

IN THE MATTER of the Gambling Act 2003

AND on an application by
CHRISTCHURCH CASINOS LIMITED to vary condition 9A of its venue licence – redesignation of the Gambling Areas at the Christchurch casino

BEFORE THE GAMBLING COMMISSION

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

Date of Application: 8 May 2020

Date of Decision: 10 July 2020

Date of Notification
 of Decision: 31 July 2020

**DECISION ON AN APPLICATION BY CHRISTCHURCH CASINOS LIMITED TO VARY
 CONDITION 9A OF ITS VENUE LICENCE; APPLICATION TO VARY THE GAMBLING AREAS
 AT THE CHRISTCHURCH CASINO**

Introduction

1. Christchurch Casinos Limited ("**CCL**") applied to the Commission, under section 139(1)(d) of the Gambling Act 2003 ("**Act**"), to vary condition 9A of its venue licence. Condition 9A sets out the designated Gambling Areas at the Christchurch casino.

Licence conditions

2. The relevant licence conditions are as follows:

CCL's venue licence

5. The Licence Holder shall lodge and maintain with the Commission and the Secretary updated as built architectural floor plans of Levels 3 and 4 of the Casino Venue showing walls, structures and dimensions. Updated as built architectural floor plans shall be lodged with the Commission and the Secretary if the Licence Holder makes alterations to Levels 3 and 4 the Casino Venue requiring building consent from a territorial authority.
6. Subject to the provisions of condition 7, the Licence Holder must obtain the approval of the Commission prior to:
 - (a) Any construction or design changes whatsoever in the Gambling Area (Schedule 1) and Additional Gambling Areas (Schedules 2, 3 or 4) and for any construction or design changes elsewhere in the Casino Venue which may impact on the matters set out in condition 7;

- (b) the construction or relocation outside the Gambling Area and Additional Gambling Areas and within the Casino Venue of bank facilities available to the public excluding ATMs, EFTPOS and like devices; and
- (c) the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue or on or around the building within which it is located.

The process by which the Licence Holder may obtain approval for construction or design changes to Levels 3 and 4 and the rooftop area of the Casino Venue, (paragraph (a) above) is set out in condition 7. The Commission will determine any application for approval under 6(b). The Executive Director may approve the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue or on or around the building within which it is located (paragraph (c) above) if he/she is satisfied the proposed changes will have no potentially adverse effects. If he/she is not so satisfied, the proposed changes must be referred to the Commission for a decision on approval.

- 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.
- 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.
- 12. The approval of the Commission is required for the construction of any additional cashiering facilities in the Gambling Area (Schedule 1) and Additional Gambling Areas (Schedules 2, 3 or 4). Any such additional facilities must comply with the surveillance equipment requirements set out in the Surveillance Standard and be fitted with manually triggered alarm systems connected to the surveillance department.

CCL's operator's licence

- 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).
- 14. Except as approved in writing by the Commission, the Licence Holder is prohibited from dispensing cash from EFTPOS and like devices in the Gambling Areas (Schedule 1) at all times and Additional Gambling Areas (Schedules 2, 3 or 4) whenever the Additional Gambling Areas are activated pursuant to condition 9B. The approval of the Commission shall be revocable at the discretion of the Commission and may be subject to such conditions as the Commission may from time to time impose.

15. The Licence Holder is prohibited from using mobile EFTPOS terminals (cash or non-cash dispensing) or like devices in the Gambling Area (Schedule 1) at all times and in the Additional Gambling Areas (Schedules 2, 3 or 4) whenever the additional Gambling Areas are activated pursuant to condition 9B unless approved by the Commission. The approval of the Commission shall be revocable at the discretion of the Commission and may be subject to such conditions as the Commission may from time to time impose.
18. The Licence Holder is required to notify the Commission if it moves ATMs in the Casino Venue or if it installs or moves EFTPOS terminals or like devices in the Gambling Area (Schedule 1) and Additional Gambling Areas (Schedules 2, 3 or 4).
20. The Licence Holder shall provide security and surveillance equipment and facilities in the Gambling Area (Schedule 1) and Additional Gambling Areas (Schedules 2, 3 or 4) and surveillance areas which shall at all times meet and may exceed the Surveillance Standard in whatever form is currently approved by the Commission. The Commission may at any time institute an audit or require the Licence Holder to report on the standard and/or quality of surveillance equipment to ensure it meets or exceeds the Surveillance Standard.
23. The approval of the Commission is required for the construction of any additional cashiering facilities in the Gambling Area (Schedule 1) and Additional Gambling Areas (Schedules 2, 3 or 4). Any such additional facilities must comply with the surveillance equipment requirements set out in the Surveillance Standard and be fitted with manually triggered alarm systems connected to the surveillance department.

Relevant sections of the Act

3. The relevant sections of the Act as follows:

Gambling Act 2003

- 4 ...
gambling area means,—
 ...
 (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.

CCL's submissions

- 4. CCL submitted, in summary, as follows:
 - (a) Its approved Gambling Areas are set out in condition 9A of its venue licence. Schedule 1 sets out the casino's standard Gambling Areas, while Schedules 2, 3 and 4 set out additional Gambling Areas. The additional areas are principally food and beverage areas; namely the Grand Café (Schedule 2), the Chi area (Schedule 3) and the Monza Bar (Schedule 4).
 - (b) When it originally sought Commission approval to designate these food and beverage areas as "Gambling Areas", it did so because it wanted to use them to conduct casino promotions – decision GC19/12 refers.
 - (c) It now wants to remove the limitation on the form of gambling that is permitted within the additional Gambling Areas; namely it wants to be able to conduct any casino gambling in these areas. It does not seek to change the locations, nor their nature as additional Gambling Areas, rather it wants to remove the limitation which states that they can be used only for casino promotions.
 - (d) It also wants to add the area known as "Sixty 6" as an additional gambling area. This will be depicted as Schedule 5 in the additional areas.

