

OIR: 2526/274

25 February 2026

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Tēnā koe ██████████,

Request for Information under the Local Government Official Information and Meetings Act 1987 (the Act) (the LGOIMA)

Thank you for your email of **27 January 2026** requesting the following information:

- 1. Was the Council aware prior to the resource consent being granted that the property being subdivided and the subsequent lots that would be vested to Council was still subject to a 1906 easement T57300 and 1982 T58646 that was included (burden) in the land records of 269 other properties within Otaihanga?***

I can confirm that this specific matter was not considered as part of the resource consent application because under [section 239 of the Resource Management Act 1991](#):

- Subpart a) and b) stipulate the requirement that land being vested to a council is free of encumbrances.
- This obligation sits with the owner lodging the survey plan with the Registrar-General of Land to ensure the land is free of all interests prior to the vesting of the nominated land to council.

- 2. If the Council was aware, why was there no requirement for these to be extinguished from other land owners before consent was granted or a clause in the consent for these to be removed prior.***

Please refer to the Response to Question 1.

Please note that any information provided in response to your request may be published on the Council website, with your personal details removed.

- 3. Given properties in Otaihanga have T57300 and T58646 in their land records, what impact does this have on the resource consent which has stated that neighbouring properties had no impact to their property as a result of the development on drainage, stormwater discharge and other infrastructure when the resource consent process took place?**

I can clarify that the impact you note in Question 3, above, was not applicable to the resource consent assessment progressed, due to stipulations set by section 239 of the Resource Management Act (refer to Question 1 for details).

The resource consent has been issued. Under the Resource Management Act Council are unable to change its decision. However, the Act does provide for other mechanisms to review the process followed but that would not necessarily mean that the resource consent status changed.

- 4. The Kapiti Coast District Council is now a sole defendant in a high court case brought by the Mansell family. Ratepayers are responsible for paying the legal fees of Counsel. Please provide the total cost the Council has spent on defending this court proceedings.**

I refer you to [the statement](#) shared on the Council website on this matter. Council will not be opposing the removal of the easements.

Regarding the cost of legal fees:

- External legal advice on this matter is under a secondment with an All-of-Government provider.
- The total cost of external advice to date to inform Council's position not to oppose the High Court Application is \$1,863 (excluding GST).
- However, the majority of the work undertaken to date including preparing the statement shared with those requesting information from Council has involved in-house legal counsel. We do not hold information that provides a breakdown of the cost of in-house legal counsel's time on this matter. This part of your request is refused under section 17(e) of the Act as the documents alleged to contain the information requested does not exist.

- 5. If the high court in point 4 above decides in Mansell family's favour, the KCDC will be responsible for paying the legal costs of the applicant. Is there any indication on what the total costs to date actually are?**

If the high court did "decides in Mansell family's favour", section 316 of the Property Law Act requires the High Court application in question be served on the relevant territorial authority. It would be premature for Council to comment or speculate on the outcome of any potential decision and/or conditions that the high court may impose as a result of any future review.

In relation to the statement in your question on who will be responsible for potential costs of the applicant, we recommend you seek independent legal advice.

As regards total costs to date, Council does not hold this information, accordingly, this part of your request is refused under section 17(e) of the Act as the documents alleged to contain the information requested does not exist.

6. *Could the Council have avoided a high court case if they had added a clause in the resource consent to ensure these easements were removed prior to the land being vested to the Council?*

In relation to your query, as the issue is covered in legislation under section 239 of the Resource Management Act, it is a matter for the property owner or developers to resolve in order to give effect to their resource consent.

7. *What is Kapiti Coast Council actually doing about the high court case? You are the sole defendant, so are acting on behalf of landowners and ratepayers. Provide any detail about internal meetings and discussions on whether the Council plans to accept the high court decision or appeal*

Please refer to [the statement](#) on the Council website which includes:

- Council will not be opposing the removal of the easements.
- As Council's lawyers are bound by professional ethical obligations to act only for Council (as their client) they are not able to provide legal advice to anyone else to determine whether their property is affected by the High Court application for removal of the easements in question.

Details of any internal meetings and discussions is withheld under section 7(2)(g) of the Act in order to maintain legal professional privilege. I am satisfied that the withholding of this information is not outweighed by public interest considerations in section 7(1) favouring release.

You have the right to request the Ombudsman to review this decision. Complaints can be sent by email to info@ombudsman.parliament.nz, or by post to The Ombudsman, PO Box 10152, Wellington 6143.

Ngā mihi,



Kris Pervan
Group Manager Strategy and Growth
Te Kaihautū Rautaki me te Tupu