

28 October 2008

RH Holdings Limited (Auckland)
C/- Bloxam Burnett & Oliver Limited
PO Box 9041
Hamilton

LAND USE RESOURCE CONSENT: 10.2008.19873 — 37/1/3561

Establish a Bar and Restaurant on a site which contains an existing Drive through service and other existing Retail activities.

I wish to advise that consent for the above-mentioned application was granted under delegated authority and subject to the following conditions being completed to the satisfaction of Council:

*That pursuant to the provisions of sections 19, 94, and 104C of the Resource Management Act 1991 and the Proposed Hamilton City District Plan (References Version), Council **grants consent** to the application by RH Holdings (Auckland) Limited, being Resource Consent number 010.2008.19873 (37/1/3561) to establish a restaurant and Bar on a site with an existing drive through service and other retail activities situated on Lot 1 DPS 88259 located at 13-19 Ulster Street Hamilton (assessed as a Restricted Discretionary Activity) subject to the following conditions:*

Use

1. *That the development be in general accordance with the plans and information submitted with the application received on 9 October 2008.*

Lighting

2. *The spill of light onto any other site within the zone shall not exceed 10 lux (horizontal and vertical) when measured at or within the boundary of any other site.*
3. *Artificial lighting shall not result in illumination on roads that may dazzle or distract road users.*

Parking, Loading & Access

4. *That provision be made on site for a minimum of 6 accessible spaces for parking for disabled persons vehicles with a minimum width of 3.5 metres each.*
5. *That all 134 required on-site car parking spaces and single loading space are to be delineated with white/yellow painted lines as applicable or any other method as approved by the Manager, Transportation Unit. Accessible car parks and loading spaces shall be delineated with yellow lines and have appropriate signage.*
6. *That where any sealed carpark or landscaped area adjoins a road or parking spaces, a kerbing or similar barrier not less than 125mm shall be provided.*
7. *The vehicle crossing on Ulster Street be upgraded. In particular the areas of cracked and broken seal be concrete cut and the existing pavement be removed and replaced as required. All work to be done in accordance with the requirements of the Hamilton City Development Manual.*

Water and Waste Services

8. Prior to release of a Building Consent for this site, a plan of the proposed water and drainage service connections shall be provided to the HCC Water and Waste Services Unit and amended as required until approval is given.

General Conditions

9. That all works shall be done to the requirements of the Hamilton City Development Manual and /or to the satisfaction of the General Manager Works and Services.

Landscaping

10. That the planting be in accordance with the submitted site plan received by council on the 9 October 2008 and shall be of a permeable nature consisting of a combination of groundcovers, shrubs, and trees with a mature growth high of less than 3m but over 0.5m. Planting shall be designed not to obscure visibility for road users.
11. ***Refuse area***

An area for refuse and recycling collection for all the units of the development shall be provided as follows:

 - The refuse area shall be of a sufficient size to accommodate the required number of refuse bags, recycling crates, and recycled paper bundles.
 - The refuse area shall be located on the subject site shown on the site plan as reference 136810_01 A and labelled loading and service area.
 - The refuse area shall be screened from the remainder of the site by a fence to a height of 1.8 metres (incorporating a gate for access to the refuse area)

Reasons for the decision:

Objectives and Policies

- a. Subject to the above conditions, the proposal is not contrary to the relevant objectives and policies of the Hamilton City Proposed District Plan.

Consideration of Applications

- b. Having regard to section 104(1)(a) of the Act, the actual and potential adverse effects on the environment of granting consent will be able to be avoided, remedied, or mitigated by the imposition of the above conditions.

Non-notification

- c. Pursuant to section 94 of the Resource Management Act 1991 the application has not been publicly notified as the adverse effects of the proposal will be minor and all persons considered affected by the granting of this consent have provided their written approval. These factors enabled the application to be processed without public notification.

Resource Management Amendment Act 2003

- d. This resource consent application was received by Council after 1 August 2003 and has therefore been processed exclusively under the provisions of the Proposed District Plan (Appeals version) in accordance with the requirements of the Resource Management Amendment Act 2003.

Dispensation for parking numbers

- e. Dispensation is giving for the site to fail the required amount of parking spaces by 14 spaces for the following reason. The Traffic impact Assessment has conceded the proposed amount of parking spaces on site will be sufficient for the proposed activities and the impact of the short fall of parking spaces will not affect the surrounding roading network. For these reasons, it is deemed the effects of the short fall in parking spaces will be minor and no persons are considered affected.

Relevant statutory Provisions Considered in the Assessment of This Application

- g. Relevant Statutory Provisions Considered in the Assessment of this Application:
Part II and Sections 19, 94, 104, 108, Resource Management Act 1991

Relevant Plan Provisions Considered in the Assessment of this Application:

- h. Hamilton City Proposed District Plan (References Version):
- i. Rule 4.4 Commercial Services Zone
 - ii. Rule 5.0 City-Wide Standards

Main Findings of Fact:

- i. The proposal represents an effective use of a commercial site zoned for this type of activity, without compromising the purpose and principle of the Resource Managements Act, Distinct Plan or amenity values of surrounding sites.

