass Grill Pty Ltd as trustee for the What would I know Trust (the Applicant), applied to the Director-General of Licensing for the grant of a tavern liquor licence pursuant to section 26 of the *Liquor Act*, (the Act). The application relates to premises named Big Ass Grill and located at 16 Second Street, Katherine. The premises previously operated as a café/restaurant named The Bucking Bull which subsequently underwent a name change to Big Ass Grill.
2. The Applicant submitted a comprehensive Business Plan in support of the application which discloses that the proposal is to operate a fully licensed tavern including DJs, live bands and nightclub style entertainment incorporating a unique grill style dining restaurant. The proposal is for a venue that would cater for 400 to 600 patrons. The applicant seeks a tavern liquor licence that would authorise the sale of liquor for consumption on the premises from 10.00 am to 10.00 pm Monday to Thursday and from 10.00 am to 2.00 am the following day on Fridays and Saturdays.
3. In accordance with the requirements of the Act, the application was advertised in the Katherine Times on 27 July and 3 August 2016 with the period for lodging objections expiring on 3 September 2016. A total of 10 objections to the application were lodged during the objection period. Two formal submissions were received in response to the application.

4. By decision dated 16 December 2016, following consideration of the application and supporting materials as well as the objections and submissions opposing the application, a delegate of the Director-General refused to grant the tavern liquor licence sought by the Applicant. The delegate's reasons for refusing the application are set out in some considerable detail in the decision notice under the heading "Assessment of the Application" (paragraphs 93 to 118 inclusive) and "Decision" (paragraphs 119 to 127 inclusive).

CURRENT SITUATION:

5. On 27 January 2017, pursuant to section 11 of the *Licensing (Director-General) Act*, Mr Horvat sought a review by the Director-General of the delegate's decision. Section 11 provides that a person affected by a delegate decision may apply to the Director-General for a review of the delegate decision. Section 11(2)(a) provides that an application for review must be made within 28 days of publication of the delegate decision. In this case Mr Horvat lodged his application for review outside the 28 day period. However, in accordance with section 11(2)(b) of the *Licensing (Director-General) Act* the Director-General extended the time for making the application at the request of Mr Horvat and taking account of the intervening Christmas period.

THE APPLICATION

6. The Applicant proposes to construct and operate a licensed a nightclub style tavern comprising a premier live entertainment and food venue to a standard not currently available in Katherine. The Business Plan included with the application identifies that the business will cater for the 18 to 30 year age group including locals, tourists and seasonal workers, government employees and military personnel based at RAAF Base Tindal.
7. The Applicant contends that Katherine currently has a limited choice so far as night time entertainment is concerned and that existing licensed premises do not provide the type of venue and entertainment proposed by the application. Further, the Applicant submitted that the proposed venue would assist in the proper and responsible development of the hospitality, tourism and liquor industries and will have a positive economic and social impact by providing additional employment opportunities. In that regard, the Applicant submitted that priority would be given to employing skilled and experienced locals with training to be provided to unskilled or inexperienced employees.
8. The application identified that Mr Horvat is the company secretary, sole director and sole shareholder for Big Ass Grill Pty Ltd, a company registered with the Australian Securities and Investments Commission. Mr Horvat has sworn an affidavit in accordance with section 26A of the Act attesting that he is the only person able to influence the conduct of the business under the proposed licence. In support of the application, he has also provided a Public Interest Submission as required by section 26(3) of the Act.
9. Mr Horvat also submitted financial statements and professional references in addition to the required National Police History Certificate. The references indicate that Mr Horvat is a person of good character and reputation from both a professional and personal point of view. The National Police History Certificate showed that Mr Horvat has no disclosable court outcomes.
10. Mr Horvat has 11 years direct involvement in the restaurant industry in Katherine having previously been involved, with his parents, in the successful operation of the Bucking Bull Burger Bar which is the venue proposed for redevelopment to operate as the proposed licensed entertainment venue named the Big Ass Grill.

LOCATION OF THE PROPOSED PREMISES

11. Under the proposal the Big Ass Grill is intended to be located at 16 Second Street, Katherine which is situated within the Katherine CBD. In the vicinity of the proposed venue Second Street currently comprises a mix of businesses and service providers, residences and churches, one of which is directly opposite the proposed premises the subject of the application. The immediate neighbourhood of the premises can be described in similar terms, with government agencies, health and other service providers and some residential properties nearby.
12. The premises presently consist of a small building (previously utilised as a café/restaurant) and a large partly open corrugated iron shed. In support of the application the Applicant submitted various building and renovation plans showing the proposal to enclose the shed area and convert the space for dining, bar and dancefloor facilities as well as the establishment of an alfresco area for the use of patrons.
13. The only entrance for patrons entering the premises is intended to be at the front of the building through the existing dining area whilst the intended exit point is to be via a side gate from the outdoor garden deck section onto the public footpath. The Applicant intends to carry out significant modifications to the existing venue to cater for between 400 – 600 patrons, with seating capacity for 400 patrons.
14. Of note, the plans indicate parking capacity for 19 vehicles which the applicant submitted is sufficient. The Applicant also noted that an exemption for an additional 33 car parks had been granted from relevant planning authorities.
15. As part of the planning process, the Applicant was required to consider various social amenity issues including the need to reduce or minimise noise emanating from the premises. It was submitted that insulating the roof and walls with sound absorbing materials, the installation of foam buffers to minimise excessive sound levels and the engagement of acoustic consultants and sound engineers will mitigate any issues in that regard. The Applicant also noted that *'excessively high sound levels will be avoided by the use of strategically placed sound equipment in addition to limiters, warning lights and cut-out switches with equalisation equipment controlling low frequency sound keeping vibration to a suitable level'*.

OBJECTIONS TO THE LIQUOR APPLICATION

16. The application for the grant of a liquor licence was advertised in the Katherine Times on Wednesday 27 July and Wednesday 3 August 2016. Following publication of the application 10 objections were received in accordance with section 47F of the Act. A further two submissions were received which related to the application but did not specifically raise objections to the grant of the licence.
17. Objections were lodged by the following persons:
 - Superintendent Lauren Hill, NT Police;
 - Ms Carol Dowling, Chairperson, Katherine Region Action Group (KRAG);
 - Mr Bruce Francais;
 - Mr Warren De With & Mrs Debbie De With;
 - Mr Josh Lindsay;
 - Ms Thomasin Opie, Managing Practitioner, NT Legal Aid Commission (NTLAC);
 - Reverend Mark McGuinness, Parish Priest, St Joseph's Church;
 - Ms Jacqui Rimington, Executive Officer, Katherine Women's Information & Legal Service Inc (KWILS)
 - Mr Graham Cole; and
 - Mr Dennis Rebbeck.

