

IN THE HIGH COURT OF NEW ZEALAND
NAPIER REGISTRY
I TE KŌTI MATUA O AOTEAROA
TE AHURIRI ROHE

CIV-2024-441-0053

BETWEEN

KOPU ROAD ORCHARDS LTD

First plaintiff

AND

DR DOWNEY & CJ NEALE

Second plaintiffs

AND

HAWKES BAY REGIONAL COUNCIL

Defendant

**CONSENT MEMORANDUM ABOUT DISPOSAL OF PLAINTIFF(S)
APPLICATION TO SUE AS REPRESENTATIVE(S) UNDER R4.24**

DATED: 23 January 2026

Judicial Officer: Churchman J
Next Event Date: Interlocutory hearing
3 February 2026
10am

This document is filed by:

GRANT SHAND
Barristers and Solicitors
145 Torkar Road
Clarks Beach, Auckland 2122

PO Box 137-243
Parnell, Auckland 1010

T: 027 434 5489
E: grant@grantshand.co.nz
W: www.grantshand.co.nz

GRANT SHAND
BARRISTERS & SOLICITORS

EXPERT
INSURANCE
LAWYERS

Application

- 1 The plaintiffs' application for a representative order is scheduled to be heard on 3 February 2026 at the Napier High Court. The current order sought includes all people that suffered loss and damage by the floods.
- 2 This week Duncan Cotterill (Tanya Wood) has confirmed that next week they intend to commence separate recovery proceedings in the High Court against the Hawkes Bay Regional Council for people/entities indemnified by:
 - (1) IAG New Zealand Ltd;
 - (2) Vero Insurance New Zealand Ltd;
 - (3) AA Insurance Ltd;
 - (4) Tower Ltd.
- 3 The named insurers will seek to recover insured and uninsured loss for indemnified insureds.
- 4 The plaintiffs in this proceeding in the spirit of co-operation/efficiency have agreed to remove people/entities covered by the Insurer proceedings from their representative order.
- 5 HBRC now consents to a representative order being made for the revised class. The parties ask the Court to make the order in the revised schedule B attached with the additional orders below:
 - (1) Costs reserved;
 - (2) Proceeding adjourned to conference for discussion about notification terms;
 - (3) Attendance excused for 3 February 2026.



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GDR Shand

Solicitor for plaintiffs



Schedule B – Order

- 1 The plaintiffs are granted leave pursuant to rule 4.24 of the *High Court Rules* to proceed in this proceeding on behalf of all persons who have the same interest in the subject matter of the proceeding, namely:
 - (1) The holder of an interest in land (whether in the nature of freehold title, leasehold, or otherwise):
 - (a) Who suffered loss or damage whenever occurring by reason of the inundation of that land by flood water from the Wairoa River on about 26/27 June 2024; or
 - (b) Whose use or enjoyment of that interest was interfered with by reason of the flooding of that land such that they suffered loss or damage; and
 - (c) Who has not been indemnified, and is not entitled to be indemnified, by IAG New Zealand Limited, Vero Insurance New Zealand Limited, AA Insurance Limited and/or Tower Limited for any such loss or damage.
 - (2) Owner or possessor of personal property that was damaged or destroyed by reason of the Wairoa flooding on about 26/27 June 2024 who has not been indemnified, and is not entitled to be indemnified, by IAG New Zealand Limited, Vero Insurance New Zealand Limited, AA Insurance Limited and/or Tower Limited for any such damage or destruction.
 - (3) A person, or entity, that conducted a business or enterprise, that suffered economic loss by reason of the Wairoa flooding on about 26/27 June 2024 who has not been indemnified, and is not entitled to be indemnified, by IAG New Zealand Limited, Vero Insurance New Zealand Limited, AA Insurance Limited and/or Tower Limited for any such economic loss.
 - (4) A person, or entity, that suffered pure economic loss (being economic loss not consequential on property damage) by reason of the Wairoa flooding on about 26/27 June 2024 who has not been indemnified, and is not entitled to be indemnified, by IAG New Zealand Limited, Vero Insurance New Zealand Limited, AA Insurance Limited and/or Tower Limited for any such pure economic loss.

- 2 A class member may elect to opt out of the proceeding by completing an opt out election form approved by the Court for that purpose; and sending it to the Court Registrar on or before a date fixed by the Court.
- 3 The plaintiffs may discontinue the proceeding only with the leave of the Court.
- 4 The order is to take effect from 16 July 2024.