

Delegate of the Director-General of Licensing

Decision Notice

Matter:	Application for the grant of a liquor licence
Proposed Premises:	Big Ass Grill 16 Second Street Katherine NT
Applicant:	Big Ass Grill Pty Ltd as trustees for What Would I Know Trust
Proposed Nominee:	Mr Stephen Horvat
Objectors:	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
Legislation:	<i>Liquor Act</i>
Decision of:	Deputy Director-General (Operations)
Date of Decision:	16 December 2016

BACKGROUND

1. On 24 May 2016 Big Ass Grill Pty Ltd as trustee for the What Would I Know Trust (the applicant) made application for a liquor licence pursuant to section 26 of the *Liquor Act* (the Act).

APPLICATION

2. The application for a liquor licence relates to the premises intended to operate as Big Ass Grill which is situated at 16 Second Street, Katherine, NT, 0852.
3. The applicant is registered with the Australian Securities & Investments Commission and it was noted that Mr Stephen Horvat is the sole director, secretary and shareholder of the applicant. By way of a statutory declaration, Mr Horvat attested to the fact that there are no other persons in a position to influence the conduct of the business or the proposed licence.

4. In support of the application, the applicant submitted financial statements and professional references in addition to the required National Police History Certificate, all of which evidenced the applicant's sound reputation, character and professional history.
5. The applicant has a Certificate of Registration as a Food Business in the name of Big Ass Grill, located 16 Second Street, Katherine, NT, 0852. The applicant established by the submission of a legally executed lease agreement, that he has the right to occupy the premises for the conduct of a licensed venue.
6. The applicant seeks a licence for the sale of liquor for consumption on the licensed premises as follows:
 - Monday to Thursday 10:00 hours to 22.00 hours
 - Friday to Saturday 10:00 hours to 02:00 hours (the following day)
7. As required by the Act, the applicant displayed a 'Green Sign' at the proposed premises for the required period. Notice of the application was published in the Katherine Times on Wednesday, 29 June 2016 and Wednesday, 6 July 2016. Unfortunately, a typographical error was subsequently identified. The nature of the error was such that a determination was made in the public interest to re-publish an accurate Notice. That occurred on both Wednesday, 27 July 2016 and Wednesday, 3 August 2016.
8. The period during which objections to the application could be lodged expired on 3 September 2016.

BUSINESS CONCEPT

9. The applicant proposes to conduct a *fully licensed tavern style live-entertainment venue with DJ, band and nightclub style entertainment, incorporating a unique grill style dining and take-away restaurant*. The applicant noted that the live entertainment is intended to include *amplified, live, recorded, or streamed video performances, sporting events, festivals and music from bands, groups, DJs and other nightclub style entertainment*.
10. It was submitted that a market opportunity had been identified to establish a premier live entertainment and food venue with a view to setting a new benchmark and to become a market leader in the local Katherine and Northern Territory hospitality industry. The applicant also submitted that the venue would cater to an *'undersupplied market and offer a friendly and relaxed social meeting place for locals and an authentic tourist destination'*.
11. The Business Plan submitted by the applicant indicates that the targeted demographic is 18-30 year olds and includes locals, tourist and seasonal workers, government and military personnel. The applicant intends to target customers at the middle to high range of the market and contended that Katherine currently offers a limited variety and choice of night time entertainment venues and that the market has not been met or exploited by previous businesses. The applicant submitted that 11 years in the restaurant industry in addition to a *'keen understanding of the local community and their needs'* provided insight into the market potential.
12. 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.

LOCATION AND PHYSICAL CHARACTERISTICS OF THE PREMISES

13. The Big Ass Grill is intended to be located at 16 Second Street, Katherine. It is situated two streets from Katherine Terrace and is within the Katherine CBD.

14. Second Street may be described as a semi-residential street with a mix of businesses and service providers, residences and churches; one of which is directly opposite the premises which is 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 residents nearby.
15. The premises presently consist of a small building (previously utilised as a café) and large open corrugated iron shed. In support of the application the applicant submitted various building and renovation plans to enclose the shed area and convert the space for dining, bar and dancefloor facilities and the establishment of an alfresco area.
16. 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 is to be via a side gate from the outdoor garden deck section onto the public footpath.
17. The applicant anticipates changes to the existing venue to cater for between 400 – 600 patrons, 400 of whom could be seated.
18. 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.
19. As part of the planning process, the applicant apparently considered 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. It was 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

20. Section 47F of the Act permits a person, organisation or group to make an objection to an application on grounds specified in section 47F(2). Specifically, an objection may be made to the grant of a licence on the ground that it will adversely affect the amenity of the neighbourhood or the health, education, public safety or social conditions of the community.
21. Following publication of the application ten objections were received in accordance with section 47F of the Act. A further two submissions were received which related to but did not raise objection in relation to the application.
22. A review of the objections suggests common concerns across the community groups, residents and business owners in the vicinity of the proposed premises which were indicated to be:
 - Loss of neighbourhood amenity associated with increased traffic;
 - Loss of neighbourhood amenity arising from the increased availability of alcohol;
 - Loss of neighbourhood amenity arising from noise associated with late-night entertainment venues;
 - Risk to health and safety of the community as a result of alcohol misuse and resulting behaviours;
 - The unsuitability of the intended location taking into account the infrastructure available including, the lack of adequate lighting, the unavailability of parking and that there is no CCTV facilities in the area; and
 - The proliferation of liquor outlets in Katherine.

