

**NORTHERN TERRITORY LIQUOR COMMISSION**  
**STATEMENT OF REASONS FOR DECISION**

---

**MATTER:** WAGAIT BEACH APPLICATION TO LIFT SUSPENSION OF LICENCE AND VARY CONDITIONS [2025]  
NTLiqComm 27

**REFERENCE:** LC2025-007

**APPLICANT / LICENSEE:** Shining Space Development Pty Ltd

**PREMISES:** Wagait Beach Supermarket  
13 Wagait Tower Road  
WAGAIT BEACH NT 0822

**LICENCE NO:** 80904232

**LEGISLATION:** Part 7 Division 4 of the *Liquor Act 2019*

**HEARD BEFORE:** Mr Russell Goldflam (Chairperson)  
Prof Phillip Carson (Health Member)  
Mr Denys Stedman (Community Member)

**DATE OF HEARING:** 6 August 2025

**DATE OF DECISION:** 6 August 2025

---

**DECISION**

1. On 6 August 2025 the Northern Territory Liquor Commission (**the Commission**) issued the following decision:
  1. The Northern Territory Liquor Commission orders that from 11 August 2025 the suspension it imposed on 18 March 2024 of liquor licence number 80904232 (**the licence**) held by Shining Space Development Pty Ltd (**the licensee**) over its premises, the Wagait Beach Supermarket, 13 Wagait Tower Road, Wagait Beach NT 0822 (**the premises**), be lifted.
  2. The Commission varies the operating days and hours of the licence to:
    - a. Monday to Friday, 1100 hours to 1900 hours
    - b. Saturday, 1000 hours to 1900 hours

3. The Commission stated that it would publish a statement of reasons for this decision in due course. It now does so.

## **REASONS**

### **BACKGROUND**

4. The Wagait Beach Supermarket, which was established in 2000, is a small general store on the Cox Peninsula, a fifteen minute ferry trip or 90 minute drive from Darwin. The premises operate with a liquor licence with a grocery store authority. There are no other takeaway liquor outlets on the Cox Peninsula. As well as serving the approximately 500 local residents (many of whom are retired) and visitors from Darwin who come for fishing and site-seeing, the store's customers include members of the Belyuen Aboriginal community 12 km away. On 18 February 2025 the Commission determined to declare a General Restricted Area over an area of land that includes the Belyuen Community.<sup>1</sup> Under the terms of that declaration liquor is prohibited within the Belyuen Community unless authorised by the possession of a liquor permit.
5. On or about 5 July 2022, the licence was transferred to the licensee, a company owned jointly and controlled by Mr Chen Zhang (**Mr Zhang**), who became the licence nominee, and Ms Hong Lim Wang (**Ms Wang**).
6. On 25 October 2023 the Commission upheld a complaint against the licensee for breaching reg 53(2) of the *Liquor Regulations 2019* (**the Regulations**), by failing to comply with the requirement that the gross sales of liquor from the premises in the second quarter of the 2023 calendar year not exceed 25% of the gross value of the sales of all products by the licensee (**the grocery store cap**). On that occasion the Commission took disciplinary action by imposing a monetary penalty.<sup>2</sup> The Commission warned the licensee that in the event of any further breaches of the grocery store cap, a lengthy period of suspension or cancellation of the licence should be expected.<sup>3</sup>
7. On 18 March 2024 the Commission upheld further complaints against the license on the following grounds:
  - a. the licensee had breached the grocery store cap in the third quarter of 2023;
  - b. the licensee had contravened a condition of the licence headed "Community Agreement" (**the Community Agreement condition**), between the licensee and the Belyuen community;

---

<sup>1</sup> See *Application for General Restricted Area over Belyuen* [2025] NTLiqComm 8.

<sup>2</sup> *Complaint against Wagait Beach Supermarket* [2023] NTLiqComm 35

<sup>3</sup> *Ibid*, at [54]

