

IN THE MATTER of the Gambling Act 2003
AND of an application by **SKYCITY AUCKLAND LIMITED** for approval of construction and design changes and to vary the designated 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: 26 October 2018

Date of Decision: 2 November 2018

Date of Notification
of Decision: 12 November 2018

**DECISION ON AN
APPLICATION BY SKYCITY AUCKLAND LIMITED
FOR APPROVAL OF CONSTRUCTION AND DESIGN CHANGES
AND TO VARY THE DESIGNATED GAMBLING AREA**

Application

1. SKYCITY Auckland Limited ("**SCAL**") applied to the Commission:
 - (a) for approval of construction and design changes, pursuant to conditions 6 and 7 of SCAL's venue licence; and
 - (b) to vary the designated Gambling Areas on level 2 of the casino, pursuant to condition 9 of SCAL's venue licence and section 139(1)(d) of the Gambling Act 2003 (the "**Act**").

Licence conditions

2. The relevant licence conditions are as follows:

SCAL's venue licence (Auckland)

6. The Licence Holder must obtain the approval of the Commission prior to:
 - (a) construction or design changes to Levels 1, 2, 3, 5 and 6 of the Original Casino Site, including the Gambling Area but excluding the Sky Tower, SKYCITY Theatre and foyer area, restaurant and bar

areas outside the Gambling Area, hotel rooms and the back of house areas used by staff (unless construction or design changes to any of these excluded areas may impact on matters set out in condition 7 in which case prior approval must be sought);

- (b) construction and design changes to level 7 of the Grand Hotel on the NZICCA Additional Site, including the Gambling Area but excluding restaurant and bar areas outside the Gambling Area and the back of house areas used by staff (unless construction or design changes to any of these excluded areas may impact on matters set out in condition 7 in which case prior approval must be sought).
- (c) the construction or relocation outside the Gambling Area and within the Original Casino Site or the NZICCA Additional Site of bank facilities available to the public excluding ATMs, EFTPOS and like devices;
- (d) the addition or alteration of signage relating to the casino business on any building, road or structure within the Original Casino Site or the NZICCA Additional Site, including, walkways between any of the Original Casino Site and the NZICCA Additional Site.

The process by which the Licence Holder may obtain approval for construction or design changes to Levels 1, 2, 3, 5 and 6 of the Original Casino Site, and Level 7 of the Grand Hotel on the NZICCA Additional Site, including the Gambling Area (paragraphs (a) and (b) above) is set out in condition 7. The Commission will determine any application for approval under 6(c). The Executive Director may approve the addition or alteration of signage relating to the casino business on any building, road or structure within the Original Casino Site or the NZICCA Additional Site (paragraph (d) above) if satisfied that the proposed changes will have no potentially adverse effects. The proposed changes must otherwise be referred to the Commission for a decision on approval.

- 7. The Licence Holder must notify the Executive Director of any proposed changes to the construction or design of Levels 1, 2, 3, 5 and 6 of the Original Casino Site, and Level 7 of the Grand Hotel on the NZICCA Additional Site, including the Gambling Area, but excluding Sky Tower, SKYCITY Theatre and foyer area, restaurant and bar areas outside the Gambling Area, hotel rooms, the back of house areas used by staff. Notification must be accompanied by relevant drawings and an assessment of any impacts the alterations may have on:
 - (a) the integrity and fairness of games;
 - (b) the effectiveness of security and surveillance;
 - (c) harm prevention, harm minimisation and responsible gambling;
 - (d) potential access to the Gambling Area by persons under 20 years of age; and
 - (e) compliance by any person with the Act, including section 11.

The Executive Director may approve the proposed changes to the construction or design if satisfied that there are no adverse impacts in relation to the matters specified in (a)-(e) above. The Executive Director must otherwise refer the proposal to the Commission for determination.

- 8. The Licence Holder shall ensure that:
 - (a) gambling activity is not visible from outside the Casino Venue; and

- (b) there is provision for generation of emergency power to maintain in situations of an interruption to mains power:
 - (i) minimum services to the Gambling Area; and
 - (ii) lighting in highly sensitive areas such as count rooms, surveillance suite, cashiering locations and gambling equipment storerooms.
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.

Relevant section of the Act

3. The relevant section of the Act is as follows:

Gambling Act 2003

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 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).

