

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

BEFORE THE GAMBLING COMMISSION

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

Date of Application: 3 July 2017

Date of Decision: 10 August 2017

Date of Notification of Decision: 18 August 2017

DECISION ON AN APPLICATION BY SKYCITY AUCKLAND LIMITED TO REDESIGNATE THE GAMBLING AREA AT THE AUCKLAND CASINO

Introduction

1. SKYCITY Auckland Limited ("**SCAL**") 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 re-designate the Gambling Area at the Auckland Casino.

Licence conditions and relevant sections of the Act

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; and
...
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.

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).

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.

- 4. As required by section 140, the Commission notified the Secretary of the application and sought submissions.

SCAL's submissions

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

- (a) The Commission has previously designated two other open areas where gaming machines have been installed.

- (b) The open area off the Rouge Room is currently used by people who wish to smoke. This area is not currently designated as part of the Gambling Area. It wishes to deploy a small number of gaming machines in the area. In order to do so, it first needs the Commission to designate the area as Gambling Area. In its view, the intended position of the gaming machines to be located in the area would satisfy the visibility restrictions set out in licence condition 8(a).
- (c) If this first area is designated, it may make some minor design changes before seeking to use the area for gambling. If so, it will seek approval for any construction and design changes, before seeking approval of floor plans to permit it to deploy gaming machines in the area.
- (d) A second open area on the western side of level 2 has been closed and it intends to fully enclose the area. The construction and design changes needed to effect enclosure will be submitted to the Commission for approval in the future. In the meantime as a first step, it wants the area in question to be designated as part of the level 2 Gambling Area. Subject to the Commission's approval of this area as designated gambling area and the construction and design changes, it intends eventually to submit for approval a floor plan showing the position of the gaming machines that it wishes to deploy.
- (e) At this stage, it has not committed to the design changes necessary to enclose the second area. It does not wish to deploy any gambling machines in the area unless it is enclosed.
- (f) Neither area is accessible by minors. Anyone entering the areas would need to have first entered another part of the Gambling Area monitored by security.

The Secretary's submissions

6. The Secretary had no regulatory concerns with the proposal.

Analysis

7. SCAL has applied to make two changes to the Gambling Area designated under conditions 9 and 9A of SCAL's venue licence. The changes are to incorporate two open areas, one being an area off the Rouge Room currently used by people who wish to smoke and the other being an open area on the western side of level 2. It intends (but has not decided irrevocably) to enclose the latter area fully before seeking an approved floor plan to allow it to deploy gambling machines in that area. Its development plans for the first area are less certain.

8. The Secretary raised no issue of regulatory concern.
9. The Commission has previously held that it has the power to redefine a casino's Gambling Area, provided that the defined area does not extend beyond the casino venue, as defined in the venue licence, and the licence conditions defining the area 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 proposed additions to the Gambling Area clearly fall within the defined boundaries of the casino venue.
10. Incorporation of the two areas does not cause any concerns about access by minors. Both areas are only accessible from the currently designated Gambling Area, so anyone entering the areas would first need to gain access to another part of the Gambling Area, all entrances to which are monitored by Security.
11. In light of the limited impact of changes to the Gambling Area only, without an accompanying approved floor plan allowing the placement of tables or gambling machines in the additional area, the Commission has no regulatory concerns. It is satisfied that the proposed amendment meets the requirements of section 139(2).
12. The application at times appeared to suggest that the two areas could be used for gambling as soon as they were designated as part of the Gambling Area. The fact that SCAL submitted that the one of the areas would comply with the condition 8 visibility restriction was consistent with that suggestion but, in other aspects, SCAL appeared to recognise that approved floor plans would be required before any part of the newly designated areas could be used for gambling.
13. The Commission confirms that the latter is the position. For that reason, it has not been necessary for the Commission to consider whether any gambling activity in the two areas would be visible from outside the casino venue. That consideration will arise only if and when the Commission is asked to approve floor plans which place tables or gaming machines in those areas.

Decision

14. Pursuant to conditions 9 of SCAL's venue licence and section 139 of the Act, the Commission designated as the Gambling Area at the Auckland casino, the areas shown on the replacement Schedule 1 to the venue licence attached to this decision.

