

IN THE MATTER of the Gambling Act 2003
AND on an application by **SKYCITY
 AUCKLAND LIMITED** to vary
 conditions 9 and 9A of its venue
 licence

BEFORE THE GAMBLING COMMISSION

Members: G L Reeves (Chief Gambling Commissioner)
 P J Stanley
 L M Hansen

Date of Application: 26 April 2011

Date of Decision: 17 June 2011

Date of Notification
 of Decision: 30th June 2011

**DECISION ON AN APPLICATION BY SKYCITY AUCKLAND LIMITED
 TO VARY CONDITIONS 9 AND 9A OF ITS VENUE LICENCE**

Introduction

1. SKYCITY Auckland Limited ("**SCAL**") applied to the Commission, under to section 139(1)(d) of the Gambling Act 2003 (the "**Act**"), to vary licence conditions 9 and 9A of its venue licence. The proposed amendments are shown in mark-up as follows:
 9. The current Gambling Area for the casino venue is delineated in the plan attached as Schedule 1 to these conditions. A first alternative Gambling Area is delineated in the plan attached as Schedule 2. A second alternative Gambling Area is delineated in the plan attached as Schedule 3. A third alternative Gambling Area is delineated in the plan attached as Schedule 4.
 - 9A. A change of Gambling Area will take effect subject to the Licence Holder providing the Commission and the Inspectorate a minimum of 10 working days prior notice in writing of its intention to adopt one of the approved Gambling Areas referred to in Condition 9 and shown in Schedules 1, 2 ~~or~~ 3, or 4.

The Act

2. The relevant sections of the Act are as follows:
 - 139. Conditions of casino licence**
 - (1) The Gambling Commission may specify the conditions of the 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 purposes 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.

Initial submissions by SCAL

3. SCAL submitted, in summary, as follows:

- (a) Its first alternative gambling area features, for level 5, a southern side comprised of three international salons, and a northern side comprised of one salon and general VIP area. The construction and fit-out of the southern side is expected to be completed around 15 July 2011. The northern side is unlikely to be finished before the end of August.
- (b) If it deploys the first alternative plans, the north and south sides of level 5 will both be activated as Gambling Area, meaning no-one under 20 can access the north side during the ongoing construction and fit-out of that area.
- (c) Its proposed amendment will allow it to stagger the activation of the north and south side Gambling Areas on level 5.
- (d) It has not identified any regulatory issues with its proposal; it does not change the existing Gambling Areas, rather, it creates a mechanism to allow it to activate the Gambling Area on the south side without activating the north side.

- (e) The conditions attached to the operator's licence restrict the number of gaming tables in the Gambling Area to 110. It intends to install gaming tables into the north side sometime before that area opens. These tables are being built specifically for the new area, and will not be relocated from other parts of the casino. They will be additional to the 110 tables operating in other parts of the casino. It is arguable whether the installation of these tables as part of the pre-opening transitional arrangements would be problematic in terms of the current condition restricting table numbers in the Gambling Area. Nonetheless the problem would be addressed if the activation of the Gambling Area on the north side was not linked to the activation of the south side. Once the north side is opened, the corresponding number of tables from elsewhere in the casino will be removed to ensure the total number of tables remains at 110 tables.
- (f) A condition of a casino licence varied under section 139(1) of the Act must comply with the requirements set out in section 139(2). The proposed variation is consistent with the scheme of the existing condition, which has already been deemed compliant with the requirements set out in section 139(2) of the Act.

The Secretary's submissions

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

- (a) SCAL's proposed amendment would provide a fourth delineation to the floor plans indicating Gambling Areas to allow for the staggered opening of the south and north sides of level 5. As SCAL wants to install the tables for the north side of level 5 before that part of the Gambling Area formally opens, more than 110 tables will be in place at the casino. SCAL states that the tables in the north side of level 5 will not be in an active gambling area until late August 2011, allowing for other tables in the casino to continue until the transition date.
- (b) In order to be effective in managing the number of gaming tables in place, SCAL will need to ensure that the activation of the north side tables is aligned with the deactivation and removal of the appropriate number of tables in the other gambling areas of the casino.
- (c) If there is a commitment by SCAL to ensure the tables in the north side are not run at the same time as the other tables so that the casino's limit of 110 tables is maintained, then he does not have any regulatory concerns with the application. In reply, SCAL stated that it has no intention of operating more than 110 tables at any one time.



Analysis

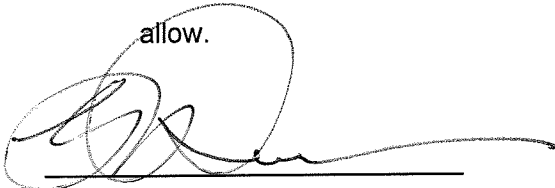
5. SCAL presently has three sets of approved plans depicting different Gambling Areas at the Auckland casino. SCAL will deploy these plans once various refurbishments and fit-outs around the casino have been completed.
6. At present the first alternative plans depicting the Gambling Areas include both the north and south sides of level 5, meaning that once those plans are deployed, all of the identified level 5 areas will become active Gambling Areas. This presents SCAL with two problems. First, as the fit-out of the north side of level 5 will not be completed until approximately six weeks after the fit-out of the south side, anyone aged under 20 (such as trades-people involved in the fit-out of the north side) will not be permitted to enter that part of the casino as Gambling Areas are strictly R20.
7. Secondly, SCAL wants to install gaming tables in the north side of level 5 in preparation for that area opening without breaching licence condition 6 of SCML's operator's licence. Condition 6 provides that "the number of gaming tables in the gambling area shall not exceed 110", meaning that the introduction of the new tables in the north side would result in a breach of condition as the north side would be part of the active Gambling Area.
8. SCAL wants to de-couple the north and south side Gambling Areas on level 5 to ensure that these problems do not arise.
9. The Secretary's concern, set out at paragraph 4(c) above, is misconceived. Licence condition 6 of SCML's operator's licence limits the number of gaming tables in the Gambling Area to 110. The location of SCAL's gaming tables is subject to further controls by floor plans, which must be approved by the Commission. The Commission does not see a need to require SCAL to provide a commitment that it will not breach its licence conditions by deploying more than 110 tables or deploying tables other than in accordance with approved floor plans. The Commission assumes that licence conditions will be adhered to as operators are aware of the potential consequences of breach.
10. The Commission amended, conditions 9 and 9A of SCAL's venue licence, under section 139(1)(d) of the Act licence. The conditions now read as follows:
 9. The current Gambling Area for the casino venue is delineated in the plan attached as Schedule 1 to these conditions. A first alternative Gambling Area is delineated in the plan attached as Schedule 2. A second alternative Gambling Area is delineated in the plan attached as Schedule 3. A third alternative Gambling Area is delineated in the plan attached as Schedule 4.
 - 9A. A change of Gambling Area will take effect subject to the Licence Holder providing the Commission and the Inspectorate a minimum of 10 working days prior notice in writing of its intention to adopt one of the approved

Gambling Areas referred to in Condition 9 and shown in Schedules 1, 2, 3, or 4.