Submissions by SCAL

4. SCAL submitted, in summary, as follows:
- (a) It seeks approval for construction and design changes to level 2 of the casino, as follows:
 - (i) To alter the entry point to the "Cabaret" smoking deck, by constructing a new wind lobby, and extending the roof to cover the whole of the deck.
 - (ii) To extend the outdoor area on the existing "Deli" smoking deck by recessing the external wall back into an internal area; creating an additional entrance lobby at the end of the extended outdoor area, and extending the external balustrade.

- (iii) To create a new "Deli" smoking deck on the western side of level 2, again by repositioning an external wall and converting existing internal space into a deck area, accessible by a wind lobby at both ends. The new deck will be positioned within the existing Gambling Area with the intention that the area will continue to be used as a gaming area following the proposed changes.
- (b) As a consequence of these proposed construction and design changes, it wants to redesignate the Gambling Area on level 2 in order to include the Cabaret Deck within the Gambling Area.
- (c) Its intention is to house gaming machines on the decks and, subject to approval of the construction and design changes and extension of the designated Gambling Area, it will submit floor plans which identify the locations of the gaming machines on the smoking decks. It is not possible to submit floor plans at this stage as the construction and design changes will take some time to complete and there are likely to be other floor plan changes during that time. However, it has provided an indicative plan to assist the Commission at this time.
- (d) It will ensure that gambling activity is not visible from outside the casino venue when deploying machines to the new locations.
- (e) The area which is the subject of this application is currently only accessible by persons already in the Gambling Area. The area is currently not designated as gambling area and does not contain any gambling equipment.

Submissions by the Secretary

5. The Secretary submitted that he has no regulatory concerns with SCAL's proposal.

Analysis

6. SCAL has applied to make construction and design changes and to redesignate the casino's Gambling Area, in order to create outdoor areas where patrons can smoke while playing gaming machines. The Secretary raised no issues of regulatory concern with the proposal.
7. In previous decisions, the Commission has held that it has the power to redefine a casino's Gambling Area, provided that the area in question does not extend beyond the casino venue, as defined in the casino venue licence, and the licence conditions 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 variation to the Gambling Area is clearly within the boundaries of the casino venue.

8. The licence conditions, which will not be amended as a result of this application, will remain consistent with section 139(2) of the Act.
9. The construction and design changes proposed also raise no issues of regulatory concern and will not adversely impact upon the matters specified in licence condition 7(a)-(e).

Decision

10. The Commission approved the proposed construction and design changes, pursuant to conditions 6 and 7 of SCAL's venue licence, and varied the designated Gambling Area, under condition 9 of SCAL's venue licence and section 139(1)(d) of the Act, for level 2 of the Auckland casino, as shown on the replacement Schedule 1 to the venue licence, as **attached**.

