

Northern Territory Licensing Commission

Reasons for Decisions on whether Objections to proceed to Hearing

Premises:	The Dustbowl
Applicant:	Cheap Charlie 1 Pty Ltd
Decisions Of:	Dr Alan Clough
Date of Decisions:	22 nd February 2005
Summary of Decisions:	Conduct a hearing in relation to the objection Superintendent Lance Godwin, Northern Territory Police Drug and Alcohol Services Association Alice Springs Inc Alice in Ten, Central Australia Quality of Life, Substance Misuse Action Group Gap Youth Centre Aboriginal Corporation Central Australian Aboriginal Congress Inc Northern Territory Department of Health and Community Services People's Alcohol Action Coalition Alice Springs Town Council

Preamble

1. An application for a variation to the licence to sell liquor from the premises known as 'The Dustbowl' located at 29 Gap Road Alice Springs, was advertised in the 'Centralian Advocate' on the 26th and 29th of October 2004. The advertisements notify that Cheap Charlie 1 Pty Ltd (the applicant) seeks to vary its licence to sell liquor so that
 - the dining area including the outside patio at the current premises becomes a public restaurant to be known as 'Rudy's Pizza and Pasta' with trading hours from 1100 to 0100 the next morning, seven days a week and,
 - liquor may be made available to the general public in the restaurant without the necessity of having to be in conjunction with a meal.
2. At its special meeting of the 1st of September 2004 the Commission considered proposals for a range of material alterations to the dining area/restaurant in these premises and determined that the proposals were approved strictly subject to the conditions that the dining area may not operate as a public restaurant and the service of liquor in the dining area shall remain ancillary to a meal unless and until the licensee should be successful with an advertised application for appropriate variation of licence conditions. The applicant subsequently notified the proposed variations pursuant to s.32A(3)(a) of the *Liquor Act* (the Act) in force at the 1st of September 2004.
3. S.47F(1)(b) of the Act permits a person to make an objection to an application for a variation of the conditions of a licence notified under s.32A. Eight letters making objections were received by the Deputy Director of Licensing South on behalf of the Director of Licensing (the Director). After informing the applicant of the objections made, the Director received one letter by way of the applicant's reply to them. The eight letters making

objections and the applicant's reply were forwarded by the Director to the Chairman, incorporated into a Memorandum, on the 6th of January 2005.¹

4. On the 13th of January 2005, I was selected by the Chairman to consider the substance of each of these objections pursuant to s.47I(2) of the Act. My statutory task is delineated by s.47I(3) which reads as follows.

(3) The member selected under subsection (2) –

(a) must consider the objection and the reply to the objection;

(b) may inquire into any circumstance relating to the objection as he or she considers appropriate; and

(c) must –

(i) dismiss the objection if satisfied that the objection –

(A) is of a frivolous, irrelevant or malicious nature; or

(B) does not describe circumstances that may or will adversely affect the amenity of the neighbourhood or health, education, public safety or social conditions in the community; or

(ii) determine that the Commission must conduct a hearing in relation to the objection and forward the objection, reply to the objection and his or her findings in relation to the objection to the Commission.

5. I interpret my statutory task in the following ways.

- a. S.47I(3)(c) essentially means that an objection made to an application is entitled to go to a hearing as an objection unless I conclude that sufficient reasons exist to dismiss it.² Some specific criteria for evaluating reasons to dismiss an objection made, and thereby for testing this entitlement, can be found at s.47F(3) which describes and delimits the persons, organisations or groups who may make an objection, and at s.47F(4) and s.47F(5) which specify the elements of an objection and how it is to be lodged. S.47F(2) can also be used to test this entitlement since it delimits the grounds on which an objection may be made albeit without specifying constituent criteria. It is not my task to evaluate the merits of an objection made. At any hearing it is for the person(s) making the objection to make out the grounds, and the facts constituting the grounds of objection pursuant to s.47H whereby an objector may not rely on any facts other than the facts specified in the objection. Moreover, at such a hearing, an applicant is likely to have the opportunity to contest the relevance or weight of any aspect of the objection on any basis.
- b. At s.47I(3)(c)(i)(A) lies both the power and obligation to dismiss an objection made if I am satisfied that it is of a frivolous, irrelevant or malicious nature. For testing relevance, the substance of the objection made is a useful source of relevant criteria. Other important criteria for testing relevance include those found at s.47F(3), s.47F(4) and s.47F(5). For example, an objection made by a person, organisation or group who is not a member of one of the categories of those who may make an objection prescribed at s.47F(3), or an objection not lodged with the Director within the time frame prescribed by s.47F(4)(d) and s.47F(5), is open to serious question as to its relevance. Relevance

¹ NT Treasury, Racing, Gaming and Licensing Memorandum (Ref: 80806440)

² S.47J provides that a person, organisation or group who made an objection may apply to the Commission for a review of my decision where their objection was dismissed by me. Since s.47J(4)(b) constrains the Commission to conduct a hearing if it determines to revoke my decision to dismiss an objection made, it is important, in terms of natural justice for the applicant, to evaluate *all* letters making an objection using *all* criteria available to me to ensure that a letter making an objection, upon any revocation of my decision, would go to a hearing having been thoroughly assessed as to its entitlement pursuant to s.47I(3).

of an objection may also be questioned if the letter was not signed or suitably authorised by or on behalf of the person, organisation or group making the objection, since it may not strictly comply with s.47F(4)(b). For testing whether an objection made is of a malicious or frivolous nature, however, few such specific criteria are available in s.47F or s.47I and so I relied primarily on the substance of the letter making an objection for this determination. I was guided by the notion that an objection could be regarded as malicious in nature if it were to contain some kind of wrongful intent disguised as a lawful objection to the application. I was also guided by the notion that if a letter making an objection to the application misrepresented trifling matters as serious concerns for our attention than it should be regarded as frivolous in nature and dealt with accordingly.