23. The parties that made objection were as follows:
- (i) Superintendent Lauren Hill (NT Police)
 - (ii) Ms Carol Dowling, Chairperson, Katherine Region Action Group (KRAG)
 - (iii) Mr Bruce Francais
 - (iv) Mr & Mrs De With
 - (v) Mr Josh Lindsay
 - (vi) Ms Thomasin Opie, Managing Practitioner, NT Legal Aid Commission (NTLAC)
 - (vii) Reverend Mark McGuinness
 - (viii) Ms Jacqui Rimington, Executive Officer, Katherine Women's Information & Legal Service Inc (KWILS)
 - (ix) Mr Graham Cole, Lawyer
 - (x) Mr Dennis Rebbeck, DPR Insurance Brokers

Objection by NT Police

24. On 10 August 2016 Superintendent Lauren Hill submitted an objection on behalf of NT Police stating 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.
25. It was submitted that the impact on public amenity which necessarily includes assessment of the pleasantness or attractiveness of a place can be assessed with reference to the indication of harms connected with a premises including evidence of assaults, noise and damage. It was noted that as the premises which is subject to the application is not yet operating, and presently, there is no available direct evidence on which harms can be evaluated.
26. However, with reference to the existing conditions in and around the proposed premises, significant concerns were raised in relation to three (3) main areas:
- Parking and traffic;
 - Pedestrian concerns including loitering and the accumulation of rubbish; and
 - Noise emanating from the premises.
27. Significant concern was indicated in relation to parking and traffic flow management in and around the proposed premises. In this regard it was noted that the applicant's intended patron capacity was 400 to 600 people in addition to employees of the premises and that only 19 off-street carparks had been allocated. It was contended that there is no other off-street parking available in the area and otherwise limited parking on Second Street.
28. There was also significant concern expressed that a large number of vehicles parked in the vicinity of the premises at night might cause not only issues with traffic flow, but with limited visibility caused by stationary objects such as parked vehicles, creating additional risk to pedestrians. It was noted that the only public transport available in Katherine is a taxi service and that there is no taxi rank in the vicinity of the proposed premises.
29. Comment was made on the street lighting in the vicinity of the proposed premises and it was contended that it is insufficient to provide sufficient visibility to motorists travelling on Second Street, particularly where numerous pedestrians may gather. Also, that as the proposed venue is adjacent to a roundabout intersection, there was concern about the increased potential for road crashes with traffic slowing, attempting to park, and blocking the intersection nearby.
30. The submission concluded that the premises would almost certainly have a dangerous and detrimental effect on traffic amenity for the area.
31. In relation to concerns arising from pedestrian and patron safety, the submission on behalf of NT Police noted that with an intended capacity of up to 600 patrons it was likely that upon entry, queues would occur at the front of the premises and upon closing people would congregate in the street. It was submitted that there is insufficient space at the front of the

venue to ensure patron safety. The issue of inadequate lighting was also referred to in this context however more broadly, NT Police have concerns that the applicant failed to address key safety issues which include the provision of safe queueing areas, pedestrian crossings, proximity of taxi ranks and drop off zones.

32. It was reported that police in Katherine are regularly engaged in activities and events arising from the conduct of people affected by alcohol and which invariably leads to noise and anti-social behaviour around licensed premises. This is particularly so between 12:00am and 3:00am in the vicinity of Katherine Terrace over the weekend.
33. Notwithstanding the measures proposed to reduce noise emanating from the premises, concerns were expressed in relation to the operation of a nightclub venue featuring amplified music in this locality. It was noted that there are occupied residences, accommodation and dwellings within 500 metres of the proposed venue; the amenity of which is likely to be adversely affected by the operation of a late night trading nightclub venue.
34. Of note, NT Police are community stakeholders and are engaged with the Katherine Region Action Group and the local Liquor Accord and have been active participants in the development and implementation of the Katherine Alcohol Management Plan (KAMP) which was enacted in order to reduce the level of alcohol related harm for both individuals and the Katherine community.
35. The Police submission contended that the grant of a liquor licence in the present case conflicts with the two (2) main objections of the KAMP namely, to reduce the impact of alcohol misuse in Katherine, and to encourage the growth of a responsible drinking culture in Katherine. It was submitted that the approval of another liquor licensed venue will promote alcohol consumption and is in conflict with KAMP objectives.
36. It was further submitted by NT Police that the approval of the proposed venue will likely have the effect of reducing public safety and is likely to result in increased anti-social behaviour, particularly violent offending. In support of the contention, the submission referred to research conducted into alcohol related harms which indicated a strong correlation between liquor outlet density and the incidents of social disruption including assaults including domestic assaults and injury. It was noted that an increase in social harms will have immediate impact on the resources of Police and will affect the capacity and response time for other matters in the Katherine region.
37. Also, it was noted that whilst close circuit television (CCTV) has been installed in some areas of the Katherine CBD in an effort to monitor anti-social behaviour and alcohol related violence occurring around licensed premises, the proposed venue is not located within an area currently monitored by CCTV region.
38. The submission concluded that taking into account the physical location, the risk to safety as well as to the social and community amenity, the proposed premises are fundamentally unsuited to the purpose set out in the application. It was noted however, that the premises may be more suited to a restaurant facility rather than a nightclub.

