

**IN THE MATTER** of the Gambling Act 2003

**AND** of an application by  
**CHRISTCHURCH CASINOS LIMITED** to suspend, temporarily,  
 Level 2 from the standard  
 Gambling Area of the Christchurch  
 Casino

**BEFORE THE GAMBLING COMMISSION**

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

Date of Application: 20 May 2021

Date of Decision: 4 June 2021

Date of Notification  
 of Decision: 4 June 2021

**DECISION ON AN  
 APPLICATION BY CHRISTCHURCH CASINOS LIMITED  
 TO SUSPEND, TEMPORARILY, LEVEL 2 FROM THE STANDARD  
 GAMBLING AREA OF THE CHRISTCHURCH CASINO**

**Application**

1. Christchurch Casinos Limited ("**CCL**") applied to the Commission to suspend, temporarily, Level 2 from the standard Gambling Area of the Christchurch Casino. CCL made the application so that a minor actor could be present on Level 2, which is ordinarily within the Casino's Gambling Area. Level 2 would be used to film a scene on a feature film at a time when the Casino was closed which involved the minor actor.

**Licence conditions**

2. The relevant licence conditions are as follows:

**CCL's venue licence**

- 9A. The Gambling Area within the Casino Venue comprises the areas specified in plans marked "Schedules 1, 2 and 3" annexed to the Commission decision GC23/20. The standard Gambling Area for the Casino Venue is delineated in schedule 1. The Additional Gambling Areas for the Casino Venue are delineated in Schedules 2 and 3, and will form part of the Gambling Area only when activated as provided in condition 9B.

- 9B. The Additional Gambling Areas will take when the following conditions are satisfied:
- (a) The Licence Holder must provide the Commission and the Inspectorate with a minimum of 3 days' notice in writing of its intention to use an identified Additional Gambling Area.
  - (b) The Licence Holder must specify in that notice the dates and times at which the Additional Gambling Area(s) will take effect and terminate. At the notified termination date and time, the Gambling Area will revert to the Gambling Area delineated in Schedule 1.

#### **CCL's operator's licence**

- 11. The Licence Holder shall operate in accordance with approved floor layouts showing the position of gaming tables and gaming machines.
- 12. The Licence Holder shall obtain the approval of the Commission for new floor plans prior to relocating or installing tables or machines in positions not specified in approved floor layouts. When applying the Licence Holder must submit fresh plans showing the floor layout for the Gambling Area and details of the proposed CCTV layout for the consideration of the Commission. Any change must comply with the Surveillance Standard. The Executive Director and a single Gambling Commissioner may approve the new floor plans if they are satisfied that the floor layout has no potentially adverse effects. If they are not so satisfied, the proposed floor plan must be referred to the Commission for a decision on approval.

#### **Relevant sections of the Act**

3. The relevant sections of the Act are as follows:

##### **gambling area means,—**

- (a)...; or
- (b) for a casino venue, that part of the venue that is specified by the Gambling Commission under section 139 or the Casino Control Authority under the Casino Control Act 1990 as an area where casino gambling is permitted or, if the Gambling Commission does not specify an area under that section or the Casino Control Authority has not specified an area, the casino venue

#### **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).

**140 Procedure for specifying, varying, or revoking casino licence conditions**

- (1) The Gambling Commission must notify the holder of the relevant casino licence, the Secretary, and any other person who it considers is affected by a proposal to specify, vary, or revoke the conditions of a casino licence.
- (2) Notification under subsection (1) must include—
  - (a) the reason for the proposal; and
  - (b) the procedure to be followed before the Gambling Commission makes a decision relating to the proposal.
- (3) The holder of the casino licence, the Secretary, and any other person affected may make written submissions to the Gambling Commission concerning the proposal within 20 working days after the date of the notice under subsection (1) or within any longer period that the Gambling Commission allows.
- (4) The Gambling Commission must consider any submissions made under subsection (3) and may, if it considers it appropriate, seek comment from the casino licence holder on the submissions received from the Secretary or other persons affected.
- (5) The Gambling Commission must notify the holder of the casino licence, the Secretary, and other persons affected of—
  - (a) its decision concerning the proposal and the reasons for the decision; and
  - (b) the right to appeal the decision and the process for an appeal.