- c. I am also specifically empowered and obliged by s.47I(3)(c)(i)(B) to dismiss the objection made if I am satisfied that it fails to describe circumstances adversely affecting the health, education, public safety or social conditions in the community or the amenity of the neighbourhood where the licensed premises is to be located. Here too, I turned to the substance of the letter making an objection for information to describe such circumstances. I was guided by the view that should an objection fail to set out the facts relied upon to constitute the ground upon which the objection is made it may not comply with s.47F(4)(c) and will, therefore, be unlikely to adequately describe circumstances that may or will adversely affect the amenity of the neighbourhood or health, education, public safety or social conditions in the community and thereby, in turn, fail to comply with s.47I(3)(c)(i)(B).
- d. While it is my allotted task to consider the substance of the objection made pursuant to s.47I(2), the *Act* does not require me to consider the *substance* of the applicant's reply, although I am nonetheless obliged by s.47I(3)(a) of the *Act* to "...consider [both] the objection and the reply to the objection." I take these seemingly contradictory prescriptions to mean that I am constrained to consider only those matters in the applicant's reply which may be reflected in my considerations of whether the objection made is of a frivolous, irrelevant or malicious nature or does not describe circumstances that may or will adversely affect the amenity of the neighbourhood or health, education, public safety or social conditions in the community. Just as it was important to emphasise that it is not my task to evaluate the merits of an objection made, it is also not my task to evaluate the merits of the applicant's reply. Assessment of the substance and relative merits of the application and any objections and any reply to those objections will ultimately be a matter for the corporate Commission in deciding whether or not to grant the application and the conditions to which a successful application would be subject.
- e. It is important to outline my approach to the concepts of 'neighbourhood' and 'community' in my considerations since the utility and reality of these concepts is highly problematic with their determination and delineation often contentious and subject to many individual, contextual and environmental factors. There is a dearth of clear guidance about the concepts 'neighbourhood' and 'community' in s.47F(2) ss.47F(3)(a),(b) and (f) and s.47I(3)(c)(i) of the *Act*. Reflecting upon these limitations, I concluded that my task is not one where I must describe exhaustively the precise congruence between the neighbourhood where the licensed premises is located and the neighbourhood where a person making the objection is a resident or is working (s.47F(3)(a)), or holds an estate in fee simple, or a lease over land (s.47F(3)(b)). Instead, I believe my task is to spend a reasonable amount of time and resources using accessible criteria to compile sufficient facts to convince me that it *is more likely than not* that the person making the objection resides in, or works in, or holds an estate in fee simple, or lease over land in the neighbourhood where the licensed premises are located thereby complying with s.47F(3)(a) or s.47F(3)(b). Similarly, I believe my task is to use accessible criteria to compile sufficient facts to convince me that it *is more likely than not* that the objection is being made by a community based organisation or group thereby complying with s.47F(3)(f). Finally, unless there were specific reasons leading

me to think that the broader NT community was being referred to, I interpreted references to the 'community' as meaning the community of Alice Springs.

6. S.47I(3)(b) permits me to inquire into 'any circumstance relating to the objection' as I consider appropriate. I used this power to consult published sources of information, viz. the internet, Government Gazettes, the NT telephone, street and business directories, to request the assistance of the Deputy Director South, and to make telephone inquiries and inquiries by e-mail.
7. The information placed before me by the Chairman comprised an Internal Memorandum of the NT Treasury signed by the Deputy Director of Licensing South dated the 10th of January 2005³ with all objections attached. The Memorandum contained folios 1-40 inclusive. Folios 38-40 contained the Deputy Director's memorandum and this included a list of postal addresses of those making an objection. Folios 1-9 contained a copy of the current liquor licence for the premises known as the Dustbowl (liquor licence number 80806440), located at 29 Gap Road Alice Springs. Folios 10-14 included information pertaining to the applicant's advertisements and his initial inquiries made with the Director regarding the application, folios 14-34 included the letters making an objection and folios 35-36 included the applicant's response. Folio 37 is a copy of a printed map of one section of Gap Road Alice Springs and the nearby precincts. The map at folio 37 does not bear its publisher's identity although it is '© Northern Territory of Australia'. The Director advised that this map is from a series entitled 'Alice Springs Administrative Maps' published in 2003 by the NT Department of Infrastructure, Planning and Environment, Land Information Division. The map highlights and labels Gap Road and provides sufficient information to identify the address of one of those seeking to make an objection and the nearby address of another, and was marked up by the Director to indicate the location of the licensed premises. I regard the map provided by the Director indicating the location of the licensed premises and the address of one of those making an objection as an important basic tool assisting my consideration of the relevant 'neighbourhood'. I also consulted a street directory of the Alice Springs district⁴ which, at map 3 labels an area in the vicinity of the location of the licensed premises as 'The Gap'. While corporate Commission knowledge of the Alice Springs community has it that there are no formally designated suburbs in Alice Springs, there is nonetheless an area that Alice Springs residents seem to generally refer to as 'The Gap'. Consensus indicates that this area can be broadly delimited by Heavitree Gap in the south, the Todd River in the east and Telegraph Terrace/Stuart Highway in the west. In the north, 'The Gap' area merges into the Alice Springs CBD with locations north of Stuart Terrace generally regarded as not being part of 'The Gap' area. 'The Gap' area is characterised by its distinctive blend of detached housing and other residences, service providers (particularly in the health and community services field), and sport and recreation functions and facilities. Gap road bisects 'The Gap' area, approximately north-south, and the licensed premises the subject of the application is located in the northern half of Gap Road. A key indicator of the relevant 'neighbourhood' is the proximity of the licensed premises to the addresses of those making objections, as measured by an address within 'The Gap' area as I have described it, and by the physical distance from the licensed premises.
8. Given the available grounds for objection, at s.47F(2), and the standing of my considerations underpinning these reasons for decision, I now turn to consider the substance of the objections pursuant to s.47I(2).

Superintendent Lance Godwin, Northern Territory Police

9. A letter making an objection to the application entitled 'The Dustbowl, Alice Springs Application for a variation to liquor licence No. 80806440' written on Northern Territory Police letterhead, signed and bearing the name Lance Godwin (Superintendent Alice

³ NT Treasury Internal Memorandum (Ref: 80806440)

⁴ PDC Street Directories, 2004

Springs), was received by the Director on the 29th of November 2004 (folios 14-16). The letter is itself dated the 29th of November 2004, i.e. 31 days after notification of the application which would mean it does not strictly comply with s.47F(4)(d). S.47F(4)(d) of the *Act* requires letters making an objection to be lodged with the Director within 30 days after the last notice advertising the application, viz. the 29th of October 2004. The last day for their receipt was the 28th of November 2004. The 28th of November 2004 was a Sunday. Under these circumstances, s.28(2) of the *Interpretation Act* permits this letter to be lodged with the Director on the first day following this day, viz. Monday the 29th of November 2004. Therefore the letter was lodged with the Director within the allotted time, as permitted in s.28(2) of the *Interpretation Act*.

10. It could be argued that the letter making an objection is not relevant to the application since its first paragraph refers to an application notified 'by advertisement dated the 11th of June 2004 for the variation to liquor licence No. 80315980' (folio 16). However, the letter's heading refers to the correct name of the licensed premises the subject of the application, and to the correct liquor licence number and an application for a variation to its conditions (folio 16). Moreover, the body of the letter contains references pertaining to the substance of the application and not to another application. On this basis I am satisfied that the letter making an objection should be considered relevant.
11. Under NT Police letterhead, Superintendent Godwin asserted his "...statutory right of objection as a member of the Police Force under s 47(3)(c)..." of the *Act* (folio 16). Superintendent Godwin as a member of the NT Police Force may make an objection to the application pursuant to s.47F(3)(c).
12. The Police station in Alice Springs, of which Mr Godwin is Superintendent, is located in the Alice Springs CBD in Parsons Street a distance of more than one kilometre from the licensed premises. The Superintendent's workplace is not located within the neighbourhood where the premises the subject of the application are located as I have described it in 5.e. Also I could find nothing in the letter to clearly suggest that the Superintendent wished to make an objection pursuant to s.47F(3)(a) on the basis that he is a person who works in the neighbourhood where the premises the subject of the application are located, and so I considered this question no further.
13. My summary of the substance of the grounds for the objection made is that, should the application be successful, there would be increased risks of anti-social behaviour in the CBD and surrounding residential areas of Alice Springs along with increased risks of noise disturbances, crime and traffic incidents in the Gap area in particular. These concerns are congruent with the grounds specified in s.47F(2) and are, moreover, not of a frivolous, irrelevant or malicious nature.
14. I am also satisfied that Superintendent Godwin sets out the facts he relies on to constitute the ground on which the objection is made and this complies with s.47F(4)(c) of the *Act*.
15. The applicant suggests that the letters making objections are more concerned with the supply of liquor without a meal than with supply to patrons of the restaurant and requests that the application is dealt with in two parts (see folios 35-36). This request is not for my determination, but for the corporate Commission to determine in a hearing of the application and the objections. The applicant raised no other matters that caused me to review my considerations of whether the objection made is of a frivolous, irrelevant or malicious nature or does not describe circumstances that may or will adversely affect the amenity of the neighbourhood or health, education, public safety or social conditions in the community. I decided to make no further inquiries. I conclude as follows.

