

IN THE MATTER of the Gambling Act 2003

AND of an application by **SKYCITY AUCKLAND LIMITED** to redesignate the Gambling Areas on Level 3 of the Auckland Casino

BEFORE THE GAMBLING COMMISSION

Members: S W Hughes KC (Chief Gambling Commissioner)
S C L Pearson
W A Acton
S T Shaw
C M Risk

Date of Application: 30 June 2023

Date of Decision: 11 August 2023

Date of Notification
of Decision: 17 August 2023

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

Application

1. SKYCITY Auckland Limited (“**SCAL**” or “**SkyCity**”) has applied to the Commission, pursuant to conditions 9 and 9A of SCAL’s venue licence and section 139(1)(d) of the Gambling Act 2003 (the “**Act**”), to redesignate the Level 3 Gambling Areas at the Auckland Casino. SkyCity wanted to correct an error in plans previously submitted to the Commission and to deploy an additional Alternative Gambling Area.

Licence conditions

2. The relevant licence conditions are as follows:

SCAL’s venue licence

9. The current standard Gambling Area for the casino venue is delineated in the plans attached as Schedule 1 to these conditions. Alternative Gambling Areas for levels 2 and 3 of the casino, and level 7 of the Grand Hotel, are delineated in the plans attached as Schedule 2 and will form part of the Gambling Area only after being activated as provided for in condition 9A.
- 9A. Any of the alternative Gambling Areas depicted in the plans 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 either or both of the alternative Gambling Areas; and

- (b) the Licence Holder specifying in the notice, the date and time at which either or both of the alternative Gambling Areas will take effect and the date and time they will terminate. At the end of the notified period the Gambling Area will revert to the area delineated in Schedule 1.

Relevant section of the Act

3. 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 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).i

Submissions by SCAL

4. SCAL submitted, in summary, as follows:

- (a) In September 2018, it applied to the Commission, pursuant to conditions 9 and 9A of its venue licence and section 139(1)(d) of Act, to redesignate the Gambling Area on Level 3 of the Auckland Casino (the "**Platinum Application**"). The Platinum Application sought to reduce the size of the Gambling Area near to the Platinum Room, by removing the Platinum Room toilets from the Gambling Area. The Platinum Room is located at the northern end of the Casino.
- (b) The Platinum Application was approved by the Commission on 5 December 2018 in decision GC24/18.
- (c) Since decision GC24/18, it has operated the Platinum Room with the reduced Gambling Area approved.
- (d) In July 2022, it applied to the Commission, pursuant to conditions 9 and 9A of SCAL's venue licence and section 139(1)(d) of the Act, to redesignate a different part of the Gambling Area on Level 3 (the "**Back of House Application**"). The Back of House Application focused on the Eastern Room and sought to exclude the room from the Casino's Standard Gambling Area but to include it in its Alternative Gambling Area, so that it could be used either as part of the Level 3 Gambling Area,

or as a back of house staff area and training room (outside the Gambling Area). The Eastern Room is located on the Eastern side of the casino.

- (e) The Back of House Application was approved by the Commission on 9 September 2022 in decision GC12/22.
- (f) Unfortunately, the Gambling Area plans submitted with the Back of House Application were incorrect. They failed to show the reduced Gambling Area approved by the Commission in its decision on the Platinum Application (and, as a result, included the Platinum Room toilets).
- (g) The Back of House Application, and the resulting Commission decision, GC12/22, were focussed only on the redesignation of the Eastern Room and made no reference to the Platinum Room toilets.
- (h) While decision GC12/22 approved the Level 3 Gambling Area plans attached to the Back of House Application and attached them to the updated SCAL venue licence, SCAL has not used the Platinum Room toilets as part of its Gambling Area.
- (i) It asked that the current Gambling Area plans for Level 3 be replaced with the corrected plans attached to the application. As decision GC12/22 provided no basis for the redesignation of the Platinum Room toilets as Gambling Area, the application seeks the correction of an error rather than redesignation of the Gambling Area.
- (j) It seeks one further change to its Gambling Area plans. The plans attached to the application include one "alternative" Gambling Area that is not currently attached to its venue licence. It seeks to have the Platinum Room, Baccarat Room and the room "Twentyone" utilised as Level 3 Gambling Areas. The designation is a natural consequence of the Back of House Application and should have been included in the original Back of House application.

Submissions by the Secretary

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

Analysis

- 6. The Auckland Casino has multiple Standard Gambling Areas across five levels, together with Alternative Gambling Areas across three levels. The Standard Gambling Areas are delineated in the plans attached as Schedule 1 to SCAL's venue licence, while the Alternative Gambling Areas are delineated in the plans attached as Schedule 2.