**303 Age restriction on gambling in casinos**

- (1) Every person under 20 years commits an offence who—
  - (a) participates in casino gambling; or
  - (b) is found in the gambling area of a casino.
- (2) Every holder of a casino operator's licence commits an offence who allows a person under 20 years—
  - (a) to participate in casino gambling; or
  - (b) to enter, or remain in, the gambling area of a casino.
- (3) It is a defence to a charge under subsection (2) if the defendant proves that the defendant had reasonable grounds to believe that the person to whom the charge relates was 20 years or over.
- (4) Without limiting subsection (3), reasonable grounds exist for the purposes of that subsection if the defendant proves that the defendant had sighted an evidence of age document of the person to whom the charge relates, indicating that the person was 20 years or over.
- (5) Every person who commits an offence—
  - (a) against subsection (1) is liable on conviction to a fine not exceeding \$500;
  - (b) against subsection (2) is liable on conviction to a fine not exceeding \$5,000.

**Submissions by CCL**

4. CCL submitted, in summary, as follows:
  - (a) It has been approached by a locations scout to use part of the Christchurch Casino to shoot a scene as part of a "father and daughter" dramedy being developed by Amazon studios. The scene would depict a casino in New Mexico, involving an underage actor watching her father make a staged bet on a roulette table. The

proposal is for the filming to take place on Level 2 of the Casino, which is ordinarily part of the Casino's Gambling Area. The roulette table would be located in the TAB area on Level 2.

- (b) The standard Gambling Area, pursuant to condition 9A (and Schedule 1) of CCL's venue licence, includes Level 2 of the Casino.
- (c) As New Zealand legislation prohibits the presence of minors in a Casino's gambling area, it wants to suspend, temporarily and for strictly limited periods, Level 2 from the Casino's standard Gambling Area. Outside the period of filming, Level 2 would be reinstated to the standard Gambling Area.
- (d) The scheduled filming would take place outside of the Casino's usual operational hours. Filming is planned for 25 June 2021, between 12.30am to 11.59am. In case the filming overruns, two contingency dates of 26 and 27 June 2021, between 2.30am and 11.59am, have been arranged.
- (e) Conditions 9A and 9B can remain in their current form, with the only required change being a temporary Schedule 1, which would not include any part of Level 2 as Gambling Area. However, because it wants to maintain its normal operations in between filming times, it wants the temporary redesignation to apply for the dates and times specified above.
- (f) It has been offered payment for use of the Casino, but any payment it receives will be given to a charity.

#### **Submissions by the Secretary**

5. The Secretary submitted that he has no issue with CCL's proposal, and notes the following:
  - (a) While filming will take place at the Christchurch Casino, the resulting film will depict a casino in New Mexico. Therefore, the film will not convey the message that the presence of a minor on a gambling floor in New Zealand is lawful.
  - (b) Casino gambling is not the feature of the film and the shoot is not advertising casino gambling in any way.
  - (c) Varying the Gambling Area will avoid a breach of section 303 of the Act. Under the proposed variation, the minor will not be present in a live Gambling Area and will not be participating in casino gambling. CCL will be responsible for ensuring that the minor does not enter a live designated Gambling Area, or participate in casino gambling.

- (d) The proposal may require an amended floor plan if any gaming tables are removed from a designated Gambling Area. It has no issue with a change in floor plan, although whether this is required will depend upon how the tables will be obtained and whether movements will actually occur.
- (e) The legality of the amendment requested and the final decision ultimately rests with the Gambling Commission.

#### **CCL's submissions in reply**

- 6. In reply, CCL noted the Secretary's floor plan submissions and advised that it would not remove a gaming table from a designated Gambling Area, but rather that it would utilise an otherwise unused Roulette table from storage.

#### **Analysis**

- 7. CCL has sought the Commission's approval to allow a minor actor to be present for the filming of a feature film in an area of the Christchurch Casino that is ordinarily part of its standard Gambling Area. The approval sought is intended to be limited to the specified periods during which filming is planned to take place, all of which will fall during a time of day when the casino is ordinarily closed to the public.
- 8. Neither the Commission nor the Secretary have any issues with the outcome that CCL is hoping to achieve. This is particularly the case because the resulting scene will not convey the impression that minors are permitted within casinos in New Zealand. Indeed, the footage that will eventuate will have no obvious connection to either Christchurch or New Zealand as the intention is to depict a casino in the state of New Mexico, USA.
- 9. However, the application cannot be granted as framed. The application seeks the suspension, temporarily, of Level 2 from the designated Gambling Area of the Christchurch casino. The application assumes that the only change required would be the approval of a new temporary schedule, Schedule 1, which would not include any of the Level 2 Gambling Area, and that no amendment would be required to conditions 9A or 9B. However, the application and submissions failed to articulate how the change would work in practice, in the light of the effect of section 303 of the Act, the fact that licence condition 9A already refers to the existing Schedule 1, which includes Level 2 as part of the Casino's standard Gambling Area, and the lack of any identified power of the Commission to suspend descriptions of gambling areas, which are required to be specified in conditions attached to the casino's venue licence.
- 10. Section 303 provides that both a casino operator who allows a minor to enter a casino Gambling Area, and a minor who is found within a casino Gambling Area, commit offences. The Commission cannot suspend either the effect of section 303 or the inclusion of Level