Superintendent Godwin may make an objection to the application as a member of the Police Force pursuant to s.47F(3)(c). The letter sets out the facts relied upon to constitute the ground on which the objection is made pursuant to s.47F(4)(c). I am satisfied that, the substance of the grounds for the objection are not of a frivolous, irrelevant or malicious nature. From this it follows that s.47I(3)(c)(i)(A) does not apply. The letter making an objection complies with s.47F(2) of the *Act* in that it describes

circumstances that may or will adversely affect the amenity of the neighbourhood or health, education, public safety or social conditions in the community. From this it follows that s.471(3)(c)(i)(B) also does not apply. Since neither part of s.471(3)(c)(i) applies, I am required to apply s.471(3)(c)(ii).

- I determine that the Commission must conduct a hearing in relation to the objection.

Ms Kathryn Broadbent (Acting Manager), Drug and Alcohol Services Association Alice Springs Inc.

16. A letter dated the 25th of November 2004, entitled "Objection to Application by Cheap Charlie 1 Pty. Ltd. ... as notified in the *Centralian Advocate* 29th October 2004" typed on the letterhead of Drug and Alcohol Service Association Alice Springs Inc. (DASA) signed by one Kathryn Broadbent designated 'Acting Manager', was received by the Director on Monday the 29th of November 2004, i.e. 31 days after notification of the application (folios 17-19) which means it does not strictly comply with s.47F(4)(d). S.47F(4)(d) of the *Act* requires letters making an objection to be lodged with the Director within 30 days after the last notice advertising the application, viz. the 29th of October 2004. The last day for their receipt was the 28th of November 2004. The 28th of November 2004 was a Sunday. Under these circumstances, s.28(2) of the *Interpretation Act* permits this letter to be lodged with the Director on the first day following this day, viz. Monday the 29th of November 2004. Therefore the letter was lodged with the Director within the allotted time, as permitted in s.28(2) of the *Interpretation Act*.
17. Under DASA letterhead Ms Broadbent asserts that she is writing on behalf of DASA to lodge a formal objection to the proposed variation sought by the applicant (folio 19). On this basis I am satisfied that the letter was signed on behalf of DASA. The letter making an objection therefore complies with s.47F(4)(b) of the *Act*.
18. Ms Broadbent describes DASA as a drug and alcohol service providing services to the people of Alice Springs and Central Australia (folio 19) and claims on this basis that DASA has standing under s.47F(3) of the *Act* as a community based organisation or group. She emphasises that DASA is community organisation that works with individuals who have major alcohol and drug problems (folio 19). Drug and Alcohol Services Association in Alice Springs is listed on the website of the Territory Users' Forum and is described there as a 'community based non-residential counselling service' which also runs a Sobering Up Shelter⁵. Corporate Commission understanding of DASA's programs is that they are community based. Therefore I am satisfied that DASA could be regarded as a community based organisation or group which may make an objection to the application in accordance with s.47F(3)(f).
19. I note that DASA is located at 4 Schwarz Crescent which, according to the street maps in the NT Telephone Directory, is on the northern side of the Alice Springs CBD, and at a distance of more than one kilometre in a straight line from the proposed licensed premises. The location of DASA's offices is not within the Gap area as I have described it in 5.e and I could find nothing in the letter to clearly suggest that Ms Broadbent wished to make an objection on the basis that she is a person who works in the neighbourhood where the premises the subject of the application are located pursuant to s.47F(3)(a), and so I considered this question no further.
20. My summary of the substance of the grounds for the objection made is that, should the application be successful, there would be increased risks of alcohol abuse and disruptive behaviour in Alice Springs and in the vicinity of the licensed premises. There is also an apprehension that community-wide efforts to manage alcohol problems in Alice Springs would be undermined. It is my view that Ms Broadbent raises concerns on behalf of DASA

⁵ <http://www.tuf.org.au/drugservices.html>

that are congruent with the grounds specified in s.47F(2) and that these are not of a frivolous, irrelevant or malicious nature.

21. I am also satisfied that, on behalf of DASA, Ms Broadbent sets out the facts she relies on to constitute the ground on which the objection is made and this complies with s.47F(4)(c) of the *Act*.
22. The applicant suggests that the letters making objections are more concerned with the supply of liquor without a meal than with supply to patrons of the restaurant and requests that the application is dealt with in two parts (see folios 35-36). This request is not for my determination, but for the corporate Commission to determine in a hearing of the application and the objections. The applicant raised no other matters that caused me to review my considerations of whether the objection made is of a frivolous, irrelevant or malicious nature or does not describe circumstances that may or will adversely affect the amenity of the neighbourhood or health, education, public safety or social conditions in the community. I decided to make no further inquiries. I conclude as follows.

DASA can be regarded as a community based organisation or group who may make an objection to the application pursuant to s.47F(3)(f) of the *Act*. The letter making an objection also has relevance in that it was signed by Ms Broadbent on behalf of DASA and thereby complies with s.47F(4)(b). Moreover, the letter sets out the facts relied upon to constitute the ground on which the objection is made pursuant to s.47F(4)(c). I am satisfied that the substance of the grounds for the objection is not of a frivolous, irrelevant or malicious nature. It follows that s.47I(3)(c)(i)(A) does not apply. Moreover, the letter complies with s.47F(2) of the *Act* in that it asserts that the grounds for the objection are adverse effects on the amenity of the neighbourhood and the health, public safety and social conditions in the community. On this basis s.47I(3)(c)(i)(B) also does not apply. Since neither part of s.47I(3)(c)(i) applies, I am required to apply s.47I(3)(c)(ii).

- I determine that the Commission must conduct a hearing in relation to the objection.

