

IN THE MATTER of the Gambling Act 2003

AND on an application by **SKYCITY AUCKLAND LIMITED** for approval of construction and design changes and to redesignate the Gambling Area at the Auckland casino

BEFORE THE GAMBLING COMMISSION

Members: G L Reeves (Chief Gambling Commissioner)
P J Stanley
L M Hansen
R D Bell
A K Foote

Date of Application: 7 November 2012

Date of Decision: 15 February 2013

Date of Notification
of Decision: 28 February 2013

**DECISION ON AN APPLICATION BY SKYCITY AUCKLAND LIMITED
FOR APPROVAL OF CONSTRUCTION AND DESIGN CHANGES
AND TO REDESIGNATE THE GAMBLING AREA AT THE AUCKLAND CASINO**

Introduction

1. SKYCITY Auckland Limited ("**SCAL**") applied to the Commission:
 - (a) for approval of construction and design changes to the Auckland casino, under conditions 6 and 7 of SCAL's venue licence;
 - (b) to redesignate the Gambling Area at the Auckland casino, under condition 9 of SCAL's venue licence and section 139 of the Gambling Act 2003 (the "**Act**"); and
 - (c) to vary conditions 9 and 9A of SCAL's venue licence, pursuant to section 139 of the Act, to incorporate two additional, alternative gambling areas.

Act and licence conditions

2. The relevant section of the Act is as follows:

139 Conditions of casino licence

- (1) The Gambling Commission may specify the conditions of a casino licence or vary or revoke the conditions of a casino licence in the following circumstances:
 - (a) on granting a casino operator's licence:
 - (b) on renewing a casino venue licence:

- (c) on approving a casino venue agreement or an amendment to it;
 - (d) on application by the holder of the casino licence;
 - (e) on its own initiative or on the request of the Secretary.
- (2) A condition of a casino licence specified under subsection (1)—
- (a) must be consistent with this Act; and
 - (b) must contribute to achieving the purposes of this Act; and
 - (c) must contribute to the efficient and effective administration of this Act; and
 - (d) must not permit an increase in the opportunities for casino gambling; and
 - (e) may relate to any matter, including the matters specified in Schedule 1, within the confines of paragraphs (a) to (d).
3. The relevant licence conditions, with the proposed variations to conditions 9 and 9A shown in mark-up, are as follows:

SCAL's venue licence

6. The Licence Holder must obtain the approval of the Commission prior to:
- (a) construction or design changes to Levels 2, 3, 5 and 6 of the casino venue, including the Gambling Area but excluding the SKYCITY Theatre and foyer area, restaurant and bar areas outside the Gambling Area, hotel rooms and the back of house areas used by staff (unless construction or design changes to any of these excluded areas may impact on matters set out in condition 7 in which case prior approval must be sought);
 - (b) the construction or relocation outside the Gambling Area and within the Casino Venue of bank facilities available to the public excluding ATMs, EFTPOS and like devices;
 - (c) the addition or alteration of signage relating to the casino business on any building, road or structure within the block of land bounded by Hobson Street, Wellesley Street West, Federal Street and Victoria Street West, including the Casino Venue, Sky Tower, car park, bus terminal and walkways between the casino and the Sky Tower and the convention centre.

The process by which the Licence Holder may obtain approval for construction or design changes to Levels 2, 3, 5 and 6 of the casino venue, including the Gambling Area (paragraph (a) above) is set out in condition 7. The Commission will determine any application for approval under 6(b). The Executive Director may approve the addition or alteration of signage relating to the casino business on any building, road or structure within the casino block (paragraph (c) above) if he/she is satisfied the proposed changes will have no potentially adverse effects. If he/she is not so satisfied, the proposed changes must be referred to the Commission for a decision on approval.

7. The Licence Holder must notify the Executive Director of any proposed changes to the construction or design of Levels 2, 3, 5 and 6 of the casino venue, including the Gambling Area but excluding SKYCITY Theatre and foyer area, restaurant and bar areas outside the Gambling Area, hotel rooms and the back of house areas used by staff. Notification must be accompanied by relevant drawings and an assessment of any impacts the alterations may have on:
- (a) the integrity and fairness of games;
 - (b) the effectiveness of security and surveillance;
 - (c) harm prevention, harm minimisation and responsible gambling;

- (d) potential access to the Gambling Area by persons under 20 years of age; and
- (e) compliance by any person with the Act, including section 11.

The Executive Director may approve the proposed changes to the construction or design if he or she is satisfied that there are no adverse impacts in relation to the matters specified in (a)-(e) above. If the Executive Director is not satisfied, he or she will refer the proposal to the Commission for determination.

- ...
- 9. The current Gambling Area for the casino venue is delineated in the plan attached as Schedule 1 to these conditions. A first alternative Gambling Area is delineated in the plan attached as Schedule 2. A second alternative Gambling Area is delineated in the plan attached as Schedule 3. A third alternative Gambling Area is delineated in the plan attached as Schedule 4. A fourth alternative Gambling Area is delineated in the plan attached as Schedule 5. A fifth alternative Gambling Area is delineated in the plan attached as Schedule 6. A sixth alternative Gambling Area is delineated in the plan attached as Schedule 7.
 - 9A. A change of Gambling Area will take effect subject to the Licence Holder providing the Commission and the Inspectorate a minimum of 10 working days prior notice in writing of its intention to adopt one of the approved Gambling Areas referred to in Condition 9 and shown in Schedules 1, 2, 3, 4, ~~and 5,~~ 6 and 7.

SCAL's submissions

- 4. SCAL submitted, in summary, as follows:

Construction and design changes

- (a) The current escalators, which lead from the ground floor to level 2, are due for replacement so it wants to take this opportunity to make major changes. It wants to remove the current escalators and install new escalators in a revised position which will provide access directly to the Main Gaming Floor ("MGF") from the ground floor.
- (b) In association with these changes, it also wants to remove the escalators from level 2 to level 3 and construct a ceiling in the Atrium area above the ground level. This ceiling will form a new extension to the MGF and will be at the same height as the existing level 2 floor.
- (c) It also wants to extend the Diamond Room into the adjacent area currently housing the Deck Bar. The extended area would be walled off, and be accessible only from the Diamond Room.
- (d) It wants to house gaming product from other parts of the casino in these expanded areas. The expansion will have no adverse impact on the matters set

out in condition 7 of its venue licence. The products located in these areas will be subject to the same controls as those located in other parts of the casino.

- (e) As access to these areas will be from other parts of the casino floor, there are no implications for access by minors.
- (f) The repositioning of the escalator providing direct entry to the MGF will be controlled by security to ensure no unauthorised access.
- (g) Expansion of the floor area has no implications for responsible gambling or opportunities for gambling; it simply means that existing product will be spread more widely.

Redesignation of Gambling Area

- (h) SCAL has three alternative Gambling Areas within the Auckland casino. In an application dated 6 November 2012, it sought approval to add two further alternative gambling areas and through the current application, seeks approval for two further additional alternative gambling areas.
- (i) The need to specify alternative gambling areas relates to timing as each of the proposed new areas will not become operational immediately and designating an area as gambling area before it is used as such will require it to police access to the areas before this is necessary.
- (j) The additional alternative gambling areas are to accommodate:
 - (i) the redesignation of the Gambling Area in the Diamond Room to include the Deck Bar. This will add 150 square metres to the Gambling Area;
 - (ii) the extension to the MGF on level 2 to create the ceiling over the Atrium. This will add 750 square metres to the Gambling Area.
- (k) It therefore applies to amend licence conditions 9 and 9A, pursuant to section 139 of the Act, to recognise the additional two alternative gambling areas – Schedules 6 and 7.
- (l) A condition of the casino licence must comply with requirements of section 139(2) of the Act. The revised condition complies with these requirements.
- (m) It seeks the redesignation to reflect the construction and design changes and, more generally, to position the existing gaming product over a wider floor area for

the comfort of customers. The proposed changes are expected to add to the appeal of the property and ensure the casino facility retains a high standard.

- (n) There have been numerous changes to the Gambling Area over time to better accommodate the positioning of product and the provision of other non-gaming facilities. The proposed expansion would add approximately 900 square metres of floor space.
- (o) The additional floor space does not increase opportunities for casino gambling as no additional product is being installed. This matter will be further considered when floor plans are submitted for approval at a later date.
- (p) Both areas will be accessible only from existing gambling floor areas, so there are no implications for unauthorised access by minors. Suitable arrangements will be put in place to ensure persons accessing the MGF directly from the proposed new escalators will be screened before being admitted entry.

The Secretary's submissions

5. The Secretary had no regulatory concerns with SCAL's proposal.

Analysis

6. SCAL sought approval of a number of matters, with the most significant being the construction of new escalators from the ground floor to the MGF, and the subsequent expansion of the MGF.
7. The Commission sought submissions on SCAL's proposal from the Secretary for Internal Affairs, Problem Gambling Foundation and the Salvation Army, receiving submissions only from the Secretary.
8. The Commission considered SCAL's proposed construction and design changes against condition 7 of SCAL's venue licence and was satisfied they would not have any adverse impact. The proposed changes would have no effect on: the integrity and fairness of games; the effectiveness of security and surveillance; potential access to the Gambling Area by minors; or compliance by any person with the Act, including section 11.
9. The Commission considered whether the provision of a more direct route from the casino's entrance to the MGF would have a materially adverse impact on condition 7(c) of SCAL's venue licence (harm prevention, harm minimisation and responsible gambling). However, as indicated by the lack of opposition to the proposal, the Commission does not consider that the proposal increases the risk of harm.

10. SCAL also applied to redesignate the Gambling Area to include the extended MGF and the Deck Bar. In previous decisions, the Commission has considered whether it has power to redefine a casino's Gambling Area, holding that it can do so provided that the amended area does not extend beyond the casino venue as defined in the casino venue licence and the amended licence conditions defining the new area are consistent with section 139(2) of the Act.
11. SCAL's venue licence defines the casino venue as the block bounded by Hobson Street, Wellesley Street West, Federal Street and Victoria Street West, less four specifically excluded areas within the block; namely the underground carpark, the Sky Tower, the bus station and the walkway between the Sky Tower and the casino complex. The Commission is satisfied that the proposed new gambling areas are within the defined casino venue.
12. The Commission is also satisfied that the proposed licence conditions are consistent with section 139(2) of the Act. Specifically it is satisfied that the proposed construction and design changes and significant expansion of the Gambling Area by redesignation do not, of themselves, increase opportunities for casino gambling. That is because neither the consent nor the redesignation will allow SCAL to place gambling products in the extended areas.
13. The Commission will further consider the issue of increased opportunities when SCAL seeks approval of a floor plan that provides for relocation of gambling products into the newly extended areas. At paragraph 17 of GC33/10, the Commission noted that reducing congestion in the designated Gambling Area may increase player spaces at table games which are not subject to rules limiting the maximum number of players. Such an assessment can only be made when the Commission has a proposed floor plan for approval to compare to the current floor plan.
14. SCAL has chosen not to seek approval of a new floor plan in conjunction with the other approvals sought. As a result, granting the present application does not of itself permit the additional gambling areas to be used for gambling. SCAL will undertake the construction and design changes at its own risk in the knowledge that it has no effective approval to use the new space for gambling until the Commission has approved a floor plan incorporating the new areas.