Objection by Ms Carol Dowling, Chairperson, Krag

39. 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. Having considered those matters, Ms Dowling (and Krag) was entitled to make objection to the application pursuant to section 47F(3)(f) of the Act.
40. On 27 July 2016 Ms Dowling submitted that the grant of a licence would not be in the community's best interest and highlighted the negative impacts that alcohol misuse had had in Katherine. In support of the assertions Ms Dowling referred to the Katherine Alcohol Management Plan which reported trends in alcohol related harm in the Katherine region

between 2006 and 2015 including reference to the association between violent criminal offences and alcohol misuse.

41. Ms Dowling submitted that the restriction of the number of alcohol outlets is a supply reduction measure that KRAG strongly recommends.

Objection by Mr Bruce Francais

42. Mr Francais lives and works in the neighbourhood where the proposed venue will operate and as such was entitled to object to the application pursuant to section 47F(3)(a) of the Act. He lodged an objection on 20 July 2016 stating that in his view, Katherine has more than sufficient liquor outlets. He contended that another licenced outlet in Katherine will add to existing problems associated with anti-social behaviour. He also expressed concern that the noise arising from live and recorded music could impact on the Church services which are regularly held in the evenings across the road at St Joseph's Church.

Objection by Mr Warren & Mrs Debbie De With

43. Mr and Mrs De With are the owners and operators of Rod & Rifle Pty Ltd, a retail business which is located on Second Street. As such, they are entitled to object to the application pursuant to section 47F(3)(a) of the Act.
44. 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. Concern was expressed in relation to the noise likely to emanate from the premises including that of patrons arriving or leaving the premises.
45. It was also contended that the operation of the proposed premises will adversely affect the surrounding area by impacting on parking as well as contributing to anti-social behaviour. Specifically, the concern was expressed to be the likelihood of people loitering, fighting, littering and leaving rubbish on the street, immediately outside their business which would impact on security and their customer's experiences when shopping.

Objection by Mr Josh Lindsay

46. Mr Lindsay resides in the neighbourhood close to the proposed premises and as such, was entitled to object to the application in accordance with section 47F(3)(a) of the Act.
47. On 9 August 2016 Mr Lindsay submitted that the Katherine region has many alcohol related issues and raised particular concerns in relation to the adverse effect to the amenity of the neighbourhood. Particular concern was raised in relation to the effect on the Church immediately across the road from the proposed venue and the negative impact that was likely to be felt by the congregation as well as the nuns who resided there.
48. Mr Lindsay noted an apparent lack of parking facilities and a lack of adequate taxi services or other public transport to properly service the proposed venue. He submitted that the lack of appropriate facilities and services would lead to anti-social behaviour that would lead to a '*further stretch of police resources that would be much better utilised dealing with other issues*'. He commented on the lack of CCTV surveillance in the area which he submitted increased the risk to potential patrons of the venue by to the community generally.
49. Mr Lindsay highlighted the objectives of the KAMP and submitted that the objects are unachievable if liquor licences are granted to '*venues that are purely opening to encourage increased drinking*'. Mr Lindsay also submitted that the application is in direct conflict with the KAMP and expressed concerns that an increase in licenced premises (and therefore increased adverse effects of alcohol consumption) would have a detrimental effect on tourism in Katherine.