- c. the licensee had contravened a condition of the licence headed “CCTV Condition” (**the CCTV condition**);
  - d. the licensee had contravened s 109 of the *Liquor Act 2019* (**the Act**) by failing to comply with a request made on 27 October 2023 by a liquor inspector for a document relating to the sale of liquor in the course of the licensee’s business;
  - e. the licensee was not a fit and proper person to hold the licence;
  - f. the licensee’s nominee was not a fit and proper person and the licensee should have reasonably known that; and
  - g. the licensee was no longer eligible to hold a licence.<sup>4</sup>
8. On that occasion the Commission took disciplinary action against the licensee, including suspension of the licence until:
- a. either the transfer of the licence to another person was approved under Part 3 Division 8 of the Act, or the Commission was satisfied that the licensee has become a fit and proper person to hold the licence; and
  - b. a new licensee’s nominee has been approved in writing by the Director of Liquor Licensing (**the Director**) or the Commission; and
  - c. the Director has confirmed to the licensee in writing that the Director is satisfied that compliance with the Community Agreement condition has been achieved; and
  - d. the Director has confirmed to the licensee in writing that the Director is satisfied that compliance with the CCTV Condition has been achieved; and
  - e. the Director has confirmed to the licensee in writing that the Director is satisfied that a point of sale system and record management system has been installed, can operate and will be maintained that enables records and documents requested by an inspector pursuant to the Act and the Regulations to be stored, retrieved and produced in a timely manner.
9. In addition, the Commission took the following disciplinary action:
- a. To vary the condition of the licence headed “Trading Hours” by omitting “Monday to Friday” and substituting “Monday, Thursday and Friday”; and
  - b. To impose the following additional condition on the licence:

---

<sup>4</sup> *Disciplinary action against Wagait Beach Supermarket* [2024] NTLiqComm 10

The licensee and its employees must not knowingly sell liquor to a customer who has previously purchased liquor from the licensee on that day.

## THE REFERRAL

10. On 28 February 2025 the Director again referred the matter to the Commission with a recommendation that it conduct a hearing to determine whether to reinstate the licensee's licence. In support of this recommendation, the Director provided the Commission with a brief (**the brief**) that included the following materials:

- a. Wagait Beach Supermarket – ASIC Company Extract 20241108
- b. Wagait Beach Supermarket Liquor Licence 80904232 as of 3 Jan 2025
- c. Wagait Beach Supermarket and Belyuen Community Agreement 18 December 2024
- d. Wagait Beach Supermarket Camera Surveillance Plan 20241129
- e. PtPos EJ and Sales Report 17 December 2024
- f. Wagait Beach Supermarket Risk Assessment & Management Plan
- g. Operational Instruction User Manual
- h. Belyuen Residential Daily Alcohol Sell Record
- i. Wagait Beach Residential Daily Alcohol Sell Record
- j. Wagait Beach – Audit 18 Dec 2024
- k. Enforceable Undertaking by licensee 28 February 2025

11. The brief included the following information:

- a. On 2 November 2024 Ms Rui Xu (**Ms Xu**) acquired 60% of the shares of the licensee, and was appointed as its principal director. Ms Wang and Mr Zhang each now holds a 20% share in the licensee, and are alternate directors, who may only exercise their powers as directors when the principal director is unavailable.
- b. Ms Xu and Mr Cheng Hoe Saw (**Mr Saw**) had completed the appropriate probity requirements, were approved in writing by the Director's delegate as the nominees of the licence, and listed as joint nominees in an amended version of the licence issued by a delegate of the Director on 3 January 2025.
- c. On 18 December 2024 the licensee and the Belyuen Community Government Council (**the Council**) executed a Community Agreement that incorporated

the terms of the Community Agreement Condition and in addition included the following terms:

- i. sales of alcohol by the licensee to members of the Belyuen Community shall be limited to one carton of mid-strength beer or one ten-pack of pre-mixed cans per day;
  - ii. a current and up-to-date list of Belyuen residents will be maintained and referred to; and
  - iii. purchasers must present photographic identification that clearly displays their residential address.<sup>5</sup>
- d. Ms Xu had supplied a Camera Surveillance Plan that complied with the requirements of the Code of Practice for CCTV Systems in Licensed Premises (**the CCTV Code**). A recent audit had been undertaken on all 16 CCTV cameras with a minimum of 14-day data storage now located on the premises and the CCTV system was found to be compliant with the requirements of the Code.
- e. The licensee had installed an updated point-of-sale and record management system that records and maintains all sales including groceries and liquor. A recent audit had been undertaken on the point-of-sale system and reporting requirements and was considered compliant.
- f. The enforceable undertaking entered into by the licensee pursuant to s 159(3) of the Act and signed by Ms Xu included the following undertakings:
  - i. Mr Zhang and Ms Wang will have no involvement whatsoever with the day-to-day management or operations of the premises.
  - ii. Mr Zhang and Ms Wang will not be authorised to give any instruction or direction to Ms Xu or to any other staff member employed by the licensee at the premises;
  - iii. in the event a nominee is not physically present at the premises during the approved hours of trade, the licensee will cease the sale of liquor until such time as a nominee is present;
  - iv. a register of daily liquor sales, in a format approved by the Director, of sales of liquor to residents of Belyuen Community will be maintained; and

---

<sup>5</sup> This is in any event a requirement imposed by Part 6 Division 1 of the Act in conjunction with reg 106 of the Regulations

- v. to monitor its percentage of daily liquor sales and in the event the 25% grocery store cap is reached, liquor sales will be suspended until the start of the next calendar month.