Objection by NT Police

18. On 10 August 2016 Superintendent Lauren Hill lodged an objection on behalf of NT Police on the grounds that the grant of a licence would adversely impact on the amenity of the neighbourhood and the health, education, public safety and social conditions in the community. In her objection Superintendent Hill acknowledged that it was difficult to establish precisely what adverse effects the grant of the licence may result in as the premises are not yet in operation.
19. Superintendent Hill submitted that the key effects the premises may have on the surrounding neighbourhood can be examined in terms of parking/traffic, pedestrians/noise/littering and noise. She expressed concern regarding the applicant's intended patron capacity of between 400 and 600 patrons and the fact that the premises has an allocation of 19 off-street parking spaces with limited off-street parking on Second Street generally.
20. Superintendent Hill also raised concerns that a large number of vehicles parked in the vicinity of the premises at night could cause traffic flow issues and additional risk to pedestrians due to limited visibility caused by large numbers of vehicles parked on the street. She also noted that the only form of public transport operating in Katherine is the taxi service and that there is no taxi rank in the vicinity of the proposed premises.
21. Superintendent Hill stated that street lighting is insufficient to provide adequate visibility for motorists travelling on Second Street, particularly where pedestrians are expected to congregate in the area and with the proposed venue located near a roundabout intersection. She submitted that those circumstances had the potential to result in an increase in road crashes with motorists slowing while attempting to park and blocking the nearby intersection.
22. The submission on behalf of NT Police expressed concerns for pedestrian safety where numerous patrons are expected to queue near the entrance to the premises and prior to entry and where large numbers of patrons would congregate in the street after closing time. It was submitted that the applicant failed to address key safety issues including the provision of safe queueing areas, pedestrian crossings, proximity of taxi ranks and drop off zones.
23. Superintendent Hill also noted that the conduct of people affected by alcohol invariably leads to noise and anti-social behaviour around licensed premises, particularly between midnight and 3:00 am in the vicinity of Katherine Terrace and especially on weekends. She acknowledged the noise amelioration measures proposed by the Applicant but expressed concerns that the operation of a nightclub venue featuring amplified music in this locality was likely to result in noise disturbances. She noted that such disturbances were likely to impact adversely on businesses and residences within 500 metres of the proposed venue.
24. Superintendent Hill also noted the work of the Katherine Region Action Group and the participants in the local Liquor Accord as well as the development and implementation of the Katherine Alcohol Management Plan (KAMP) which aims to reduce the level of alcohol related harm within the Katherine community. She submits that the grant of a liquor licence to the Big Ass Grill conflicts with two of the objectives of the KAMP namely, the reduction of the impact of alcohol misuse in Katherine and the encouragement of a responsible drinking culture in Katherine. Superintendent Hill stated that the approval of another liquor licensed venue will promote alcohol consumption and is in conflict with the KAMP objectives.
25. It was further submitted on behalf of NT Police that the grant of an additional late night trading liquor licence in the Katherine Township is likely to result in adverse impacts on public safety and in increased anti-social behaviour and violence. Superintendent Hill also noted that an increase in social harms will have an immediate impact on Police resources and will affect the capacity and response time for Police interventions.

26. Superintendent Hill noted that CCTV has been installed in some areas of the Katherine CBD however the proposed venue is not located within an area currently monitored by CCTV coverage. In conclusion Superintendent Hill stated that taking into account the proposed location of the premises and the inherent risks to public safety and community amenity, the proposed premises are not suitable for the type of activity proposed by the application. She noted that the premises may be more suited to a restaurant facility rather than a nightclub.
27. The objection lodged by Police is valid in accordance with the requirements of section 47F of the Act.

Objection by Ms Carol Dowling, Chairperson, KRAG

28. Ms Carol Dowling is the Chairperson of KRAG, an independent community organisation which identifies and advocates for measures which prevent or inhibit alcohol related harm within the Katherine region. KRAG is predominantly comprised of members from diverse sections of health and community service agencies in Katherine. KRAG has standing to lodge an objection to the grant of a liquor licence and the objection lodged by Ms Dowling complies with the requirements of section 47F of the Act.
29. In her objection dated 27 July 2016 Ms Dowling submitted that the grant of a licence would not be in the community's best interest and was likely to result in negative impacts on the Kathrine Township arising from alcohol misuse. Ms Dowling referred to the KAMP which reported trends in alcohol related harm in the Katherine region between 2006 and 2015 and referred to research relating to the nexus between violent criminal offences and alcohol misuse.
30. Ms Dowling concluded by stating that the restricting of yet another liquor outlet in Katherine is a supply reduction measure that KRAG strongly recommends.

Objection by Mr Bruce Francais

31. Mr Francais lives and works in the neighbourhood where the proposed venue will operate and therefore has standing to lodge an objection to the application under consideration. His objection of 20 July 2016 satisfies the requirements of the Act as prescribed by section 47F.
32. Mr Francais submits that the Temporary Beat Location initiative has certainly improved the situation with problem drinkers in Katherine however another outlet, even without take away liquor sales, will be to the detriment of the situation. He states that a licensed outlet in Second Street will result in an increase in the level of anti-social behaviour in the immediate area and an unacceptable level of noise in close proximity to a church.
33. He stated that it appears that the main purpose of the application is to maximise alcohol sales and submits that the licence should not be granted.

Objection by Mr Warren & Mrs Debbie De With

34. Mr and Mrs De With own and operate Rod & Rifle Pty Ltd, a retail business which is located on Second Street and is engaged in the sale of fishing, hunting, camping and sporting equipment. As a result they have standing to lodge an objection. Their objection received on 25 August 2017 complies with the requirements of the Act.
35. Mr and Mrs De With submitted that the grant of a liquor licence in accordance with the application will severely impact on their business and the experience of their customers. They state that the grant of a liquor licence will result in undue noise from patrons arriving or leaving the premises and note that the proposed venue is directly opposite a church which conducts regular services at times the proposed tavern will be open.

36. Mr and Mrs De With also raise concerns regarding an increase in anti-social behaviour in the neighbourhood and the potential for loitering and fighting outside their premises which will impact adversely on their security and safety as well as that of their clients. They also submit that the operation of the proposed premises will adversely affect the surrounding area by impacting on parking as well as resulting in increased littering and broken glass in the area.

Objection by Mr Josh Lindsay

37. Mr Lindsay resides in the neighbourhood of the proposed premises and is therefore entitled to lodge an objection to the application. The objection complies with section 47F of the Act.
38. Mr Lindsay states that he does not believe that the grant of a tavern licence will have a good or positive effect on the community. He submits that the region has many alcohol related issues and that the grant of another liquor licence will further promote drinking and result in an increase in violence, accidents and health care issues.
39. Mr Lindsay strongly objects to the trading hours sought and the operation of a mobile bar on the grounds that noise generated will have a negative impact on those who live around the area and particularly the nuns who reside at the church across the road as well as impacting on regular church activities and funerals. Mr Lindsay also notes the lack of parking at the venue and the lack of a taxi service in the area which he believes will result in drink driving. He also states that drunks leaving the premises will create problems for the neighbourhood including an increase in littering.
40. He states further that the grant of an additional liquor licence will result in an increased number of drunks in the area who have the potential to engage in alcohol fuelled violence and impact negatively on the safety of the area. He submits that this will stretch police resources that would be much better utilised dealing with other issues. Mr Lindsay also noted the lack of CCTV surveillance in the area which he submitted will increase the risk to potential patrons of the venue as well as the community generally.
41. Mr Lindsay states that the fact that Katherine has been required to implement an alcohol management plan speaks volumes about alcohol issues that are already present in the Township. He states that the objective to reduce the impact of alcohol misuse will be unachievable if liquor licences continue to be granted to venues purely to encourage increased drinking and that another late night trading venue will not assist in the objective of encouraging a responsible drinking culture. He also points to statistical data which shows that the average annual consumption of alcohol per person in Katherine is considerably higher than for other areas in the NT.
42. Mr Lindsay also expresses concern that increased drinking in Katherine will result in tourists bypassing the Township with the resultant loss of revenue for local business.