(e) Condition 9A, with the proposed amendments shown in mark-up, is as follows:

9A. The Gambling Area within the Casino Venue comprises the areas specified in plans marked "Schedules 1, 2, 3, ~~and 4 and 5~~" annexed to Commission decision GC19/12 (insert the updated reference). 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 5~~ 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 forms of gambling activity is permitted in the Additional Gambling Areas.~~

- (f) The proposed amendments simply provide increased flexibility in terms of use of space within the casino venue. This increased flexibility creates no additional gambling opportunities and still requires regulatory oversight, as set out in condition 9B. Further, any plan to move gambling equipment or to change floor plans would also require separate approvals from the Commission.
- (g) Historically, the entire casino venue was treated as a Gambling Area and over time this has been refined to where it is today. The proposed amendment will allow it to have the ability to maximise all the available public areas within the casino venue, excluding the internal carpark. That flexibility would have been, and may yet be, very helpful to help to manage the impact of the COVID-19 crisis. Looking to the future, should it wish to refurbish any part of its main Gambling Areas, it also provides the ability to use that flexibility.
- (h) The proposed change to include Sixty 6 as Schedule 5 will require consequential amendments to ensure that it is referred to in licence conditions 6 and 12 of its venue licence and licence conditions 13, 14, 15, 18, 20 and 23 of its operator's licence.

The Secretary's submissions

5. The Secretary submitted, in summary, as follows:

- (a) CCL is proposing a temporary measure in response to the requirements to operate under COVID-19 alert levels.
- (b) While he does not oppose the temporary utilisation of the Additional Gambling Areas to assist with the re-opening of the Christchurch Casino under Alert Level 2, CCL's application raises a number of issues that should be addressed.
- (c) The text that CCL proposes to delete from condition 9A does not reflect the temporary nature of the approval sought.

- (d) He proposes an amendment to the drafting of condition 9A to provide the Commission with oversight, as follows: “When any of Schedules 2, 3, 4 or 5 are so activated, the area(s) may be used to conduct casino promotions. No other form of gambling activity is permitted in the Additional Gambling Areas without the prior approval of the Commission.” This amendment would provide CCL with the flexibility it is seeking, while retaining the Commission’s control over the future utilisation of the Additional Gambling Areas for any casino gambling other than casino promotions.
- (e) There are other licence conditions attached to CCL’s venue licence that require consideration, should Sixty 6 be approved as an Additional Gambling Area. These conditions, with comments, are:
- Condition 5 Level 2 should be included within the requirements for architectural plans.
- Condition 6 Will there be any bank facilities (EFTPOS and ATMs) within Level 2? If so, these will need approval.
- Condition 7 How will the area on Level 2 meet the following requirements:
- a) integrity and fairness of games;
- b) the effectiveness of security and surveillance;
- c) harm prevention, harm minimisation and responsible gambling;
- d) potential access by persons under 20 years?
- Condition 8 Will the provision of emergency power extend to Level 2?
- Condition 9B Any application to use the temporary areas requires a start and end date.
- Condition 12 - Construction of any additional cage facilities in Level 2 will require the approval of the Commission. Condition 12 will need to be changed to include Level 2.

Ministry of Health’s submissions

6. MoH submitted, in summary, as follows:
- (a) There is not enough detail in the reasoning of CCL’s application. CCL states that flexibility is needed in order to manage the impact of COVID-19 and to refurbish parts of its main Gambling Areas. Casinos are now operating at Alert Level 1 so are free of the majority of the COVID-19 restrictions.

- (b) CCL notes that "Historically the entire venue was treated as a gambling area and over time this has been refined to where we are today." The Commission must consider the reasoning behind why this has been refined to where we are today. Why are the current restrictions in place and what they are today?
- (c) As the gaming machines and tables would be permitted to be distributed over a larger floor-space if the application were to be approved, would this have an impact on Christchurch Casino's ability to perform its host responsibility and harm minimisation duties? This is perhaps a question to consider in future applications on moving gaming equipment or changing floor plans.
- (d) The plans in the proposed schedules are not labelled as clearly as they are in the current schedules. It is not clear what levels of the casino each plan is referring to, especially if viewed in isolation from the current schedules. This has made responding to the application more complicated than it needs to be. For example, the area highlighted in Schedule 1 of the application is labelled as Level 1.

Applicant's submissions in reply

7. In reply, CCL submitted, in summary, as follows:

Secretary's submissions

- (a) It is aware that its proposed amendment to condition 9A does not, of itself, permit any form of casino gambling other than casino promotions, and that should it wish to operate gaming tables or EGMs in the Additional Gambling Areas, it would need to obtain other approvals from the Commission.
- (b) The purpose of the current application is to remove the limitation which allows only casino promotions in the Additional Gambling Areas. It has not sought to amend condition 9B, which provides for a minimum notice period of 3 days and also requires for the dates and times when the Additional Gambling Areas would take effect. This also addresses the Secretary's concern in terms of the temporary nature of the notice, and any subsequent approval.
- (c) It disagrees that condition 9A needs the additional drafting proposed by the Secretary. This is totally unnecessary as there are other licence conditions which would need to be satisfied before Commission approval could be obtained.
- (d) The current application is simply the first step to future flexibility. The other conditions that the Secretary raises (conditions 5, 6, 7, 8, 9B and 12) as considerations will be addressed when that future flexibility is sought.