11. Schedules 1, 2, 3 and 4 are **attached**.

Right of appeal

12. 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

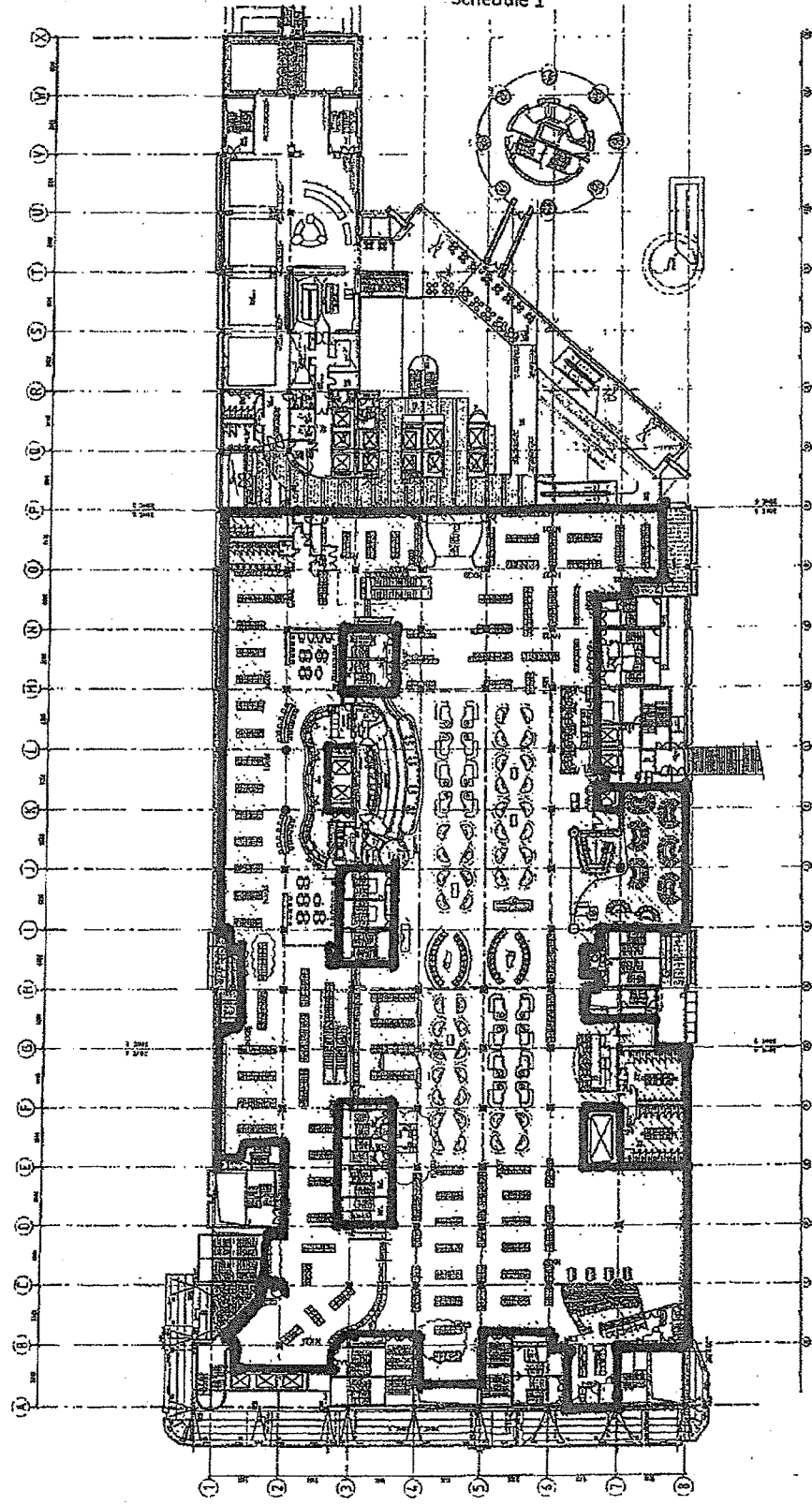
for and on behalf of the
Gambling Commission

30th June 2011





Schedule 1



SCALE: 1/8" = 1'-0"
 DATE: 08/11/2010
 DRAWN BY: J. HARRIS
 CHECKED BY: J. HARRIS
 APPROVED BY: J. HARRIS

GAMING AREA: 6,028m² (64,861 SQ. FT)

