

**BEFORE THE ENVIRONMENT COURT
AT AUCKLAND**

ENV-2018-AKL-000162

IN THE MATTER of the Resource Management Act 1991 ("the Act")

A N D

IN THE MATTER of an appeal pursuant to Clause 14(1) of Schedule 1 of
the Act

BETWEEN **ELLY S-Y PAN**

Appellant

A N D **AUCKLAND COUNCIL**

Respondent

A N D **KARAKA AND DRURY LIMITED**

Applicant

**AMENDED NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST
DECISION ON PROPOSED PRIVATE PLAN CHANGE 6 (AURANGA) TO
THE AUCKLAND UNITARY PLAN (OPERATIVE IN PART)**

28 September 2018

**ELLIS GOULD
LAWYERS
AUCKLAND**

REF: D A Allan/J G Goodyer

**Level 17 Vero Centre
48 Shortland Street, Auckland
Tel: 09 307 2172 / Fax: 09 358 5215
PO Box 1509
DX CP22003
AUCKLAND**

**AMENDED NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST
DECISION ON PROPOSED PLAN CHANGE 6 (AURANGA) TO THE
AUCKLAND UNITARY PLAN (OPERATIVE IN PART)**

To: The Registrar
Environment Court
AUCKLAND

ELLY S-Y PAN (“**the Appellant**”) appeals against a decision (“**the Decision**”) of **Auckland Council** (“**the Respondent**”) on proposed Plan Change 6 (Auranga) to the Auckland Unitary Plan (Operative in Part) (“**AUP**”) (“**the Plan Change**”).

1. The Appellant made a submission on the Plan Change.
2. The Appellant is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
3. The Appellant received notice of the decision on 10 July 2018.
4. The Decision was made by the Respondent.
5. The part of the Decision that the Appellant is appealing is:
 - (a) The provision for an East–West Future Collector Road (New) across the land subject to the Plan Change (including over the Appellant’s land) as shown on “Drury 1 Combined Precinct Plan 1 & 2” in the Decision.
 - (b) The addition of a new Objective 10 and new Policies 16 - 18 relating to road infrastructure (Item 6 of modifications made to the Plan Change in the Decision).
 - (c) Amendments to Rules 5.3.1 and 5.3.5 and a new Rule 6.3.1.e to provide for a required building setback on Jesmond Road (with a sunset clause) (Item 10 of modifications made to the Plan Change in the Decision).
 - (d) Amendments to Rules 5.12, 6.3.1.c, and 6.5 and Figures 10 and 11 to relocate standards relating to roads from the Precinct Plan to the rules and including clarification regarding the interim standards applying to the Future Collector Road (New) (Item 12 of modifications made to the Plan Change in the Decision).

- (e) New matters of discretion, assessment criteria and special information requirements addressing traffic effects on intersections and the Norrie Road one-way bridge (Item 13 of modifications made to the Plan Change in the Decision).
6. The land to which the Plan Change applies includes land owned by the Appellant at 38 Burberry Road and 341 Jesmond Road, Drury **“(the Appellant’s Land)”**. The Appellant has owned the land for over 14 years and uses the properties as the principal place of residence for her family in New Zealand.
7. The reasons for the appeal are as follows:
- (a) In the absence of the relief sought below the Plan Change in the form approved in the Respondent’s Decision will:
 - (i) Not promote the sustainable management of natural and physical resources;
 - (ii) Not amount to and promote the efficient use and development of resources;
 - (iii) Not be consistent with the purpose and principles in Part 2 of the Act;
 - (iv) Not be consistent with the objectives, policies and other provisions in the relevant planning instruments;
 - (v) Generate significant adverse effects on the environment and, in particular, on the Appellant’s Land;
 - (vi) Not warrant being upheld in terms of clause 10 of the First Schedule.

In particular, but without derogating from the generality of the above:

- (b) The Appellant acknowledges that the use of the land surrounding the Appellant’s Land is to change from a rural land use to an urban land use and that the zoning of the Appellant’s Land, if the Plan Change is made operative, will also change to an urban land use.

- (c) The Appellant seeks to ensure that the Plan Change and the Decision will not:
 - (i) Detrimentally affect the Appellant's existing use and enjoyment of the Appellant's Land;
 - (ii) Unnecessarily and inappropriately compromise the Appellant's future use of the Appellant's Land;
 - (iii) Unnecessarily and inappropriately frustrate or delay the implementation of the Plan Change on the Appellant's Land;
 - (iv) Give rise to development on neighbouring sites that generates adverse effects on the Appellant's Land and consequentially adversely compromises the amenity and functionality of future urban development on the Appellant's Land.
- (d) The Appellant generally accepts the need for and supports the Plan Change and the Decision, apart from those matters listed in paragraph 5 above, and seeks amendments to the Plan Change and the Decision to address specific issues of concern in respect of the Appellant's land.
- (e) The Plan Change places key infrastructure on the Appellant's land. In particular a Future Collector Road (New) is proposed linking Jesmond Road more directly to Bremner Road to access the southern motorway interchange, at Drury. The Plan Change and the Decision give no detailed consideration to whether this proposed road is in the best location with regard to land use, landform, cadastral boundaries and the intended form of development.
- (f) The Appellant considers that the Plan Change and the Decision will not achieve or meet the stated objectives for the Plan Change for the following reasons:
 - (i) There is no means within the Plan Change or the Decision to ensure and guarantee that comprehensive and coordinated development will occur;