Right of appeal

15. 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
Gambling Commissioner

for and on behalf of the
Gambling Commission

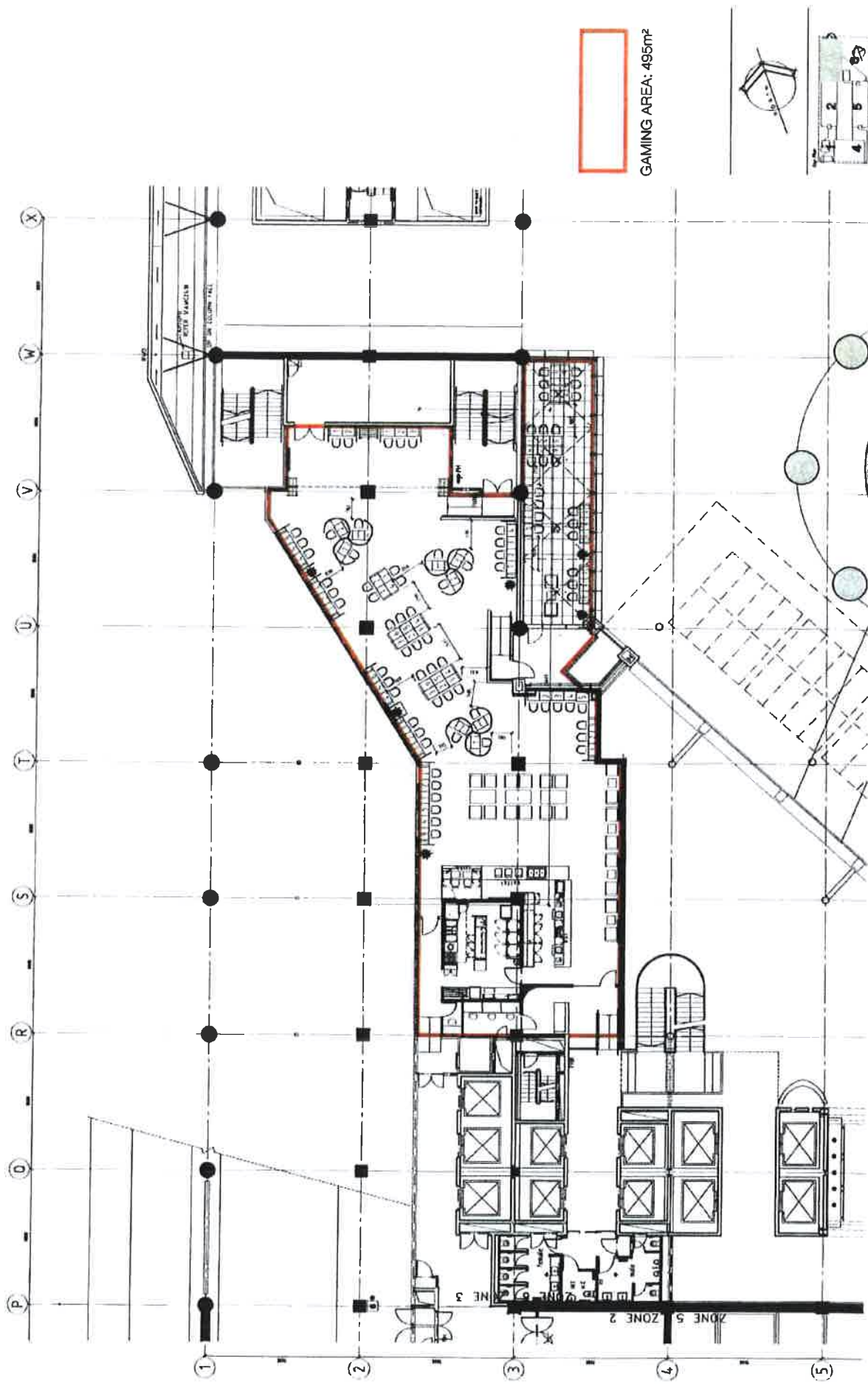
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August 2017