PROJECT NO.	0000
DATE	08/11/2010
SCALE	1/8" = 1'-0"
PROJECT NAME	SKY CITY
PROJECT TYPE	GAMING AREAS

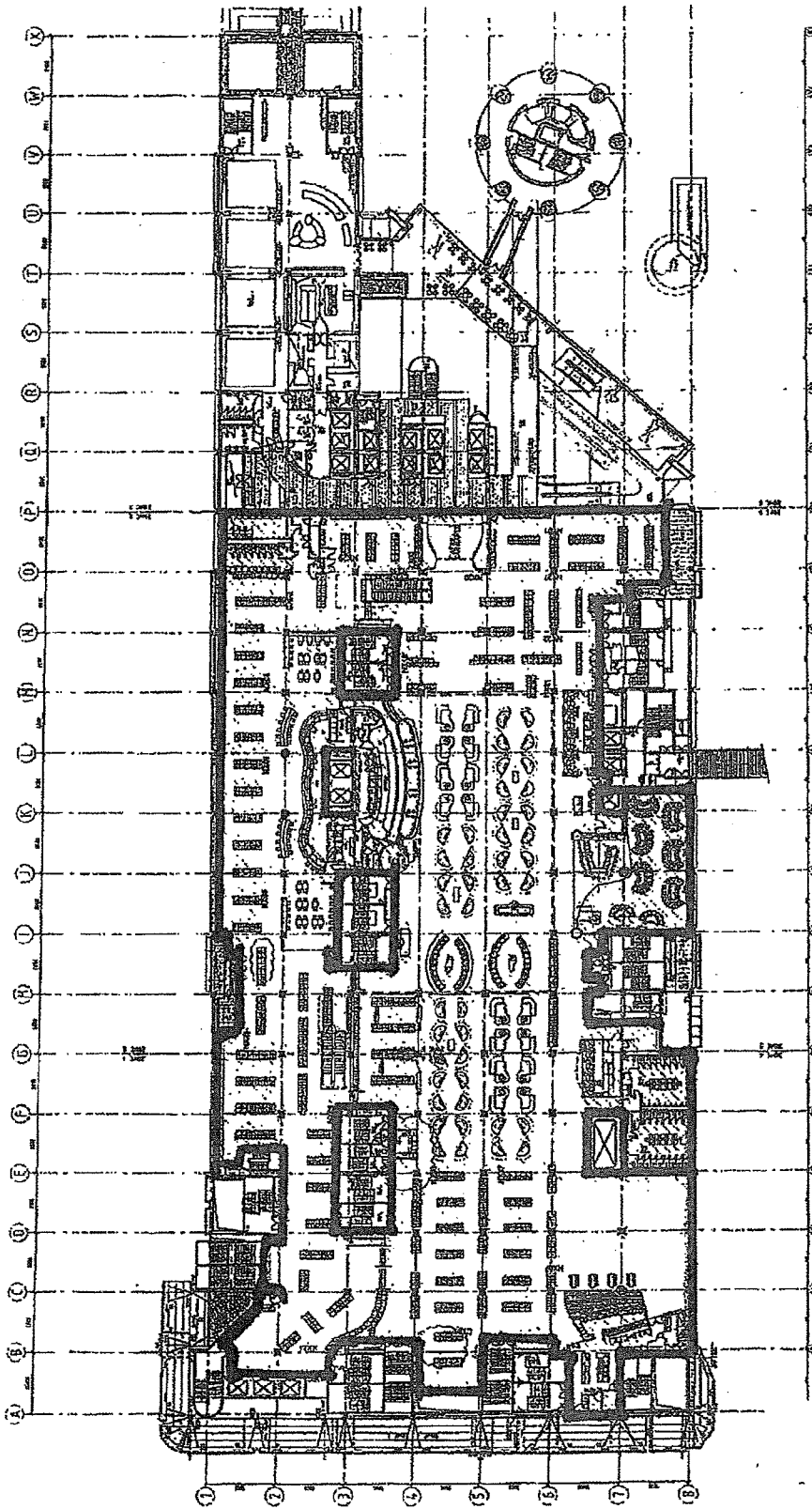
PROJECT TITLE: Level 2 Gaming Layout
 SKY CITY
 GAMING AREAS
 PROJECT NO.: 0000
 DATE: 08/11/2010
 SCALE: 1/8" = 1'-0"
 PROJECT TYPE: GAMING AREAS

CLIENT AND PROJECT:
 Sky City Entertainment Group
 Gaming Layouts
 SKY CITY
 WEST HAVEN, CT

ARCHITECT:
 Moller Architects
 1000 Main Street
 West Haven, CT 06490
 www.mollerarch.com



Schedule 2



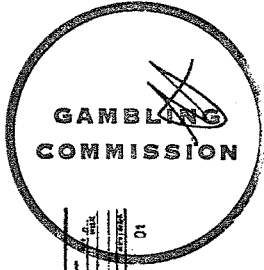
GAMING AREA: 6,028m² (64,831 SQ. FT)

