

IN THE MATTER of the Gambling Act 2003
AND on applications by
CHRISTCHURCH CASINOS LIMITED to install two additional
ATMs, and to redesignate the
casino's Gambling Area

BEFORE THE GAMBLING COMMISSION

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

Date of Application: 28 May 2015

Date of Decision: 10 July 2015

Date of Notification  **July 2015**
of Decision:

**DECISION ON APPLICATIONS BY CHRISTCHURCH CASINOS LIMITED:
TO INSTALL TWO ADDITIONAL ATMs, AND
TO REDESIGNATE THE CASINO'S GAMBLING AREA**

Introduction

1. Christchurch Casinos Limited ("CCL") applied to the Commission:
 - (a) to vary licence condition 13 of its operator's licence, pursuant to section 139(1)(d) of the Gambling Act 2003 (the "Act"), to deploy two additional ATMs at the Christchurch casino; and
 - (b) to redesignate (reduce) the Gambling Area at the Christchurch casino, pursuant condition 9A of CCL's venue licence and to section 139(1)(d) of the Act, in order to locate the new ATMs outside the designated Gambling Area.
2. The Commission sought submissions on CCL's proposal from the Secretary for Internal Affairs (the "Secretary") and Problem Gambling Foundation ("PGF"); receiving submissions from both.

Licence conditions and relevant sections of the Act

3. 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, 3 and 4" annexed to Commission decision GC19/12. 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. When any of Schedules 2, 3 or 4 are so activated, the area(s) may be used to conduct casino promotions only. No other form of gambling activity is permitted in the Additional Gambling Areas.

CCL's operator's licence

13. A maximum of 2 automatic teller machines is permitted in the Casino Venue outside the Gambling Area (Schedule 1) and Additional Gambling Areas (Schedules 2, 3 or 4).

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

3 Purpose

The purpose of this Act is to—

- (a) control the growth of gambling; and
- (b) prevent and minimise harm from gambling, including problem gambling; and
- (c) authorise some gambling and prohibit the rest; and
- (d) facilitate responsible gambling; and
- (e) ensure the integrity and fairness of games; and
- (f) limit opportunities for crime or dishonesty associated with gambling and the conduct of gambling; and
- (g) ensure that money from gambling benefits the community; and
- (h) facilitate community involvement in decisions about the provision of gambling.

11 No increase in casino gambling

A person must not increase the opportunities for casino gambling.

12 What is increase in casino gambling

- (1) Decisions on what constitutes an increase in the opportunities for casino gambling are a function of the Gambling Commission.
- (2) An increase in the opportunities for casino gambling includes but is not limited to—
 - (a) an increase in the number of gaming machines unless the increase is accompanied by a reduction in the number of table games that the Gambling Commission believes is proportionate;
 - (b) an increase in the number of table games unless the increase is accompanied by a reduction in the number of gaming machines that the Gambling Commission believes is proportionate;
 - (c) an increase in total player space at table games unless the increase is accompanied by a reduction in other opportunities for casino gambling that the Gambling Commission believes is proportionate.
- (3) Opportunities for casino gambling are not increased—
 - (a) by increases, in the Auckland casino, that comply with the Order for the Variation of Conditions of Casino Premises Licence dated 6 December 2002;

- (b) by gambling conducted by the New Zealand Racing Board referred to in section 120.

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).

CCL's submissions

5. CCL submitted that:

- (a) The number and availability of ATMs in the Christchurch CBD, and casino environs, has reduced significantly following the Canterbury earthquakes.
- (b) It wants to install two ATMs on level 4 of the casino as it has noticed an increase in pressure and queuing at its two existing ATMs, which are located on level 3.
- (c) Commission decision GC19/12 has also had a significant impact on the casino, as that decision has driven customers to use the ATMs on level 3.
- (d) The casino business is heavily reliant on cash. For customer satisfaction and, at times, safety, it wants to install two additional ATMs to service level 4 of the casino.
- (e) While there is a small cash desk in the back corner of level 4, this is not always open and customers have no option but to go downstairs to obtain the cash that they may wish to use.
- (f) Today's cashless society means that many visitors to the casino don't carry much cash, and instead rely upon obtaining their cash from within the casino venue.
- (g) The best way to address these issues is to install two additional ATMs in the casino on level 4, almost directly above the two existing ATMs on level 3. The

installation of two additional ATMs would take pressure off the existing ATMs and provide the permanent service component that it would like to offer its patrons on level 4.

