

Agenda

Ordinary Meeting

Tuesday, 7 February 2023

Time: Location: 9.15 amCouncil Chambers82 Brisbane StreetBEAUDESERT QLD 4285

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1 Opening of Meeting

2 Attendance and requests for leave of absence

3 Apologies

4 Prayers

Pastor Dennis Lumley from Fassifern Christian Church will offer prayers

5 Declarations of Prescribed or Declarable Conflict of Interest by Members

6 Announcements / Mayoral Minutes

7 Reception of Deputations by Appointment / Presentation of Petitions

8 Confirmation of Minutes

Ordinary Meeting - 24 January 2023

9 Business Arising from Previous Minutes

10 Consideration of Business of Meeting

Executive

10.1 Notice of Motion by Cr Swanborough re Nomination of Hartley Road, Tamborine Mountain to The Roads and Transport Alliance for consideration of funding

Executive Officer: Chief Executive Officer

Item Author: Business Support Officer - Office of the Mayor and Chief Executive Officer

Attachments: Nil

Executive Summary

The Chief Executive Officer has received a written Notice of Motion from Cr Derek Swanborough, advising of his intention to propose a motion in relation to the nomination of Hartley Road, Tamborine Mountain to The Roads and Transport Alliance for consideration of funding.

Recommendation

That Council consider Cr Swanborough's Notice of Motion in relation to the nomination of Hartley Road, Tamborine Mountain to The Roads and Transport Alliance for consideration of funding.

Previous Council Considerations / Resolutions

Not applicable.

Report / Background

Cr Derek Swanborough has given written notice of his intention to propose the following motion:

"That Council nominate Hartley Road Tamborine Mountain to the Roads and Transport Alliance for consideration of funding as a local road of regional significance. This road is considered not fit for purpose and is likely one of the highest trafficked local Roads in the Scenic Rim as it is an arterial link servicing tourists and locals between the major north west arterial roads In the highest population centre. Traffic, including buses is generated to the high school of up to 1100 students, three wineries, Cedar Creek Wines, Mason Wines and the Cauldron Distillery, the SES, Fire and Ambulance rear entrances, a Helipad, a landscape supply business, Air P&B's, two water utilities involving substantial truck movements and the Cedar Creek Glow-worm caves, catering on average to 250,000 visitors per year. Post Covid and nomination as Queensland top Tourism Town has increased visitation and the usage of this road."

Budget / Financial Implications

Not applicable.

Strategic Implications

Operational Plan

Theme: 3. Open and Responsive Government

Key Area of Focus: Ongoing integrity of Council's practice and processes

Legal / Statutory Implications

Not applicable.

Risks

Strategic Risks

The following Level 1 and Level 2 (strategic) risks are relevant to the matters considered in this report:

SR46 Inadequate or lack of Governance (including procurement) Framework (systems, policies, procedures, delegations and controls) in place to ensure compliance by Council's Councillors and Officers with all relevant State and Federal legislation and regulations.

Risk Assessment

Category	Consequence	Likelihood	Inherent Risk Rating	Treatment of risks	Residual Risk Rating
Governance, Risk & Compliance Lack of open and transparent communication.	3 Moderate	Likely	High	Due consideration of requests from Elected Members relating to the proposal of motions at Ordinary Meetings.	Low

Consultation

Chief Executive Officer

Conclusion

The Chief Executive Officer recommends that Council give consideration to Cr Derek Swanborough's motion.

Customer & Regional Prosperity

10.2 Scenic Rim Arts Reference Group Terms of Reference Update 2022

Executive Officer: General Manager Customer and Regional Prosperity

Item Author: Principal Specialist Cultural Services

Attachments:

- 1. Arts Reference Group Terms of Reference 2016 🗓 🛣
- 2. Arts Reference Group Terms of Reference 2023 (updated) 🕂 🛣

Executive Summary

The Scenic Rim Arts Reference Group (ARG) has been in operation since 2016, and is administered by its Terms of Reference (refer Attachment 1).

This report provides an updated ARG Terms of Reference (refer Attachment 2) for consideration.

Note, due to the many changes made to the Terms of Reference only the original version (2016, Attachment 1) and a clean copy of the updated version (2023, Attachment 2) have been provided (not a tracked changes version).

Recommendation

That:

- 1. Council endorse the updated Scenic Rim Arts Reference Group Terms of Reference 2023;
- 2. Council acknowledge the Scenic Rim Arts Reference Group Chair, being an appointed Elected Member of Council, is a non-voting member of the group;
- 3. Council acknowledge the major Regional Arts Development Fund Program Big Idea applications will change from two rounds to one commencing in 2023 2024 financial year, reducing the number of Scenic Rim Arts Reference Group meetings to two per year to assess these grants;
- Council acknowledge the Scenic Rim Arts Reference Group will continue to assess the minor Regional Arts Development Fund Launch Pad and Express Lane applications, as a rolling program;
- 5. Council note the new format of the Scenic Rim Arts Reference Group is proposed to commence in July/August 2023, once an expression of interest process has been conducted, and the new group is formed (noting current members are welcome to re-apply); and
- 6. Council extend its gratitude to all community members who have given of their time and expertise as members of the Scenic Rim Arts Reference Group since its inception, and particularly the current members who have continued to support Council and the region's creative and artistic community.

Previous Council Considerations / Resolutions

At the Ordinary Meeting held on 24 May 2022, Councillor Enright was nominated and appointed as Chair of the Scenic Rim Arts Reference Group.

At the Corporate and Community Services Committee Meeting held on 18 July 2016 (Item 3.1), the Committee considered the Arts Reference Group Terms of Reference and recommended that "Council endorse the Arts Reference Group to assess applications for Public Art and Regional Arts Development Fund". The Committee's recommendation (as contained in the Corporate and Community Services Report) was adopted at the Ordinary Meeting held on 25 July 2016.

Report / Background

The ARG is an important consultative group of volunteer community members who provide valuable insight into arts across the Scenic Rim, and contribute to supporting and delivering arts through the Scenic Rim Regional Council's (Council) Cultural Services program.

The ARG supports Council in promoting the arts as a tool for cultural expression and development and building community engagement.

The ARG works in conjunction with the Council's Public Art and Collection Policy and Procedure to realise three main goals:

- Build community capacity through arts and culture;
- Enable the region to appreciate, realise and articulate its heritage and identity; and
- Promote and generate creative excellence;

The ARG oversees the promotion and delivery of the Regional Arts Development Fund (RADF) Program and assesses grant applications, making recommendations to Council for consideration. The ARG is also involved in reviewing public art proposals, for example, commissioning of new public artworks, public art gifts, bequests and donations.

The current Scenic Rim Arts Reference Group Terms of Reference were developed in 2016 (refer Attachment 1), when the ARG was originally established.

As part of a regular review process, and to address reduced membership numbers and flagging attendance at ARG meetings, four specific changes have been made to the updated Terms of Reference as highlighted below:

- 1. The membership has been reduced from nine, to seven members, with a quorum of four to enable the ARG to operate more efficiently.
- 2. In 2023-2024, the Big Idea Community Grant will change from two rounds to one round per year, reducing the number of meetings ARG members are required to attend from four to two.
- 3. Under 3.1 non-voting has been added to the Chair's position. In practise, at meetings the Chair does not vote and for clarity this has been added to the Terms of Reference.
- 4. Section 4.2 Decisions outside a meeting, has been added to identify the process for decisions which require a quick response or for when a meeting can't be arranged (this relates to the minor RADF Launch Pad and Express Lane grant applications to operate as a rolling program).

Significant changes have also been made to increase clarity of the ARG Terms of Reference to simplify and update them to bring them in line with other similar Council documents.

Finally, to ensure the ARG continues to be enthusiastic and provide a fresh perspective to arts and progressing arts and culture within the region, the members' term of office will be for three years. Every three years an Expression of Interest (EOI) process will be advertised through local media and Council's website. Existing members are welcome to apply should they wish to be considered to continue their involvement on the ARG.

This is in accordance with the Terms of Office section in the new ARG Terms of Reference.

All members will be aware of this when submitting their initial EOI through a Membership Information pack providing perspective members with relevant information of members responsibilities and the purpose of the ARG.

The new ARG membership format and terms of reference is proposed to commence in July/August 2023, once an expression of interest process has been conducted over the coming months, and a new ARG is formed.

The new format for the assessments of the RADF grants is proposed to commence in 2023-2024, financial year, once the RADF Program operational budget has been adopted and the funding from Arts Queensland has been confirmed.

Council extends its gratitude to all community members who have given of their time and expertise as members of the Scenic Rim Arts Reference Group since its inception, and particularly the current members who have continued to support Council and the community.

Budget / Financial Implications

Through the RADF program, Council receives a \$39,500 funding allocation from the Queensland Government through Arts Queensland. As a requirement of the partnership agreement with Arts Queensland, Council provides a matched funding contribution of \$30,500 equalling a total of \$70,000 funding per annum.

A balance of \$37,135 of committed grant funds were carried over from 2021-2022, bringing the total allocation of funds for the 2022-2023 RADF Program to \$107,135.

The RADF Program's typical annual budget funds the following initiatives each year:

- \$50,000 "Big Ideas" Community Grant Rounds 1 and 2;
- \$5,000 "Express Lane" Quick Response Grants;
- \$5,000 "Launch Pad" Young Creatives Grant;
- \$10,000 Strategic Initiative. A council initiated, community-run professional development program for local artists, cultural and arts workers.

Secretariat and other support for the ARG is provided through officer time contained within the Cultural Services adopted operational budget.

Strategic Implications

Operational Plan

-	
Theme:	7. Healthy, Engaged and Resourceful Communities
Key Area of Focus:	Enduring social connectedness that drives positive community participation and contribution

Legal / Statutory Implications

Council must adhere to the RADF Funding Agreement terms and conditions.

Risks

Strategic Risks

The following Level 1 and Level 2 (strategic) risks are relevant to the matters considered in this report:'

SR46 Inadequate or lack of Governance (including procurement) Framework (systems, policies, procedures, delegations and controls) in place to ensure compliance by Council's Councillors and Officers with all relevant State and Federal legislation and regulations.

Risk Assessment

Category	Consequence	Likelihood	Inherent Risk Rating	Treatment of risks	Residual Risk Rating
Governance, Risk & Compliance Councillor on committee deciding on grant funding, perceived and/or actual conflict	3 Moderate	Possible	Medium	Amend Councillor's role, as elected Chair, to have no voting rights Manage through clear communication, transparent expression of interest process and well documented decision- making processes.	Low

Consultation

Consultation has been undertaken with the General Manager Customer and Regional Prosperity, Acting Manager Customer, Community and Culture, Principal Specialist Governance and Assurance, Principal Specialist Community Development, Principal Specialist Cultural Services, and Cultural Projects Officer: Public Art, RADF and Heritage.

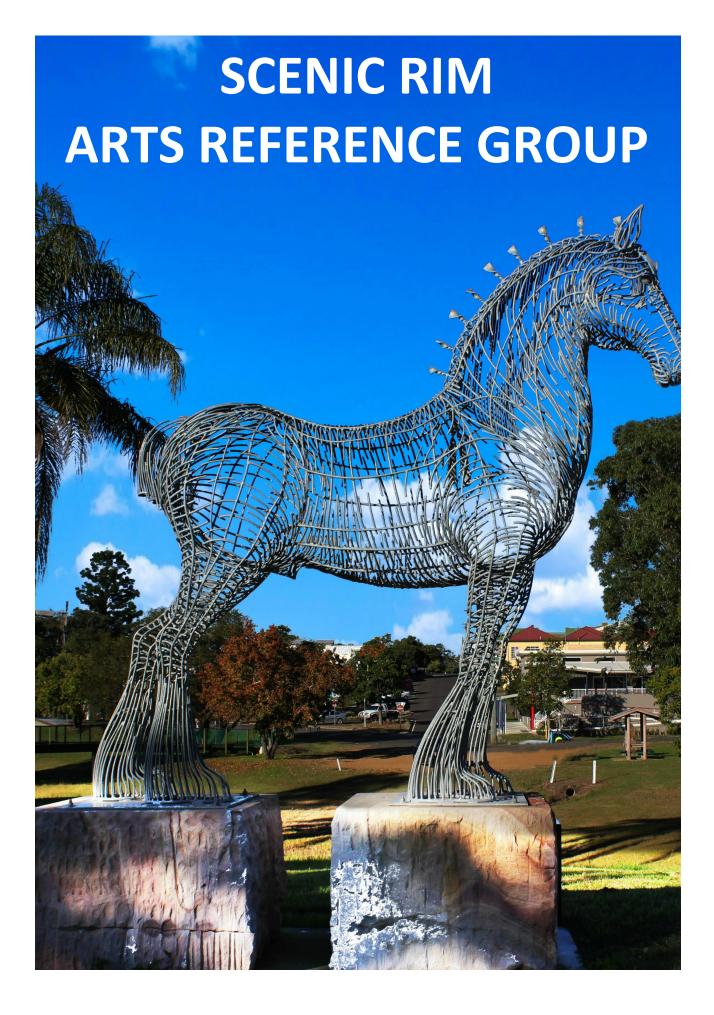
The General Manager Customer and Regional Prosperity has liaised with Cr Michael Enright, Chair of the Scenic Rim Arts Reference Group, regarding the proposed changes.

Councillors have also been briefed on the proposed changes to the ARG Terms of Reference and the RADF Program.

Conclusion

A key intention of the review of the Scenic Rim ARG's Terms of Reference is to update the template and refresh content to address reduced membership and flagging attendance at ARG meetings and to improve the RADF grant assessment processes.

Once the new Terms of Reference have been endorsed, an EOI process will be conducted to fill positions on the ARG with the view to the newly formed ARG commencing in July/August 2023. The new format for the assessments of the RADF grants is proposed to commence in 2023-2024, once the operational budget has been adopted and the funding from Arts Queensland has been confirmed.





Community Members			
Pietro Agnoletto			
Jarred Fogarty			
Janine Gibson			
Stuart Murray			
Shane O'Reilly			
Ailsa Rolley			
Jeremy Ring			
Susan Short			

ARG Chair	
To be Confirmed	

Council Contacts			
Bronwyn Davies			
Mark Paddick			

2020-2021 MEETING DATES AND CURRENT PROJECTS

The ARG meetings have been aligned with the RADF assessment times. Additional meetings may be held for Public Art projects as they arise. Each meeting will be catered and a local venue (TBC)

ARG Meetings 2020-21				
Date	Venue	Торіс	Agenda Items	
19 October		RADF Snapshot assessment Public Art update	12 October	
9 November		RADF Full Application Public Art Update	2 November	
17 March		RADF Snapshot assessment Public Art update	10 March	
5 May		RADF Full Application Public Art Update	28 April	

RADF 2020-21					
2020/2021	Round 1	3 Septemebr	\$25,000		
2020/2021	Launch Pad Youth Grants	Rolling Fund	\$5,000		
2020/2021	Express Lane Quick Response	Rolling Fund	\$5,000		
2020/2021	Strategic Initiative	Resilience project	\$10,000		
2020/2021	Application to Arts Qld	28 April	\$70,000		
2020/2021	Funding Agreement from Arts Qld	1 September			

SCENIC RIM Regional Council

Arts Reference Group.

PUBLIC ART PROJECTS

Public Art 2020/2021				
Project	Overview	Funding		
ASSI 150 Wayfinder Stage 2	To complete the second stage of the ASSI 150 Wayfinder Public Artwork in Hopkins Park Veresdale. This would include a concrete base on which the artwork, a storyboard and a rock seat would be placed. The Storyboard would be similar to the existing ones in Gallery Walk and Main Street. The Rock seat is to be designed and created by the South Sea Islander Community and Bronze hands will be cast from the existing moulds taken at the 2013 event	\$30,000 Public Art Funds		
Story Trails	The development of Story Trails across the Scenic Rim. Aligning with the Story Marker Project plan, the trails will engage the regions museum network to develop themed trails across the different regions of the Scenic Rim. Facilitated by the Museum Development Officer from Queensland Museums. Ugurapul and Mununjali Trails to be completed	\$24,000 Public Art17/18 6 x \$3000 for Museums \$6000 for MDO		
Projection Works	The Craig Walsh Projections of Monuments and Home to be incorporated in to the Beaudesert VATV	\$50,000		
Drumley Flagpole	The Drumley Flagpole was original installed near the War Memorial in Beaudesert. However due to decay of the timber it was removed for safety reason and stored in SRRC works department. As this is considering the First Public Art work in Beaudesert plans for it future need to be resolved. This could include restoration and reinstalled at the original site, removal and display at a location to be decided or incorporated into a Public Artwork. To be developed as [part of the Beaudesert VATV Strategy	\$100,000		
Shared Fire Artwork	Artwork has been installed. Artists plaques and lighting underway	VATV		
Boonah Mural Project	This project brief is being prepared to create an interactive community mural in Walter Street Boonah	\$20,000		
Kooralbyn Public Art- Sculpture	This project brief is completed with artists plaques to be installed.	\$30,000		
Boonah Heritage Banner	The Advertising banner is currently being conserved in preparation for installation in the Boonah Cultural Centre	\$25,000		
Corroborate	A first nation wall relief mural is underway for the Beaudesert library with Kim Walmsley and the Mununjali community	\$26,000		
Boonah Wayfinders	The first of the Chris Trotter wayfinders has been installed in Yeates Avenue and railway Street. The Noisy Minor is completed ready for installation	\$28,500		
Kooralbyn Mural	The Arts Ablaze legacy Mural has been installed in the community hall. An artist plaque is to be installed			

SCENIC RIM Regional Council

Arts Reference Group.

PUBLIC ART PROJECTS

VATV Public A	VATV Public Art 2019				
Project	Overview	Funding			
Walkway Panels "The Warrajum"	A walkway will be installed from the forecourt to the rear of the Council building A Ugurapul Story will be told across the panels depicting the Warrajum. The story focuses on the waterways of the district as a way the Warrajum moved from area to area appearing suddenly in waterholes. John Long Story telling and Teenie Wilton artwork. Completed	\$47,800			
Seating "	A four section eat back has been created and placed around the central tree in the forecourt. A Sally Hart design was commissioned that incorporated water creatures from the regions waterways	\$22,500			
Storyboard	 With the plaques focusing on the history of High Street the storyboard will focus on stories inspired by water. 2 background illustration by Sally Harts and Teenie Wilton will be included Templin Museum will be commissioned to research 4-5 stories and images For side 1. John Long will be commissioned for 4-5 stories for side 2 Completed ready for installation 	\$9,000			
Chris Trotter "Pobblebonks and Chooks"	Public Artworks that are small in scale and "hidden" amongst the landscape design. These create activations for young people to discover artworks as they interact in the environment. They can be hidden in rock walls, placed in locations often out of immediate sight or hidden in the architecture of the site. Using Pobblebonk Frogs and birds, Chris will draw connections to the Blumbergville Clock by hiding sculptures amongst the landscape. The works are currently completed and installed. One work requires relocation due to a safety railing being installed. Plaques to be installed.	\$15,000.			
Catherine Andersen	Small bronze sculptures with intricate creations of the regions animal life . All models are finished with 3 of the works completed ready for installtion	\$15,000			
Wendy Creighton "History Plaques"	Drawing from previous stories located in Railway Street, Wendy's book. "From Blumbergville to Boonah "on the history of High street can be the source material for more plaques along High Street. These are with the printers.	\$3,400			
Clock Sign	The Blumbergville Clock sign has been relocated with a free standing Chris trotter frame	\$2,000			



1. Objectives of the Arts Reference Group

- The Arts Reference Group will support council in promoting the arts as a tool for cultural expression and development and encouraging cultural engagement and participation to build community capacity. ARG will work in conjunction with the Scenic Rim Regional Councils Arts and Cultural Policy to realise three main goals.
 - o Build community capacity through arts and culture;
 - o Enable the region to appreciate, realise and articulate its heritage and identity o Promote and generate creative excellence.
- To assist Council to meet the policy objectives of its
- **Public Art and Collections Guidelines**
- RADF Guidelines
- To foster community engagement with the arts as an essential component of a healthy and vibrant community and to be an advocate for the importance of arts as a vital component of community development.
- To encourage a community driven sense of ownership.
- To develop a community network of cultural, business, professional and educational representatives with an interest in and support of arts and culture programs
- 2. Functions and Powers

The ARG will provide feedback /input and make recommendations to Council in regards to:

Public Art

- Matters relating to Public Art and Collections policy and projects.
- The selection and commissioning of new works and the de-accession of existing works.
- Proposed public art projects to be included in private and / or commercial developments. •
- Proposed public artwork gifts, bequests and donations to the region, in accordance with the Public Art Policy. Ensuring that established Council procedures, policies and guidelines are adhered to in nominating, assessing and selecting public art projects.
- Communication and outreach to the community regarding Council's public art program.
- Community suggestions for public art projects
- The development of private sector public art projects and public/private partnerships for public art projects.
- **Regional Arts Development Fund**
- The review and assessment of RADF applications across two funding rounds per year.
- The promotion of the arts as a tool for cultural expression, development, engagement and participation to build community capacity.
- The promotion of creative excellence across the region.

3. Arts Reference Group Structure

The composition of the Arts Reference Group is to include:

- One elected representative of Council as nominated by Mayor to be appointed as the Chair
- Council's Cultural Services Coordinator (Non-voting position)
- Public Art and RADF Officer (Non-voting position)

And 6 -10 members with experience in the following fields

- Education and Arts Indigenous Community Youth Heritage
- Arts Industry

Health and Well Being

Tourism Landscape or architectural design



Scenic Rim Regional Council Staff members on an 'as needs basis' to provide input on community planning, town planning, engineering, open space planning, tourism or marketing aspects.

Co-opted Members

• Cultural Services may invite suitably skilled persons to join the ARG in an advisory capacity, for a specified purpose and for a specified period of time. Co-opted members are not entitled to vote.

4. Membership to the Arts Reference Group

Council will make appointments to the Arts Reference Group on the basis of the applicant's experience including:

- Expertise in relevant fields
- An appreciation and understanding of art in the public domain.
- Experience in working with community and community groups.
- Experience in sponsorship or sourcing of funding.
- Commitment to OH&S, risk management, indigenous protocols, environmental protection and ethical principles
- 5. Principal Responsibilities of Arts Reference Group Members
- To contribute to ARG meetings.
- Work with Scenic Rim Regional Council staff to implement arts projects to the highest possible standard.
- All group members will be required to abide by Council's adopted ARG Code of Conduct at all times.
- Be familiar with the Scenic Rim Regional Councils policies including:
 - Arts and Culture Policy
 - o Public Art Management Plan.
 - o Collection Management Policy
 - o Public Art and Collections Guidelines
 - o RADF Guidelines
- The ARG will assess applications or proposals for the development or acquisition of Public Art or artwork for collection. The ARG will assess each application for the creation or acquisition of Public Art in accordance with the Scenic Rim Public Art and Collections Policy and against the criteria outlined in the Scenic Rim Public Art and Collections will complete the Scenic Rim Regional Council Public Art Management Plan and associated Checklists.
- Artworks and items given to or offered for acquisition to council should be referred to Cultural Services and ARG for inclusion in the Scenic Rim Regional Councils Public Art Collection
- The ARG will assess works recommended for de-accession against criteria set out in the de-accession checklist.
- Provision of aesthetic and practical advice on the proposed artist's concept proposals through the process
- The final artwork concept proposal should meet the agreed criteria set out in the artist's brief, as well as conforming to public safety and public decency standards
- The ARG will make recommendations on RADF at both the Snapshot and Full Application Stages.
- The ARG will have no power to spend Council funds or make decisions on behalf of Council



6. Terms of Office

- To allow for retention of understanding of the role of the committee and the history of the decision-making of the committee, the term of appointment of one half of the committee positions will expire in one year and the other half the following year.
- When vacancies arise, Expressions of Interest will be advertised and new members will be invited to apply.
- The appointment of ARG members is by recommendation from Coordinator of Cultural Services to the Director of Regional Services; the appointment of a new member is ratified by the Chief Executive Officer.
- The Councillor Representative is appointed by Council.
- In the event of a member resigning during their term, a new member will be appointed by a decision of Council based on the recommendation from the Director of Regional Services.