Decision

15. The Commission approved:
- (a) the proposed the construction and design changes, under conditions 6 and 7 of SCAL's venue licence;
 - (b) the redesignation of the Gambling Area in the manner proposed, under condition 9 of SCAL's venue licence; and
 - (c) a variation to conditions 9 and 9A of SCAL's venue licence, under section 139 of the Act. Conditions 9 and 9A now read as follows:
 - 9. The current Gambling Area for the casino venue is delineated in the plan attached as Schedule 1 to these conditions. A first alternative Gambling Area is delineated in the plan attached as Schedule 2. A second alternative Gambling Area is delineated in the plan attached as Schedule 3. A third alternative Gambling Area is delineated in the plan attached as Schedule 4. A fourth alternative Gambling Area is delineated in the plan attached as Schedule 5. A fifth alternative Gambling Area is delineated in the plan attached as Schedule 6. A sixth alternative Gambling Area is delineated in the plan attached as Schedule 7.
 - 9A. A change of Gambling Area will take effect subject to the Licence Holder providing the Commission and the Inspectorate a minimum of 10 working days prior notice in writing of its intention to adopt one of the approved Gambling Areas referred to in Condition 9 and shown in Schedules 1, 2, 3, 4, 5, 6 and 7.
16. Schedules 1, 2, 3, 4, 5, 6 and 7 are **attached**.

Right of appeal

17. Pursuant to section 235 of the Act, a person affected by this decision may appeal that decision to the High Court. An appeal must be made within 15 working days of the date of notice of the Commission's decision, or any longer period that the High Court may allow.

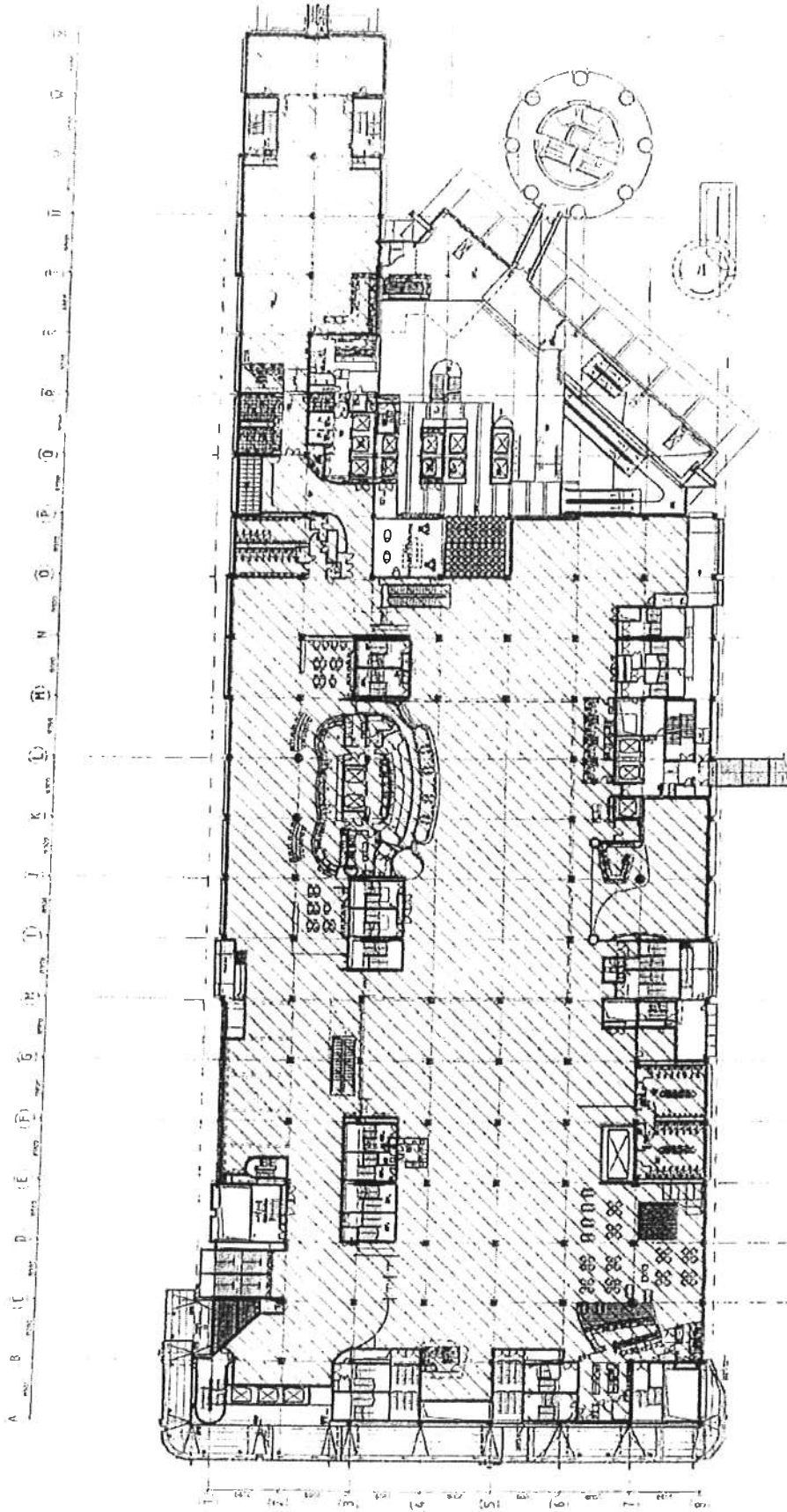


Graeme Reeves
Chief Gambling Commissioner

for and on behalf of the
Gambling Commission

28 February 2013



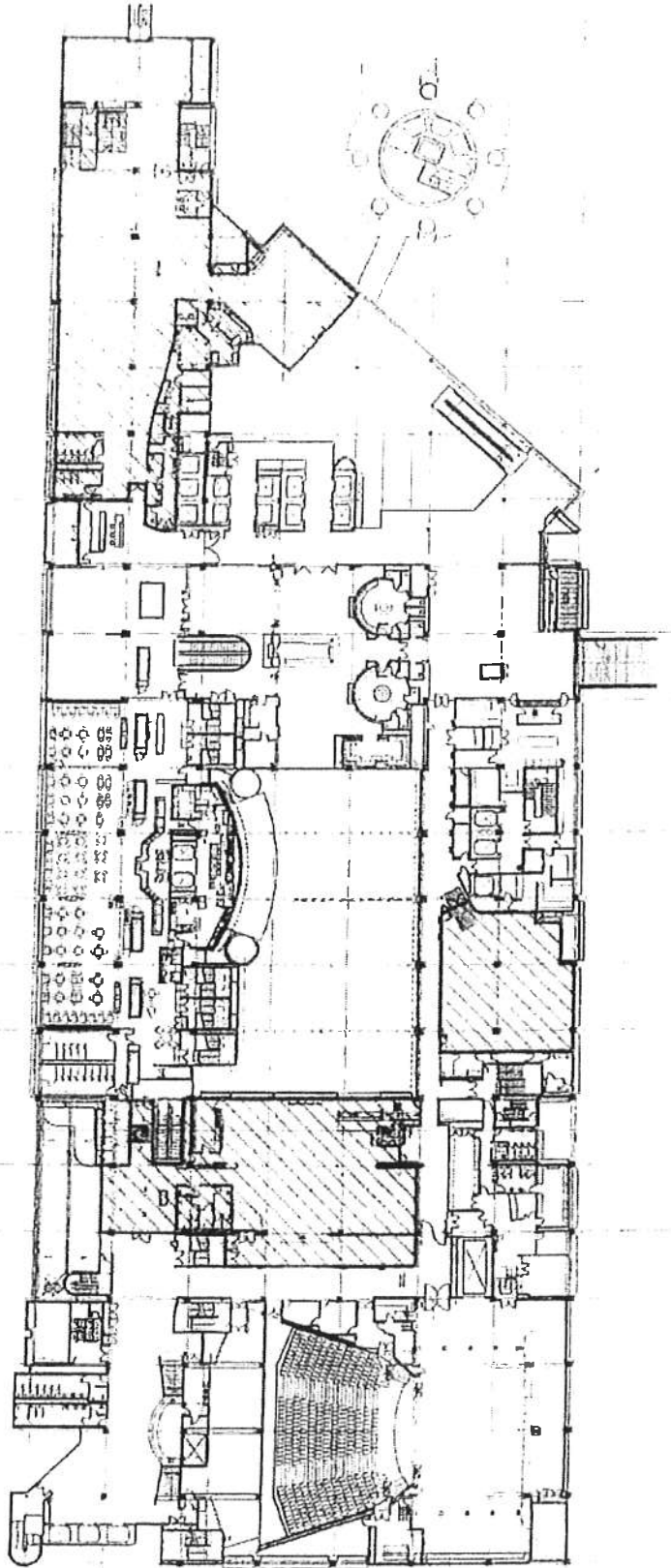


GAMING AREA: 6,837m²



<p>SKY CITY SKY CITY - PODIUM LEVEL 2 GAMING AREAS 15/10/2012</p>	
<p>Project Name: Sky City - Podium Level 2 Client: Sky City Entertainment Group Architect: Moller Architects Date: 15/10/2012</p>	<p>Scale: 1:100 Drawing No: SKY-POD-02 Revision: 1</p>
<p>SKY CITY RECREATION GROUP</p>	
<p>Sky City Entertainment Group Gaming Layouts</p>	
<p>Moller Architects 15/10/2012</p>	

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— GAMING AREA: 2,000m²

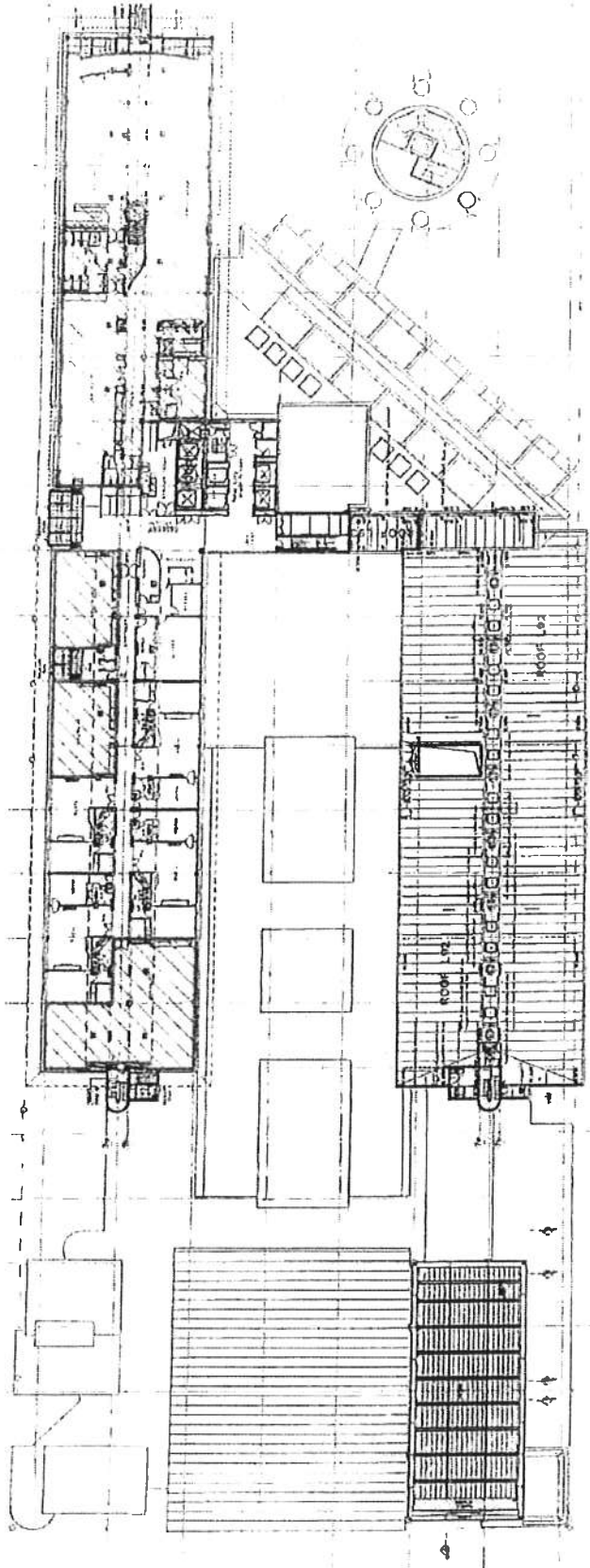


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BY: [Signature]
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SKY CITY
Entertainment Group
Gaming Layouts