- (h) To accommodate the proposal, it wants to redefine the level 4 Gambling Area to exclude an area around the proposed location of the two new ATMs.
- (i) The area has CCTV camera coverage and, should the application be approved, it will look to improve this area further, to assist with its ongoing host responsibility measures, and monitoring.
- (j) It does not believe that there will be any negative impact as a result of increasing the number of ATMs from two to four. The fact that its guests are prepared to queue for an available ATM indicates that they are intent on withdrawing their cash in any event, so providing additional ATMs will allow it to improve its customer experience and enjoyment.

PGF's submissions

6. PGF submitted, in summary, as follows:

- (a) It is opposed to the proposal. Installing two additional ATMs will enable more cash withdrawals to be made for gambling, and for more money to be lost gambling; often over and above the amount the customer originally set as his/her cash limit.
- (b) Approving the application would be contrary to section 11 of the Act, which says that "A person must not increase the opportunities for casino gambling", and contrary to section 139(2)(d), which provides that changes to casino licence conditions "must not permit an increase in the opportunities for casino gambling".
- (c) Approving the application would also be contrary to two principal purposes of the Act; namely section 3(a) (to "control the growth of gambling") and 3(b) (to "prevent and minimise harm from gambling, including problem gambling").
- (d) These outcomes (increasing casino gambling opportunities and failing to prevent and minimise harm) would arise because the two new ATMs would be located in the current designated Gambling Area, very close to gambling activities. Although CCL proposes to amend the Gambling Area (to exclude the sites of the new ATMs) they will still be located nearer to the Gambling Area than the existing ATMs. This means that they will be used more readily by patrons to withdraw cash for gambling, and therefore more money will be lost to gambling.

- (e) Further, more money will be lost to gambling because there will be twice as many ATMs.
- (f) Customers will have much less opportunity to consider whether it is worthwhile queuing to withdraw more money for gambling, or to leave the casino to withdraw more money for gambling. In either case, those who have gambled more money or spent more time gambling than they intended when they entered the casino, would have a greater real opportunity to consider whether to continue gambling compared to the proposal, where there will be twice as many ATMs on site and very near to the gaming machines.
- (g) Those gamblers who seek to withdraw more money than they brought to gamble will include some gamblers who will be harmed by continuing to gamble when some of them would not have done so otherwise. The harm for a significant minority of gamblers will come in the usual forms, such as neglect of family, neglect of work, loss of money, inability to pay bills, etc. In extreme cases, this will lead to the loss of a home, bankruptcy, increase in crime, etc.
- (h) Although only a minority of gamblers will be harmed if the application is granted, the law requires everyone to consider the harm caused to anyone. Approving the application will result in a small but significant number of people suffering gambling-related harm, both to the gamblers and those around them.
- (i) The Act makes it clear that the Gambling Commission cannot approve applications that will increase opportunities for casino gambling or the likely gambling-related harm caused by changes to licence conditions.

Secretary's submissions

7. The Secretary submitted that CCL's proposal raises no issues of regulatory concern.

CCL's submissions in reply

8. In reply CCL submitted, in summary, as follows:
 - (a) The additional ATMs will not result in more cash withdrawals; rather they will allow an improved customer experience as they will eliminate queuing and the need to move between floors simply to access cash.
 - (b) The proposal will not increase opportunities for casino gambling.
 - (c) The ATMs are a service it offers its guests. There were previously many more ATMs around the Christchurch casino but numbers have reduced as a result of



the Canterbury earthquakes. The application is designed to redress that balance for its customers.

- (d) The sites of the ATMs will not be in the casino's Gambling Area.