Advisory Notes:

- That compliance in all other respects with Council Bylaws, all relevant Acts, Regulations, and rules of law be met.
- This is not a Building Consent but a building consent may be required before giving effect to this Resource Consent. Please contact Council's Building Unit on 838 6677 for information on Building Consent matters.
- Please request approval from Hamilton City Council's Arborist (Doug Rowe ph 838 6671 or 021 967 377) if the development will have a potential impact on any of the existing street trees in the vicinity of the site.
- The preparation, handling and sale of food is subject to the Food Act 1981. You are advised to contact Council's Environmental Health Team for further information.
- The sale and supply of liquor is subject to the Sale of Liquor Act 1990. You are advised to contact Council's Citysafe Operations Team for further information.
- All construction noise shall comply with the provisions of New Standard NZS 6803:1999 "Construction Noise Standard" and shall be measured and assessed in accordance with NZS 6802:1991 "Assessment of Environmental Sound".
- The Resource Management Act 1991, in particular Section 17(1) — Duty to avoid remedy, or mitigate adverse effects, places a responsibility on the consent holder to ensure the best practicable option is adopted in creation of noise levels and its effect into adjoining properties.

- All operations affecting in-service Hamilton City Council water, wastewater or stormwater pipelines are to be carried out by Hamilton City Council staff (Utilities Unit) unless specific approval is given as outlined in the Hamilton City Development Manual (Volume 1, section 2.3:12.)
- Water and drainage service plans and applications for connection should comply with the WWS Connections Guide..
- If this property is on-sold, please ensure that a copy of this resource consent is forwarded to the new owner(s).

Objections

Pursuant to section 357(C) of the Resource Management Act 1991, if you disagree with this decision or any conditions of consent, you may lodge, in writing to Council an objection within **15 working days** after the receipt of this letter.

Please note, if you do not intend to object to the consent or any of the conditions of consent, you may complete a Declaration Form (PG C9), return it to the Planning Guidance Unit, and have the planning aspect of your building consent approved prior to the 15 working day objection period expiring.

Compliance and Monitoring

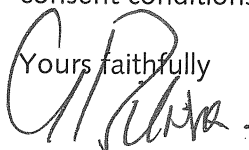
This resource consent allows the land use to be carried out at the site specified in the consent **if the conditions of the consent are met**. Under section 35 of the Resource Management Act 1991, Council will monitor and enforce compliance with resource consents it has granted.

Pursuant to section 127 of RMA the holder of a resource consent may apply to Council for a change or cancellation of a condition of the consent (other than any condition as to the duration of the consent).

Lapse of Consent

This resource consent lapses on the expiry of **five years** after the date of this letter, unless the consent is given effect to by the end of that period. To give effect to this consent, the activity allowed by this consent must be established and the conditions contained in this consent complied with. Please note that there must be compliance with all of the consent conditions once the land use has been established.

Yours faithfully



GULAB BILIMORIA
PLANNING GUIDANCE MANAGER

For more information please contact:

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Planner
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Garden Place, Hamilton
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Fax 07 838 6819

Planner: David Radich

File Ref:10.2008.19873 (37/1/3561)

RH Holdings Limited, (Auckland).

28 October 2008

RH Holdings (Auckland) Limited

Dear Sir/Madam

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Hamilton 3240
New ZealandPhone 07 838 6699
Fax 07 838 6599info@hcc.govt.nz
www.hamilton.co.nz

**DEVELOPMENT CONTRIBUTIONS (Local Government Act 2002).
LAND USE RESOURCE CONSENT 10/2008/19873
(for consents granted after 1 July 2008)**

- While processing this land use resource consent development contributions were **estimated** to be \$17,312.10 (excl. GST). This **estimate** is based on additional units of demand at the commercial infill rate, which applies to the 1 July 2008 — 30 June 2009 financial year.
- Development contributions are payable at the building consent stage. Should that building consent be granted in a subsequent financial year then development contributions due will be assessed under the Development and Financial Contribution Policy rates that apply for the financial year of this land use consent being the first consent granted for that activity. Should the building consent show any further additional demand this will be charged at the policy rate applicable to the land use consent.

However, payment may be made at any time but **must** occur upon granting of the building consent in accordance with the 'Payment' paragraph below.

Payment:

- Payment must be made at the earliest of the following:
 - Upon application for a **service connection** (Council has the power to withhold service connection under s208(c) of the Local Government Act 2002 if development contributions are not paid at this time).
 - 180 days after **granting** the building consent (Invoiced at 150 days).
 - Upon application for a **Code of Compliance Certificate** (Council has the power to withhold this certificate via s208(b) of the Local Government Act 2002 if development contributions are not paid at this time).

You may be entitled to remission or reduction in the scheduled charges if that is justified in exceptional circumstances. You should make any request for remission or reduction to Council in writing within 15 working days of the date on which consent is granted, setting out full details of the reasons why you consider the development contributions should be reduced or should not apply.

This advisory note must be read in conjunction with Council's **Development and Financial Contributions Policy**, which is accessible on our website (www.hamilton.co.nz).



Yours faithfully

Gulab Bilimoria
PLANNING GUIDANCE MANAGER

Per:
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