

**From:** [Kate Stubbing](#)  
**To:** [Kate Barry-Piceno](#)  
**Cc:** [Mary Hill](#)  
**Subject:** RE: WBOPDC Proposed Plan Change 92 (IPI) and Brunings Farm Ltd  
**Date:** Thursday, 27 July 2023 5:22:26 pm  
**Attachments:** [image002.png](#)  
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Hi Kate

I refer to your email below to Mary in relation to Plan Change 92, and your client's submission. You have requested a copy of the advice provided to Council on the issues raised by the Bruning submission.

We have taken instructions and Council has agreed that we can provide you with a copy of the **attached** advice. Please note that some parts of the advice have been redacted because they relate to strategic advice (rather than our view of the legal position), and our client has not waived any privilege in relation to that advice.

We would happy to meet with you to discuss these issues further once you have had a chance to consider the advice.

Kind regards

**Kate Stubbing** Senior Associate  
DD 07 927 0595 | E [KStubbing@clmlaw.co.nz](mailto:KStubbing@clmlaw.co.nz)  
ANZ Centre, Level 3, 247 Cameron Road, Tauranga  
PO Box 143, Tauranga 3144, New Zealand | DX HP40001  
[www.cooneyleesmorgan.co.nz](http://www.cooneyleesmorgan.co.nz)  
CooneyLeesMorgan



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**From:** Kate Barry-Piceno <[kate@kbplawyer.co.nz](mailto:kate@kbplawyer.co.nz)>  
**Sent:** Friday, 21 July 2023 2:13 PM  
**To:** Mary Hill <[MHill@clmlaw.co.nz](mailto:MHill@clmlaw.co.nz)>  
**Subject:** WBOPDC Proposed Plan Change 92 (IPI) and Brunings Farm Ltd

Hi Mary,

I act for Norm Bruning, Brunings Farm Ltd in Omokoroa, which has for the last couple of years been negotiating with Waka Kotahi over a PWA acquisition as a voluntary purchase of their farm due to its SH road corridor designation over a large part of their farm. Their farm is under the operative plan a mix of rural, future industrial zone with various ecological overlays. The land has now been caught up in MDRS matters under PPC92 which is the WBODC IPI for Omokoroa. A copy of the Brunings submission filed by Collier Consultants, for this plan change is attached. I am advised that the Council is now proposing to rezone all of the land Open Space, and Mr. Hextall as Council reporting planner advised Mr Collier that WBOPDC had received advice from you/CLM that this was within scope of an MDRS IPI plan change.

Can you please provide us a copy of that advice or confirm what advice was given as to whether this zone can be imposed on provide land for "public" open space purposes?

My preliminary advice to the clients is that it is likely to be outside of scope for an Open Space urban zone to be available to the Council under the IPI process given the NPS-UD and the national planning standards and limit to residential zones and commercial centres only.

There are also substantive and legal issues in proposing a zone with a purpose that clearly conflicts with the NZTA designation and future intention to be State Highway. The purpose of this new zone is also questionable given that there are ONFLs and SNAs already identified as overlays on the land which protect the ecological and landscape values present.

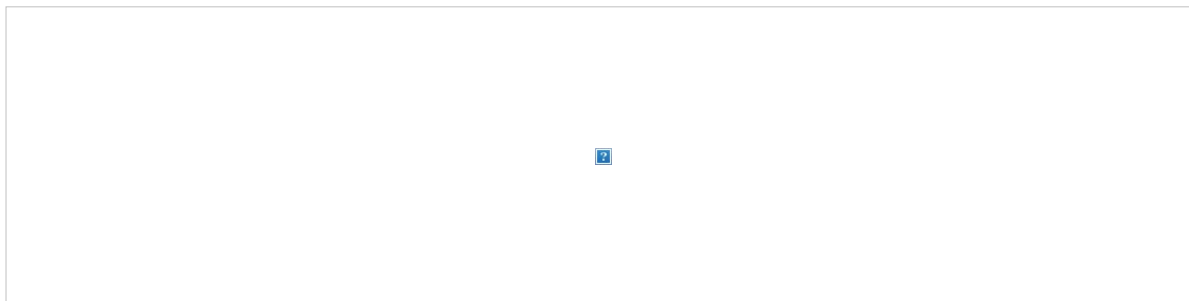
Before this is progressed any further through preparation for Plan Change 92 hearings, I think it would be helpful if my clients could either obtain a copy of the legal opinion or confirm legal advice you gave on this, and ideally, could we meet with our respective clients to go over the issues I have raised, with our planners? Obviously, there are serious implications for the Brunings negotiations with WK that will be prejudiced if this land is rezoned as proposed which will effectively render it valueless for urban use and appropriate compensation if WK go ahead with acquisition.

Kind regards,

Kate Barry-Piceno  
Barrister  
BA, LLB, LLM(UC Berk)  
Chambers: Level 1/ 9 Prince Ave, Mt Maunganui 3116  
Mailing address: 5A Wells Ave, Mt. Maunganui 3116  
M: +64 21 605 832 |  
E: [kate@kbplawyer.co.nz](mailto:kate@kbplawyer.co.nz) |  
[www.kbplawyer.co.nz](http://www.kbplawyer.co.nz)  
[www.mauaolegalchambers.co.nz](http://www.mauaolegalchambers.co.nz)



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