

21 April 2026

Good afternoon Cr Campbell

Just following up the discussion this morning. The document you have shared relates to a bylaw under the Local Government Act, which is required to follow the special consultative procedure, and a specific making process required under the LGA (see section 156 as it relates to bylaws)

In relation to the significance “hook” as you refer to in the content below, staff prepared an assessment, which was included in the council report on 31 July 2025. That assessment was reviewed by Simpson Grierson, and this legal advice was also included within the agenda report for the meeting of 31 July 2025. In relation to significance and consultation, Council that has to make the determination as part of its decision making, against the Significance and Engagement Policy.

While I appreciate this is topic that is causing a lot of discussion, the direction I have on process from Councillors to date, and confirmed this morning, is to arrange the briefings on the draft JMA first, before you as elected members then consider options on the draft JMA. Whatever the options assessed, staff will update the significance assessment (which includes an assessment against the financial criteria, as set out in your Significance and Engagement Policy).

I also note your request for information on cost assertions, and as I raised, I have been asked to arrange time for legal briefings. Direction this morning was that this provides an opportunity to raise this with lawyers directly, rather than make individual requests for legal advice.

Nga mihi

Julie

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20 April 2026

Hello Julie,

I would like our legal representation to please respond to the below:

The High Court decision in *Hart v Marlborough District Council* [2025] NZHC 47 (attached) provides a modern legal framework for how local authorities must handle "significant" decisions and Treaty of Waitangi obligations.

Part 1: Key Points of the Judgement

- **Significance and Engagement:** The judgement centred on whether the Council complied with **Part 6 of the Local Government Act 2002 (LGA)** the Court examined whether the Council adequately identified and assessed the impact of the bylaw on the community and mana whenua.

- **Legitimate Expectations:** The Court found a **breach of legitimate expectation** regarding how the Council consulted with one iwi compared to another, however because the Council eventually engaged with the affected iwi and considered their views before the final decision, no legal remedy (like quashing the bylaw) was granted.
 - **Procedural Fairness:** The Court dismissed allegations of apparent bias despite an iwi representative sitting on the Hearing Panel, as the Panel explicitly stated it would not make determinations on competing mana whenua claims.
 - **Treaty Obligations:** The Court clarified that a Council's Treaty obligations are primarily those explicitly set out in the LGA, such as maintaining processes for Māori to contribute to decision-making.
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Part 2: Significance for the Draft Taupō JMA

The *Hart* judgement is highly relevant regarding the Taupō District Council (TDC) and the Joint Management Agreement (JMA):

1. **The "Significance" Hook:** The judgement confirms that compliance with **Part 6 of the LGA** is the primary legal standard for major decisions, since the Taupō JMA is "enduring" and involves "voluntary extensions" across the catchment, the *Hart* case supports an argument that a high-impact governance shift **must** trigger a formal significance assessment under the Council's Significance and Engagement Policy.
2. **Failure of Impact Assessment:** In *Hart*, the Council survived because it *did* perform technical reports and engaged with iwi. If the TDC has done **no financial or governance impact modeling** for the JMA, it is in a much weaker position than Marlborough was. **One can argue that TDC cannot legally determine "low significance" if it hasn't first gathered the facts to make that determination.**

In addition to the above and relating to the cost assertions included in my previous email of **11 March 2026**, I would like to reiterate my request for evidence of financial modelling prior to the next JMA workshop please.

Thanks

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