

Our ref: CAL 0042/02

24 October 2017

[ioan.forret@harkness.co.nz](mailto:ioan.forret@harkness.co.nz)  
[terry@magilllearl.co.nz](mailto:terry@magilllearl.co.nz)  
[Rachel.Penney@waikatoregion.govt.nz](mailto:Rachel.Penney@waikatoregion.govt.nz)  
[enquiries@longlands.co.nz](mailto:enquiries@longlands.co.nz)  
[kiwiburgers1@xtra.co.nz](mailto:kiwiburgers1@xtra.co.nz)



p. 07 839 0090  
m. 021 870 660  
f. 07 838 9319  
e. [p.lang@xtra.co.nz](mailto:p.lang@xtra.co.nz)  
a. 1st Floor, 240 Victoria St.  
PO Box 19 539, Hamilton 3244

NZTA

Lana Gooderham, PO Box 973, Waikato  
Mail Centre, Hamilton 3240

Gavin Harris & Andrew Halroyd, C/- Barr Harris Surveyors Limited, Post Office 112,  
Matamata 3400

[MPDC MHamilton@mpdc.govt.nz](mailto:MPDC MHamilton@mpdc.govt.nz)

RE: MATAMATA PIAKO DISTRICT PLAN – PROPOSED PLAN CHANGE 47 – APPEAL

Calcutta Farms Limited has filed in the Environment Court a Notice of Appeal in relation to the decisions of the Matamata Piako District Council on Plan Change 47 to the Matamata Piako District Plan. A copy of the Notice of Appeal is served on you as a submitter in relation to the issues that are raised in the Notice of Appeal.

Attached to the Notice of Appeal is a document entitled *Advice to recipient of copy of Notice of Appeal*. That document sets out your rights and procedural matters in relation to the appeal, including your right to obtain copies of documents that were attached to the Notice of Appeal and which are not enclosed with this letter.

Yours faithfully,

Phil Lang  
Barrister

**IN THE ENVIRONMENT COURT AT AUCKLAND**

ENV-2017-

IN THE MATTER OF      An Appeal against a decision  
on a proposed plan change  
pursuant to clause 14(1) of  
Schedule 1, Resource  
Management Act 1991, in  
particular Proposed Plan  
Change 47 to the Matamata  
Piako District Plan

BETWEEN                      **CALCUTTA                      FARMS  
LIMITED**

Appellant (Submitter)

A N D                              **MATAMATA                      PIAKO  
DISTRICT COUNCIL**

Respondent

---

**NOTICE OF APPEAL**

Dated: 20 October 2017

---

Instructing Solicitor  
Minter Ellison Rudd Watts  
Solicitors  
Lumley Centre  
88 Shortland Street  
AUCKLAND 1010  
Attention: R Pickmere  
Ph. (09) 353 9762

Counsel Acting  
Phil Lang - Barrister  
Victoria legal Chambers  
1<sup>st</sup> Floor, 240 Victoria Street,  
PO Box 19 539,  
HAMILTON  
Phone (07) 839 0090  
Fax (07) 838 0319

TO: The Registrar  
Environment Court  
Auckland

1. Calcutta Farms Limited appeals against decisions of the Matamata Piako District Council in regard to Proposed Plan Change 47 to the Matamata Piako District Plan ("PC47").
2. Calcutta Farms Limited made a Submission and Further Submissions on PC47.
3. Calcutta Farms Limited is not a trade competitor for the purposes of Section 308D of the Resource Management Act 1991.
4. Calcutta Farms Limited received notice of the decision on 13 September 2017.
5. The decision was made by Matamata Piako District Council.
6. The decisions that Calcutta Farms Limited appeals against are:
  - (a) The decision not to apply a Residential zoning to the land that is shown as Proposed Residential Zone in the plan that was attached as Appendix A to the Appellant's submission.
  - (b) The decision not to apply a Future Residential Policy Area overlay to the land that is shown as Future Residential Policy Area in the plan that was attached as Appendix A to the Appellant's submission.

These decisions are at pages 28 – 30 of the PC 47 Decisions document and in Planning Maps 34-36.

7. The reasons for the Appeal are as follows:
  - (a) The preparation of PC47 included a review of the District Plan provisions for future residential growth at Matamata. That included

review of possible provisions for growth through Residential zoning of land and by creation of Future Residential Policy Area overlays to show where additional Residential zonings may be applied in future as required.

