

UPDATE ON AUSTRALIA'S FLOODS CLASS ACTION

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Legal Briefings - By **Elizabeth Poulos, Bianca Janovic**

Continual delays in the class action involving victims of Queensland's 2011 floods have led to calls for the case to settle ahead of a trial now scheduled for February 2017.

The case is being run on a 'no win no fee' basis, with the total claim value reportedly between \$1 to \$2 billion.

It was commenced in July 2014 in the New South Wales Supreme Court on behalf of residents and businesses claiming loss or damage as a result of the January 2011 floods in South-East Queensland.

THE PARTIES

Maurice Blackburn acts for the class and is backed by litigation funder IMF Bentham (formerly Bentham IMF).

The class action has been brought against three parties:

- the Queensland Bulk Water Supply Authority (**Seqwater**), which owned and operated the Wivenhoe and Somerset Dams,
- SunWater Limited, which provided flood management services to Seqwater, and
- the State of Queensland.

While the class initially had around 4,000 members, it is now said to comprise around 5,500 people.

LOSS CLAIMED

The plaintiffs allege the defendants' negligent operation of the two dams significantly contributed to the extent and scale of flooding downstream of the dams, making the floods, and consequent damage, much worse than they otherwise would have been.

The class action is restricted to claims for economic loss, and does not include claims for personal injury or psychological harm.

TIMETABLE

The class action was originally set down for a hearing commencing in July 2016. However, on 14 September 2015, Justice Beech-Jones vacated that hearing date. The current timetable involves various steps throughout 2016. It is expected that the matter will be ready for hearing in 2017, with the trial reportedly expected to last up to a year.¹

The postponement of the trial has prompted renewed calls in the media by Ipswich councillor Paul Tully, who is a member of the class, for an out-of-court settlement.² The primary reason for the postponement is an ongoing delay in the plaintiffs' provision of a complex hydrological model, which is said to be capable of inputting hypothetical outflows from the Wivenhoe Dam and reconstructing levels of flooding for every 10 square metres in the Brisbane area.³

This article was written by [Elizabeth Poulos](#), Partner and Bianca Janovic, Solicitor, Brisbane,

ENDNOTES

1. Adam Davies, 'Flood class action trial more than a year away', The Queensland Times, 6 October 2015.
2. Courtney Wilson, above n 2. See also Joel Gould, 'Flood victims call on state to abandon class action defence', The Queensland Times, 10 July 2015.
3. *Rodriguez & Sons Pty Ltd v Queensland Bulk Water Supply Authority t/as Seqwater (No 4)* [2015] NSWSC 1352.

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



ANTE GOLEM
PARTNER, PERTH

+61 8 9211 7542
Ante.Golem@hsf.com



RUTH OVERINGTON
PARTNER,
MELBOURNE

+61 3 9288 1946
ruth.overington@hsf.com



DAMIAN GRAVE
PARTNER,
MELBOURNE

+61 3 9288 1725
Damian.Grave@hsf.com



JASON BETTS
PARTNER, SYDNEY

+61 2 9225 5323
Jason.Betts@hsf.com



CAMERON HANSON
PARTNER, SYDNEY

+61 2 9225 5224
cameron.hanson@hsf.com

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