SKY CITY - PODIUM
LEVEL 3
GAMING AREAS
15/10/2012

A B C D E F G H I J K L M N O P Q R S T U V W X



--- GAMING AREA: 1,309sqft



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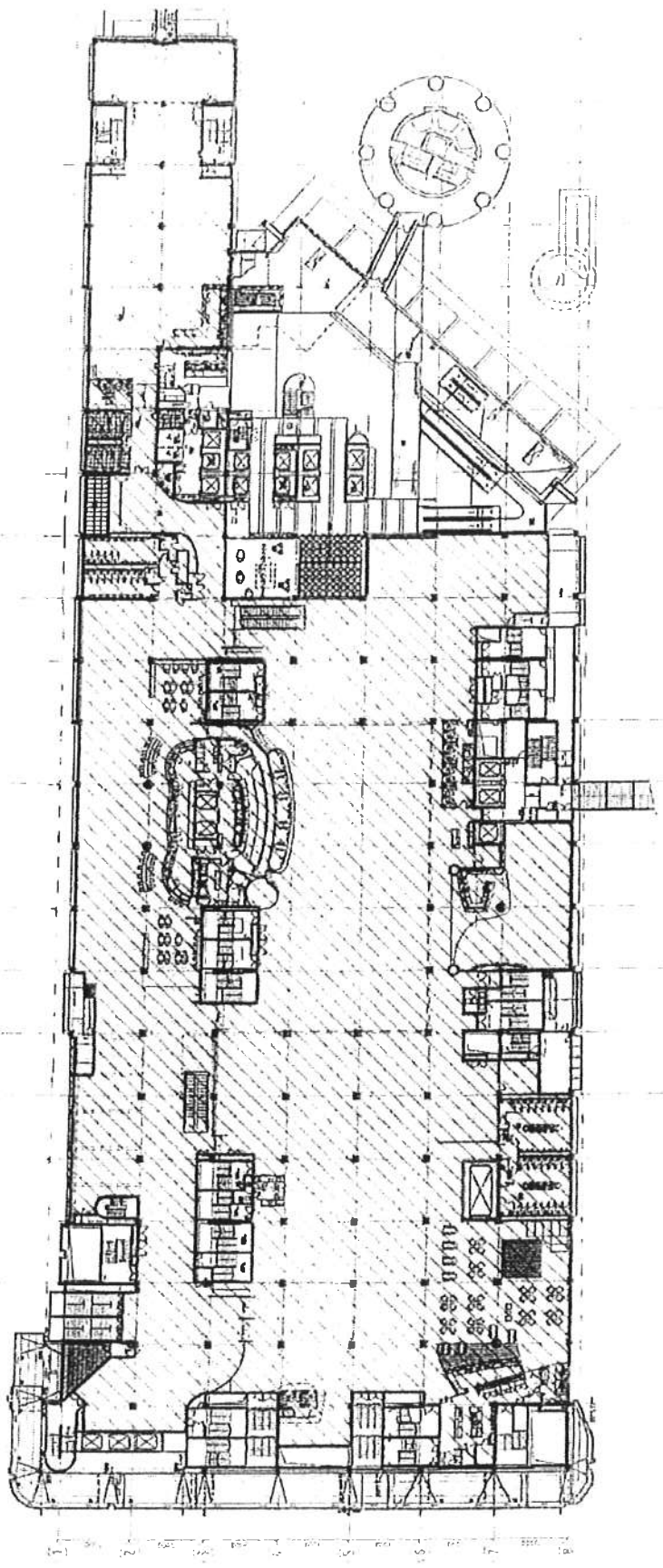
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SKYCITY - VIP GAMING
LEVEL H5
GAMING AREAS
15/10/2012

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Date: 15/10/2012

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GAMING AREA: 6,837m²



Project No.	15/01/2012
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Level	LEVEL 2
Area	GAMING AREAS

SKY CITY - PODIUM
LEVEL 2
GAMING AREAS
15/01/2012

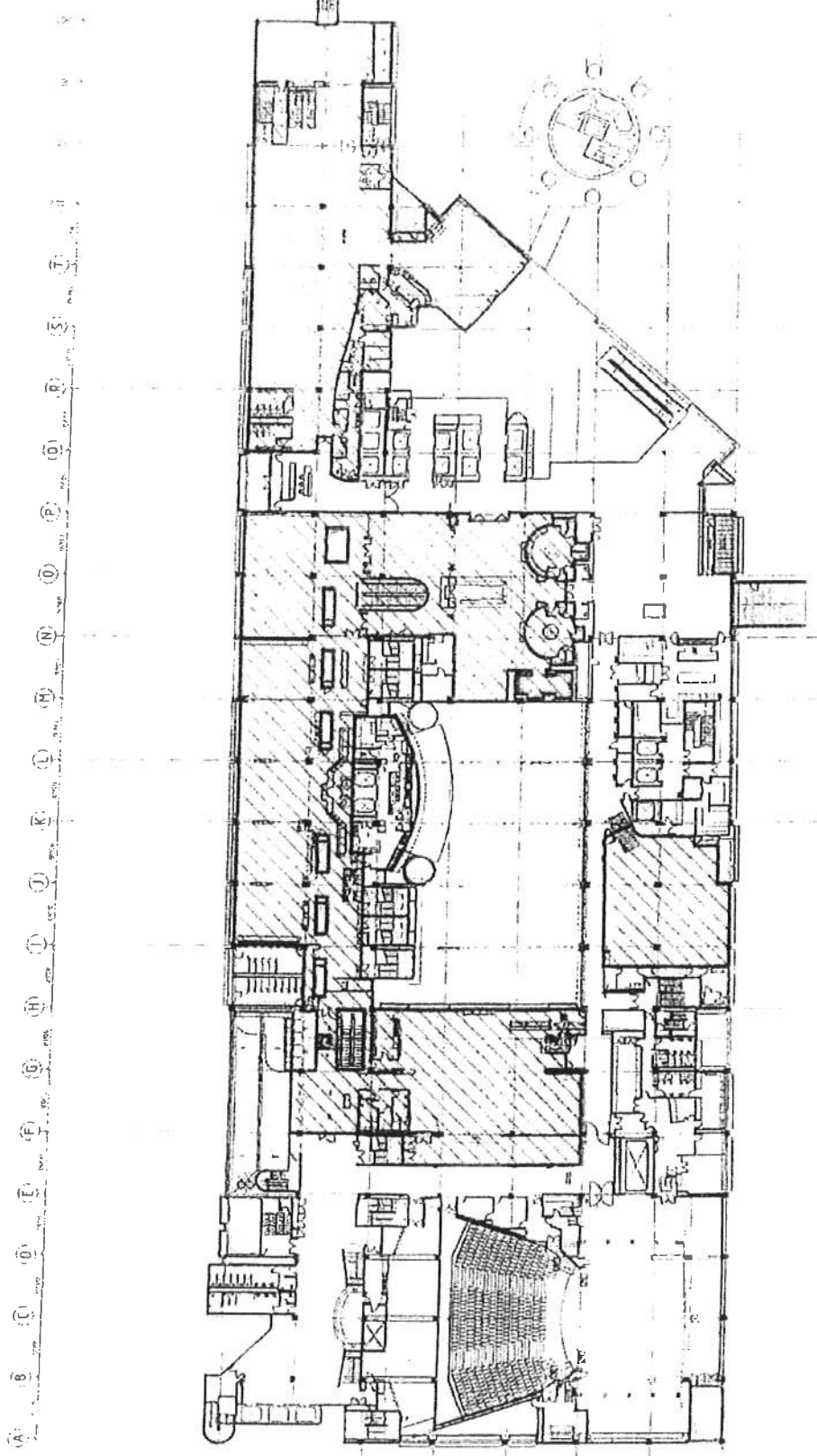
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Total Sheets	15/01/2012

Sky City Entertainment Group
Gaming Layout



Scale: 1:1
Date: 15/01/2012


Moller Architects
Architects



GAMING AREA: 3,422m²

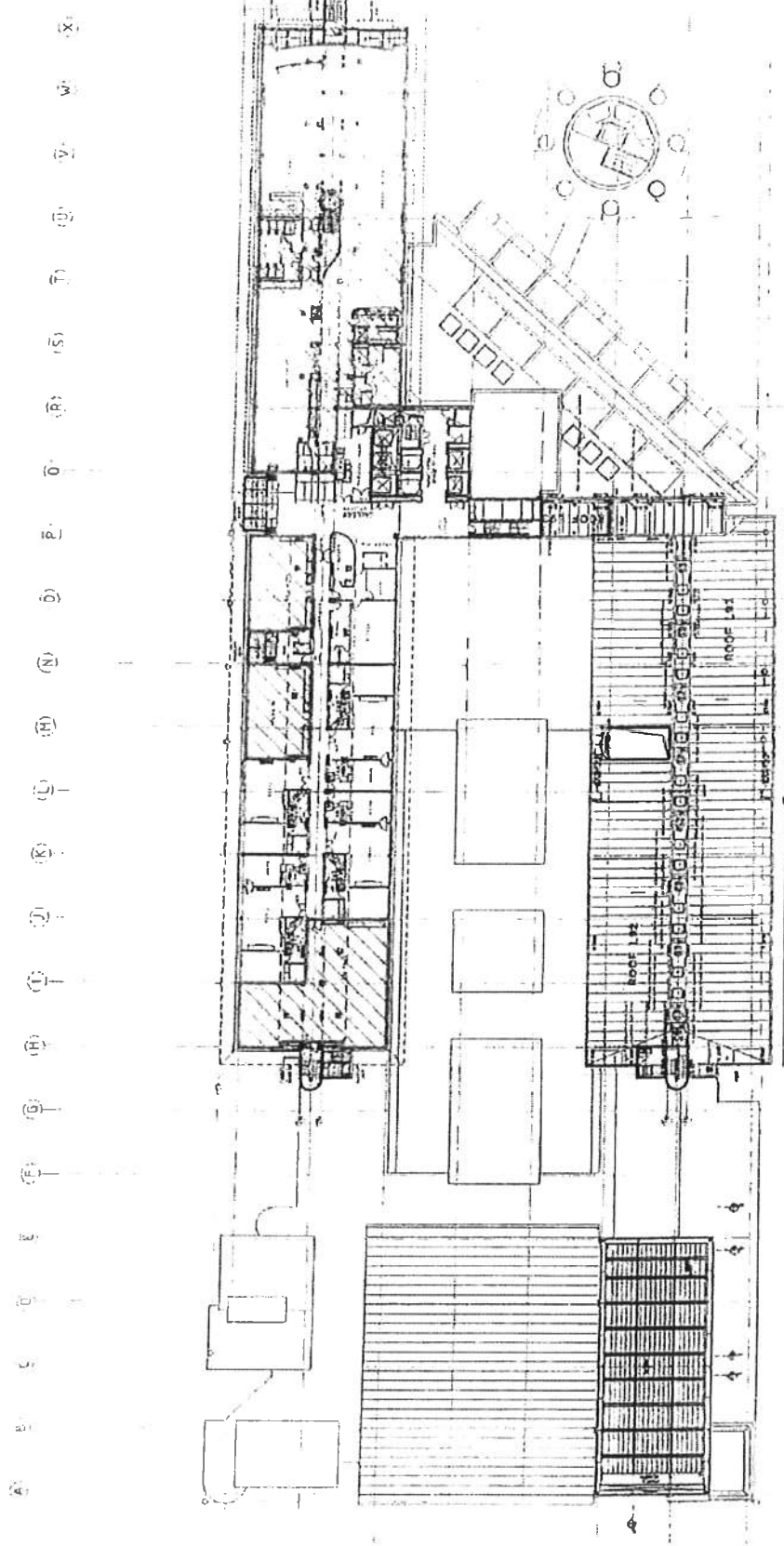


<p>SKY CITY - PODIUM LEVEL 3 GAMING AREAS Version 2 15/10/2012</p>
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GAMING AREA: 1,305m²