12. Accordingly, the Director notified the Commission that following a liquor compliance audit of the premises conducted by officers of Licensing NT on 18 December 2024, she was satisfied that:

- a. The licensee can now be considered fit and proper with the company restructure including the appointment of a new director and redistribution of shareholdings;
- b. the licensee has appointed dual nominees who have been approved in writing by a delegate of the Director;
- c. compliance with the Community Agreement condition has been achieved;
- d. compliance with the CCTV licence condition has been achieved; and
- e. compliance with the point-of-sale system and record management system has been achieved.

13. In addition, the licensee requested that the trading hours of the licence be varied. Compliance with this request would entail varying the conditions of the licence. Section 110 of the Act sets out the requirements for licensees who seek to vary licence conditions. The licensee did not lodge an application in accordance with s 110, and did not file material directed to satisfying the Commission, as is required by s 110(2), that the proposed variation would be in the public interest and would not have a significant adverse impact on the community.

14. The Commission fixed the matter for hearing on 23 April 2025.

15. However, on 17 April 2025, Ms Xu notified the office of the Director that Mr Saw had left Australia for personal reasons and was unlikely to return. In these circumstances, the Director requested the Commission to defer the hearing until the licensee had recruited another suitable person to manage the premises and act as a co-nominee of the licence. Accordingly, the Commission vacated the listed hearing.

16. On 8 July 2025, the Director again referred the matter to the Commission, provided supplementary material, and renewed its recommendation. The supplementary material included:

- a. Wagait Beach Supermarket Liquor Licence 80904232 as of 16 May 2025
- b. Wagait Beach Supermarket Risk Assessment & Management Plan May 2025
- c. Wagait Beach Supermarket Operational Instruction User Manual May 2025

17. The Director informed the Commission that Mr Yue Hang (“Will”) Xie (**Mr Xie**) had been approved as a co-nominee of the licence, and that the material provided by the licensee in support of its request that the licence be reinstated had been updated accordingly.
18. The Commission fixed the matter for hearing on 6 August 2025, and requested the Director to provide it with additional material in support of the licensee’s applications.
19. On 29 July 2025 the Director provided additional material to the Commission, including:
- a. Confirmation that the licensee has been compliant with the Commission’s order dated 7 November 2023 that it pay a monetary penalty by monthly instalments
  - b. Application to appoint Ms Xu as licence co-nominee, 14 May 2024
  - c. Evidence of the probity, character, qualifications, experience, skills and employment history of Ms Xu
  - d. Application to appoint Mr Xie as licence co-nominee, 8 May 2025
  - e. Evidence of the probity, character, qualifications, experience, skills and employment history of Mr Xie
  - f. Public interest and community impact statement for proposed variation of trading hours and days
  - g. Revised CCTV Plan for the premises
  - h. Affidavit and declaration of associates by Ms Xu in accordance with ss 54 and 55 of the Act.
  - i. Commercial lease of premises, March 2022
  - j. Correspondence between Licensing NT and Belyuen Community Government Council

## **THE HEARING**

20. On 6 August 2025 the Commission conducted a public hearing of the applications. The Commission was greatly assisted by a Mandarin interpreter, Ms Bai. Mr Verity appeared on behalf of the Director, along with Mr Paull. Ms Xu and Mr Xie appeared on behalf of the licensee.

All of the material provided to the Commission and identified above was tendered by the Director without objection. Both Ms Xu and Mr Xie, after making an affirmation to tell the truth, gave oral evidence.

## **THE SUSPENSION OF THE LICENCE IS LIFTED**

21. As stated at paragraph 8 above, on 8 March 2024 the Commission fixed five preconditions for the lifting of the licence suspension.

22. Firstly, and most importantly, the licensee was required to satisfy the Commission that it had become a fit and proper person to hold the licence. In considering this issue, the Commission has had regard to the following measures taken by the licensee.