Mr Clive Rosewarne (Convenor), Alice in Ten, Central Australia Quality of Life, Substance Misuse Action Group

23. A letter dated the 23rd of November 2004, entitled "Objection to Application by Cheap Charlie 1 Pty. Ltd. ... as notified in the *Centralian Advocate* 29th October 2004" typed on Alice in Ten letterhead, with the subheading 'Central Australia Quality of Life, Substance Misuse Action Group' (SMAG) signed by one Clive Rosewarne designated 'Convenor', was received by the Director on Monday the 29th of November 2004, i.e. 31 days after notification of the application (folios 20-21) which means it does not strictly comply with s.47F(4)(d). S.47F(4)(d) of the *Act* requires letters making an objection to be lodged with the Director within 30 days after the last notice advertising the application, viz. the 29th of October 2004. The last day for their receipt was the 28th of November 2004. The 28th of November 2004 was a Sunday. Under these circumstances, s.28(2) of the *Interpretation Act* permits this letter to be lodged with the Director on the first day following this day, viz. Monday the 29th of November 2004. Therefore the letter was lodged with the Director within the allotted time, as permitted in s.28(2) of the *Interpretation Act*.
24. The website of Alice in Ten describes its Quality of Life project and refers to its ongoing development of an alcohol strategy and an illicit drugs strategy but not specifically to a 'Substance Misuse Action Group'.⁶ No information was provided in the letter to indicate the precise location of the headquarters of the SMAG group. I decided to telephone the Project Manager for Alice in Ten Quality of Life who advised me that SMAG is headquartered in the Greatorex building at the corner of Parsons and Bath Streets Alice Springs in the CBD a

⁶ <http://www.alicein10.com.au/>

distance of approximately one kilometer from the licensed premises. SMAG's headquarters may be Mr Rosewarne's usual workplace. However, since SMAG is not located within the Gap area as I have described it in 5.e and nothing in the letter clearly suggests that Mr Rosewarne wished to make an objection on the basis that he is a person who works in the neighbourhood where the premises the subject of the application are located pursuant to s.47F(3)(a), I considered this question no further.

25. Under Alice in Ten, Quality of Life letterhead, Mr Rosewarne asserted that he was writing on behalf of SMAG to lodge an objection to the proposed variations sought by the applicant (folio 21). I am satisfied that the letter was signed on behalf of SMAG which means the letter making an objection complies with s.47F(4)(b) of the *Act*.
26. Mr Rosewarne describes SMAG as a group of government and non-government agencies working to improve the quality of life of residents in central Australia through the minimisation of harms due to substance misuse (folio 21). The corporate Commission, in its past business, has recognised SMAG as such an organisation in Alice Springs. S.47F(3)(f) of the *Act* cites 'a local action group' among examples of a community based organisation or group which may make an objection. On this basis I am satisfied that SMAG has standing under s.47F(3) of the *Act* as a community based organisation or group which may make an objection to the application in accordance with s.47F(3)(f).
27. My summary of the substance of the grounds for the objection made is an apprehension of increased alcohol supply and consumption in Alice Springs which, if the application was successful, would increase the risks of harmful consumption leading to increased public health risks already confronting the Alice Springs community, especially vehicle accidents, interpersonal violence and chronic diseases. It is my view that Mr Rosewarne raises concerns on behalf of SMAG that are congruent with the grounds specified in s.47F(2) and that these are not of a frivolous, irrelevant or malicious nature.
28. I am also satisfied that, on behalf of SMAG, Mr Rosewarne sets out the facts he relies on to constitute the ground on which the objection is made and this complies with s.47F(4)(c) of the *Act*.
29. The applicant suggests that the letters making objections are more concerned with the supply of liquor without a meal than with supply to patrons of the restaurant and requests that the application is dealt with in two parts (see folios 35-36). This request is not for my determination, but for the corporate Commission to determine in a hearing of the application and the objections. The applicant raised no other matters that caused me to review my considerations of whether the objection made is of a frivolous, irrelevant or malicious nature or does not describe circumstances that may or will adversely affect the amenity of the neighbourhood or health, education, public safety or social conditions in the community. I decided to make no further inquiries. I conclude as follows.

SMAG can be regarded as a community based organisation or group which may make an objection to the application pursuant to s.47F(3)(f) of the *Act*. The letter making an objection also has relevance in that it was signed by Mr Rosewarne on behalf of SMAG and thereby complies with s.47F(4)(b). The letter sets out the facts relied upon to constitute the ground on which the objection is made pursuant to s.47F(4)(c). I am satisfied that the substance of the grounds for the objection is not of a frivolous, irrelevant or malicious nature. It follows that s.47I(3)(c)(i)(A) does not apply. Moreover, the letter complies with s.47F(2) of the *Act* in that it asserts that the grounds for the objection are adverse effects on the amenity of the neighbourhood and the health, public safety and social conditions in the community. On this basis s.47I(3)(c)(i)(B) also does not apply. Since neither part of s.47I(3)(c)(i) applies, I am required to apply s.47I(3)(c)(ii).

- I determine that the Commission must conduct a hearing in relation to the objection.

Ms Ann Tregaea (Director) Gap Youth Centre Aboriginal Corporation

30. A letter dated the 25th of November 2004, entitled "Objection to Application by Cheap Charlie 1 Pty. Ltd. ... as notified in the *Centralian Advocate* 29th October 2004" typed on Gap Youth Centre letterhead signed by one Ann Tregaea designated 'Director', was received by the Director on Monday the 29th of November 2004, i.e. 31 days after notification of the application (folios 22-25) which means it does not strictly comply with s.47F(4)(d). S.47F(4)(d) of the *Act* requires letters making an objection to be lodged with the Director within 30 days after the last notice advertising the application, viz. the 29th of October 2004. The last day for their receipt was the 28th of November 2004. The 28th of November 2004 was a Sunday. Under these circumstances, s.28(2) of the *Interpretation Act* permits this letter to be lodged with the Director on the first day following this day, viz. Monday the 29th of November 2004. Therefore the letter was lodged with the Director within the allotted time, as permitted in s.28(2) of the *Interpretation Act*.
31. The website of the Gap Youth Centre Aboriginal Corporation (GYCAC) and the letter making an objection (folio 24) describes the mission of GYCAC as "Providing a safe environment for youth to pursue recreational, sporting, cultural and educational activities".⁷ According to the GYCAC letterhead the centre is located at 91-93 Gap Road (folio 25). The Director situates the GYCAC at one kilometer from the licensed premises (folio 37). This means that the GYCAC is located in the relevant neighbourhood as I have described it in 5.e.
32. It was therefore necessary to first consider whether Ms Tregaea was indicating her own objection to the application by signing her name to the letter. I could find nothing in the letter, however, to clearly suggest that Ms Tregaea wished to make an objection on the basis that she is a person who works in the neighbourhood where the premises the subject of the application are located pursuant to s.47F(3)(a), and so I considered this question no further.
33. Under Gap Youth Centre Aboriginal Corporation letterhead, Ms Tregaea asserts that she is writing on behalf of GYCAC to lodge an objection to the proposed variations sought by the applicant (folio 25). I am satisfied that the letter making an objection was signed on behalf of GYCAC which means that it complies with s.47F(4)(b) of the *Act*.
34. Ms Tregaea asserts that GYCAC has standing to make an objection to the application under s.47F(3)(a) of the *Act* as a person working in the neighbourhood and under s.47F(3)(b) as a person holding an estate in fee simple in land, or a lease over land, in the neighbourhood where the licensed premises the subject of the application are located (folio 25). S.18 of the *Interpretation Act* includes a body corporate as a 'person'. A search of the Australian Business Registry (ABR)⁸ using the Australian Business Number (ABN) provided at the top of the letterhead (folio 25) revealed that 'Gap Youth Centre Aboriginal Corp' is categorised within this registry as an 'Other Unincorporated Entity' having 'club-like' characteristics with a number of people grouped together by a common purpose. This description, on its face, would appear to be inconsistent with the commonly held legal understanding of a body corporate as an incorporated entity. The ABR was established pursuant to s.24 of the *New Tax System (Australian Business Number) Act* (1999) of the Commonwealth. The definition of an 'entity' that may be entitled to register an ABN under s.37(f) of this Commonwealth Act encompasses 'any unincorporated association or body of persons'. Consistent with this, I note too that s.9 of the *Corporations Act* (2001) of the Commonwealth describes a 'body corporate' as including 'an unincorporated registrable body'. On this basis, and since I consider that GYCAC is located within the relevant neighbourhood I was inclined to the view that GYCAC could be regarded as a body corporate and therefore a person working in the neighbourhood who may make an objection to the application pursuant to s.47F(3)(a). It was therefore also necessary for me to consider whether GYCAC was a body corporate that could be regarded as a person who

