

'Special Floods Class Action Supplement'

BRISBANE **River Report 2013**



**JOHNSTON
DIXON** QUALITY
PROPERTY



'Tintagel' - 2013's Top River Sale



JOSEPHINE JOHNSTON-ROWELL
RIVERFRONT DIRECTOR

Welcome to this 'Class Action Special'
Supplementary RIVER REPORT

Whilst 2013 still hasn't seen a full resurgence in river values, confidence in the river continues to improve as memories of the devastating 2011 floods wane.

What will cause them to wane even faster is the very recent confirmatory announcement that the 2011 Brisbane Floods Class Action is going ahead.

That announcement was the trigger and is the key focus for this end of year, interim RIVER REPORT.

Not wanting to take too much away from my annual report which as normal will be formally available around Easter in the new year, I am happy to announce that in 2013 we have recorded three sales over \$5million on the river, compared to just one recorded last year in 2012.

The highest riverfront sale for the year was 'Tintagel' in King Arthur Terrace, Tennyson.

Some of the Brisbane's top riverfront suburbs suffered over the year from low listing inventory, notably Chelmer, Brisbane's top performing suburb for the last three years.

Elsewhere I can report that Westlake has recorded three sales for the year, after having no sales at all in 2012.

To the East, Hawthorne has been buoyed by six river sales; (three absolute riverfront and three riverside).

For an insight into how I see the market for 2014, please go to my FINAL WORD on the River section on the back cover of this interim report.

May I take this opportunity to wish you a Merry Christmas and a safe and prosperous New Year.

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Tintagel

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My Pick Of River Sales For The Year

Suburb	Location	Description	Price
Tennyson	King Arthur Terrace	Landmark 'Tintagel' Grand north facing riverfront estate bracing 1,915m ² on three lots with 30m frontage atop timeless sandstone cliffs	\$5,250,000
New Farm	Griffith Street	Iconic riverfront home/development site on two lots 962m ² with 21m frontage	\$5,200,000
Hawthorne	Virginia Avenue	Classic Queensland style sprawling riverfront home on two lots (one being a vacant lot) 1,467m ² with 20m frontage	\$5,010,000
St Lucia	Hiron Street	Contemporary near new north facing five bedroom riverfront home on 462m ² with 10m frontage	\$4,325,000
Chelmer	Sutton Street	Opulent family home on double size allotment 1,019m ² with 20m frontage and separate office/granny flat	\$2,950,000
Fig Tree Pocket	Jesmond Road	Architectural showpiece built to optimise the site's rare elevation and views with a cascading floor plan on 1,265m ² with 18m frontage	\$TBA
Norman Park	Wendell Street	Original home on 2 lots 888m ² with 20m frontage	\$3,900,000
Bulimba	Addison Avenue	As new contemporary RIVERSIDE home on 586m ² - Highest Riverside Sale	\$2,500,000



Floods Class Action Go Ahead



"VICTIMS CLOSER TO RECEIVING JUSTICE"

Floods Class Action Green Light

The long awaited decision by litigation funder Bentham IMF Limited to formally give their appointed lawyers Maurice Blackburn the green light to proceed with the 2011 Queensland Flood Class Action has flood victims a significant step closer to receiving justice.

The Flood Class Action will be formally filed early next year and as expected will be instituted against the operators of the dams in SEQwater, SunWater and the State of Queensland, who had a duty to operate the dams competently to minimize the impact of dam releases downstream.

The action is being taken on behalf of the many thousands of people who suffered damage and financial loss from the negligent operation of Wivenhoe and Somerset Dams during the January 2011 floods that ultimately proved so incredibly devastating to the greater Brisbane area.

The crucial milestone to commence the action has been reached after extensive modeling of the 2011 floods enabled the extent of the unnecessary flooding caused by negligent operation of the dams to be identified. This has given Bentham IMF the level of certainty it needs to commit the millions of dollars required to conduct the action.

Affected residents and businesses have until 28 February 2014 to join the action, adding to the more than 4,800 people who have already registered. The claim will be formally filed shortly thereafter.

Significantly, Bentham IMF has confirmed that there is now a sufficient number of people who have signed on to the action to enable the case to proceed. Meetings for registrants will be held on Sunday 15 December from 1pm at The Greek Club in South Brisbane and on Monday 16 December from 7pm at The Metro Hotel in Ipswich.