7. SkyCity successfully applied to remove the Platinum Room toilets from the Standard Gambling Area of Level 3 at the Auckland Casino, but inadvertently restored them when it included incorrect plans in a subsequent application to redesignate the Eastern Room as Alternative Gambling Area. Once the error was discovered, SkyCity sought to remedy the situation by bringing this application with corrected plans for the Commission to approve.
8. Granting the application to remedy the earlier error raised no issues of regulatory concern. Doing so will simply restore the Level 3 Gambling Areas to the intended approved locations (without the Platinum Room toilets), which all parties have been operating within, in practice, since 2018.
9. SkyCity has also taken the opportunity to address a matter that it omitted to include as part of the Back of House application. In its decision on that application, GC12/22, the Commission approved Alternative Gambling Area plans for the Eastern Room, and the Eastern Room plus "Twentyone." SkyCity wishes to add a third option which would allow it to use "Twentyone" independently of the Eastern Room.
10. Permitting the third option raised no issues of regulatory concern. Each of the individual Gambling Areas has already been approved by the Commission and using "Twentyone" independently of the Eastern Room raises no new concerns.
11. Neither of these matters raised any issues of concern for the Secretary.
12. Although SkyCity framed its application as the correction of an error, rather than an application for redesignation, the Commission's view is that the application should be treated as an application to redesignate. SkyCity wishes to reverse the effect of an amendment arising from an earlier application which it did not intend. As a result, the effect was not raised in the application and was not addressed in the reasoning in decision GC12/22. In addition, the application to designate a new Alternative Gambling Area involves a clear departure from the Alternative Gambling Areas approved to date.

Decision

13. The Commission redesignated the Level 3 Gambling Areas at the Auckland Casino, pursuant to conditions 9 and 9A of SCAL's venue licence and section 139(1)(d) of Act. The Level 3 plans depicting the redesignated Gambling Areas for Schedule 1 and Schedule 2 attached to SCAL's venue licence are **attached**.

Right of appeal

14. 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.



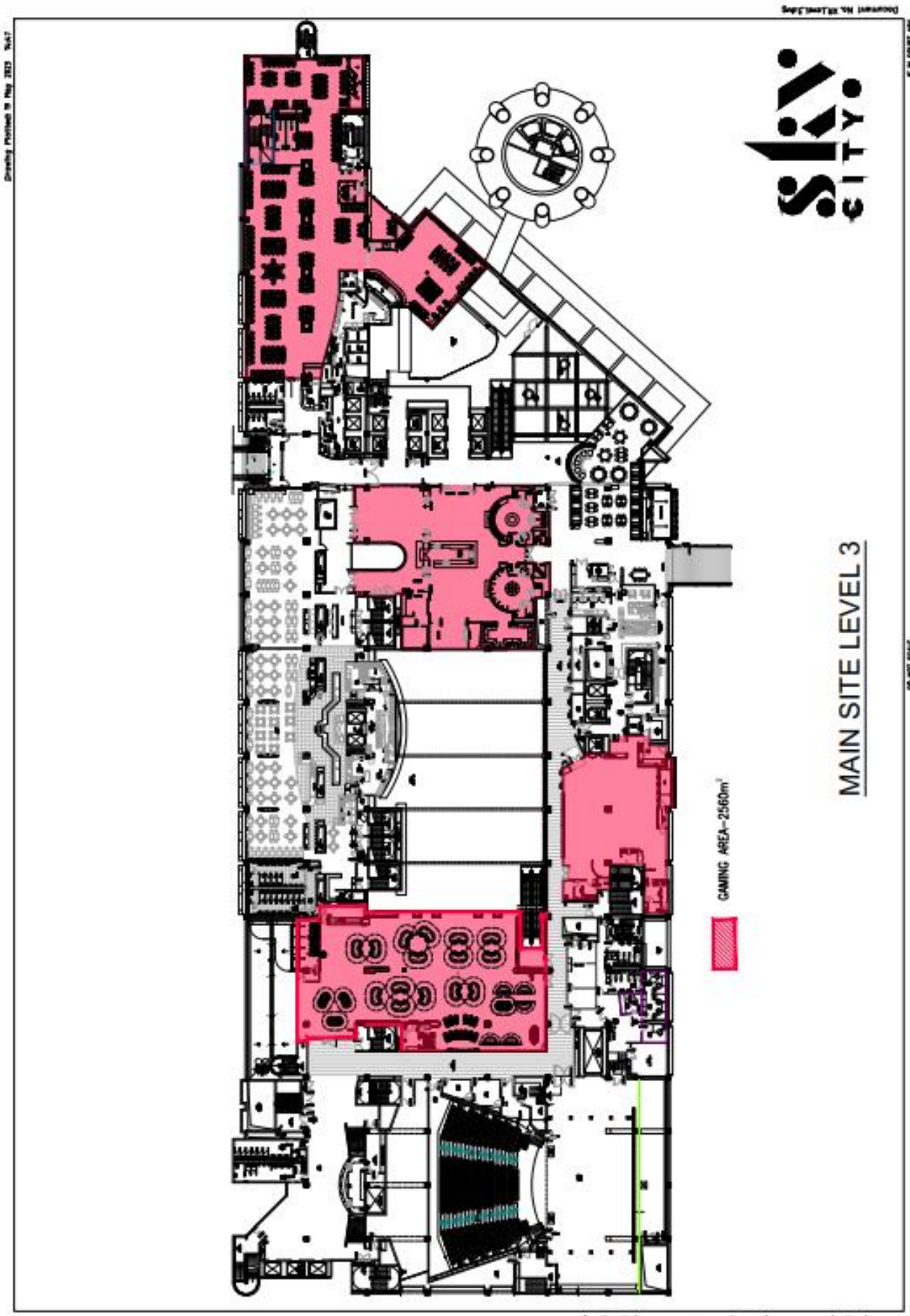
Susan Hughes KC
Chief Gambling Commissioner