Objection by Ms Thomasin Opie, Managing Practitioner, NT Legal Aid Commission

50. Ms Opie is the Managing Practitioner for the NT Legal Aid Commission (NTLAC) in Katherine. As a person who works in the neighbourhood, she is a person entitled to object pursuant to section 47F(3)(a) of the Act. Additionally, I consider that she is a person entitled to object pursuant to section 47F(3)(e) on behalf of an organisation which performs functions relating to health, education and public safety.
51. In her objection Ms Opie reported that since 2003 when NTLAC first commenced its lease of property in Second Street, there have been on-going issues with drunken people using the garden and parking area in the immediate vicinity of the premises to secrete alcohol, sleep and fight. Subsequently, a fence was erected around the property, a local security company were employed to conduct night patrols of the building and in addition, NTLAC installed a sophisticated security system including CCTV surveillance, fob locks and key pad entry system. 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 district. It was further submitted that an increase in drinking and drunks will cause a corresponding increase in anti-social behaviour including property damage, which could financially impact on business owners and harm the quiet enjoyment of the neighbours and other users of the neighbourhood.
52. Ms Opie submitted that an increase in venues (and therefore intoxicated people) will cause a corresponding increase in incidences of anti-social behaviour, property damage and violence which is likely to depress property values, all of this will impact people who work, reside and visit the area.
53. The submission identified at least four (4) drinking venues located within walking distance of the proposed premises and many other licensed premises in operation in the vicinity. Ms Opie submitted that in addition to the number of nearby licenced venues indicating that another licenced late night venue was not required, she noted that in any event, the proposed licence was not suited to the location due to the lack of lighting and facilities and that Second Street is predominantly businesses and residences. It was argued that the concentration of licenced premises in the central location of Katherine allowed for better monitoring by Police, noting that there is CCTV and adequate lighting in these areas. Ms Opie contended that *'Allowing the "drinking zone" to encroach into areas previously occupied by residences, the CDU Katherine Campus and offices located in Second Street mean that Katherine Town Council and NT Police will have to install expensive lighting and cameras to monitor the behaviour of patrons leaving the venue'*.
54. The submission reported that over a number of years NTLAC had documented the levels of *'alcohol-fuelled'* violence in Katherine within the context of submissions to various governmental and parliamentary bodies and providing criminal law advice and representation to hundreds of patrons of Katherine's licenced venues. It was reported that in 2015, 76.6% of assaults in Katherine were associated with alcohol and between 2006 and 2015; the number of Public Order offences more than doubled.
55. Ms Opie contended that the increased availability of alcohol is likely to lead to increased violence and accidents which will adversely affect the health of the community and service providers who will need to keep up with the demands. Also, that the grant of a liquor licence in the terms sought by the applicant will have the effect of undermining efforts to educate the public regarding alcohol-related harm and will encourage and promote drinking in the community.
56. 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* (the Menzies Report)¹ which reported statistics on alcohol consumption by Katherine residents

¹ *Implementation and outcomes of the revised Katherine Alcohol Management Plan* d'Abbs P & Whitty M, Menzies School of Health Research, June 2016

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.

57. The submission noted that in providing legal assistance to the people of Katherine who have caused or suffered alcohol related harm, NTLAC supports continuing moves to reduce the availability of alcohol and thereby reduce the harm caused by alcohol. It was also noted that the grant of the application would send the wrong message to the community and allow an unreasonably broad scope for the sale of alcohol, doing significant damage to an already troubled community.

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

58. On 29 August 2016 an objection letter was received from Reverend Mark McGuinness on behalf of the St Joseph's Church Parish Pastoral Council. Reverend McGuinness is a person entitled to object pursuant to section 47F(3)(a) of the Act as a person who works in the neighbourhood. In my view, he is also entitled to object in accordance with section 47F(3)(f) as a representative of a community group with an interest in the effect of the application.
59. Reverend McGuinness submitted that the grant of the licence would result in adverse effect to the amenity of the neighbourhood due to the increased volume of vehicular and pedestrian's traffic leaving the premises/nightclub late in the evening and early in the morning. He also queried whether Katherine needs another liquor outlet noting the serious alcohol abuse problem that had been identified in the Katherine region. He contended that another tavern/nightclub licence will only add to and exacerbate the alcohol problems within Katherine. Reverend McGuinness reported that he regularly has personal contact with people and their families affected directly or indirectly by alcohol and with various social and community services who also deal with the issues.
60. It was reported that the Church and presbytery has been located on the Second Street site since the 1940's. Mass services at the Church are conducted seven days a week and at various times during the certain events. In addition to other services and visits from local college students utilising the Church during the day there is also a residence situated on the Church grounds. In this context, Reverend McGuinness noted that the entrance to the church is directly opposite the proposed premises.

Objection by Ms Jacqui Rimington, Executive Officer, KWILS

61. Ms Rimington is the Executive Officer of KWILS, an organisation that provides specialist women's information and legal services, support and represents vulnerable women in the community. The vast majority of their work is focused on domestic violence, child protection, family law and tenancy issues. Ms Rimington is a person entitled to object pursuant to section 47F(3)(e) on behalf of an organisation which performs functions relating to health, education and public safety.
62. On 30 August 2016, objection was made 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. It was argued that the proposed trading hours will allow early morning trading until late at night six days a week which, it was contended will encourage excessive day-time drinking and lead to increased risk of anti-social behaviour, property damage and violence.
63. The submission reported that the Katherine community had worked hard to mitigate the effects of alcohol abuse in recent years, evidenced by the implementation of the KAMP. She noted the correlation of alcohol abuse and domestic violence and expressed concerns that additional liquor licences would have the effect of increasing the incidence of violence against women and children in Katherine where she described the prevalence of this offending as being at a '*critical level*' .