- a. Achieving the appointment of Ms Xu as a co-nominee of the licence
- b. Achieving the appointment of Mr Saw as a co-nominee of the licence
- c. Achieving the appointment of Mr Xie as a co-nominee of the licence
- d. Appointing Ms Xu as the sole director of the licensee, with Mr Zhang and Ms Wang being appointed as “alternate directors”
- e. Re-allocating shares in the licensee to make Ms Xu the majority shareholder
- f. Entering into the voluntary undertaking summarised at paragraph 11.f) above
- g. Executing the agreement with the Belyuen Community
- h. Implementing procedures to facilitate and promote compliance with the Belyuen Community Agreement
- i. Installing a CCTV system and plan in compliance with the Code of Conduct
- j. Developing and implementing a risk assessment and management plan
- k. Developing and implementing an operational instruction user manual
- l. Installing and implementing a point-of-sale and record management system
- m. Co-operating with the Licensing NT compliance team for the auditing of the licensee’s plans and systems

23. Having considered the evidence it has received of Ms Xu’s qualifications, experience, skills and good character, the Commission is satisfied that she is a fit and proper person to be an executive officer of the licensee, an associate of the licensee and a nominee of the licensee.

24. Having considered the evidence it has received of Mr Xie’s qualifications, experience, skills and good character, the Commission is satisfied that he is a fit and proper person to be an associate of the licensee and a nominee of the licensee.

25. The Commission notes that Ms Xu is the wife of Mr Zhang, who is a minority shareholder, alternate director, employee and associate of the licensee. The Commission considers that the changes in the company structure of the license,

together with the terms of the enforceable undertaking entered into by the licensee, satisfactorily address the Commission's concerns regarding Mr Zhang's continuing position and role in the licensee's business.

26. The Commission is satisfied that the licensee has become a fit and proper person to hold the licence.

27. The Commission also finds that the licensee has complied with the remaining four pre-conditions the Commission fixed before the licensee is authorised to resume trading under the licence, namely:

- a. a new licensee's nominee has been approved in writing by the Director; and
- b. the Director has confirmed to the licensee in writing that the Director is satisfied that compliance with the Community Agreement condition has been achieved; and
- c. the Director has confirmed to the licensee in writing that the Director is satisfied that compliance with the CCTV Condition has been achieved; and
- d. the Director has confirmed to the licensee in writing that the Director is satisfied that a point of sale system and record management system has been installed, can operate and will be maintained that enables records and documents requested by an inspector pursuant to the Act and the Regulations to be stored, retrieved and produced in a timely manner.

28. Accordingly, the Commission determined to lift the suspension of the licence from 11 August 2025.

## **THE VARIATION OF LICENCE CONDITIONS**

29. As stated above, the licensee did not make an application to vary licence conditions in accordance with the relevant statutory procedures, and accordingly, it is doubtful that the Commission has jurisdiction to vary the conditions of the licence under Part 4 Division 5 of the Act.

30. However, the Commission considers that it has jurisdiction to entertain the licensee's request to vary its days and hours of trading through a different source of power. Section 165 of the Act provides that the Commission may vary the conditions of a licensee's licence by way of disciplinary action. In its decision of 18 March 2024, the Commission took disciplinary action by, among other things, varying a condition of the licence.

31. Specifically, the Commission varied the days of trading under the licence by prohibiting trade on Tuesdays and Wednesdays. As the Commission explained:

The variation of trading hours confirms the voluntary reduction of trading hours the licensee commenced in October 2023 that have enabled it to

trade since then in compliance with the 25% grocery store cap.<sup>6</sup>

32. In the view of the Commission the current proceedings are a continuation of the proceedings that commenced on 6 December 2023, the date on which the Director referred a complaint to the Commission that the licensee had breached the 25% grocery store cap in the third quarter of the 2023 calendar year.
33. In those proceedings, on 18 March 2024 the Commission suspended the licence and varied its conditions. Had the Commission suspended the licence for a specified period, it is arguable that (subject to any application to the Northern Territory Civil and Administrative Tribunal to review the Commission's decision) the matter would have then been finalised. However, after determining that it had power to do so,<sup>7</sup> the Commission suspended the licence for an indefinite period until specified conditions had been met.
34. One of those conditions foreshadowed a potential further phase of the proceedings before the Commission, namely a hearing to determine whether the Commission was satisfied that the licensee had become a fit and proper person to hold the licence. As it happens, that is what has transpired, and the source of the Commission's power to now lift the suspension it imposed on 18 March 2024 is, ultimately, the same source of power it exercised to impose the suspension, namely s 165 of the Act.
35. By the same token, in the particular circumstances of this matter, the Commission considers that s 165 also confers on it the power to revisit its March 2024 decision to vary the licensee's trading hours. Both the suspension of the licence and the variation of licence conditions were imposed by the Commission as disciplinary action in a single decision arising from referrals to the Commission following the Director's investigations into the licensee that had been commenced in accordance with s 158(1) of the Act. Section 6(3) of the *Liquor Commission Act 2018* confers on the Commission the power "to do all things that are necessary or convenient to be done for, or incidental to, the performance of its functions". In this case, it is convenient and perhaps even necessary for the Commission to re-visit the disciplinary actions taken in March 2024 as a whole in order to properly perform its functions under Part 7 Division 4 of the Act to take disciplinary action.
36. The Commission's sole stated purpose in varying the licensee's trading hours was to promote compliance with the 25% grocery store cap, and the variation adopted a measure that had been voluntarily taken at the initiative of the licensee for that purpose. In preparation for the resumption of trade, the licensee, with the support of Licensing NT, has now voluntarily implemented an alternative measure directed toward the same end. The enforceable undertaking summarised at paragraph 11.f) above includes this requirement: "in the event the 25% grocery store cap is reached, liquor sales will be suspended until the start of the next calendar month".
37. The Commission accepts the submission of the licensee, which is supported by the