for and on behalf of the
Gambling Commission

17 August 2023



SCHEDULE 1



MAIN SITE LEVEL 3

Drawing Produced in May 2023 N417

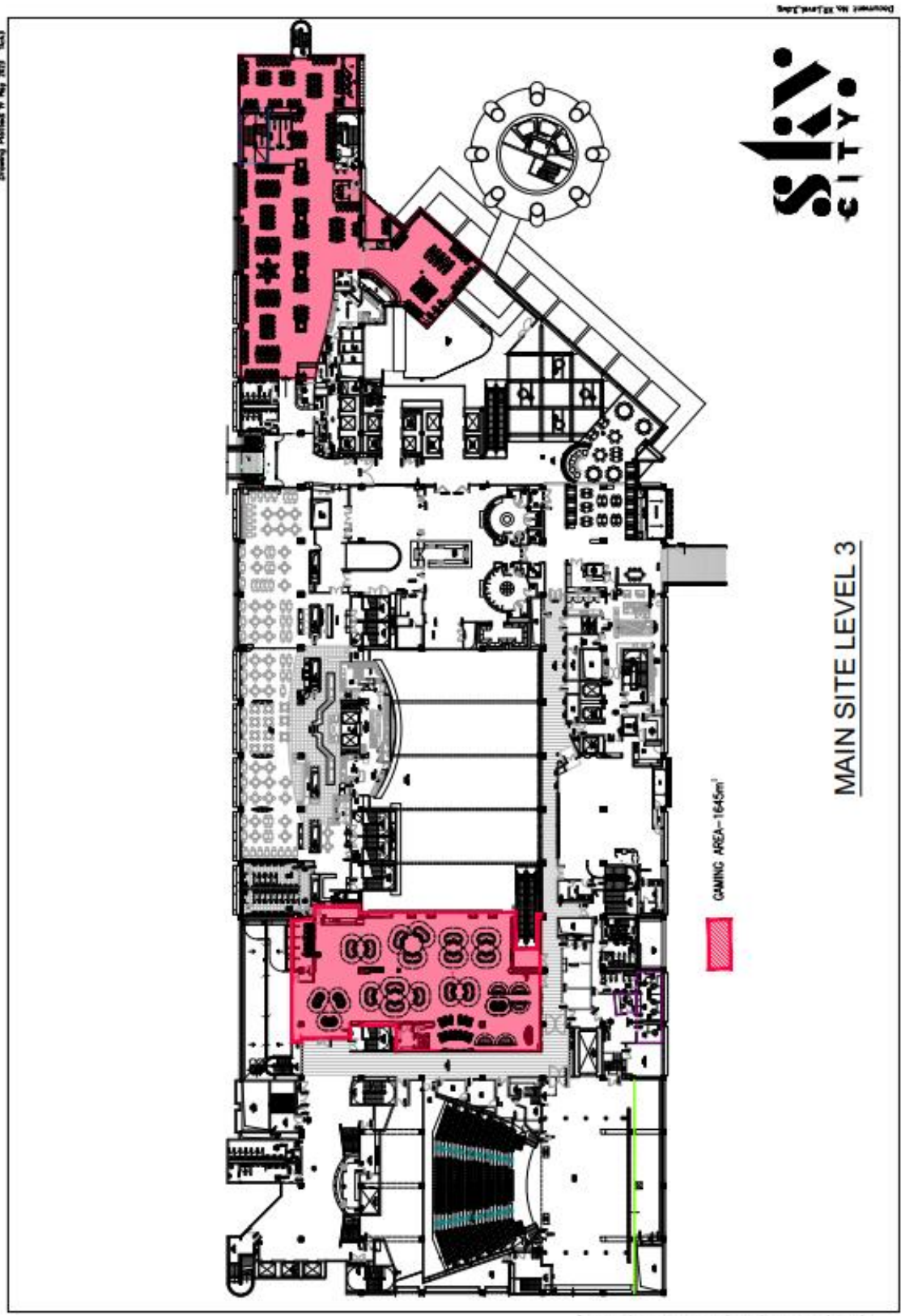