- (b) The Respondent considered a range of options for the extent and locations of Residential Zones and Future Residential Policy Areas. The Respondent's s32 Report expressly records the consideration of alternative and additional locations and the reasons for preference of the locations proposed in PC47 as notified. (S. 32 Report pages 61-63)
- (c) The Appellant's submission included a review of the growth provision that was made in PC47 as notified and a review of the identified locations and extent of new Residential Zones and Future Residential Policy Areas. The submission sought the extension of the Residential Zone and creation of a Future Residential Policy Area overlay on the Appellant's land and other land adjoining the Banks Road Structure Plan area at the south-eastern periphery of Matamata.
- (d) The Hearings Report for PC47 included recommendations for some changes to the locations of new and extended Residential Zones and Future Residential Policy Areas in response to submissions by the Appellant and others. That Hearings Report recommended an extension to the Residential Zone on land adjoining the Appellant's land and recommended creation of a Future Residential Policy Area on part of the Appellant's land and adjoining land. Those recommendations were in response to submissions. The recommendations applied to areas of land that were not proposed for Residential Zoning or Future Residential Policy Area overlay in PC47 as notified. (Hearings Report pages 29-34, PC 47 Map of proposed zoning and overlay changes at Matamata)
- (e) The Respondent's decisions adopted those Hearings Report recommendations for the extension of the Residential Zone and

creation of a Future Residential Policy Area at Banks Road. The Respondent's decision was not to extend the Residential Zone or create the Future Residential Policy Area as requested by the Appellant. The explanation given for that decision indicates that the primary or only reason for not granting the relief sought by the Appellant was doubt about the Respondent's jurisdiction to grant that relief through PC47. That concern about jurisdiction is unjustified. The Appellant's submission was within the scope of PC47 and provided the Respondent with full jurisdiction to grant the whole of the relief that the Appellant sought.

- (f) The Respondent's concern about jurisdiction is also inconsistent with the approach taken by the Respondent to other parts of the Appellant's submission and to submissions by other parties. In particular, the Respondent correctly decided that those submissions provided jurisdiction to extend the Residential Zone and create a new Future Residential Policy Area in the Banks Road locality.
  - (g) The Respondent's decision results in inadequate provision of residential growth capacity at Matamata. Better provision would be achieved by applying the Residential zoning and Future Residential Policy Area overlay sought by the Appellant.
8. Calcutta Farms Limited seeks the following relief:
- (a) Extension of the Residential Zone as requested in the Appellant's submission, where shown in Appendix A to this Notice of Appeal;
  - (b) Creation of a new Future Residential Policy Area as requested in the Appellant's submission, where shown in Appendix A to this Notice of Appeal;
  - (c) Such alternative relief as is considered appropriate to make better provision for residential growth at Matamata by applying some form of residential zoning and/or Policy Area overlay within the land shown as

Proposed Residential Zone and Future Residential Policy Area in  
Appendix A to this Notice of Appeal.

(d) Costs.

**The following documents are attached to this notice:**

- (a) A list of names and addresses of persons to be served with a copy of this notice.
- (b) Appendix A, a plan showing the relief sought;
- (c) A copy of Proposed Plan Change 47 and s32 Report.
- (d) Copies of the submission and further submissions lodged by the Appellant.
- (e) A copy of the Hearings Report for Proposed Plan Change 47.
- (f) A copy of the Respondent's decisions on submissions.