⁷ <http://www.gyc.org.au/>

⁸ [http://www.abr.business.gov.au/\(sqspjerjynja3l0byzspuoxnu\)/search.aspx?SearchRequest=48164836158%3dAll%2c1%2c0%2c0%2c0%2c0%2c0%2c0%2c1%2c0%2c0%2c0%2c0%2c0%2cTypical%2c&StartSearch=True](http://www.abr.business.gov.au/(sqspjerjynja3l0byzspuoxnu)/search.aspx?SearchRequest=48164836158%3dAll%2c1%2c0%2c0%2c0%2c0%2c0%2c0%2c1%2c0%2c0%2c0%2c0%2c0%2cTypical%2c&StartSearch=True)

holds an estate in fee simple in land, or a lease over land, in the neighbourhood where the premises the subject of the application are located and may make an objection to the application in accordance with s.47F(3)(b). While I had no ready way to determine the tenure over their address in Gap Road, this seemed more likely than not since the business office of GYCAC is listed in the NT telephone directory as 'Unit 3/93 Gap Road' and this address is also shown on the GYCAC letterhead (folio 25). At folio 24 Ms Tregea also asserts that GYCAC could be regarded as an agency that performs functions relating to public amenities, including health, education and public safety and thereby complies with s.47F(3)(e). S.18 of the *Interpretation Act* defines an 'Agency' as a 'department or unit of a department, or other authority or body, nominated as an Agency in an Administrative Arrangements Order'. S.35 of the *Interpretation Act* demonstrates that an Administrative Arrangements Order is an order made by the Administrator of the NT published in the *Gazette* and which nominates an 'Agency' as an entity allotted to have responsibility for the administration of a provision of an NT Act, or the responsibility for an area or activity of the NT government. The GYCAC does not appear to fit with this interpretation of an 'Agency' and therefore does not comply with s.47F(3)(e). At folio 24 Ms Tregea also asserts that GYCAC has standing as a community based organisation or group which could make an objection to the application pursuant to s.47F(3)(f). I had no ready way to determine this, so I decided to telephone Ms Tregea to ask her about the make-up of the GYCAC committee. Ms Tregea advised that GYCAC is governed by a committee of Aboriginal people elected primarily from the Aboriginal residents of Alice Springs. The GYCAC has 44 member organisations eight of which are represented on an executive committee. Ms Tregea is the organisation's Public Officer. She described the committee as a policy setting and decision-making body focused on the wellbeing and safety of young people. On this basis, I am satisfied that GYCAC can be regarded as a community based organisation or group which may make an objection to the application in accordance with s.47F(3)(f).

35. My summary of the substance of the grounds for the objection is an apprehension that the nature of the neighbourhood would change in ways that are not compatible with current usage and with the youth services provided by GYCAC. There is also a concern for increased alcohol supply and consumption in Alice Springs which would, if the application was successful, have a negative impact on public health and lead to increased risks for disruption to family, more crime and anti-social behaviour. It is my view that Ms Tregea raises concerns on behalf of GYCAC that are congruent with the grounds specified in s.47F(2) and that these are not of a frivolous, irrelevant or malicious nature.
36. I am also satisfied that, on behalf of GYCAC, Ms Tregea sets out the facts she relies on to constitute the ground on which the objection is made and this complies with s.47F(4)(c) of the *Act*.
37. The applicant suggests that the letters making objections are more concerned with the supply of liquor without a meal than with supply to patrons of the restaurant and requests that the application is dealt with in two parts (see folios 35-36). This request is not for my determination, but for the corporate Commission to determine in a hearing of the application and the objections. The applicant raised no other matters that caused me to review my considerations of whether the objection made is of a frivolous, irrelevant or malicious nature or does not describe circumstances that may or will adversely affect the amenity of the neighbourhood or health, education, public safety or social conditions in the community. I decided to make no further inquiries. I conclude as follows.

The GYCAC is a community based organisation or group who may make an objection to an application pursuant to s.47F(3)(f) of the *Act*. The letter also has relevance in that it was signed by Ms Tregea on behalf of GYCAC. In addition, GYCAC could be regarded as a person working in the neighbourhood where the premises the subject of the application will be located and may make an objection to the application in accordance with s.47F(3)(a). The letter sets out the facts relied upon to constitute the ground on which the objection is made pursuant to s.47F(4)(c). I am satisfied that the substance of the grounds for the objection is not of a frivolous, irrelevant or malicious nature. It follows that s.471(3)(c)(i)(A) does not apply. It is also my view that the letter

making an objection complies with s.47F(2) of the *Act* in that it describes circumstances that may or will adversely affect the amenity of the neighbourhood or health, education, public safety or social conditions in the community. From this it follows that s.47I(3)(c)(i)(B) also does not apply. Since neither part of s.47I(3)(c)(i) applies, I am required to apply s.47I(3)(c)(ii).

- I determine that the Commission must conduct a hearing in relation to the objection.

Ms Stephanie Bell (Director) Central Australian Aboriginal Congress Inc.

