

**IN THE MATTER** of the Gambling Act 2003  
**AND** of an application by  
**DUNEDIN CASINOS LIMITED** to vary a  
condition of its venue  
licence and for approval of  
floor layout plans

**BEFORE THE GAMBLING COMMISSION**

Members: P Chin (Chief Gambling Commissioner)  
K M Ford  
M M Lythe  
P J Stanley  
G L Reeves

Date of Application: 23 July 2005

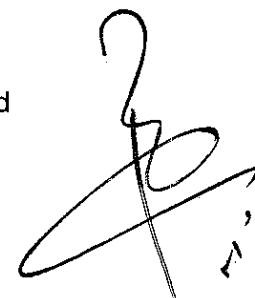
Date of Decision: 7 October 2005

Date of Notification of Decision: 18 October 2005

**INTERIM DECISION  
ON AN APPLICATION BY DUNEDIN CASINOS LIMITED  
TO VARY A CONDITION OF ITS VENUE LICENCE AND  
FOR APPROVAL OF FLOOR LAYOUT PLANS**

**Application**

1. Dunedin Casinos Limited (the "**Applicant**") applied to the Gambling Commission (the "**Commission**"):
  - (a) to amend condition 2.1 of its premises licence to substitute "Commission" for "Authority"; and
  - (b) for approval under amended licence condition 2.1 of modified floor plans involving:
    - (i) the amendment of the table game layout;
    - (ii) the introduction of Poker into the table game mix;
    - (iii) an increase in gaming machine numbers from 167 to 175; and



(iv) the reconfiguration of the position of gaming machines.

2. Two floor plans were submitted for approval by the Applicant entitled "Mix of Table Games" and "Dunedin Casino Gaming Machine Layout", respectively. The first plan shows 12 numbered positions where it is proposed gaming tables can, interchangeably, be located. The plan provides for the operation by the Applicant of no more than 12 Table Games made up of the following:

Game	Game numbers
American Roulette	Minimum 2, maximum 3
Black Jack	Minimum 2, maximum 6
Midi Baccarat	Minimum 1, maximum 2
Mini Baccarat	Up to 1
Caribbean Stud Poker	Minimum 1, maximum 2
Poker	Up to 3
Tai Sai	Up to 1
Money Wheel	Up to 1

3. The second plan submitted for approval sets out the proposed gaming machine layout, incorporating 175 gaming machines.

#### **Statutory criteria**

4. Sections 139 and 140 of the Gambling Act 2003 (the "Act") apply to the proposed variation of condition 2.1 of the venue licence. The application of sections 139 and 140 has been discussed in previous Commission decisions.

#### **Licence condition**

5. Licence condition 2.1 of the Applicant's venue licence provides as follows:

##### **2.1 Approval of specifications for security and surveillance installations**

Subject to paragraph 2.2, the licence holder shall submit to the Authority for approval all drawings and specifications relating to:

- (a) gaming area floor layouts showing gaming tables, gaming machines and closed circuit television cameras;
- (b) lighting and any viewing panels;
- (c) cashier cages, count rooms, security areas and access thereto;
- (d) areas for government inspectors and security staff;
- (e) electrical installations, telephone installations, auxiliary power; and
- (f) the master key system or access control system.

**Submissions by the Applicant**

6. The Applicant applied to amend condition 2.1 of its venue licence to substitute "Commission" for "Authority" in order to provide the Commission with powers formerly exercised by the Casino Control Authority (the "**Authority**") to approve floor plans.
7. The Applicant submitted that approval of the proposed floor plans would not result in an increase in opportunities for casino gambling.
8. The Applicant submitted that under currently approved floor plans, a maximum of 267 player spaces was available at gaming tables. This calculation took into account the "flipping" procedure used at the Casino, whereby, it was submitted, the Applicant is permitted to change one table game type for another so long as the table shape/size accommodates both types of games.
9. The Applicant submitted that the table game mix proposed in the plan "Mix of Table Games" would provide for a maximum of 253 player spaces, fewer than currently approved.
10. The Applicant submitted that player spaces and overall speed of play would be further reduced by the introduction of Poker (in substitution for table games with more player spaces) and the proposed increase in the maximum number of Caribbean Stud Poker tables (from 1 to 2), Caribbean Stud Poker being one of the slower table games at the Casino.
11. The Applicant submitted that it wished to increase the number of gaming machines from 167 to 175, following a temporary reduction from 180 machines due to the construction of a smoking balcony.
12. The Applicant submitted that the proposed CCTV coverage would comply with the Authority's surveillance policies and minimum requirements.