MoH's submissions

- (e) MoH submits that there is not enough detail in the reasoning for the application. The main reasoning is to provide flexibility in order to manage the impact of the COVID-19 crisis and refurbish parts of its main Gambling Areas.
- (f) Originally, the entire venue was treated as Gambling Area. This was problematic as sections 303 and 312 of the Act are strict liability provisions, meaning that it is not permitted to allow anyone under the age of 20, or anyone with a current exclusion under sections 309 or 310, to enter or remain in the Gambling Areas. The term "gambling area" is also defined in section 4 of the Act as either the entire venue or that part specified by the Gambling Commission on application made by the licence holder.
- (g) Many applications have been made over the years to redefine the casino's Gambling Areas in order to minimise the risks associated with underage or excluded persons entering those Gambling Areas, and to meet other business goals. These commenced over 10 years ago when it also applied to have alternate gambling areas approved to allow both permanent gambling areas, and other areas that could be "activated" as gambling areas in order to meet the needs at the time – see decision GC07/10. It had asked for these areas to be designated as alternate (full) Gambling Areas, but the approval decision ultimately recorded that they were limited to casino promotions only. At the time this was of no concern as there were no plans to conduct any other form of gambling in those areas.
- (h) The COVID-19 pandemic and the subsequent Alert Level requirements highlighted the current limitation of these Additional Gambling Areas as the casino looked to use more of the available space within the venue to improve physical distancing. This was the catalyst for its current application; to redefine its Additional Gambling Areas again and to include Sixty 6.
- (i) The ongoing flexibility being sought is related to, but not reliant on, the current COVID-19 pandemic. It is waiting to see how customers feel now that New Zealand is at Alert Level 1 and there is no longer a requirement for physical distancing. Some customers have already expressed the view that they like having more physical space around them. If this sentiment continues, it may well apply for a new floor plan to be approved.
- (j) A change to the casino's defined Gambling Areas requires a change to CCL's licence conditions and approval from the full Commission. It is the first of three control steps in place before any major changes may be implemented. The second is an approved floor plan and the third is an approved game mix.

- (k) The whole process takes a minimum of six weeks and if all applications are applied for at the same time, this can make the desired outcome complicated to express and reliant on all parts of the request being approved. To apply to amend the defined gambling areas also has an associated fee of \$1,022.22, and as it would like to have this flexibility whether or not it applies for a new floor plan, it makes sense to apply and to remove this hurdle from the consideration.
- (l) MoH notes that, historically, the entire venue was treated as a gambling area and over time this has been refined to where it is today. MoH asks the Commission to consider the reasoning behind why this has been refined to where it is today. This is largely covered in the preceding paragraphs, but it has been at CCL's request that the licenced Gambling Areas have been created and amended to suit its business operations at the time.
- (m) MoH asks about CCL's ability to perform its host responsibility and harm minimisation duties. It takes its host responsibility function very seriously and any future changes would have harm prevention and minimisation as a key consideration. It agrees that as it has no firm plans for EGM or table game movement, it is too soon to comment in detail, other than to confirm it would be addressed if and when a future application for a new floor plan is made. However, it does note that having more room around the gaming products during the Alert Level 2 restrictions certainly created no adverse effect.
- (n) MoH submits that the plans in the proposed schedule are not labelled as clearly as they are in the current schedules. The floor levels have been re-named since the Commission's 2012 decision, and this has created unintended confusion. The casino has four levels and despite the lower two being originally underground car parks, the naming convention used was Level 1 at the bottom through to Level 4 at the top. This was confusing for customers who entered the foyer at street level and went up one flight of stairs to arrive at Level 3. Consequently, the levels were renamed as Car Park 1, Car Park 2 and Level 1 and Level 2.

Analysis

Preliminary discussion

8. CCL currently has standard Gambling Areas, which are set out in Schedule 1 of CCL's venue licence, together with Additional Gambling Areas, which are set out in Schedules 2, 3 and 4.
9. The standard Gambling Areas currently comprise floor space on what was formerly called Levels 3 and 4 while the Additional Gambling Areas comprise the Grand Café on former

Level 3 (Schedule 2), the Canterbury Lounge (now the Chi area) on former Level 3 (Schedule 3), and the Monza Bar on former Level 4 (Schedule 4). As paragraph 7(n) above indicates, the levels have subsequently been physically re-numbered.