The success of the long mooted Class Action now appears squarely in the hands of Maurice Blackburn who in the almost three years since the tragedy have been conducting an exhaustive investigation into the operation of the Wivenhoe and Somerset dams.

From their modeling, they have concluded that the dams were not managed competently either in the lead up to, or during the disaster, causing the level of flooding to be significantly worse than it would otherwise have been.

They allege that the dam operators were negligent in failing to take adequate heed of extreme weather forecasts in determining release strategies in already saturated catchments and in failing to maintain a reasonable amount of the dams' storage capacity to protect surrounding areas from inundation.

Class Act(ion)



Mud Army Cleans Up Hearts and Minds

Crucially, their findings are consistent with the Queensland Floods Commission of Inquiry which was established immediately after the floods.

Maurice Blackburn and Bentham IMF are urging anyone who suffered loss as a result of the January 2011 flood event to register for the class action.

Those that may benefit from the Class Action are essentially those people and businesses who suffered damage or economic loss as a result of the inundation downstream of Wivenhoe Dam in the period from 9 – 24 January 2011.

The action will be open to anyone who has entered into a litigation funding agreement with IMF and:

- Had property that was inundated with water and suffered loss or damage as a result of the inundation; or
- Had interest in land that was inundated with water and whose use or enjoyment of the land was interfered with as a result of the inundation; or
- Had personal property that was damaged by flood water; or
- Regularly conducted a business in an area that was inundated with water and suffered economic loss as a result of the inundation.

The types of losses that may be claimed are:

- Financial losses resulting from business interruption during and after the flood
- Incurred costs associated with temporary relocation during flood repairs
- Incurred costs associated with rebuilding, cleaning or repairing flood damage
- Incurred costs associated with replacing lost or irreparably damaged possessions

Whilst the scope for damages in the Class Action will be relatively broad, they will not include compensation for:

- Personal Injury
- Psychological Harm

The class action will run on a no-win, no-fee basis.

To register for the class action or for more information www.imf.com.au/wivenhoe



Observations:

The decision by BENTHAM IMF to go ahead with the Floods Class Action is obviously a major positive development in the victims of the 2011 floods fight to gain some form of justice for their unprecedented (and it seems largely unnecessary) loss and suffering.

That's the good news. The lesser news is that we expect it is going to be a long and sometimes hard road to Hoy. This is going to be the case despite the previous Queensland premier Anna Bligh's repeated assurances that the Queensland Government would be a model litigant in any action taken against it with regards to the floods.

We now have a different state government in place and unsurprising given the long history of governments shirking responsibility, one that has conveniently taken a very differing line on responsibility for the floods (this despite their supposedly being adequate insurances in place to cover such a disaster, something rather under-reported in the media and which has the public believing they will have to come up with the money through additional taxes should the Class Action succeed).

The fight will also be difficult not because of the truth that lies behind the cause of the flooding (which we suspect will be pretty clear cut were it ever to see the light of day), but rather because acknowledging it may at best represent a clear admission of mind-numbing incompetence or at worst encourage charges of criminal negligence to be considered.

Whilst ultimately insurances may cover some or all of any successful compensation claim, they won't protect the swathe of political and senior public servants careers and reputations (State and Federal) that will be firmly in the line of fire(directly and indirectly) from an unequivocal Class Action victory.

Given this, expect the attempts to obstruct, confuse, duck, weave, obfuscate, and distort that were so much a feature of the initial Floods Commission of Enquiry to be taken to whole new levels in the coming Class Action. There are too many interested parties for their not to be.

These same interested parties, the alleged negligent parties, in the disaster won't be overly concerned by the Class Action however. They (and their lawyers) would know that Australia rarely takes senior bureaucrats or company directors to task regardless of how badly they stuff up. The occasional token slap on the wrist is their usual fate (and of course a public loss of face but so what).

We should also prepare ourselves for the fact that the vast potential scope of the Class Action claims may seem that for many the level of compensation ultimately granted if successful is neither adequate nor fair.

The bare-bones scope of the Class Action claim covers damage caused to a business, home, furniture or possessions; financial loss due to business interruption; loss of value of property assets; as well as costs associated with relocating, repairing or rebuilding from flood damage.