Objection by Ms Thomasin Opie, Managing Practitioner, NTLAC

43. Ms Opie is the Managing Practitioner for the NTLAC in Katherine. As a person who works in the neighbourhood of the proposed venue she has standing to lodge an objection to the application. Her objection meets the requirements of the Act.
44. Ms Opie notes NTLAC's premises at 20 Second Street have previously been affected by alcohol-fuelled anti-social activity with drunken people using the garden and parking area in the immediate vicinity of the premises to secrete alcohol, sleep and fight. As a consequence NTLAC has taken significant measures to improve the security of its premises. She submitted that if an additional liquor licence is granted, it is inevitable there will be an increase in drinking and drunks in the neighbourhood which will impair once again the amenity of the neighbourhood. Ms Opie adds that an increase in drinking and drunks will result in an

increase in anti-social behaviour including property damage which will impact negatively on business owners, neighbours and those visiting the area.

45. Ms Opie notes that there are at least four existing drinking venues located within walking distance of the proposed premises and many other licensed premises in operation in Katherine. She submits that the existing late night trading venues are located in close proximity to one another and the proposed licence was not suited to the proposed location due to the lack of lighting and facilities with Second Street being a location predominantly for businesses and residences. She notes further that the concentration of licenced premises in the main street of Katherine allowed for better monitoring by Police, noting that there is CCTV and adequate lighting in these areas.
46. Ms Opie referred to statistics reporting that in 2015 76.6% of assaults in Katherine were alcohol related and that between 2006 and 2015 the number of public order offences more than doubled. She submitted that the increased availability of alcohol will likely result in increased violence and accidents which will adversely impact on the community and service providers.
47. Ms Opie referred to the report published by the Menzies School of Health Research in May 2016: *Implementation and outcomes of the revised Katherine Alcohol Management Plan* which reported statistics on alcohol consumption by Katherine residents and which indicated that alcohol consumed by people over 15 years of age in the Northern Territory was 25.7% higher than the national average and that whilst Katherine accounts for only 4.5% of the Territory's population, it accounted for 7% of wholesale supply of alcohol Territory wide.
48. Ms Opie submits that NTLAC provides legal assistance to the people of Katherine who have caused or suffered alcohol related harm and that the organisation supports initiatives to reduce the availability of alcohol and the harm caused by alcohol.

Objection by Reverend Mark McGuinness, Parish Priest, St Joseph's Church

49. Reverend Mark McGuinness lodged an objection to the application on behalf of the St Joseph's Church Parish Pastoral Council. Reverend McGuinness is a person who works in the neighbourhood where the proposed premises will be located and therefore has standing to lodge an objection. The objection complies with the requirements of the Act.
50. Reverend McGuinness submits that the amenity of the neighbourhood would be adversely affected by the grant of the licence due to increased traffic and noise from patrons leaving the venue late in the evening and early in the morning. He notes that the front entrance to the Church is directly opposite the front entrance of the proposed venue and that the Church holds services seven days per week and at various times during the day. He also submits that the occupied residence on the Church grounds will be affected by the operation of a nightclub.
51. Reverend McGuinness queries whether the town of Katherine really needs another liquor outlet allowing for the serious alcohol abuse problem experienced in Katherine and throughout the Northern Territory. He submits that another tavern/nightclub licence will only add to and exacerbate the alcohol related problems currently existing within the Katherine Township. He notes that he regularly has contact with people and their families who are affected directly or indirectly by alcohol and with various social and community services who also deal with the same issues.
52. In respect of the proposed tavern licence, Reverend McGuinness notes that the Church and presbytery were erected on the current site in the 1940's. In addition to regular services he notes that students from St Joseph's Catholic College visit and use the church during the day.

Objection by Ms Jacqui Rimington, Executive Officer, KWILS

53. Ms Rimington is the Executive Officer of KWILS, an organisation that provides specialist women's information and legal services as well as supporting and representing vulnerable women in the community. The majority of KWILS' work is focused on domestic violence, child protection, family law and tenancy issues. Ms Rimington is a person who works in the relevant neighbourhood and therefore has standing to lodge an objection to an application of the type under consideration. Her objection complies with the requirements of the Act.
54. Ms Rimington objects to the grant of the liquor licence sought on the grounds that the proposed licence will adversely affect the amenity of the neighbourhood as well as the health, education, public safety and social conditions in the community. She submits that the proposed trading hours from 10.00 am to 11.00 pm (sic) Monday to Thursday and from 10.00 am to 2.00 pm the following day on Friday and Saturday will result in trading from early morning until late at night six days a week. She submits that this will encourage excessive day-time drinking and lead to an increased risk of anti-social behaviour, property damage and violence.
55. Ms Rimington notes that existing licensed venues in Katherine are better placed to mitigate safety risks as they are located in areas with sufficient street lighting and CCTV coverage. She also expresses concern that the proposed venue is located in close proximity to the KWILS offices and raises the prospect of increased visibility of KWILS clients to patrons using the licensed venue and the potential impact on their privacy.
56. Ms Rimington notes that violence against women and children in the Northern Territory, and particularly in Katherine, is at critical levels and alcohol misuse continues to be a significant contributing factor. She states that in June 2016 83% of reported assaults in Katherine were associated with domestic violence and that during the same month 74% of these assaults were associated with alcohol. She also states that KWILS holds concerns that patrons frequenting the proposed licensed premises, particularly during the day, will be drinking excessively for long periods and that predominantly women and children will suffer the negative impacts.

Objection by Mr Graham Cole, Lawyer

57. Mr Cole conducts his legal practice from premises located at 40 Katherine Terrace and is therefore a person entitled to object to the application under consideration. His objection relates to health, public safety and social conditions in the community and complies with the requirements of the Act.
58. Mr Cole's objection refers to the Menzies School of Health Report and he submits that the grant of another licence in the area will add further to the supply of alcohol in the Katherine community and cause the problems identified in the Report with the resultant negative impact on health, public safety and social conditions.