64. With specific reference to the present application Ms Rimington noted that the KWILS office is in close proximity to the proposed premises. She expressed concern that the increased pedestrian movement and traffic in the area would impact on the discretion and privacy available to KWILS clients.

Objection by Mr Graham Cole, Lawyer

65. Mr Cole is a person entitled to object pursuant to section 47F(3)(a), being a person who works in the neighbourhood of the proposed premises and who sought to make objection on the grounds that the grant of the licence will adversely affect the health, public safety and social conditions in the community.
66. Mr Cole specifically referred to the Menzies Report and argued that the grant of another licence would unnecessarily add to the available supply of alcohol in the Katherine community and cause various problems identified in the Menzies Report and through other sources.

Objection by Mr Dennis Rebbeck, DPR Insurance Brokers

67. 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 and who sought to make objection on the grounds that the grant of the licence will adversely affect the health, public safety and social conditions in the community.
68. Mr Rebbeck works in a business next door to the proposed premises and objected to the application on the grounds that there already exists sufficient licenced premises to service the area and submitted that an additional facility within 100 metres of existing licensed premises offering similar services and entertainment is likely to increase 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.
69. It was 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 the complex and that the potential for the littering of the street and footpath would impact negatively on services required for street maintenance.
70. 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.

SUBMISSIONS

71. In order to engage relevant stakeholders, comment on the application was sought from the Department of Health, NT Police, NT Fire and Rescue Services, the Development Consent Authority and the Katherine Town Council (the Council).
72. No comment or submission was received from the Council.
73. The NT Fire and Rescue Service was unable to comment on the application or the suitability of the premises for the stated purpose as the proposed renovations and other building works are not complete.
74. The parties that did not object to the application but that made submission in relation to it were:
- (i) Ms Dawn Parkes, Senior Planner, Development Assessment Services
 - (ii) Ms Sandra Schmidt, A/Director, Alcohol and Other Drugs Services, Department of Health

Submission from the Development Consent Authority

75. The Senior Planner, Development Assessment Services, advised that the applicant had planning approval in accordance with the submitted plans.

Submission by the Department of Health

76. Whilst the Department of Health is an agency entitled to lodge objection pursuant to section 47F(3)(e) of the Act, it did not object to the application and submitted that it had no adverse comment in relation to the application. It did however request that consideration be given to patron and community safety in regard to determining the application. In addition, the agency requested that the proposed venue display signage to delineate smoking area from non-smoking areas.

APPLICANT'S RESPONSE TO OBJECTIONS AND SUBMISSIONS

77. The applicant responded to each of the objections individually. However, in general and in relation to each of the main areas of concern it was submitted that sufficient regard had been given to mitigating the risks associated with the grant of a liquor licence.
78. The applicant noted that consent to the proposal to change the purpose for which the premises were used from a 'restaurant' to a 'hotel' had been given and that a permit had been issued by the Development Consent Authority. Presumably, the applicant is of the view that the DCA must have considered all of the relevant factors in granting the permit and saw no adverse effect from the proposal.
79. The applicant noted that parking and traffic issues arising were not specific to the application but *'are part of activity conducted by any business in the CBD'*.
80. With reference to the issues raised in relation to traffic, parking and associated matters the applicant stated that it had *'no ability to control taxi numbers'*) but noted that in its view, the proposal had the potential to stimulate employment through increased demand for services.
81. The applicant stated that the lighting available in the street is *'a matter for Katherine Town Council'* but stated that it was willing to discuss concerns or issues in regard to street lighting noting that the Council had not sought to raise any issues. The applicant suggested that the church carpark in Second Street was underutilised with congregants presently choosing to park in the street. It was suggested that the Church car park could be used to alleviate *'alleged motor traffic'*. It was also submitted that in any event, illegal or unregulated parking is a Council and Police enforcement issue.
82. The applicant submitted that there is sufficient space on the nature strip at the front of the intended premises to ensure patron safety for those who might be waiting to enter the proposed venue and further, that there would be *'more than ample light from the purpose made awning'* for this purpose.
83. The applicant commented that *'suggestions of intoxicated patrons from other licenced premises causing noise and antisocial behaviour and applying it to the applicant is speculative. The applicant has no influence or say on how any existing licenced venues or premises conduct their business or hours of operation'* and also asserted that there was no evidence to suggest that patrons would loiter upon arrival at the premises or whilst leaving and that the effect would be no greater than with any other business in a commercial precinct.
84. The applicant contended that many of the concerns raised in relation to public safety related to existing licenced premises and do not differentiate between the different types of alcohol outlets. It was also noted that police numbers, resources and operating procedures in addition to the provision of CCTV are not within the applicant's powers. It was specifically noted that resources required when *'dealing with hypothetical "alcohol fuelled violence" are not in the applicant's domain'* but that it was willing to cooperate with authorities to ensure public safety.