These areas of claim alone if successful would amount to many billions of dollars and as such represent the largest class action in this country's history by quite some margin. Distributing that amount of money fairly and equitably won't be any walk in the park.

Floods Halt River Rise

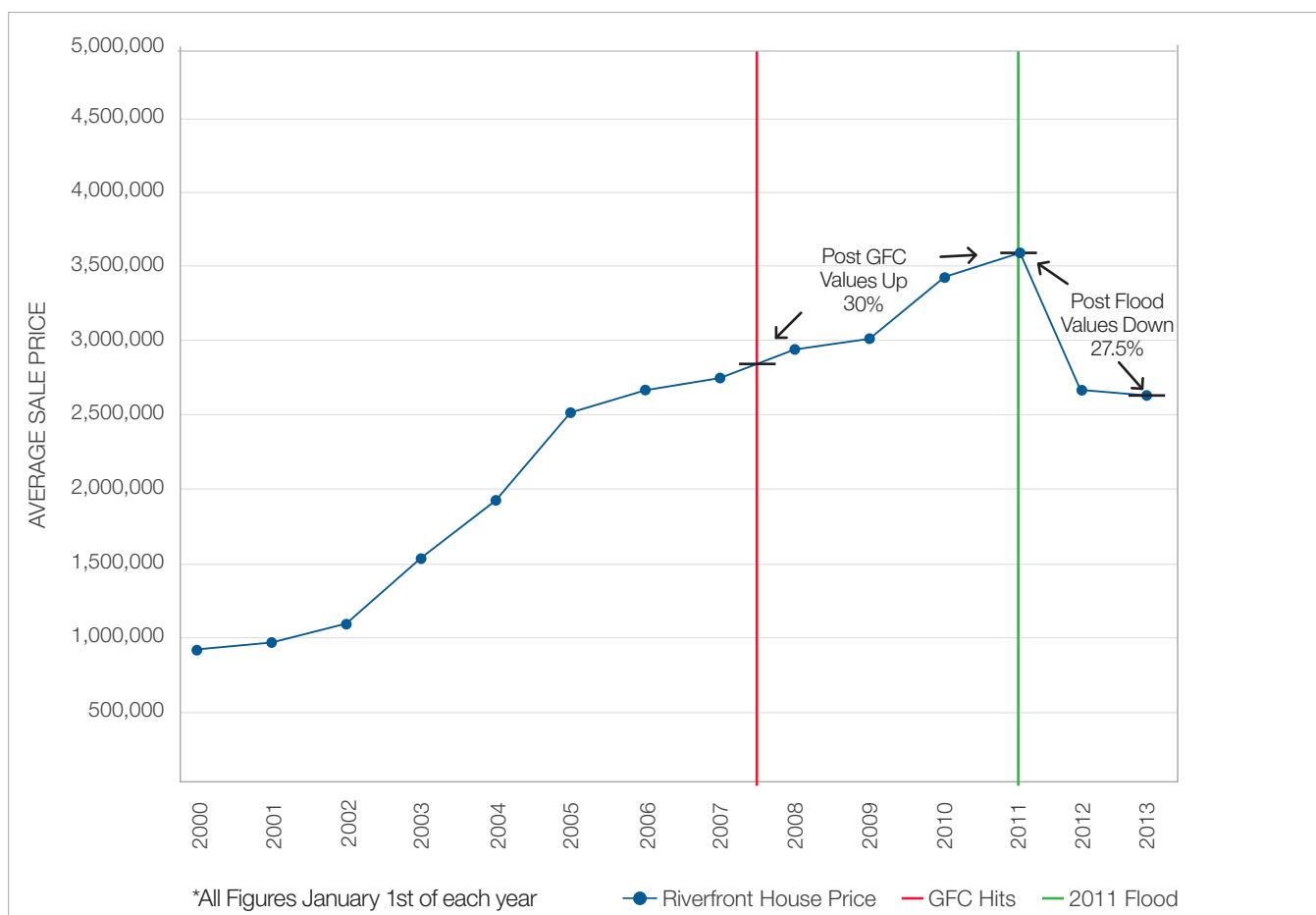
Whilst most of the areas of loss being claimed such as damage to property, business losses, and diminished values of property post flood may be readily quantifiable, what was always going to be less so (and is unsurprisingly glaringly missing from the statement of claim), is any recourse for compensation from the mass, (unnecessary and senseless) psychological trauma that the largely avoidable tragedy has wrought upon us.