Objection by Mr Dennis Rebbeck, DPR Insurance Brokers

59. Mr Rebbeck is a person entitled to object pursuant to section 47F(3)(a), being a person who works in the neighbourhood of the proposed premises. Mr Rebbeck objects to the grant of a tavern liquor licence on the grounds that the grant of the licence will adversely affect the health, public safety and social conditions in the community and his objection complies with the requirements of the Act.
60. Mr Rebbeck works in a business next door to the proposed premises and objected to the application on the grounds that there are sufficient existing licenced premises to service the area and that an additional facility within 100 metres of existing licensed premises offering similar services and entertainment is likely to lead to increased anti-social behaviour. He

noted that in the course of his business he deals with the economic effects of liquor being sold within the town and stated that he does not believe that an additional licence within the community is warranted.

61. It was also submitted that the intended building and parking facilities do not provide necessary support infrastructure to compliment the proposed business, that there would be an increased likelihood of criminal activity by way of theft and property damage adjacent to the venue and that the potential for the littering of the street and footpath would impact negatively on services required for street maintenance.
62. He also contended that the grant of the application would have an adverse impact on the amenity of the area, including but not limited to the social and economic stresses.

SUMMARY OF THE GROUNDS FOR OBJECTION:

63. The grounds for objection of each of the objectors are summarised in some detail above. Whilst the objectors have addressed their individual concerns in the submissions it is apparent that a number of common issues have been raised including:
 - The impact of the proposal on the amenity of the neighbourhood resulting from increased traffic due to patrons visiting the premises;
 - Noise disturbance caused by late night trading at an entertainment venue;
 - The unsuitability of the proposed location of the premises for a late night tavern and entertainment venue given the inadequate street lighting, the lack of off-street parking available in proximity to the premises, the lack of CCTV coverage of the area and the proximity to St Joseph's Church;
 - The potential for negative impacts on the neighbourhood through the opening of a new licensed venue and the resultant misuse of alcohol and anti-social alcohol fuelled behaviour;
 - The number of liquor outlets currently operating in Katherine and the view that another licensed venue trading for relatively long hours will exacerbate existing alcohol related problems in the township;
 - That Katherine specifically has significant problems with alcohol related issues, including anti-social and violent behaviour arising from the misuse of alcohol by some members of the community; and
 - The grant of the proposed licence would be contrary to the alcohol harm reduction initiatives set out in the KAMP.

SUBMISSIONS

64. As per normal practice for liquor licence applications, comment on the Big Ass Grill application was sought from the Department of Health, NT Police, NT Fire and Rescue Services, the Development Consent Authority and the Katherine Town Council.
65. The Department of Health advised that it had no adverse comment in relation to the application. The NT Fire and Rescue Service advised that it was unable to comment on the application or the suitability of the premises until the proposed renovations and other building works are completed.
66. Ms Dawn Parkes, Senior Planner, Development Assessment Services, advised that the applicant had planning approval in accordance with the submitted plans. The Katherine Town Council declined to make any comment on the application. The objection lodged by NT Police is summarised above.

APPLICANT'S RESPONSE TO OBJECTIONS AND SUBMISSIONS

67. As required by section 47G of the Act, the applicant was informed of the substance of each of the objections and afforded the opportunity to respond to the issues raised. Mr Horvat provided an individual response to each of the objections on behalf of the Applicant.
68. As noted in paragraph 63 above, a number of the objectors raised similar concerns in respect of the grant of a tavern liquor licence for the Big Ass Grill premises. Not surprisingly Mr Horvat provided similar responses to those concerns in his individual responses to the objections.
69. In respect of issues concerning parking and the potential for an increase in traffic in and around Second Street, Mr Horvat stated that the Development Consent Authority had approved the change of use for the premises from restaurant to hotel and had subsequently issued a planning permit. He noted that the only taxi rank in Katherine was situated on Warburton Street and that rank serviced the whole of the Katherine business district. Mr Horvat submitted that whilst he had no control over taxi numbers in the township the proposed development had the potential to increase the number of taxis in service in Katherine due to the expected increase in demand from patrons attending the Big Ass Grill premises.
70. In respect of the limited off street parking available at the proposed premises, Mr Horvat submitted that parking issues are not specific to his proposal and that parking availability in Second Street was currently not a major issue due to the lack of new businesses operating in the vicinity. He also noted that illegal parking is a matter for the Katherine Town Council and NT Police. He noted that he was prepared to discuss any issues with Council however Council has not raised any concerns with him to date. In response to safety issues relating to patrons being dropped off at the front of the premises or queuing prior to entry, Mr Horvat states that the Katherine Town Council has agreed to establish a drop off and pick up zone directly in front of the venue.
71. Mr Horvat submitted that concerns regarding the adequacy of the street lighting in Second Street are a matter for the Katherine Town Council however he is willing to discuss any concerns in that regard with Council. Mr Horvat also noted that there was over 70 square metres of space directly in front of the premises and that would be adequate to accommodate patrons queueing to enter the venue.
72. In respect of the prospect of people loitering in the area Mr Horvat submitted that there is no evidence to suggest that patrons will loiter in the area when arriving or departing for any longer than necessary, as for any other business conducting trade in a commercial precinct. He stated further that objections suggesting that intoxicated patrons travelling from other licensed venues to the Big Ass Grill and causing noise and anti-social behaviour was speculative and that the applicant has no influence over the conduct of business at existing licensed premises. Mr Horvat also notes that Katherine is a "dry zone" and the consumption of alcohol in public areas within the Katherine business district is illegal.
73. In respect of objections relating to the potential for increased littering Mr Horvat notes that this problem already exists with the majority of litter in the streets coming from a fast food outlet in the vicinity. He states that there is no evidence to suggest that littering will increase should the liquor licence be granted.
74. In respect of the potential for negative impacts on the neighbourhood through the misuse of alcohol and anti-social alcohol fuelled behaviour, Mr Horvat states that the objectors in that regard seem to apply outcomes from existing licensed premises to the proposed venue and that concerns regarding cumulative social harm are based on individual opinion and speculation as the premises are not currently licensed and cannot contribute to the already existing issues with alcohol abuse. He also states that Police numbers, resourcing and operating procedures, including CCTV coverage, are not within the Applicant's powers

however the Applicant is willing to cooperate with Police on all levels possible to ensure public safety. Mr Horvat adds that CCTV equipment will be installed at the premises if the licence is granted. In respect of statistics provided by a number of objectors in respect of the alcohol related harm and violence, Mr Horvat submits that the statistics are of a general nature and not specific to the proposed venue.