2 of the casino from the casino's Gambling Area, when condition 9A of CCL's venue licence refers to a Schedule 1 which includes the Level 2 of the casino within the standard Gambling Area. What CCL wishes to achieve necessarily requires greater amendment of its venue licence than it proposes, if regulatory confusion and the potential for a breach of section 303 are to be avoided.

11. A variation to Schedule 1 would be required to remove Level 2 from the Casino's Gambling Area. Conditions 9A and 9B already contain a mechanism that would allow for Level 2 to be removed and reinstated as gambling area relatively easily, ensuring that there is no offence committed under section 303 and no breach of CCL's licence conditions.
12. Condition 9A provides that the standard Gambling Area at Christchurch casino comprises Schedule 1 (which currently comprises both Levels 1 and 2 of the casino), with Additional Gambling Areas comprising Schedule 2 (the Monza Bar on Level 2), and Schedule 3 (an area known as "Area B" in the basement of the Casino). Schedule 1 can be varied to include only Level 1 as the Casino's standard Gambling Area, with Level 2 being made another Additional Gambling Area as shown in a new Schedule 4, with consequent amendment to Condition 9A. Condition 9B already provides that Additional Gambling Areas, which would then include Level 2, may be activated and de-activated by notice to the DIA Inspectorate and the Commission. That is the existing mechanism by which Level 2 could be "suspended" from the casino's Gambling Area.
13. In order for the status quo to be preserved (that is, for CCL to be able to continue to use the current standard Gambling Area, as shown in the current Schedule 1, once the amendments take effect and the current standard Gambling Area is then shown in new Schedules 1 and 4), the amendment will need to include provision for immediate activation of the area specified in Schedule 4 with termination immediately prior to the planned filming, with all further periods of activation and deactivation being the subject of notices by CCL under condition 9B. Condition 9A, with the amendments proposed by the Commission shown in mark-up, would then read as follows:
  - 9A. The Gambling Area within the Casino Venue comprises the areas specified in plans marked "Schedules 1, 2, ~~and 3~~ and 4" annexed to the Commission decision GC08/2123/20. The standard Gambling Area for the Casino Venue is delineated in Schedule 1. The Additional Gambling Areas for the Casino Venue are delineated in Schedules 2, ~~and 3~~ and 4, and will form part of the Gambling Area only when activated as provided in condition 9B, save that Schedule 4 will take effect as activated under condition 9B upon this condition taking effect and will terminate on 25 June 2021 at 12.00am.
14. Such amendments to condition 9A and the Schedules could be reversed once filming has concluded, but it is not apparent to the Commission why they could not remain in place indefinitely, with the Level 2 Gambling Area being effectively permanently deployed as

gambling area pursuant to condition 9B. The Commission sees that as a matter for CCL to decide.

15. CCL submitted that the filming would likely be concluded within one night, but sought a precautionary approval for three nights to allow some operational leeway. The sort of leeway sought creates no issues of regulatory concern for the Commission and can easily be accommodated by condition 9B, in conjunction with the proposed amendments to condition 9A. The provisions would allow CCL full flexibility to control the designation of Level 2 by providing the Commission and the DIA Inspectorate with the requisite advance notification.
16. CCL stated that it wants to place a roulette table, temporarily, in the TAB area on Level 2. CCL's application did not address whether an amended floor plan would be required to show the location of the roulette table. Whether that would be required depended, in part, on where the roulette table would be sourced from.
17. The Secretary queried the need for amended floor plans in his submissions, prompting CCL to clarify the position. CCL advised that it will place an otherwise unused roulette table from its storage area on Level 2 for use while filming, rather than relocating a roulette table shown on its approved floor plans, and submitted that no new floor plans would be required as a result. If the unused roulette table is moved from storage to Level 2 while the area is not part of the designated gambling area and removed before the area is re-activated as gambling area, the Commission concurs.