**Submissions by the Secretary**

13. The Secretary submitted that he has no objection to:
  - (a) the substitution of the word "Commission" for "Authority" under condition 2.1 of the venue licence;
  - (b) the proposed table game layout, and the depiction of table game locations rather than actual tables;
  - (c) the proposed gaming machine layout; and



(d) the proposed CCTV coverage.

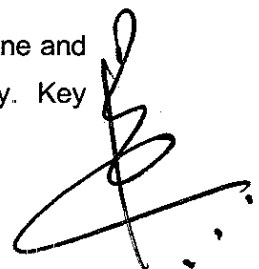
14. The Secretary submitted that he had difficulty in determining from the application what is currently approved, how that differs from current practice and what the operator proposes for the future. The Secretary stated that "The difficulty has arisen in part due to misinformation in the application, that the operator has been working to unapproved floor plans for some time and that the operator has not been abiding by its own controls in relation to flip top tables". Current compliance issues, relating to the use of the flip top procedure, were noted.
15. The Secretary accepted that the Applicant's proposal would not result in an increase in player spaces. Issues raised by the Secretary related to lack of clarity and the need for clearer controls in terms of table game mix. Rather than allowing the Applicant to operate a range of games, with a wide range of player spaces, the Secretary's preference was that the Commission approve specific game mixes for specific floor layouts and that the Applicant be permitted to alternate between these. The Secretary submitted that this would allow the Applicant to retain flexibility but would provide greater certainty in monitoring and regulating casino activities, in particular when considering increases in player spaces and increases in opportunities for casino gambling.
16. The Secretary noted that the Applicant is currently alternating between two game mixes, one that operates from Tuesday to Saturday, and one which operates on Sunday and Monday. The Secretary's view was that it was preferable to "lock down" these table game mixes, with additional alternative game mixes being specified should the Applicant require further flexibility.
17. The Secretary submitted that, since the construction of the smoking balcony at the Casino, the Applicant has been working to an unapproved gaming machine floor plan. Rather than dwelling on past difficulties, the Secretary stated that it is preferable that licence conditions and associated obligations be made clear to the Applicant going forward.

#### **Applicant's submissions in reply**

18. In its reply, the Applicant responded to some of the compliance issues raised by the Secretary, but not to the proposal that fixed game mixes should be approved by the Commission.

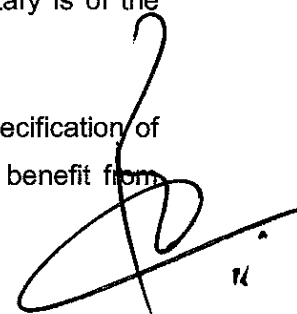
#### **Analysis**

19. The proposed amendment of condition 2.1, and the approval of the gaming machine and CCTV layouts are unproblematic, with no objections being raised by the Secretary. Key



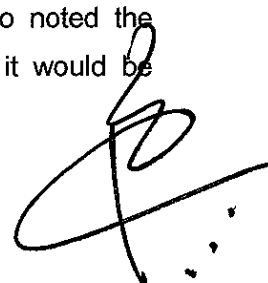
issues for the Commission related to the table game mix proposed by the Applicant, and procedures relating to the “flipping” of table games. In particular, the Commission was concerned to ensure that proposed arrangements would provide adequate certainty, enabling the Department of Internal Affairs effectively to undertake its surveillance and auditing functions under the Act.

20. As an initial matter, the Commission was first required to identify the regulatory baseline against which the proposed mix of table games was to be assessed. This exercise was not as straightforward as it should have been. Like the Secretary, the Commission had difficulty in ascertaining what is currently approved.
21. The current regulatory baseline is provided by the number of tables and machines the Applicant is permitted under licence conditions to operate in the Casino (12 tables and 180 machines), the table game floor plan approved by the Authority on 9 March 2004, and Flip Top Standards approved by the Authority on 1 April 2004, now forming part of the Minimum Operating Standards for Dunedin Casino.
22. The floor plans approved by the Authority do not directly specify the table game mix for the Casino. The unwritten understanding of the Applicant and the Secretary is, however, that a game mix is to be inferred from the distinct shapes of the tables shown on the floor plan. The Applicant and the Secretary accept that the game mix is enlarged by the ability of the Applicant to flip the tops of some tables, so that they can be used for different games.
23. The Applicant and the Secretary have different views, however, on what is permitted under the Flip Top Standards, with the precise application of those Standards having a regrettable lack of clarity. The Applicant's understanding appears to be that it can flip all tables shown on the approved floor plan, other than Roulette, and that the flip top procedure allows it to swap entire table tops, rather than simply turning them over. The Commission considers however that this understanding – that it is possible to swap entire table tops - is inconsistent with the Standards which refer specifically to turning tables over (see C-1.12(m)). The operator is required under the Standards to provide the Inspectorate with notice of its intention to flip a table.
24. The Secretary's understanding of the flip top procedure is more restricted. The Secretary considers that flipping is restricted to the six tables depicted on the approved floor plan other than Roulette, Midi Baccarat and Money Wheel/Tai Sai. The Secretary is of the view that the Standard does not permit swapping of table tops.
25. The Commission considers that there are deficiencies in the Authority's specification of the flip top procedure and its application to Dunedin Casino which would benefit from