7. Meetings

- The ARG will meet at least four a year at such place and time as notified by Council.
- Council may call an extraordinary meeting of the ARG with at least fourteen days' written notice to members
- A quorum of a meeting of the ARG will be five permanent members.
- No business of the ARG will be considered unless a quorum is present. If within half an hour from the time of the appointed for the meeting a quorum is not present, the meeting will be dissolved.
- Questions arising at any meeting of the ARG will be decided by a simple majority of the votes of the members. If there are equal votes, the chairperson of the meeting will have the casting vote.
- The chairperson will preside as chairperson at every meeting of the ARG.
- If the chairperson is not present within ten minutes after the time appointed for the meeting, the members may choose one of their numbers to be a chairperson for the purpose of the meeting.
- A member who has an actual conflict of interest in a matter being considered at a meeting of the ARG must disclose the existence and nature of the interest. A member having disclosed a conflict of interest must not be present at the meeting when the matter is being considered, discussed or voted on.
- A member who has a perceived conflict of interest in a matter being considered at a meeting of the ARG must disclose the existence and nature of the interest if the member could be influenced, or a reasonable person would perceive that the member could be influenced, by the perceived conflict of interest. A member having disclosed a perceived conflict of interest must not be present at the meeting when the matter is being discussed or voted on.
- Prior to each meeting, Committee members will be issued with an agenda and all relevant background material including a summary of applications (RADF or Public Art).
- The Cultural Projects Officer will provide administration support to the ARG. The Public Art Officer will prepare the Agenda, Progress Reports and Action lists of the Group's meetings formatted in accordance with Council's templates. The Public Art Officer will help facilitate the selection of artists, provide support to the ARG and liaise with all relevant departments of the Council.
- The minutes will include (without limitation) the following:
 - \circ Attendance
 - Apologies
 - $\circ~$ Declarations of interest
 - Delegations of authority
 - o A record of all recommendations made by the ARG
- Agenda items can be provided by any member to the Cultural Projects Officer not less than 5 business days before the scheduled meeting. The Agenda will be provided to members not less than 2 business days before a scheduled meeting. Minutes will generally be circulated within 7 days following a meeting.

Arts Reference Group.

8. Reporting

- The recommendations of the ARG will be reported to Council and the relevant decisions of Council will in turn be reported to members of the ARG.
- The ARG is not a formal standing Committee of Council, but rather a sub-committee that has been established by Council.
- Recommendations made by the ARG will inform the decisions made by Council for Public Art and RADF
- 9. Public Relations and Dealing with the Media
- Scenic Rim Regional Council will be the official spokesperson for the ARG
- All official public relations matters and media enquiries should be referred to Council's Communications department.
- The ARG are not authorised to comment on any project in any official capacity unless approved by SRRC.

10. Conflict of Interest

A conflict of interest is a conflict between a personal interest and the public interest that might lead to a decision that is contrary to the public interest. This can occur where a person has a personal interest in a matter the subject of a decision and that person has decision making responsibilities in relation to it

A conflict of interest can be considered as:

- A actual conflict of interest (where there is an actual conflict of interest in the matter) or
- A perceived conflict of interest (where a person could reasonably be taken to have a conflict of interest in the matter)

The person must deal with the real conflict of interest or perceived conflict of interest in a transparent and accountable way.

For an actual conflict of interest, the person involved will refrain from discussions in the matter, will leave the meeting room and will not be entitled to vote.

For a perceived conflict of interest, the person involved will refrain from discussions in the matter, will leave the meeting room and will not be entitled to vote.

To remove any doubt, nonparticipation in the meeting is not the only way the person may appropriately deal with the real or perceived conflict of interest in a transparent and accountable way.

Where a real or perceived conflict of interest occurs at a meeting, the following will be recorded in the minutes of that meeting:

- the name of the person who has the real or perceived conflict of interest;
- the nature of the personal interest, as described by the person;
- how the person dealt with the real or perceived conflict of interest;
- if the person voted on the matter—how the person voted on the matter;
- how the majority of persons who were entitled to vote at the meeting voted on the matter

Examples that may amount to a perceived conflict of interest could include:

- an engagement with a community group, sporting club, religious organisations or similar organisation
- membership of a community group, sporting club or similar organisation if the person is not an office holder for the group, club or organisation
- having been a student of a particular school or the person's involvement with a school as parent of a student
- if the person has no greater personal interest in the matter than that of other persons in the region



Arts Reference Group

Meeting Agenda

Venue Date 10.00 am - 2.00pm

Meeting called by:	Scenic Rim Regional Council	Type of meeting:	RADF or Public Art Assessment		
Facilitators:	Councilor Nadia O'Carroll	Bronwyn Davies	Mark Paddick		
Timekeeper:	Mark Paddick				
Note taker:	Mark Paddick				
Attendees:	Jarred Fogarty, Janine Gibson, Stuart Murray, Shane O'Reilly, Ailsa Rolley, Jeremy Ring, Pietro Agnoletto, Susan Short				

Please read:

Please bring:

Agenda Items					
Item	Presenter	Time			
Introductions	Councilor O'Carroll	5 mins			
Financial Report for RADF and Public Art	Mark Paddick	5 mins			
Morning Tea		20 mins			

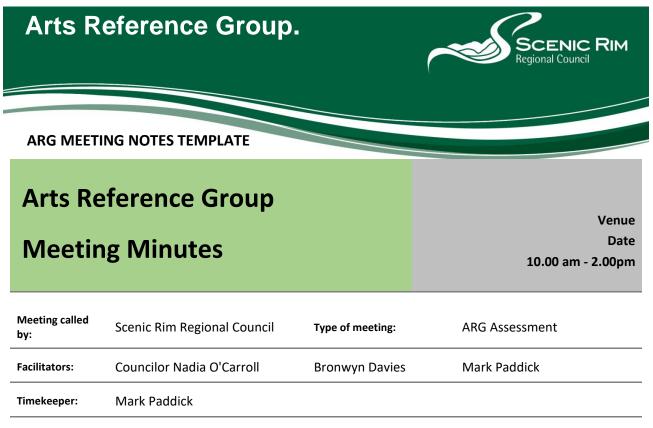


Item	Presenter	Time
Lunch		30 mins
Misc. Information		

Observers:

Resources:

- ✓ ARG Presentation
- ✓ Copies of Terms of Reference, Conflict of Interest and Schedule
- ✓ Public Art Briefs
- ✓ Expressions of Interest documents with PowerPoint of Artists work
- ✓ Assessment forms
- ✓ Copies of RADF Guidelines and Arts and Cultural Policy
- ✓ Snapshot Applications



Note taker: Mark Paddick

Attendees: Jarred Fogarty, Janine Gibson, Stuart Murray, Shane O'Reilly, Ailsa Rolley, Jeremy Ring, Pietro Agnoletto, Susan Short

Agenda Items		
Item	Presenter	Time
Introduction	Councilor O'Carroll	5 mins
Item:		
Actions:		
Item:		
Actions:		
ltem:		
Actions:		





RADF ASSESSMENT OVERVIEW

RADF 2020/20	021	
Applications submitted	RLO to review and eliminate ineligible applications. RLO to summarize applications in a single document for ARG to review RLO to collate applications and send to ARG with assessment sheet	2 days
ARG review	The ARG members to review the applications ARG to complete Assessment form with scores out of 10 for 4 criteria. ARG to indicate a yes or no for shortlisting	3 Weeks
ARG Meeting	ARG to meet to collate assessments and discuss applications. A shortlist of successful application is recommended Feedback is recorded for unsuccessful applications	4- 5 Hours
Full Application	RLO notifies successful applicants to arrange meeting to assist with Full Application Letter sent to unsuccessful applicants	3 Weeks
Applications submitted "	RLO to review and eliminate ineligible applications. RLO to summarize applications in a single document for ARG to review RLO to collate applications, remove sections not required to simplify the document and send to ARG with assessment sheet	2 days
ARG review	The ARG members to review the applications ARG to complete Assessment form with scores out of 10 for 4 criteria. ARG to indicate a yes or no for receiving the grant.	2 Weeks
ARG Meeting	ARG to meet to collate assessments and discuss applications. The successful applications are recommended with conditions if noted Feedback is recorded for successful and unsuccessful applications	4- 5 Hours
Reporting	RLO to prepare all correspondence with the applicants. RLO to prepare Council report with recommendations from ARG	4 Weeks



Please note: If you are unable to attend the assessment meetings, please send through your assessments sheets prior to the meeting to help the ARG with their decision making.

RADF ASSESSMENT SHEET

Assessor Nan	ne			
		1		
Assessment S	Scores	0-2 Not Demonstrated Excellent	3-5 Satisfactory	6-8 Good 9-10
Assessment O	Criteria	Snapshot Applications a	re to be assessed against	the following criteria:
	1. Creative or Cultura	al Merit	2. Effective Plann	ing and Management
Evidence	e of a high level artistic or cultural product,	process or service	Evidence of effective planning with achievable outcome with an appropriate budget.	
	3. Engaging the Community		4. Benefit to the Com	munity or Artists Career
Evidence t	Evidence that the project contributes to diverse & inclusiv			benefits the local community irts and cultural activities
	Helps grow strong regions			or mont of an artist's or cultural
	Provides training, education or empl	loyment	Contributes to the development of an artist's or cultura workers career or practice	
	Engages with new and diverse artists or	raudiences	Contributes to the deve	or elopment of an Artform or I product.

Artist	RADF Request ed	Criteria 1: Artistic Merit	Criteria 2: Management	Criteria 3: Engagement	Criteria 4 Benefit	Total Score	YES NO
Applicant Project Title	\$	9	7	9	9	34	Y
Applicant Project Title	\$	7	5	6	7	25	N
Applicant Project Title	\$	9	8	9	9	35	Y
Applicant Project Title	\$	8	7	8	8	31	Y
Applicant Project Title	\$	7	7	8	9	31	Y
Total	\$						

Please Note

SCENIC RIM Regional Council

Arts Reference Group.

PUBLIC ART ASSESSMENT OVERVIEW.

PUBLIC ART 20	PUBLIC ART 2020/21				
Artist Brief	Public Art projects identified by Council Artists brief prepared and circulated within and outside the region Expressions of Interested requested from artists	2- 6 months			
EOI Submitted	PAO to review and eliminate ineligible EOI's PAO to summarize applications for ARG to review PAO to send to ARG for assessment.	3 Days			
ARG review	The ARG members to review the EOI's ARG to complete Assessment form with scores out of 10 for 3 criteria. ARG to indicate their top 3 artworks	3 Weeks			
ARG Meeting	ARG to meet to collate assessments and discuss applications. A shortlist of 3 successful applications is recommended Feedback is recorded for unsuccessful applications	4- 5 Hours			
Concept Development	RLO notifies successful applicants to prepare a concept of their chosen artwork as per the agreement PAO prepares the Concept Development contract and sends to artists including payment procedures. Letter sent to unsuccessful applicants	4- 8 Weeks			
Applications submitted "	PAO to collate applications and send to ARG with assessment sheet	2 days			
ARG review	The ARG members to review the Concepts ARG to complete Assessment form with scores out of 10 for 6 criteria. ARG to rank the top three	2 Weeks			
ARG Meeting	ARG to meet to discuss Concepts The successful Artwork is recommended with conditions if noted Feedback is recorded for successful and unsuccessful applications	4- 5 Hours			
Reporting	RLO to prepare all correspondence with the applicants. RLO to prepare Council report with recommendations from ARG	4 Weeks			

collaboratively with clients including

resourcing and technical expertise.



PUBLIC ART EOI ASSESSMENT SHEET

through the concept outline

Assessor Name					
Assessment Scores	0-2 Not Demonstrated 3-5 Satisfactory	6-8 Good 9-10 Excellent			
Assessment Criteria	Expressions of interest will be assessed against the following criteria:				
Artistic Merit	Relevant Experience	Management			
Demonstration of imaginative, aesthetic and artistic qualities in previous work and	Demonstrated experience in designing and delivering public art works as outlined in the CV	Demonstrated experience or capacity to manage public art projects and work collaboratively with clients including			

and written response

PROJECT TITLE					
Artist	Criteria 1: Artistic Merit	Criteria 2: Experience	Criteria 3: Management	Total Score	Top Three

Comments

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PUBLIC ART CONCEPT DEVELOPMENT ASSESSMENT SHEET

Assessor Name	
Assessment Scores	0-2 Not Demonstrated 3-5 Satisfactory 6-8 Good 9-10 Excellent
Assessment Criteria	Concept Development will be assessed against the following criteria:
Artistic Merit 30% Weighting	A concept design should be submitted in a visual format, which gives the selection panel sufficient information to assess its artistic vision, originality and impact
Addressing the Design Brief	1. Conceptual statement about the proposed artwork, including any details of appropriate research, and a statement describing the relationship between the proposed artwork and the project brief.
30% Weighting	 Explanation on how the artwork reflects the local community, cultural heritage or environment.
Project Management and Viability 30% Weighting	 The artist must acknowledge in writing that by accepting the attached Agreement, the artist affirms that if the work is selected for commission, the artist will have current public liability and professional indemnity insurance. The artist must acknowledge that he/she can meet the timeline and project milestones as provided in the Project Brief.
	3. The artist must acknowledge that they can meet budget as provided in the Project Brief, including engineering, fabrication and installation.
Technical Skills	The artist should provide Indicative information about:1. Specific technical requirements including engineering, fabrication and installation.2. Potential risk-management
10% Weighting	 Specific maintenance requirements. Details about the proposed materials If the artist will be using a third party fabricator that they supply the details of the fabricator and an estimate of costs.

TITLE						
Artist	Criteria 1: Artistic Merit	Criteria 2: Addressing the Design Brief	Criteria 3: Project Management and Viability	Criteria 4: Technical Skills	Total Score	Ranking
	/30	/30	/30	/10	/100	
	/30	/30	/30	/10	/100	
	/30	/30	/30	/10	/100	

Comments



SCENIC RIM REGIONAL COUNCIL ARTS REFERENCE GROUP TERMS OF REFERENCE



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1. Objectives

The Scenic Rim Arts Reference Group (ARG) will support Scenic Rim Regional Council (Council) to:

- promote the arts as a tool for cultural expression and development and build community engagement;
- work in conjunction with the Council's Public Art and Collection Policy and Procedure to realise three main goals:
 - Build community capacity through arts and culture;
 - Enable the region to appreciate, realise and articulate its heritage and identity;
 - Promote and generate creative excellence;
- assist Council to meet the objectives of its' Public Art and Collection Policy and Procedure;
- assist Council to promote and deliver Regional Arts Development Fund (RADF) projects;
- foster community engagement with the arts as an essential component of a healthy and vibrant community and to be an advocate for the importance of arts as a vital component of community development;
- encourage a community driven sense of ownership; and
- develop a community network of cultural, business, professional and educational representatives with an interest in, and support of, arts and culture programs.

2. Functions

The ARG has no power to spend Council funds or make decisions on behalf of Council. The role of the ARG is to review Public Art and RADF grant projects and to provide considerations for Council in regards to:

Public Art

- matters relating to Public Art and Collections Policy, procedures and projects;
- the selection and commissioning of new works and the de-accessioning of existing works;
- proposed public art projects to be included in private and / or commercial developments;
- proposed public artwork gifts, bequests and donations to the region, in accordance with the Public Art and Collections Policy.
- ensuring that established Council procedures, policies and guidelines are adhered to in nominating, assessing and selecting public art projects;
- operate in accordance with Arts Queensland RADF Guidelines;
- communication and outreach to the community regarding Council's public art program;
- community suggestions for public art projects;
- the development of private sector public art projects and public/private partnerships for public art projects;

Regional Arts Development Fund

- review and assessment of RADF applications;
- the promotion of the arts as a tool for cultural expression, development, engagement and participation to build community capacity;
- the promotion of creative excellence across the region.

3. Structure and Membership

3.1 Structure

The composition of the ARG is to include:

- one Councillor appointed by Council, as Chair (non-voting);
- Council Principal Specialist Cultural Services (non-voting);
- Council Cultural Projects Officer: Public Art, RADF and Heritage (non-voting);
- seven community and business members with knowledge and experience in the following fields:
 - o arts and culture
 - o heritage
 - o education
 - First Nations
 - o youth
 - o landscape and/or architectural design

In addition, the following people may also be invited to attend on an 'as needs' basis and will not be entitled to vote:

- Council officers to provide input on community planning, town planning, engineering, open space planning, tourism or marketing aspects;
- Suitably skilled persons in an advisory capacity such as Arts Queensland, RADF or Regional Arts Network representatives.

3.2 Membership

Scenic Rim Regional Council appoints members of the Scenic Rim Arts Reference Group according to the Terms of Office, below. Members are appointed for the purpose of ensuring that the ARG is able to meet its functions and on the basis of the applicant's experience including:

- expertise in relevant fields;
- an appreciation and understanding of art in the public domain;
- experience in working with community and community groups;
- experience in sponsorship or sourcing of funding;
- commitment to risk management, Indigenous protocols, environmental protection and ethical principles.

3.3 Role of Members

To enable the ARG to carry out its functions, each member is required to:

- regularly attend ARG meetings;
- work collaboratively with Council to implement arts projects to the highest possible standard;
- abide by Council's ARG Code of Conduct at all times as outlined in the ARG Membership Information;
- be familiar with Council's policies, plans and strategies including the Public Art and Collection Policy and Procedures;
- be familiar with Arts Queensland RADF Guidelines;
- provide aesthetic and practical advice on proposals through the process;
- refer artworks and items given to or offered for acquisition to Council to Cultural Services and ARG for inclusion in Council's Public Art Collection.

3.4 Terms of Office

The Term of Office for ARG members is three years.

Every three years, Expressions of Interest inviting new members to apply will be advertised in local media and on Council's website. Existing members are welcome to re-apply.

A register of interested applicants will be kept to fill vacancies that arise within the three year period.

The appointment of ARG members is by recommendation from the Principal Specialist Cultural Services to the General Manager, Customer and Regional Prosperity for approval by the Chief Executive Officer.

The Councillor representative is appointed by Council annually.

4. Conduct of Business

4.1 Meetings

The ARG will meet at least two times a year at such place and time as notified by Council, and meetings will be carried out in the following way:

- RADF applications and Public Art applications sought through an expression of interest will be assessed by the ARG through the SmartyGrants program.
- The Chair will preside as Chairperson at every meeting of the ARG.
- If the Chairperson is not present within ten minutes after the time appointed for the meeting, the members may choose one of their numbers to be a chairperson for the purpose of the meeting.
- Questions arising at any meeting of the ARG will be decided by a simple majority of the votes of the members.
- A Cultural Services Officer will provide secretariat support to the ARG. The Officer will arrange meetings, venues, agendas, record keeping and attend to recorded actions. The Officer will

help facilitate the selection of artists, provide support to the ARG and liaise with all relevant business units of the Council.

- Meetings and Minutes:
 - Two meetings will be held per year following the closure of the Big Ideas Community grant round (1 grant round per year).
 - Council may call an extraordinary meeting of the ARG with at least 14 days' written notice to members.
 - Members must forward agenda items to the secretariat no less than five working days prior to a scheduled meeting.
 - Agendas and supporting papers for each meeting will be circulated to members in advance, one week prior to the scheduled meetings, but no later than 48 hours prior.
 - The minutes/actions of each meeting will be prepared by the Secretariat in consultation with the Chair. The minutes will include (without limitation) the following:
 - a) attendance;
 - b) apologies;
 - c) declarations of interest or state 'no declarations of interest were reported';
 - d) delegations of authority;
 - e) a record of all recommendations made by the ARG.
 - Once approved by the Chair, full copies of the minutes/actions, including attachments, will be distributed to all members no later than 20 working days following each meeting.
 - Minutes of each meeting will be reported to the next practical meeting of the ARG together with any recommendations.

4.2 Decisions outside a meeting

The Arts Reference Group can make decisions without holding a formal meeting through a 'VOC' (a vote outside committee). This may be necessary when a quick response is required. The requirements for a VOC are:

- a memorandum and motion will be emailed to all members with a due date to respond;
- members must vote on the motion by returning their response by email by the due date;
- the motion will be decided by a majority vote or, if not all replies are received, by a quorum; and
- the ARG is notified of the result.

4.3 Quorum

A quorum of a meeting of the ARG will be half of the members plus one. No business of the ARG will be considered unless a quorum is present. If within half an hour from the time of the meeting start time, a quorum is not present, the meeting will be dissolved.

4.4 Conflict of Interest

A conflict of interest is a conflict between a personal interest and the public interest that might lead to a decision that is contrary to the public interest. This can occur when a person has a personal interest in the subject of a decision and that person has decision-making responsibilities in relation to it. A conflict of interest can be:

- an actual conflict of interest (where there is an actual conflict of interest in the matter); or
- a perceived conflict of interest (where a person could reasonably be taken to have a conflict of interest in the matter).

Real or perceived conflicts of interest can arise in circumstances where a member of the ARG has a personal interest or affiliation with a community group, sporting club, religious organisation, educational institution or similar organisation that will benefit from a decision by the ARG. For example, a perceived conflict of interest might exist where a member of the ARG was related to or close friends with the president of the community group applying for the grant.

Conflicts of interest must be managed to avoid any perception of favouritism or bias, and decisions of the ARG must be made openly and transparently and always in the community's best interests.

A member must deal with the real or perceived conflict of interest in a transparent and accountable way by: refraining from discussions; leaving the meeting room during voting; and will not be entitled to vote. In addition, where a real or perceived conflict of interest occurs at a meeting, the following will be recorded in the minutes of that meeting:

- The name of the person who has the real or perceived conflict of interest.
- The nature of the personal interest as described by the person.
- How the person dealt with the real or perceived conflict of interest.
- If the person voted on the matter—how the person voted on the matter.
- How the majority of persons who were entitled to vote at the meeting voted on the matter.

4.5 Reporting

The recommendations of the ARG will be reported to Council through reporting from Cultural Services and the relevant decisions of Council will in turn be reported to members of the ARG.

5. Public Relations and Dealing with Media

Council will be the official spokesperson for the ARG. All official public relations matters and media enquiries should be referred to Council's Communications business unit.

The ARG are not authorised to comment on any project in any official capacity unless approved by Council.

6. Review

The Terms of Reference were updated in February 2023 and will be reviewed every two years, if required, or as often as necessary.

10.3 Infrastructure Charges - Request to Waive Charges for a Charitable Organisation -Wongaburra Society (MCU22/025)

Executive Officer: General Manager Customer and Regional Prosperity

Item Author: Technical Officer Planning and Infrastructure Charges

Attachments:

1. MCU22/025 - Infrastructure Charge Notice issued to Wongaburra Society J

Executive Summary

Council is in receipt of a request to waive the infrastructure charges issued to Wongaburra Society as part of their development approval, MCU22/025 - Development Permit for Material Change of Use (involving a Residential care facility) Preliminary Approval that includes a Variation Approval to vary the effect of the Scenic Rim Planning Scheme 2020, on the basis they are a charitable organisation. The total amount of infrastructure charges issued at time of approval under MCU22/025 was \$66,737.20.