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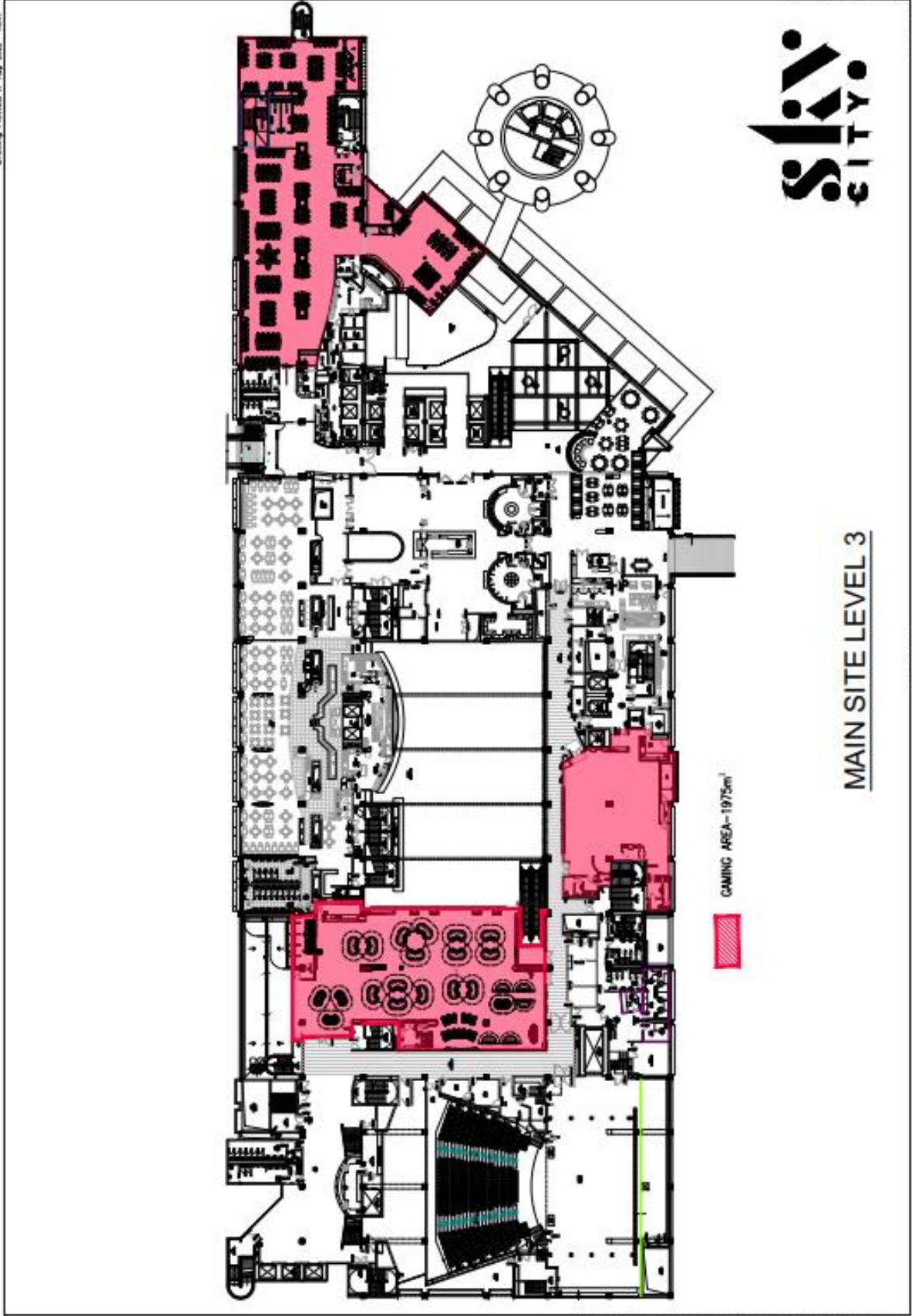
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SCHEDULE 2