Right of appeal

11. 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

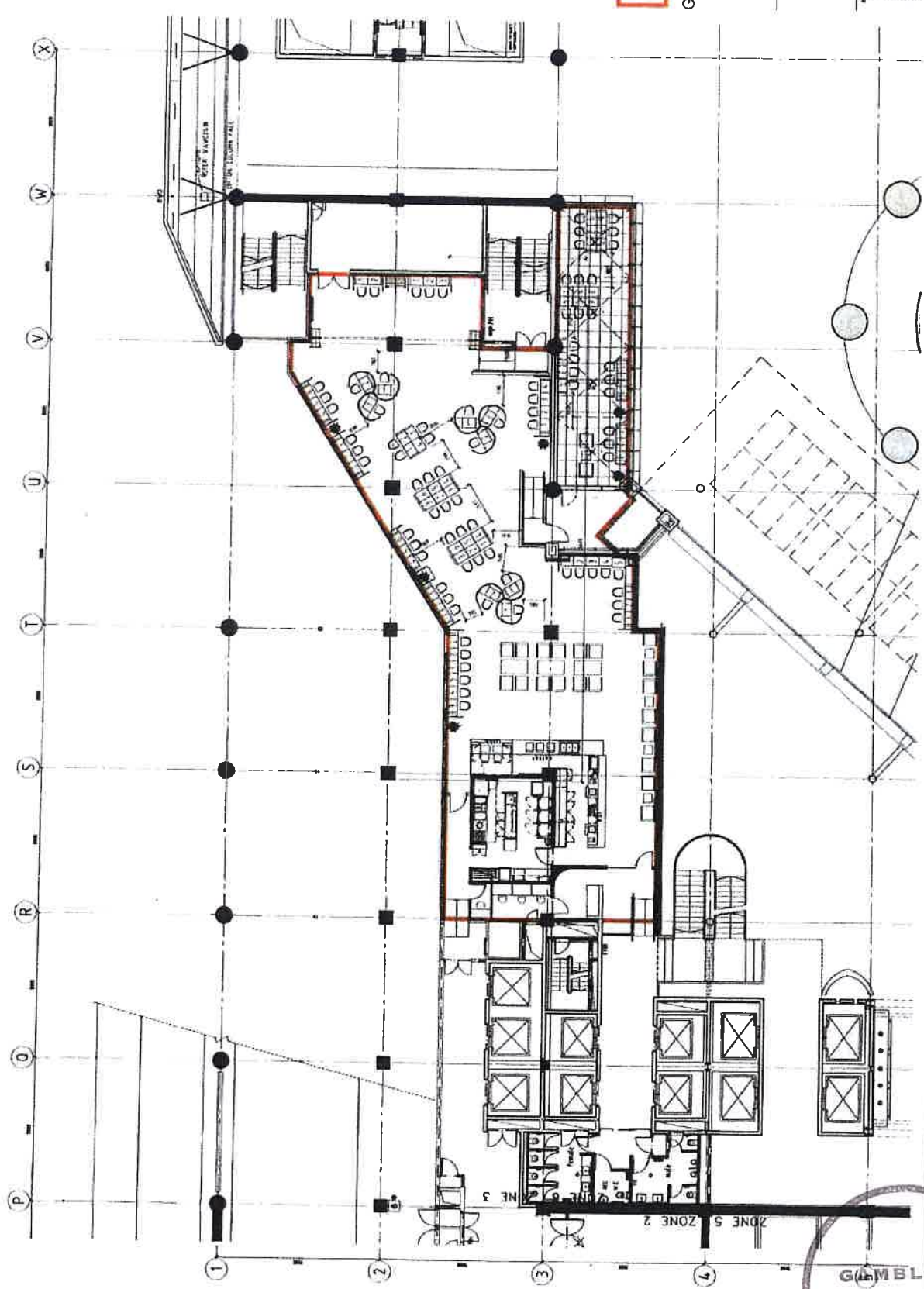
for and on behalf of the
Gambling Commission