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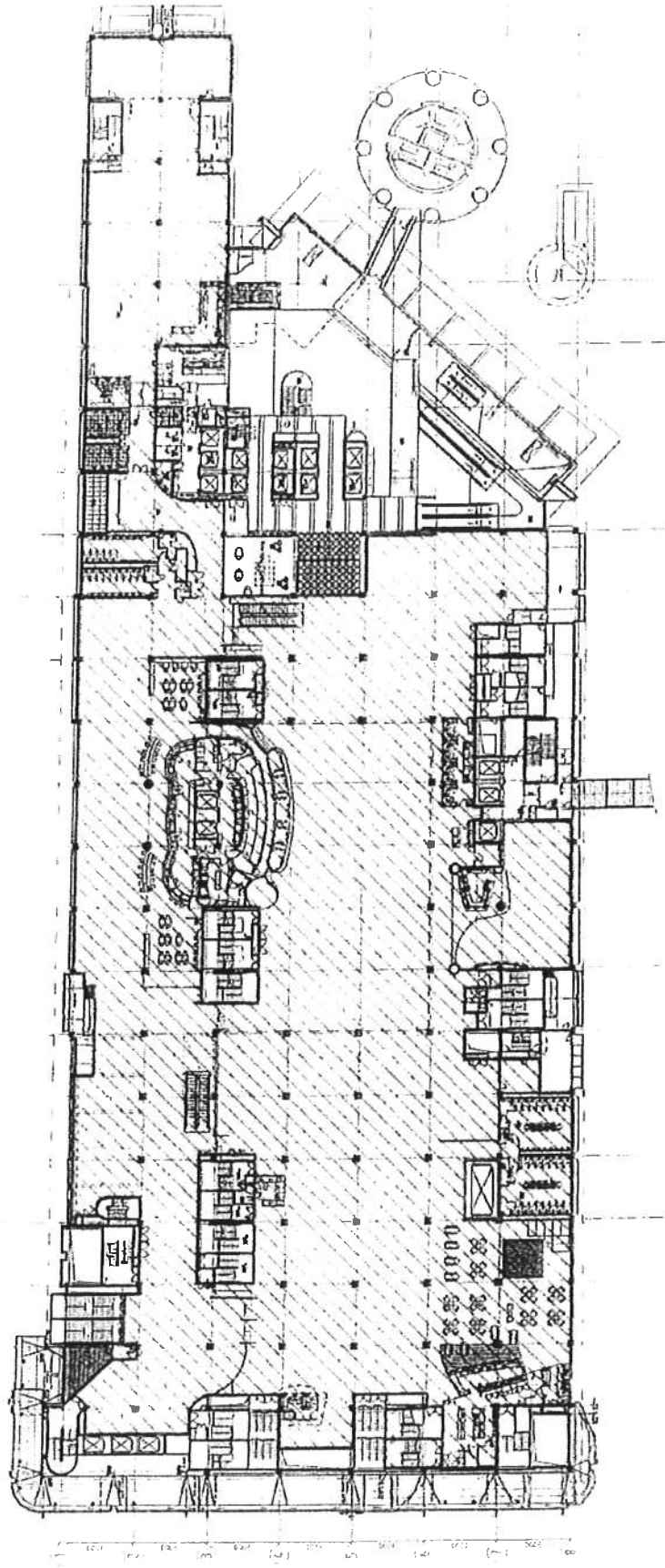
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SKY CITY - VIP GAMING
 LEVEL H5
 GAMING AREAS
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Project Name	SKY CITY - VIP GAMING LEVEL H5 GAMING AREAS
Client	SKY CITY
Architect	Moller Architects
Date	15/10/2012
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Sheet No.	SKY CITY - VIP GAMING LEVEL H5 GAMING AREAS
Sheet Count	15/10/2012

A B C D E F G H I J K L M N O P Q R S T U V W X Y Z



GAMING AREA: 6,837m²



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Area	GAMING AREAS
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Date	

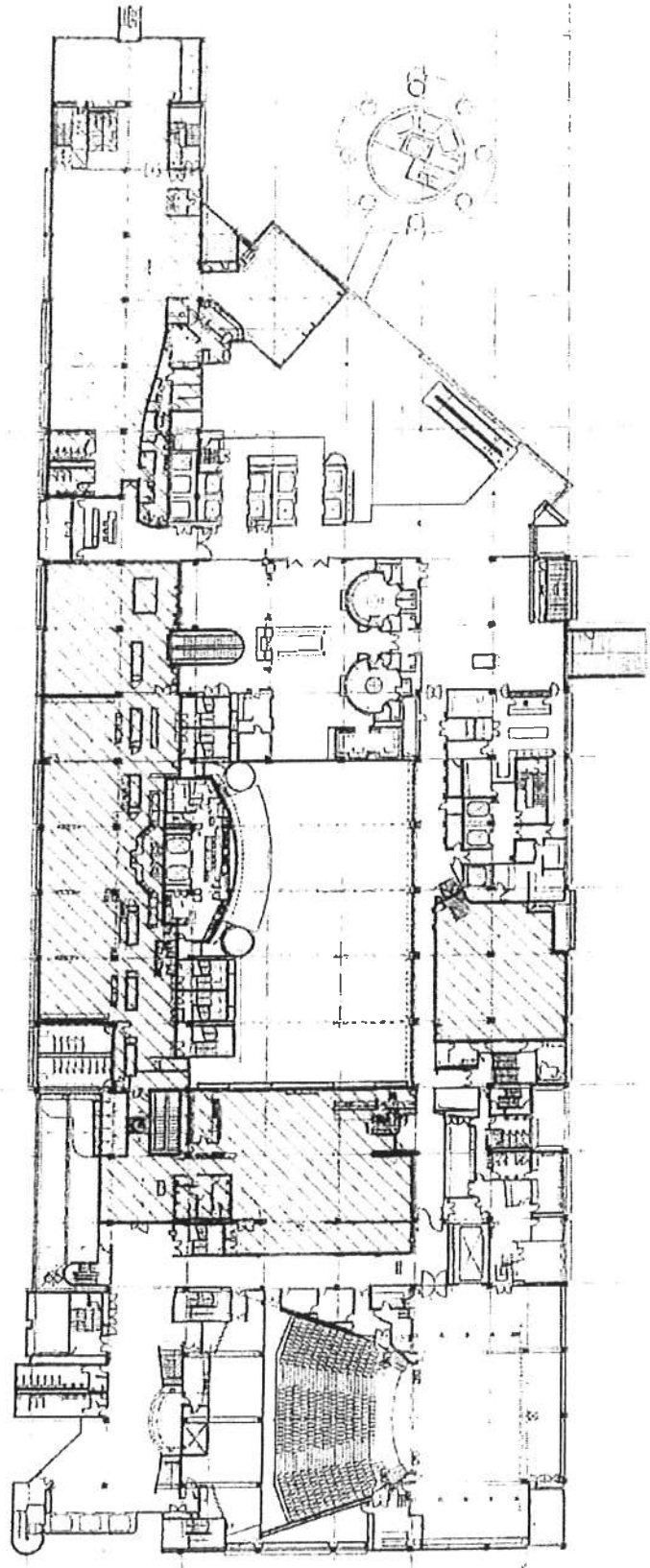
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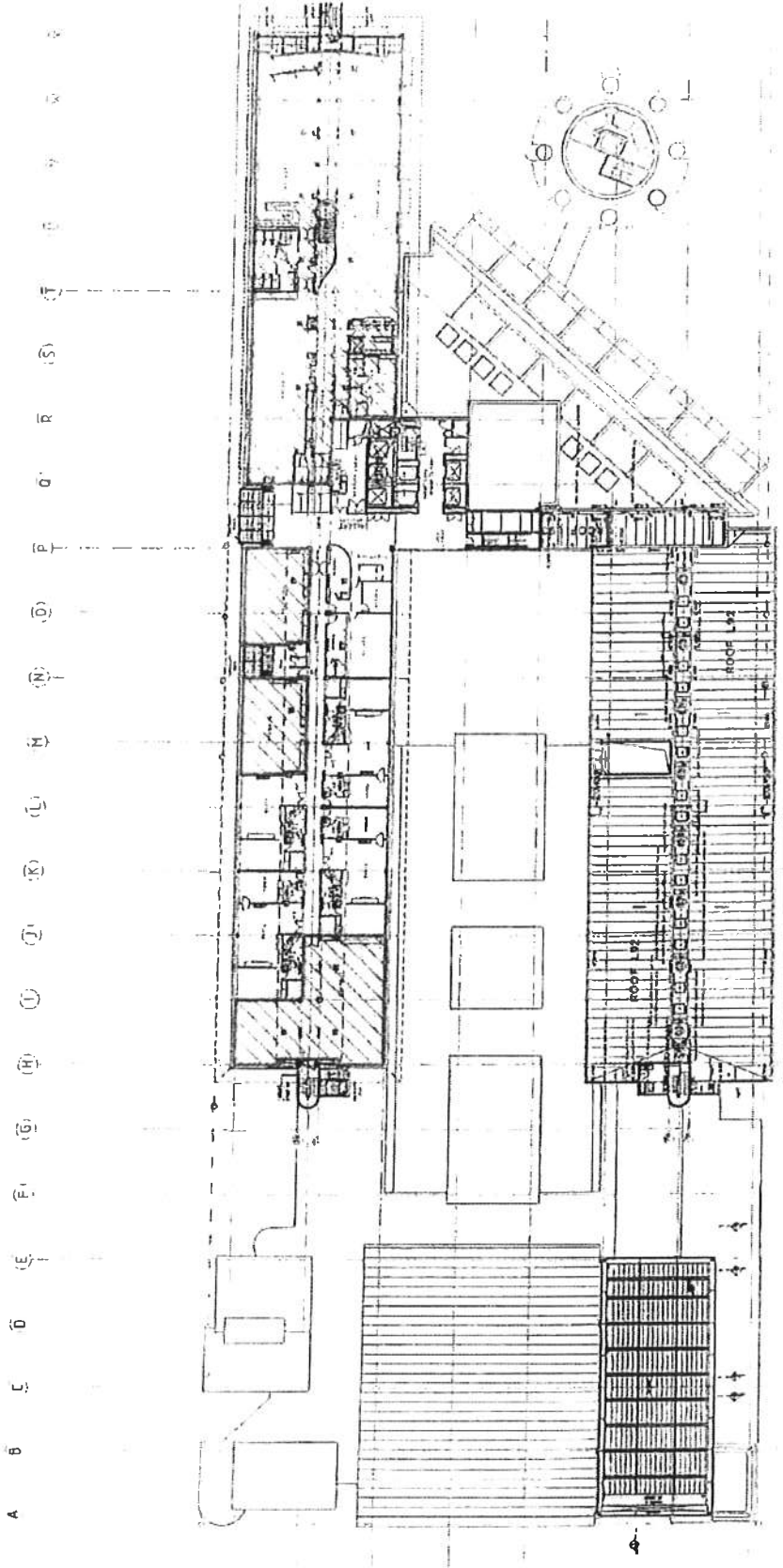
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————— GAMING AREA: 2,972m²



