

IN THE MATTER of the Gambling Act 2003
AND on an application by **OTAGO CASINOS LIMITED** for an amendment of a licence condition and approval of an alternative game mix

BEFORE THE GAMBLING COMMISSION

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

Date of Application: 8 May 2006

Date of Decision: 9 June 2006

Date of Notification
of Decision: 21 June 2006

DECISION

ON AN APPLICATION BY OTAGO CASINOS LIMITED FOR AN AMENDMENT OF A LICENCE CONDITION AND APPROVAL OF AN ALTERNATIVE GAME MIX

Introduction

1. Otago Casinos Limited (the "**Applicant**") applied to the Gambling Commission (the "**Commission**");
 - (a) to amend condition 2.1 of its venue licence (by substituting "Commission" for "Authority"); and
 - (b) for approval under condition 2.1 (as amended) of an alternative game mix. The alternative game mix would allow the Applicant to operate on its second flip top table Poker and Midi Baccarat instead of Black Jack and Mini Baccarat.

Gambling Act 2003 and licence condition 2.1

2. The application to amend condition 2.1 is made under section 139 of the Gambling Act 2003 (the "**Act**").

3. Licence condition 2.1 provides as follows:

2.1 Approval of specifications for security and surveillance installation

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 close circuit television cameras;
- (b) any viewing panels;
- (c) cashier cages, count rooms, security areas, and access thereto;
- (d) areas for Government inspectors and surveillance staff;
- (e) electrical installations, telephone installations, auxiliary power; and
- (f) the master key system or access control system.

Submissions of the Applicant

4. The Applicant submitted that the amendment to condition 2.1, to substitute the word "Commission" for the word "Authority", would make the licence consistent with the Act and allow the Commission to consider requests for approval under condition 2.1.
5. The Applicant submitted that the approval of the alternative plan would not increase the opportunities for casino gambling as player spaces would be reduced and (from the casino's observations) Poker and Midi Baccarat are slower than the Black Jack and Mini Baccarat games, which they would replace.
6. The Applicant submitted that the reduction in player spaces would be achieved by limiting the player spaces for Midi Baccarat to 18. This would be done by allowing only two players per box to wager, the Game Rules for Midi Baccarat providing that the casino operator **may** permit up to three players to wager on any one player wagering area, but is not required to do so. (A "box" is the wagering area in front of each seated player.)
7. The Commission Secretariat proposed to the Applicant that the necessary reduction in player spaces could be achieved by limiting the number of boxes to six, with up to three players able to bet on each player wagering area. The Applicant explained that its preference is to reduce player spaces by limiting back-betting positions. The Applicant is replacing the existing table with a larger one, and wishes to take the opportunity to make extra room for additional seating and make its patrons more comfortable. The Applicant also noted that the typical squeeze game player may only receive cards if they are seated, and therefore, if more seats are available, more players will be able to enjoy the game.
8. The Applicant submitted that approval of the alternative plan will not increase the potential for harm or impact on the integrity and fairness of games. Gaming and surveillance staff will be required to undertake necessary training. The flip top Poker/Midi Baccarat table will be recorded by two fixed cameras and any necessary changes to the CCTV layout will be implemented and notified to the Department of Internal Affairs in accordance with

Minimum Operating Standards. The current CCTV coverage will continue to provide pan-tilt-zoom camera coverage for the flip top table of Poker/Midi Baccarat.

Submissions by the Secretary

9. The Secretary had no objection to the proposed amendment of condition 2.1.
10. The Secretary commented that the total number of player spaces at table games is currently 125, and that approval of the alternative game mix would increase the total number of player spaces by 7, to 132, if Midi Baccarat is played with the maximum number of 27 player spaces provided under Game Rules.
11. The Secretary considered the Applicant's proposal, to limit the maximum number of players who can wager on each of the nine boxes for Midi Baccarat, to be acceptable in the particular circumstances, namely the small size of the casino, its level of patronage and good compliance record.
12. The Secretary also noted that there was no recent history of Wharf casino offering the game of Midi Baccarat, and therefore players were more likely to accept limits on the numbers who can back-bet. This is in contrast to casinos where Midi Baccarat was already offered, where the introduction of special restrictions on the number of back-betting positions would be potentially problematic as patron expectations would be frustrated and compliance and enforcement would be more of an issue.

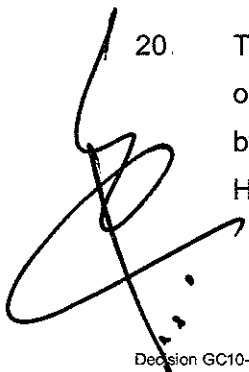
Analysis

13. The amendment of condition 2.1, to substitute "Commission" for "Authority", is consistent with changes made by the Commission to other casino licences to provide a continuation of the approval powers formerly exercised by the Casino Control Authority (the "Authority").
14. Regarding floor plan and game mix, it was noted by the Commission, as an initial matter, that the layout currently utilised at the casino, and the use of two flip top tables in particular, does not appear to reflect the floor layout plan approved by the Authority on 18 December 2002. That plan provides for only one flip top table. The difference between the approved plan and the existing game mix is not significant (the approved floor plan provides for a Midi Baccarat table, which is now used as a flip top for Midi Baccarat/Black Jack). The Commission decided to regularise the position by approving the existing floor plan in place of the Authority's plan.