85. In relation to concerns raised about the noise which would necessarily emanate from the proposed premises the applicant stated that it had provided a comprehensive outline of how it would control the volume of noise from the premises and noted that the venue was to be purpose built to ensure that noise was reasonable. Again, the applicant reiterated that it had no influence on the business of other licenced venues and argued that objections based on comparisons between the effect of different venues was '*conjecture and generalization [sic]*'.
86. The applicant submitted that the proposal clearly falls within the objectives of the KAMP which it acknowledged are to reduce the impact of alcohol use in Katherine and to encourage the growth of a responsible drinking culture in Katherine. In support of that, the applicant notes that it intends to implement and maintain:
- The responsible service of alcohol;
 - Full meal and restaurant service;
 - Controlled entry using strict criteria and dress code;
 - A positive physical environment and surrounds;
 - Music and entertainment for enjoyment;
 - Visible crowd control and security.
87. The applicant stated that in relation to the suitability of the location for the proposed licenced venue generally, information and statistics relied on in relation to alcohol related harms in the community was general, not specific to the application and drew conclusions based on speculation.
88. The applicant acknowledged the value of the Menzies Report in contributing to a greater understanding of the causes underlying alcohol related issues in Katherine and accepted that it ought to provide guidance in the implementation of adequate measures to assist in reducing the adverse impacts of alcohol. It was accepted by the applicant that the report identified a complex mix of factors which contribute to alcohol related harms. However, the applicant stated that the report did not address how any of the issues raised were relevant or specific to the applicant.
89. The applicant surmised that several of the objections referred to the historical and personal experiences of the objectors and had no relevance to the application. It was submitted that the reported increase in antisocial behaviour, property damage, violence and accidents are conjecture, unrelated to the application and reiterated that criminal activity is a police enforcement issue.
90. The applicant commented that '*there are no restrictions placed on liquor licence applications located near churches in the NT Liquor License Act [sic]*'. It was also stated that venue operating hours will have minimum impact on church service times with evening dinner trade starting as church services are finishing.
91. The applicant stated that '*illegal and or criminal activity is an NTPF enforcement issue unrelated to the application*'.
92. The applicant submitted that the proposed venue would incorporate live entertainment with competitively priced, good quality food and would cater to a demographic which would add a variety and diversity to the neighbourhood. It was submitted that the venue would contribute positively to the social and economic development of the region through hospitality and tourism.

ASSESSMENT OF APPLICATION

93. Section 28 of the Act mandates that an application for a licence must be considered with reference to the particular matters set out in that section.

94. In that regard, I note that the applicant has provided evidence of its financial stability, reputation and character. There is no evidence to suggest that the applicant is not fit and proper to hold a licence.
95. Pursuant to section 28(2)(a) I am required to consider the suitability of the proposed premises having regard to the manner of the intended sale or consumption of liquor in addition to the proposed location and the construction of and facilities available for that purpose.
96. The applicant submitted a comprehensive business plan which indicated an intention to offer restaurant and entertainment facilities including amplified and live music, festivals, sporting events and nightclub style entertainment. The venue is intended to cater for 400 to 600 patrons. A Public Interest Submission sought to address those matters that I am required to consider in accordance with section 6 of the Act.
97. The applicant submitted lot and floor plans for redevelopment and renovation of existing buildings including a statement of intention in relation to noise mitigation strategies and submitted that the proposed venue would be a positive addition to the community, would meet an identified market and would assist in the proper and responsible development of the hospitality and tourism industry in the region.
98. However, various concerns were raised by objectors in relation the suitability of the premises including issues which would necessarily arise from increased pedestrian and vehicle traffic, limited (and asserted) inadequate provision of parking facilities in the immediate vicinity, noise emanation from the premises and general adverse effect resulting from the late night trade of liquor from the premises. I am satisfied that all of these matters have potential to adversely impact the amenity and social conditions of the neighbourhood and the community more widely.
99. The applicant's response to objections in relation to these matters was for the most part brief and, in my view somewhat dismissive.
100. In relation to the concern that there was inadequate provision for parking at the proposed venue, the applicant noted that it had been granted an exemption by the DCA and that illegal or unregulated parking was a matter for the Katherine Town Council and Police. The applicant reported that consent to the proposal to change the purpose for which the premises were used from a 'restaurant' to a 'hotel' had been given and that a permit had been issued by the DCA. It is not known if the DCA had regard to the purpose and objects of the Act when granting such approval. However, and in any event, consideration and determination of the present application for a liquor licence is not constrained by determinations of other agencies or bodies as to the suitability of the premises or any other matter which must be independently and distinctly considered by the Director-General (or delegate) with reference to the obligations under the Act.
101. In response to these particular concerns, the applicant stated that parking and traffic concerns '*are part of activity conducted by any business in the CBD*' and suggested that if there were parking issues, St Joseph's Church carpark could be used to alleviate '*alleged motor traffic*'. It does not appear that any consultation with the Church was undertaken in relation to the viability of that suggestion and there was no indication that the applicant has developed or considered any alternative proposals to address parking issues arising from the proposed business. Whilst it is accepted that the applicant is not responsible for town planning and/or infrastructure, the availability of facilities is a matter that must be considered when assessing the suitability of a location for the operation of a liquor related business. This is particularly so where there is a high likelihood that the business will affect the enjoyment of social conditions and amenities of others in the vicinity.
102. In a similar way and relating to safety concerns expressed in relation to perceivably inadequate lighting in the area to accommodate an additional 400 to 600 people at a late night venue, the applicant simply stated that lighting was a matter for the Council. In that regard it appears that the intended location has basic street lighting which arguably, is

sufficient for the businesses, organisations and residents which currently occupy or use the street however; I am not satisfied on the evidence and information available to me that it is sufficient to adequately meet the requirements for public safety at or in the vicinity of a late night licensed venue.