EXHIBIT
 DATE: 01/11/2011
 PROJECT: SKY CITY
 DRAWING NO: 2011-0001
 SHEET NO: 0000

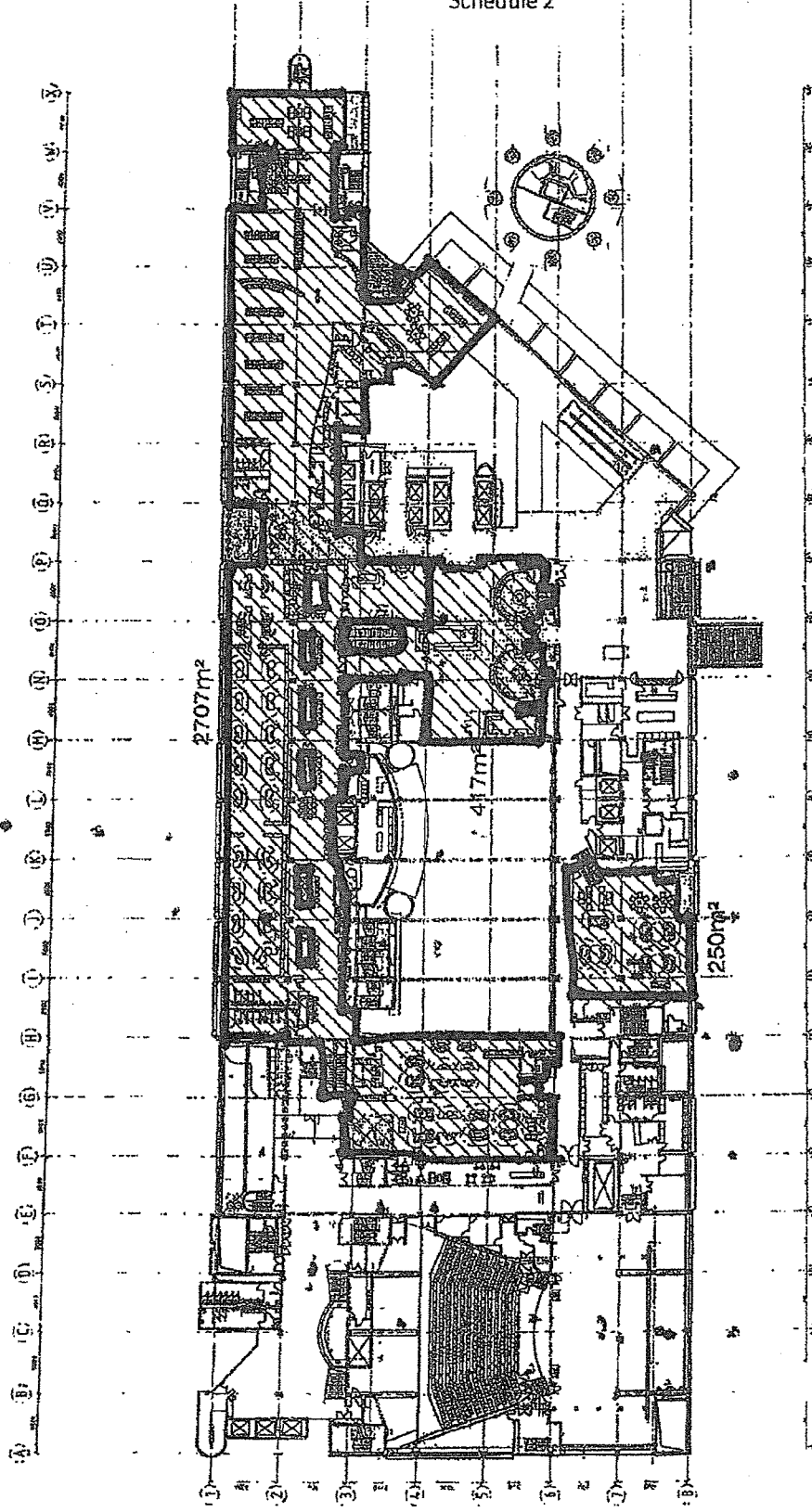


<p>SKY CITY SKY CITY ENTERTAINMENT GROUP GAMING LAYOUT</p>	<p>SKY CITY SKY CITY ENTERTAINMENT GROUP GAMING LAYOUT</p>	<p>SKY CITY SKY CITY ENTERTAINMENT GROUP GAMING LAYOUT</p>	<p>SKY CITY SKY CITY ENTERTAINMENT GROUP GAMING LAYOUT</p>
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Moller Architects



Schedule 2



PROJECT NO.	12256
DATE	1/20/00
SCALE	1:12000
BY	
CHECKED BY	
APPROVED BY	
DATE	

CLIENT	SKY CITY
PROJECT NAME	Level 3 Gaming Layout
PROJECT ADDRESS	Bar 21 - Gaming Zone
PROJECT NO.	
DATE	
SCALE	
BY	
CHECKED BY	
APPROVED BY	
DATE	

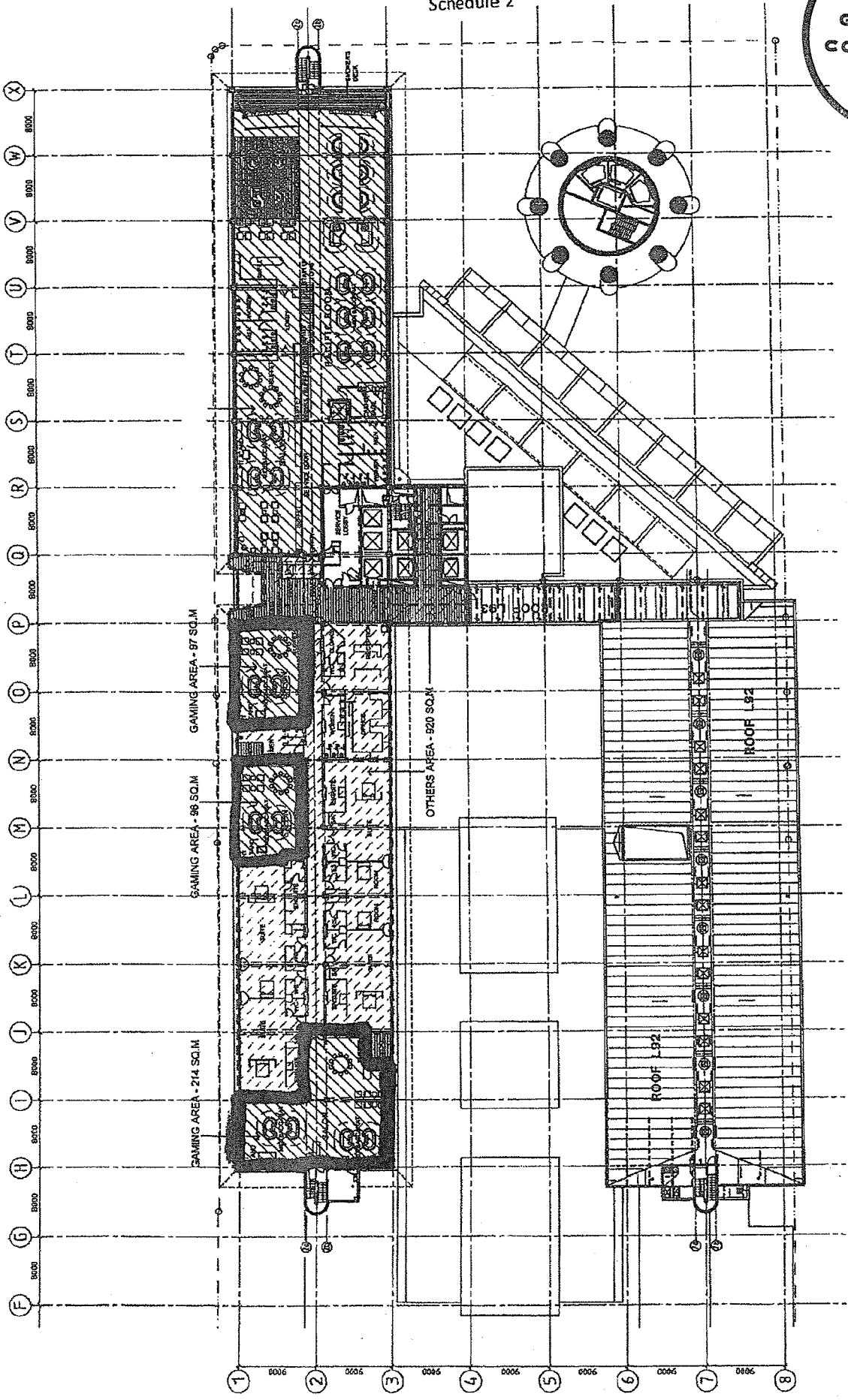
SKY CITY ENTERTAINMENT GROUP
GAMING LAYOUTS

MOLLER Architects

ARCHITECTS

1000 BROADWAY
SUITE 1000
DENVER, CO 80202
TEL: 303.733.1111
WWW.MOLLERARCHITECTS.COM

Schedule 2



REVISION	DATE	BY

SKY CITY VIP GAMING
LEVEL H5
AREAS CALCULATION

1. Refer to Schedule 1 for Detailed Drawing
2. All areas are in square meters
3. For printing and use in calculation, all of printed documents
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ISSUED INFORMATION	DATE	BY