- (ii) There is no agreement for infrastructure funding in place which should occur before development commences under the Plan Change; and
 - (iii) There has been inadequate consultation with affected landowners including the Appellant on the proposed land uses and the provision of infrastructure.
- (g) The proposed East - West Future Collector Road (New) shown in the Plan Change and in the Decision across the Appellant's Land is not required and should either be relocated further south or deleted in its entirety. In particular, the requirement for a 28m wide road with access restriction is unreasonable and unnecessary over the Appellant's Land.
- (h) The modifications to the Plan Change made in the Decision (paragraph 199) as set out in paragraph 5 above are unreasonable and should be deleted. In particular:
- (i) The addition of a new objective 10 and new policies 16 - 18 strengthen the requirement for the proposed East - West Future Collector Road (New) across the Appellant's Land whereas the Appellant considers that the road is not required at all and could either be relocated south or deleted in its entirety;
 - (ii) The amendments to Rules 5.3.1 and 5.3.5 and a new Rule 6.3.1.e to provide for a required building setback on Jesmond Road (with a sunset clause) strengthen the requirement for the proposed East - West Future Collector Road (New) across the Appellant's Land whereas the Appellant considers that the road is not required at all and could either be relocated south or deleted in its entirety;
 - (iii) The amendments to Rules 5.12, 6.3.1.c, and 6.5 and Figures 10 and 11 to relocate standards relating to roads from the Precinct Plan to the rules and including clarification regarding the interim standards applying to the Future Collector Road (New) impose unnecessary

requirements regarding the form and dimensions of the proposed East - West Future Collector Road (New) across the Appellant's Land which the Appellant considers is not required;

- (iv) The provisions regarding the assessment of traffic effects on intersections and the Norrie Road one way bridge (new) are related to the requirement for the proposed East - West Future Collector Road (New) across the Appellant's Land which the Appellant considers is not required.

8. The Appellant seeks the following relief:

- (a) Move the proposed Future Collector Road (New) to the south provided that the road is relocated no further south than and does not cross the southern boundary of 235 Jesmond Road (i.e.: the boundary with 221 Jesmond Road).
- (b) If the proposed Future Collector Road (New) is moved to the south in accordance with (a) above, amend Precinct Plan 2 so that the Collector Road (Possible Future Arterial Road) only extends as far north as the revised alignment of the proposed Future Collector Road (New).
- (c) As alternative relief to (a) above, delete the proposed Future Collector Road (New) from the Plan Change and the Decision in its entirety.
- (d) If the proposed Future Collector Road (New) is deleted in accordance with (c) above:
 - (i) Delete the following from the Precinct description:

"The precinct provisions recognise and support future strategic transport connections which may be required to and through the precinct - in particular

Jesmond Road and the new east-west road (Future Collector Road (New)).

- (ii) Amend Policy 18 to read as follows (with deletions in strikethrough):

“Require subdivision to implement the collector roads and ~~provide for the strategic transport connections by means of the Future Collector Road (New) and Collector Road (Possible Future Arterial Road)~~ shown on Precinct Plan 2.”

- (iii) Amend Table 5.3.1 to delete the words:

“except that a 8.5m front yard applies to the length of Jesmond Road identified as “Collector Road (Possible Future Arterial Road) on Precinct Plan 2, subject to 5 below”.

- (iv) Delete Rules 5.3.5 and 6.3.1(e).

- (v) Delete the “Collector Road (Possible Future Arterial Road)” notation from Precinct Plan 2.

- (vi) Amend Rules 5.12(1) and 6.5(1) to delete the words “Future Collector Road (New)” and “Collector Road (possible future arterial)”.

- (vii) Delete all other references to the proposed Future Collector Road (New).

- (e) In any event:

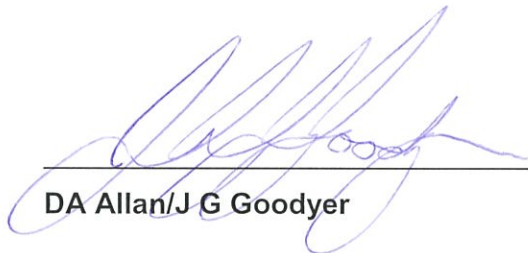
- (i) Amend Rules 5.12(1) and 6.5(1) to delete the words “*Future Collector Road (New)*”.

- (ii) Delete Rule 6.3(1)(c)(2).

- (iii) Delete Figures 10 and 11.

- (f) Such other orders, relief or other consequential amendments as are considered appropriate or necessary to address the issues raised in this appeal.
 - (g) Costs
9. The following documents are **attached** to this notice in support of the appeal:
- (a) A copy of the Appellant's submission on the Plan Change.
 - (b) A copy of the Respondent's Decision
 - (c) A list of the names and addresses of persons to be served with a copy of this notice.

Elly S-Y Pan by her solicitors and
duly authorised agents, Ellis Gould



DA Allan/J G Goodyer

Date: 28 September 2018

ADDRESS FOR SERVICE: The offices of Ellis Gould, Solicitors, Level 17, Vero Centre, 48 Shortland Street, PO Box 1509, Auckland 1140, DX CP22003, Auckland, Telephone: (09) 307-2172, Facsimile: (09) 358-5215. Attention DA Allan, dallan@ellisgould.co.nz JG Goodyer, jgoodyer@ellisgould.co.nz