38. A letter dated the 16th of November 2004, entitled "Objection to Application for a variation by Cheap Charlie 1 Pty. Ltd. ... as notified in the *Centralian Advocate* 29th October 2004" typed on Central Australian Aboriginal Congress Inc. letterhead signed by one Stephanie Bell designated 'Director', was received by the Director on Monday the 29th of November 2004, i.e. 31 days after notification of the application (folios 26-28) which means it does not strictly comply with s.47F(4)(d). S.47F(4)(d) of the *Act* requires letters making an objection to be lodged with the Director within 30 days after the last notice advertising the application, viz. the 29th of October 2004. The last day for their receipt was the 28th of November 2004. The 28th of November 2004 was a Sunday. Under these circumstances, s.28(2) of the *Interpretation Act* permits this letter to be lodged with the Director on the first day following this day, viz. Monday the 29th of November 2004. Therefore the letter was lodged with the Director within the allotted time, as permitted in s.28(2) of the *Interpretation Act*.
39. The map marked up by the Director (folio 37) shows that Central Australian Aboriginal Congress (CAAC) is located at 25 Gap Road on the same side of the street and on an allotment adjacent to the licensed premises the subject of the application separated from it by a narrow lane. The address on the CAAC letterhead is 25 Gap Road (folio 28). Given this location of CAAC within the relevant neighbourhood it was first necessary to consider whether Ms Bell was indicating her own objection to the application by signing her name to the letter. I could find nothing in the letter, however, to clearly suggest that Ms Bell wished to make an objection on the basis that she is a person who works in the neighbourhood where the premises the subject of the application are located pursuant to s.47F(3)(a), so I considered this question no further.
40. Under Central Australian Aboriginal Congress letterhead, Ms Bell asserts that she is writing on behalf of CAAC to lodge an objection to the proposed variations sought by the applicant (folio 28). On this basis I am satisfied that the letter was signed on behalf of CAAC. The letter making an objection therefore complies with s.47F(4)(b) of the *Act*.
41. Ms Bell asserts that CAAC has standing to make an objection to the application under several subsections of s.47F(3) of the *Act*. I will first address her claim that CAAC has standing under s.47F(3)(a) of the *Act* as a person working in the neighbourhood and under s.47F(3)(b) as a person holding an estate in fee simple in land, or a lease over land, in the neighbourhood where the licensed premises the subject of the application are located (folio 25). S.18 of the *Interpretation Act* includes a body corporate as a 'person'. A search of the ASIC website⁹ revealed that 'Central Australian Aboriginal Congress Incorporated' (Registered state/no. NT 00345C) is categorised within the National Names Index as a registered association under the jurisdiction of the NT Office of Business Affairs. On this basis I was inclined to conclude that CAAC could be regarded as a body corporate and therefore a person working in the neighbourhood who may make an objection to the application pursuant to s.47F(3)(a). I had no ready way to determine conclusively whether CAAC holds relevant tenure over the land where their operations are based, although this seems likely. I was therefore not prepared to conclude that CAAC may be regarded as a person who holds an estate in fee simple in land, or a lease over land, in the neighbourhood where the premises the subject of the application are located who may

⁹ http://www.search.asic.gov.au/cgi-bin/gns030c?state_number=00345C&juris=8&hdtxt=NT&srchsrc=1

make an objection to the application in accordance with s.47F(3)(b). Ms Bell also asserts (folio 28) that CAAC could be regarded as an Agency that performs functions relating to public amenities, including health, and thereby complies with s.47F(3)(e). S.18 of the *Interpretation Act* defines an 'Agency' as a 'department or unit of a department, or other authority or body, nominated as an Agency in an Administrative Arrangements Order'. S.35 of the *Interpretation Act* demonstrates that an Administrative Arrangements Order is an order made by the Administrator of the NT published in the *Gazette* and which nominates an 'Agency' as an entity allotted to have responsibility for the administration of a provision of an NT Act, or the responsibility for an area or activity of the NT government. CAAC does not appear to fit with this interpretation of an 'Agency' and therefore does not comply with s.47F(3)(e). Finally, I turned to consider Ms Bell's assertion that CAAC has standing as a community based organisation or group which could make an objection to the application pursuant to s.47F(3)(f). I note that the footnote to the CAAC letterhead declares that CAAC is 'An Organisation of Aboriginal People, for Aboriginal People, Controlled by Aboriginal People'. A CAAC website describes how in 1973 over one hundred people from Alice Springs and nearby remote communities met and established CAAC including an elected 'cabinet' to represent people from central Australia.¹⁰ The website asserts that CAAC became the 'voice of Aboriginal health' and moved to its present location on Gap Road in 1988. On this basis, I am satisfied that CAAC is a community based organisation which may make an objection to the application pursuant to s.47F(3)(f).

42. My summary of the substance of the grounds for the objection made is an apprehension that the nature of the neighbourhood would change in ways that are not compatible with the kinds of primary health care services provided by CAAC. There is also a concern for increased alcohol supply and consumption in the Alice Springs community which, if the application was successful, would have a negative impact on public health including interpersonal violence, traffic incidents, prevalence of chronic diseases and increased pressure on health service providers to treat the consequences of these feared outcomes. It is my view that Ms Bell raises concerns on behalf of CAAC that are congruent with the grounds specified in s.47F(2) and that these are not of a frivolous, irrelevant or malicious nature.
43. I am also satisfied that, on behalf of CAAC, Ms Bell sets out the facts she relies on to constitute the ground on which the objection is made and this complies with s.47F(4)(c) of the *Act*.
44. The applicant suggests that the letters making objections are more concerned with the supply of liquor without a meal than with supply to patrons of the restaurant and requests that the application is dealt with in two parts (see folios 35-36). This request is not for my determination, but for the corporate Commission to determine in a hearing of the application and the objections. The applicant raised no other matters that caused me to review my considerations of whether the objection made is of a frivolous, irrelevant or malicious nature or does not describe circumstances that may or will adversely affect the amenity of the neighbourhood or health, education, public safety or social conditions in the community. I decided to make no further inquiries. I conclude as follows.

The letter making an objection is relevant to the application in that CAAC is a community based organisation or group who may make an objection to an application pursuant to s.47F(3)(f) of the *Act*. CAAC could also be regarded as a person working in the neighbourhood where the licensed premises the subject of the application are located who may make an objection pursuant to s.47F(3)(a) of the *Act*. The letter was signed by Ms Bell on behalf of CAAC. The letter sets out the facts relied upon to constitute the ground on which the objection is made pursuant to s.47F(4)(c). I am satisfied that the substance of the grounds for the objection is not of a frivolous, irrelevant or malicious nature. It follows that s.47I(3)(c)(i)(A) does not apply. It is also my view that the letter making an objection complies with s.47F(2) of the *Act* in that it

¹⁰ <http://www.caacongress.com.au/history.html>

describes circumstances that may or will adversely affect the amenity of the neighbourhood or health, education, public safety or social conditions in the community. From this it follows that s.471(3)(c)(i)(B) also does not apply. Since neither part of s.471(3)(c)(i) applies, I am required to apply s.471(3)(c)(ii).

- I determine that the Commission must conduct a hearing in relation to the objection.

Ms Karen Avery (Senior Policy Officer, Alcohol and Other Drugs Program) Northern Territory Department of Health and Community Services