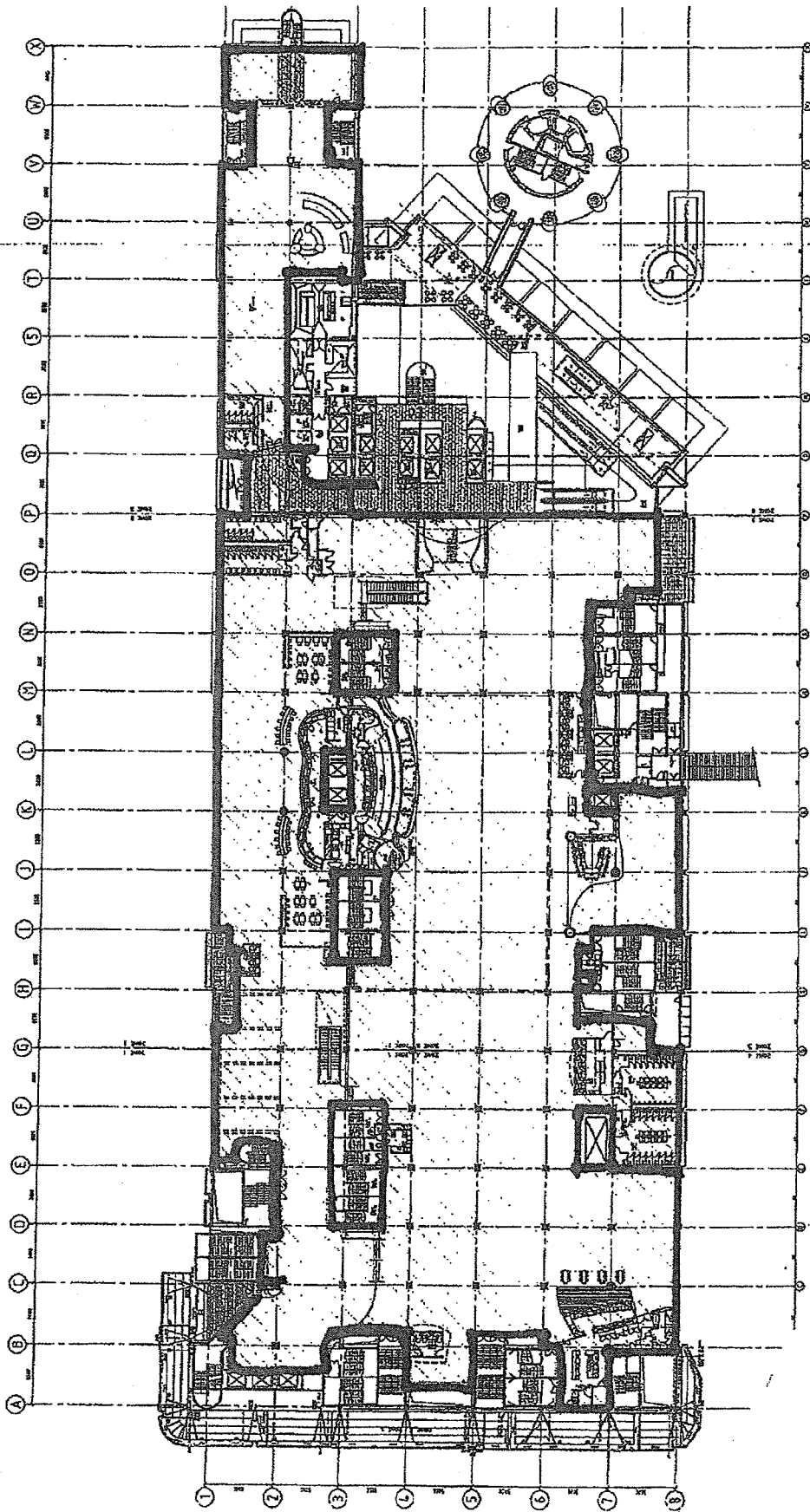
Sky City Entertainment Group
VIP Gaming



061 411 5555
061 411 5555
061 411 5555



Schedule 3



GAMING AREA: 6,849sqft



PROJECT NO.	A5258
DATE	10/1/01
SCALE	AS SHOWN
BY	PD/MS

SKY CITY - PODIUM
LEVEL 2
GAMING AREAS

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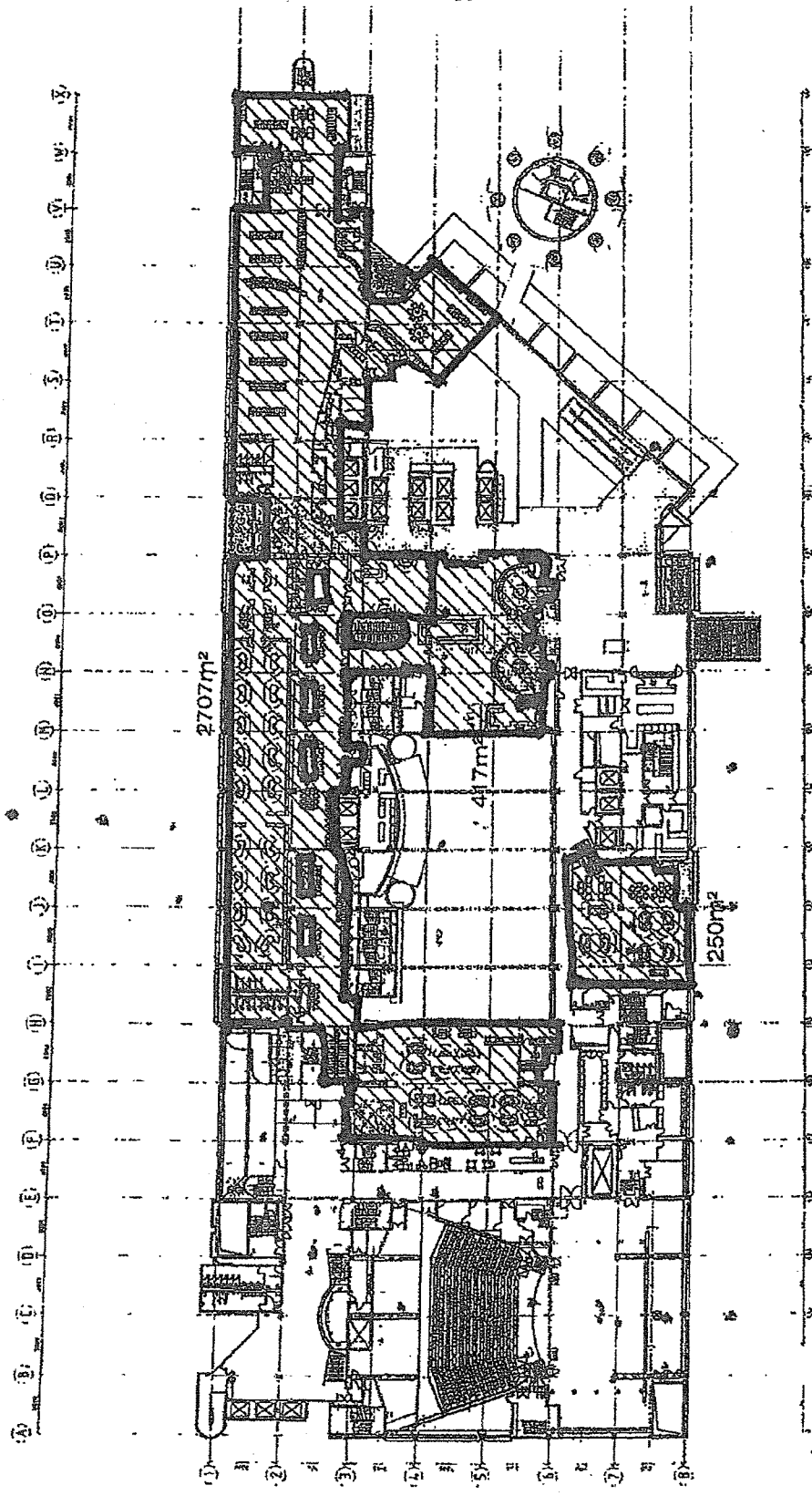
OWNER: SKY CITY ENTERTAINMENT GROUP
ARCHITECT: MOLLER ARCHITECTS
DATE: 10/1/01
SCALE: AS SHOWN