10. In addition to specifying Christchurch casino's Gambling Areas, condition 9A also specifies the type of gambling that can take place within the Gambling Areas. In particular, condition 9A provides that the only forms of gambling that can take place in the Additional Gambling Areas are casino promotions. Condition 9A provides, in part, as follows:
 - 9A. ... 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.
11. CCL wants to remove this limitation so that all approved forms of casino gambling can take place in the Additional Gambling Areas. It also wants to designate as another Additional Gambling Area, the area known as Sixty 6.
12. In his submissions on the application, the Secretary referred to the *temporary* nature of CCL's proposal, submitting that he did not oppose CCL's temporary utilisation of the additional Gambling Areas to assist with the re-opening of the Christchurch casino under Alert Level 2. The Commission contacted the Secretary in relation to this submission, pointing out that, although CCL's application was prompted by operating at a reduced capacity due to the COVID-19 pandemic, its proposal was for permanent change. The Commission asked the Secretary if this made any difference to his submissions. He said that it did not.
13. The Secretary also proposed a drafting amendment to condition 9A so that the Commission could maintain control over the future utilisation of the Additional Gambling Areas. The Commission considered the Secretary's proposed amendment to be unnecessary. The Commission already maintains full control over the future utilisation of the Additional Gambling Areas through mechanisms such as the need for approval of floor plans and game mixes, and construction and design approvals. The approved floor plans for the Christchurch casino do not permit any gaming tables or EGMs to be placed in any of the current or proposed Additional Gambling Areas.
14. The suggestion by CCL that Additional Gambling Areas could be used to provide flexibility to allow more social distancing during the pandemic Alert Levels is accordingly not correct (but likely contributed to confusion among the respondents). To be clear, the proposed changes, if approved and activated under condition 9B, would not, without more, allow the placement of gaming tables and EGMs in the Additional Gambling Areas. The result is that, despite removal of the express restriction limiting the use of the areas to casino promotions, no other use will be possible in fact without further approvals, specifically approved floor plans.

Redesignation of Gambling Areas

15. The Commission has previously considered whether it has the power to redefine a casino's Gambling Area, holding that it can do so provided that the amended area does not extend beyond the venue as defined in the casino venue licence, and the licence conditions defining the area are consistent with section 139(2) of the Act.
16. CCL proposes to increase the casino's total designated Gambling Area from what is in place at present, but it will not extend beyond the area defined in the venue licence.
17. The proposal involves a form of conditional extension which the Commission has approved in the past – the creation of additional areas, which have the possibility of being available for use for gambling by the giving of notice, but with almost all of the established forms of casino gambling requiring further approvals from the Commission before their deployment in those areas.
18. In the course of considering applications for such approvals, the Commission will give careful consideration to minimisation of harm and the resulting levels of opportunities for casino gambling. For the reasons given above, it is satisfied that the proposed changes will neither increase harm or opportunities. In fact, activation of the Additional Gambling Areas will result in additional statutory restrictions on who can enter them. That is the reason why CCL did not seek to make them permanently part of the designated gambling area.
19. Another consequence of increasing the number and size of the Additional Gambling Areas is that the Commission will increase its level of control over a larger area of the casino in order to ensure that it will be kept suitable for use for gambling if ever activated.
20. For the reasons outlined above, the Commission sees no problem with the proposal to remove the express limitation on the use of the Additional Gambling Areas. Its removal has no practical effect on the forms of gambling which can take place in the Additional Gambling Areas once activated.
21. CCL's proposal to renumber the casino floors and reorder the Schedules from the order in which they are currently approved is sensible and may reduce confusion and result in easier compliance and policing. It is important that the Gambling Inspectorate has clarity about correct identification of floor levels and Additional Gambling Areas.
22. In order to provide this clarity, the Commission sets matters out as follows. Christchurch casino's approved standard Gambling Areas are **attached** as Schedule 1 to this decision. These areas are on Levels 1 and 2 of the casino.

23. The Additional Gambling Areas are **attached** as Schedules 2, 3, 4 and 5 to this decision. The area marked as "Area A" on Schedule 2 (previously referred to as the Monza Bar) is on Level 2 of the casino. The area marked as "Area B" on Schedule 3 (previously referred to as the Canterbury Lounge, then the Chi area) is on Level 1. The area marked as "Area C" on Schedule 4 (previously referred to as the Grand Café) is on Level 1. The area marked as "Area D" on Schedule 5 is on Car Park 2.
24. The Commission was satisfied that the foregoing proposed amendments to CCL's licence conditions are consistent with the section 139(2) criteria.

Other amendments

25. In its application, CCL identified consequential licence condition amendments necessary to incorporate the new Additional Gambling Area (Schedule 5); namely to conditions 6 and 12 of CCL's venue licence and conditions 13, 14, 15, 18, 20 and 23 of CCL's operator's licence. The Commission amends these conditions to incorporate the reference to Car Park 2 and Schedule 5.
26. CCL opposed the Secretary's submission that condition 5 of CCL's venue licence should also be amended, submitting, to the contrary, that changes to condition 5 should only be considered in the course of a future application to the Commission to conduct gambling.
27. The Commission agrees with the Secretary, not CCL, on this point. The reason that condition 5 requires the Commission and the Secretary to have current architectural floor plans of all of the casino's Gambling Areas, is to enable them to maintain a proper oversight over the configuration of those areas. As "Sixty 6" has now been designated as Gambling Area, condition 5 will need to be updated to incorporate the Car Park 2 area, as follows:

5. The Licence Holder shall lodge and maintain with the Commission and the Secretary updated as built architectural floor plans of Car Park 2, Level 1 and Level 2 of the Casino Venue showing walls, structures and dimensions. Updated as built architectural floor plans shall be lodged with the Commission and the Secretary if the Licence Holder makes alterations to Car Park 2, Level 1 and Level 2 of the Casino Venue requiring building consent from a territorial authority.