45. A letter dated the 29th of November 2004, entitled "Application for a variation to liquor licence – the Dustbowl Alice Springs" typed on Department of Health and Community Services letterhead signed by one Karen Avery designated 'Senior Policy Officer, Alcohol and Other Drugs Program', was received by the Director on Thursday the 2nd of December 2004, i.e. 34 days after notification of the application (folios 29-30) which means it does not strictly comply with s.47F(4)(d). The Director advised me that the letter was received by facsimile in the office of Racing, Gaming and Licensing in Alice Springs on the 29th of November 2004. S.47F(4)(d) of the *Act* requires letters making an objection to be lodged with the Director within 30 days after the last notice advertising the application, viz. the 29th of October 2004. The last day for their receipt was the 28th of November 2004. The 28th of November 2004 was a Sunday. Under these circumstances, s.28(2) of the *Interpretation Act* permits this letter to be lodged with the Director on the first day following this day, viz. Monday the 29th of November 2004. Therefore the letter was lodged with the Director within the allotted time, as permitted in s.28(2) of the *Interpretation Act*.
46. Under the letterhead of the NT Department of Health and Community Services (DHCS), Ms Avery asserts that she is writing on behalf of DHCS to lodge an objection to the proposed variations sought by the applicant. I am satisfied that the letter making an objection was signed on behalf of DHCS which means it complies with s.47F(4)(b) of the *Act*.
47. There was no specific information provided in the letter to indicate that the DHCS Alcohol and Other Drugs Program is located in Alice Springs and so I could not determine whether Ms Avery's workplace is located in the relevant neighbourhood as I have described it in 5.e. Also, I could find nothing in the letter to clearly suggest that Ms Avery wished to make an objection pursuant to s.47F(3)(a) on the basis that she is a person who works in the neighbourhood where the premises the subject of the application are located, and so I considered this question no further.
48. S.18 of the *Interpretation Act* defines an 'Agency' as a 'department or unit of a department, or other authority or body, nominated as an Agency in an Administrative Arrangements Order'. S.35 of the *Interpretation Act* demonstrates that an Administrative Arrangements Order is an order made by the Administrator of the NT published in the *Gazette* and which nominates an 'Agency' as an entity allotted to have responsibility for the administration of a provision of an NT Act, or the responsibility for an area or activity of the NT government. The NT DHCS administers around 40 pieces of NT legislation and is described by its Chief Executive Officer as the largest agency within the NT government.¹¹ On the 13th of November 2001 the Administrator of the NT allotted the administration of the Department of Health and Community Services to the Minister for Health and Community Services.¹² On this basis, I am satisfied that DHCS has standing under s.47F(3)(e) of the *Act* as an Agency or public authority that performs functions relating to public amenities, including health, education, and public safety and may make an objection to the application.

¹¹ <http://www.nt.gov.au/health/about.shtml>

¹² Northern Territory of Australia Government Gazette No.S46, 13 November 2001 pp 32-33

49. My summary of the substance of the grounds for the objection made is an apprehension that public safety would be threatened in the vicinity of the licensed premises along with increased risks of ant-social behaviour, increased noise levels, drink-driving and litter. There is also a concern for increased alcohol supply and consumption in the Alice Springs community. It is my view that Ms Avery raises concerns on behalf of DHCS that are congruent with the grounds specified in s.47F(2) and that these are not of a frivolous, irrelevant or malicious nature.
50. I am also satisfied that Ms Avery sets out the facts she relies on to constitute the ground on which the objection is made and this complies with s.47F(4)(c) of the *Act*.
51. The applicant suggests that the letters making objections are more concerned with the supply of liquor without a meal than with supply to patrons of the restaurant and requests that the application is dealt with in two parts (see folios 35-36). This request is not for my determination, but for the corporate Commission to determine in a hearing of the application and the objections. The applicant raised no other matters that caused me to review my considerations of whether the objection made is of a frivolous, irrelevant or malicious nature or does not describe circumstances that may or will adversely affect the amenity of the neighbourhood or health, education, public safety or social conditions in the community. I decided to make no further inquiries. I conclude as follows.

DHCS is an Agency or public authority that performs functions relating to public amenities, including health, education, and public safety and may make an objection to the application pursuant to s.47F(3)(e). The letter sets out the facts relied upon to constitute the ground on which the objection is made pursuant to s.47F(4)(c). I am satisfied that, the substance of the grounds for the objection are not of a frivolous, irrelevant or malicious nature. From this it follows that s.47I(3)(c)(i)(A) does not apply. The letter making an objection complies with s.47F(2) of the *Act* in that it describes circumstances that may or will adversely affect the amenity of the neighbourhood or health, education, public safety or social conditions in the community. From this it follows that s.47I(3)(c)(i)(B) also does not apply. Since neither part of s.47I(3)(c)(i) applies, I am required to apply s.47I(3)(c)(ii).

- I determine that the Commission must conduct a hearing in relation to the objection.

Mr Jonathan Pilbrow (Member) People's Alcohol Action Coalition

52. A letter dated the 26th of November 2004, entitled "Objection to Application by Cheap Charlie 1 Pty. Ltd. ... as notified in the *Centralian Advocate* 29th October 2004" typed on the letterhead of 'people's alcohol action coalition' (PAAC) signed by one Jonathan Pilbrow designated 'PAAC Member', was received by the Director on Monday the 29th of November 2004, i.e. 31 days after notification of the application (folios 31-33) which means it does not strictly comply with s.47F(4)(d). S.47F(4)(d) of the *Act* requires letters making an objection to be lodged with the Director within 30 days after the last notice advertising the application, viz. the 29th of October 2004. The last day for their receipt was the 28th of November 2004. The 28th of November 2004 was a Sunday. Under these circumstances, s.28(2) of the *Interpretation Act* permits this letter to be lodged with the Director on the first day following this day, viz. Monday the 29th of November 2004. Therefore the letter was lodged with the Director within the allotted time, as permitted in s.28(2) of the *Interpretation Act*.
53. Under PAAC letterhead Mr Pilbrow asserts that he is writing on behalf of PAAC to lodge a formal objection to the proposed variation sought by the applicant (folio 33). I am satisfied that the letter making an objection was signed on behalf of PAAC which means the letter complies with s.47F(4)(b) of the *Act*.
54. Mr Pilbrow describes DASA as a local action group based in Alice Springs whose membership is open to individuals and organisations who wish to work towards reducing the impacts of alcohol-related harm in the Alice Springs community (folio 33) and claims on

this basis that PAAC has standing under s.47F(3) of the *Act* as a community based organisation or group. PAAC has declared its position on various alcohol issues in Alice Springs in the media.¹³ Corporate Commission understanding of PAAC's membership is that the group is community based. Therefore I am satisfied that PAAC could be regarded as a community based organisation or group which may make an objection to the application in accordance with s.47F(3)(f).

55. There was no specific information provided in the letter to indicate the location of PAAC's office in Alice Springs. I was therefore unable to determine whether PAAC was located within the relevant neighbourhood as I have described it in 5.e. In any event, I could find nothing in the letter to clearly suggest that Mr Pilbrow wished to make an objection pursuant to s.47F(3)(a) on the basis that he is a person who works in the neighbourhood where the premises the subject of the application are located, and so I considered this question no further.
56. My summary of the substance of the grounds for the objection made is that, should the application be successful, there would be increased risks of alcohol abuse and disruptive behaviour in the vicinity of the licensed premises. There is also an apprehension that community-wide efforts to manage alcohol problems in Alice Springs would be undermined and that some families and also the wider Alice Springs community would suffer from increased anti-social behaviour and crime. It is my view that Mr Pilbrow raises concerns on behalf of PAAC that are congruent with the grounds specified in s.47F(2) and that these are not of a frivolous, irrelevant or malicious nature.
57. I am also satisfied that, on behalf of PAAC, Mr Pilbrow sets out the facts he relies on to constitute the ground on which the objection is made and this complies with s.47F(4)(c) of the *Act*.
58. The applicant suggests that the letters making objections are more concerned with the supply of liquor without a meal than with supply to patrons of the restaurant and requests that the application is dealt with in two parts (see folios 35-36). This request is not for my determination, but for the corporate Commission to determine in a hearing of the application and the objections. The applicant raised no other matters that caused me to review my considerations of whether the objection made is of a frivolous, irrelevant or malicious nature or does not describe circumstances that may or will adversely affect the amenity of the neighbourhood or health, education, public safety or social conditions in the community. I decided to make no further inquiries. I conclude as follows.