75. In response to concerns raised in respect of the potential for disturbances to parishioners attending the Church and the nuns residing at St Joseph's Church by patrons arriving at and leaving the venue, Mr Horvat submitted that there are no restrictions in the Act in respect of licensed premises located near churches. Mr Horvat also submits that the venue operating hours will have minimal impact on Church service times with the evening dinner trade starting as Church services are finishing. Mr Horvat also notes that the existing carpark attached to the Church is underutilised with congregants choosing to park in front of the Church on the street and that carpark could be used to alleviate the alleged increase in motor traffic.
76. In response to objections relating to the potential for noise emanations to disturb the neighbourhood, Mr Horvat noted that the Applicant has provided a comprehensive outline of the volume control measures that will be implemented should the licence be granted. He noted further that the premises will be purpose built and adapted for live entertainment. He submitted that the objections relating to potential noise disturbances were conjecture and generalisation based on the current operations of existing licensed premises over which he has no control.
77. In his response to references to problems caused by the sale of take away alcohol, Mr Horvat emphasised that the applicant's proposal does not incorporate a take away alcohol component, as seems to be inferred in a number of the objections.
78. Mr Horvat also submits that the public interest submission lodged in conjunction with the liquor licence application outlines the business model for the proposed venue which falls within the objectives of the KAMP to reduce the impact of alcohol use in Katherine and to encourage the growth of a responsible drinking culture. He refers to measures proposed to be implemented including the responsible service of alcohol, the availability of a full meal and restaurant service, controlled entry and dress code enforced by visible security as well as a development of a positive physical environment including music and entertainment as support for that submission.
79. Mr Horvat acknowledged the value of the Menzies School of Health Report in contributing to a greater understanding of the causes underlying alcohol related issues in Katherine and accepted that it will provide guidance in the implementation of adequate measures to assist in reducing the adverse impacts of alcohol. He noted that the report identified a complex mix of factors which contribute to alcohol related harms. However, Mr Horvat stated that the report did not address how any of the issues raised were relevant or specific to the Big Ass Grill application.

GROUNDS FOR REVIEW OF THE DELEGATE'S DECISION:

80. As noted above Mr Horvat has sought a review of the delegate's decision to refuse to grant a tavern liquor licence to the Applicant. The grounds on which Mr Horvat seeks a review of the delegate's decision are extensive and make specific reference to various numbered paragraphs within that decision. The paragraphs of the delegate's decision, as set out in paragraph 4 above, need to be read in conjunction with the grounds on which this review is sought by Mr Horvat. Those grounds for seeking a review of the delegate's decision are summarised as follows.
81. Paragraph 14: The description of Second Street as "semi-residential street" seems unjustified and incorrect. Mr Horvat has identified the use of 23 properties located in Second Street and concluded that the predominant occupiers of Second Street are commercial businesses,

government agencies, health, mechanical, hospitality, religious and other service providers. As a result Mr Horvat submits that Second Street cannot be defined as semi-residential.

82. Paragraph 99: Mr Horvat disputes that his response to the objections opposing the application was *“for the best part brief and somewhat dismissive”* as stated in the delegate’s decision. Mr Horvat submits that his response was concise and relevant to the issues raised and commensurate with the seven day time frame allowed for the response.
83. Paragraph 100: Mr Horvat objects to the delegate’s *“seemingly lack of serious consideration of the Development Consent Authority (DCA) approval of change of purpose from restaurant to hotel and the associated parking exemptions”*. Mr Horvat submits that the DCA decision should not have been so simply dismissed by the delegate and that there is no supporting evidence to suggest that the DCA did not fully examine the parking and traffic conditions in approving the change of use.
84. Paragraph 101: In respect of the failure to consult with officials of St Joseph’s Church regarding traffic issues, Mr Horvat states that no consultation was necessary as no request was made of the Church and he had merely suggested that church parishioners could use the Church’s own off-street parking. He was not suggesting that restaurant patrons could access the Church’s carpark. Mr Horvat submits further that any new business will obviously result in an increase in traffic in the neighbourhood however additional traffic as a result of the establishment of a tavern will occur outside of normal business hours when the majority of nearby businesses will be closed.
85. Paragraph 102: In respect of the adequacy of the existing street lighting in the vicinity of the proposed premises, Mr Horvat submits that it is unsubstantiated speculation to suggest that the existing street lighting is insufficient for a late night licensed venue. Further, Mr Horvat’s response to the objections in regard to street lighting that this was a matter for the Katherine Town Council was intended to convey that the adequacy of street lighting is normal and standard matter for the Council. He also noted that the Council did not raise any objection to the liquor licence application, either formally or informally.
86. Paragraph 102: Mr Horvat states that the delegate’s view that he is unconcerned with the potential negative impacts of the operation of the tavern on the activities conducted at St Joseph’s Church is unfortunate and inaccurate. He submits that the Public Interest Submission lodged in conjunction with the application addresses potential adverse effects on the locality. Mr Horvat reiterated the statement contained in his response to the objections relating to the proximity of the Church that the venue operating hours will have minimal impact on Church service times with the evening dinner trade starting when Church services are finishing. He added that little or no impact is expected in the vicinity from daytime restaurant dining as significant increases in patron numbers are expected on commencement of the nightclub segment of the business after Church services have ended at 6.30 pm to 7.00 pm.
87. Paragraph 104: The assertion that the Applicant suggests that Church services are not conducted seven days per week is incorrect and Mr Horvat believes that the licensed premises and St Joseph’s Church can coexist in the vicinity. He notes that a restaurant operated in the same premise for the previous 12 years with no adverse impact on the amenity of the neighbourhood in general or the Church specifically.
88. Paragraph 105: Mr Horvat submits that the delegate’s assertion that there is insufficient evidence to assess whether the noise mitigation strategies will be successful is baseless and lacking in supporting evidence. He notes that those strategies are covered in the Public Interest Submission and that the venue will be purpose built and adapted to live entertainment with standards well in excess of comparable main city venues.
89. Paragraph 107: Mr Horvat refutes the statement that the application includes no reference to the intended methods of controlling noise emanating from the beer garden area of the

proposed premises and states that building codes will be complied with and legally required emergency exit double doors will be installed. He states that the Patron Codes of Conduct and Behaviour will be strictly enforced and only low volume background level live entertainment will take place in the outdoor deck area. Mr Horvat adds that sound levels will not deviate from current industry accepted standards and will be lower than noise emanations from existing premises, including music entertainment venues in open and unenclosed spaces in the Darwin CBD.

90. Paragraph 108: The applicant believes that sufficient planning and strategies have been put in place to prevent annoyance or disturbances to residents and business and that those measures were not taken fully into account by the delegate. Further, the merits of the application have been dismissed and misconstrued whilst accepting unsubstantiated objections with no supporting evidence. It is further submitted that all legitimate concerns raised by residents and business owners have been addressed adequately and with due diligence and that some of the issues raised appear to be based on past practices of Katherine and NT hospitality venues. Mr Horvat states that the Applicant does not intend follow past practices but rather intends to incorporate contemporary accepted standards that will contribute to the vibrancy and diversity of Katherine, a small and remote township that lacks quality services and facilities.
91. Paragraph 111: Mr Horvat submits that the hours of trade sought are consistent with similar type venues in the NT and that the application has unfortunately been linked by association to the negative effects of wholesale and take away alcohol. He notes that alcohol is available at similar times from other restaurants in the vicinity however only the Applicant will have food available at all times the premises are open. He does not believe the proposed venue will result in an increase in anti-social behaviour as the preferred client base will make it unattractive to those engaging in that type of behaviour.
92. Paragraph 112: The Applicant does not believe that the liquor licence sought will contribute to "*observable social harm*" any more than similar licensed premises currently operating and it is speculative to apply historical experiences of alcohol related anti-social behaviour to the current application. The Business Concept Plan shows that the premises will be developed as an exceptional quality venue with a preferred client base.
93. Paragraph 115: The Applicant notes that two liquor licences in the Township of Katherine have recently been cancelled resulting in a decrease in the number of licensed venues in Katherine. Mr Horvat disputes the assertion that existing late night venues are covered by Police monitored CCTV and that only one venue on Katherine Terrace is monitored by CCTV and that venue is open beyond the closing time of 2.00 am proposed by the Applicant. He also notes that the Police CCTV is mobile and trailer mounted and could be deployed near the Applicant's premises if necessary.
94. Mr Horvat also suggests it is reasonable to assume that business should not be discouraged by the failure of Government to invest in infrastructure that promotes industry and business growth and that in the absence of such investment there will be a decline in the building of facilities and services. He adds that private investment in NT remote townships should be encouraged. Mr Horvat reiterates that the proposal is for a venue of a higher standard than currently exists in Katherine and that approval of the application will contribute to the diversity of licensed premises and associated services for the benefit of the community.
95. Paragraph 116: Mr Horvat submits that is has not been made clear what increase in anti-social behaviour in the area is associated with current take away liquor licences or on-premises sales from existing restaurant and music venues and that there is no evidence that the Applicant's proposal will have any negative impact in that regard. He submits further that anti-social behaviour already being experienced in the area can predominantly be attributed to alcohol being consumed illegally in public places.