How do you compensate for that? The truth is you probably can't!

Dealing with the tangible and quantifiable is what the Class Action has chosen to do. Most tangible and quantifiable on the basis of the formally documented sales evidence available (and particularly relative to our clients on the river) was the immediate and very significant nosedive in riverfront values post flood, a travesty which demands appropriate remedy.

As the following graph of forensically verified sales clearly demonstrates, where the GFC failed to slow the inexorable rise in river values, the floods wholly succeeded. Even today the market remains a long way from its immediate pre-flood highs.

Riverfront House Sales History



"IRREFUTABLE PROOF OF VALUES PLUMMET"

From the graph we see that the average riverfront house price rose 30% in the period from where the GFC first hit in mid-2007 to when the flood event occurred in January 2011. In the immediate aftermath to the flood, these same property values plunged a full 27.5% to end below where they were at the height of the GFC.

Whilst it may be argued that there can be complex issues around quantifying property loss generally, the very clear and verifiable evidence available in this instance that shows the immediate post flood diminution of riverfront values and how these were unequivocally and wholly attributable to the flood (and had nothing to do with the GFC) should prove a game changer in pursuing this very significant area of claim.



Dam Innocent

"DAM & RIVER TO BE EXONERATED"

Residential property values alone total well in excess of \$10billion in the affected areas. Commercial, industrial and retail values collectively would probably exceed that amount again.

Working on just the residential quantum loss in values due to the flooding and you quickly arrive at a figure of \$3billion plus. Add in other property asset classes affected and we are quickly talking \$5billion plus.

Whilst any Class Action victory and subsequent appropriate compensation for lost property values will be welcome, what it will do more than anything is clear the river's name.

If the Class Action goes the way it should, it will be confirmed that neither the Brisbane nor the Bremer river caused the devastating 2011 Brisbane Floods; that neither did Wivenhoe nor Somerset Dam cause the 2011 Brisbane Floods, that the blame lay squarely as has been so long suspected at the feet of those charged with their (the dams) management.

Moreover an appropriate outcome from the Class Action will re-instate our dams as saviors not sinners, and with the passage of time, re-instate our river as the Brisbane's only one true real estate royalty.

Should you wish to be kept informed of the Class Action progress, please contact John Johnston (CEO) directly on 3858 8800 or email jjohnston@johnstondixon.com

Alternatively you may contact Josephine Johnston-Rowell (Riverfront Director) direct line 3857 8820 or email josephine@johnstondixon.com

Be assured that all subject discussions will be treated with the utmost confidentiality.

The Final Word on the River

As we close out 2013, a market that it is fair to say suffered from being lulled into a false sense of security by firstly a change of government federally and then a highly publicised (and somewhat overdue) catch up for the Sydney residential property market, has it seems grabbed some last minute genuine traction of its own, and thankfully this time, of its own devices, with a flurry of top end riverfront sales recorded in just the last few weeks.

More generally, whilst the Australian economy broadly will take some time to get fully back on its feet, interest rates being at record lows and there being an abundance of old 'baby boomer' money washing around the economy looking for a safe home (particularly a rare and finite commodity that riverfront property represents), we should be confident of much better times ahead.

Add to this the fact that the Floods Class Action is now formally underway (to exonerate our dams and the river but obviously not the operators) and the number of people moving here is returning to long term trend after a rare dip, and it is clear the sheer weight of numbers are swinging very much back in favour of quality and limited residential real estate.

We believe we have weathered the storm (and well, all things considered), and that while there are still some obstacles to cross, compared to what has been thrown at us with firstly the GFC, then an unbelievably incompetent federal government, and then of course the man-made floods, we suspect they will seem nothing more than little bumps in the road.

We are looking forward to a landmark 2014, where, as ever we will commit to doing whatever is in our power to uphold and promote the value of what to us is held most dear, riverfront property, where as you are probably aware we by choice also make our home (and from where we won't be easily dislodged for a very long time). Those of you who have tasted the unique joys of living on the river would clearly understand our sentiments.

