

**IN THE MATTER** of the Gambling Act 2003  
**AND** on an application by **SKYCITY AUCKLAND LIMITED** to redesignate the Gambling Area on level 3 of the Auckland casino

**BEFORE THE GAMBLING COMMISSION**

Members: G L Reeves (Chief Gambling Commissioner)  
 L M Hansen  
 D C Matahaere-Atariki  
 W N Harvey  
 S C L Pearson

Date of Application: 9 December 2019

Date of Decision: 14 February 2020

Date of Notification of Decision: 4 March 2020

**DECISION ON AN APPLICATION BY SKYCITY AUCKLAND LIMITED TO REDESIGNATE THE GAMBLING AREA ON LEVEL 3 OF THE AUCKLAND CASINO**

**Introduction**

1. SKYCITY Auckland Limited ("**SCAL**") applied to the Commission, pursuant to conditions 9 and 9A of its venue licence, and section 139(1)(d) of the Gambling Act 2003 (the "**Act**"), to redesignate the Gambling Area on level 3 of the Auckland casino.

**Licence conditions**

2. The relevant licence conditions are as follows:

**SCAL's venue licence**

8. The Licence Holder shall ensure that:
  - (a) gambling activity is not visible from outside the Casino Venue unless approved by the Commission pursuant to condition 6(e); and
  - (b) there is provision for generation of emergency power to maintain in situations of an interruption to mains power:
    - (i) minimum services to the Gambling Area; and
    - (ii) lighting in highly sensitive areas such as count rooms, surveillance suite, cashiering locations and gambling equipment storerooms.
9. The current standard Gambling Area for the casino venue is delineated in the plans attached as Schedule 1 to these conditions. An additional Gambling Area for level 3 of the casino is delineated in the plan attached as

Schedule 2 and will form part of the Gambling Area only after being activated as provided for in condition 9A.

- 9A. The additional Gambling Area depicted in the plan attached as Schedule 2 will take effect subject to the following:
- (a) the Licence Holder providing the Commission and the Inspectorate with a minimum of two working days' notice in writing of its intention to use the additional Gambling Area; and
  - (b) the Licence Holder specifying in the notice, the date and time at which the additional Gambling Area will take effect and the date and time it will terminate. At the end of the notified period the Gambling Area will revert to the area delineated in Schedule 1.

### Relevant sections of the Act

3. The relevant sections of the Act are 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 purpose 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).

### Submissions by SCAL

4. SCAL submitted, in summary, as follows:
- (a) It wants to make a change to the designated Gambling Area on level 3 of the casino in order to create an additional outdoor area where patrons may smoke while playing gaming machines. The area in question is the smoking balcony that is outside the Platinum Room.
  - (b) The gaming machines would be deployed in positions to satisfy the visibility restrictions set out in licence conditions.
  - (c) The area in question is inaccessible to minors and is already restricted to Platinum members via card access. Anyone visiting the area would need to have entered another part of the Gambling Area which is monitored by Security and/or gaming hosts.

- (d) If this application is approved, it intends to deploy a small number of gaming machines to the outdoor area and will submit a revised floor plan for approval.

#### **The Secretary's submissions**

5. The Secretary submitted that that he has no concerns with the application other than to note that as the smoking deck in question is visible from apartments on Victoria Street West, SCAL must ensure that any gambling activity on that deck is not visible from outside the casino venue.

#### **SCAL's submissions in reply**

6. In reply, SCAL acknowledged the need to address the visibility restrictions when it deploys EGMs to the area in question. The only real opportunity to demonstrate this is when the EGMs are deployed, which first requires the area to be designated as Gambling Area.
7. It recently reconfigured EGMs on two existing outdoor Gambling Areas and before switching the machines on, invited the Secretary to inspect the areas, to satisfy him that the visibility restrictions had been satisfied. That approach worked well and in the event the new area is approved as Gambling Area, it will invite the Secretary to undertake an inspection once the EGMs are deployed and before they are switched on.