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— GAMING AREA: 1,309m²



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 Date: 15/10/2012

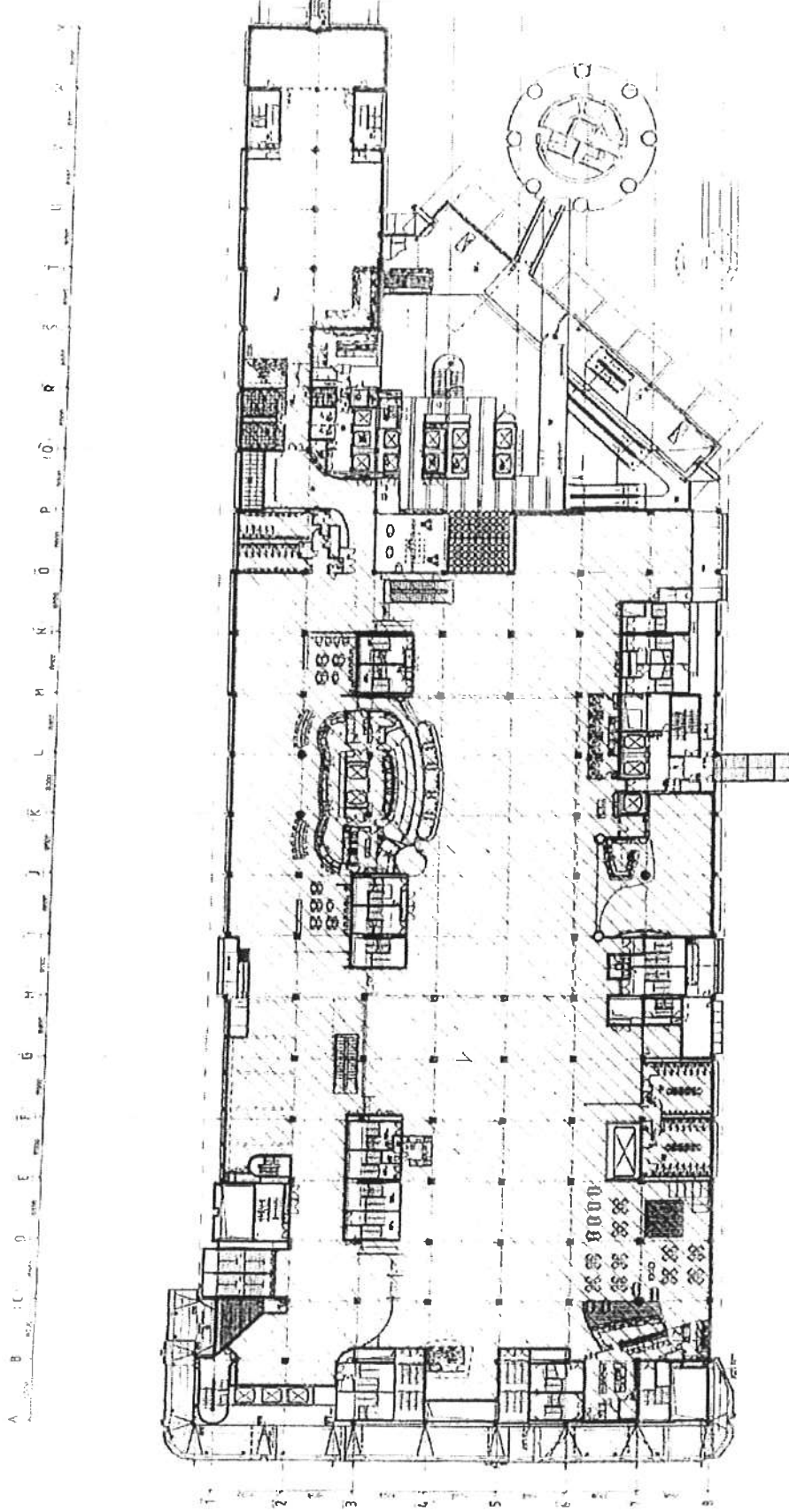
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Sky City Entertainment Group
 Gaming Layouts

SKY CITY - VIP GAMING
 LEVEL H5
 GAMING AREAS
 15/10/2012

Project Name	SKY CITY - VIP GAMING
Level	LEVEL H5
Date	15/10/2012
Scale	1:500
Author	
Checked	
Approved	



————— GAMING AREA: 6,837m²



Project Name	SKYCITY - PODIUM
Level	LEVEL 2
Area	GAMING AREAS
Date	15/10/2012

SKYCITY
 LEVEL 2
 GAMING AREAS
 15/10/2012

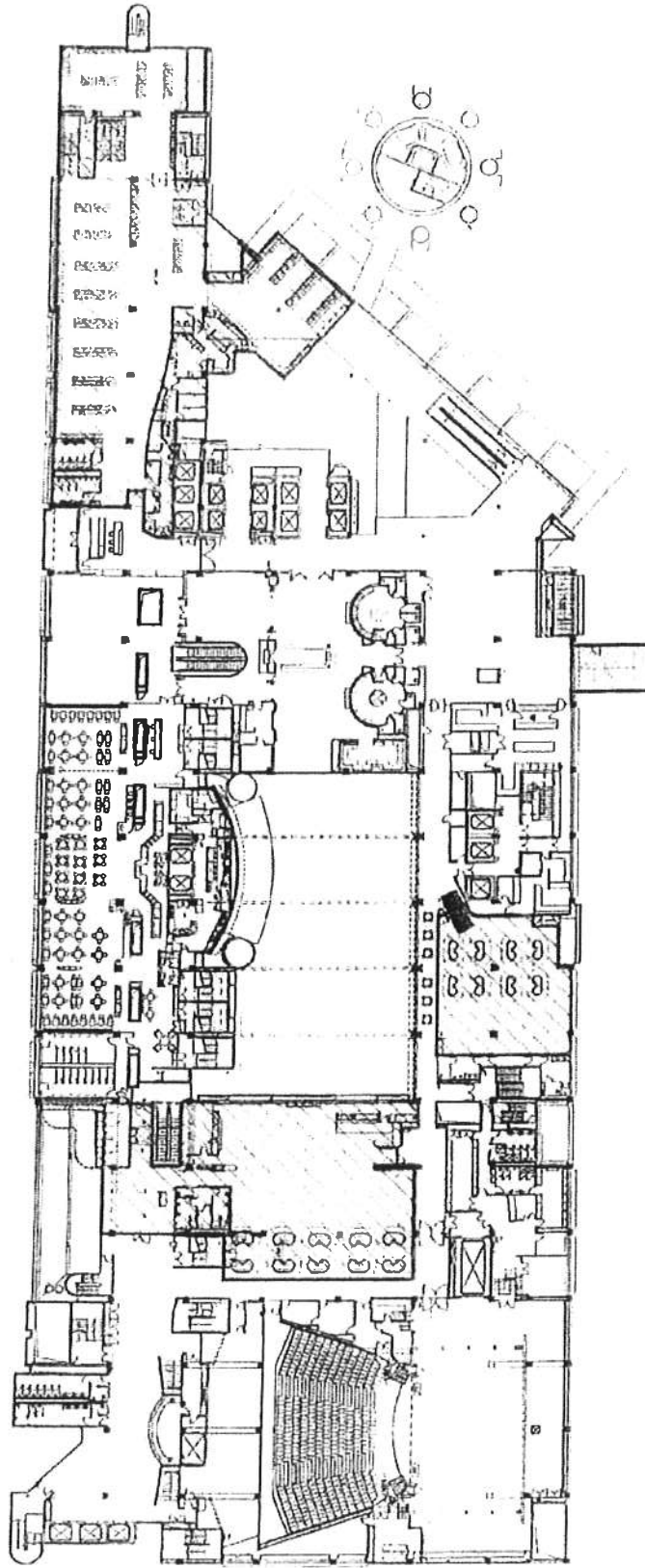
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Architect	Moller Architects
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Discipline	Architectural
Room	Gaming Areas
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 Gaming Layouts



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Moller Architects



GAMING AREA: 2,036m²



SKYCITY - PODIUM
 (LEVEL 3) GAMING AREAS incl.
 Nations Club Room Extension
 06/11/2012

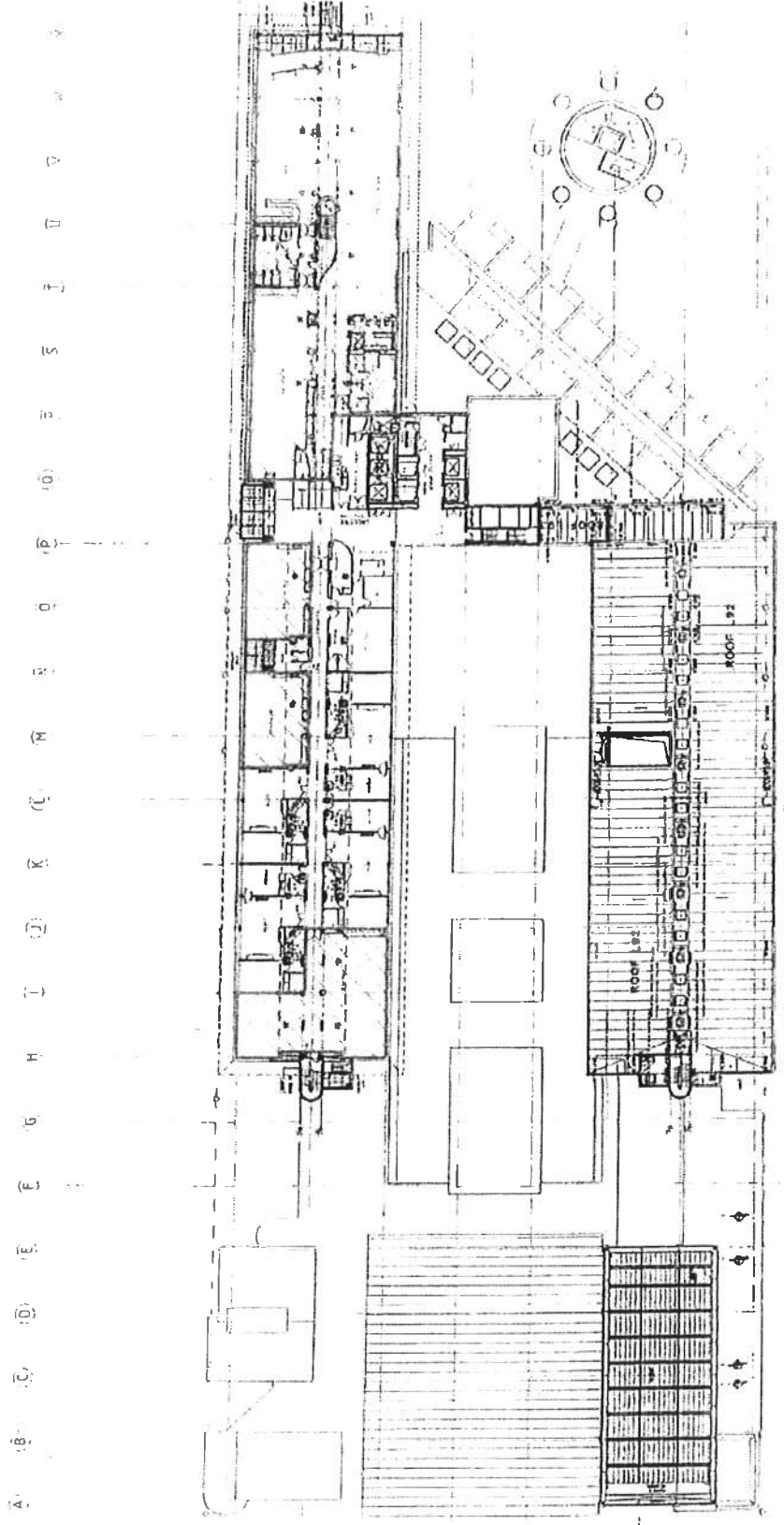
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 Approver: [Name]