Final Comments

28. CCL submitted none of the applications necessary to conduct full casino gambling in the Additional Gambling Areas with its application; the application sought only redesignation of an area on Car Park 2, and removal of an express restriction from the remaining Additional Gambling Areas. CCL indicated that it intended to seek additional approvals in the future.
29. The Commission has previously noted, in a number of earlier decisions, that it has a strong preference for casino operators submitting for approval complete and comprehensive proposals to effect a particular operational change, rather than advancing a series of related

applications on a piecemeal basis. The reason for its preference is to enable both the Commission, and any parties invited by the Commission to make submissions, to consider the full effect of what is sought and weigh the overall relevant considerations accordingly. Adoption of a piecemeal approach makes it difficult for those involved to see the casino's "big picture". The result is that the quality of the submissions received can be compromised by confusion about what the applicant's full intentions might be. It is not an efficient use of the time of either the Commission or the submitting parties to have to deal with a series of related applications separately.

30. While the current application raises no issues of regulatory concern, neither the Commission nor the submitters were able to consider it against CCL's future plans because the rest of the associated applications were not advanced for approval at the same time. While CCL submitted that a comprehensive suite of approvals was difficult to advance, the Commission does not accept that that is the case; other casino operators do it, and so has CCL in the past. It expects that a casino which makes an application for variation will have a reason for doing so relating to future operational changes. In this case, CCL suggested that having contingency plans for use in a pandemic was the reason for the variation application. However, it did not indicate anything about the associated applications that it would need to make to have such a plan.
31. In respect of any future plans to use any of the Additional Gambling Areas, the Commission expects CCL to submit a single comprehensive application which will likely seek approval of new floor plans, construction and design changes and possibly new game mixes. The application will need to be thorough, and address all of the necessary licence condition requirements, including those identified by the Secretary and MoH in their submissions on this application.
32. It will also need to pay particular attention to the host responsibility and harm minimisation implications of seeking to deploy gambling products in food and beverage areas which are currently free from gambling.

Decision

33. The Commission decided:
 - (a) To vary, under section 139(1)(d) of Act, licence condition 9A of CCL's venue licence. New Schedules 1, 2, 3, 4 and 5 are **attached**.
 - (b) To vary, under section 139(1)(d) of Act, licence conditions 5, 6 and 12 of CCL's venue licence.

- (c) To vary, under section 139(1)(d) of Act, licence conditions 13, 14, 15, 18, 20 and 23 of CCL's operator's licence.
- (d) The amended licence conditions now provide as follows:

CCL's venue licence

5. The Licence Holder shall lodge and maintain with the Commission and the Secretary updated as built architectural floor plans of Car Park 2, Level 1 and Level 2 of the Casino Venue showing walls, structures and dimensions. Updated as built architectural floor plans shall be lodged with the Commission and the Secretary if the Licence Holder makes alterations to Car Park 2, Level 1 and Level 2 of the Casino Venue requiring building consent from a territorial authority.
6. Subject to the provisions of condition 7, the Licence Holder must obtain the approval of the Commission prior to:
- (a) Any construction or design changes whatsoever in the Gambling Area (Schedule 1) and Additional Gambling Areas (Schedules 2, 3, 4 or 5) and for any construction or design changes elsewhere in the Casino Venue which may impact on the matters set out in condition 7;
 - (b) the construction or relocation outside the Gambling Area and Additional Gambling Areas and within the Casino Venue of bank facilities available to the public excluding ATMs, EFTPOS and like devices; and
 - (c) the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue or on or around the building within which it is located.

The process by which the Licence Holder may obtain approval for construction or design changes to Car Park 2, Level 1 and Level 2 and the rooftop area of the Casino Venue, (paragraph (a) above) is set out in condition 7. The Commission will determine any application for approval under 6(b). The Executive Director may approve the addition or alteration of signage relating to the casino business on the exterior of the Casino Venue or on or around the building within which it is located (paragraph (c) above) if he/she is satisfied the proposed changes will have no potentially adverse effects. If he/she is not so satisfied, the proposed changes must be referred to the Commission for a decision on approval.

- 9A. The Gambling Area within the Casino Venue comprises the areas specified in plans marked "Schedules 1, 2, 3, 4 and 5" annexed to Commission decision GC18/20. 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, 3, 4 and 5 and will form part of the Gambling Area only when activated as provided in condition 9B.
12. The approval of the Commission is required for the construction of any additional cashiering facilities in the Gambling Area (Schedule 1) and Additional Gambling Areas (Schedules 2, 3, 4 or 5). Any such additional facilities must comply with the surveillance equipment requirements set out in the Surveillance Standard and be fitted with manually triggered alarm systems connected to the surveillance department.

CCL's operator's licence

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, 4 or 5).
14. Except as approved in writing by the Commission, the Licence Holder is prohibited from dispensing cash from EFTPOS and like devices in the Gambling Areas (Schedule 1) at all times and Additional Gambling Areas (Schedules 2, 3, 4 or 5) whenever the Additional Gambling Areas are activated pursuant to condition 9B. The approval of the Commission shall be revocable at the discretion of the Commission and may be subject to such conditions as the Commission may from time to time impose.
15. The Licence Holder is prohibited from using mobile EFTPOS terminals (cash or non-cash dispensing) or like devices in the Gambling Area (Schedule 1) at all times and in the Additional Gambling Areas (Schedules 2, 3, 4 or 5) whenever the additional Gambling Areas are activated pursuant to condition 9B unless approved by the Commission. The approval of the Commission shall be revocable at the discretion of the Commission and may be subject to such conditions as the Commission may from time to time impose.
18. The Licence Holder is required to notify the Commission if it moves ATMs in the Casino Venue or if it installs or moves EFTPOS terminals or like devices in the Gambling Area (Schedule 1) and Additional Gambling Areas (Schedules 2, 3, 4 or 5).
20. The Licence Holder shall provide security and surveillance equipment and facilities in the Gambling Area (Schedule 1) and Additional Gambling Areas (Schedules 2, 3, 4 or 5) and surveillance areas which shall at all times meet and may exceed the Surveillance Standard in whatever form is currently approved by the Commission. The Commission may at any time institute an audit or require the Licence Holder to report on the standard and/or quality of surveillance equipment to ensure it meets or exceeds the Surveillance Standard.
23. The approval of the Commission is required for the construction of any additional cashiering facilities in the Gambling Area (Schedule 1) and Additional Gambling Areas (Schedules 2, 3, 4 or 5). Any such additional facilities must comply with the surveillance equipment requirements set out in the Surveillance Standard and be fitted with manually triggered alarm systems connected to the surveillance department.