Analysis

9. CCL has applied to vary licence condition 13 in order to introduce two additional ATMs into the Christchurch casino, with a consequential application to redesignate the casino's Gambling Area. CCL wants the additional ATMs because the number and availability of ATMs in the Christchurch CBD, particularly around the casino itself, has reduced significantly following the Canterbury earthquakes.
10. Licence condition 13 was inserted into CCL's operator's licence in the course of the Commission's general review of licence conditions for the Christchurch casino, with the condition being inserted by the interim decision GC25/07 and confirmed in the final decision GC04/09. The decisions were made in the course of a series of similar general reviews of licence conditions carried out by the Commission for each casino in New Zealand. Licence condition 13, provides that a maximum of two ATMs is permitted in the casino venue, but outside the Gambling Area. Similar conditions, fixing the maximum number of ATMs to the number then in use at the casino and requiring their location outside the Gambling Area, were imposed at the other casinos. The point of fixing a maximum to what was then in place was to ensure that the Commission maintained general oversight of the extent of cash access at the casino; it was not to reduce access to cash outside the Gambling Area.
11. The Commission began its deliberations by considering PGF's submission that the proposal is inconsistent with the Act; namely section 3(a) ("to control the growth of gambling"), section 3(b) ("to prevent and minimise harm from gambling, including problem gambling"), section 11 ("a person must not increase the opportunities for casino gambling") and section 139(2)(d) ("A condition of a casino licence ... must not permit an increase in the opportunities for casino gambling"). The Commission was satisfied that CCL's proposal was not inconsistent with any of the provisions of the Act to which PGF referred.
12. The Gambling Act controls the growth of gambling in a variety of ways. The growth in casino gambling is controlled by a bar on the issue of any new casino licences and by prohibiting the increase of opportunities for casino gambling at the existing casinos. Growth in opportunities is controlled by licence limits placed on total numbers of gaming tables and gaming machines, the need for approval of floor plans reflecting location of tables and machines, and the need for approval of game mixes so that opportunities for

casino gambling do not exceed those which existed when the Act became law. The Commission is satisfied that the existing controls ensure that gambling opportunities (which concerns the gambling facilities available, not their appeal to customers) cannot be increased. It does not need to interfere with potentially related activities, such as access to cash, in order to do so.

13. The Commission recognises that access to cash has the potential to increase the risk of harm to at risk patrons. As it noted in decision GC07/05, "the Commission is called upon to strike a balance which enables the operator to meet the customer service expectations of gambling and non-gambling patrons, while protecting potentially at-risk patrons."
14. It is clear that the Canterbury earthquakes, and subsequent demolition of the Christchurch CBD, resulted in considerably fewer ATMs in and around the Christchurch casino and it is likely that pressure on the existing ATMs at the casino further increased when the Commission declined, in decision GC19/12, to allow Christchurch casino to dispense cash from EFTPOS devices within the Gambling Area as it had been doing previously. In the Commission's view, the introduction of two additional ATMs into the casino venue will allow CCL to provide the expected level of service to its patrons, both gambling and non-gambling, without increasing the risk of harm to potentially at risk patrons. The Commission was of the view that, allowing the application would strike the requisite balance discussed in decision GC07/05. PGF's submissions appeared to be aimed at maintaining a degree of inconvenience for all customers seeking to access cash and did not persuade the Commission that allowing the additional ATMs would not achieve the requisite balance.
15. The Commission next considered CCL's application to redesignate the Gambling Area of the Christchurch casino. CCL's proposal was to reduce the designated Gambling Area in order to permit it to locate the new ATMs outside of the designated Gambling Area on level 4. CCL's proposal raised no issue of regulatory concern for the Commission.
16. The Commission has previously held that it has the power to redefine a casino's Gambling Area, provided that the amended area does not extend beyond the casino venue, as defined in the casino venue licence, and the licence conditions defining the area are consistent with section 139(2) of the Act.
17. As CCL's proposal reduces the designated Gambling Area at the Christchurch casino, the Commission was satisfied that the proposed redesignation would not extend the casino venue. The Commission was also satisfied that condition 9A (which would remain unaltered by the redesignation) is consistent with section 139(2) of the Act. The reduction

is necessary in order to allow the additional ATMs to be located for the convenience of the casino's customers and remains within the requisite balance.

Decision

18. The Commission:

(a) varied condition 13 of CCL's operator's licence in the manner proposed, pursuant to section 139 of the Act. Condition 13 now provides as follows:

13. A maximum of 4 automatic teller machines is permitted in the Casino Venue outside the Gambling Area (Schedule 1) and Additional Gambling Areas (Schedules 2, 3 or 4).

(b) redesignated the Gambling Area of the Christchurch casino in the manner proposed, pursuant to condition 9A of CCL's venue licence and section 139 of the Act. The Gambling Area Schedules (with the amended Schedule for "Schedule 1, Standard Gambling Area – Level 4") are attached.