### **Decision**

18. The Commission amended condition 9A of CCL's venue licence, pursuant to section 139(1)(d) of the Act. Condition 9A now provides as follows:
  - 9A. The Gambling Area within the Casino Venue comprises the areas specified in plans marked "Schedules 1, 2, 3 and 4" annexed to the Commission decision GC08/21. The standard Gambling Area for the Casino Venue is delineated in schedule 1. The Additional Gambling Areas for the Casino Venue are delineated in Schedules 2, 3 and 4, and will form part of the Gambling Area only when activated as provided in condition 9B, save that Schedule 4 will take effect as activated under condition 9B upon this condition taking effect and will terminate on 25 June 2021 at 12.00am.
19. The Commission further amended CCL's venue licence to replace Schedule 1 with a new Schedule 1 showing only the currently approved area on Level 1 of the casino and adding a new Schedule 4, showing only the currently approved area on Level 2 of the casino. Schedules 1-4 are **attached**.

**Right of appeal**

20. 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.



---

**Lisa Hansen**  
Chief Gambling Commissioner

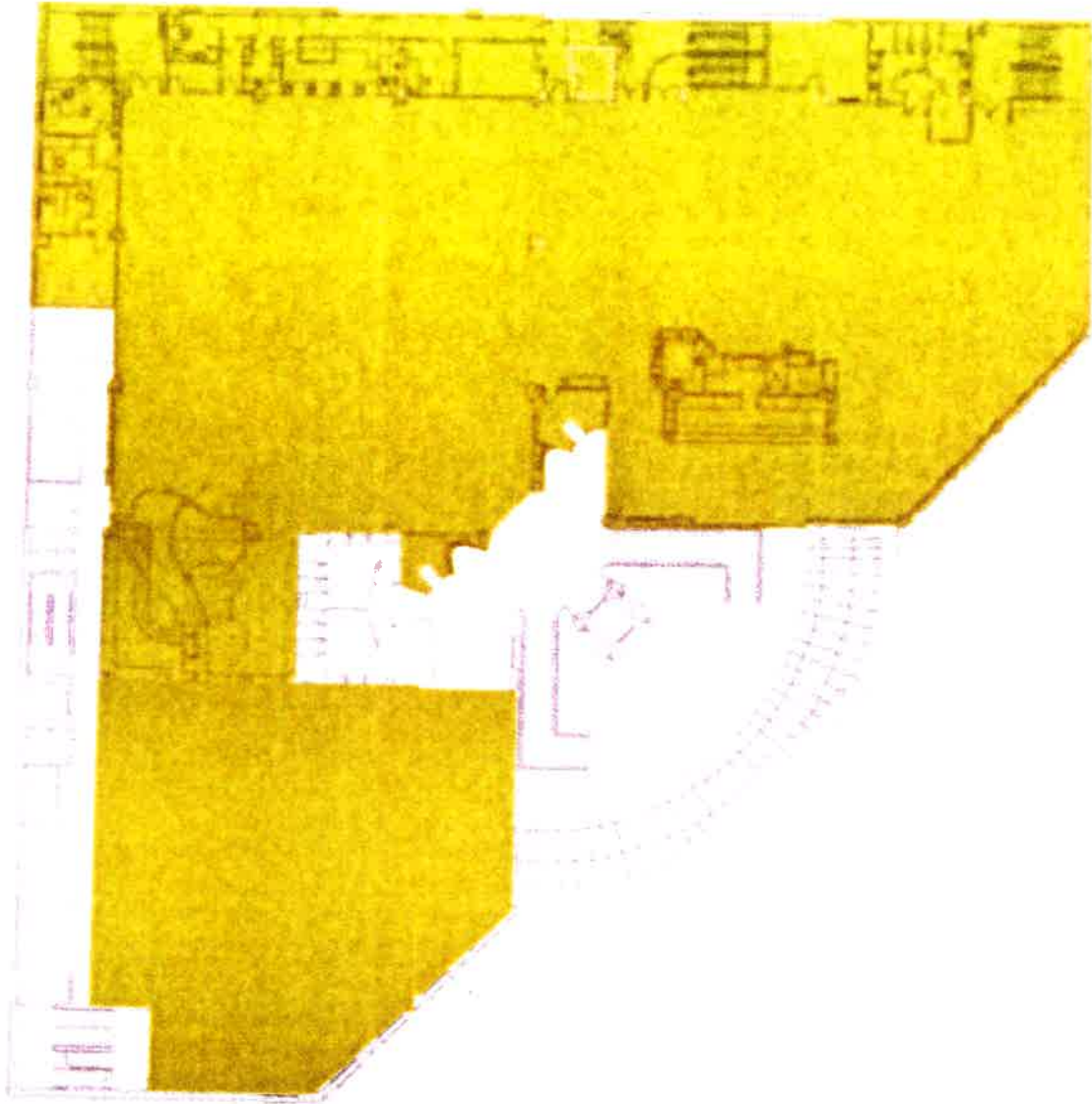
for and on behalf of the  
Gambling Commission