---

<sup>6</sup> *Disciplinary action against Wagait Beach Supermarket* [2024] NTLiqComm 10 at [108]

<sup>7</sup> *Ibid*, at [98] – [102]

Director, that this measure is likely to be more effective at maintaining compliance with the 25% grocery store cap than continuing the blanket prohibition on sales of alcohol on Tuesdays and Wednesdays.

38. The licensee proposes that trade on Tuesdays and Wednesdays be permitted, but that an earlier closing time be introduced every day, so that the total hours of permitted operation remain the same.
39. The Commission accepts the licensee's submission that the change in days and hours of trade it has proposed will:
- a. be more convenient for local residents;
  - b. discourage bulk purchasing and stockpiling;
  - c. encourage better drinking habits;
  - d. improve the viability of the business, which provides an essential service to its relatively isolated community; and
  - e. enhance public safety by implementing earlier closing times.
40. The licensee has not requested the Commission to vary the licence condition it imposed on 18 March 2024 limiting transactions to one per person per day, and that condition on the licence will be maintained. Following the hearing, Mr Verity informed the Commission that the Banned Drinker Register scanner used by the licensee has now been reconfigured to flag any attempts by a customer to purchase liquor from the licensee on more than one occasion in a day. The Commission commends Licensing NT for taking this initiative, which will be of considerable assistance to the licensee in complying with this licence condition.
41. When dealing with an application to vary licence conditions under Part 4 Division 5 of the Act, the Commission is required by s 112(1)(d) of the Act to consider the public interest and community impact requirements. However, for the reasons set out above, the Commission has varied the licence conditions pursuant to a different source of statutory power, the exercise of which is not subject to application of the public interest and community impact requirements. Nevertheless, out of an abundance of caution the Commission has considered those requirements, and is satisfied that the variation is in the public interest and will not have a significant adverse impact on the community.

## **THE BELYUEN COMMUNITY**

42. As noted above, liquor is prohibited in the nearby Belyuen Community unless authorised by the possession of a liquor permit. The Commission's declaration includes the following:<sup>8</sup>

---

<sup>8</sup> *Application for General Restricted Area over Belyuen* [2025] NTLiqComm 8 at [2(c)]

Any restrictions on the purchase of alcohol by Belyuen residents from the Wagait Beach Supermarket pursuant to the Community Agreement between the Belyuen Community Government Council and the Wagait Beach Supermarket dated 18 December 2024 and as may be varied from time to time are hereby deemed to also apply to the bringing of liquor into the GRA.

43. The Commission recommends that the licensee and the Belyuen Community Government Council amend their agreement to expressly provide that the licensee only supply liquor intended to be taken to Belyuen to Belyuen residents who possess a current liquor permit.
44. In accordance with the agreement between the licensee and the Council, the Commission requests the Council to provide the licensee with an up-to-date list of Belyuen residents on a monthly or even more frequent basis.
45. It is six months since the Commission determined to declare Belyuen to be a General Restricted Area. At the hearing, Mr Verity informed the Commission that the permit system that is a key component of that declaration has not yet been established. Indeed, as far as the Commission is aware, the declaration itself has not yet been gazetted. The Commission requests the Director to undertake, as a priority, the steps required to give effect to the Commission's decision, which was made on the application of the Council, with the support of the Director.

#### **THE OBJECTS OF THE ACT**

46. Section 3(4) of the Act provides that in performing its function to decide whether to issue a licence, the Commission must have regard to the primary and secondary purposes of the Act, The Commission considers that the findings and orders it has made in this notice are consistent with the purposes of the Act.



Russell Goldflam  
CHAIRPERSON  
NORTHERN TERRITORY LIQUOR COMMISSION  
On behalf of Commissioners Goldflam, Carson and Stedman  
13 August 2025