12 November 2018

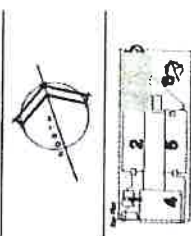


SCHEDULE 1





GAMING AREA: 495m²



GAMBLING COMMISSION

Moller Architects

Sky City Entertainment Group

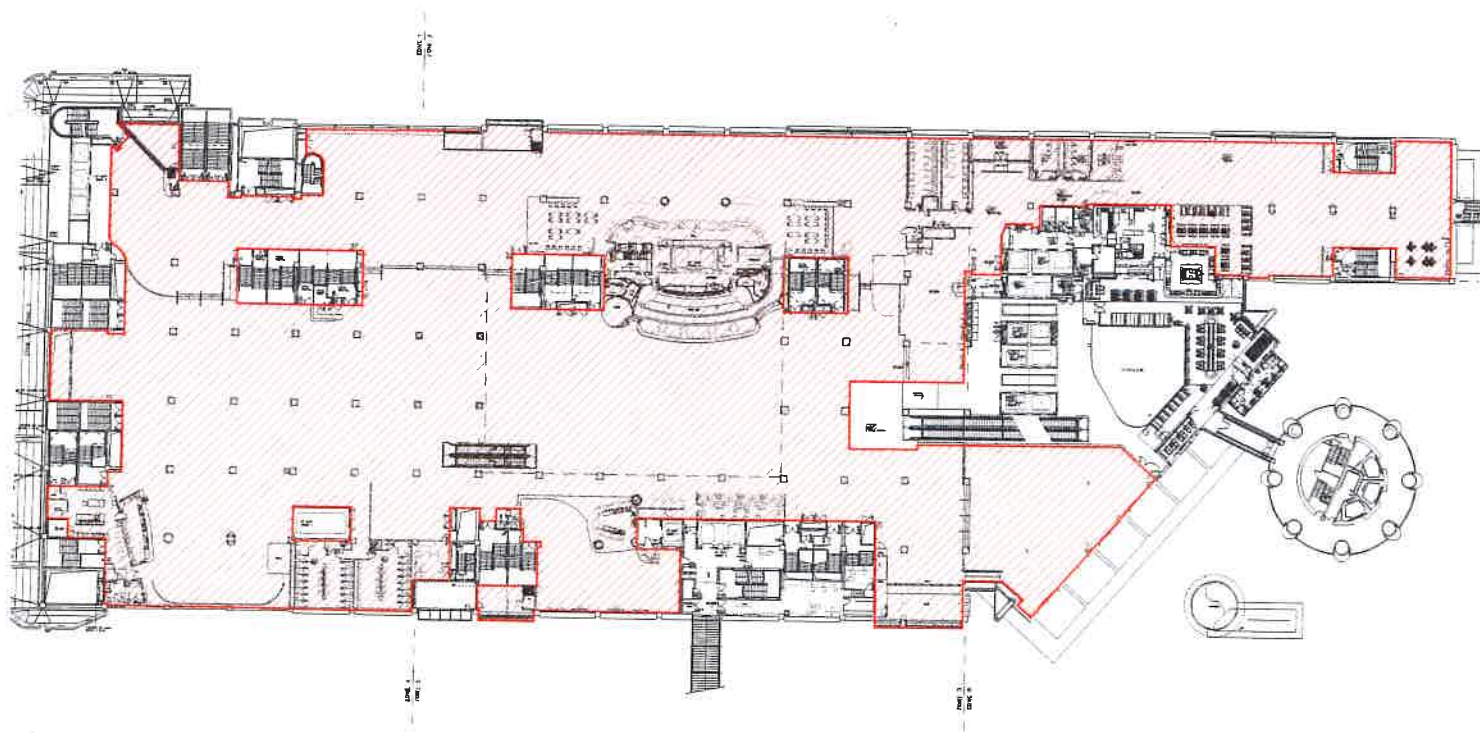
SKY CITY ENTERTAINMENT GROUP

VIP PLATINUM BLACK GAMING AREA

2 August 2013

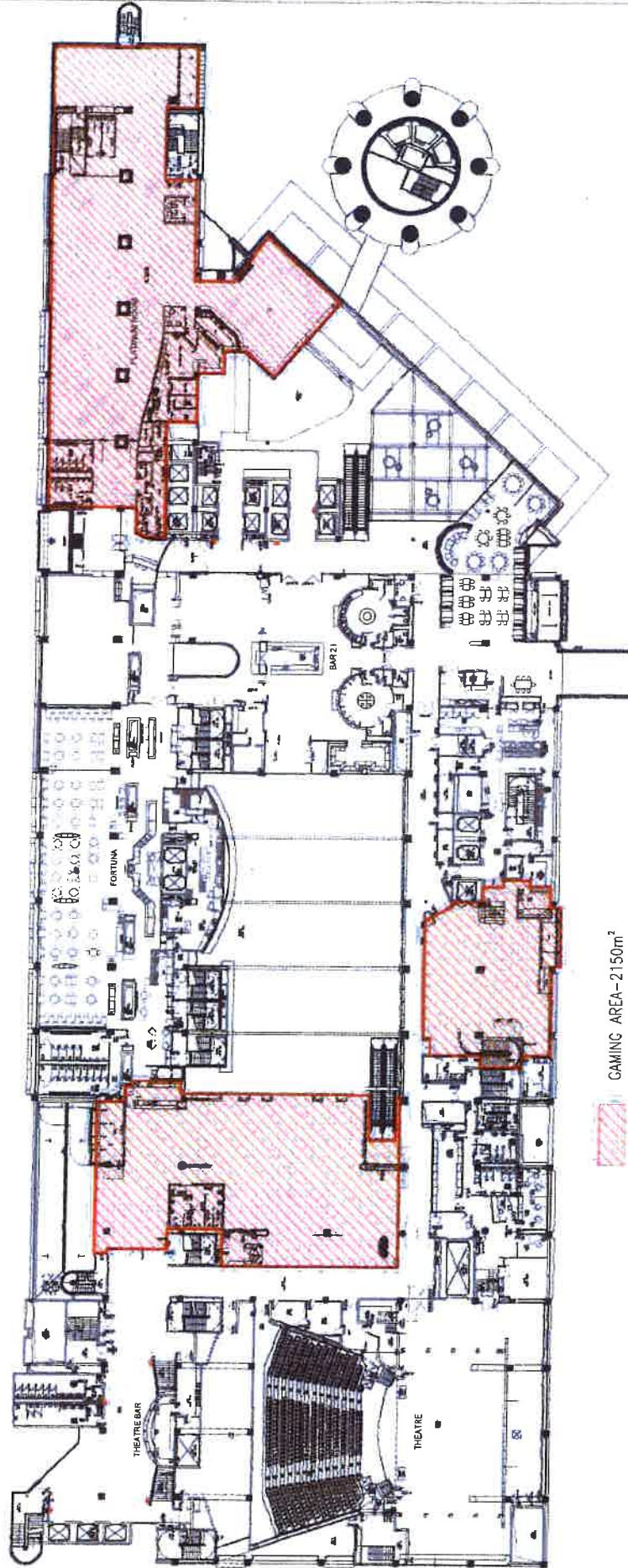
A5335

Project Name	VIP PLATINUM BLACK GAMING AREA
Client	Sky City Entertainment Group
Architect	Moller Architects