Dated: 20 October 2017

  
P M Lang  
Counsel for the Appellant

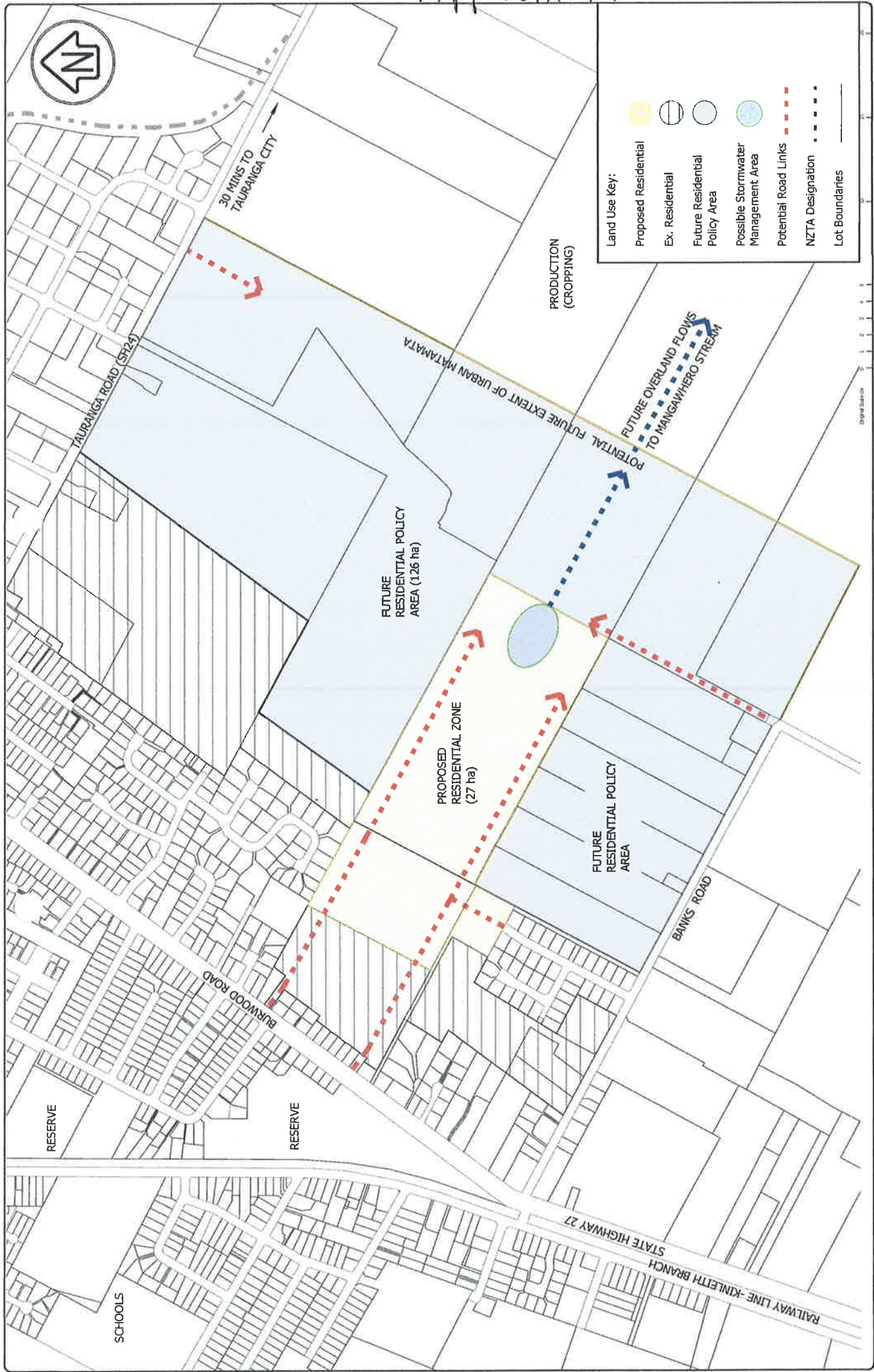
Address for service of the Appellant: C/- Minter Ellison Rudd Watts Solicitors  
Telephone: 09 353 9762  
E-mail: [ross.pickmere@minterellison.co.nz](mailto:ross.pickmere@minterellison.co.nz)  
Contact Person: Ross Pickmere

**Copies to:** P M Lang, Barrister  
Victoria Legal Chambers  
240 Victoria Street  
**HAMILTON 3204**

PO Box 19539  
**HAMILTON 3244**

Phone: 07 839 0090  
Mobile: 021 870 660  
Email: [p.lang@xtra.co.nz](mailto:p.lang@xtra.co.nz)

# Appendix A



**Land Use Key:**

- Proposed Residential (Yellow circle)
- Ex. Residential (White circle with black outline)
- Future Residential Policy Area (Light blue circle)
- Possible Stormwater Management Area (Green circle)
- Potential Road Links (Red dashed line)
- NZTA Designation (Black dashed line)
- Lot Boundaries (Thin black line)

**CONCEPT DEVELOPMENT PLAN FOR MATAMATA EAST**

Project No: 14-102  
 Date: 20/06/14  
 Scale: 1:7500 @ A3  
 Date: 08/14  
 Date: 08/14

Drawing Name: F:\VAD\PLAN 14-102 CAD.dwg

**CALCUTTA FARMS LTD**  
 BANKS ROAD  
 MATAMATA

PROJECT NAME

**BEYOND**  
 surveying • planning • engineering

NOTES:  
 1) Imagery is taken from council records  
 2) This document is for information only for the purposes for which it is intended. It is not to be used for any other purpose, including, but not limited to, reproduction, distribution, sale, hire, loan or gift of this document, directly or indirectly, is permitted without the prior written consent of both surveyors ltd  
 3) This document is subject to copyright

14-102

14-102