SKY CITY ENTERTAINMENT GROUP
ENTERTAINMENT GROUP

FOR THE OWNER: SKY CITY ENTERTAINMENT GROUP

Moller Architects
ARCHITECTS

Schedule 3



SKYCITY
123456789
10111213141516171819202122232425262728293031323334353637383940414243444546474849505152535455565758596061626364656667686970717273747576777879808182838485868788899091929394959697989900

Level 3 Gaming Layout
SKYCITY
Bar 21 - Gaming Zone

SKYCITY
123456789
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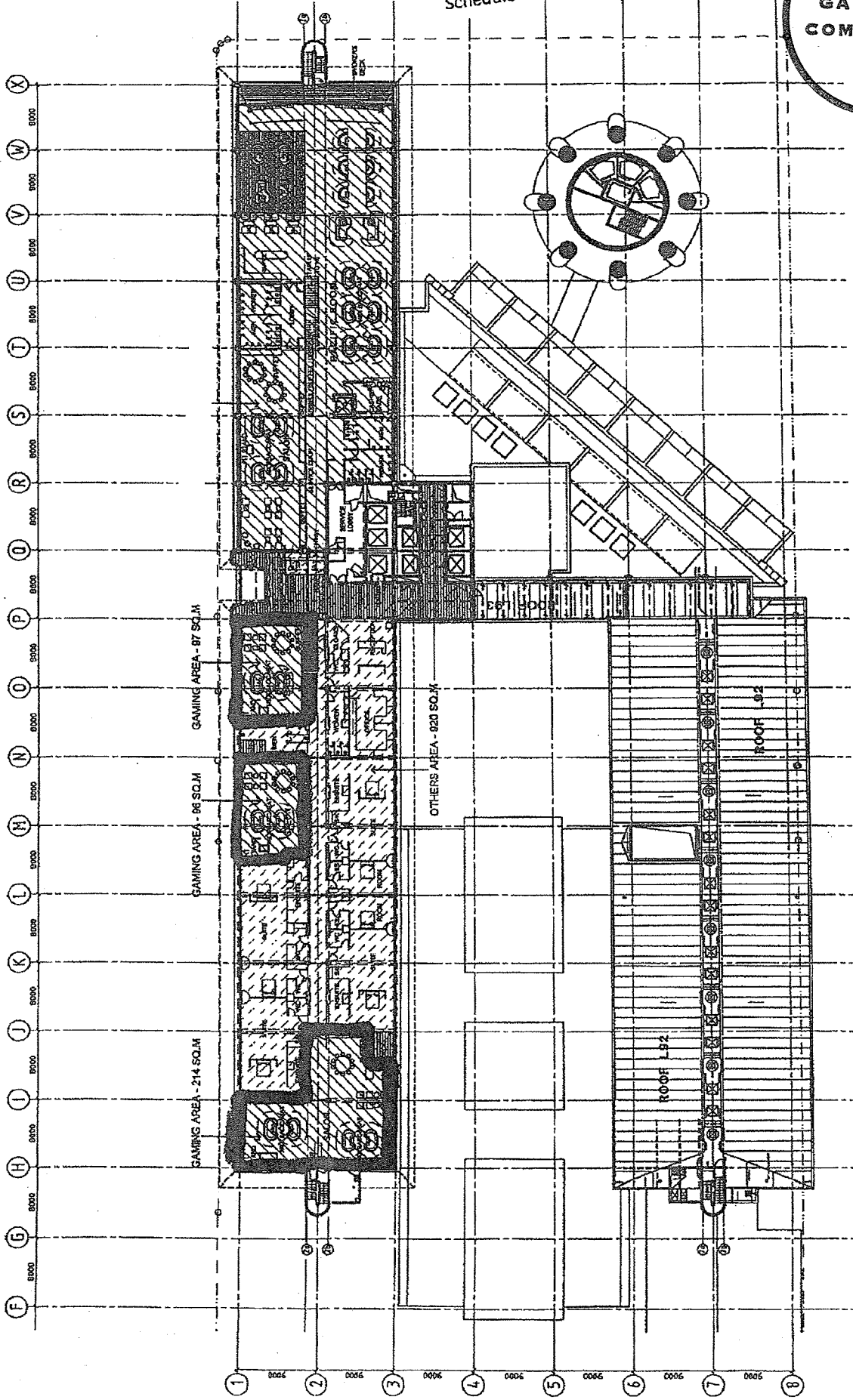
SKY CITY Entertainment Group
Gaming Layouts



SKYCITY
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Schedule 3



NO.	DATE
1	
2	
3	
4	
5	
6	
7	
8	

REVISIONS TITLE
 SKY CITY VIP GAMING
 LEVEL H5

1. Refer to Schedule 3 for Other Specifications
 2. Refer to Schedule 4 for Other Specifications
 3. Refer to Schedule 5 for Other Specifications
 4. Refer to Schedule 6 for Other Specifications
 5. Refer to Schedule 7 for Other Specifications
 6. Refer to Schedule 8 for Other Specifications
 7. Refer to Schedule 9 for Other Specifications
 8. Refer to Schedule 10 for Other Specifications

PROJECT NO. 1000
 SHEET NO. H5-100
 DATE 10/10/00
 APPROVED BY: [Signature]