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clarification by the Commission. For example, neither the floor plans nor the Standards identify which tables at the Casino can be flipped and the games which can be substituted. Notwithstanding this lack of clarity, the Commission accepts the validity of the flipping procedure, and the Applicant's submission, confirmed by the Secretary, that the Applicant can provide up to 267 player spaces at table games under the current game mix.

26. Taking 267 player spaces as the regulatory baseline, the table game mix proposed by the Applicant does not give rise to an increase in opportunities for casino gambling. If the game mix range proposed by the Applicant is played at maximum configuration, there would be 253 player spaces available at table games. It is noted that the Applicant's proposal also involves the introduction of slower games, which may decrease overall rates of play, although no evidence was submitted in support of this assertion.
27. The key issue for the Commission was whether the table game mix proposed provided adequate certainty. The Commission noted that, under the existing flip top procedure, the Applicant already has considerable flexibility to alter its table game mix. It is seeking further flexibility by being able to shift the location of tables and by operating 12 table games within specified ranges (for example, operating between 2 and 6 Black Jack games). The Applicant would be able freely to shift the position of tables and change the number and type of games it operates, with no additional notification proposed.
28. The Commission understands that the Secretary is not opposed to flexibility, but wishes to ensure that the parameters within which alterations to game mix can be made are very clear to avoid any future uncertainty. The Secretary considers this is best achieved by approving a series of specific game mixes which the operator can move between, subject to notification to the Inspectorate. It is understood this would enable the Inspectorate to ensure the number of player spaces are always in accordance with approved parameters, provide an assurance that the gambling equipment is able to be correctly monitored by surveillance in accordance with the current Surveillance Policy, and allow the Inspectorate quickly to identify where tables are in relation to incidents, complaints or general table game audit requirements. Clarity will also, no doubt, make compliance easier for the Applicant.
29. The Commission agrees that the Applicant should have flexibility to respond to customer demand for certain games, particularly as it is an operator of a smaller casino. It was not satisfied, however, that the table game proposal would provide sufficient certainty and control for the Commission and Inspectorate staff. The Commission also noted the current compliance issues raised by the Secretary, and considered that it would be

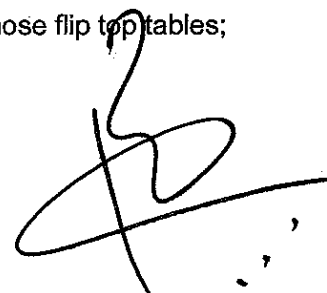


inappropriate to place further reliance on self-regulation by the Applicant, which is what the current proposal would entail.

30. In its submissions, the Secretary proposed fixing the Applicant's current table game mix configuration. The Applicant did not respond to this proposal in its submissions in reply. The Commission sees merit in the Secretary's proposal, but is of the view that specified table game mixes should be proposed by the Applicant.

#### **Decision of Commission**

31. The Commission decided unanimously to:
- (a) amend condition 2.1 of the Applicant's venue licence to substitute the word "Commission" for "Authority";
  - (b) approve the proposed gaming machine layout as set out in the plan "Dunedin Casino Gaming Machine Layout" attached to this decision.
32. In respect of the Plan entitled "Mix of Table Games", the Commission was satisfied that:
- (a) the regulatory baseline proposed by the Applicant, and the "flip top" procedure in particular, was valid. It was accepted on this basis that the Applicant could operate up to 267 player spaces at table games under the plan most recently approved by the Authority;
  - (b) the Applicant's proposal would not give rise to an increase in opportunities for casino gambling;
  - (c) the proposed positioning of tables and CCTV coverage was adequate.
33. The Commission was not satisfied that the proposal that Dunedin Casino be able to operate 12 table games from the range specified in the plan entitled "Mix of Table Games" provided adequate certainty and, accordingly, decided unanimously to invite the Applicant to:
- (a) submit for approval a revised plan or plans specifying table game mix(es) with no more than 12 table games;
  - (b) identify on those plans, or in an Appendix to it, which table games it proposed should be "flip top", and which games it proposed to play on those flip top tables;

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- (c) identify those tables which it proposed should be able to be replaced in their entirety (by unscrewing the top of the table), and which games it proposed to play on those tables.
34. The Commission directed the Applicant to submit the information requested in paragraph 33 above within 15 working days of receipt of this interim decision.
35. The Commission shall provide the Applicant's plans and submissions to the Secretary, upon receipt, and invite him to make submissions on such within 10 working days.
36. The Commission will then consider the revised plans and submissions at its next meeting and issue a final decision on this application.
37. If the information requested in paragraph 33 is not received within the period specified, the final decision of the Commission will be as set out in paragraph 31 with approval being declined for the plan entitled "Mix of Table Games".



