

28 June, 2017

Urban Perspectives Ltd  
PO Box 9042  
Marion Square  
Wellington 6141

Service Request No: 384384  
File Reference: 1149867

Attn: Alistair Aburn

Dear Alistair,

***Existing Use Rights – 2-12 Aitken Street, Thorndon***

I write in relation to your application for an Existing Use Certificate for a central area building on the site at 2-12 Aitken Street, Thorndon, Service Request No. 384384. I understand that this building, known as 'Defence House', was occupied by the Ministry of Defence until the building sustained earthquake damage on 14 November 2016. This building was authorised by resource consent SR112583 on the 14<sup>th</sup> May 2004. This building was subsequently constructed, giving effect to this consent.

As this consent has been given effect to, the consent holder has the right to re-construct this building providing it is compliant with the conditions of consent. Amongst other things, these conditions require the building to be constructed in accordance with the approved plans, which are stipulated in the Notice of Decision. Should this building be re-constructed in accordance with this consent, it is not bound by the 12 month limitations as stipulated by the existing use right provisions of the Resource Management Act and nor is an extension of existing use rights required. This will remain the situation as long as the Council does not invoke section 126 of the Act if reconstruction does not occur for a period exceeding 5 years, noting there are objection and appeal rights to this provision, or that the resource consent is not surrendered under section 138 of the Act.

As discussed with you, the Council has previously obtained legal advice that it should not be issuing Existing Use Right Certificates for developments that have been authorised via a resource consent which has been given effect to. This is because the use is expressly allowed by section 9(3)(a) of the Act. Accordingly, the Council will not issue an Existing Use Certificate in this instance.

I note your comments in your letter that the office accommodation and ancillary parking is a permitted activity. I note that while car-parking (up to 70 spaces within a building) is provided for as a permitted activity, any activity involving the creation of vacant land or ground level parking will require a resource consent pursuant to Rule 13.4.2.

I trust this provides some clarification over how existing use rights apply to the subject site. If you have any further queries, please contact me on 04-801-4305 or [peter.daly@wcc.govt.nz](mailto:peter.daly@wcc.govt.nz)

  
Yours sincerely,  
Peter Daly