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———— GAMING AREA: 1,309m²



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702.735.1100

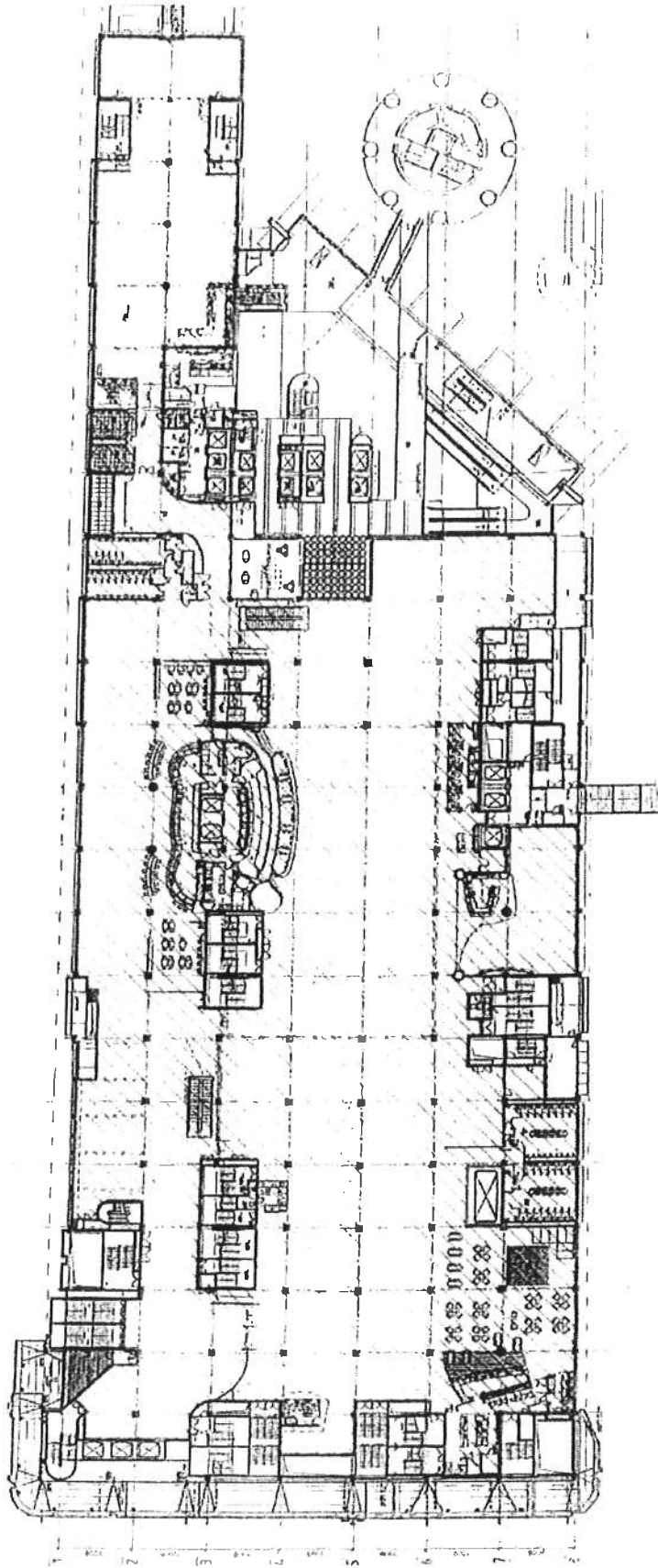
Sky City
Sky City Entertainment Group
Gaming Layouts

Prepared by: [Name]
Checked by: [Name]
Reviewed by: [Name]
Date: 15/10/2012

SKY CITY - VIP GAMING
LEVEL H5
GAMING AREAS
15/10/2012

Project No.	1370000
Client	Sky City Entertainment Group
Location	Las Vegas, NV
Scale	1:100
Date	15/10/2012

A B C D E F G H I J K L M N O P Q R S T U V W X



GAMING AREA: 6,837m²



SKYCITY - PODIUM
LEVEL 2
GAMING AREAS
19/10/2012

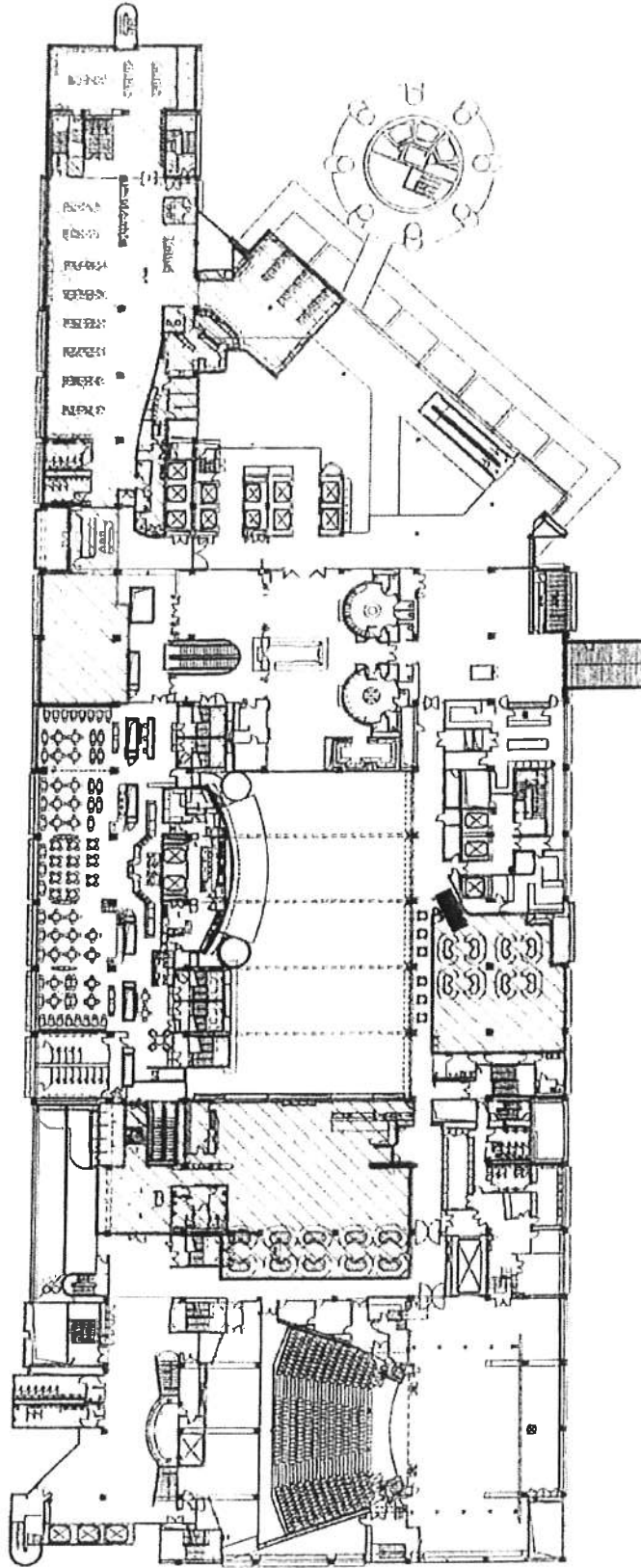
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Gaming Layouts



Cap 441 277086
Fax 441 337067
1000 Queen Street West
Toronto, Ontario M5G 1R2

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GAMING AREA: 2,246m²



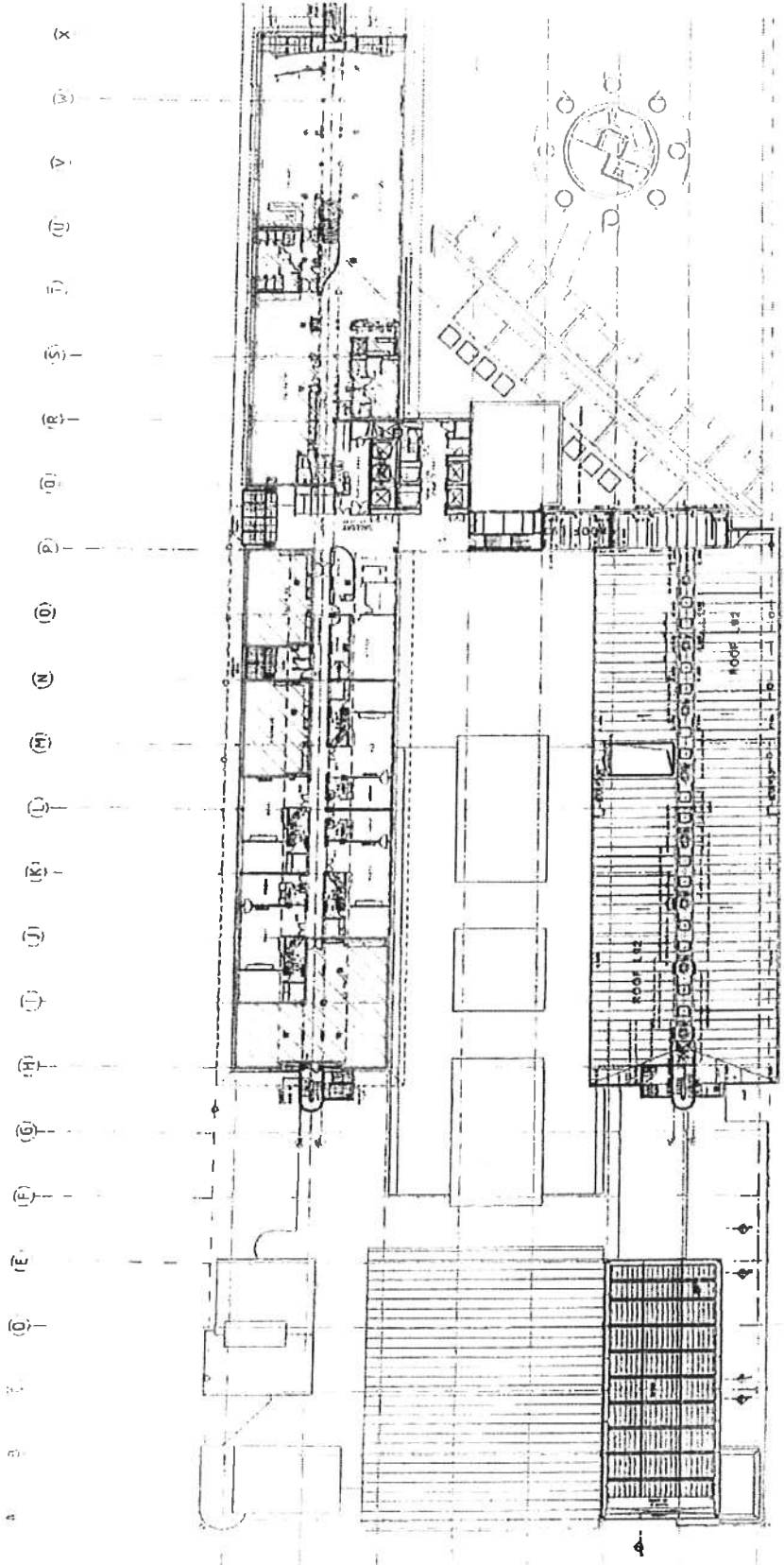
Project Name	SKY CITY - PODIUM
Level	LEVEL 3 GAMING AREAS Incl. Nations Club & Platinum Rm Extn.
Date	06/11/2012
Scale	1:100
Author	[Name]
Check	[Name]
Drawn	[Name]
Discipline	Architectural
Room No.	
Room Name	
Room Area	
Room Volume	
Room Height	
Room Description	
Room Notes	