Right of appeal

34. 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

31 July 2020

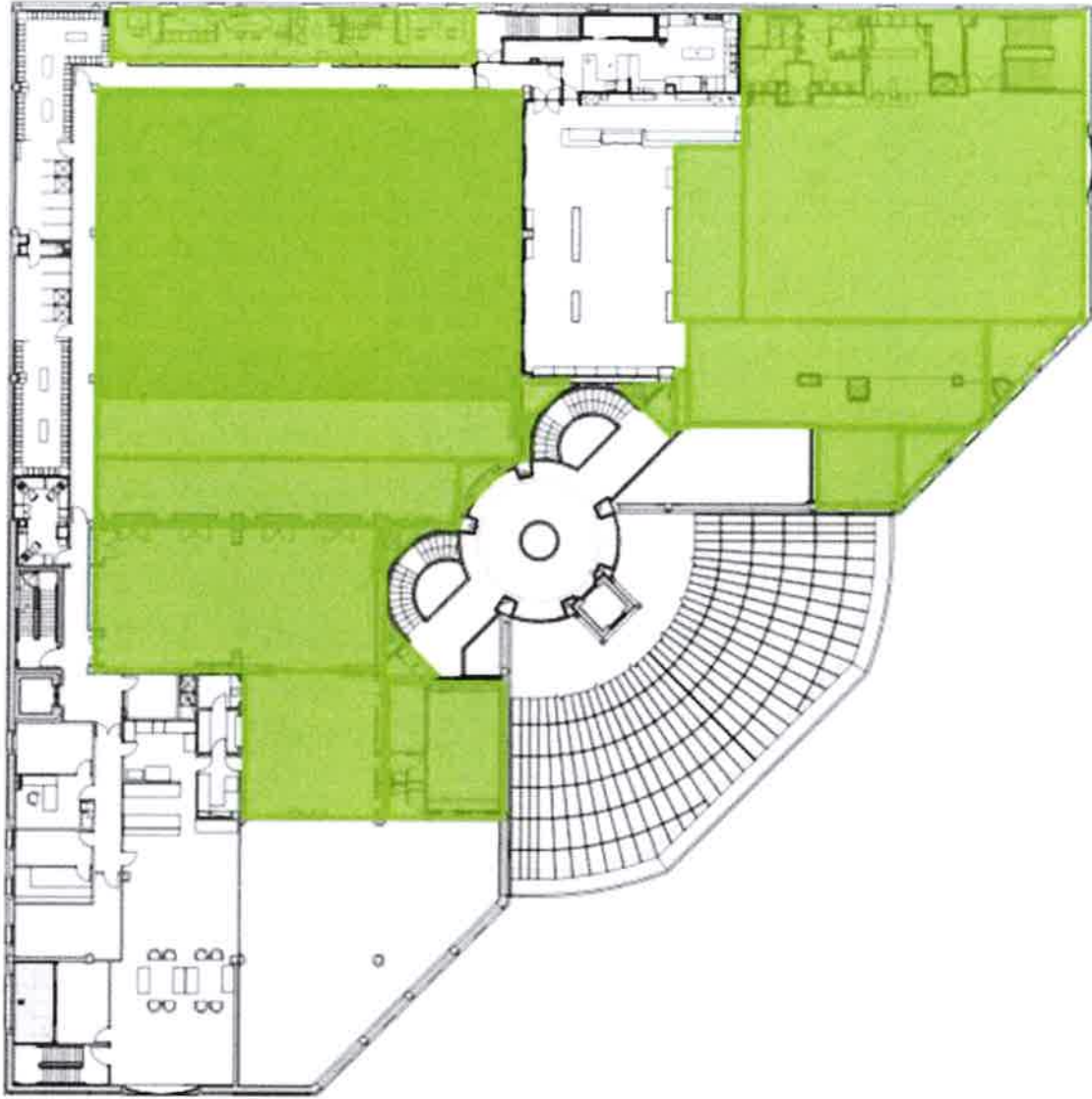