96. Paragraph 117: In respect of the suitability of the premises for the proposed purpose Mr Horvat makes the following observations in respect of the findings of the delegate. Second Street is predominantly a business location, not a residential or semi-residential area. There is no supporting evidence indicating that the lighting in Second Street is inadequate and that the Applicant intends to install additional lighting at the front of the premises and in the off-street carpark. Existing public CCTV is very limited as would be expected in a small township however CCTV equipment will be installed by the Applicant at the premises.
97. Mr Horvat states that no supporting evidence has been presented to demonstrate the inadequacy of parking or traffic management in Second Street. Further, it is reasonable to assume that traffic will increase if the liquor licence is granted however this will occur mainly when other businesses in the area, with the exception of the RSL and restaurant, are closed. During the proposed late trading nights of Friday and Saturday, Second Street and surrounding streets are virtually empty and have minimal through vehicle traffic. A pick up/drop off zone will be established by Katherine Town Council in front of the premises and the only taxi rank in Katherine is only 200 metres from the venue. Mr Horvat states that the introduction of Uber passenger services will further alleviate the transport situation.
98. In respect to disturbances resulting from potential noise emanations from the premises, Mr Horvat states that the Applicant has presented specific details of the construction design and measures that will be implemented to curb and minimise noise impact on the neighbourhood. The application should not be assessed according to different standards to those applying in major cities simply because this application relates to premises in a small rural and remote township.
99. In respect of the proximity of the proposed venue to St Joseph's Church Mr Horvat notes that the restaurant had operated from the same premises for 12 years trading from 6.00 am to 6.00 pm without any adverse impact. For the proposed venue no adverse impact is expected for daytime restaurant trading from 10.00 am until 5.00 pm and that increased patronage for the nightclub segment will not commence until church services have ended between 6.30 pm to 7.30 pm. The Public Interest Submission accompanying the application addresses possible adverse effects on the locality including aspects of building construction, noise mitigation, conditions of entry, conduct of patrons and staff standards, procedures and training. Mr Horvat notes that the proposed closing times are earlier than those for similar venues currently operating in Katherine.
100. In summary Mr Horvat submits that speculative notions and misconceptions have been put forward by a number of objectors, possibly based on experience in the community arising from past regretful practices rather than from a thorough review of the Applicant's liquor licence submission.

CONSIDERATIONS ON REVIEW

101. On 21 March 2017, with the agreement of Mr Horvat, a viewing of the proposed premises was conducted, including the surrounding neighbourhood and Second Street. From that inspection it is clear to me that Second Street is not appropriately described as a semi-residential area. I agree with the description of the area put forward by Mr Horvat that whilst there are a number of private residences situated in Second Street, the predominant occupiers of are commercial businesses, government agencies and other service providers.
102. So far as the existing premises is concerned, I am satisfied that there is sufficient area at the front of the premises to cater for groups of people waiting for entry to the venue. The area that would be utilised for that purpose is significantly larger than that available outside major nightclub style premises in the Darwin CBD. Mr Horvat has stated that the Katherine Town Council has agreed to establish a drop off and pick up zone directly in front of the venue. Should that occur the risk of danger to patrons milling on Second Street will be further reduced.

103. It is also apparent that there is limited off street parking at the proposed premises with a proposal for 19 parking bays to be located along the northern boundary of the premises. That appears to be an inadequate number of parking bays for a venue that proposes to attract some 400 to 600 patrons at any one time. However, as noted by Mr Horvat, the DCA has approved the change of use for the premises from restaurant to hotel and authorised the associated parking exemptions. Whilst the amenity of the neighbourhood is a matter that the Director-General must take into account in determining an application for a liquor licence, issues relating to traffic management and parking are squarely within the remit of the DCA. It would not be appropriate for the Director-General to base a decision on considerations contrary to those already determined by the appropriate authority specifically tasked with addressing those specific issues, in this case the DCA.
104. I accept Mr Horvat's response to the objections in respect of the lack of a taxi rank in the immediate area of the proposed premises. As noted Katherine's only taxi rank is located in Warburton Street, some 250 metres from the proposed premises. On any measure that is not a significant distance and it would be unreasonable and impracticable to suggest that a taxi rank should be located adjacent to all licensed premises
105. As noted in this decision, a number of objectors raised concerns regarding the adequacy of the street lighting in the vicinity of the proposed premises noting that the lighting in that area was not of the standard of lighting in the main street where other licensed premises are located. I agree with Mr Horvat's submission in that regard to the effect that this is an issue over which he has no control. Similarly, the issue of lack of public CCTV coverage in the area is not a matter that Mr Horvat can address. It is noted however that Police do employ mobile CCTV stations at various locations throughout the Territory, presumably based on intelligence in respect of identified trouble spots. It should also be noted that where a liquor licence is granted for a late night trading venue the licence is invariably subject to a condition requiring the installation of a CCTV system for the premises and immediate surrounds to a standard approved by the Director-General.
106. A further issue raised by a number of the objectors was the proximity of the proposed venue to St Joseph's Church and for the potential for disturbances to parishioners and the resident nuns by noise emanations from the venue and the potential for adverse interactions with intoxicated people leaving the premises or loitering in the area. In response to objections in that regard Mr Horvat submitted that there are no restrictions in the Act in respect of licensed premises located near churches. That submission is incorrect. Section 6 of the Act sets out the public interest criteria in respect of licensed premises and provides at subsection 6(f) provides that business conducted at licensed premises must not cause undue offence, annoyance, disturbance or inconvenience to persons who are making their way to or from, or using the services of a place of public worship. Clearly St Joseph's Church is a place of worship. Such potential for such disturbance is the very issue raised by a number of the objectors, including Reverend Mark McGuinness.
107. Mr Horvat submits that a restaurant has operated at the same premise for the previous 12 years with no impact on the neighbourhood or the Church. I am not persuaded by that submission that the same situation will necessarily continue should the licence be granted. The former Bucking Bull Restaurant did not hold a liquor licence and did not trade until 2.00 am in the morning. It is patently obvious, in my view, that issues associated with a late night trading licensed venue with the capacity to accommodate up to 600 patrons are significantly more likely to impact adversely on the amenity of a neighbourhood than a restaurant without a liquor licence where the business focusses on the supply of meals and not alcohol.
108. In respect of the potential impact on church services, Mr Horvat states that the venue operating hours will have minimal impact of church service times with the evening dinner trade starting as church services are finishing. Given the hours of trade applied for, being from 10.00 am to 10.00 pm Monday to Thursday and from 10.00 am to 2.00 am the following

day on Fridays and Saturdays that submission is not sustainable. With alcohol being available from 10.00 am daily it is disingenuous to suggest there is no potential for disturbances from patrons affected by alcohol when leaving the premises in the afternoon or early evening.