Sky City Entertainment Group
Gaming Layouts

Call us on 02 9220 0000
Fax us on 02 9220 0000
www.moller.com.au
Moller Architects
Level 10, 100 Market Street, Sydney, NSW 2000

Moller Architects





_____ GAMING AREA: 1,309m²

SKY CITY - VIP GAMING
LEVEL H5
GAMING AREAS
15/10/2012

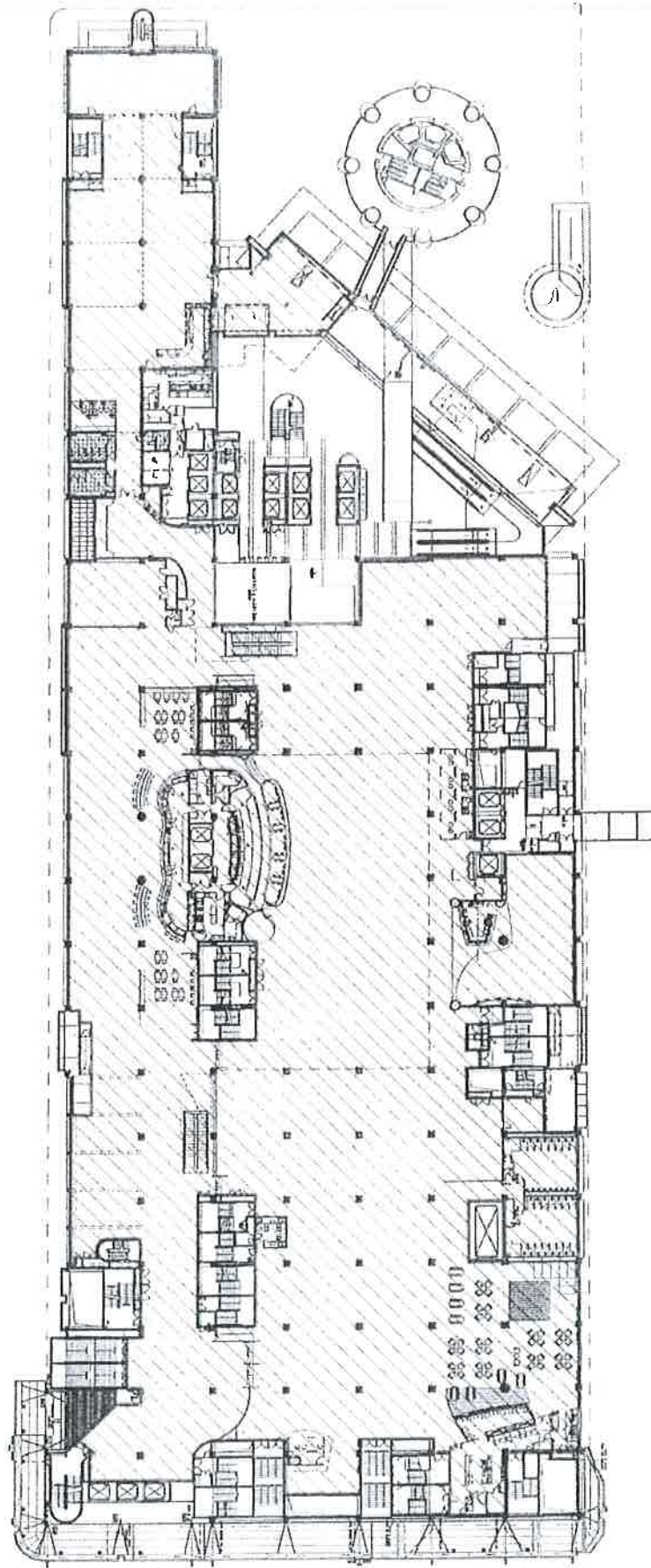
Project No. SKY-08-2570006
Revision No. 01
Date: 15/10/2012
Scale: 1:100
Author: [Name]
Checked: [Name]
Approved: [Name]

Sky City Entertainment Group
Gaming Layouts
SKY CITY
ENTERTAINMENT GROUP

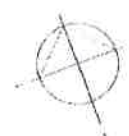
Call: +61 8 2570006
Fax: +61 8 2570005
www.skycity.com.au

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— GAMING AREA: 8,990m²



Project Name	SKY CITY - PODIUM
Level	LEVEL 2 GAMING AREAS Incl.
Client	Diamond Room Extension
Date	06/11/2012
Scale	1:100
Author	
Checker	
Approver	
Discipline	
Room No.	
Room Name	
Room No.	
Room Name	
Room No.	
Room Name	

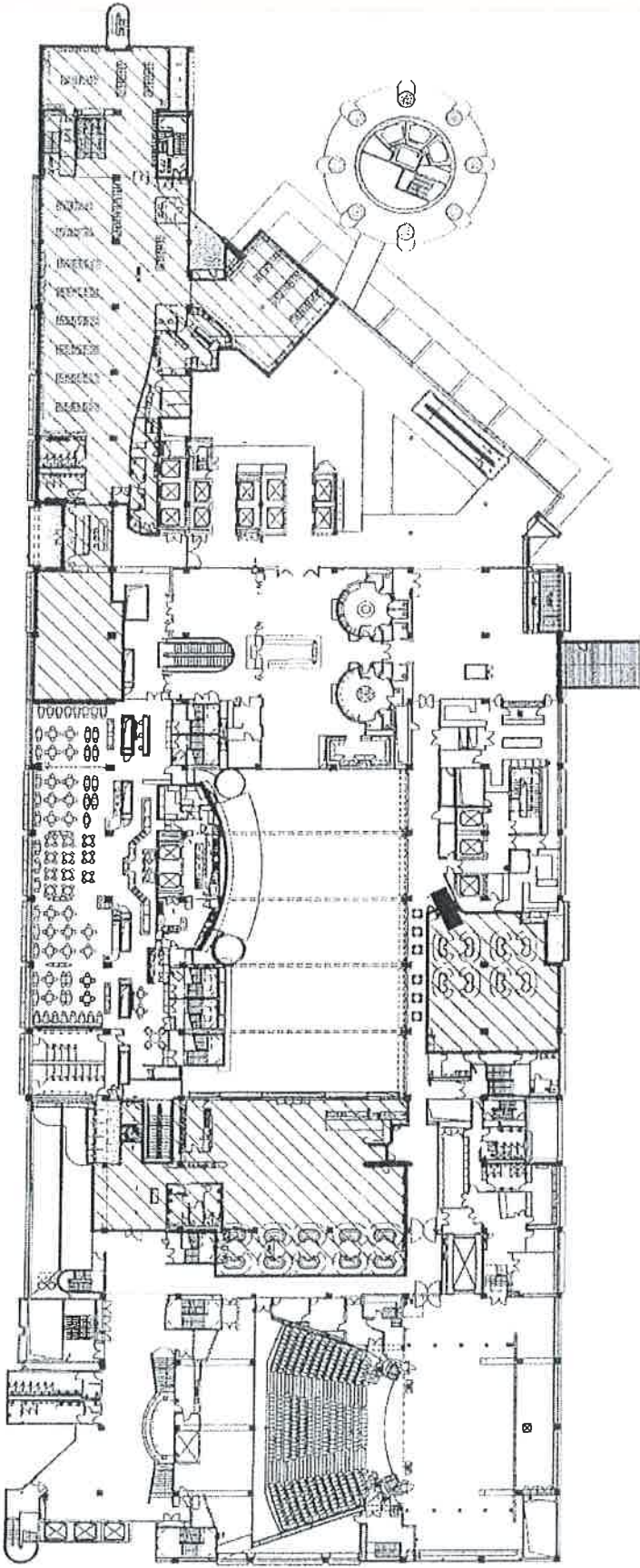
SKY CITY
ENTERTAINMENT GROUP

Sky City Entertainment Group
Gaming Layouts

City of Las Vegas
City of Las Vegas
City of Las Vegas
City of Las Vegas

Moller Architects





GAMING AREA: 2,245m²



SKY CITY - PODIUM
 LEVEL 3 GAMING AREAS Incl.
 Nations Club & Platinum Rm Entry
 06/11/2012

Project Name: Sky City Podium Level 3 Gaming Areas
 Client: Sky City Entertainment Group
 Architect: Moller Architects
 Date: 06/11/2012