#### **Analysis**

8. SCAL has applied to redesignate the casino's Gambling Area to create an additional outdoor area where patrons can smoke while playing gaming machines.
9. In previous decisions, the Commission has considered whether it has the power to extend a casino's Gambling Area to include smoking balconies, concluding that it can do so provided that the area in question does not extend beyond the casino venue, as defined in the casino venue licence, and provided that the amended licence conditions are consistent with section 139(2) of the Act. The venue licence for the Auckland casino defines the casino venue, where relevant, as "All the land and buildings bounded by Hobson Street, Wellesley Street West, Federal Street and Victoria Street West. ...". The variation to the Gambling Area is clearly within the boundary of the casino venue.
10. The licence conditions, which will not be amended as a result of this application, will remain consistent with section 139(2) of the Act.
11. In relation to the visibility issue, SCAL is aware that condition 8(a) of its venue licence prevents gambling from being visible from outside the Casino Venue and to date has

always taken practical steps, with the Secretary's oversight, to ensure that it is not. The Commission expects this approach to continue with the current balcony.

### Decision

12. The Commission approved, under conditions 9 and 9A of SCAL's venue licence, and section 139 of the Act, the redesignation of the Gambling Area at the Auckland casino in the manner proposed. The level 3 plan depicting the new Gambling Area for Schedule 1 attached to SCAL's venue licence is **attached**, as is the level 3 plan depicting the new Gambling Area for Schedule 2 attached to SCAL's venue licence.

### Right of appeal

13. 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.



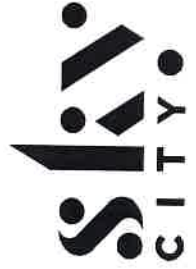
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Graeme Reeves  
Chief Gambling Commissioner

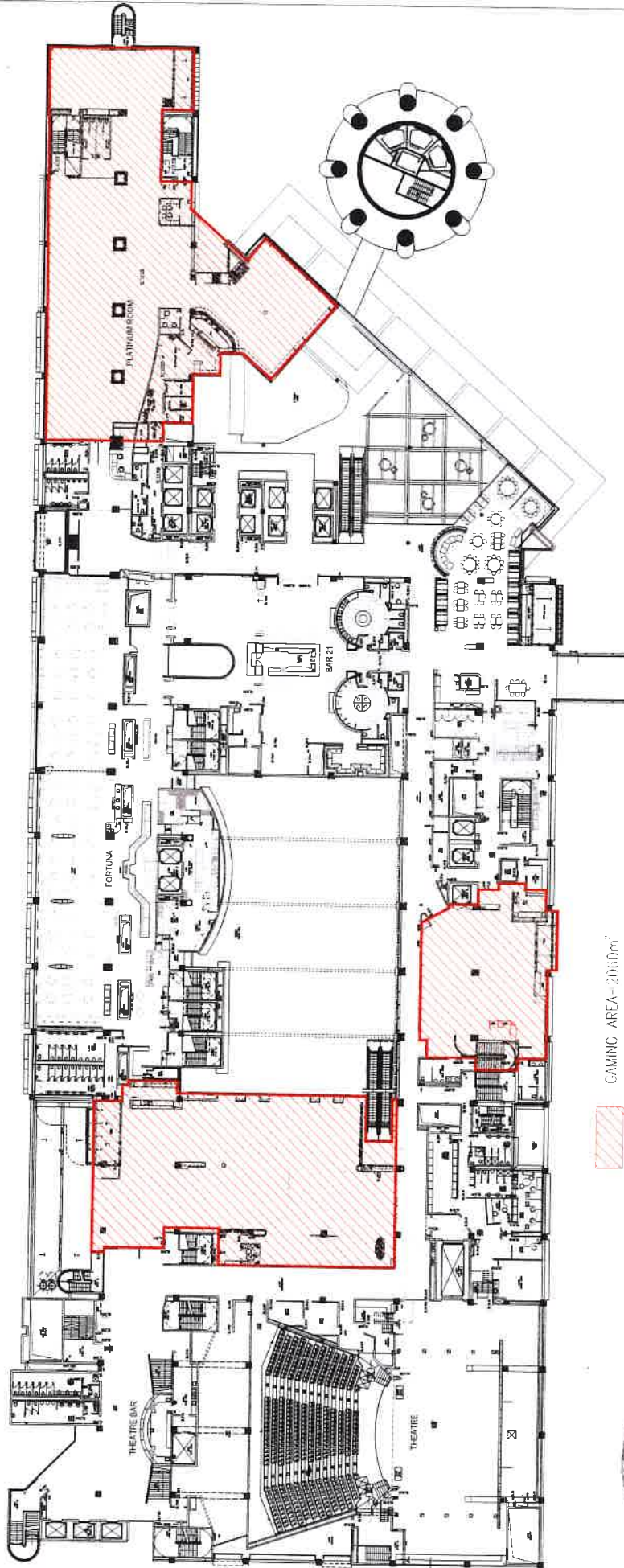
for and on behalf of the  
Gambling Commission