15. The existing Black Jack/Midi Baccarat table provides for a maximum of 21 player spaces under the Game Rules, irrespective of which game is played. While the new table would

provide for up to 11 player positions under the Rules applying to Poker, the change to Midi Baccarat, if played without special restriction, would allow up to 27 players, an increase of six player spaces. Under sections 11, 12 and 139(2)(d) of the Act, this increase would need to be offset by a reduction elsewhere if the application were to be approved.

16. Previously, the Commission has, for reasons related to unnecessary complexity and difficulties with compliance and enforcement, declined to impose conditional limits on player numbers (ie limits which apply only when certain conditions prevail) or limits which are other than casino-wide in respect of a given game. For SKYCITY Auckland casino and elsewhere, the Commission has offset what might have been an increase in the level of opportunity for casino gambling by specifying a lower maximum number of players for Poker, Rapid Roulette and Touchbet than the Game Rules permit. Such constraints have applied casino wide.
17. Although it has been prepared to impose limits on the number of table places in the past, the Commission has not previously considered an application to control an increase in opportunity by limiting the numbers of "back-betting positions".
18. In its decision GC29/05, the Commission noted that it may be appropriate to have regard to whether player spaces are at the table or back-betting positions when assessing the level of opportunity for casino gambling. This followed from the Commission's early decisions, for example, GC01/04 and GC03/04, in which the Commission left open the possibility of opportunities for casino gambling being increased by removing physical constraints (eg congestion, queuing or capacity constraints) or increasing the size of tables without increasing the number of player spaces. The Commission has not previously had to consider whether increasing table sizes or allowing more table spaces in place of back-betting positions would increase opportunities for casino gambling.
19. In the current application, the Applicant has been open that its preference to allow more places at the table (and impose a limit on back-betting spaces) rather than vice versa is to encourage more players to gamble from the comfort of a seat and at a larger table. It is clear that, at the Wharf casino at any rate, front and back-betting positions are not considered to be equally attractive and accessible nor likely to be utilised to the same extent.
20. The Commission has continued to reflect upon its approach to the assessment of opportunities for casino gambling, including considering the view expressed in evidence by an expert witness, Dr Paul Delfabbro, in declaration proceedings currently before the High Court. The Commission considers that there is merit in his view that opportunity is

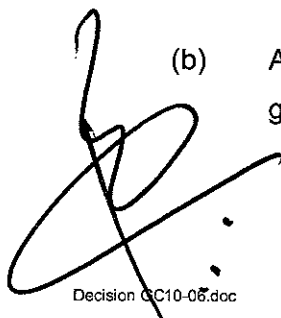


concerned principally with the theoretical maximum level of permitted gambling activity, irrespective of the absolute or relative attractiveness or accessibility of each of these potential activities.

21. In the current circumstances, the Commission decided to approve the application in the form sought by the Applicant, allowing the Applicant to offset the increase in player spaces by limiting back-betting positions for Midi Baccarat. In making its decision, the Commission took into account, not only Dr Delfabbro's view, but also the special circumstances at Wharf casino, in particular its small size and patronage, exemplary compliance record, the absence of a recent history of play of Midi Baccarat, and the fact that there is to be no increase in the number of tables.
22. It should not be assumed that a similar approach would be taken in the case of larger casinos, if there were a history of play of certain games, or if compliance and enforcement issues may arise from such a limitation, or if an increase in tables or gaming machines were sought in exchange for a reduction in back-betting positions. The Commission confirms its policy against imposing limited restrictions on table games (where there would be reduced numbers on some tables but not others of the same game within a casino) or conditional restrictions (where the restriction would apply only in certain circumstances). The proposal does not raise those considerations.
23. The application indicated that it was the Applicant's intent to provide for up to 10 table positions for Poker and it calculated the player spaces accordingly. Because the restriction on back-betting positions for Midi Baccarat reduces player spaces sufficiently to ensure that there is no increase in the opportunities for casino gambling, the Commission notes the Applicant's intention but does not see it as being necessary in this case to specify a maximum number of 10 players for Poker, when the Rules provide for up to 11 players.
24. The Commission noted that the casino's Minimum Operating Standards for Flip Top Tables will be amended prior to implementation of the proposal.