Under Section 11.3 of Council's Adopted Infrastructure Charges Resolution (v13 - November 2021), infrastructure charges may be considered for discount upon request and such applications would be assessed on a case-by-case basis, and in accordance with any relevant Council policies. Limits may apply as to the percentage and maximum value of such waivers.

Recommendation

That Council approve the waiver of infrastructure charges for MCU22/025, by way of donation and via an Infrastructure Agreement, as issued in the Infrastructure Charge Notice to Wongaburra Society dated 15 November 2022, as provided for in Section 11.3 of Adopted Infrastructure Charges Resolution (version no. 13) 30 November 2021.

Previous Council Considerations / Resolutions

At the Ordinary Meeting held on 25 October 2022 (Item10.7), MCU22/025 - Development Application for Wongaburra Re-development and Variation Approval - 210-218 Brisbane Street, Beaudesert, Council resolved that:

- 1. Council receive and note the report titled "MCU22/025 Development Application for Wongaburra Re-development and Variation Approval 210-218 Brisbane Street, Beaudesert";
- 2. Council approve development application MCU22/025, subject to imposition of reasonable and relevant conditions in Appendix A; and
- 3. Council note that any subsequent requests for a negotiated decision notice and/or change applications to the approval (MCU22/025) will be processed via delegated authority where the changes would not significantly alter the original decision.

Report / Background

Wongaburra Society is a registered charitable organisation was established to provide aged care and nursing home. Wongaburra was created as a caring gesture by the people of Beaudesert to enable the elderly to remain and live within their community.

On 29 October 1965, the Beaudesert Chamber of Commerce proposed the development and establishment of a home for aged people. The proposal immediately attracted the support of the community and within five years, in June 1970, the building was completed and furnished and was officially opened by Dame Annabel Rankin on 22 August 1970.

Wongaburra has since evolved into a highly sophisticated community-based centre, and is a nondenominational, not-for-profit, fully accredited aged care residence developed by the people of Beaudesert purely to serve the elderly within the community. Today, the diverse services offered by Wongaburra, means the lifestyle choices are many for the elderly of the community and surrounding areas.

On 19 May 2022, a development application (MCU22/025) for the purposes of Material Change of Use - (involving a Residential care facility) Preliminary Approval that includes a Variation Approval to vary the effect of the Scenic Rim Planning Scheme 2020, was lodged on Wongaburra Society's behalf by Mecone. The primary purpose of the application was to allow for the redevelopment of the existing facilities which are now dated. While there is a minor increase in the number of bedrooms, the actual additional demand on trunk services is minimal.

The application was subsequently approved with conditions at the Ordinary Meeting held on 23 November 2022, and in accordance with Council's Adopted Infrastructure Charges Resolution (v13 - November 2021), attracted an infrastructure charge totalling \$65,737.20 (issued on 15 November 2022).

On 12 December 2022, Council received a written request from Mrs Kathryn Jones, Mecone acting on behalf of the Wongaburra Society requesting Council waive all or part of the infrastructure charges issued on 15 November 2022 on the basis they are a charitable organisation.

Section 11 of Council's Adopted Infrastructure Charges Resolution (v13 - November 2021), provides 100% discount for community groups building infrastructure on Council controlled land. In this instance the proposed development does not meet this criteria as the land is privately owned and not council controlled. As such the waiver, or part thereof, will fall under Section 11.3 of Council's Adopted Infrastructure Charges Resolution (v13 - November 2021), which states infrastructure charges may be considered for discount upon request and such applications would be assessed on a case-by-case basis and in accordance with any relevant Council policies. Limits may apply as to the percentage and maximum value of such waivers.

A search of Council records indicate that a request of this nature has not been received previously by this applicant. In relation to the proposed residential care facility at 60 North Street, Harrisville (Item 10.4 of the Ordinary Meeting held on 7 June 2022), Council resolved to waive 25% of the infrastructure charges, capped to \$50,000.

Council does not have a specific policy or procedure which indicate a maximum value/percentage of such waivers, so applications need to be considered on a case-by-case basis, on merit.

As Wongaburra Society, is a registered charitable organisation established by the community to provide aged care and nursing home, exists solely for the purposes of providing local care, it is therefore proposed to allow the maximum waiver of 100% of the infrastructure charges. This will recognise the development's benefit to the local community against its minimal impact on infrastructure demands.

Budget / Financial Implications

In accordance with Section 11.3 of Council's Adopted Infrastructure Charges Resolution (v13 - November 2021), infrastructure charges may be considered for discount upon request from community organisation. Wongaburra Society is a registered charitable organisation.

The Development Application approved with conditions at the Ordinary Meeting held on 23 November 2022, and in accordance with Council's Adopted Infrastructure Charges Resolution (v13 - November 2021), attracted an infrastructure charge totalling \$65,737.20 (issued 15 November 2022). It is therefore proposed to allow the maximum waiver of 100% of the infrastructure charges.

Any waiver of charges will reduce income which is directed toward trunk infrastructure, which would need to be funded through the general rate base.

Strategic Implications

Operational Plan

- Theme: 6. Accessible and Serviced Region
- Key Area of Focus: A sustainable program of local, higher order infrastructure delivery necessary to support population and economic growth

Legal / Statutory Implications

It is confirmed that Wongaburra Society is a registered charitable organisation and therefore meets the definitions of a community organisation within the Council's Adopted Infrastructure Charges Resolution (v13 - November 2021).

Risks

Strategic Risks

The following Level 1 and Level 2 (strategic) risks are relevant to the matters considered in this report:

SR43 Inadequate or ineffective planning, delivery and maintenance of infrastructure resulting in risk to public and staff safety and potential financial implications.

Risk Assessment

Category	Consequence	Likelihood	Inherent Risk Rating	Treatment of risks	Residual Risk Rating
Financial/Economic Reduce revenue for trunk infrastructure	2 Minor	Almost certain	Low	Funding to occur by the wider community via the general rate base.	Low

Category	Consequence	Likelihood	Inherent Risk Rating	Treatment of risks	Residual Risk Rating
Governance, Risk & Compliance Wavering and reduction of infrastructure charges in accordance with Section 11.3 and 12 of the AIRC V13	2 Minor	Possible	Low	To process and undertake the applicants request in accordance with Council's Adopted Infrastructure Charges Resolution V13 and action via an Infrastructure Agreement for Non-trunk Infrastructure	Low

Consultation

Councillors have been briefed previously on this development and the request for wavier of infrastructure charges.

Conclusion

Wongaburra Society is somewhat unique in that it exists solely to provide local aged care services within the Scenic Rim region, and is not part of a larger multi-disciplinary organisation.

The undertaking of this redevelopment is a beneficial community activity which has had continued community support since its official opening on 22 August 1970.

Given that this is primarily a redevelopment of the existing development with minimal additional demand on trunk infrastructure, a full waiver of 100% of infrastructure charges is considered appropriate in this case and is recommended for Council's consideration.

Infrastructure Advice Letter

Enquiries:InTelephone:07File Ref:M

Infrastructure Charges Team 07 5540 5111 MCU22/025



22 November 2022

Wongaburra Society PO Box 189 BEAUDESERT QLD 4285

Sent by email to: homecare@wongaburra.com.au; support@wongaburra.com.au

Development Application No: Application Type:	MCU22/025 Development Permit for Material Change of Use (involving a Residential Care Facility) Preliminary Approval that includes a Variation Approval to vary the effect of the <i>Scenic Rim Planning Scheme 2020</i>
Planning Scheme:	Scenic Rim Planning Scheme 2020
Location:	Wongaburra 210-218 Brisbane Street
	BEAUDESERT QLD 4285
RPD:	Lot 170 RP 888308

Dear Sir/Madam

I wish to advise that, on 25 October 2022 the above development application was approved by Council. It is advised that the development is subject to infrastructure charges and accordingly this infrastructure charge is calculated in accordance with the Adopted Infrastructure Charges Resolution (Version No.13) (which took effect on 30 November 2021) and the *Planning Act 2016*, as detailed below.

 Scenic Rim Regional Council has levied infrastructure charges for the transport, community purposes and stormwater trunk infrastructure networks. The Adopted Infrastructure Charges notice has been attached to this letter of advice.

Appeal Rights under the Planning Act 2016

You are entitled to appeal certain matters of this infrastructure charges notice, which are outlined in Schedule 1 of the *Planning Act 2016.* A copy of the relevant provisions from the planning act is attached.

If you wish to discuss this matter further, please contact Infrastructure Charges Team on the above telephone number.

Yours faithfully

R M Lohmann

R M Lohmann MANAGER REGIONAL DEVELOPMENT, HEALTH AND BIODIVERSITY

Attachment 1 – Adopted Infrastructure Charges Notice – Council Attachment 2 - Appeal Rights

cc: Mecone Email: brisbane@mecone.com.au

Appeal Rights

PLANNING ACT 2016 & THE PLANNING REGULATION 2017

Chapter 6 Dispute resolution

Part 1 Appeal rights

(b)

(3)

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 of the Planning Act 2016 states (a)
 - Matters that may be appealed to -
 - either a tribunal or the P&E Court; or (i) only a tribunal; or (ii)
 - (iii) only the P&E Court; and
 - The person-
 - who may appeal a matter (the appellant); and (i)
 - who is a respondent in an appeal of the matter; and (ii)
 - who is a co-respondent in an appeal of the matter; and (iii)
 - who may elect to be a co-respondent in an appeal of the matter. (iv)

(Refer to Schedule 1 of the Planning Act 2016)

- An appellant may start an appeal within the appeal period.
 - The appeal period is
 - (a) for an appeal by a building advisory agency 10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal - at any time after the deemed refusal happens; or
 - for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises 20 business days after a notice us published under section 269(3)(a) or (4); or (c)
 - (d) for an appeal against an infrastructure charges notice 20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given – 30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - for any other appeal 20 business days after a notice of the decision for the matter, including an enforcement notice, (f) is given to the person.

Note -

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt. It is declared that an appeal against an infrastructure charges notice must not be about-
 - (a) the adopted charge itself; or (b)
 - for a decision about an offset or refund
 - the establishment cost of trunk infrastructure identified in a LGIP; or (i)
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that-(1)
 - (a) is in the approved form; and
 - succinctly states the grounds of the appeal.
- The notice of appeal must be accompanied by the required fee.
- The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal (3)to -
 - (a) the respondent for the appeal ; and
 - each co-respondent for the appeal; and (b)
 - for an appeal about a development application under schedule 1, table 1, item 1 each principal submitter for the (c) development application; and
 - (d) for and appeal about a change application under schedule 1, table 1, item 2 - each principal submitter for the change application; and

each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and

- for an appeal to the P&E Court the chief executive; and (e)
- for an appeal to a tribunal under another Act any other person who the registrar considers appropriate.
- The service period is -
- (4) (a) if a submitter or advice agency started the appeal in the P&E Court - 2 business days after the appeal has started; or (b) otherwise - 10 business days after the appeal is started.
 - A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the (6) notice of appeal is given to the person.

231 Other appeals

Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.

- The Judicial Review Act 1991, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- A person who, but for subsection (1) could have made an application under the Judicial Review Act 1991 in relation to the (2) decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (3)In this section
 - decision includes
 - conduct engaged in for the purpose of making a decision; and (a)
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or failure to make a decision; and
 - (d) a purported decision ; and (e) a deemed refusal.

non-appealable, for a decision or matter, means the decision or matter-

- is final and conclusive; and (a)
- may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under (b) the Judicial Review Act 1991 or otherwise, whether by the Supreme Court, another court, a tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal
- However, the P&E Court may hear and decide an appeal even if the person has not complied with the rules of the P&E (2)Court

Infrastructure Charges Notice



(Community Purposes, Stormwater & Transport) Planning Act 2016 Section 121

This infrastructure charges notice is levied by Scenic Rim Regional Council.

This notice does not include the infrastructure charge payable for Water Supply and Sewerage networks levied by the Central SEQ Distributor-Retailer Authority trading as Queensland Urban Utilities in a separate charge infrastructure notice.

This infrastructure charge is calculated in accordance with the Adopted Infrastructure Charges Resolution (Version No. 13) (which took effect on 30 November 2021) and the *Planning Act 2016.*

To (Form 1 Applicant):	Wongaburra Society C/- Mecone
CC (Land Owner):	Wongaburra Society
CC (Consultant):	Mecone
Date of Issue:	15 November 2022
Application No:	MCU22/025
Application Type:	Development Permit for Material Change of Use (involving a Residential care facility) Preliminary Approval that includes a Variation Approval to vary the effect of the <i>Scenic Rim Planning Scheme 2020</i>
Notes This Infrastructure	Channes Nistics may be given to the employed and/on the evenen

Note: This Infrastructure Charges Notice may be given to the applicant and/or the owner depending upon the type of application.

Property Details

The land to which the infrastructure charge applies

Site Address: Wongaburra 210-218 Brisbane Street BEAUDESERT QLD 4285

Property Description: Lot 170 RP 888308

The current total amount payable

**Total infrastructure charge (with deduction for offset where applicable): \$65,737.20

Details of Infrastructure Charge Calculation

Total Infrastructure Charge =

Proposed Demand – Credit for Existing Use (if applicable to the Development Application) – Offset (if applicable).

Proposed Demand

Use	No. of units	Unit of Measure	Charge Rate	Amount
Accommodation (long term) - Community residence	6	\$ per 1 or 2 bedrooms per suite	\$10,956.20	\$65,737.20
			Total	\$65,737.20

Existing Credit

Use	No. of units	Unit of Measure	Charge Rate	Amount
Not Applicable				\$0.00
			Total	\$0.00

Offset

Infr	astr	Timing			Cost		
Not Applicable							\$0.00
					Тс	otal	\$0.00
Total Charge	=	Proposed Demand \$65,737.20	С	xisting redit 0.00	-	Off :	
Refund Applicable	=	\$65,737.20 \$0.00	Ψ.			ψŪ.	

Enquiries	Enquirie	Enquiries regarding this Adopted Infrastructure Charges Notice						
	should	should be directed to Infrastructure Charges Team on					on	
	07 5540) 511	1.					

IMPORTANT INFORMATION

Payment	This notice is due and payable by the due time shown. Cheques, money orders or postal notes should be made payable to Scenic Rim Regional Council and crossed "Not Negotiable". Change cannot be given on cheque payments. Payees will be liable for any dishonour fees.				
Infrastructure Charges Taken To Be A Rate	An infrastructure charge fixed by a local government is, for the purposes of recovery, taken to be a rate within the meaning of the <i>Local Government Act 2009</i> . This means:				
	a) Charges may be recovered by court action for debt;				
	 b) Charges may be recovered from the person for the time being owning the relevant land, regardless of who was the owner or other person upon whom the charges was imposed; 				
	c) Interest is payable on overdue charges; and				
	d) If charges are unpaid for three (3) years, the land can be sold to recover the outstanding charges.				
Automatic increase provision	The infrastructure charge is subject to automatic increases.				
	The amount of the infrastructure charge is to be escalated in accordance with the ABS PPI Construction Index – Queensland Roads and Bridges (on a three (3) year moving average) from the date of the notice to the payment date.				
Payment date of the infrastructure charge	The infrastructure charge is payable in accordance with the timing stated in section 122 of the <i>Planning Act 2016</i> depending on the type of development application. In this instance, the infrastructure charge is payable:				
	 material change of use - before the issue of a Compliance Certificate under the <i>Plumbing and</i> <i>Drainage Act 2002</i> or before the change of use happens (whichever occurs first); or as otherwise stated in the Infrastructure Charges Notice. 				
Payment Liability	Under Section119 (12 (c)) of the <i>Planning Act 2016</i> , a charge (levied charge) under an infrastructure charges				
	notice: (a) is payable by the applicant; and (b) attaches to the premises;				
Payment of any applicable refund	The refund will be paid in accordance with the terms of a written agreement between the entity entitled to the refund and the Scenic Rim Regional Council.				

Making a Payment	Payment is to be made to Scenic Rim Regional Council 82 Brisbane Street, Beaudesert and may be made at any of Council's Customer Service Centres.
	Before paying the infrastructure charge you must request the infrastructure charge payable at the time of payment to consider escalation from the date of the notice to the payment date.
	This request must be made by email to <u>mail@scenicrim.qld.gov.au</u> .
Goods and Services Tax	The Federal Government has determined that rates and utility charges levied by local government will be GST free. Accordingly, no GST is included in this infrastructure charges notice.
Offset/refund	Any offset or refund shown in this notice has been calculated in accordance with the method identified in the charges resolution.
Trunk Infrastructure Networks	If offset and refund amounts are applicable, trunk infrastructure networks include Community Purposes, Stormwater and Transport
Rights of Appeal	Appeals about particular charges for infrastructure
	A person who has been given, and is dissatisfied with an Infrastructure Charges Notice or Negotiated Infrastructure Charges Notice has, under s229(1) and Schedule 1 of the <i>Planning Act 2016</i> , the right to lodge an appeal to the Planning and Environment Court or a Development Tribunal.
	The timeframes for starting an appeal in the Planning and Environment Court or Tribunal are set out in s.229(3) of the <i>Planning Act 2016</i> .
	Section 229(6) and Schedule 1 of the <i>Planning Act 2016</i> states the grounds for appealing an Infrastructure Charges Notice or Negotiated Infrastructure Charges Notice.

10.4 Tourist Accommodation - Safety Compliance Program

Executive Officer: General Manager Customer and Regional Prosperity

Item Author: Team Leader Compliance Services

Attachments: Nil

Executive Summary

Growth in the Scenic Rim region's tourist accommodation sector has for the most part, provided high quality developments that meet or exceed Council's planning and safety requirements, however, a small percentage of offered tourist accommodation may have health and safety shortcomings.

This report provides an overview of a safety compliance program by the Regulatory Services team targeting unlawful high risk tourist accommodation providers.

The compliance program will target camping grounds and tourist accommodation, which are identified as posing a health, safety and amenity risk to customers and/or nearby residents. Non-compliant accommodation has a potential reputational risk to the Scenic Rim region's tourism credentials and nationally and internationally recognisable brand.

This issue was also raised by concerned tourism operators several years ago and was presented to the Scenic Rim Tourism Advisory Committee, who formed sub-committee in August 2019 to review 'non-compliant short stay accommodation' within the Scenic Rim. This advice was presented to Council for further consideration on how to address the compliance issues.

Recommendation

That:

- 1. Council note the commencement of the Tourist Accommodation Safety Compliance Program for unlawful camping and tourist accommodation which pose a high risk to health, safety and amenity;
- 2. Council note the Tourist Accommodation Safety Compliance Program implementation stages outlined in the report, commencing with Stage 1 Communications and Information Strategy; and
- 3. Council note Officers will work with Destination Scenic Rim in support, and implementation, of the Safety Compliance Program.

Previous Council Considerations / Resolutions

Not applicable.

Report / Background

The Scenic Rim region is experiencing an increase in the number of camp grounds and tourist accommodation providers in the region. This direction is supported by the Scenic Rim Planning Scheme 2020 (Planning Scheme) and the Scenic Rim Regional Prosperity Strategy 2020-2025. The majority operate in accordance with the various laws governing these uses and provide a beneficial service to visitors to the region. It is becoming apparent however, that a growing number of operators do not have the required approvals, and potentially provide accommodation which does not meet health, safety or amenity standards.

This issue was also raised by concerned tourism operators several years ago and was presented to the Scenic Rim Tourism Advisory Committee, who formed a sub-committee to undertake a review 'non-compliant short stay accommodation' within the Scenic Rim. This information has assisted with the development of the Safety Compliance Program.

It is considered appropriate to pro-actively investigate this type of activity to ensure it meets Council's standards and community and tourism operators expectations.

Potential concerns associated with tourist accommodation include:

- Unhygienic facilities,
- Non-potable water supplies,
- Unsafe buildings and structures,
- Fire safety and smoke alarms,
- Unfenced swimming pools,
- Road and access standards,
- Locational issues such as flood, bushfire risk and landslide hazard area, and
- Impacts on neighbours from noise, traffic and privacy.

The purpose of the Tourist Accommodation - Safety Compliance Program (the Program) is to:

- 1. increase the knowledge of operators as to their legislative responsibilities,
- 2. ensure persons utilising these accommodations, are assured of the appropriate level of health and safety standards, and
- 3. ensure the off-site amenity is not unreasonably affected.

Activities to be Prioritised

- Camping and caravan parks (tourist parks) have dramatically increased in popularity and number in recent years. While the Planning Scheme allows for minor camping (up to five sites) on certain large rural properties as Accepted Development, all tourist parks must be licenced by Council's Health Services irrespective of size.
- Shared Accommodation such as Bed and Breakfasts may require a Shared Facilities approval and a Food Licence.
- Accommodation in structures that do not meet building or fire regulations are of particular concern. Such structures present a real risk to the safety of persons being accommodated. This also includes unfenced swimming pools.

The letting of complete dwellings to a single group (holiday home) will not form part of the Program as this is mostly Accepted Development under the Planning Scheme, however, the program would consider dwelling houses used as a 'Party House', multiple dwelling or Bed and Breakfast.

Co-ordinated Approach - Tourist Accommodation - Safety Compliance Program

The Program will be a co-ordinated pro-active approach across various Council teams including:

- Compliance Services team for development related matters,
- Health Services team for licencing of operators where required,
- Development Assessment and Engineering team to advise operators on development approvals,
- Strategic Planning team to provide fact sheets,
- Customer Care and Engagement team to field enquiries
- Regional Prosperity team, in conjunction with Destination Scenic Rim, to provide connection to industry and concierge service and support, and
- Communications and Marketing team to assist in awareness and promotion of the program activities and ensure up to date information is available on Council's website.

The legislation Council's Regulatory Services team enforces and the potential requirements of tourist accommodation operators are detailed in the table below:

Regulatory Services team	Legislation	Potential approval/Licensing requirements
Health Services	Food Act 2006	Food Licence (If food preparation is occurring)
Health Services	Public Health Act 2005	Compliance of acceptable health standards.
Health Services	Local Law 1	Camp Ground/Caravan Park Approval
	(Administration) 2011	Operation of Shared Facility Accommodation
Compliance Services	Planning Act 2016	Development Approval
Compliance	Building Act 1975	Development Approval
Services		(Certification of buildings, structures, swimming pools and swimming pool barriers).

Current figures for Licensed Facilities:

Activity	Number Approved
Camp ground	20
Caravan Park	11
Shared Accommodation	31

Implementation Stages - Tourist Accommodation - Safety Compliance Program

Stage 1 - Communications and Information Strategy

The initial stage of the Program will be a concerted community awareness program via the Communications and Marketing team, in conjunction with the Regional Prosperity team and Destination Scenic Rim. Communications will occur via:

- Council's website, media and social media platforms,
- Visit Scenic Rim website, database and industry resources portal
- Contact with industry representative groups,
- Destination Scenic Rim via membership e-newsletters and networking events, and
- Chambers of Commerce via membership e-newsletters and networking events.

Operators will be encouraged to review Fact Sheets, seek information from Council, and where necessary, meet with Council to assist them to progress to a solution.

Stage 2 - Desktop Preliminary Investigation

The desktop investigation will review accommodation activities found primarily on websites against Council's records.