109. The Public Interest Submission lodged in support of the application addresses in some detail the manner in which the applicant proposes to deal with and minimise noise disturbances emanating from the building itself. Mr Horvat has submitted that the venue will be purpose built with sound and retention absorption materials and adapted for live entertainment including cut-out switches and noise limiters.
110. In respect of patron noise, the applicant submits that staff will monitor and ensure that patrons entering and exiting the premises on to the street will do so in an orderly and peaceful manner avoiding large and noisy surges onto the street. In his response to the objections Mr Horvat submitted that there is no evidence to suggest that patrons will loiter in the area of arrival or departure for any longer than necessary. Any lack of evidence in that regard is a direct consequence of the fact that the premises is not currently licensed for the sale of liquor. Practical experience demonstrates that not all patrons exit licensed premises and depart from the area immediately. People do in fact congregate in the vicinity of licensed premises, including those who have been ejected or refused entry for inappropriate behaviour or drunkenness.
111. In addition, during the viewing of the premises Mr Horvat confirmed that the proposal included a large outdoor dining and drinking deck on the southern side of the premises capable of accommodating a significant number of patrons. In my view, there is the very real potential for patron noise emanating from the area to impact on the immediate neighbours, including members of the community attending services at St Joseph's Church. I am not satisfied that the public interest statement adequately addresses how the applicant will ameliorate patron noise emanating from the outdoor deck or from patrons arriving at or exiting the premises. The submission that surrounding businesses will not be suffer adverse impacts as the major activity of the tavern will be outside normal business hours ignores the fact that the applicant seeks to commence trade in the sale of alcohol at 10.00 am and to continue through the afternoon, clearly during normal business hours.
112. The applicant proposes that late night patrons will enter and leave the premises through the front door and walk through the restaurant to access the nightclub area is also problematic in my view. As noted, the business plan is based on the development of premises with a capacity for up to 600 patrons. Whilst the provision of adequate and safe access and egress to licensed premises is essentially a matter for the Fire Service I am not convinced that the proposed arrangements are satisfactory both in terms of moving people in and out of the venue in a timely manner or ensuring the safety of patrons where large numbers are moving in and out of the premises.
113. In support of the application, Mr Horvat notes that two liquor licences have recently been cancelled in the Township of Katherine, the Riverside Lodge which held a private hotel licence and the Katherine Sports and Recreation Club Inc. which held a club liquor licence, and that the grant of a new licence will not result in an increase to the total number of liquor licences in the township. Whilst that is correct in terms of the total number of licences existing in Katherine the reasons for the closures of the two premises indicate that the submissions in respect of community need for another licensed venue may not be sustainable. One of those premises ceased trading when it became apparent that it could no longer trade solvently and the licence for the other venue was cancelled following a period of some two years in which it did not trade. The closure of two disparate licensed premises within a relatively short time period does not indicate a community need for another licensed venue in Katherine.
114. It is, in my opinion, well known and generally accepted that the Township of Katherine has a significant and on-going problems in terms of alcohol related harm and resultant violence. Statistics in that regard presented by objectors to the Big Ass Grill application are greatly

concerning and indicate that alcohol related issues are more prevalent in the township than in many other places within the Northern Territory. Significant measures have been implemented in Katherine in an attempt to curb alcohol related harms including the declaration of the entirety of the Katherine Township as a public restricted area and the banning of alcohol consumption in public places as far back as 2008 is indicative of the significant problems faced by the community.

115. The more recent development of the KAMP and the Katherine Liquor Supply Plan provide clear evidence that the issues are on-going . Whilst it is not suggested that Katherine is the only township in the Territory suffering from the adverse outcomes of alcohol abuse and the resultant community harm, the simple fact that those measures have been required to be implemented provides clear evidence that there are significant issues and harms in Katherine resulting from the abuse of alcohol
116. In the objection lodged on behalf of NT Police, Superintendent Hill submitted that the grant of a liquor licence to the Big Ass Grill conflicts with the two of the objectives of the KAMP namely, the reduction of the impact of alcohol misuse in Katherine and the encouragement of a responsible drinking culture in Katherine. Superintendent Hill stated that the approval of another liquor licensed venue will promote alcohol consumption and is in conflict with KAMP objectives. In his response to objections referring to the objectives of the KAMP, Mr Horvat states that the public interest submission lodged in conjunction with the liquor licence application outlines the business model for the proposed venue which falls within the objectives of the KAMP to reduce the impact of alcohol misuse in Katherine and to encourage the growth of a responsible drinking culture.
117. Those submissions are diametrically opposed. A careful review of the Public Interest Statement lodged in support of the application indicates that the applicant intends to implement many of the measures that are normally in place for a late trading nightclub type venue, regardless of where in the Northern Territory the venue is located. There is no indication that any special measures will be implemented in respect of the development of a responsible drinking culture in Katherine, for example conditions requiring the sale of alcohol to be only in conjunction with the purchase of a substantial meal. Leaving aside considerations of the standard of the premises and the fittings, essentially it is proposed to operate the Big Ass Grill in a similar manner to any other late night trading tavern, that is the sale of alcohol from 10.00 am to 10.00 pm on weekdays and from 10.00 am to 2.00 am the following day on Friday and Saturday.
118. Whilst there is nothing remarkable about the manner in which the applicant intends to operate the premises or the trading hours sought, it is difficult to see how the business will encourage responsible drinking. Whilst it is acknowledged that the venue aims to provide a unique dining experience for patrons there is no requirement for patrons to purchase meals and it is open to patrons to simply attend the premises for a night of drinking. That in itself cannot encourage the responsible consumption of alcohol.
119. In terms of alcohol misuse in the Katherine community generally, Mr Horvat submits that he does not anticipate that patrons exiting the premises will loiter in the vicinity. That submission is conjecture and does not take account of the fact that alcohol related violence and harms regularly take place in the vicinity of licensed premises as a result of patrons consuming alcohol excessively before leaving or being evicted from the premises due to their level of intoxication.
120. I acknowledge Mr Horvat's comments that the objections relating to the potential for an increase in anti-social behaviour in the immediate neighbourhood should the licence be granted are speculative, as is the case with considerations in respect, of any new licensed premise regardless of the location. However, in this instance it is of significance that the Township of Katherine currently experiences a level of alcohol related harm that is of significantly greater concern than for other urban areas within the Territory.