Right of appeal

19. 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

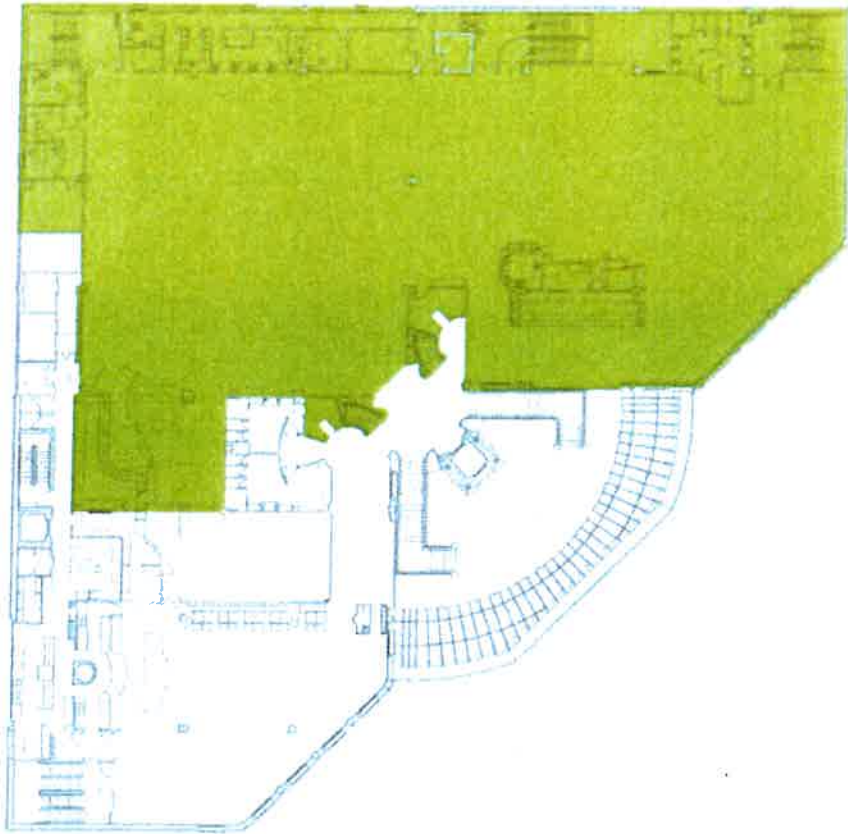
for and on behalf of the
Gambling Commission