Stage 3 - Prioritisation of Risk

Each activity noted for investigation will be rated for risk. Prioritisation will be given to those activities with a high health and safety risk to persons such as unfenced swimming pools, unsafe structures and fire safety concerns. Activities will then be actioned by priority as resources allow.

Stage 4 - Site Based Investigations

Investigations may include any or all of the following depending on the individual circumstances:

- Initial contact by telephone or letter to confirm the activity is occurring as suspected.
- Issue of a Show Cause or Compliance Notice which essentially provides the operator the opportunity to bring the activity in to compliance.
- Enforcement Notices or Penalty Infringement Notices will be issued where serious breaches are identified. This will occur particularly if unlawful swimming pools and safety barriers are identified.

Council actions will continue until the activity:

- Demonstrates existing compliance with Council requirements,
- Achieves compliance with Council requirements, or
- Ceases to operate.

Messaging

There is a risk that in some quarters the program will be perceived as an unfair 'crackdown' on people with a tourism enterprise. Accordingly, it is important that key stakeholders are briefed to ensure the intent of the program is understood. The Communications and Marketing team, Regional Prosperity team and Destination Scenic Rim will be key in assisting to provide appropriate messaging on the program.

The messaging is:

- The Program is aimed at those operations that pose a significant health or safety risk.
- High risk operations do not fit with the destination branding Council and Destination Scenic Rim, with industry, is seeking to achieve for tourism/visitor economy in the region.
- Lawful operators will not be affected and should be supportive of the Program.

Budget / Financial Implications

The program is not intended to involve additional staff resources, however, program work and existing workloads will need to be prioritised to ensure resources are applied relative to the risks associated with the individual matters raised.

The activities of Compliance Services are funded within the adopted 2022-2023 Operational Budget, including an allowance for costs associated with any legal matters. This Program will be funded under the current budget. The provision of support from other teams across council will be largely funded from their adopted 2022-2023 Operational Budgets.

Strategic Implications

Operational Plan

Theme: 3. Open and Responsive Government

Key Area of Focus: 3.1.2 Provide streamlined and practical regulatory services that deliver improved access for the community

Legal / Statutory Implications

Legal and statutory implications will be managed in line with Council's Risk Management Framework.

Risks

Strategic Risks

The following Level 1 and Level 2 (strategic) risks are relevant to the matters considered in this report:

- SR46 Inadequate or lack of Governance (including procurement) Framework (systems, policies, procedures, delegations and controls) in place to ensure compliance by Council's Councillors and Officers with all relevant State and Federal legislation and regulations.
- SR59 Non-compliance with legislation and/or procurement policies and procedures resulting in successful claim against Council beyond limit insured for.

Risk Assessment

Category	Consequence	Likelihood	Inherent Risk Rating	Treatment of risks	Residual Risk Rating
Governance, Risk & Compliance Council has a responsibility to effectively investigate allegations of breaches of legislation of which it is empowered to enforce.	2 Minor	Likely	Medium	Council resources the Compliance Services Team to satisfactorily investigate all customer requests and to conduct proactive audits on high risk developments.	Low

Category	Consequence	Likelihood	Inherent Risk Rating	Treatment of risks	Residual Risk Rating
Reputation, Community & Civic Leadership Council must investigate allegations of breaches to ensure the community has confidence in Council effectively regulating the legislation it is empowered to monitor.	2 Minor	Likely	Medium	Council resources the Compliance Service Team to satisfactorily investigate all customer requests and to conduct proactive audits on high risk developments.	Low

Consultation

Consultation has occurred with the teams identified in the report to ensure co-ordinated planning and implementation of the Tourist Accommodation - Safety Compliance Program. Regional Prosperity have been consulted on the Program and messaging to the local tourism industry and the community. Destination Scenic Rim will also be consulted in the delivery of this Program.

Conclusion

The proposed pro-active action to investigate non-compliant tourist accommodation services in the Scenic Rim region arises from community and tourism industry concerns and anecdotal evidence of an increase in unapproved accommodation activities which are potentially unsafe.

Implementation of the Program will seek to ensure accommodation activities undertaken in the region are meeting health, safety and amenity standards, and value-adding to the destination brand and tourism product offering in the Scenic Rim region.

Asset & Environmental Sustainability

10.5 Local Roads of Regional Significance

Executive Officer: General Manager Asset and Environmental Sustainability

Item Author: General Manager Asset and Environmental Sustainability

Attachments:

1. Scenic Rim Regional Council Local Roads of Regional Significance Register 🗓 🛣

Executive Summary

The Local Roads of Regional Significance network is a network of lower-order state-controlled roads and higher-order local government-controlled roads that perform a similar function.

Local Roads of Regional Significance are determined by Regional Roads and Transport Groups to focus Transport Infrastructure Development Scheme investment on roads of strategic importance, although other road infrastructure classes are eligible for Regional Road and Transport Group/s consideration.

Recommendation

That

- 1. Council support a review of its register of Local Roads of Regional Significance, in consultation with the Scenic Valleys Regional Roads and Transport Group;
- 2. Any proposed changes to Council's register of Local Roads of Regional Significance be presented to Council for endorsement; and
- 3. Hartley Road be considered in the Council's review of its register of Local Roads of Regional Significance.

Previous Council Considerations / Resolutions

At the Ordinary Meeting held on 24 May 2022 (Item 10.1), it was resolved that:

- 1. Council appoint Councillors as Councillor representatives on internal and external committees and forums for the period May 2022 to May 2023, as shown on Table A;
- 2. Council note the attendance of the Mayor, Deputy Mayor and divisional Councillors to various committees and forums for the period May 2022 to May 2023, as shown on Table B;
- 3. Council acknowledge that these appointments will continue to be reviewed annually; and
- 4. Council advise the organisations of the respective appointed Councillor representatives, as appropriate.

NB. Attachment A to the report states Cr West as the Council-Appointed Representative for the Scenic Valleys Regional Roads and Transport Group.

Report / Background

On 14 October 2022, TMR Director-General Neil Scales provided advice to all Regional Roads and Transport Group (RRTG) Chairs regarding changes to the Roads and Transport Alliance. TMR have moved away from the Memorandum of Understanding with LGAQ. The relationship with LGAQ is now managed by an accord. There are no changes to the RRTG framework or TIDS funding allocation.

The changes necessitated an update of Alliance governance documents, including:

- TIDS Policy 2022;
- Operational Guidelines 2023; and
- SCDF Guidelines 2023.

The updated documents and new website content can be accessed via this web address - https://www.tmr.qld.gov.au/rrtg.

The main focus of RRTGs continues to be their Local Roads of Regional Significance (LRRS) network. LRRS network is a network of lower-order state-controlled roads and higher-order local government-controlled roads that perform a similar function. As a general rule, LRRS fit within the state strategic road classification which includes the state-controlled road network and national network.

Scenic Rim Regional Council is a member of the Scenic Valleys Regional Roads and Transport Group (SVRRTG), together with Ipswich City Council, Lockyer Valley Regional Council, and the Department of Transport and Main Roads (TMR) (South Coast, Metropolitan, and Darling Downs Districts).

RRTGs are encouraged to review their LRRS network every two years at a minimum. The SVRRTG Technical Committee collectively reviews its LRRS network annually. Any changes to the LRRS must be approved by the RRTG and submitted to the Roads and Transport Alliance Board for processing.

As outlined in the Operational Guidelines, in establishing the eligibility criteria appropriate for the LRRS network, the RRTG may use one or more of the following criteria as a guide, for example, the road:

- a) forms an important part of the economic development strategy of the region, including access to natural resources, agricultural areas, industrial zones and attractions of regional significance;
- b) provides access to rail heads, freight depots, ports and major airfields from a higher order road;
- c) connects shires, towns, cities and regions and provides travel time and distance savings;
- d) provides a connecting function across a local government boundary;
- e) acts as a significant commuter route, that is, urban roads providing travel and distance savings;
- f) provides access to regionally significant institutions like community health, education, recreation, youth, aged care and entertainment facilities;
- g) provides the only access to a remote community; and
- h) provides emergency access.

Below is a list of local roads within Scenic Rim local government area contained on the SVRRTG LRRS Network Register, as at 7 July 2022. In some instances, the network contains segments of road and not the entire road length.

- Alpine Terrace;
- Beechmont Road;
- Brisbane Street;
- Burnett Creek Road;
- Christmas Creek Road;
- Head Road;
- Kerry Road;
- Kooralbyn Road;
- Mount Greville Road;
- Mount Walker West Road;
- Munbilla Road;
- Roadvale Road;
- Rosevale Road;
- Sandy Creek Road;
- School Road;
- Spicers Gap Road;
- Tarome Road;
- Wellington Bundock Drive;
- Greys Plains Road; and
- Mount Flinders Road.

A review of SVRRTG LRRS network is scheduled for completion by 30 June 2023 by the SVRRTG.

The notice of intention to propose a motion to include Hartley Road as a LRRS is acknowledged. For a road to be included on the LRRS network, it must meet the criteria as outlined in this report, before being submitted to the SVRRTG for approval.

Budget / Financial Implications

Council's 2022 - 2023 budget allocation for direct investment in LRRS roads via TIDS is \$743,983. This value is to be matched, as a minimum, of the same amount by Council ie. 50:50 state and local government funding.

Strategic Implications

Operational Plan

Theme: 6. Accessible and Serviced Region

Key Area of Focus: A sustainable program of local, higher order infrastructure delivery necessary to support population and economic growth

Legal / Statutory Implications

Transport Infrastructure Act

Risks

Strategic Risks

The following Level 1 and Level 2 (strategic) risks are relevant to the matters considered in this report:

SR43 Inadequate or ineffective planning, delivery and maintenance of infrastructure resulting in risk to public and staff safety and potential financial implications.

Risk Assessment

Category	Consequence	Likelihood	Inherent Risk Rating	Treatment of risks	Residual Risk Rating
Infrastructure, Assets & Service Delivery Inadequate or lack of planning for delivery of infrastructure	4 Major	Unlikely	High	10-Yar Capital Works Program; Long-term financial plan development and review.	Medium

Consultation

Cr West is the Council-Appointed Representative for the Scenic Valleys Regional Roads and Transport Group, and is Chair of the Group. Council's General Manager Asset and Environmental Sustainability is the Chair of the Scenic Valleys Regional Roads and Transport Group Technical Committee. While Acting Manager Capital Works and Asset Management is an active member of the Technical Committee. From time to time, other members of the Asset and Environmental Sustainability team participate in RRTG working groups and forums in support of the RRTG and its Statement of Intention.

Conclusion

A periodic review of the Council's register of Local Roads of Regional Significance is to be undertaken. Any proposed changes to the register will be presented to Council for endorsement before being presented to the SVRRTG for approval.

Scenic Rim Regional Council Local Roads of Regional Significance Register

RoadName	Length
Tarome Road	25497
Wellington Bundock Drive	2741
Burnett Creek Road	18766
Alpine Terrace	1222
Christmas Creek Road	33611
Greys Plains Road	5487
Head Road	11118
Kooralbyn Road	6775
Beechmont Road	15527
Mt Greville Road	4080
Munbilla Road	16150
Roadvale Road	8134
Rosevale Road	10624
Sandy Creek Road	8410
School Road	381
Spicers Gap Road	6781
Kerry Road	36204
Brisbane Street	2111
Mt Flinders Road	2879
Mt Walker West Road	2414
	Tarome Road Wellington Bundock Drive Burnett Creek Road Alpine Terrace Christmas Creek Road Greys Plains Road Head Road Kooralbyn Road Beechmont Road Mu Greville Road Munbilla Road Munbilla Road Rosevale Road Soadvale Road Sandy Creek Road School Road School Road School Road School Road Munde Road School Road Munde Road School Road School Road Munde Road Munde Road Munde Road Munde Road School Road Munde Road Munde Road Munde Road Munde Road Munde Road Munde Road Munde Road School Road School Road Munde Road Munde Road School Road Munde Road School Road School Road Munde Road

Road Ownership: Local LG: Scenic Rim RC

10.6 Pig and Calf Saleyard Heritage Listing Appeal - Court Decision

Executive Officer: General Manager Asset and Environmental Sustainability

Item Author: General Manager Asset and Environmental Sustainability

Attachments:

1. Scenic Rim Regional Council vs Queensland Heritage Council Judgment (28 October 2022) J 🖾

Executive Summary

In the matter of *Scenic Rim Regional Council vs Queensland Heritage Council*, set before the Planning and Environment Court, a judgment by Her Honour Judge Kefford was handed down on 28 October 2022.

The decision of the Queensland Heritage Council to enter the Beaudesert Pig and Calf Saleyard on the Queensland Heritage Register as a State Heritage Place was set aside and replaced with a decision not to enter the saleyards on the Register.

Recommendation

That:

- 1. Council acknowledge the Judgment by Her Honour Judge Kefford ordering that the decision of the Queensland Heritage Council to enter the Beaudesert Pig and Calf Saleyard on the Queensland heritage register as a State heritage place be set aside and replaced with a decision not to enter the Beaudesert Pig and Calf Saleyard on the Queensland heritage register; and
- 2. Council acknowledge that further consideration is required to ascertain the future of the Beaudesert Pig and Calf Saleyard site.

Previous Council Considerations / Resolutions

Councillors were briefed in 9 November 2022 and 10 November 2021 regarding the progress of the Pig and Calf Saleyard Heritage Listing appeal.

At the Ordinary Meeting held on 23 February 2021 (Item 10.6), it was resolved that:

- 1. Council lodge an appeal to the Planning and Environment Court to the inclusion of the Beaudesert Pig and Calf Saleyards in the Queensland Heritage Register;
- 2. When further information regarding the impact and implication of the Heritage Council listing is available, the matter be brought back to Council for consideration of further legal action;
- 3. Council acknowledge that further investigations are required to fully understand the implications of inclusion of the Beaudesert Pig and Calf Saleyards in the Queensland Heritage Register on future upgrades, improvements and ongoing maintenance of the saleyards;
- 4. Council acknowledge that further investigations are required to fully understand the implications of inclusion of the Beaudesert Pig and Calf Saleyards in the Queensland Heritage Register on the ongoing operations of the pig and calf sales and associated leasing arrangements;

- 5. In conjunction with the appeal to the Planning and Environment Court, Council engage with community members responsible for the Beaudesert Pig and Calf Saleyards heritage application, to achieve an amicable compromise based around building a Beaudesert Pig and Calf Saleyards heritage display; and
- 6. Following the results of the appeal, if lost or withdrawn, consideration be given by Council in the 2021-2022 budget for upgrading the Beaudesert Pig and Calf Saleyards to the appropriate standards of building, environment and safety, as required.

At the Ordinary Meeting held on 12 October 2020 (Item 11.6), it was resolved that Council endorsed the submission made the Department of Environment and Science in response to an application made to place the Beaudesert Pig and Calf Saleyards on the Queensland Heritage Register.

At the Ordinary Meeting held on 21 September 2020 (Item 11.3), it was recommended that:

- 1. Council acknowledge advice from the Department of Environment and Science of an Application for the Beaudesert Pig and Calf Saleyards to be included into the Queensland Heritage Register; and
- 2. Council lodge a submission to the Department of Environment and Science, advising that the proposed inclusion of the Beaudesert Pig and Calf Saleyards into the Queensland Heritage Register is not supported. Council does not consider the Beaudesert Pig and Calf Saleyard has state-level heritage significance.

At the Ordinary Meeting held on 17 August 2020 (Item 11.7), it was resolved that Council extend the current lease with Hayes & Co Pty Ltd over part of Lot 32 on SP113955, situated at Helen Street, Beaudesert, under current terms and conditions, until 31 December 2020.

Report / Background

In response to the inclusion of the Beaudesert Pig and Calf Saleyards into the Queensland Heritage Register as a State of Place, Council lodged an appeal in the Planning and Environmental Court (the Court).

Council's legal representatives appeared before His Honour Judge Jones for the first mention of the Pig and Calf Saleyards Heritage Listing appeal on 26 May 2021. From that mention an Order was given, with a court date in September 2021 tentatively set to hear the matter; if mediation resulting in an acceptable outcome or withdrawal by either party had not occurred prior to this time.

Council's appeal was heard before the Court on 15 and 16 November 2021, 28 and 29 March 2022, and 2 June 2022. On 28 October 2022, Her Honour Judge Kefford delivered a judgment to the appeal, which included the following order:

I order that the decision of the Queensland Heritage Council to enter the Beaudesert Pig and Calf Saleyard on the Queensland heritage register as a State heritage place is set aside and replaced with a decision not to enter the Beaudesert Pig and Calf Saleyard on the Queensland heritage register.

The Queensland Heritage Council can appeal the decision with the leave of the Court of Appeal, but is limited to an appeal on the grounds of error or mistake in law or jurisdictional error. The Queensland Heritage Council must apply for leave to appeal to the Court of Appeal within 30 business days after receiving the decision (ie by 9 December 2022). This date has now passed.

While the future of the facility is yet to be determined, consultation with relevant stakeholders will occur as and when required.

A further report is to be presented to Council providing an update on costs incurred to date as well as future options for the site. It is envisaged this report will be presented within a three-month timeframe.

Budget / Financial Implications

The costs associated with the Pig and Calf Saleyards Heritage Listing appeal are yet to be finalised.

There is currently no budget allocation to undertake any work at the site and it is acknowledged that any work to be carried out on site will require a future budget allocation once realised.

Strategic Implications

Operational Plan

Theme: 5. Vibrant Towns and Villages

Key Area of Focus: Re-invigoration of town and village centres through significant vibrancy projects

Legal / Statutory Implications

Queensland Heritage Act 1992

Risks

Strategic Risks

The following Level 1 and Level 2 (strategic) risks are relevant to the matters considered in this report:

- SR46 Inadequate or lack of Governance (including procurement) Framework (systems, policies, procedures, delegations and controls) in place to ensure compliance by Council's Councillors and Officers with all relevant State and Federal legislation and regulations.
- SR51 Ineffective, inaccurate and/or inappropriate communication and relationship/stakeholder management impacting Council's ability to fulfil its strategic objectives.

Risk Assessment

Category	Consequence	Likelihood	Inherent Risk Rating	Treatment of risks	Residual Risk Rating
Reputation, Community & Civic Leadership Adverse risk to the community due to ineffective, inaccurate and/or inappropriate communication and relationship/ stakeholder management impacting Council's ability to fulfil its strategic objectives.	4 Major	Possible	High	Communication strategy, community consultation.	Medium

Consultation

Throughout the proceedings, Council has engaged with its legal representatives and other specialised persons; as well as representative from the Queensland Heritage Council, Crown Law and their experts.

In response to the application to include the Pig and Calf Saleyard on the Queensland Heritage Register, and the subsequent appeal, Council's Property Management team has liaised with various internal stakeholders, including the Capital Works and Asset Management, Regional Development, and Maintenance and Operations teams.

It is envisaged that further engagement with the community will be undertaken with regard to any review of the future options for the site.

Conclusion

Council has been successful in its appeal set before the Planning and Environment Court, for the decision of the Queensland Heritage Council to enter the Beaudesert Pig and Calf Saleyard on the Queensland Heritage Register as a State Heritage Place.

The cost of this appeal and options for this site are yet to be determined.

PLANNING AND ENVIRONMENT COURT OF QUEENSLAND

- CITATION: Scenic Rim Regional Council v Queensland Heritage Council [2022] QPEC 42
- PARTIES: SCENIC RIM REGIONAL COUNCIL (Appellant)

v

QUEENSLAND HERITAGE COUNCIL (Respondent)

FILE NO/S: 518 of 2021 DIVISION: Planning and Environment PROCEEDING: Appeal ORIGINATING Planning and Environment Court, Brisbane COURT: **DELIVERED ON:** 28 October 2022 **DELIVERED AT:** Brisbane **HEARING DATE:** 15 and 16 November 2021, 28 and 29 March 2022 and 2 June 2022 Kefford DCJ JUDGE:

ORDER: I order that the decision of the Queensland Heritage Council to enter the Beaudesert Pig and Calf Saleyard on the Queensland heritage register as a State heritage place is set aside and replaced with a decision not to enter the Beaudesert Pig and Calf Saleyard on the Queensland heritage register.

CATCHWORDS: PLANNING AND ENVIRONMENT - where the Scenic Rim Regional Council appeals the listing of the Beaudesert pig and calf saleyard on the Queensland heritage register where the appeal is made on the grounds of s 162 of the Queensland Heritage Act 1992 - where the basis of the entry to the Queensland Heritage Register was s 35(1)(a), (b), (d) and (g) of the Queensland Heritage Act 1992 - whether the Saleyard is important in demonstrating the evolution of Queensland's history and the evolution of the pig or dairy industry in Beaudesert - whether the Saleyard demonstrates rare, uncommon, or endangered aspects of Queensland's cultural heritage – whether the Salevard is important in demonstrating the principal characteristics of a particular class of cultural places - whether the Saleyard has a strong or special association with a particular community or cultural

	group for social, cultural, or spiritual reasons – whether the saleyard should be included in the Queensland heritage register
LEGISLATION:	<i>Planning and Environment Court Act 2016</i> (Qld), ss 43, 47, sch 1
	<i>Queensland Heritage Act 1992</i> (Qld) ss 35, 36, 38, 39, 40, 41, 42, 43, 44, 47, 48, 51, 53, 54, 161, 162, 164, sch
CASES:	Enco Precast Pty Ltd v Construction, Forestry, Maritime, Mining and Energy Union & Ors [2022] QCA 94, applied
	Corporation of the Sisters of Mercy of the Diocese of Townsville v Queensland Heritage Council (No. 2) [2017] QPEC 14; [2017] QPELR 391; (2017) 226 LGERA 1, approved
	<i>Vines v Djordjevitch</i> [1955] HCA 19; (1955) 91 CLR 512, cited
COUNSEL:	C L Hughes QC and L I Walker for the Appellant R S Litster QC and N Loos for the Respondent
SOLICITORS:	Holding Redlich for the Appellant Crown Law for the Respondent

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Introduction

- [1] The Beaudesert pig and calf saleyard ("*the Saleyard*") is located at Helen Street Beaudesert. Originally, it was part of the Beaudesert Railway Station complex.
- [2] The Saleyard is a single storey, timber-framed structure that was purpose-built as a facility for selling pigs and calves. The Saleyard structure is roughly square and measures approximately 22 by 24 metres. It has an open side, with fences and circular log posts on its perimeter.
- [3] Internally, the structure has a series of timber animal stalls or pens that are half height and constructed of timber. The pens are divided by three races or walkways running east-west. They are arranged in rows on either side of the walkways and were used to accommodate a range of livestock types.
- [4] A row of log posts, running east-west through the structure, separate the Saleyard's interior into northern and southern sections. The largest pens are in the northern section. They typically accommodated larger livestock such as calves. The southern section features medium and small sized pens that held smaller animals such as pigs, sheep, and poultry. The flooring is a mixture of concrete and earth. The animal pens and passages are covered with a corrugated metal sheeted skillion roof.¹
- [5] At the time the Saleyard structure was constructed, there were loading ramps on either side of the Helen Street frontage. These allowed trucks and wagons carrying livestock into, and out of, the yard. There is a pedestrian access gate in the eastern elevation.²
- [6] The Saleyard is believed to have been constructed in stages, with the calf sales section in use by January 1960. The entire structure was ready for use by May 1961.³
- [7] The structure has been modified since then. The hip roof on the eastern side of the structure was replaced with a skillion roof after a storm in 1981. The southern loading ramp was removed during the 1980s. A detached office has been added to the southern elevation. Fabric in the Saleyard structure appears to have been replaced as needed, including raised rails in the pens.⁴
- [8] The Saleyard was used as a facility for the sale of small livestock such as pigs, calves, and poultry until it closed in March 2021. When the Saleyard was functioning, the animals were held within the pens and could be viewed from the southern, eastern, and northern sides of the structure. The entrance to the saleyard was from the west.⁵
- [9] On 29 January 2021, the Queensland Heritage Council made a decision under s 53 of the *Queensland Heritage Act 1992* (Qld) to enter the Saleyard in the Queensland heritage register as a State heritage place. By letter dated 5 February 2021, Scenic

¹ Exhibit 6.02 p 5; Exhibit 3.01 pp 8-9.