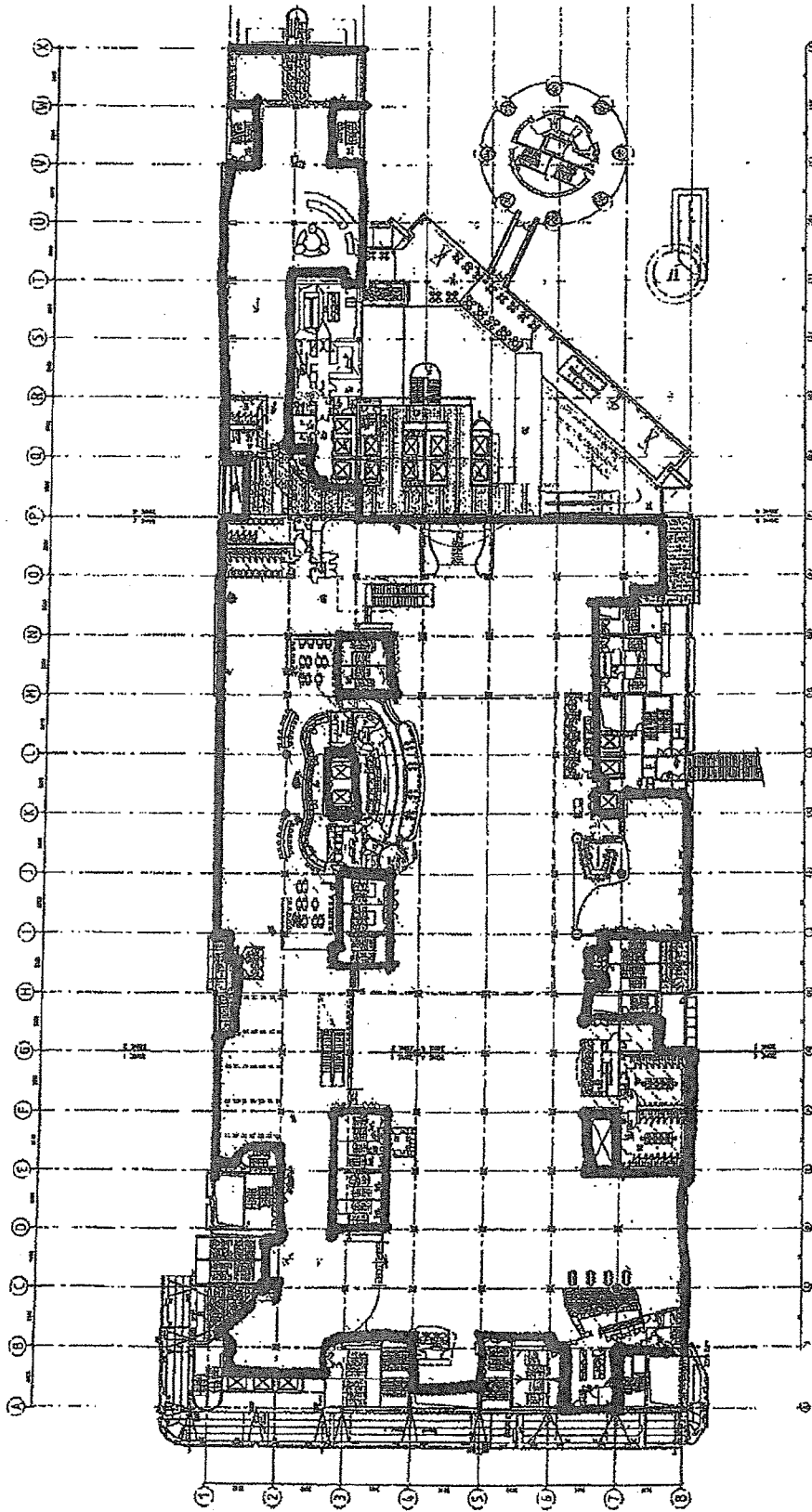
SKY CITY ENTERTAINMENT GROUP



SKY CITY ENTERTAINMENT GROUP
 1000 SKY CITY BLVD
 LAS VEGAS, NV 89101

Moller

Schedule 4



GAMING AREA: 6,845m²

PROJECT NO.	15256
DATE	PD1121
SCALE	AS SHOWN
DESIGNER	
CLIENT	

SKY CITY - PODIUM
LEVEL 2
GAMING AREAS

1. This is a plan of the gaming area, showing the layout of the gaming tables, slot machines, and other gaming equipment. It is intended to be used in conjunction with the other plans in this set.

DATE	15/05/2008
BY	SKY CITY
FOR	SKY CITY ENTERTAINMENT GROUP
PROJECT NO.	15256
DATE	15/05/2008
BY	SKY CITY
FOR	SKY CITY ENTERTAINMENT GROUP