Schedule 1

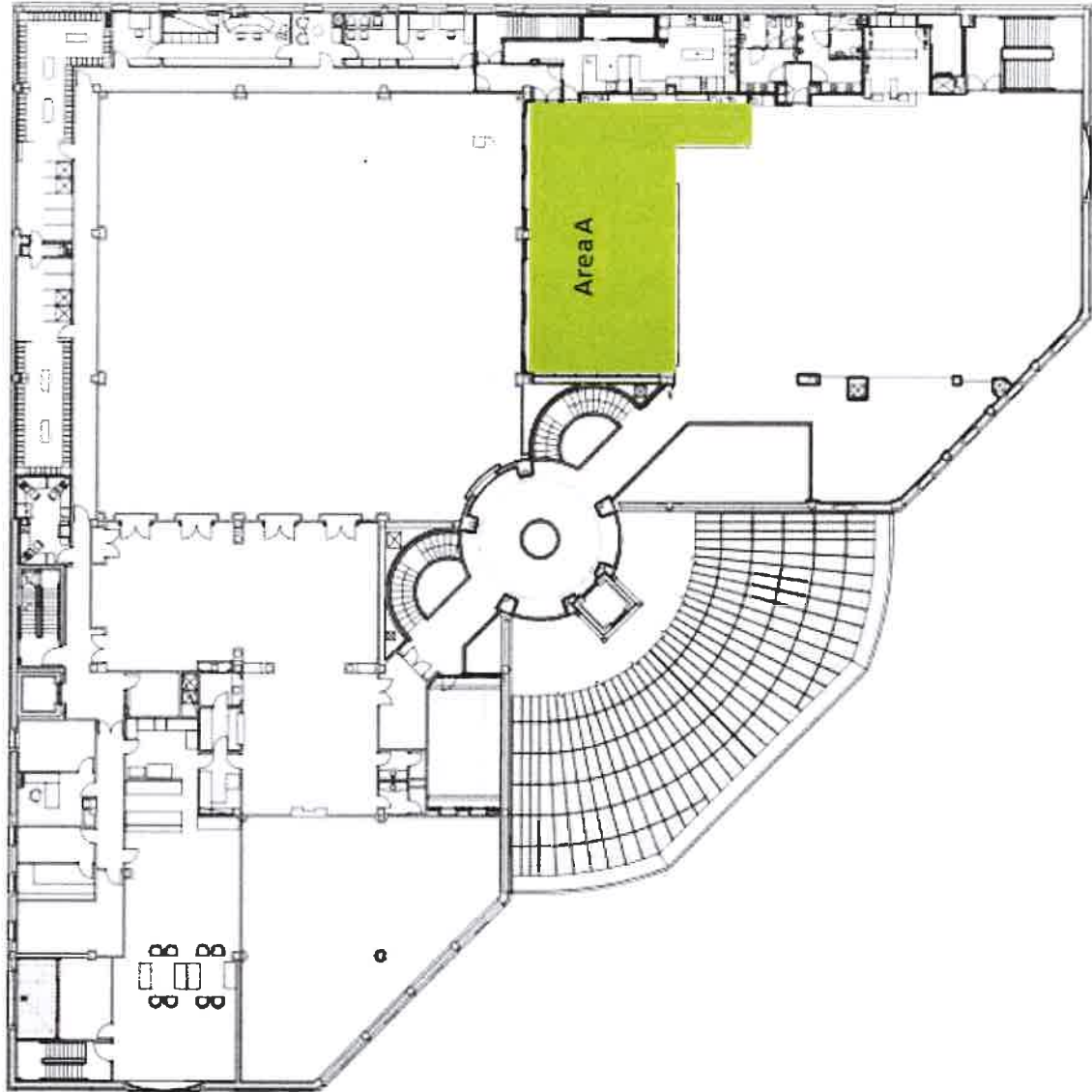
Designated Gambling Area - Level 1



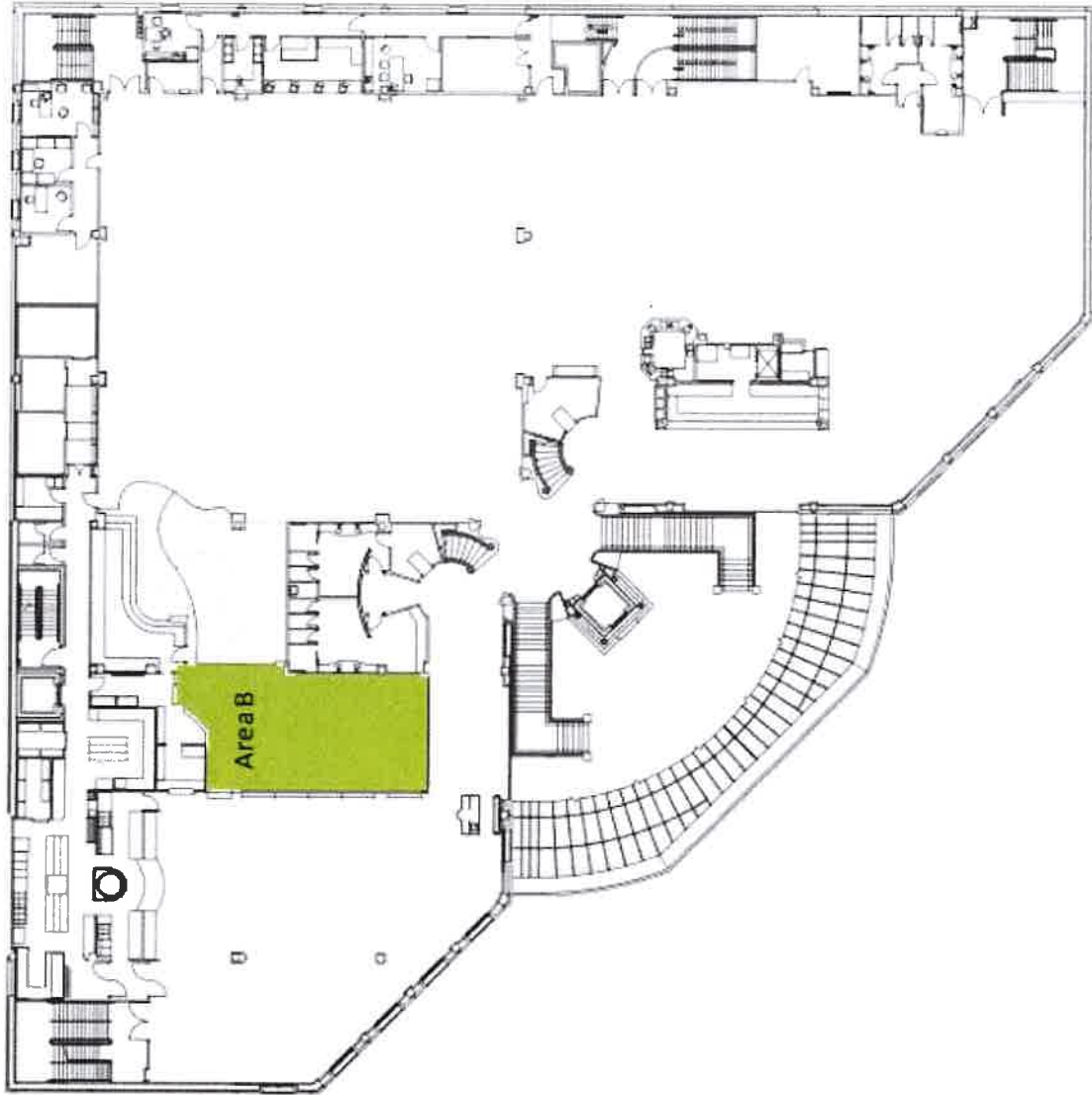