² Exhibit 6.02 p 5; Exhibit 3.01 p 8.

³ Exhibit 3.01 pp 6-7.

⁴ Exhibit 6.02 p 5; Exhibit 3.01 p 8.

⁵ Exhibit 6.02 p 5; Exhibit 3.01 p 8.

Rim Regional Council was given an information notice about the decision under s 54 of the *Queensland Heritage Act 1992*. Scenic Rim Regional Council commenced this appeal on 5 March 2021.

What is the relevant legislative framework?

[10] As an appeal to the Planning and Environment Court is a creature of statute, it is necessary to look to the legislation to ascertain the relevant parameters that guide the conduct of the appeal and the decision of the Court.

Who can appeal?

- [11] Pursuant to s 161 of the *Queensland Heritage Act 1992*, the owner of a place who is given an information notice under s 54 of the *Queensland Heritage Act 1992* can appeal against the decision to the Planning and Environment Court.
- [12] Under the schedule to the *Queensland Heritage Act 1992*, "*place*" is defined as:
 - "1 *Place* means a defined or readily identifiable area of land, whether or not held under 2 or more titles or owners.
 - 2 Place includes-
 - (a) any feature on land mentioned in item 1; and
 - (b) any part of the immediate surrounds of a feature mentioned in paragraph (a) that may be required for its conservation."
- ^[13] The Saleyard is located at Helen Street, Beaudesert on Lot 32 on SP 113955. Only part of that lot was listed on the Queensland heritage register. The Queensland heritage register boundary follows the cadastre for its western, eastern, and part of its southern extent and is offset 10 metres from the Saleyard for its northern extent.⁶
- ^[14] Lot 32 on SP 113955 is owned by the Queensland government and leased to the Department of Transport and Main Roads. The Department sub-leases land containing the Saleyard to Scenic Rim Regional Council.⁷ It is common ground that Scenic Rim Regional Council is an owner of the Saleyard for the purpose of the *Queensland Heritage Act 1992* and has a right of appeal.⁸

What are the grounds of appeal?

- [15] Under s 162 of the *Queensland Heritage Act 1992*, an appeal may only be made on the ground that the place the subject of the appeal does or does not satisfy at least one of the cultural heritage criteria.
- [16] In this appeal, Scenic Rim Regional Council alleges that the Saleyard does not satisfy any of the cultural heritage criteria in s 35(1) of the *Queensland Heritage Act* 1992.

⁶ Exhibit 6.02 p 1.

⁷ Exhibit 5.04.

⁸ *Queensland Heritage Act 1992* sch definition of "*owner*".

Who bears the onus?

- [17] Scenic Rim Regional Council notes that s 45 of the *Planning and Environment Court Act 2016* (Qld) identifies which party bears the onus in numerous species of Planning Act appeal. The onus shifts depending on the nature of the appeal. In that respect, Scenic Rim Regional Council observes that:
 - (a) in an appeal relating to a development application, the applicant will carry the onus in all circumstances;
 - (b) for appeals against enforcement notices, the enforcement authority bears the onus; and
 - (c) for an appeal by an affected owner of a compensation claim, the local government bears the onus.
- [18] Scenic Rim Regional Council submits that the situation is unclear for an appeal commenced under the *Queensland Heritage Act 1992*. Nevertheless, it is prepared to accept that it bears the onus of proof ultimately, but both parties bear an evidentiary onus to advance material that supports allegations they raise.⁹
- ^[19] The Queensland Heritage Council submits that Scenic Rim Regional Council bears the onus of proof.¹⁰
- ^[20] The common law position with respect to the onus of proof in proceedings was recently considered by the Queensland Court of Appeal in *Enco Precast Pty Ltd v Construction, Forestry, Maritime, Mining and Energy Union & Ors.*¹¹ In that case, Sofronoff P, with whom Bond JA and Brown J agreed, observed:
 - "[18] In general, it is the rule that the party who asserts a conclusion must prove the facts that lead to that conclusion.¹² Courts and tribunals do not make orders affecting persons just for the asking; *something* must be shown to move the court or tribunal to exercise its jurisdiction to make an order to bind another person. Hence the old maxim "He who moves, proves"."
- [21] There is no legislative provision that displaces the position at common law. The *Queensland Heritage Act 1992* does not identify which party bears the onus in an appeal against the decision of the Queensland Heritage Council to enter a place on the Queensland heritage register. The *Planning and Environment Court Act 2016* is also silent on the issue of onus for this type of appeal.
- [22] In the circumstances, I am satisfied that Scenic Rim Regional Council bears the onus of establishing that the Saleyard does not satisfy any of the cultural heritage criteria in s 35(1) of the *Queensland Heritage Act 1992* or that the appeal should be

⁹ Australian Competition & Consumer Commission v Golden Sphere International Inc (1998) 83 FCR 424, 450.

¹⁰ Gladstone Ports Corporation Ltd v Queensland Heritage Council [2012] QPEC 9; (2012) 191 LGERA 6; [2012] QPELR 422; Wallaby Grip Ltd v QBE Insurance (Australia) Ltd [2010] HCA 9; (2010) 240 CLR 444, 459 [36]; Currie v Dempsey [1967] 2 NSWR 532, 539; White v Johnston (2015) 87 NSWLR 779, [88].

¹¹ [2022] QCA 94. See also *Vines v Djordjevitch* [1955] HCA 19; (1955) 91 CLR 512, 519-20.

¹² Ei qui affirmat non ei qui negat incumbit probatio. See Currie v Dempsey [1967] 2 NSWR 532; Joseph Constantine Steamship Line Ltd v Imperial Smelting Corporation Ltd [1942] AC 154 at 174.

allowed on a discretionary basis. Even if I am wrong about that, as will be apparent from my reasons below, it makes no difference in this case.

What is the nature of the appeal and the court's powers?

- [23] An appeal of this type is made to the Planning and Environment Court. Part 5, div 1 of the *Planning and Environment Court Act 2016* applies to this appeal as if it was a Planning Act appeal¹³ under that Act (with any changes the Court considers appropriate).¹⁴ As such, this is a hearing anew,¹⁵ and the Court may confirm, change, or set aside the decision of the Queensland Heritage Council.¹⁶
- [24] As the appeal is by way of hearing anew, the Court is not bound by the opinion of the Queensland heritage council as recorded in the entry in the Queensland heritage register. It is to determine the issues in the appeal on the evidence in the appeal.¹⁷
- [25] Scenic Rim Regional Council seeks to have the decision of the Queensland Heritage Council set aside and replaced with a decision that the Saleyard not be entered in the Queensland heritage register and that it be removed for the Queensland heritage register.

What decision-making criteria applied to the decision of the Queensland Heritage Council?

- [26] Under s 36(1) of the *Queensland Heritage Act 1992*, any person can make an application to the Chief Executive to have a place entered in the Queensland heritage register as a State heritage place.
- [27] The application must be accompanied by:
 - (a) a written statement, that is based on and refers to historical research, about how the place satisfies each of the cultural heritage criteria the applicant considers relevant for the place;
 - (b) information about the history of the place that is based on and refers to historical research;
 - (c) copies or details of material used for the historical research, including, for example, photographs, maps, plans and historical titles information;
 - (d) a description of the features of the place that contribute to its cultural heritage significance, supported by photographs, drawings or other documents showing the features; and
 - (e) a plan showing the relationship between the place's cadastral boundaries, features of the place that contribute to its cultural heritage significance and the boundary proposed for the place.¹⁸

¹³ A "Planning Act appeal" is defined in sch 1 of the Planning and Environment Court Act 2016 as "an appeal to the P&E Court for which the Planning Act is the enabling Act".

¹⁴ *Queensland Heritage Act 1992* s 164.

¹⁵ *Planning and Environment Court Act 2016* s 43.

¹⁶ *Planning and Environment Court Act 2016* s 47.

 ¹⁷ Corporation of the Sisters of Mercy of the Diocese of Townsville v Queensland Heritage Council (No. 2) [2017] QPEC 14; [2017] QPELR 391; (2017) 226 LGERA 1, 29-30 [153] and 33 [179].
 ¹⁸ Overheider Heritage Act 1002 a 26.

¹⁸ *Queensland Heritage Act 1992* s 36.

- ^[28] The owner of the place can make a written submission about the application.¹⁹ Details of the application are publicly notified and any person can make a written submission, known as a heritage submission, on the basis that the place the subject of the application does or does not satisfy the cultural heritage criteria.²⁰ In addition, the Chief Executive may ask a person or other entity the Chief Executive about the place the subject of the application.²¹
- [29] After considering the application, the heritage submissions, any written representations sought by the Chief Executive and the other information the Chief Executive considers relevant, the Chief Executive must give a written recommendation, known as a heritage recommendation, to the Queensland Heritage Council about whether the place the subject of the application should be entered in the Queensland heritage register. The heritage recommendation must be accompanied by a copy of the application, the heritage submissions, and the written representations about the place. If the Chief Executive considers the place satisfies one or more of the cultural heritage criteria, the Chief Executive must recommend that the place be entered in the Queensland heritage register. If the Chief Executive must recommend that the place does not satisfy any of the cultural heritage criteria, the Chief Executive must recommend that the place hered in the place not be entered in the Queensland heritage register.²²
- ^[30] The Queensland Heritage Council must consider and make a decision on each heritage recommendation.²³ Before making a decision, the Queensland Heritage Council may ask a person to make written representations about the place.²⁴
- [31] The criteria that are to inform the decision of the Queensland Heritage Council are contained in s 51 of the *Queensland Heritage Act 1992*, which relevantly states:
 - "(2) In making the decision, the council—
 - (a) must have regard to all of the following—
 - (i) the application to which the heritage recommendation relates;
 - (ii) the heritage submissions for the application;
 - (iii) the written representations made under section 43 or 48 about the place the subject of the application;
 - (iv) if the council allows a person or entity to make oral representations about the recommendation the representations;

¹⁹ *Queensland Heritage Act 1992* s 38.

 $[\]tilde{Q}$ *Queensland Heritage Act 1992 ss 38 to 42.*

²¹ \tilde{Q} ueensland Heritage Act 1992 s 43.

²² *Queensland Heritage Act 1992* s 44.

²³ Queensland Heritage Act 1992 s 47.

²⁴ *Queensland Heritage Act 1992* s 48.

- (v) if the owner of the place gives the council a heritage response for the recommendation—the heritage response; and
- (b) may have regard to other information the council considers relevant to the application.
- (3) Without limiting subsection (2)(b), the council may, in making the decision, have regard to whether the physical condition or structural integrity of the place may prevent its cultural heritage significance being preserved.
- (4) Also, without limiting subsection (2)(b), the council may, in making the decision, have regard to—
 - (a) whether the cultural heritage significance of the place is mainly because of its natural features; and
 - (b) whether the place or its natural features are protected or conserved under another law of the State or Commonwealth, and the extent of the protection or conservation under that law.

Examples of places for subsection (4)—

- 1 a national park under the *Nature Conservation Act 1992*
- 2 a place on the national heritage list under the *Environment* Protection and Biodiversity Conservation Act 1999 (Cwlth)"
- [32] The nature of the decision that the Queensland Heritage Council is empowered to make is set out in s 53 of the *Queensland Heritage Act 1992*, which relevantly states:

"53 Council's decision about entering place in, or removing place from, register

- (1) The council may decide to enter the place the subject of an application in the Queensland heritage register if the council considers it satisfies 1 or more of the cultural heritage criteria.
- (2) The council must decide to remove the place the subject of an application from the Queensland heritage register if the council considers it no longer satisfies any of the cultural heritage criteria.
- (3) In making a decision on a heritage recommendation for an application about the proposed entry of a place in the Queensland heritage register, the council may decide—
 - (a) to enter the place, as proposed in the heritage recommendation, in the register; or
 - (b) to enter the place, as varied from the heritage recommendation, in the register; or
 - (c) not to enter the place in the register."

- (4) In making a decision on a heritage recommendation for an application about the proposed removal of a place from the Queensland heritage register, the council may decide—
 - (a) to remove the place from the register; or
 - (b) to vary the entry of the place in the register; or
 - (c) to leave the place in the register."
- [33] As can be seen from the provision above, there is a broad discretion in determining whether to enter a place that satisfies one or more of the cultural heritage criteria on the Queensland heritage register. That broad discretionary power can be contrasted with the mandatory requirement to remove a place from the Queensland heritage register if the place no longer satisfies any of the relevant cultural heritage criteria.
- [34] Accordingly, even if the Court is satisfied that the Saleyard meets one or more of the relevant cultural heritage criteria, it is not obliged to enter it on the Queensland heritage register.

What was the basis for the entry in the Queensland heritage register?

- [35] As I have mentioned in paragraph [32] above, the Queensland Heritage Council was empowered to enter the Saleyard in the Queensland heritage register if the Queensland Heritage Council considered it satisfied one or more of the cultural heritage criteria.
- [36] Under the schedule to the *Queensland Heritage Act 1992*, "*cultural heritage criteria*" is defined as the criteria for entry in the Queensland heritage register stated in s 35(1), which states:

"35 Criteria for entry in register

- (1) A place may be entered in the Queensland heritage register as a State heritage place if it satisfies 1 or more of the following criteria—
 - (a) the place is important in demonstrating the evolution or pattern of Queensland's history;
 - (b) the place demonstrates rare, uncommon or endangered aspects of Queensland's cultural heritage;
 - (c) the place has potential to yield information that will contribute to an understanding of Queensland's history;

 $Example \ of \ a \ place \ for \ paragraph \ (c) - \\$

a place that has potential to contain an archaeological artefact that is an important source of information about Queensland's history

- (d) the place is important in demonstrating the principal characteristics of a particular class of cultural places;
- (e) the place is important because of its aesthetic significance;
- (f) the place is important in demonstrating a high degree of creative or technical achievement at a particular period;
- (g) the place has a strong or special association with a particular community or cultural group for social, cultural or spiritual reasons;
- (h) the place has a special association with the life or work of a particular person, group or organisation of importance in Queensland's history."
- [37] The decision to enter the Saleyard was made on the basis that it met the criteria set out in s 35(1)(a), (b), (d) and (g) of the *Queensland Heritage Act 1992*.²⁵

What are the issues to be determined?

- [38] Scenic Rim Regional Council alleges that the Saleyard does not satisfy any of the cultural heritage criteria in s 35(1) of the *Queensland Heritage Act 1992*. The Queensland Heritage Council concedes that the Saleyard does not satisfy the cultural heritage criteria in ss 35(1)(c), (e), (f) and (h) of the *Queensland Heritage Act 1992*.²⁶
- [39] As such, the parties agree that the issues that remain for determination are:
 - 1. Is the Saleyard important in demonstrating the evolution or pattern of Queensland's history?
 - 2. Does the Saleyard demonstrate rare, uncommon, or endangered aspects of Queensland's cultural heritage?
 - 3. Is the Saleyard important in demonstrating the principal characteristics of a particular class of cultural places?
 - 4. Does the Saleyard have a strong or special association with a particular community or cultural group for social, cultural, or spiritual reasons?
 - 5. Should the Saleyard be included in the Queensland heritage register in the exercise of the discretion?

²⁵ Exhibit 6.02 p 2.

⁵ Outline of Submissions of the Respondent p 3 [12]; Transcript of Proceedings, *Scenic Rim Regional Council v Queensland Heritage Council* (Planning and Environment Court of Queensland, 518/21, Kefford DCJ, 2 June 2022) 9-10.

- [40] The evidence relied on by the parties to assist me with determining these issues includes:
 - (a) the guideline titled "Assessing cultural heritage significance: Using the cultural heritage criteria"²⁷ ("the Guideline");
 - (b) the evidence of Mr Scott Richards, a heritage consultant and historian retained by Scenic Rim Regional Council;
 - (c) the evidence of Dr Thom Blake, a historian retained by the Queensland Heritage Council;
 - (d) the evidence of Mr Peter Marquis-Kyle, a conservation architect retained by the Queensland Heritage Council;
 - (e) the lay witness statements of Mr Cliff Kroesen, Ms Sue Harrison, Mr Brian Ward, and Mrs Maree Ward; and
 - (f) the submissions made during public notification of the application to enter the Saleyard on the Queensland heritage register.
- [41] Before considering each of the issues, it is helpful to understand the relevance of the Guideline to the assessment.

What is the relevance of the Guideline?

- [42] The Guideline was made under s 173(1)(a) of the *Queensland Heritage Act 1992* to provide guidance to persons about making an application to have a place entered in the Queensland heritage register.
- ^[43] The Guideline offers a model for professional assessment of historical cultural heritage significance in Queensland.²⁸ It provides a methodology for identifying and assessing places eligible for entry in the Queensland heritage register.²⁹ That said, the parties agree that the Court is not bound to consider the Guideline, nor can the Guideline modify the plain words of the *Queensland Heritage Act 1992*.

Section 35(1)(a) – Is the Saleyard important in demonstrating the evolution or pattern of Queensland's history?

- [44] The Queensland Heritage Council alleges that the Saleyard is important in demonstrating the evolution or pattern of Queensland's history and, as such, satisfies criterion (a). In support of its allegation, the Queensland Heritage Council relies on the Guideline and the evidence of Dr Blake and Mr Marquis-Kyle.
- [45] Scenic Rim Regional Council disputes the allegation. It relies on the evidence of Mr Richards, which it says demonstrates that the Saleyard does not possess the requisite level of importance in demonstrating the evolution or pattern of Queensland's history to satisfy criterion (a).

²⁷ Exhibit 5.01.

²⁸ Exhibit 5.01 p 3.

²⁹ Exhibit 5.01 p 4.

What does the Guideline indicate with respect to criterion (a)?

- [46] The Guideline states that "*Important should be interpreted in the broadest sense of the word*".³⁰ The Guideline recognises that importance is a relative concept that is informed by a variety of factors including history, locality, and community perception.³¹
- ^[47] The Guideline recognises that it is necessary to consider to what extent a place demonstrates historical significance. It recognises that a place may not fully demonstrate the evolution or pattern of Queensland's history in the fabric. It specifically acknowledges that a place may be significant because it combines with other sources of historical information to demonstrate an aspect of the past that has made a strong, noticeable, or influential contribution to Queensland's history.³²
- [48] According to the Guideline, a place may be significant if it:
 - (a) is the product, result or outcome of an event, phase, movement, process, activity, or a way of life that has made a strong, noticeable, or influential contribution to the evolution or pattern of development of our society or of our environment; or
 - (b) is an example of a process or activity that has made a strong, noticeable, or influential contribution to the evolution or pattern of development of our society or of our environment; or
 - (c) was influenced by an event, phase, movement, process, activity, or way of life that has made a strong, noticeable, or influential contribution to the evolution or pattern of development of our society or of our environment; or
 - (d) has influenced an event, phase, movement, process, activity, or way of life that has made a strong, noticeable, or influential contribution to the evolution or pattern of development of our society or of our environment; or
 - (e) is the site of, or is associated with, an event, phase, movement, process, activity, or way of life that has made a strong, noticeable, or influential contribution to the evolution or pattern of development of our society or of our environment; or
 - (f) has a symbolic association with an event, phase, movement, process, activity, or way of life that has made a strong, noticeable, or influential contribution to the evolution or pattern of development of our society or of our environment.³³
- ^[49] The Guideline states that the notion of thresholds, or levels and degrees of significance, is implied in the discussion of significance. It says that the level of significance of the importance of a place in demonstrating the evolution or pattern of Queensland's history may be identified through the application of one or more threshold indicators, including earliness, representativeness, regional importance, distinctiveness or exceptionality, rarity, or some other quality of the place.³⁴

³⁰ Exhibit 5.01 p 25.

³¹ Exhibit 5.01 p 13.

 $^{^{32}}$ Exhibit 5.01 p 25.

³³ Exhibit 5.01 pp 26-7.

³⁴ Exhibit 5.01 p 27.

- ^[50] With respect to the "*regional importance*" threshold indicator, the Guideline explains that places with regional historical significance can be important to our understanding of the development of a state as vast and as diverse in topography, climate, vegetation, land use, population, and social custom as is Queensland.³⁵
- [51] With respect to the "*rarity*" threshold indicator, the Guideline explains that phrases such as "*the last surviving*", "*the only remaining*", "*important surviving evidence*", and "*rare early evidence of*" are often employed in statements of historical significance when a place is significant because little else survives to illustrate a particular aspect of Queensland's history.³⁶

What does the entry in the Queensland heritage register record with respect to criterion (a)?

^[52] Although I am not bound by the entry in the Queensland heritage register, in the Joint Expert Report, when considering whether the Saleyard satisfies criterion (a), the experts' analysis starts with the statement of significance in the Queensland heritage register.³⁷ The statement of significance states:

"The Beaudesert Pig & Calf Saleyard, purpose-built 1960-1 for local auctioneer Gerry Stewart, is important in demonstrating the development of agriculture in the Scenic Rim. As the only surviving saleyard remaining from a large complex of saleyards at the Beaudesert railway station, it is important surviving evidence of the region's dairy and pig producing industries, one of the most prominent in Queensland in the 20th century."³⁸

- ^[53] There is no dispute between the parties that the Saleyard was purpose-built in the early 1960s for local auctioneer Gerry Stewart, nor that the Saleyard is the only surviving saleyard remaining from a large complex of saleyards at the Beaudesert railway station. However, there is disagreement about the Saleyard's importance in demonstrating the evolution or pattern of Queensland's history.
- [54] As I have noted in paragraph [47] above, the Guideline says that a place may not fully demonstrate the evolution or pattern of Queensland's history in its fabric. A place may be significant because it combines with other sources of historical information to demonstrate an aspect of the past that has made a strong, noticeable, or influential contribution to Queensland's history. As such, before turning to the experts' opinions about the significance of the Saleyard, it is necessary to understand what the historical information demonstrates about the role of the Saleyard in rural production in Queensland and in the Beaudesert region.

What is the relevant historical context in which the Saleyard was constructed?

[55] A distinctive characteristic of Queensland's development, compared with other states in the first half of the twentieth century, was that Queensland was the least metropolitan of the mainland States. It had the largest percentage of its workforce

³⁵ Exhibit 5.01 p 28.

 $^{^{36}}$ Exhibit 5.01 p 29.

³⁷ Exhibit 3.01 p 10.

³⁸ Exhibit 6.02 p 2.

in rural occupations. Queensland also had a smaller manufacturing sector than other states, and the Queensland economy was more reliant on primary industries.³⁹

What was the importance of the dairy industry in Queensland in the first half of the twentieth century?