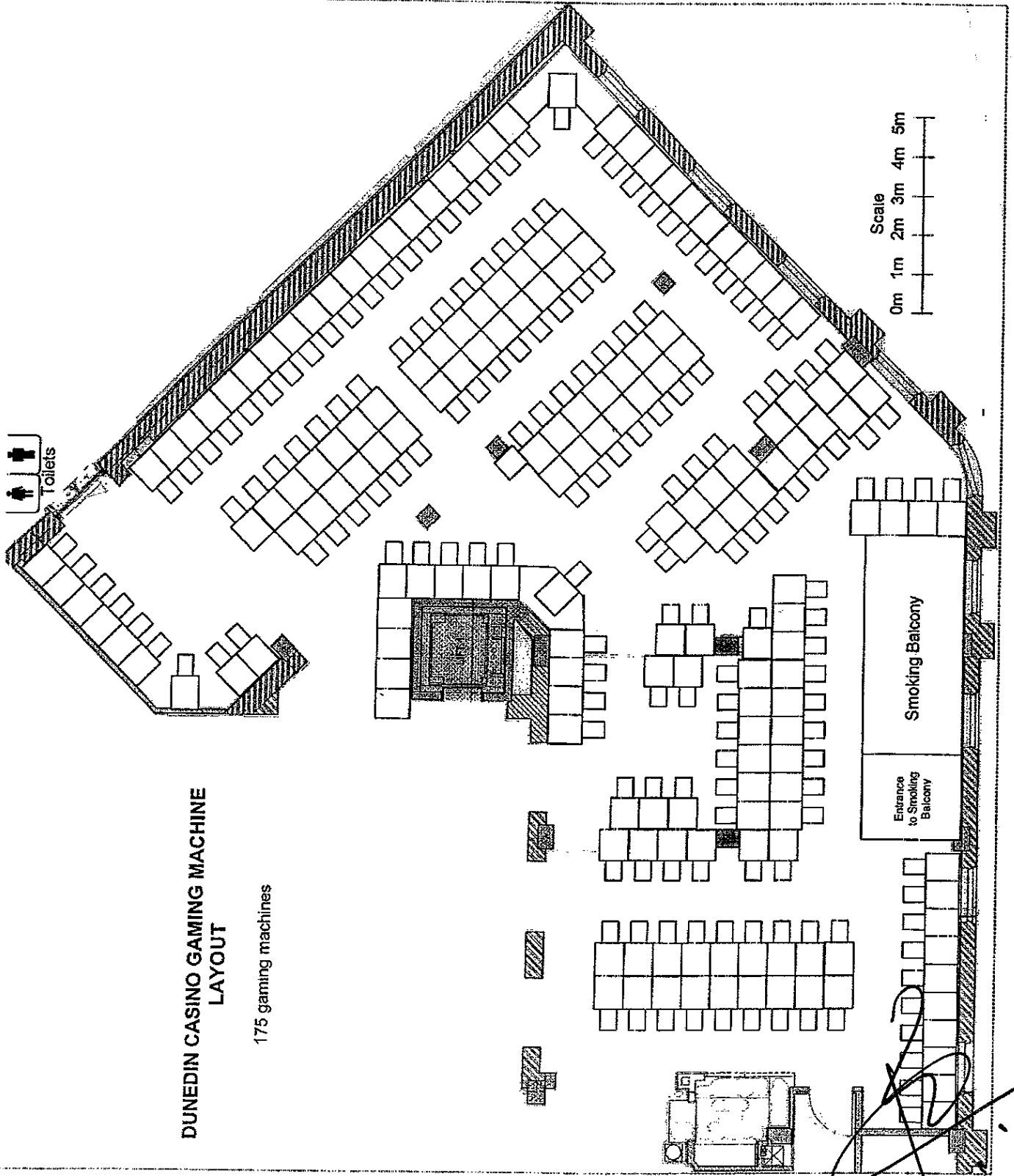
**Peter Chin**  
Chief Gambling Commissioner

for and on behalf of the  
Gambling Commission

18 October 2005

**DUNEDIN CASINO GAMING MACHINE  
LAYOUT**

175 gaming machines



Toilets

Scale  
0m 1m 2m 3m 4m 5m

Smoking Balcony

Entrance to Smoking Balcony