SKY CITY ENTERTAINMENT GROUP



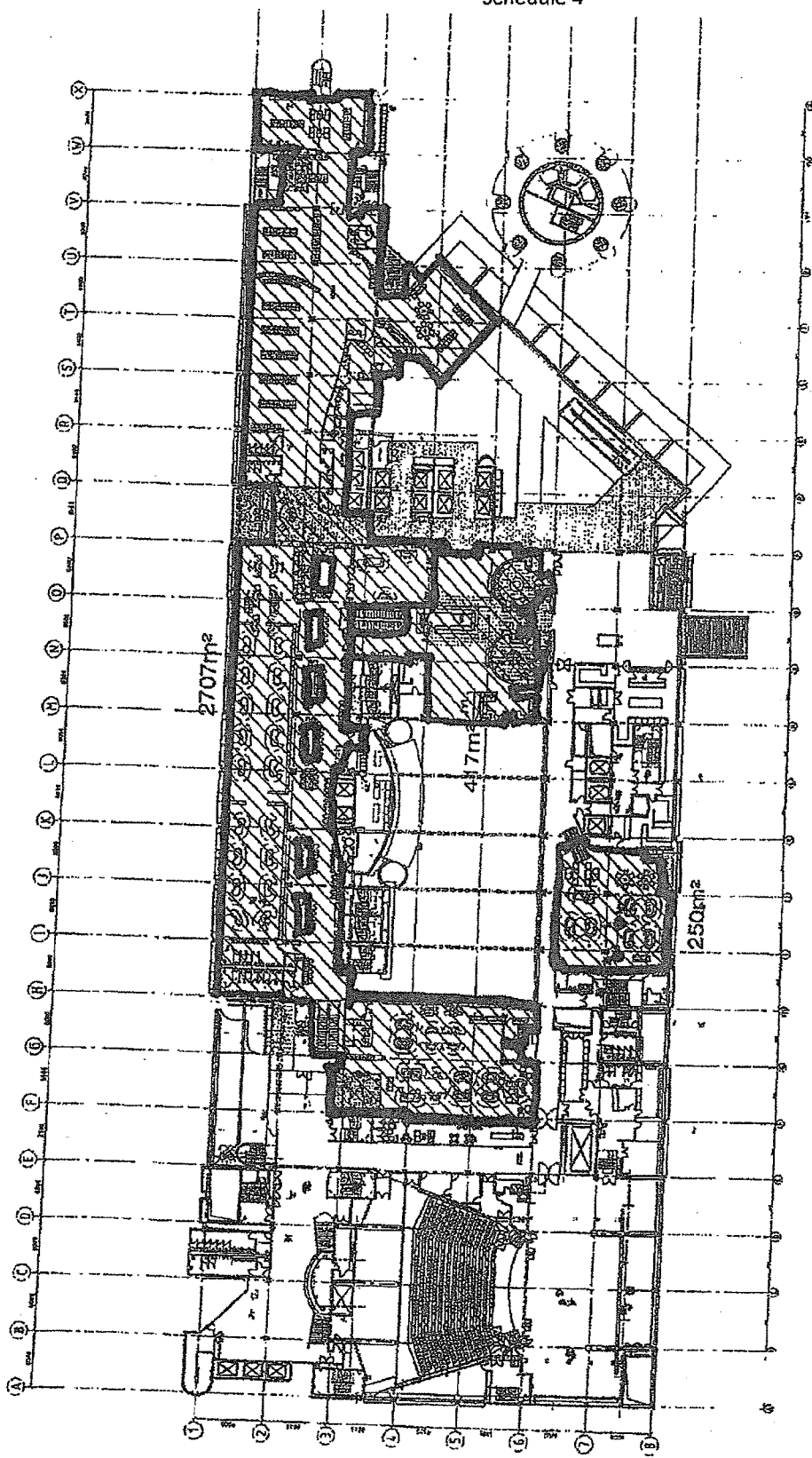
SKY CITY ENTERTAINMENT GROUP




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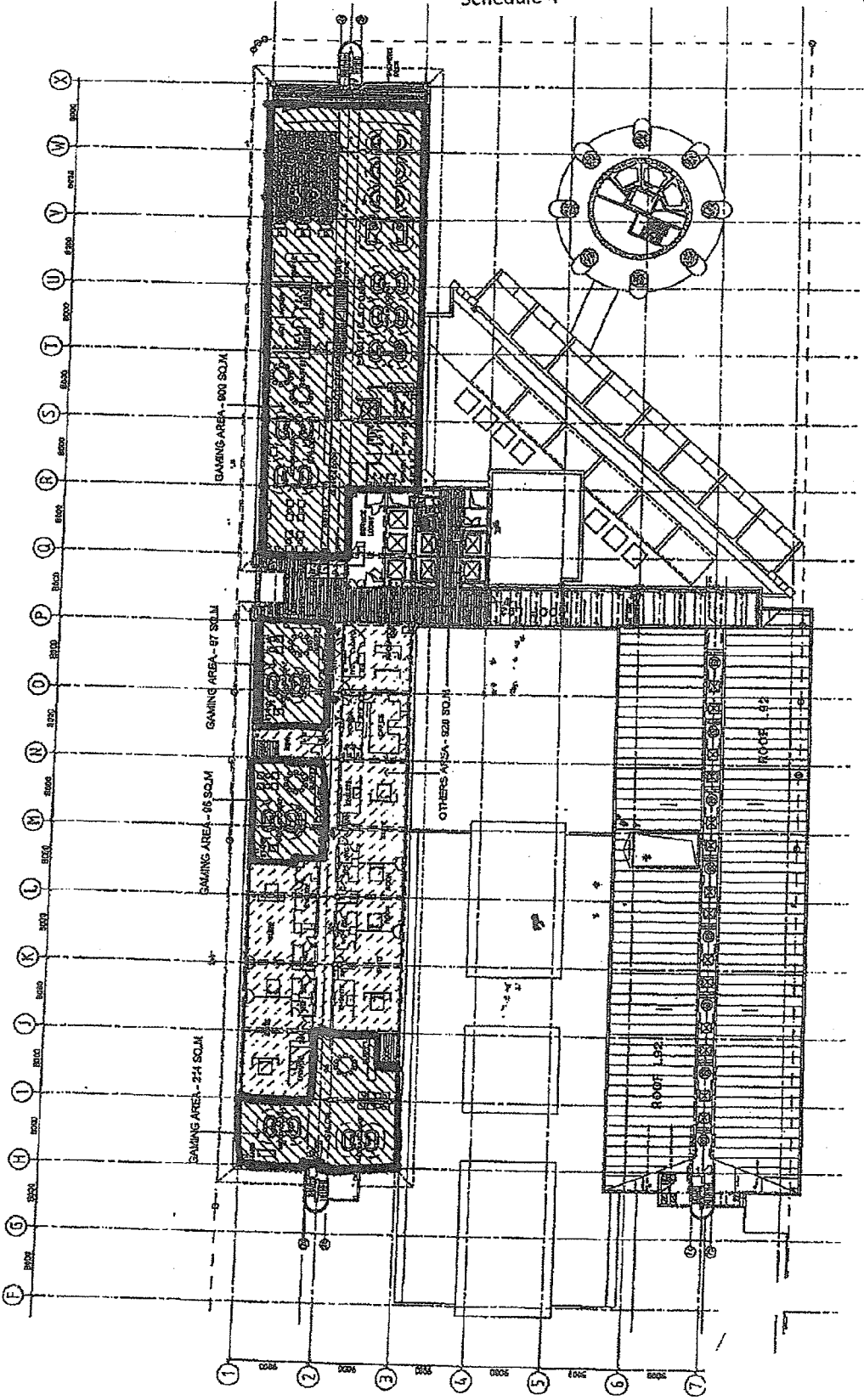
Schedule 4



 Moller Architects Architects	 Sky City Entertainment Group Gaming Layouts	 SKYCITY Entertainment Group	PROJECT TITLE Level 3 Gaming Layout SKYCITY	DATE 1/12/09
PROJECT NO. 14205(B)	PROJECT NAME Bar 21 - Gaming Zone	PROJECT ADDRESS 14205(B)	PROJECT TYPE Gaming Layout	PROJECT NO. 14205(B)



Schedule 4



Moller Architects Architects	Sky City Entertainment Group VIP Gaming	SKY CITY VIP GAMING LEVEL 45 AREAS CALCULATION	AS295 SK05-APEAS
SKY CITY ENTERTAINMENT GROUP	Sky City Entertainment Group VIP Gaming	SKY CITY VIP GAMING LEVEL 45 AREAS CALCULATION	AS295 SK05-APEAS
SKY CITY ENTERTAINMENT GROUP	Sky City Entertainment Group VIP Gaming	SKY CITY VIP GAMING LEVEL 45 AREAS CALCULATION	AS295 SK05-APEAS