- In the first half of the twentieth century, the dairy industry was a major contributor [56] to the concentration of the population in rural areas. It played a significant role in Queensland's economy.40
- Dairying emerged as a substantial rural enterprise during the 1890s. It grew steadily [57] until 1940. The industry was concentrated in the south-east corner of Queensland, but farms and factories were established in most regional centres along the coast, including Maryborough, Bundaberg, Gladstone, Rockhampton, Mackay, Ayr, and Cairns. The total Queensland herd rose from 80,000 dairy cattle in 1898 to 1,080,000 in 1940. A total of 31,270 dairy farms were in operation in 1940, supplying milk to 102 factories. By the late 1930s, dairying was the largest rural industry in Queensland, and butter was the most valuable export after wool.⁴¹
- It is estimated that 90,000 or one-tenth of the State's population depended directly [58] on dairying for their livelihood. Dairying was the catalyst for the growth of numerous settlements into thriving small towns, including Boonah, Biggenden, Murgon, Nanango, Pomona, Cooroy, Eumundi, Mount Tyson, Clifton, and Maleny. The dairy industry also revitalised townships such as the gold-mining town of Gympie after gold declined.⁴²

What was the contribution of the dairy industry to the Beaudesert region in the first *half of the twentieth century?*

- [59] The Logan and Albert Co-operative Dairy Company was established in 1904. A butter factory was built in Beaudesert in the same year. By 1906, 279 dairy farms were operating in the Beaudesert region and the Brisbane Courier reported that "no industry has made such rapid strides as that of dairying, combined with its attended, pig-raising". In the first year of production, the butter factory produced 241 tons of butter.43
- By the 1920s, dairying was the premier industry in the Beaudesert district. The [60] Brisbane Courier noted in March 1922, that "a great deal of the present day prosperity of the district is due to the wonderful strides made in the dairying industry".
- [61] Throughout the 1920s and 1930s, the annual output of the Logan and Albert Butter factory steadily increased. In 1925, twenty years after opening, the output had almost quadrupled to 992 tons.⁴⁴ The peak year for the butter factory was 1939 when 2,053 tons was produced from cream supplied by 599 farms. The factory

³⁹ Exhibit 3.05 p 3. 40

Exhibit 3.05 p 3. 41

Exhibit 3.05 p 2. 42

Exhibit 3.05 pp 2-3.

⁴³ Exhibit 3.05 p 3. 44

Exhibit 3.05 p 3.

distributed £260,000 to producers – an amount equivalent to \$23 million in today's value.

^[62] The dominance of dairying in the district was also reflected in the number of dairy stock handled by the Railways Department at Beaudesert in 1940. The Annual Report of the Commissioner of Railways noted that number of livestock railed from Beaudesert included 223 horses, 2,378 cattle, 25,923 calves, 382 sheep and 35,230 pigs.⁴⁵

What was the contribution of the pig industry to Queensland in the first half of the twentieth century?

- [63] Auction sales of pigs took place in Queensland towns from the mid-1890s. Beaudesert was one of these towns where pig sales occurred. Generally, sales were conducted at railway livestock trucking yards, or at purpose-built saleyards located at or near railway stations. Most Queensland railway towns with a pastoral industry featured one or both of livestock trucking yards and saleyards.⁴⁶
- ^[64] Auctioneers started selling pigs in Toowoomba and Esk in the late 1890s, and others started selling pigs in towns throughout the Moreton, Maryborough, and Darling Downs districts. The Darling Downs towns of Toowoomba and Warwick were important towns in the early days of the pig industry.⁴⁷
- [65] From 1897 to 1900, pig sales were reported at Toowoomba, Munbilla, Laidley, Helidon, Gatton, Rosewood, Esk, Boonah, Caboolture, Fernvale, Greenmount, and Oakey in southeast Queensland and in the Darling Downs district. Another 65 Queensland towns reported holding pig sales between 1900 and 1949.
- [66] Between the 1890s and 1950s, more than 100 Queensland towns reported holding regular pig sales on a weekly, fortnightly, or monthly basis, sometimes in conjunction with calf sales.⁴⁸
- ^[67] In 1939, the towns of Harristown, Oakey, Pittsworth, Warwick, Clifton, Allora, Crow's Nest, Gympie, Rockhampton, and Beaudesert had saleyards processing tens of thousands of pigs and calves per annum. This was in addition to the Cannon Hill saleyards in Brisbane, which was established in the early 1930s.⁴⁹
- ^[68] Purpose-built pig and calf saleyards were constructed in at least 40 towns, with some (such as Warwick and Toowoomba) featuring multiple saleyards.⁵⁰ In major pig production areas such as the Darling Downs, large saleyards were constructed in towns to facilitate the sale of pigs.⁵¹

⁴⁵ Exhibit 3.05 p 4.

⁴⁶ Exhibit 3.01 p 5.

⁴⁷ Exhibit 3.01 p 5.

⁴⁸ Exhibit 3.01 p 5.

 ⁴⁹ Exhibit 3.01 p 5.
 ⁵⁰ Exhibit 3.01 p 5

⁵⁰ Exhibit 3.01 p 5.

⁵¹ Exhibit 3.01 p 5.

What was the contribution of the pig industry to the Beaudesert region in the first half of the twentieth century?

- ^[69] The trade of pigs was an important component of the economy of the town of Beaudesert in the early twentieth century.⁵² In 1897, Beaudesert boasted a return of more than 6,000 pigs in the town. At that time, they were the highest numbers in the colony. Toowoomba and Warwick accommodated more than 5,000 and 4,000 pigs respectively. In response, pig saleyards were constructed in Warwick in 1903, in Toowoomba in 1904 and in Beaudesert in 1905.⁵³
- [70] In May 1905, a local auctioneer, Montague Selwyn Smith, held his monthly pig sales at the railway yards in Beaudesert. Over 200 pigs were yarded, and several buyers were present.⁵⁴
- [71] In 1906, Smith leased an area of land at the Beaudesert railway station from the Queensland Railway Department and constructed a saleyard for the sale of pigs. This was described in a Brisbane newspaper article in the following manner:

"Over 3,500 fat pigs have been sold in the locality during the past twelve months. A local auctioneer just leased a piece of ground from the Railway Department near the station and has erected splendid yards for the purpose of holding sales similar to those in Toowoomba. It is thought this system will eventually supersede the present plan of selling at the sty."⁵⁵

- [72] These first saleyards were situated approximately 100 to 200 metres to the north of the subject Saleyard. They no longer survive.⁵⁶
- [73] Smith also established pig saleyards at Rathdowney, Hillview, Oxenford, Nerang and Booningba (West Burleigh) in the 1910s and 1920s.⁵⁷
- [74] In 1920, following a poor season, Smith began calf sales along with the pig sales but at a different site at the Beaudesert Showgrounds.⁵⁸
- [75] By the early 1920s, Smith sold more than 10,000 pigs and about 4,500 calves through the saleyards at the Beaudesert railway station each year.⁵⁹
- [76] In July 1934, the Beaudesert Times noted that Smith & Son:

"probably handle more pigs and calves than any other country agent in Queensland, and it is generally considered that they have worked it up to such a state of efficiency that it is considered equal to any in Queesland."⁶⁰

⁵² Exhibit 3.01 p 10.

⁵³ Exhibit 3.01 p 11.

⁵⁴ Exhibit 3.01 p 5.

⁵⁵ Exhibit 3.01 p 5.

⁵⁶ Exhibit 3.01 p 6.

⁵⁷ Exhibit 3.01 p 6. ⁵⁸ Exhibit 3.01 p 6

⁵⁸ Exhibit 3.01 p 6.

⁵⁹ Exhibit 3.01 p 6.

⁶⁰ Exhibit 3.05 p 6.

- [77] Around that time, the pig and calf sales each Monday became a regular event in Beaudesert. Farmers brought their livestock to the saleyard at the station on carts, wagons, and small trucks. After sale, the livestock was loaded onto trains and transported to meatworks and bacon factories in Brisbane, or to places further afield.⁶¹
- ^[78] In 1940, an average of 500 pigs and 500 calves were sold each week. The annual total sales in 1940 was 26,000 calves and 35,000 pigs. In 1949, the total sales were 25,000 calves and 22,000 pigs.⁶²

What was the relationship between the dairy industry and the pig industry in the first half of the twentieth century?

- ^[79] As I have mentioned above, by the late 1930s, butter was the most valuable export after wool.⁶³ Butter was produced from cream that was skimmed off whole milk.⁶⁴ By the early twentieth century, most dairy farmers were using mechanical cream separators. Separating the cream from the whole milk resulted in skim milk.⁶⁵ Skim milk was a valueless by-product of dairying.⁶⁶
- ^[80] To continue to produce milk, every cow had to calve annually. Only a small number of claves were needed to replace older cows and most dairy farmers could not afford to rear excess calves as the milk was required for sale.⁶⁷
- [81] As such, in the early part of the twentieth century, working a dairy farm was not confined to milking cows twice a day and separating the cream. The dairy farmer had to manage the excess number of calves each year, which they did by selling them. They also had to manage the daily use of the skim milk, which they did by feeding it to pigs.⁶⁸
- [82] Rearing pigs was not labour intensive, nor did it require significant capital. Pigs only needed a fenced area with a shelter. Selling pigs became an important source of income for dairy farmers.⁶⁹ The pig industry never reached the value of the dairy industry in Queensland but provided a supplementary income for dairy farmers and the wider industry.⁷⁰ By the early twentieth century, pig and calf sales had become an integral part of the dairying industry in Queensland. Initially farmers would bring their calves and pigs to a railway siding, where sales were transacted, and the livestock was loaded onto railway wagons.⁷¹
- [83] In larger centres, purpose-built pig and calf saleyards were gradually erected to cope with the increasing number of pigs and calves offered for sale. These saleyards were different from cattle or horse saleyards. Pigs and calves required small pens as farmers sold only small quantities of stock. By contrast, a beef producer could sell

⁶¹ Exhibit 3.05 p 6.

⁶² Exhibit 3.05 p 6.

⁶³ Exhibit 3.05 p 2.

⁶⁴ Exhibit 6.02 p 3.

⁶⁵ Exhibit 3.05 p 5.

⁶⁶ Exhibit 3.05 p 5.

⁶⁷ Exhibit 3.05 p 5.

⁶⁸ Exhibit 3.05 p 5.

⁶⁹ Exhibit 3.05 p 5. ⁷⁰ Exhibit 3.01 p 5

⁷⁰ Exhibit 3.01 p 5.

⁷¹ Exhibit 3.05 p 6.

stock in lots of 20 or more. The size of pigs and calves also dictated pens of a lower height compared with cattle pens. Another distinctive feature of pig and calf saleyards was the presence of a roof. When young calves were brought for sale, they required as much protection from the sun as possible.⁷²

What happened to the dairying industry after World War II?

- ^[84] Following World War II, the dairy industry in Beaudesert experienced three main changes. First, dairy farmers installed milking machines instead of milking by hand. Because of the capital outlay for a machine, it was more efficient if you had a larger herd, and milking machines made it possible to increase the size of the herd. Amalgamation of farms became common practice as those seeking to leave the industry often sold to a neighbour seeking to increase their herd. This did not, however, result in a diminution of output.⁷³
- ^[85] The second major change was the introduction of new and improved breeds and pasture improvements. The output from each cow improved significantly by the 1960s compared with earlier decades.⁷⁴
- ^[86] The third major change was the change to selling whole milk, rather than cream. In the 1940s, dairy farmers began sending milk in cans to the Beaudesert butter factory. The milk was then sent to Brisbane for domestic consumption. Beaudesert dairies were well positioned to supply the Brisbane market because of their proximity to it and the ability to deliver the milk quickly, unlike many other more distant dairying districts. The whole milk operation developed rapidly. It rose from 1.9 million litres in 1945 to 6.1 million litres in 1954, 8.2 million litres in 1965, and to 24.4 million litres in 1975.⁷⁵ Nevertheless, in the 1950s and 1960s, butter was still produced at the Beaudesert butter factory. There was 1,165 tons produced in 1954 and 1,353 tons produced in 1965.⁷⁶
- [87] In 1973, the United Kingdom entered the European Economic Community. This negatively impacted the dairy industry as it removed the principal overseas market for Queensland butter. Numerous butter factories in Queensland closed soon after 1973. The Beaudesert butter factory continued producing butter until 1982. It was one of the last to manufacture butter in Queensland.⁷⁷
- [88] As the demand for cream declined, the Logan and Albert Factory began developing alternative outlets for locally produced milk. In the late 1970s, the factory installed equipment to package and distribute "*Beaudesert Milk*". This enabled the factory to continue receiving and processing local milk until 1995. Dairying continued in the district with a small number of large dairy farms with herds of 250 to 300 cows.

What happened to the pig industry after World War II?

[89] After World War II, Beaudesert's position as Queensland's premier pig producing and selling region began to decline. The Beaudesert Tramway line closed in 1944,

⁷² Exhibit 3.05 p 6.

⁷³ Exhibit 3.05 p 4.

⁷⁴ Exhibit 3.05 p 4.

⁷⁵ Exhibit 3.05 p 4.

⁷⁶ Exhibit 3.05 p 5.

⁷⁷ Exhibit 3.05 p 5.

cutting the railway link between Beaudesert and the surrounding region. Beaudesert's pig numbers were affected.

- ^[90] In 1946, the town slipped to second place behind Kingaroy in terms of pigs sold and overall production in the industry. By 1949, it was fourth behind Kingaroy, Oakey, and Murgon. The calf numbers fared slightly better, but also began to decrease by the mid-1950s.
- ^[91] Dwindling pig numbers were also due to the introduction of the "*whole milk*" or "*bulk milk*" system adopted by Beaudesert region dairy farmers shortly after the war. The sale of unseparated milk meant there was no skim milk for pigs and calves, and pig farming in dairy regions subsequently fell away.⁷⁸ The impact of the bulk milk system was particularly noticeable in Beaudesert and the Moreton district, where both the pig population and the number of holdings which farmed pigs fell from the 1950s.⁷⁹ Dairy farmers around Beaudesert began to shift to cattle production.
- ^[92] In 1952, the New South Wales company Tancred Brothers opened a large meatworks at Bromelton, five miles west of Beaudesert. The company processed and transported frozen meat to Sydney and Britain. The meatworks included a poultry and bacon factory. Initially, much of its stock was drawn from the local area. This provided a market for Beaudesert's pig and calf industry through the 1950s.⁸⁰
- ^[93] Tancred Brothers leased trucking yards at the Beaudesert Railway Station complex, where cattle, sheep and other livestock were received and walked to Bromelton. In 1953, auctioneer Frank Ahearn opened a new pig and calf saleyard at the complex, operating it in conjunction with New Zealand Loan and Mercantile Agency.⁸¹
- ^[94] The subject Saleyard was not planned until 1959, when auctioneer Gerald Stewart purchased Ahearn's stock and station agency and announced plans to construct new calf yards at that time. In September 1959, Stewart leased an area of land at the Beaudesert Railway Station yards fronting Helen Street. The lease allowed Stewart to use the site for the construction of saleyards and to receive, weigh and truck pigs and calves by rail.⁸²
- ^[95] A second wave of Queensland's pig industry developed from the 1950s. It was associated with grain grown in western and central Queensland districts, particularly in the Darling Downs and Wide Bay regions, where pigs were fed on grain, maize, or sorghum.⁸³ This phase of development and expansion in the pig industry bypassed Beaudesert as it depended on crops that could not be grown profitably in the Beaudesert region.⁸⁴
- [96] In 1961, Beaudesert's rail services were reduced to a tri-weekly goods service. By the 1970s, most of the pig yards run by the bacon factories at Beaudesert were

⁷⁸ Exhibit 3.01 p 6.

⁷⁹ Exhibit 3.01 p 6.

⁸⁰ Exhibit 3.01 p 6.

⁸¹ Exhibit 3.01 p 6.

 ⁸² Exhibit 3.01 pp 6-7.
 ⁸³ Exhibit 3.01 p 6

⁸³ Exhibit 3.01 p 6.

⁸⁴ Exhibit 3.01 p 7.

abandoned and replaced with more trucking yards for Tancred Brothers. Sales at Selwyn Smith's pig and calf saleyard ceased in the late 1970s, and the structures were demolished in 1981. With the removal of the other saleyards, Stewart's saleyard (the subject Saleyard) was the only remaining saleyard in the town that was purpose-built for the sale of small livestock.⁸⁵

What happened to saleyards after World War II?

- ^[97] The saleyard system of selling declined in the second half of the twentieth century, as pig farms consolidated into large scale commercial enterprises that sold directly to meatworks and factories. Small pig and calf saleyards at railway towns became less economically viable, and many were demolished or removed. In dairying centres where sales continued, such as Gatton and Gympie, saleyards were removed from their original locations adjacent to railway stations and rebuilt outside town boundaries, in response to complaints about the noise, smell and potential for disease.⁸⁶
- ^[98] Some were built to a large scale, such as the Kingaroy Shire Council's pig and calf saleyards, constructed in 1954 at a cost of £12,500. In the grain-growing districts, large, centralised saleyards were constructed along trucking routes by local authorities and joint enterprises. Some, such as those erected at Biloela around 1968, included metal pens that reduced bruising and injury caused by hard-edged timber. As the saleyard system continued to decline, most of these saleyards were abandoned, demolished (as in Kingaroy) or absorbed into cattle saleyards and redeveloped.⁸⁷
- ^[99] In 1995, the Bromelton meatworks closed. In 1996, the Beaudesert Railway Station was closed, and the unused cattle and pig trucking facilities and saleyards at the station complex were gradually removed in the early twenty-first century. The Queensland Railways pig yard was removed between 2004 and 2007. The former Stewart saleyard remained onsite, as sales continued. The sales were taken over by agents Hayes and Co in 2003, and operated fortnightly, when producers offered calves, poultry and occasionally sheep and lambs for sale.⁸⁸
- ^[100] Of the known pig and calf saleyards constructed in Queensland in the twentieth century, nine survive (including those at Beaudesert). They include functioning saleyards at Warwick Railway Station, Harristown in Toowoomba, Eumundi, Woolooga, and Woodford. There are also saleyards that no longer function at Gatton, Gympie, and Biggenden.⁸⁹

Conclusion regarding the historical context

[101] There was no dispute between the experts about the historical context set out in paragraphs [55] to [100] above and I accept it. It is consistent with the history

⁸⁵ Exhibit 3.01 p 7.

⁸⁶ Exhibit 3.01 p 7.

⁸⁷ Exhibit 3.01 p 7.

⁸⁸ Exhibit 3.01 p 8.

⁸⁹ Exhibit 3.01 p 8.

recorded in the entry in the Queensland heritage register⁹⁰ and is supported by historical references appended to Mr Richards' report.⁹¹

Is the Saleyard important in demonstrating the evolution of the pig or dairy industry in Beaudesert?

- ^[102] Dr Blake, a historian retained by the Queensland Heritage Council, says that the Beaudesert district was prominent in the Queensland dairying industry, and that dairying was a major industry in the Beaudesert district from the early 1900s to the 1970s. He does not dispute that the pig trade was not as important as the sheep, cattle, and dairy industries in the Beaudesert region. Although in the Joint Expert Report, Dr Blake expressed the opinion that it was a major industry only until the 1960s, he revised this opinion in his individual report.⁹²
- ^[103] In his individual report, Dr Blake opines that the dairy industry was still thriving in the Beaudesert district in the 1960s.⁹³ In support of that opinion, Dr Blake says that the Beaudesert Times unfailingly reported on the local pig and calf sales in each weekly edition. He says that in 1965, sales were held each week by two agents, Elders and Stewart and Fitzsimmons. A total of 54,576 calves and pigs were sold during 1965. Dr Blake says this is higher than sales in 1940 and 1949, which he says demonstrates that the dairy industry was still thriving in the Beaudesert district in the 1960s. He also says that the fact that Mr Stewart was prepared to build the Saleyard in 1960 and 1961 is indicative that Mr Stewart did not see a decline in the local dairying industry.⁹⁴
- ^[104] Dr Blake considers the saleyard was an integral part of the dairying infrastructure in the Beaudesert district, which included the Logan and Albert butter factory, individual dairy farms and the rail network.⁹⁵
- ^[105] For those reasons, Dr Blake opines that the Saleyard meets the threshold for criterion (a). He says it is evidence of the Beaudesert dairying industry.⁹⁶
- ^[106] Like Dr Blake, Mr Marquis-Kyle, a conservation architect retained by the Queensland Heritage Council, opines that the Saleyard is of regional importance because it demonstrates the historical importance of dairying in the Beaudesert region. He says that dairying was a major industry in the district from the early 1900s to the 1970s but does not explain the basis of that opinion. He says the Saleyard was an integral part of the dairying infrastructure in the Beaudesert district that included the Logan and Albert Butter factory, individual dairy farms and the rail network.⁹⁷

⁹⁰ Exhibit 6.02.

⁹¹ Exhibit 3.02.

⁹² Exhibit 3.01 p 12; Exhibit 3.05 pp 5 and 8; Transcript of Proceedings, *Scenic Rim Regional Council v Queensland Heritage Council* (Planning and Environment Court of Queensland, 518/21, Kefford DCJ, 28 March 2022) 40.

⁹³ Exhibit 3.05 p 6.

 ⁹⁴ Exhibit 3.05 p 6.
 ⁹⁵ Exhibit 3.01 p 12

 ⁹⁵ Exhibit 3.01 p 12.
 ⁹⁶ Exhibit 3.01 pp 12

 ⁹⁶ Exhibit 3.01 pp 12-3.
 ⁹⁷ Exhibit 3.01 p 12

⁹⁷ Exhibit 3.01 p 12.

- ^[107] Mr Marquis-Kyle says that the fabric of the Saleyard is intact and unchanged since the last sale and displays. He says it provides tangible evidence of the role that the Saleyard played in the dairy industry. He opines that there is a link between the fabric of the Saleyard and the pattern of use of the Saleyard, which involved bringing in pigs and calves from the farms to the Saleyard, showing the pigs and calves to potential buyers, conducting the auction, transferring payment and ownership, and taking the animals away.⁹⁸
- ^[108] Mr Richards, a heritage consultant and historian retained by Scenic Rim Regional Council, acknowledges that the Saleyard is an element of infrastructure that was constructed for a primary industry that contributed to the Queensland economy. He says that although the pig industry was not as important as the sheep, beef, and dairy industries, it still contributed to the Beaudesert region's economy over the years.⁹⁹ He acknowledges that in the Beaudesert region, the pig industry was linked to the dairy industry.¹⁰⁰ He accepts that dairying was an important industry in the Beaudesert district from the beginning of the twentieth century and that it continued with that role in the early part of the twentieth century. During cross-examination, Mr Richards accepted that, in terms of milk volumes, the dairying industry was thriving in Beaudesert through to 1975, but the number of holdings and the number of cows were decreasing around that time.¹⁰¹
- [109] During cross-examination, Mr Richards accepted that, at the time when the dairying industry was focussed on the production of cream and had skim milk as a by-product:
 - (a) calves and pigs were a by-product of the dairy industry;
 - (b) there was an extensive number of dairy farmers that were dependent on the Saleyard as an avenue for selling their calves and pigs;
 - (c) the sale of calves and pigs supplemented the income of the dairy farmers;
 - (d) the sales were, at times, an important supplement to the income of those farmers; and
 - (e) it was not an optional undertaking; it was really a necessity, because the farmers needed to keep the cows falling pregnant each year and they needed to get rid of the calves if they were not going to keep them and make them part of their herd.¹⁰²
- [110] Mr Richards acknowledges that raising pigs was an ancillary function of the dairy industry in the early twentieth century. He says that many dairy farmers reared pigs

⁹⁸ Exhibit 3.04 pp 4-5.

⁹⁹ Exhibit 3.01 p 12.