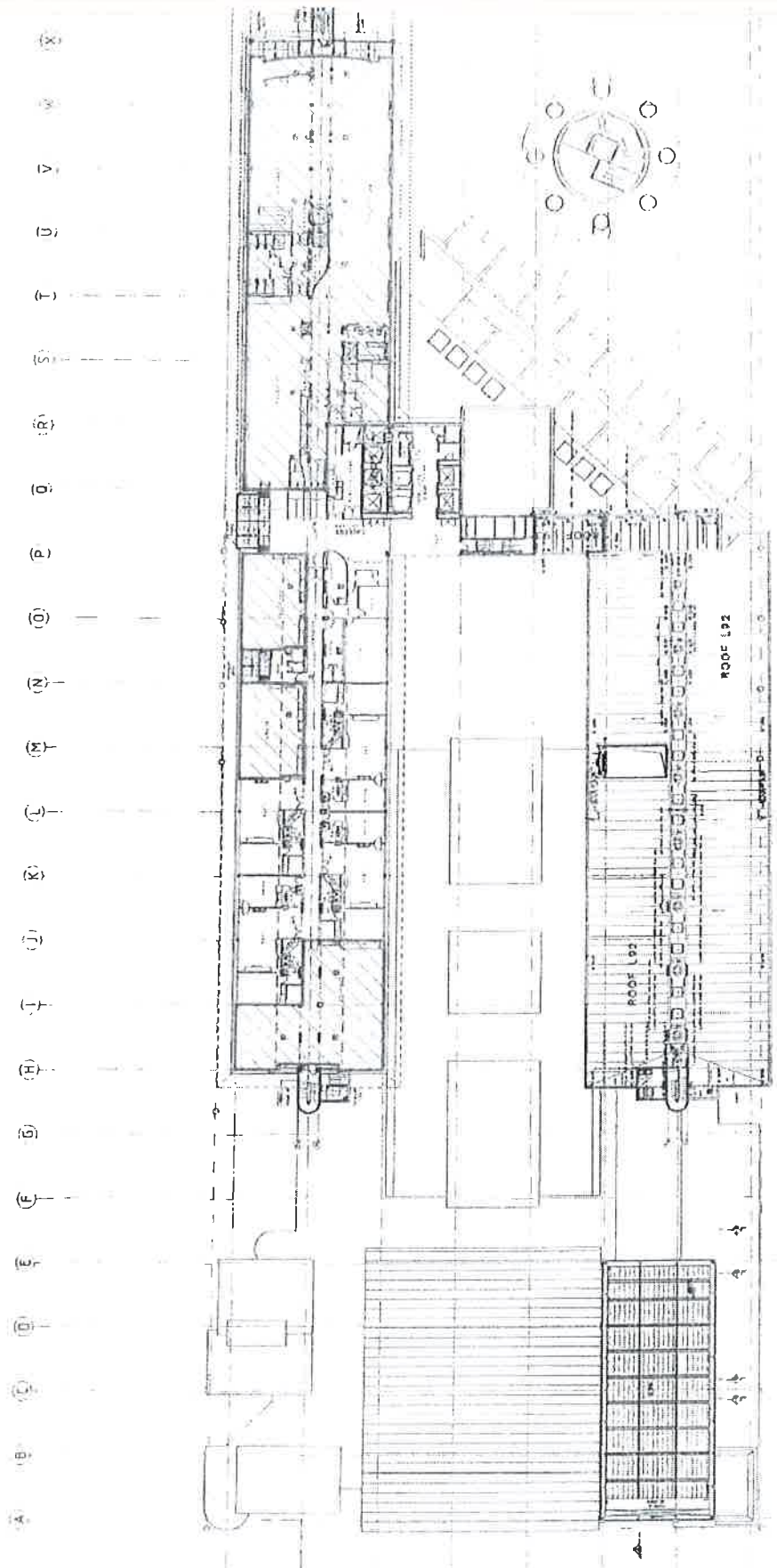
Sky City Entertainment Group
 Gaming Layouts



Scale: 1:50
 Date: 06/11/2012

moller. Architects^o





———— GAMING AREA: 1,309m²

Project Name	SKYCITY - VIP GAMING
Level	LEVEL H4
Area	GAMING AREAS
Date	15/11/2012
Scale	1:100
Author	[Name]
Checker	[Name]
Project Manager	[Name]
Client	SKYCITY
Address	1, VICTORIA AVENUE, MELBOURNE, VIC 3000
Phone	03 9600 8888
Fax	03 9600 8889
Website	www.skycity.com.au

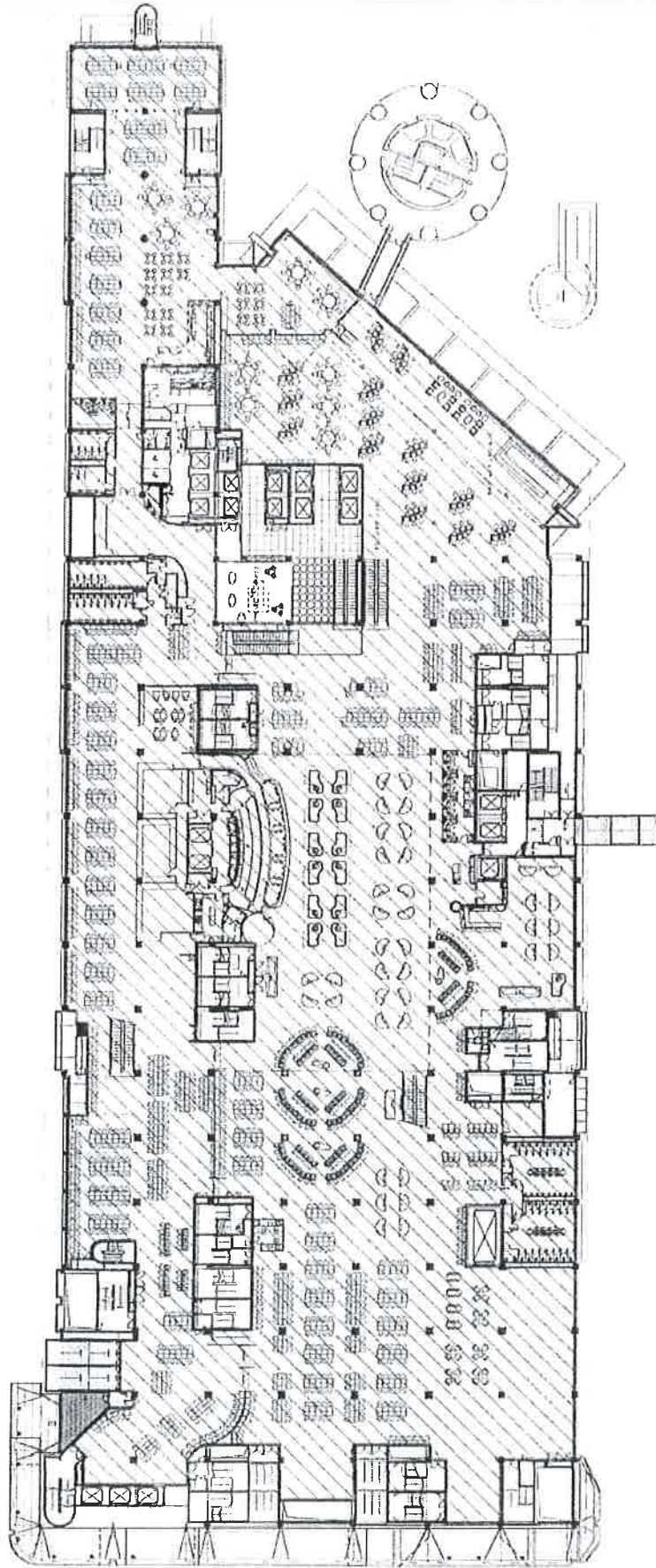
SKYCITY
ENTERTAINMENT GROUP

Sky City Entertainment Group
Gaming Layout

Call 03 9600 8888
Fax 03 9600 8889
100 Victoria Avenue
Melbourne, VIC 3000

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———— GAMING AREA: 7,814m²

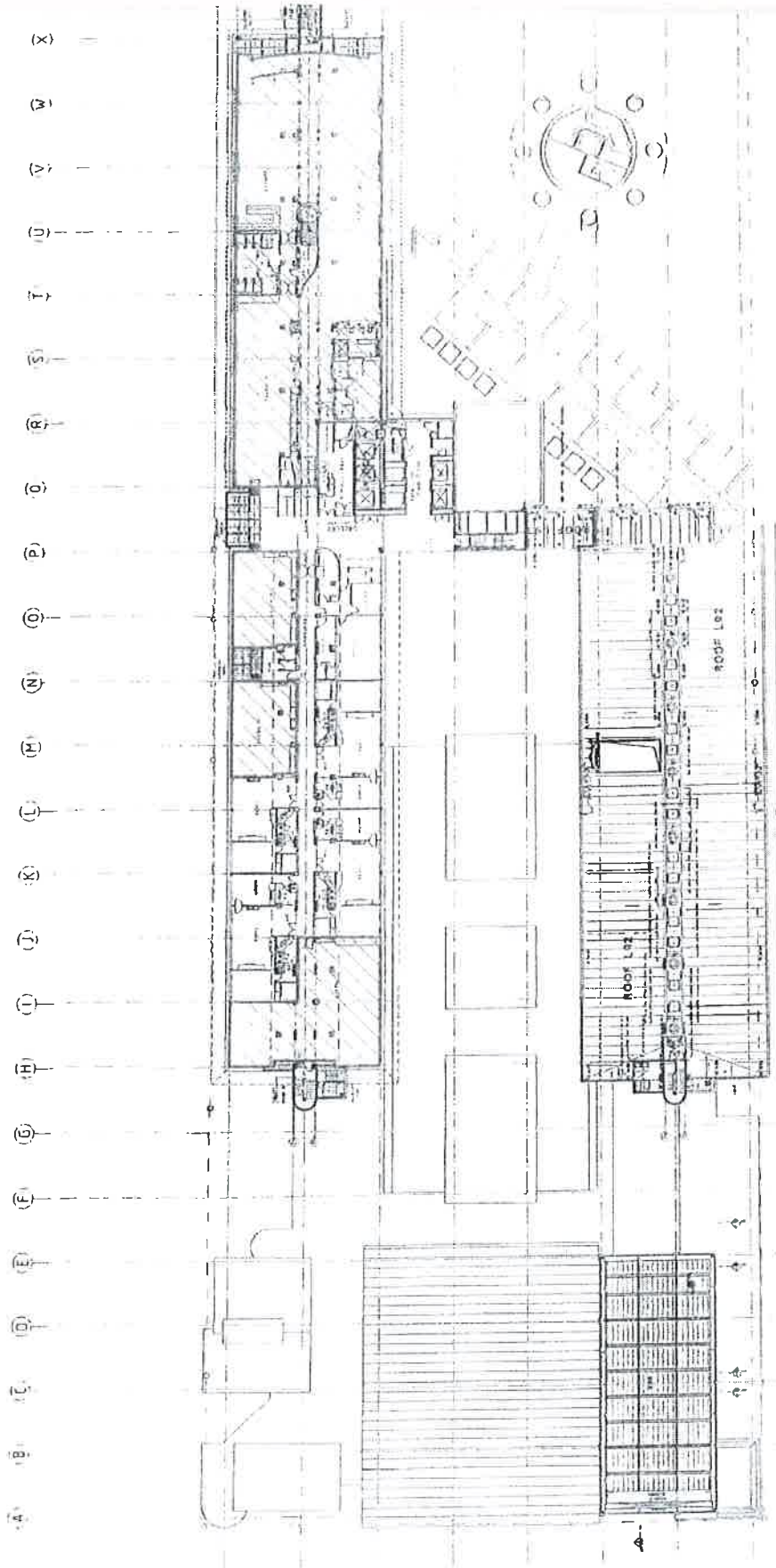


Project Name	SKYCITY - PODIUM
Level	LEVEL 2 GAMING AREAS Incl. Diamond Extension & Atrium Infill
Date	07/07/2013

SKYCITY ENTERTAINMENT GROUP
 Sky City Entertainment Group
 Gaming Layouts

SKYCITY ENTERTAINMENT GROUP
 Sky City Entertainment Group
 Gaming Layouts

Moller Architects
 Moller Architects
 1000 14th Street, Suite 1000
 Denver, CO 80202
 Phone: 303.733.1100
 Fax: 303.733.1101
 Email: info@mollerarchitects.com



———— GAMING AREA: 1,309m²

SKY CITY - VIP GAMING
LEVEL H5
GAMING AREAS
15/10/2012

Project Name	SKY CITY - VIP GAMING
Client	SKY CITY ENTERTAINMENT GROUP
Architect	MOLLER ARCHITECTS
Scale	1:100
Date	15/10/2012
Drawn by	[Name]
Checked by	[Name]
Approved by	[Name]

SKY CITY ENTERTAINMENT GROUP
Gaming Layouts

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Fax +64 9 3770088

MOLLER ARCHITECTS
Moller Architects