4 March 2020



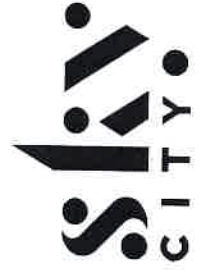


# SKY CITY MAIN SITE Level 3

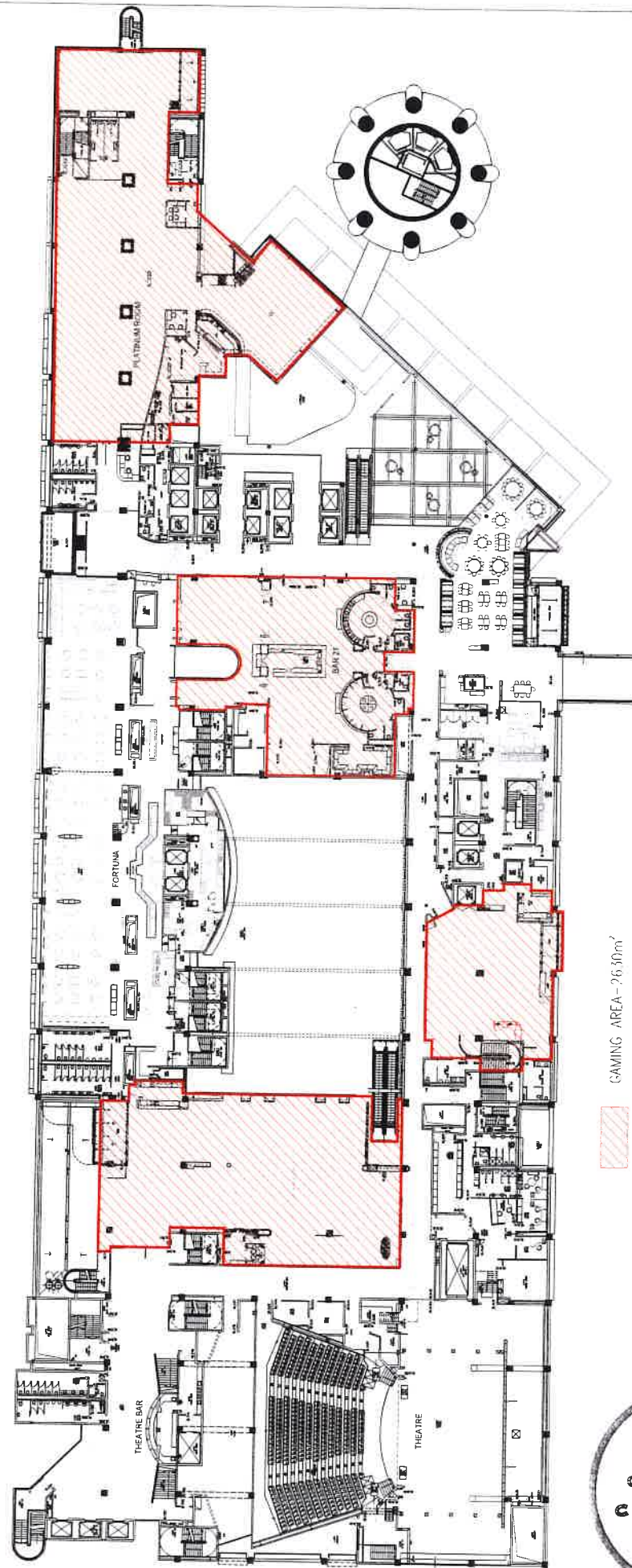


GAMING AREA - 2060m²





# SKY CITY MAIN SITE Level 3



GAMING AREA - 26,30m<sup>2</sup>