¹⁰⁰ Transcript of Proceedings, *Scenic Rim Regional Council v Queensland Heritage Council* (Planning and Environment Court of Queensland, 518/21, Kefford DCJ, 28 March 2022) 17.

¹⁰¹ Transcript of Proceedings, *Scenic Rim Regional Council v Queensland Heritage Council* (Planning and Environment Court of Queensland, 518/21, Kefford DCJ, 28 March 2022) 13.

¹⁰² Transcript of Proceedings, *Scenic Rim Regional Council v Queensland Heritage Council* (Planning and Environment Court of Queensland, 518/21, Kefford DCJ, 28 March 2022) 14-5.

as a sideline operation as they could be fed on the skim milk by-product.¹⁰³ However, Mr Richards says that situation changed around World War II.¹⁰⁴

- [111] Mr Richards says that the expansion of the pig industry in Queensland in the 1950s was associated with grain grown in western and central Queensland districts and not the dairy industry in places like Beaudesert. The 1950s dairy expansion was not experienced in Beaudesert. He says that, at that time, dairy farmers in Beaudesert shifted to cattle production.¹⁰⁵
- ^[112] Viewed in that context, Mr Richards opines that the historical evidence that the Saleyard provides of the pig industry is not of cultural significance to Queensland. He opines that the Saleyard is not of sufficient importance to be entered in the Queensland heritage register as a State heritage place.¹⁰⁶ Mr Richards' opinion in this regard is premised on five matters.
- ^[113] First, Mr Richards opines that the Saleyard is not important in demonstrating Queensland's history with respect to pig production. The overall pig trade was larger and more important in other towns and regions in Queensland, such as on the Darling Downs and in central Queensland.¹⁰⁷
- [114] Second, to the extent that the pig industry contributed to the Beaudesert's region's economy, its main contribution was at the end of the nineteenth century and the early twentieth century. That was the peak period for pig trade in Beaudesert. Beaudesert's position as one of Queensland's main pig producing and selling regions began to decline in the 1940s and 1950s.
- ^[115] Mr Richards notes that the subject Saleyard was not planned until 1959. In September 1959, Stewart leased an area of land at the Beaudesert railway station yards fronting Helen Street. The lease allowed Stewart to use the site for construction of saleyards and to receive, weigh and truck pigs and calves by rail. In January 1960, Stewart announced that calves would be sold from the new calf yards from that month. In April 1961, he announced that his regular pig and calf sales would take place in the new sale yards from May of that year.¹⁰⁸ By reference to these facts, Mr Richards describes the Saleyard as relatively recent in heritage terms.
- [116] Mr Richards accepts that when considering cultural heritage significance, it is not critical for a structure to be old for it to be significant.¹⁰⁹ His opinion that the Saleyard is not of relevant significance is not premised on the age in years of the structure. Rather, he regards it as critical that the Saleyard was constructed well after the peak period of pig production. Mr Richards considers that as the Saleyard was constructed in the 1960s, it does not demonstrate the importance of the dairy industry in Beaudesert as this industry was declining at the time this Saleyard was

¹⁰³ Exhibit 3.01 p 13.

¹⁰⁴ Transcript of Proceedings, Scenic Rim Regional Council v Queensland Heritage Council (Planning and Environment Court of Queensland, 518/21, Kefford DCJ, 28 March 2022) 14-5.

¹⁰⁵ Exhibit 3.01 p 13.

¹⁰⁶ Exhibit 3.01 p 12.

¹⁰⁷ Exhibit 3.01 p 11.

¹⁰⁸ Exhibit 3.01 pp 6-7.

¹⁰⁹ Transcript of Proceedings, Scenic Rim Regional Council v Queensland Heritage Council (Planning and Environment Court of Queensland, 518/21, Kefford DCJ, 28 March 2022) 16.

constructed. He says that the subject Saleyard cannot demonstrate the importance of the dairy industry in Beaudesert in the early twentieth century as it was built in the 1960s.¹¹⁰ In those circumstances, Mr Richards opines that the Saleyard does not provide important evidence of the early history of industry in Beaudesert, nor is it of regional importance.¹¹¹

- [117] Third, in 1961, when the Saleyard opened, there was no access provided from the Saleyard structure to the railway line to the east. The Saleyard addressed Helen Street and road transport to the west, rather than the railway line and rail transport to the east. This reflected the fact that, at that time, Beaudesert's rail services were declining. Rail transport was of lesser importance to the trade of pigs. Although the railway yard would have been a convenient location for the subject Saleyard to be developed, unlike the earlier saleyards in the town, the Saleyard did not rely on the railway for the transport of its stock. As such, the structure of the Saleyard does not demonstrate the earlier system of railway transport in the pig trade. This Saleyard relied on the more standard, and perhaps mundane, road transport.
- ^[118] Fourth, for the reasons explained in more detail in paragraphs [123] to [150] below, Mr Richards opines that the Saleyard is not rare. It was one of many that acted in the same capacity across Queensland.¹¹²
- [119] Fifth, in terms of representativeness, distinctiveness and exceptionality, Mr Richards says that the Saleyard may be representative of an example of an animal stall and saleyard, but it is not distinctive or exceptional. He says it is prosaic, ordinary, and rudimentary. It is a simple series of stalls and pens covered by a steel roof that has been used for the sale of rural animals and other commodities since the 1960s. It has no importance that transcends its utilitarian nature.
- ^[120] I do not accept the evidence of Dr Blake that the dairy industry was still thriving in the Beaudesert district in the 1960s and through to the 1970s. During crossexamination, Dr Blake acknowledged that his opinion in this regard was premised only on a comparison of the sales in 1965 to the annual sales in each of 1940 and 1949, to which I have referred in paragraph [77] above, and his assumption about Mr Stewart's observations.¹¹³ A comparison of the sales figures reveal that the 1965 sales were in fact lower than the sales figure for 1940, but higher than the sales figure for 1949. Further, Dr Blake did not investigate whether there was any other explanation for the variation in sales, such as the impact of drought. Dr Blake's assumption about what Mr Stewart observed is speculation. In those circumstances and having regard to the undisputed historical context set out in paragraphs [55] to [100] above, I do not accept Dr Blake's opinion about the state of the dairy industry in the 1960s. I do not consider his inference to be soundly based.
- [121] I prefer the evidence of Mr Richards to that of Dr Blake and Mr Marquis-Kyle. Mr Richards' provided cogent explanations for his views. His explanations were supported by the historical references attached to his individual report.

¹¹⁰ Exhibit 3.01 p 13.

¹¹¹ Exhibit 3.01 p 11.

¹¹² Exhibit 3.01 p 12.

¹¹³ Transcript of Proceedings, *Scenic Rim Regional Council v Queensland Heritage Council* (Planning and Environment Court of Queensland, 518/21, Kefford DCJ, 28 March 2022) 42.

Conclusion regarding criterion (a)

[122] Having regard to the undisputed historical context set out in paragraphs [55] to [100] above and the evidence of Mr Richards, I am satisfied that the Saleyard is not important in demonstrating the evolution or pattern of Queensland's history. It does not satisfy criterion (a).

Section 35(1)(b) – Does the Saleyard demonstrate rare, uncommon, or endangered aspects of Queensland's cultural heritage?

^[123] The Queensland Heritage Council alleges that the Saleyard demonstrates rare, uncommon, or endangered aspects of Queensland's cultural heritage and, as such, satisfies criterion (b). In support of its allegation, the Queensland Heritage Council relies on the Guideline and the evidence of Dr Blake and Mr Marquis-Kyle. Relying on the evidence of Mr Richards, Scenic Rim Regional Council disputes the allegation.

What does the Guideline indicate with respect to criterion (b)?

^[124] Although the Court is not bound to consider the Guideline, it provides helpful context. For criterion (b), the Guideline states that a place must demonstrate its significance in the fabric.¹¹⁴ It also states:

"There are occasions when places may satisfy criterion (b) if they are rare locally, but common elsewhere in Queensland. A place can be considered under this criterion if its rarity in a particular location is important in demonstrating part of the evolution or pattern of Queensland's history. Criterion (b) may apply to places in localities that have undergone considerable change and where very little evidence of earlier significant phases of history remains."¹¹⁵

- [125] According to the Guideline, a place may be significant if it demonstrates or illustrates:
 - (a) a way of life (including fashion, taste and aspiration) that once was common but is now rare or that has always been uncommon or is endangered; or
 - (b) a custom that once was common but is now rare or uncommon or no longer practised or has always been uncommon or is endangered; or
 - (c) a process that once was common but is now rare or uncommon or has always been uncommon or is endangered; or
 - (d) a function that once was common but is now rare or uncommon or has always been uncommon or is endangered; or
 - (e) a land use that once was common but is now rare or uncommon or has always been uncommon or is endangered; or
 - (f) a design or form that once was common but is now rare or uncommon or has always been uncommon or is endangered.¹¹⁶

¹¹⁴ Exhibit 5.01 p 30.

¹¹⁵ Exhibit 5.01 p 31.

¹¹⁶ Exhibit 5.01 pp 32-4.

- ^[126] The Guideline indicates that the level of significance of the rarity or uncommonness of a place may be identified through the application of threshold indicators that examine the intactness or integrity of the place, its distinctiveness, and its exceptionality.¹¹⁷
- [127] With respect to intactness and integrity, the Guideline says:

"Criterion (b) is concerned with demonstrating rare, uncommon or endangered aspects of Queensland's cultural heritage in the fabric of the place. Consequently the degree of intactness and integrity will determine if the place meets the threshold for state significance.

Intactness should not be confused with condition. A place may be substantially intact in the sense that most of the early fabric survives, but at the same time this fabric may be in very fragile condition.

Further distinction is made between intactness and integrity, with the degree to which fabric remains intact determining the integrity of the place. The greater the intactness of the fabric, the more easily a place can be 'read' as to how it functioned originally or has evolved over time and therefore the greater the integrity of the place."¹¹⁸

What does the entry in the Queensland heritage register record with respect to criterion (b)?

[128] The experts record that the statement of significance in the Queensland heritage register with respect to criterion (b) states:

"The Beaudesert Pig & Calf Saleyard is a surviving example of a 20th century purpose-built pig and calf saleyard. Once common in Queensland, particularly in the Moreton, Darling Downs and Wide Bay-Burnett regions, these saleyards have become uncommon with the decline of pig sales and transition toward direct selling practices since the late 20th century.

From over 100 towns which reported holding regular pig and calf sales, purpose-built 20th century pig and calf saleyards are documented at 40 towns, and only nine are known to remain throughout the state. While some alterations have been made to its fabric (including the replacement of the roof to a different form and lower height, removal of a large livestock loading ramp, and reconfiguration of some pen and race fences), the Beaudesert Pig & Calf Saleyard retains a high degree of integrity."¹¹⁹

[129] Although this is of interest, as I have already noted, I am not bound by the entry in the Queensland heritage register. I am to decide whether the Saleyard satisfies this criterion having regard to the evidence before me in this hearing. In that regard, I have the benefit of the evidence of the experts, as well as photographs of other pig and calf saleyards that still exist in Queensland.

¹¹⁷ Exhibit 5.01 p 34.

¹¹⁸ Exhibit 5.01 p 34.

¹¹⁹ Exhibit 6.02 p 2.

Does the Saleyard demonstrate rare or uncommon aspects of Queensland's cultural heritage?

- ^[130] Dr Blake opines that the Saleyard is now a rare and endangered example of what was once a common type of structure that was an integral part of the dairying industry in Queensland. He says that of more than 40 purpose built pig and calf saleyards in Queensland, only nine remain.¹²⁰
- [131] Dr Blake says that the saleyards at Warwick, Harristown, Biggenden, and Woodford were built in the 1950s and earlier. The pens are of timber construction with a mixture of concrete and earth floors. The roof framing is of timber and the roof is metal sheeting.
- [132] The saleyards at Gympie, Gatton and Eumundi were built in the 1960s. The pens were of metal construction with no differentiation between pens for pigs and pens for calves. Each of those saleyards has a metal frame for the roof that is covered with metal sheeting.
- ^[133] The saleyard at Woolooga was used for pig and calf sales but there were no purpose-built pens for pigs or calves at that location.¹²¹
- [134] Dr Blake opines that the subject Saleyard is most like the first category of yards in that it has pens of timber construction and differentiation between pig and calf pens. He says that the saleyards at Warwick, Harristown and Woodford, and the subject Saleyard, are the best examples of traditional pig and calf saleyards. As such, Dr Blake opines that the Saleyard is one of a rare group of intact pig and calf saleyards in Queensland.¹²² He says it is one of the most intact pig and calf saleyards in Queensland and clearly demonstrates its original function in a major dairying district in Queensland.¹²³
- ^[135] In the Joint Expert Report, Mr Marquis-Kyle says that the Saleyard meets the threshold for intactness or integrity and warrants entry in the Queensland heritage register under criterion (b).¹²⁴ In that report, Mr Marquis-Kyle did not reveal the basis of his opinion.
- ^[136] In his individual report, Mr Marquis-Kyle opines that the Saleyard is a rare surviving example of a class of place that was once common, namely calf and pig saleyards. He says it demonstrates the characteristic features of its class.¹²⁵
- [137] In forming his opinion that calf and pig saleyards are a class of cultural place, Mr Marquis-Kyle relies on information in the Guideline that relates to criterion (d) and which states:

"Class of cultural place' may refer to a broad range of types of places (such as 'war memorials' or 'schools'), the group being defined by general form or function or use. More usefully, 'class of

¹²⁰ Exhibit 3.01 p 14.

¹²¹ Exhibit 3.05 p 7.

¹²² Exhibit 3.05 p 7.

¹²³ Exhibit 3.01 p 14.

¹²⁴ Exhibit 3.01 p 14.

¹²⁵ Exhibit 3.05 p 5.

cultural place' may be applied to sub-categories of the broader type, such as 'WWI memorials' or 'grammar schools', where the type is defined more specifically by materials, design, construction technique, era, specific purpose or some other quality or qualities. There is no numerical qualification for what constitutes a 'class of cultural places', but the particular class should be readily discernible as such."

- [138] Mr Marquis-Kyle opines that calf and pig saleyards that were purpose built to serve the dairy industry constitute a distinct class of place that share four principal characteristics. First, they are located centrally in dairying districts (for the convenience of farmers frequently bringing animals for sale), close to transport infrastructure (for convenience of buyers taking animals away), and close to town facilities (for convenience of farmers transacting other business on sale days). Second, they have small pens (of dimensions suitable for pigs and calves, singly or in small groups). Third, they are roofed to protect animals that are vulnerable to stress from sun and rain. Fourth, they have low-level loading ramps to suit utilities, trailers, and small farm trucks, as well as high-level ramps to suit larger trucks.¹²⁶
- ^[139] Mr Marquis-Kyle says that, in addition to having those characteristics, calf and pig saleyards vary in scale (reflecting the numbers of pigs and calves produced in the surrounding dairying district) and vary in their materials and form of construction (with earlier examples being built of timber and later examples being built of steel).¹²⁷
- ^[140] Mr Marquis-Kyle says that saleyards of this class are distinctly different from cattle saleyards built for adult stock, which are open to the weather, have larger pens, have taller and more robust rails and have loading ramps to suit large trucks including double-deckers.¹²⁸
- [141] In his individual report, Mr Marquis-Kyle documents the basic attributes of each of the nine-surviving calf and pig saleyards, including the region in which each is located, the approximate number of roofed calf and pig pens, the approximate area under roof and the predominant material of the roof frame and supporting structure. In Exhibit 3.04, for each of the remaining saleyards, Mr Marquis-Kyle provided several photographs of the saleyard (including an aerial photograph), details of its location proximate to the town and other notable landmarks such as post offices and former butter factories, and a description of the structure.
- ^[142] Mr Marquis-Kyle relies on three matters to support his opinion that the Saleyard is rare. First, of the original class of more than 40, eight survive. Second, of those eight survivors, three are recently-built, steel-framed examples. Third, of the five remaining timber-built examples, three of them (being those at Biggenden, Harristown and Warwick) are larger than the subject Saleyard, and the Woodford saleyard is smaller than the Beaudesert saleyard.¹²⁹

¹²⁶ Exhibit 3.03 p 3.

¹²⁷ Exhibit 3.03 p 3.

¹²⁸ Exhibit 3.03 p 3.

¹²⁹ Exhibit 3.03 p 5.

- [143] Mr Richards opines that the Saleyard does not demonstrate rare, uncommon, or endangered aspects of Queensland cultural heritage. His opinion is premised on two matters.
- ^[144] First, Mr Richards says that the survival of 9 out of the 40 documented purposebuilt twentieth century pig and calf saleyards does not demonstrate rarity, but a reasonable level of survival of a relatively rudimentary type of structure.¹³⁰
- ^[145] Second, Mr Richards does not consider that pig and calf saleyards are an appropriately identified aspect of Queensland's cultural heritage. He says that they belong to a larger grouping of animal saleyard structures where sheep and cattle were bought and sold. He says there are many other examples of animal saleyards in Queensland. He notes that there are pig and calf saleyards at Warwick, Harristown in Toowoomba, Eumundi, Woolooga, Woodford, Gatton, Gympie, and Biggenden. Cattle saleyards are also known to remain at Cloncurry, Mareeba, Charters Towers, Hughenden, Longreach, Barcaldine, Blackall, Roma, and Gracemere, as well as at other places. Further, Mr Richards says that although the overall practices of animal sales may have changed over the years, and there are now less saleyards than may have been present in Queensland when compared to 100 years ago, the fundamental nature of animal sales remains the same. He says there will always be venues for the trade of rural animals where buyers and sellers congregate to transact business.¹³¹
- ^[146] Despite holding this view, during cross-examination Mr Richards accepted that pig and calf saleyards are distinctly different to cattle saleyards for adult stock. He accepted that saleyards for adult cattle are open to the weather, have larger pens, have larger gaps between the railings, have taller and more robust rails and have loading ramps to suit large trucks, including double deckers.¹³²
- [147] I accept the evidence of Mr Marquis-Kyle about the typical characteristics of a calf and pig saleyard and the way in which they differ from cattle saleyards. Nevertheless, I do not accept his opinion that the subject Saleyard satisfies criterion (b). His assertions of rarity are founded on distinctions he draws between the Saleyard and other existing pig and calf saleyards by reference to the materials used to construct them and their size. These are not features that he identifies as defining characteristics for the class of cultural place, being calf and pig saleyards, which he says demonstrate an aspect of Queensland's cultural heritage.
- [148] Dr Blake's opinion about rarity is similarly unpersuasive. Like Mr Marquis-Kyle, Dr Blake appears to identify the aspect of Queensland's cultural heritage as calf and pig saleyards, being a class of structure that was an integral part of the dairying industry in Queensland. Critical to Dr Blakes opinion that the Saleyard is a rare example of that type of structure is the distinctions that he draws between the subject Saleyard and other remaining saleyards. His distinctions are based on the decade of construction, the materials used in construction and the differentiation between pig and calf pens. Dr Blake does not explain the relevance of those

¹³⁰ Exhibit 3.01 p 13; Exhibit 3.02 p 4.

¹³¹ Exhibit 3.01 pp 13-4; Exhibit 3.02 pp 4-5.

¹³² Transcript of Proceedings, *Scenic Rim Regional Council v Queensland Heritage Council* (Planning and Environment Court of Queensland, 518/21, Kefford DCJ, 28 March 2022) 17-9.

distinctions to the demonstration of a class of structure that was an integral part of the dairying industry.

[149] Ultimately, assuming the aspect of Queensland's cultural heritage is that identified by Mr Marquis-Kyle and Dr Blake, whether that aspect is rare or uncommon is a question of fact that calls for a value judgment. Having regard to the details of the remaining places identified by the experts, and the photographs of them, I am satisfied that the Saleyard does not demonstrate a rare or uncommon aspect of Queensland's cultural heritage.

Conclusion regarding criterion (b)

[150] For the reasons provided above, I am satisfied that the Saleyard does not demonstrate rare, uncommon, or endangered aspects of Queensland's cultural heritage. It does not satisfy criterion (b).

Section 35(1)(d) – Is the Saleyard important in demonstrating the principal characteristics of a particular class of cultural places?

- [151] The Queensland Heritage Council alleges that the Saleyard is important in demonstrating the principal characteristics of a particular class of cultural places and, as such, satisfies criterion (d). In support of its allegation, the Queensland Heritage Council relies on the Guideline and the evidence of Dr Blake and Mr Marquis-Kyle.
- [152] Scenic Rim Regional Council disputes the allegation. It relies on the evidence of Mr Richards.

What does the Guideline indicate with respect to criterion (d)?

[153] The Guideline states:

"To assist in assessing cultural heritage significance under the provisions of the *Queensland Heritage Act 1992*, criterion (d) is interpreted as follows:

A place is important in demonstrating the principal characteristics of a particular class of cultural places if that place displays the defining features, qualities or attributes of its type, or variation within the type, or evolution of the type, or the transition of the type, where type or 'class of cultural places' illustrates a range of human activities including a way of life, a custom, an ideology or philosophy, a process, a land use, a function, a form, a design, a style, a technique or some other activity or achievement."¹³³

- ^[154] The Guideline states that, for criterion (d), a place must demonstrate its significance in the fabric.¹³⁴
- ^[155] The Guideline says that a class of cultural place is a group or type of place that is associated with cultural (i.e., human) activity. It may refer to a broad range of types of places (such as war memorials or schools), with the group being defined by

¹³³ Exhibit 5.01 p 41.

¹³⁴ Exhibit 5.01 p 41.

general form or function or use. A class of cultural place may be applied to subcategories of the broader type, such as WWI memorials or grammar schools if the type is defined more specifically by materials, design, construction technique, era, specific purpose or some other quality or qualities. The Guidelines indicates that there is no numerical qualification for what constitutes a class of cultural places, but the particular class should be readily discernible as such.¹³⁵

- ^[156] The Guideline states that the principal characteristics are the major features, qualities or attributes that define the class of place.¹³⁶
- [157] The Queensland Heritage Council notes that the Guideline states that "*Criterion (d)* mostly combines with criterion (a) dealing with historical significance."¹³⁷
- [158] According to the Guideline:

"Determining whether a place satisfies criterion (d) is the process of identifying to which class of cultural places a place belongs, how well the place demonstrates the characteristics of this class and if the place is significant to our understanding of this class as part of Queensland's heritage. This is achieved by applying significance and threshold indicators."¹³⁸

- [159] The Guideline states that a place may be significant if it exemplifies or illustrates, amongst other things:
 - (a) a way of life that has made a noticeable contribution to the pattern or evolution of Queensland's history. Often places demonstrating this quality include complexes where more than one building or structure survives, often with associated furniture, fittings, and other objects; or
 - (b) a process that has made a strong contribution to the pattern or evolution of Queensland's history. A process may be industrial, agricultural, extractive or some other type of activity and the principal characteristics of the process may include elements of the landscape, buildings, structures and associated furniture, fittings, machinery, and other artefacts that survive at the place; or
 - (c) a land use that has made a strong contribution to the pattern and evolution of Queensland's history and heritage; or
 - (d) a function that has been an important part of the pattern of Queensland's history.¹³⁹
- ^[160] The Guideline says that threshold indicators relevant to determining the level of significance for criterion (d) include intactness or integrity, earliness, rarity or uncommonness and exceptionality.¹⁴⁰ Earliness may be important where the class of place is extensive.¹⁴¹ Exceptionality, through sustained use of the place for its original purpose, is a measure of the integrity of a place that goes beyond fabric. A

¹³⁵ Exhibit 5.01 p 41.