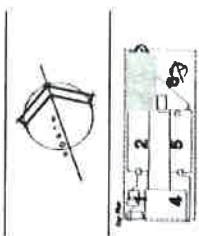


GAMBLING
COMMISSION

SCHEDULE 1



GAMING AREA: 495m²



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 www.moller-architects.com

Sky City Entertainment Group

SKY CITY
 ENTERTAINMENT GROUP

PROJECT AND REFERENCE

Project: VIP PLATINUM BLACK GAMING AREA

Client: Sky City Entertainment Group

Location: Sky City Entertainment Group, London, UK

Project No.: SKY001/2013/001

Scale: 1:500

Drawn: [Name]

Checked: [Name]

Date: 2 August 2013

REVISIONS

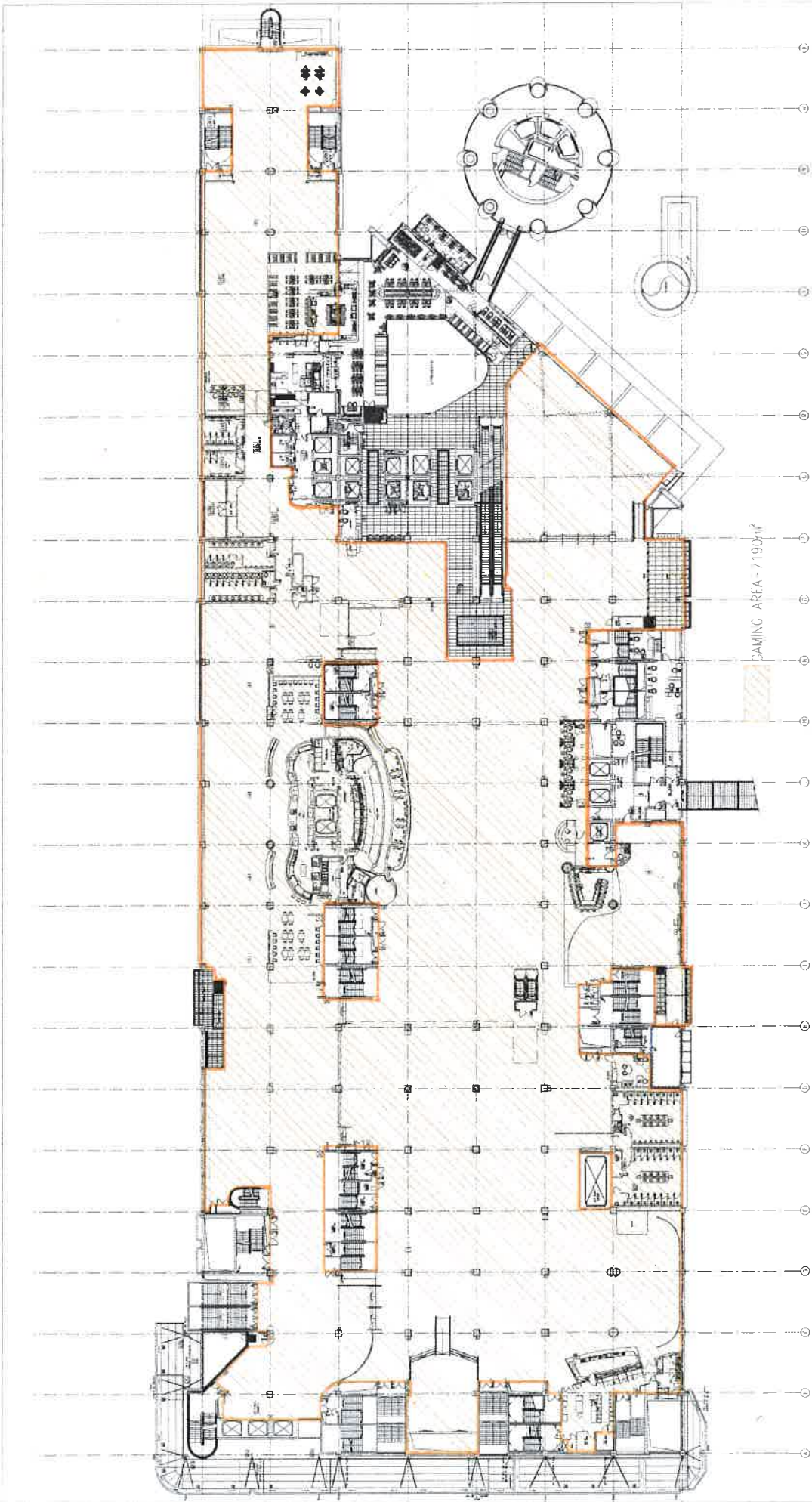
No.	Description	Date
1	Issue for tender	2 August 2013