4 June 2021

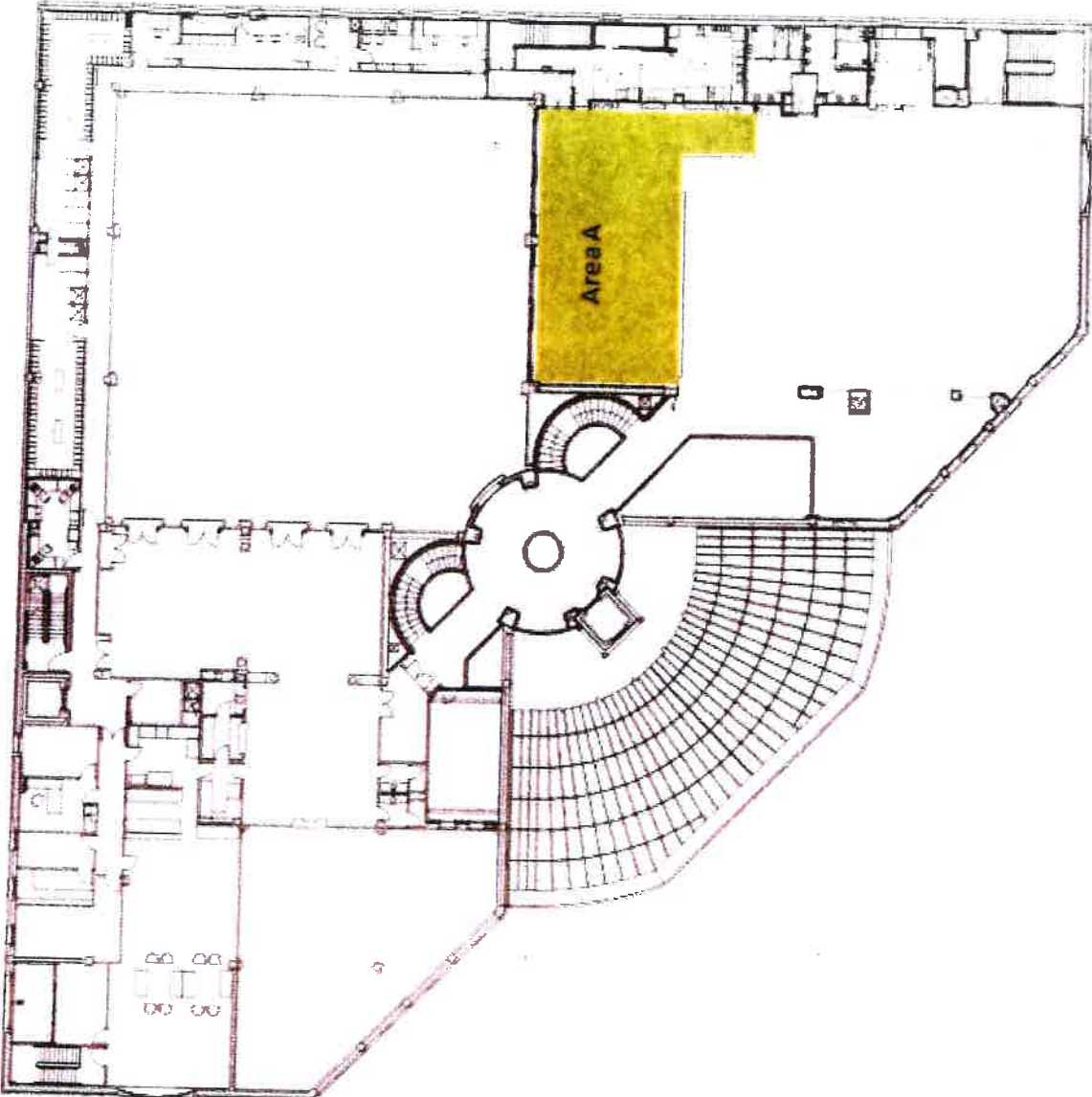


# Schedule 1

## Designated Gambling Area - Level 1



Schedule 2 (Level 2)



Schedule 3 (Lower Car Park Level)



Schedule 4

Designated Gambling Area - Level 2

