

IN THE MATTER of the Gambling Act 2003
AND of an application by
DUNEDIN CASINOS LIMITED for approval of
construction changes to the
smoking balcony

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: 27 February 2006

Date of Decision: 7 April 2006

Date of Notification of Decision: 12 April 2006

DECISION

**ON APPLICATION BY DUNEDIN CASINOS LIMITED
FOR APPROVAL OF CONSTRUCTION CHANGES TO THE SMOKING BALCONY**

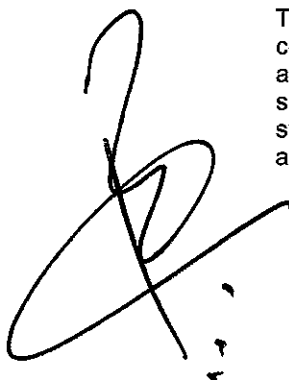
Application

1. Dunedin Casinos Limited (the "**Applicant**") applied to the Gambling Commission (the "**Commission**") under condition 1.2 of its venue licence for approval to reduce by half the size of the smoking balcony at the Dunedin casino. This application follows an amendment to the Smoke-Free standards under the Smoke-Free Environments Act 1990.

Licence condition

2. Condition 1.2 provides as follows:

The licence holder shall ensure that the casino is designed, developed, constructed, fitted out, commissioned for operation and operated generally in accordance with the licence holder's application as submitted to the Authority, subject to such changes as the Authority may have approved or required, and subject further to such changes as the Commission may from time to time approve or require in writing.



Submissions by the Applicant

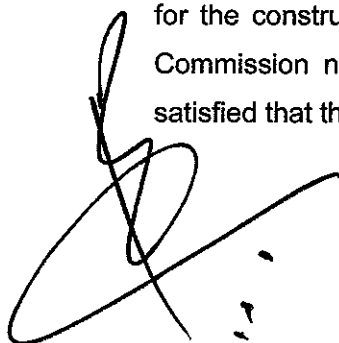
3. The Applicant stated that the smoking balcony at the Dunedin casino is now subject to new Smoke-Free standards which require the size of the open window area at the balcony to be the same as the floor area. Presently the floor area is twice the size of the open window area, requiring the balcony to be halved in size.
4. The Applicant submitted that sections 11 and 12 of the Gambling Act 2003 did not apply as the portion of balcony being "reclaimed" into the gambling area is already licensed for gambling.
5. The Applicant stated that the alterations would take approximately six weeks to complete, with commencement of work dependent on Commission approval, and the availability of contractors.
6. The Applicant noted that it would apply separately for any changes to floor plans to install gambling equipment in the reclaimed floor space.

Submissions by the Secretary

7. The Secretary had no concerns with the Applicant's proposal.

Analysis

8. In decision GC07/04, the Commission approved an application by Dunedin Casinos Limited for the construction and use of the smoking balcony at the Dunedin casino. The Commission did not exclude the balcony from the gambling area, but prohibited gambling activities on the balcony from the time that it was commissioned for use as an "open area" within the meaning of the Smoke-Free Environments Act 1990, until such time as it ceased to be used for this purpose.
9. The Commission decided at that time that it would be unnecessary for it to approve the reintroduction of gambling activities within the balcony area if it ceased to be used as a smoking area, because this would not, of itself, lead to an increase in opportunities for casino gambling.
10. Under condition 1.2 of its premises licence, the Applicant requires Commission approval for the construction changes needed to reduce the size of the smoking balcony. The Commission noted that the Secretary had no concerns with the application and was satisfied that the application was consistent with section 139(2) of the Act.

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Decision of Commission

11. The Commission resolved unanimously to approve the changes in the design of the casino premises to permit the alteration of the smoking balcony, as shown on plans attached to the application. The Commission required the Applicant to provide the Commission and the Inspectorate 5 working days notice in writing of the date it proposes to cease using part of the smoking balcony as open area within the meaning of the Smoke-Free Environments Act 1990.

12. The Commission noted that, once part of the smoking balcony ceases to be used as an open area, gambling activities are no longer prohibited within that part. The Commission noted further that the Applicant must apply separately for approval of revised floor plans to install gambling equipment in the area formerly being part of the smoking balcony.



Peter Chin
Chief Gambling Commissioner

for and on behalf of the
Gambling Commission

12 April 2006