Designated Gambling Area - Level 2



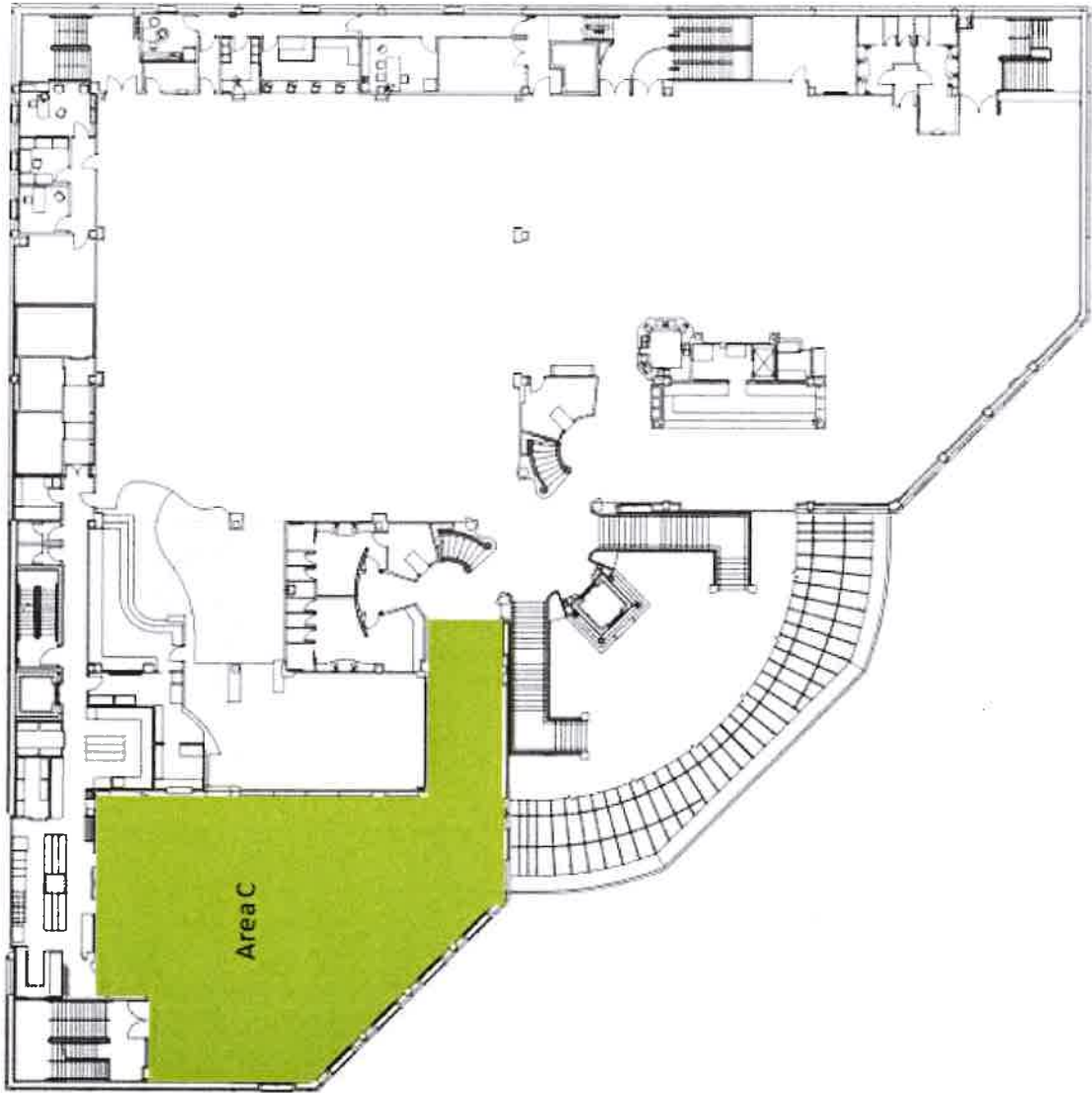
Schedule 2



Schedule 3



Schedule 4



Schedule 5