Scale	1:100
Date	2 August 2013
Drawn By	[Name]
Checked By	[Name]
Project No.	A5335



SKY CITY MAIN SITE
Level 2
Scaled 1:1000@A4



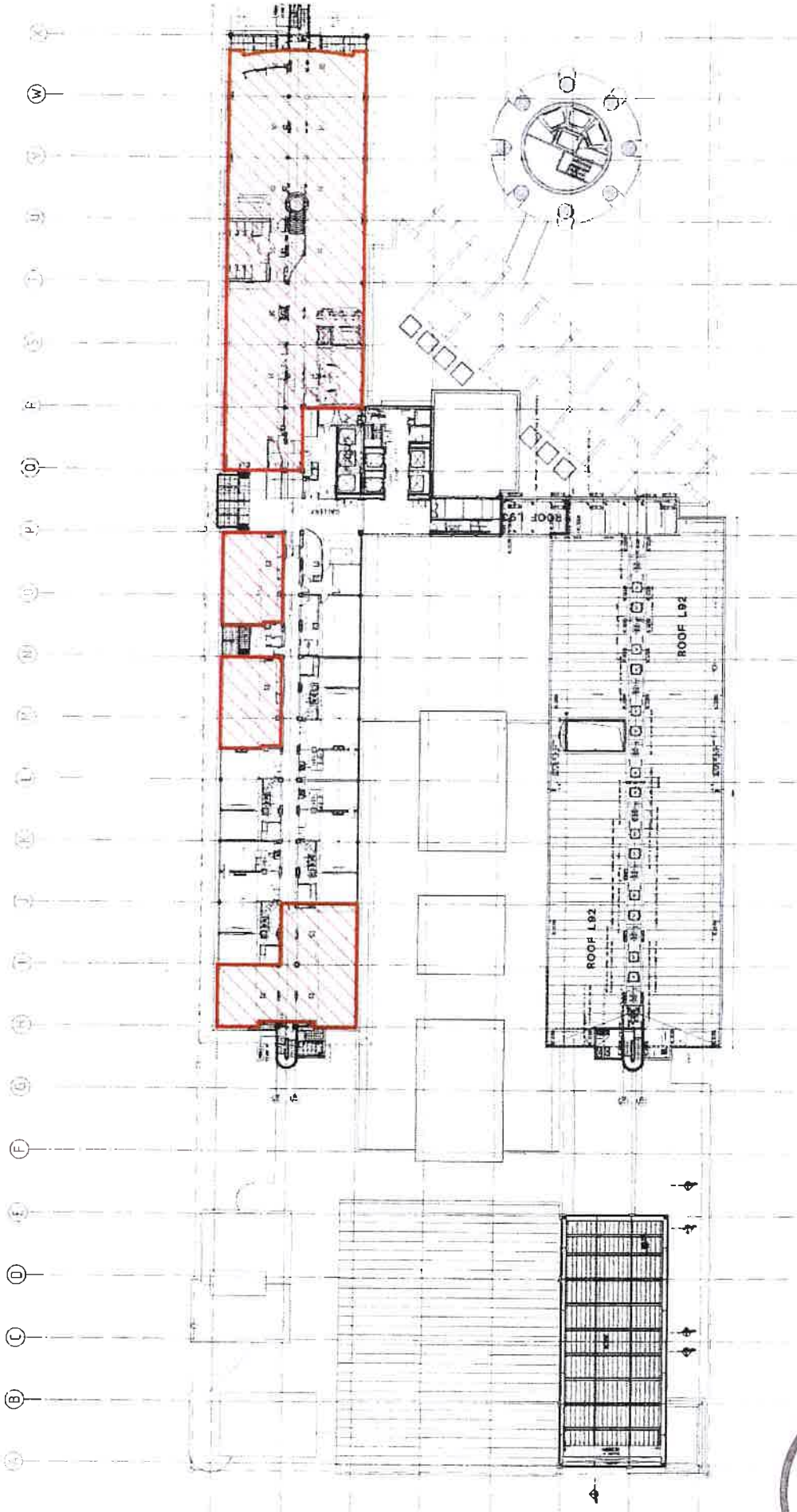


GAMING AREA—2150m²



SKY CITY MAIN SITE
Level 3





GAMING AREA: 1,309m²



SKYCITY - VIP GAMING
LEVEL H6
GAMING AREAS
15/10/2012

Project Name: SKYCITY - VIP GAMING
Project No: 15/10/2012
Client: Sky City Entertainment Group
Architect: Moller Architects
Date: 15/10/2012