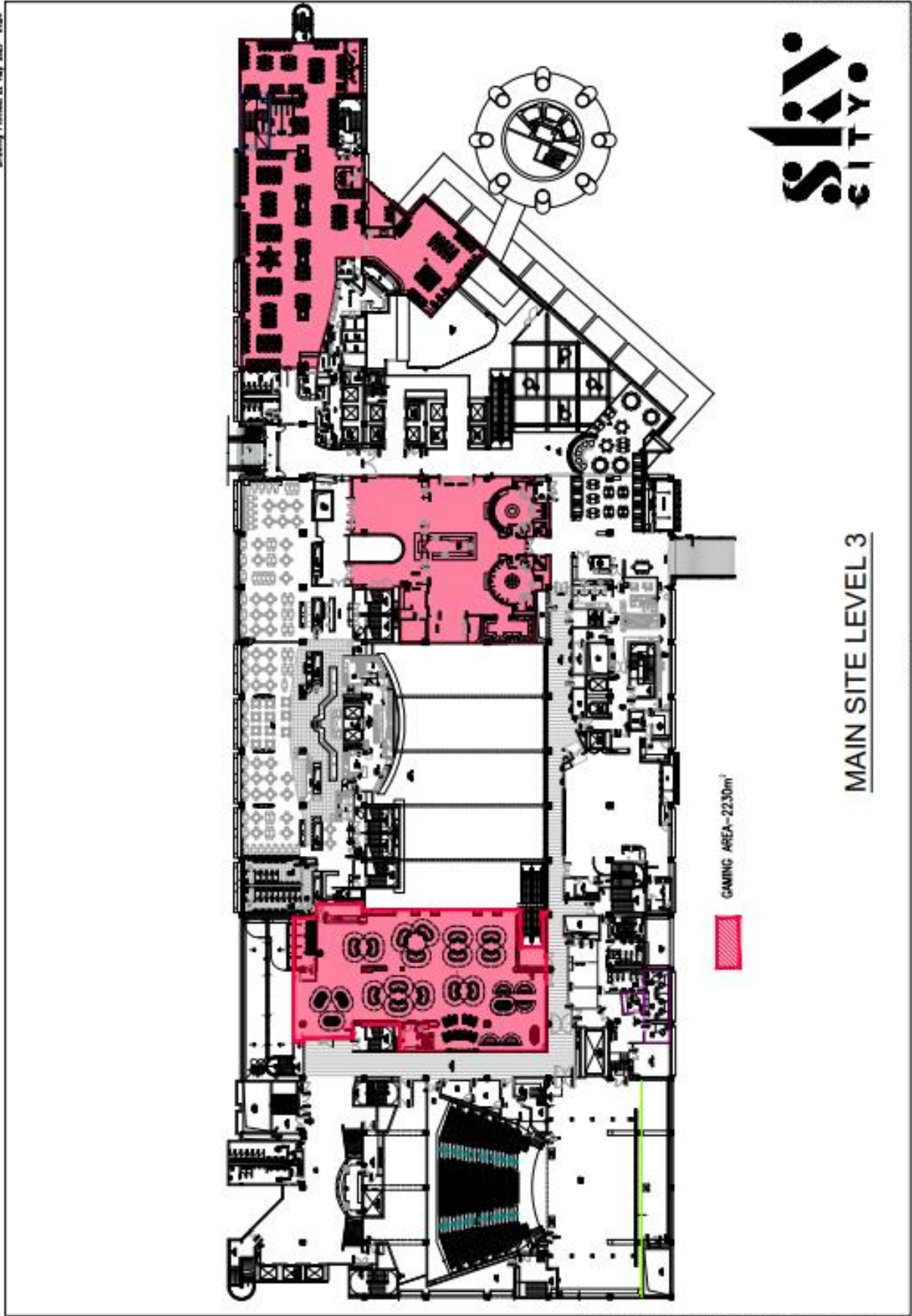




MAIN SITE LEVEL 3

GAMING AREA-1975m²





MAIN SITE LEVEL 3