121. The submissions of the objectors in regard to the potential for an increase in alcohol related anti-social behaviour are no doubt genuinely made. Objections of that nature in respect of premises that are yet to be constructed are necessarily speculative. However, in this instance a significant number of the objectors (NT Police, KWILS, KRAG and NTLAC) are lodged by organisations that are required to deal on a daily basis with the serious dysfunction caused by the abuse of alcohol by persons residing in the Township either permanently or temporarily. Those organisations are at the forefront in dealing with the alcohol related harms and violence in Katherine and have first-hand knowledge of the significant adverse impact that alcohol abuse continues to have on the overall community.
122. In assessing any liquor application the Director-General must have regard to the objects of the Act and must exercise the power and perform the function in a way that is consistent with those objects. The objects of the Act, as set out in section 3 and 6. Section 3 of the Act provides:

3 Objects

- (1) *The primary object of this Act is to regulate the sale, provision, promotion and consumption of liquor:*
- (a) *so as to minimise the harm associated with the consumption of liquor; and*
 - (b) *in a way that takes into account the public interest in the sale, provision, promotion and consumption of liquor.*
- (2) *The further objects of this Act are:*
- (a) *to protect and enhance community amenity, social harmony and wellbeing through the responsible sale, provision, promotion and consumption of liquor;*
 - (b) *to regulate the sale of liquor in a way that contributes to the responsible development of the liquor and associated industries in the Territory; and*
 - (c) *to facilitate a diversity of licensed premises and associated services for the benefit of the community.*
123. The development of premises of the nature proposed by the applicant in this instance meets the objective of facilitating a diversity of licensed premises. However, on the basis of the matters set out above, including the significant harms presently experienced by the Katherine community as a result of the abuse of alcohol, I am not satisfied that the grant of a tavern liquor licence for the purpose of a late trading nightclub in this instance is compatible with the objectives relating to the minimisation of harm associated with the consumption of alcohol, the public interest in the sale of liquor and the enhancement of community amenity and wellbeing as prescribed by subsections 3(1)(a), 3(1)(b) and 3(2)(a) respectively.
124. The applicant has addressed the manner in which it is proposed to regulate the sale of liquor in a responsible manner as set out in section 3(2)(b) of the Act. However, the measures proposed are in essence those that would be expected of any licensee operating a similar type of venue. The application does not specifically address the significant issues related to alcohol harms that are specific to the Katherine community.
125. The further objects of the Act that must be taken into account in considering an application of this nature, as prescribed by section 6(2) of the Act are:
- (a) *harm or ill-health caused to people, or a group of people, by the consumption of liquor is to be minimised;*
 - (b) *liquor is to be sold, or sold and consumed, on licensed premises in a responsible manner;*
 - (c) *public order and safety must not be jeopardised, particularly where circumstances or events are expected to attract large numbers of persons to licensed premises or an area adjacent to those premises;*
 - (d) *the safety, health and welfare of persons who use licensed premises must not be put at risk;*

- (e) *noise emanations from licensed premises must not be excessive;*
- (f) *business conducted at licensed premises must not cause undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the neighbourhood of the premises or who are making their way to or from, or using the services of, a place of public worship, hospital or school;*
126. On the basis of the consideration set out above, I am not satisfied that the grant of a tavern licence for the operation of a late night trading nightclub with the capacity for up to 600 patrons meets the objectives set out in subsection 6(2)(a) of minimising the harm or ill health caused to people in the Township of Katherine, including the Aboriginal population. Whilst the applicant has addressed the manner in which it would implement the responsible service and consumption of alcohol, I am not satisfied that those measures are adequate to address the potential adverse impacts of alcohol consumption once patrons have left the actual premises.
127. With regard to subsections 6(2)(b) and 6(2)(c), in my view the grant of a licence of the type sought has the very real potential to jeopardise public order and safety of the immediate neighbourhood and the health and safety of patrons attending the licensed premises due to the expected attendance of large numbers of patrons to the premises, that is somewhere between 400 and 600 patrons. By any measure applicable in the Northern Territory those numbers would place the venue in the top percentage in terms of patron capacity.
128. In respect of section 6(2)(e) of the Act, the issue of potential noise disturbances has been addressed in some detail above in this decision. As noted, the applicant has provided details of significant measures that would be put in place to minimise noise emanations from entertainment within the venue itself. However, given the number of patrons the applicant hopes to attract to the premises I share the concerns of the objectors who expressed concerns that noise emanations and disturbances will have an adverse effect on neighbouring properties. That concern is amplified when considering the large open air deck that forms part of the development proposal and the fact that large numbers of patrons arriving at and leaving the premises on a regular basis, including during late evening and early morning hours, will inevitably result in disturbances to persons conducting business in and those residing in the neighbourhood.
129. In my view there is a significant potential for the type of venue proposed to cause undue annoyance and disturbance to persons who reside and work in the neighbourhood in which the premises is proposed to be located. The potential negative impact on the residents and parishioners of St Joseph's Church is addressed above in this decision.
130. In considering the objects of the Act in this instance, including the disparate objectives of minimising alcohol related harm and assisting in the development and regulation of a diversity of licensed premises for the benefit of the community, the significant and on-going alcohol related harm experienced in the Township of Katherine must be given significant weight. In balancing those objects I am not persuaded that the grant of a liquor licence of the type sought by the applicant is in the best interests of the community as a whole.
131. For that reason, and taking account of the considerations set out above in this decision, I have determined that the application must be refused.

DECISION

132. In accordance with section 14(2)(a) of the *Licensing (Director-General) Act* I have determined to affirm the decision of the delegate contained in the Decision Notice dated 23 December 2016. In accordance with section 29(1)(b) of the Act, the application lodged by Big Ass Grill Pty Ltd for a tavern liquor licence for premises to be located at 16 Second Street in Katherine is refused.

REVIEW OF DECISIONS

133. 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 decision to grant a liquor licence pursuant to section 29 of the Act is specified in the Schedule and is a reviewable decision.
134. 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. Any application for review of this decision must be lodged within 28 days of the date of this decision. For the purpose of this decision, and in accordance with section 120ZB(1) of the Act, the affected persons are the applicant, Big Ass Grill Pty Ltd, and those persons or organisations who lodged formal objections namely
- NT Police
 - Ms Carol Dowling (Krag)
 - Mr Bruce Francais
 - Mr & Mrs De With
 - Mr Josh Lindsay
 - Ms Thomasin Opie (NTLAC)
 - Reverend Mark McGuinness
 - Ms Jacqui Rimington (KWILS)
 - Mr Graham Cole, Lawyer
 - Mr Dennis Rebbeck
 - Ms Sandra Schmidt (Department of Health)
 - Ms Dawn Parkes (Development Assessment Services)



Cindy Bravos

Director-General of Licensing

13 April 2017