21 July 2015

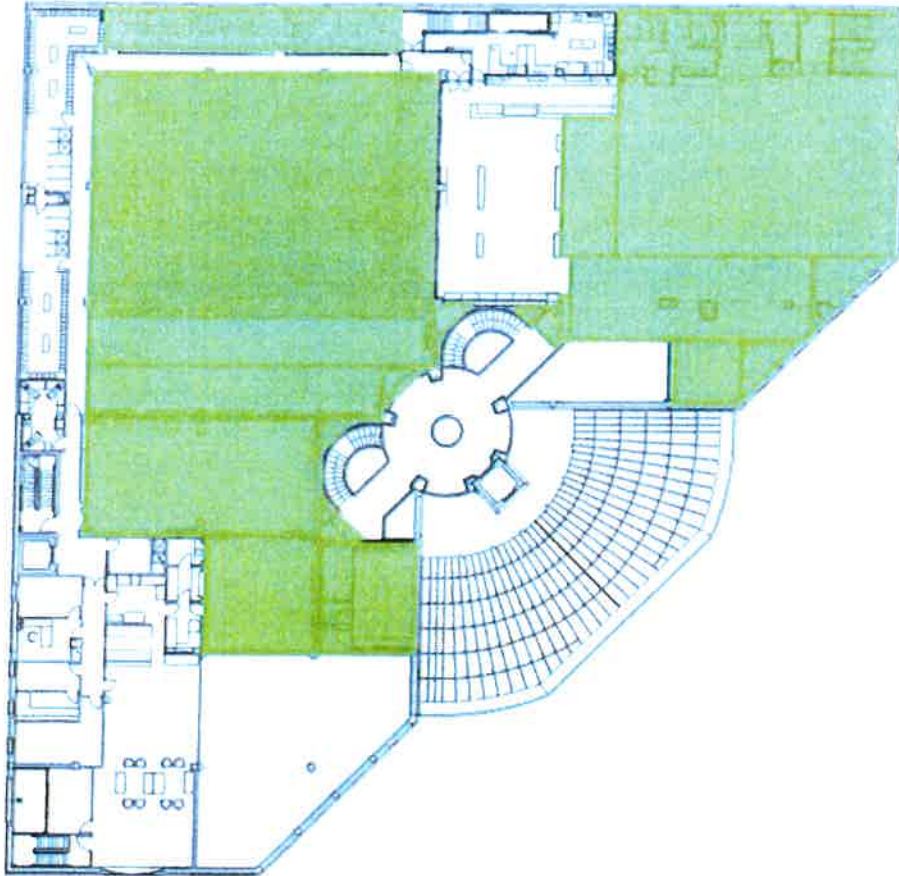


GAMBLING
COMMISSION

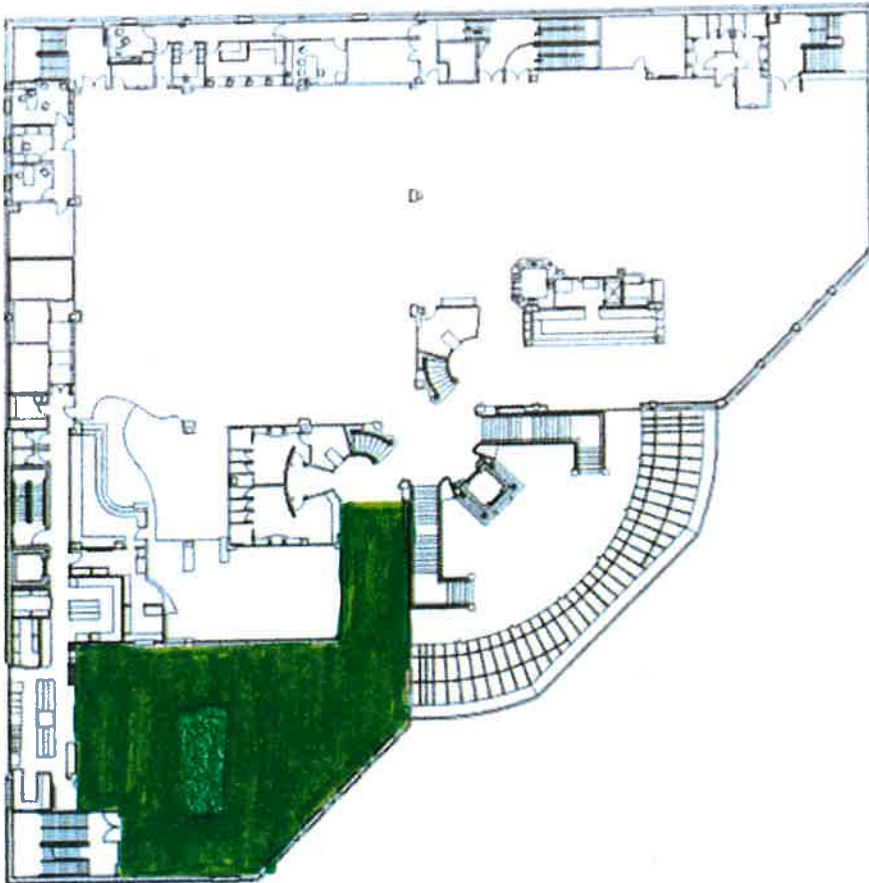
SCHEDULE 1
Standard Gambling Area – Level 3