Decision

25. The Commission decided to:
 - (a) Approve the amendment to condition 2.1, by substituting "Commission" for "Authority".
 - (b) Approve the existing floor plan **attached** and marked "Plan A". The following games may be operated under Plan A:



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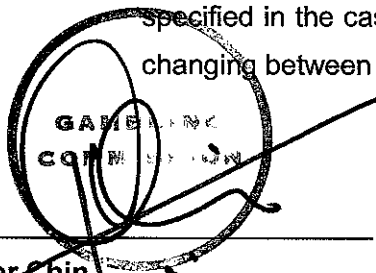
Black Jack	Up to 3 games
Roulette	Up to 1 game
Black Jack/ Mini Baccarat	Up to 2 games

- (c) Approve the alternative floor plan, **attached** and marked "Plan B". The following games may be operated under Plan B:

Black Jack	Up to 3 games
Roulette	Up to 1 game
Black Jack/ Mini Baccarat	Up to 1 game
Poker/ Midi Baccarat (up to 18 player spaces, nor more than 2 players per player wagering area)	Up to 1 game

- (d) The foregoing lists refer to manual versions of the games specified and do not extend to or permit the introduction of any electronic versions or new electronic aids or enhancements. If electronic versions, aids or enhancements are sought to be introduced, an application is required by the licence holder for approval of a revised floor layout.

- (e) The licence holder must comply with the notification and other requirements specified in the casino's Minimum Operating Standards for Flip Top Tables when changing between Plans A and B and altering the game mix by "flipping" tables.



Peter Chin
Chief Gambling Commissioner

for and on behalf of the
Gambling Commission

21 June 2006

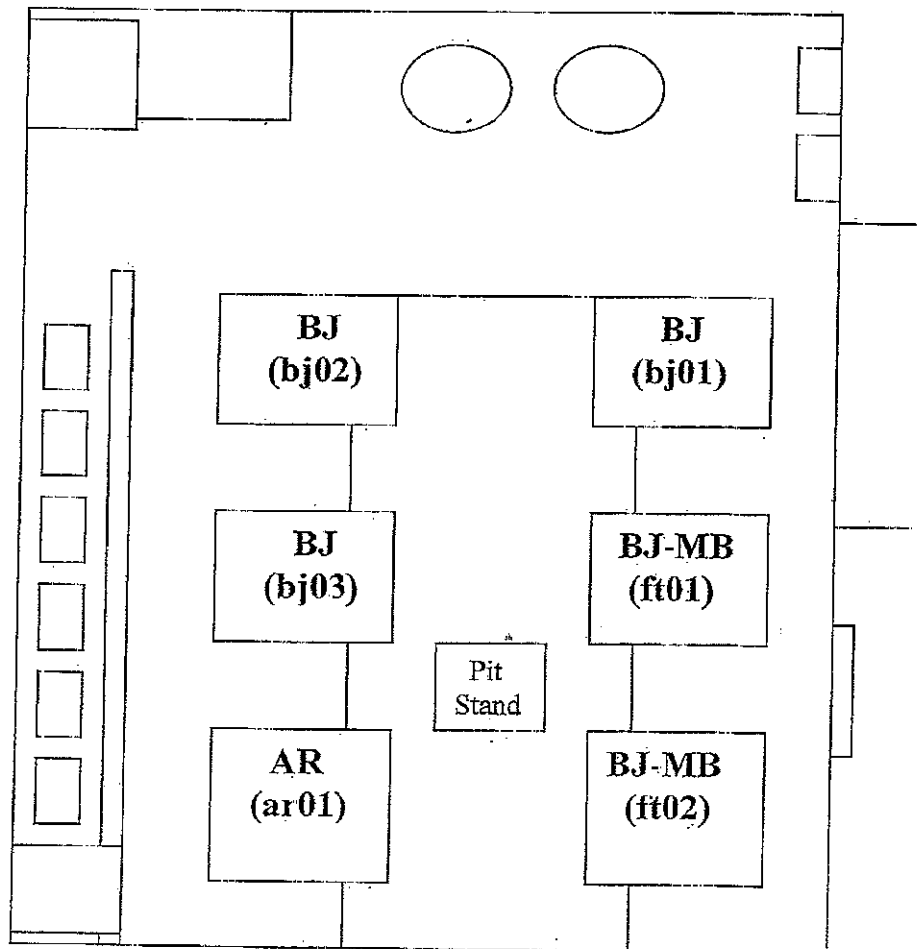
PLAN A

The Wharf Casino Floor Plan

Legend -----

- AR - Roulette
- BJ - Blackjack
- FT - Flip Top Table
- MB - Mini Baccarat
- MD - Midi Baccarat
- PK - Poker

Floor Layout ---



PLAN B

The Wharf Casino Floor Plan

Legend -----

- AR - Roulette
- BJ - Blackjack
- FT - Flip Top Table
- MB - Mini Baccarat
- MD - Midi Baccarat
(18 player spaces)
- PK - Poker

Floor Layout ---