103. Several of the objectors expressed concern that the intended licence would operate directly opposite an established church and in close proximity to several others. The applicant appeared unconcerned that the purpose of the proposed premises is very much at odds with the purpose for which St Joseph's Church and other churches in the area exist. Whilst the applicant correctly pointed out that the Act does not prohibit liquor licences near churches; the Act specifically provides for the protection of places of worship and prohibits the business conducted at the licenced premises from causing undue offence, annoyance, disturbance or inconvenience. Other than to suggest that church services were not likely to be conducted when the business was trading, the applicant did not indicate any plan or proposal to prevent or mitigate adverse effect.
104. Perhaps contrary to the applicant's assertion, the available information suggests that mass is conducted at the church seven days a week, with some services commencing in the evening. Additional services are conducted from time to time and the Church is also utilised by students. Nuns and other Church personnel reside at the location.
105. Noise mitigation strategies and an outline of what is intended to be achieved in the course of the development was included in the application however, there is presently insufficient evidence on which the likely success or failure of such strategy can be assessed.
106. The applicant submitted that live entertainment is to be a prominent feature of the business after 5:00pm and indicated an intention to insulate the roof and walls with sound absorbing materials and to install foam buffers to minimise excessive sound levels. It was indicated that acoustic consultants and sound engineers will be engaged to mitigate any issues and that in any event, excessively high sound levels will be avoided using strategically placed sound equipment such as limiters, warning lights, and cut-out switches with equalisation equipment controlling low frequency sound keeping vibration to a suitable level.
107. It must be noted however, that it is intended to include double doors from the premises which lead to a garden bar which perceivably will allow noise to emanate and travel. There was no reference to the intended method of control in relation to general patron noise from the garden bar. The concerns expressed by objectors related not only to the noise of music and patrons inside the venue but also the noise likely to be generated as a result of people coming and going from the premises.
108. The obvious risk in granting a licence for the stated purpose absent evidence that residents and businesses will not be unreasonably offended, annoyed, disturbed or inconvenienced by the operation of a licenced venue is that once granted, the licence may not simply be revoked and the loss of amenity to the neighbourhood cannot be rectified or compensated. In the present case, the applicant's responses did not, in my view adequately address the legitimate concerns raised by residents or business owners in the area and appeared to assume that concessions or compromises to the existing conditions ought to be made by the affected residents and tenants to accommodate its business proposal.
109. Section 6 of the Act specifically requires that consideration be given to the minimisation of harm or ill-health associated with the consumption of alcohol. Also, consideration is to be given to public order and safety particularly where the circumstances are expected to attract large numbers of people to licenced premises.
110. To that end, I have had regard to the KAMP and also the Menzies Report which refer in part to the contribution of alcohol to assaults and other public disorder offences. The applicant acknowledged the value of the information provided and accepted that the Menzies Report provided useful information relating to alcohol issues in Katherine. However, the applicant contended that the issues raised were not relevant or specific to the applicant.