SCHEDULE 1
Standard Gambling Area – Level 4

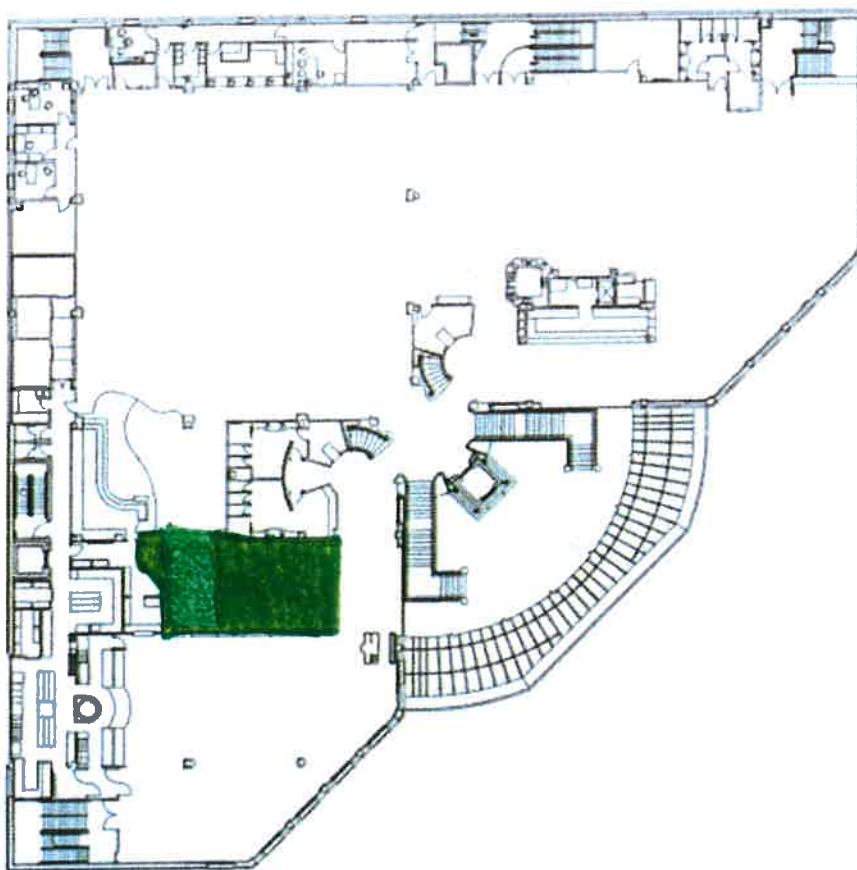


SCHEDULE 2
Additional Gambling Area – Level 3
Grand Café



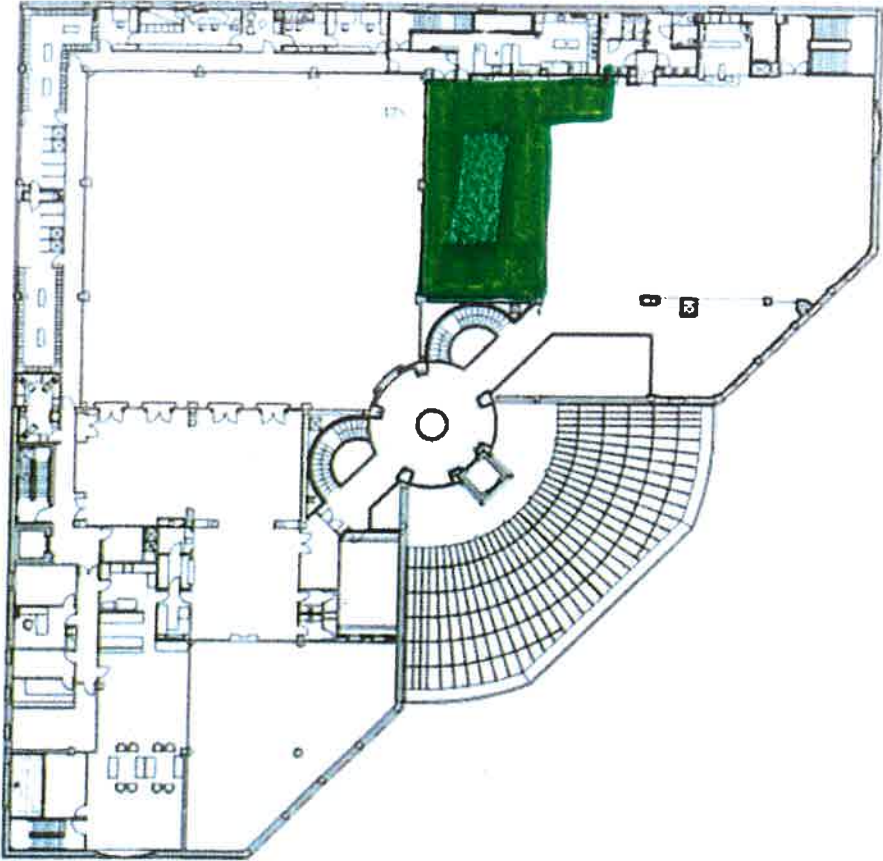
A handwritten signature in blue ink, located in the bottom right corner of the page. The signature is stylized and appears to be a cursive name.

SCHEDULE 3
Additional Gambling Area – Level 3
Canterbury Lounge



Handwritten signature

SCHEDULE 4
Additional Gambling Area – Level 4
Monza Bar



**GAMBLING
COMMISSION**