PAAC can be regarded as a community based organisation or group who may make an objection to the application pursuant to s.47F(3)(f) of the *Act*. The letter making an objection also has relevance in that it was signed by Mr Pilbrow on behalf of PAAC and thereby complies with s.47F(4)(b). Moreover, the letter sets out the facts relied upon to constitute the ground on which the objection is made pursuant to s.47F(4)(c). I am satisfied that the substance of the grounds for the objection is not of a frivolous, irrelevant or malicious nature. It follows that s.47I(3)(c)(i)(A) does not apply. Moreover, the letter complies with s.47F(2) of the *Act* in that it asserts that the grounds for the objection are adverse effects on the amenity of the neighbourhood and the health, public safety and social conditions in the community. On this basis s.47I(3)(c)(i)(B) also does not apply. Since neither part of s.47I(3)(c)(i) applies, I am required to apply s.47I(3)(c)(ii).

- I determine that the Commission must conduct a hearing in relation to the objection.

¹³ For example see <http://www.abc.net.au/am/content/2003/s870714.htm>

Mr Eric Peterson (Director Corporate and Community Services) Alice Springs Town Council

59. A letter dated the 19th of November 2004, entitled 'The Dustbowl Application for Variation of Liquor Licence 80806440....' typed on Alice Springs Town Council letterhead signed by one Eric Peterson designated 'Director Corporate and Community Services', was received by the Director on Monday the 22nd of November 2004 (folio 34), i.e. 24 days after notification of the application. The letter complies with s.47F(4)(d) of the *Act* since it was received within the prescribed period.
60. Mr Peterson reports that under delegated power of the Alice Springs Town Council the Corporate and Community Services Committee objects to the proposed variations sought by the applicant. On this basis I am satisfied that the letter was signed on behalf of the Alice Springs Town Council. The letter making an objection therefore complies with s.47F(4)(b) of the *Act*.
61. The Alice Springs Town Council (ASTC) offices are located at the corner of Todd St and Gregory Terrace in the CBD at a distance of approximately one kilometre from the licensed premises but not within the neighbourhood where the premises the subject of the application are located as I have described it in 5.e. While the Council's offices may be Mr Peterson's workplace, I could find nothing in the letter to clearly suggest that he wished to make an objection pursuant to s.47F(3)(a) on the basis that he is a person who works in the neighbourhood where the premises the subject of the application are located, and so I considered this question no further.
62. S.47F(3)(e) of the *Act* permits an Agency or public authority that performs functions relating to public amenities, including health, education, and public safety to make an objection to an application. S.18 of the *Interpretation Act* defines an 'Agency' as a 'department or unit of a department, or other authority or body, nominated as an Agency in an Administrative Arrangements Order' made by the Administrator of the NT and published in the *Gazette* pursuant to s.35. The *Interpretation Act*, however, does not provide such a clear definition for a 'public authority'. It is well known that ASTC provides a range of municipal services and public amenities to the Alice Springs population.¹⁴ Several pieces of NT legislation establish by-laws for ASTC which provide for public amenities and functions such as animal control, control of public places, garbage dumps, public libraries and the swimming centre.¹⁵ The website of the Local Government Association of the NT reports that the ASTC was established on the 7th of April 1971.¹⁶ An ASTC website reports that Alice Springs became a municipality on the 1st of July 1971.¹⁷ A Gazettal notice for the establishment of ASTC was not readily available to me nor could I obtain a copy of a Gazettal notice for Alice Springs as a municipality under s.29 or s.121 of the NT *Local Government Act* 2004, or as a 'local governing body' under s.19 of the NT *Local Government Grants Commission Act* 1995. The NT Grants Commission makes recommendations to the Commonwealth Government through the NT Minister for Local Government in respect of the amounts of money to be allocated to eligible 'local governing bodies' from the money provided by the Commonwealth to the states and territories under its *Local Government (Financial Assistance) Act* 1995. Since the NT Grants Commission annual report cites ASTC as such an eligible 'local governing body' to which it recommends funds be distributed in accordance with s.12 of its governing act,¹⁸ I am satisfied that Alice Springs Town Council has standing under s.47F(3)(e) of the *Act* as an Agency or public authority that performs functions relating to public amenities, including health, education, and public safety and may make an objection to the application.

¹⁴ <http://www.alicesprings.nt.gov.au/default.asp>

¹⁵ <http://notes.nt.gov.au/dcm/legislat/legislat.nsf/d989974724db65b1482561cf0017cbd2?OpenView&Start=1&Count=300&Expand=1#1>

¹⁶ <http://www.lgant.nt.gov.au/lgant/content/view/full/470>

¹⁷ http://www.alicesprings.nt.gov.au/council/council_history.asp

¹⁸ Northern Territory Grants Commission, Annual Report, 2002-2003. Available at:

[http://www.dcdsca.nt.gov.au/dcdsca/intranet.nsf/Files/NTGC_Docs/\\$file/NTGCAR0203.pdf](http://www.dcdsca.nt.gov.au/dcdsca/intranet.nsf/Files/NTGC_Docs/$file/NTGCAR0203.pdf)

63. My summary of the substance of the grounds for the objection made is an apprehension that the proposed variations would adversely alter the usage of the neighbourhood. There is also a concern for an increased presence of alcohol in an area frequented by young people. It is my view that the ASTC raises concerns that are congruent with the grounds specified in s.47F(2) and that these are not of a frivolous, irrelevant or malicious nature.
64. I am also satisfied that on behalf of the ASTC Mr Peterson sets out the facts the Council relies on to constitute the ground on which the objection is made and this complies with s.47F(4)(c) of the *Act*.
65. The applicant suggests that the letters making objections are more concerned with the supply of liquor without a meal than with supply to patrons of the restaurant and requests that the application is dealt with in two parts (see folios 35-36). This request is not for my determination, but for the corporate Commission to determine in a hearing of the application and the objections. The applicant raised no other matters that caused me to review my considerations of whether the objection made is of a frivolous, irrelevant or malicious nature or does not describe circumstances that may or will adversely affect the amenity of the neighbourhood or health, education, public safety or social conditions in the community. I decided to make no further inquiries. I conclude as follows.

The ASTC is a public authority that performs functions relating to public amenities, including health, education, and public safety and may make an objection to the application pursuant to s.47F(3)(e). The letter sets out the facts relied upon to constitute the ground on which the objection is made pursuant to s.47F(4)(c). I am satisfied that, the substance of the grounds for the objection are not of a frivolous, irrelevant or malicious nature. From this it follows that s.47I(3)(c)(i)(A) does not apply. The letter making an objection complies with s.47F(2) of the *Act* in that it describes circumstances that may or will adversely affect the amenity of the neighbourhood or health, education, public safety or social conditions in the community. From this it follows that s.47I(3)(c)(i)(B) also does not apply. Since neither part of s.47I(3)(c)(i) applies, I am required to apply s.47I(3)(c)(ii).

- I determine that the Commission must conduct a hearing in relation to the objection.



Alan Clough
22nd of February, 2005