111. While I accept that the KAMP and the Menzies Report was concerned mainly with the effects of wholesale and take away alcohol (which is not a component of the present application), issues related to alcohol supply generally are relevant. Particularly, in circumstances where the proposed premises intends to make alcohol available for purchase throughout the day until 10:00pm on weeknights and 2:00am on weekends and where it is not presently available, the effects of alcohol on the community generally are important public interest considerations.
112. Reports of historical and personal experiences of people who live in the community and who have directly observed or been affected by alcohol related antisocial behaviour, property damage, violence and accidents is evidence which goes directly to the genuine public interest in the harm or ill-health of people in the community, public order and safety of the community and the health and welfare of the people who might use the licenced premises. In the present circumstances, I cannot be satisfied that an additional liquor licence, particularly one of the type sought will not contribute to the observable social harm.
113. As mandated by section 29 of the Act, in making a determination in regard to an application, regard must be given to the overall objects of the Act. The primary object is to regulate the sale, provision, promotion and consumption of liquor so as to minimise the harm association with the consumption of liquor and in a way that takes into account relevant public interests. Further objects are stated to be the protection and enhancement of community amenity, social harmony and wellbeing, the regulation of the sale of liquor in a way that contributes to the responsible development of liquor and associated industries and to facilitate a diversity of licensed premises for the benefit of the community.
114. The applicant submitted that the venue is intended to offer a unique experience in Katherine and that the business would add to the development of hospitality and tourism in the region, having a positive economic and social impact by providing employment opportunities. It was submitted that there were no existing venues which offered services of the type and to the standard intended.
115. Of note, there are currently 21 liquor licences in Katherine servicing a population of approximately 11,000 people. The number of licences includes seven 'hotels', one 'tavern', two 'clubs', two 'restaurants' and various store, 'on' and 'off' licenses. Several of the licenced premises, including late night trading venues are within one kilometre of the intended premises and offer services such as meals and entertainment as contemplated by the applicant. Unlike the location subject to the application, the existing late night venues are within the area presently covered by CCTV monitored by Police are predominantly in areas of main street lighting.
116. All of the objectors expressed significant concern that the grant of another liquor licence which permits late night trading will increase anti-social behaviour in the area.
117. Whilst there can be no definitive prediction as to whether or not increased anti-social behaviour will result, it is not an unreasonable concern and again raises the suitability of the premises for the stated purpose taking into account the following matters:
- That Second Street is presently predominantly a residential and business location;
 - That the nature and type of lighting available may give rise to public safety issues with increased pedestrian and motor traffic;
 - The absence of CCTV coverage;
 - The unavailability of adequate parking and traffic management resources to cater for the intended number of patrons;
 - The unknown impact of noise emanations from the premises both from music or entertainment or simply from patrons; and
 - That the intended location is immediately opposite to a place of worship whose purpose and activities are likely to be adversely impacted by the issue of a licence.

118. Taking those matters into account, I am not satisfied that the premises are suitable for the intended purpose and further, I am not satisfied that the grant of a licence in the terms sought would positively contribute to the protection and enhancement of the community or its social harmony and wellbeing.

DECISION

119. The applicant seeks a liquor licence for operation from premises to be known as Big Ass Grill located on Second Street, Katherine. The street is presently semi residential however, several businesses operate from that location as does St Joseph's church.
120. The application anticipates capacity for 400 to 600 patrons and has allowed for off-street parking for 19 vehicles.
121. Currently, the site has a building which was operated as a café without a liquor licence in the past. At the rear of the premises there is a large, open corrugated iron shed which the applicant proposes to renovate such that dining, bar and dancefloor facilities and an alfresco area are established. The entrance for all patrons is intended to be at the front of the building through the existing dining area. Live and nightclub entertainment is intended to be a prominent feature of the business.
122. The applicant seeks a licence for the sale of liquor for consumption on the premises on Monday through Thursday from 10:00 am until 10:00pm and on Friday and Saturday from 10:00am until 2:00am the following day.
123. Ten objections were received from residents in addition to organisation and business operators in the immediate vicinity of the proposed premises. Predominantly, the objections were concerned with public safety matters including traffic and parking as well as anti-social behaviour associated with the consumption of liquor. Interference with the amenity of the community and social harmony was a common concern to all objectors.
124. In my view, the concerns are well founded with reference to the existing infrastructure and facilities available at the proposed location.
125. I am not persuaded that the renovation or building proposals submitted by the applicant will sufficiently mitigate the adverse effects on the social amenity which is likely to result from the operation of the proposed venue.
126. For the reasons set out and in accordance with section 29(1)(b) of the Act, I refuse the application.
127. It may be noted that had the application been for a licence to allow the operation of a restaurant or similar venue, the effect on the community would necessarily be assessed differently. However, in the present case, I am not satisfied that there is a public need not presently being met which warrants the grant of a licence in the terms applied for.

REVIEW OF DECISION

128. Section 8 of the *Licensing (Director-General) Act* prescribes that a delegate decision is a decision under any Act, of the Director-General that is made by a delegate of the Director-General.
129. Section 10 of the *Licensing (Director-General) Act* provides that a person affected by a delegate decision may apply to the Director-General for a review of the decision. Such application for review must be made within 28 days after written notice of the delegate decision is given to an affected person, or within any additional time that the Director-General allows.
130. Section 9 of the *Licensing (Director-General) Act* prescribes an affected person for a delegate decision to be the applicant and a person who made a submission, complaint or objection (however described) during the process that resulted in the decision being made.

131. Accordingly, the affected persons in relation to this decision are:

- (i) The applicant
- (ii) NT Police
- (iii) Ms Carol Dowling (KRAG)
- (iv) Mr Bruce Francais
- (v) Mr & Mrs De With
- (vi) Mr Josh Lindsay
- (vii) Ms Thomasin Opie (NTLAC)
- (viii) Reverend Mark McGuinness
- (ix) Ms Jacqui Rimington (KWILS)
- (x) Mr Graham Cole, Lawyer
- (xi) Mr Dennis Rebbeck
- (xii) Ms Sandra Schmidt (Department of Health)
- (xiii) Ms Dawn Parkes (Development Assessment Services)



Sally Ozolins
Deputy Director-General (Operations)

16 December 2016