SKY CITY ENTERTAINMENT GROUP

VIP PLATINUM BLACK
 GAMING AREA

2 August 2013

A5935

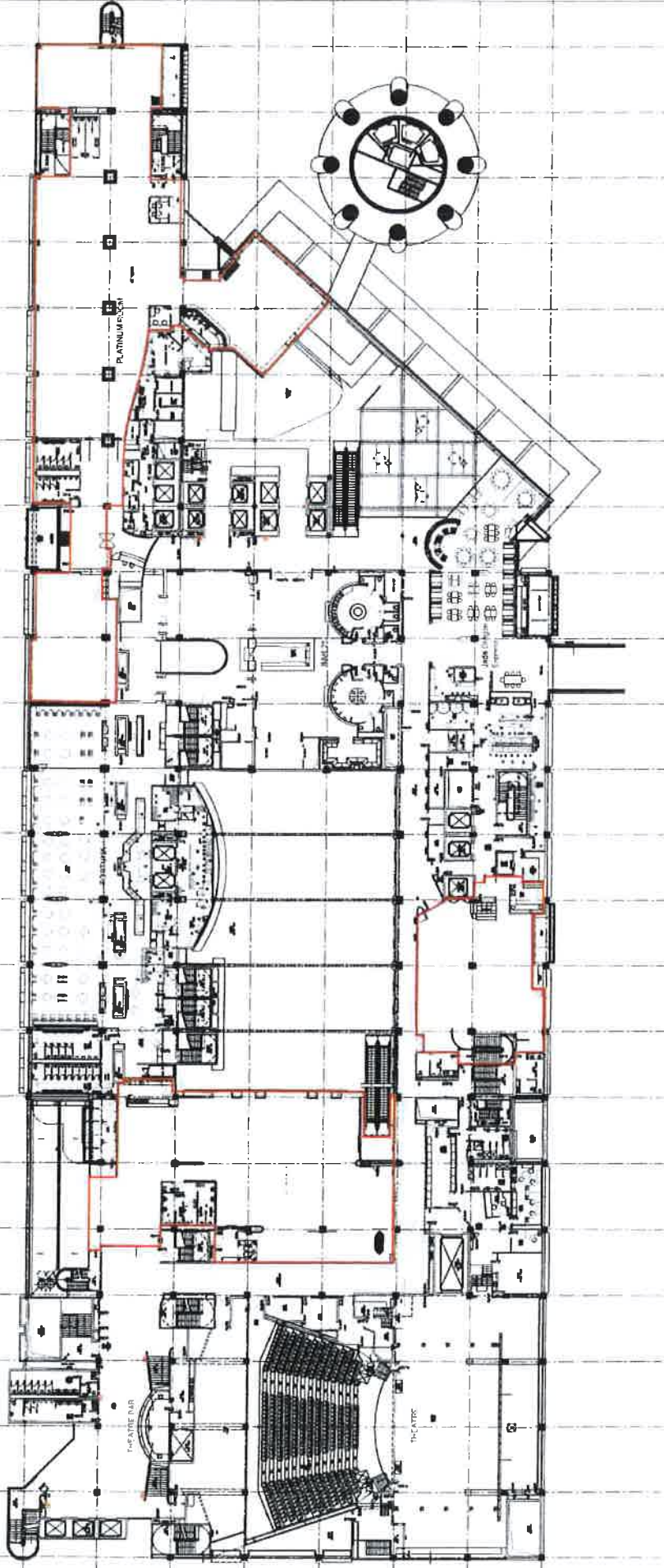


GAMING AREA - 7190sqft

SKY CITY Level 2 Gaming Layout



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

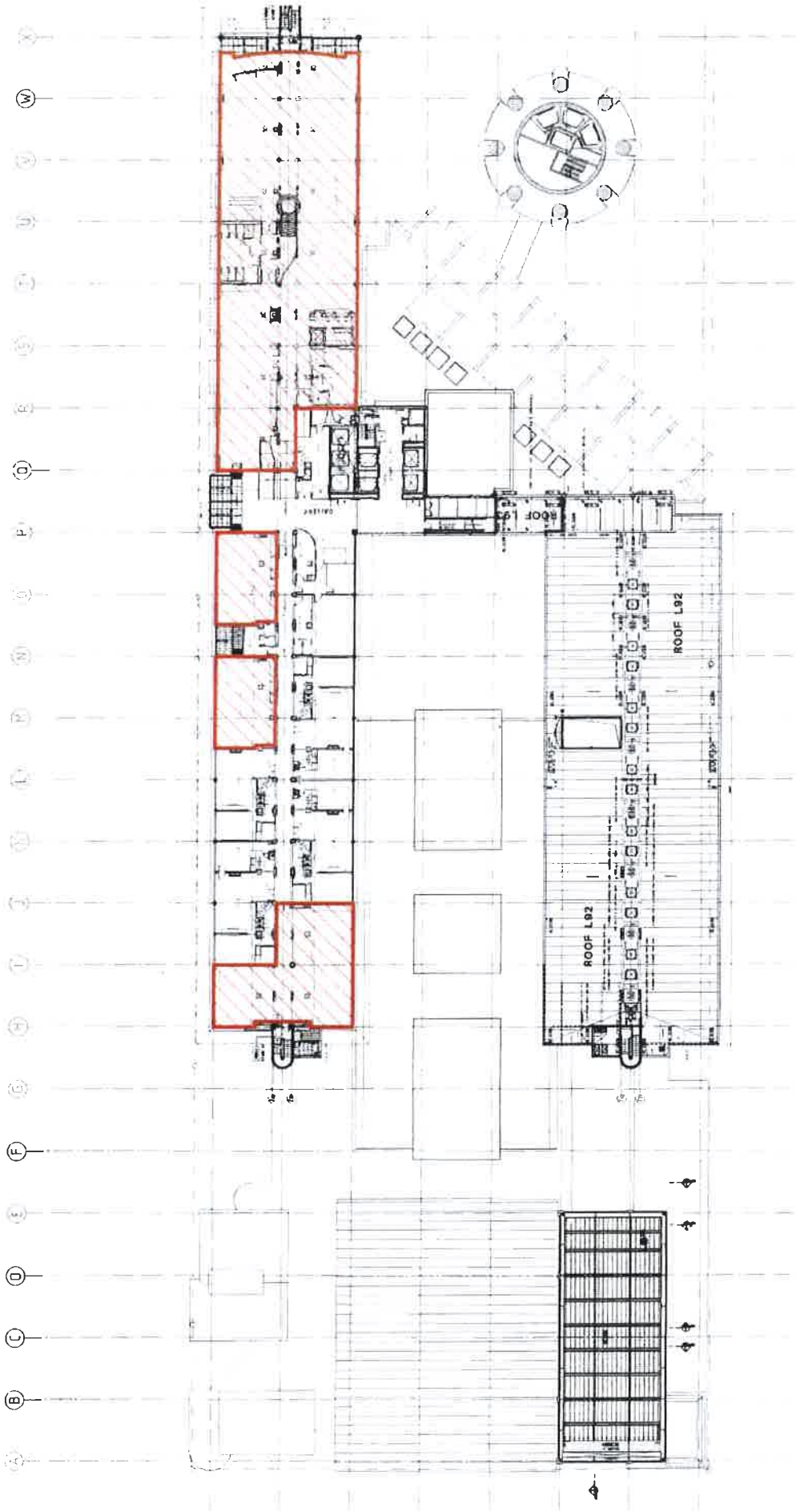


SKY CITY MAIN SITE
Level 3



DO NOT SCALE

IF IN DOUBT 4/7



— GAMING AREA: 1,309m²

DATE	15/10/2012
BY	[Signature]
CHECKED	[Signature]
SCALE	AS SHOWN

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

PROJECT	SKYCITY - VIP GAMING
CLIENT	Sky City Entertainment Group
ARCHITECT	Moller Architects
DATE	15/10/2012
SCALE	AS SHOWN

Sky City Entertainment Group
Gaming Layouts

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