Sky City Entertainment Group
Gaming Layouts

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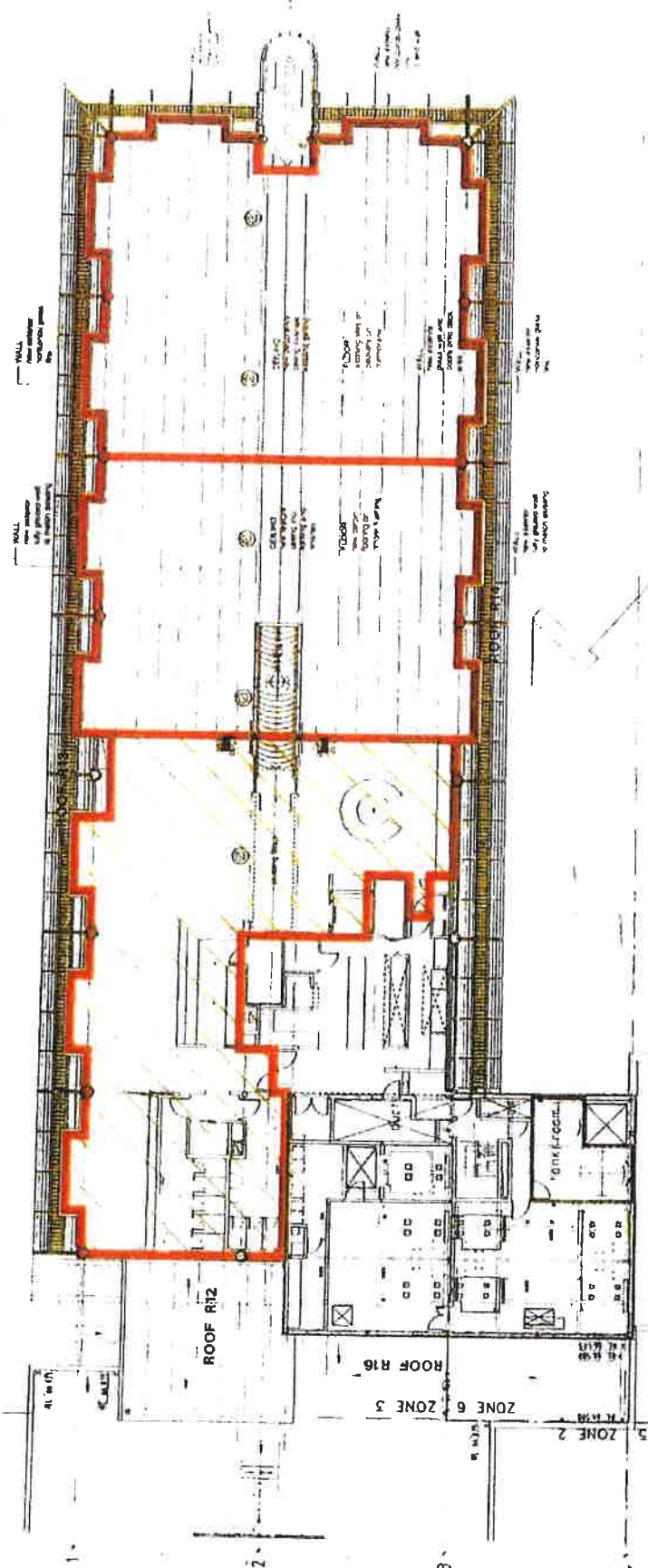
Moller
Architects

P 0 8 S I U V W X

ANCILLARY AREA: 320m²

INTERNAL NONSMOKING AREA: 263m²

EXTERIOR SMOKING AREA: 303m²



Moller Architects



Sky City Entertainment Group
Gaming Layout

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SKY CITY - VIP GAMING
LEVEL H6
GAMING AREAS
4/12/2012