¹³⁶ Exhibit 5.01 p 41.

¹³⁷ Exhibit 5.01 p 42.

¹³⁸ Exhibit 5.01 p 42.

¹³⁹ Exhibit 5.01 pp 42-6.

¹⁴⁰ Exhibit 5.01 pp 47-8.

¹⁴¹ Exhibit 5.01 p 47.

place which has sustained its original use better demonstrates its intended function than one that has been converted to another use.¹⁴²

What does the entry in the Queensland heritage register record with respect to criterion (d)?

[161] The experts record that the statement of significance in the Queensland heritage register with respect to criterion (d) states:

"The Beaudesert Pig & Calf Saleyard is an uncommon surviving example of a purpose-built pig and calf saleyard constructed in the 20th century in Queensland. While some alterations have been made to the saleyard, the place retains a high degree of integrity and is important in demonstrating the principal characteristics of this class of place, which include its: location in a pig / dairy producing region, easily accessed by a major transport route; roofed structure for the provision of shade, with open sides that allow for light and ventilation to the interior; livestock loading ramps; fenced pens for the holding, separation, viewing and sale of livestock, accessed by races; pen heights and floor surfaces relative to livestock types; and provision of water and hosing down facilities."¹⁴³

[162] Again, I note that I am not bound by the entry in the Queensland heritage register. I am to decide whether the Saleyard satisfies this criterion having regard to the evidence before me in this hearing. In that regard, I have the benefit of the evidence of the experts.

Is the Saleyard important in demonstrating the principal characteristics of a purpose-built pig and calf saleyard associated with the dairy industry?

- ^[163] In the Joint Expert Report, Dr Blake and Mr Marquis-Kyle opine that the Saleyard is a member of a specific class, namely a purpose-built pig and calf saleyard associated with the dairy industry. They say that the Saleyard displays the small-scale pens, the roof, and the animal loading arrangements that are typical features of that class. Further, they both agree that the intactness of the fabric of the Saleyard, and its rarity, warrant its entry in the Queensland heritage register as a State heritage place.¹⁴⁴
- [164] As I have noted in paragraphs [137] above, in his individual statement, Mr Marquis-Kyle refers to a statement in the Guideline about classes of cultural place in support of his opinion that a purpose-built pig and calf saleyard associated with the dairy industry is a class of cultural place. Mr Marquis-Kyle does not further explain the basis of his opinion.
- ^[165] In paragraphs [138] to [140] above, I have set out the characteristics that Mr Marquis-Kyle says are the principal characteristics of a purpose-built pig and calf saleyard associated with the dairy industry.

¹⁴² Exhibit 5.01 p 48.

¹⁴³ Exhibit 6.02 p 2.

¹⁴⁴ Exhibit 3.01 pp 15-6.

- [166] Mr Marquis Kyle says the Saleyard displays each of these principal characteristics. In terms of location, he notes that the Saleyard is centrally located in the dairying district, on part of the former railway land, and within walking distance of the post office, shops, banks, hotels, and other facilities of the town. In terms of the pens, the Saleyard has small pens in separate sections for pigs and calves. They are arranged to accommodate small numbers of animals in each pen. There is a roof covering all the pens, although it is not original. It is a skillion roof that replaces an earlier hip roof. Finally, in terms of ramps, there are a series of three low-level ramps along the road frontage that are arranged to suit the loading and unloading calves and pigs from small vehicles. There is also a high-level ramp for larger trucks.
- ^[167] As I have mentioned in paragraph [107] above, Mr Marquis-Kyle says that the fabric of the Saleyard is intact and unchanged since the last sale and displays. He says it provides tangible evidence of the role that the Saleyard played in the dairy industry. He opines that there is a link between the fabric of the Saleyard and the pattern of use of the Saleyard, which involved bringing in pigs and calves from the farms to the Saleyard, showing the pigs and calves to potential buyers, conducting the auction, transferring payment and ownership, and taking the animals away.¹⁴⁵
- [168] Mr Richards opines that the Saleyard does not demonstrate any significance under criterion (d). His opinion is premised on four matters.
- ^[169] First, Mr Richards says a purpose-built pig and calf saleyard constructed in the twentieth century is not a recognised class of cultural place. In this respect, Mr Richards notes that there are no other pig and calf saleyards entered in the Queensland heritage register. He says that another listing may be expected if a pig and calf saleyard was a well-known and accepted class of cultural place in heritage terms. He further notes that there are no animal saleyards entered in the Queensland heritage register. Two shearing sheds are entered in the Queensland heritage register as individual entries, but he says they are remarkable structures for a range of reasons that are specific to the histories of both of those places. Mr Richards opines that a class of cultural place cannot be created to suit a particular nomination of a place.¹⁴⁶
- ^[170] Second, Mr Richards is of the opinion that twentieth century pig and calf saleyards are not a class of <u>cultural</u> place in any event. He describes the Saleyard as a very rudimentary and utilitarian structure. It is little more than a simple series of animal pens constructed of timber posts, rails and palings covered by a modern steel roof. Mr Richards says that given no other twentieth century pig and calf saleyards are entered in the Queensland heritage register, or indeed any animal saleyards, it is difficult to understand what the principal characteristics of this cultural place may be, or to accept that the characteristics are recognised in heritage practice.¹⁴⁷
- [171] Third, Mr Richards notes that the characteristics of a twentieth century pig saleyard mentioned in the statement of significance are that it is located in pig or dairy producing region and is accessed by transport routes; it has a roofed structure for the provision of shade with open sides for light and ventilation; it has livestock loading

¹⁴⁵ Exhibit 3.04 pp 4-5.

¹⁴⁶ Exhibit 3.01 p 15.

¹⁴⁷ Exhibit 3.01 p 15.

ramps; it has fenced pens for the holding, separating, viewing and selling livestock that are accessed by races; it has pen heights and floor surfaces that are relative to the livestock type; and it provides water and hosing down facilities. He says these are the basic elements of an animal saleyard. They are not distinctive characteristics of a calf and pig saleyard. In Mr Richards' opinion, it is likely that all animal saleyards will be constructed in a pastoral region close to farms. It is also likely the saleyard will be close to transport routes. It is also likely the saleyard will have open sides so that inspection of stock is straightforward. It is likely to have loading ramps, fenced pens, races, floor surfaces, and hosing down facilities.¹⁴⁸

- ^[172] Fourth, Mr Richards considers that the Saleyard does not demonstrate any of the threshold significance indicators for architectural or historical significance under criterion (d) that are set out in the Guideline.¹⁴⁹
- ^[173] The evidence of Dr Blake and Mr Marquis-Kyle does not persuade me that the calf and pig saleyards are a class of cultural place, or that the Saleyard is important. The experts do not, for example, identify a relevant "*range of human activities*"¹⁵⁰ that calf and pig saleyards illustrate to make them a class of cultural place.
- [174] I prefer the evidence of Mr Richards to that of Dr Blake and Mr Marquis-Kyle. His process of reasoning aligns with that which is called for under criterion (d) and his opinions are well explained.
- [175] I am satisfied that pig and calf saleyards are not discernible as a particular class of cultural place of which the Saleyard is a member. Further, even if it were a discernible class by reason of its demonstration of the process of selling pigs and calves as part of the way of life of a farmer in the dairy industry, I am satisfied that it is not important in that regard. In that respect, I rely on the evidence of Mr Richards and my findings above with respect to the historical context, the absence of importance in demonstrating the evolution or pattern of Queensland's history, and the absence of rarity.

Conclusion regarding criterion (d)

[176] For the reasons provided above, I am satisfied that the Saleyard is not important in demonstrating the principal characteristics of a particular class of cultural places. It does not satisfy criterion (d).

Section 35(1)(g) – Does the Saleyard have a strong or special association with a particular community or cultural group for social, cultural, or spiritual reasons?

[177] The Queensland Heritage Council alleges that the Saleyard has a strong or special association with a particular community or cultural group for social, cultural, or spiritual reasons and, as such, satisfies criterion (g). In support of its allegation, the Queensland Heritage Council relies on the Guideline, the evidence of Dr Blake, and statements of four lay witnesses, namely Mr Kroesen, Ms Harrison, Mr Ward, and

¹⁴⁸ Exhibit 3.01 p 15.

¹⁴⁹ Exhibit 3.01 p 15.

¹⁵⁰ See paragraphs [153][155] above and Exhibit 5.01 p 41.

Mrs Ward, and submissions made during public notification of the application to enter the Saleyard on the Queensland heritage register.

[178] Scenic Rim Regional Council disputes the allegation. It relies on the evidence of Mr Richards.

What does the Guideline indicate with respect to criterion (g)?

- ^[179] The Guideline states that, for criterion (g), a place has a strong or special association with a particular community or cultural group for social, cultural, or spiritual reasons if that place has a perceived meaning or symbolic, spiritual, or moral value that is important to a particular community or cultural group and which generates a strong sense of attachment.¹⁵¹
- [180] The Guideline notes:

"Criterion (g) deals with places that are in the public domain and for which the community exhibits strong or special feelings or attachment. They can be places that are in public ownership (such as halls and schools), or places in private ownership that the community has been encouraged to identify with and to use, such as department stores and picture theatres. They can be places where people gather for spiritual reasons (such as churches) or places of recreation and resort (such as sports fields or swimming pools). They can be places associated with community commemoration, such as war memorials, or a physical landmark."¹⁵²

- ^[181] According to the Guideline, "*community*" should be defined in the broadest possible sense, as a group of persons who have a common interest. The interest may be self-defined, but the community and its interest should be able to be recognised by the broader community of Queenslanders.¹⁵³ There should be a readily defined group.¹⁵⁴
- [182] The Guideline indicates that a strong or special association should be measurable by various means including long-term use, celebratory use, commemorative use, spiritual use, symbolic use, and community action. The attachment can be dynamic with communities rediscovering attachments held by community groups in the past. A place may be significant if it is:
 - (a) important to the community as a landmark, marker, or signature; or
 - (b) a place that offers a valued customary experience; or
 - (c) a popular meeting or gathering place; or
 - (d) associated with events having a profound effect on a particular community or cultural group; or
 - (e) a place of ritual or ceremony; or

¹⁵¹ Exhibit 5.01 p 58.

¹⁵² Exhibit 5.01 p 58.

¹⁵³ Exhibit 5.01 p 58.

¹⁵⁴ Exhibit 5.01 p 58.

- (f) symbolically representing the past in the present; or
- (g) a place of essential community function leading to a special attachment.¹⁵⁵
- ^[183] Indicators of the threshold of the significance include the length of association, the extent and degree of demonstrated community association, and the existence of a significant former association.¹⁵⁶

What does the entry in the Queensland heritage register record?

[184] The experts record that the statement of significance in the Queensland heritage register with respect to criterion (g) states:

"Located in the former Beaudesert railway station yard, which has served as a community meeting place for livestock sales since 1905, the Beaudesert Pig & Calf Saleyard is valued by the Beaudesert farming community as a site for a valued customary experience. The saleyard structure has sustained its use as a saleyard for livestock and produce since 1960."¹⁵⁷

^[185] It is worth again noting that, although this is of some interest, I am not bound by the entry in the Queensland heritage register. I am to decide whether the Saleyard satisfies this criterion having regard to the evidence before me in this hearing. In that regard, I have the benefit of the evidence of Dr Blake, Mr Richards, and several members of the community. I also have a copy of the submissions made by members of the public in response to the proposal to list the Saleyard on the Queensland heritage register.¹⁵⁸

Does the Saleyard have a strong or special association with the Beaudesert farming community?

[186] The Joint Expert Report records that Mr Marquis-Kyle joined with Dr Blake in expressing an opinion that:

"... account should be taken of the views of people who have had long associations with the place – as dairy farmers, and as other participants in the calf and pig sales there – who made representations to the Queensland Heritage Council during the assessment process."¹⁵⁹

^[187] Despite expressing that view in the Joint Expert Report, in his individual report, Mr Marquis-Kyle says that it is outside his expertise to assess the strength of the association of the Saleyard with the community of Beaudesert for criterion (g).¹⁶⁰ During cross-examination, Mr Marquis-Kyle accepted that questions pertaining to criterion (g) were beyond his expertise.¹⁶¹ As such, I do not give his opinion from the Joint Expert Report any weight.

¹⁵⁵ Exhibit 5.01 pp 58-60.

¹⁵⁶ Exhibit 5.01 p 61.

¹⁵⁷ Exhibit 6.02 p 2.

¹⁵⁸ Exhibit 1.07.

¹⁵⁹ Exhibit 3.01 p 17.

¹⁶⁰ Exhibit 3.03 p 6.

¹⁶¹ Transcript of Proceedings, *Scenic Rim Regional Council v Queensland Heritage Council* (Planning and Environment Court of Queensland, 518/21, Kefford DCJ, 28 March 2022) 65.

[188] Dr Blake opines that the calf and pig sale day was a regular and prominent event in Beaudesert from the early 1900s. Sales were held weekly by the 1930s. Dr Blake notes that in September 1936, in an article titled "*Down among the Pig and Calves*", the Beaudesert Times reported:

"Monday in Beaudesert in a day on which only the quick-witted and agile should be abroad, for motor cars dodge hither and thither with alarming rapidity, threading their way through lines of wagons, carts, sulkies and all sort of conveyances ... In about an hour and a half the steady stream had resulted in about 500 pigs and 500 calves being in the pens, and the mingled noises were deafening."¹⁶²

- ^[189] Dr Blake opines that the regular sale of pig and calves at Beaudesert was not just about the selling and buying of farm animals. In his opinion, it was also a social and cultural event that became embedded in the life of the dairying community. Dr Blake opines that the sales were a social occasion in that it was an opportunity to meet and socialise with other farmers. It was also an opportunity to undertake business in the town. Dr Blake opines that for dairy farmers who worked seven days a week, such events were limited.¹⁶³
- ^[190] In the opinion of Dr Blake, the sale of a large volume of pigs and calves continued into the 1970s. On that basis, he says that sale day brought a significant number of farmers and their families to Beaudesert each week. He says that the Beaudesert Times always included an article about the weekly sales, which he says indicates that it was an important activity in the Beaudesert district that warranted reporting.¹⁶⁴
- ^[191] During cross-examination, Dr Blake indicated that the relevant "*community*" which he says holds a strong or special attachment to the Saleyard is that part of the dairy farming community in the Beaudesert region that used the Saleyard to sell calves or pigs.¹⁶⁵
- ^[192] In addition to the evidence of Dr Blake, the Queensland Heritage Council relies on the evidence in the lay witness statements from Mr Kroesen,¹⁶⁶ Ms Harrison,¹⁶⁷ Mr Ward,¹⁶⁸ and Mrs Ward. That evidence was not challenged by Scenic Rim Regional Council.
- ^[193] In considering the lay witness statements of evidence, it is important to remember the rules of evidence to which I must have regard. The ordinary rule is that witnesses may speak only as to facts within their personal knowledge, such as things that they have personally seen or experienced. Unless they are an expert, they cannot express their opinions. Further, to the extent that they recount things told to them by others, it is not admissible evidence of the truth of what they were told.

¹⁶² Exhibit 3.05 pp 7-8.

¹⁶³ Exhibit 3.05 p 8.

¹⁶⁴ Exhibit 3.05 p 8.

Transcript of Proceedings, Scenic Rim Regional Council v Queensland Heritage Council (Planning and Environment Court of Queensland, 518/21, Kefford DCJ, 28 March 2022) 50-2.
 Evbibit 2.06

Exhibit 3.06.

¹⁶⁷ Exhibit 3.07.

¹⁶⁸ Exhibit 3.08.

- [194] In addition, when considering evidence of individuals, particularly as it relates to events long past, it must be borne in mind that, in general, our powers of observation and of retention in memory of what is seen or heard are fragile. Our minds do not operate like recording devices. A reported recollection of an observation might be innocently mistaken. Memory is fallible, and it fades with time, and it is exposed to distortion for other reasons, such as through susceptibility to the suggestions of other people.
- ^[195] Mr Kroesen's statement records that he grew up in the Beaudesert Shire on a smalllot farm of approximately 33 acres. His family bred Bradford cattle and grew crops, such as oats, to feed the cattle. He recalls attending sales at the Saleyard with his father when his father wanted to buy or sell livestock. He says that he did so when he was a child under ten years of age, which was in the mid to late 1980s. He believes the sales were a real part of the culture of Beaudesert. His belief was explained by reference to his observation that there were people parking their vehicles wherever they could find a spot, with no real order to it. Mr Kroesen recalls pigs, calves and poultry being sold at the sales. He recalls bric-a-brac was also sold at the sales. His impression was that you could bring anything along and have it auctioned off.¹⁶⁹
- ^[196] Mr Kroesen says that he recalls older gentlemen attending the sales because the sales were an opportunity for a social gathering. Mr Kroesen does not explain how he knew, at the time, that was the reason that other people attended. He says that recently an older gentleman told him that the Saleyard was a good place to ask if there had been any rain.¹⁷⁰
- [197] Mr Kroesen explains that after he completed his schooling, he did not visit the sales for more than 10 years. When he again attended the sales, he noticed that the sales were conducted in much the same way they always had been. He says there were still people, chooks, ducks, and calves everywhere and the atmosphere was as informal as ever. He says the sales were still well attended with between 50 and 100 people many older, some young. Mr Kroesen says that people were still bidding without holding up a bidding number as most people knew each other.¹⁷¹ This appears to be an assumption made by Mr Kroesen, rather than a matter within his personal knowledge.
- ^[198] Mr Kroesen says that the pig and calf saleyards offered small lot farmers and children a chance to buy a young animal, for example, a chicken, a duck, or a calf, and an opportunity to socialise. He says the pig and calf saleyards provided a unique experience not afforded by a regular sale. He says that larger livestock saleyards do not cater for small-lot farmers. He says that the sales at the Saleyard allowed small-lot farmers to have a rural lifestyle and participate in a *bona fide* rural activity, being livestock sales. Mr Kroesen does not explain how he has personal knowledge of the lifestyle of other small-lot farmers.¹⁷²
- ^[199] Ms Harrison says that when she was a child, her parents had a dairy farm that was 100 acres in size. She started attending the sales at the Saleyard in the early 1960s

¹⁶⁹ Exhibit 3.06 p 1.

¹⁷⁰ Exhibit 3.06 pp 1-2.

¹⁷¹ Exhibit 3.06 p 2.

¹⁷² Exhibit 3.06 p 2.

when she was about five years old. She says they were always held on a Monday. Ms Harrison recalls that her parents would buy smaller, cheaper calves, feed them excess milk from their dairy farm and sell the calves about six months later for a profit.¹⁷³

- ^[200] Ms Harrison says that Mondays were Beaudesert's "*biggest boom day*". She believes this is because people would go to the sales at the Saleyard to catch up with other people, even if they were not intending to buy or sell animals. Ms Harrison says that the sales were usually over within an hour or two and that people often ended up at the pub for lunch after the sales were finished. She said that after lunch, people would often go grocery shopping while there were in town.¹⁷⁴ Although Ms Harrison's evidence in this respect was not challenged, it is hard to accept that a young child of a dairy farmer had personal knowledge of the biggest boom day in Beaudesert and that she had personal knowledge of the reason that other people attended and personally knew of their actions following the sales.
- ^[201] In 1977, Ms Harrison married the son of a beef producer from Cedar Grove. Her and her husband have owned a cattle farm in that area since they got married. They also kept sheep. Ms Harrison says that after she was married, she would attend sales at the Saleyard when she had calves or sheep to sell.¹⁷⁵ She did not provide any indication of how often that would occur.
- ^[202] Ms Harrison says that the Saleyard has always been a big meeting place for people when the sales were held. She says that in recent years, older people still gathered at the sales to catch up with each other. She says that on school holidays, you would often see young children with their grandparents at the sales, and the grandparents would be explaining to the children how the sales worked and what the grandparents bought and sold at the sales when they were children.¹⁷⁶ Assuming these are matters of which Ms Harrison has personal knowledge based on her own observations, Ms Harrison does not provide any indication of the frequency of her observations or the time during which they were made.
- ^[203] Ms Harrison says that the Saleyards have always been an outlet for small rural land holders. She says that in addition to the social aspect, the sales gave small rural land holders the opportunity to sell their livestock.¹⁷⁷ Although I can appreciate that, to a degree, Ms Harrison may be aware of such matters from her own experience, it is difficult to appreciate how she has knowledge of the situation for other small rural land holders.
- [204] Mr Ward gave evidence that he grew up in Beaudesert and still lives there. He says that in the 1950s, he worked with his dad carting pigs and calves to the sales at the Saleyard. He says that he remembers seeing farmers attending the sales at the Saleyard in utes with crates on the back for the animals. He says the farmers wore their work clothes and gum boots. Mr Ward says that some people would sell cucumbers, chokos and eggs at the sales. He also remembers people selling chickens and goats. He says that the sales were attended by local farmers, who

¹⁷³ Exhibit 3.07 p 1.

¹⁷⁴ Exhibit 3.07 p 1.

¹⁷⁵ Exhibit 3.07 p 1.

¹⁷⁶ Exhibit 3.07 p 2.

¹⁷⁷ Exhibit 3.07 p 2.

were the people that built the town of Beaudesert. He says those farmers used to, and still do, shop locally in Beaudesert.¹⁷⁸

- [205] Given the compelling evidence, which I accept, that the Saleyard was built no earlier than 1960, I find it difficult to accept the evidence of Mr Ward. It seems to me that the accuracy of his recollection may be affected by the six decades that have passed since the events of which he gives evidence, and that his recollections may relate to the other, now demolished, saleyards in Beaudesert. I also find it difficult to accept that he would have personal knowledge that the local farmers who attended the sales were the people that built the town of Beaudesert.
- ^[206] Mrs Ward gave evidence that she grew up in the Beaudesert area, but not on a farm. She says that her grandfather used to cart things around Beaudesert, including pigs and calves. She recalls her father telling her that, when her father was a boy, he went with her grandfather to the Saleyard. Mrs Ward says that when she was about 16 or 17, in the early 1980s, she occasionally went to the sales at the Saleyard with her friend. They never bought or sold animals at the sales but attended it as a social gathering place. She says that a lot of country boys would attend the sales and that she and her friend would attend to socialise with them.¹⁷⁹
- [207] Given the compelling evidence that the Saleyard was built no earlier than 1960, which I accept, I find it difficult to accept the evidence of Mrs Ward as reliable. If Mrs Ward was about 16 or 17 in the early 1980s, it is implausible that her father attended the subject Saleyard as a boy. I have no reason to doubt Mrs Ward's honesty, but this evidence causes me to doubt the reliability of her recollections.
- ^[208] I have no reason to doubt that each of Mr Kroesen, Ms Harrison, Mr Ward,¹⁸⁰ and Mrs Ward honestly believe the matters to which they refer in their signed statements. However, my observations above about their evidence causes me considerable concern about the reliability of their evidence. Although the evidence was not subject to challenge, I am not prepared to place considerable weight on it.
- [209] In support of its position, the Queensland Heritage Council also refers to the submissions received during the submission period. The Queensland Heritage Council says that the submissions from the public include some from persons who had been to the Saleyard and experienced the role it played in the Beaudesert community. The Queensland Heritage Council says that although some of the submissions evidence a mistaken understanding that entering the Saleyard in the Queensland heritage register might keep it operating, that does not detract from the attachment to the place.
- ^[210] The report to the Queensland Heritage Council records that 37 submissions were received during the submission period. The report says that two submissions did not support the application and that of the 35 that supported the application, 29 were template responses (with 24 containing additional annotations) and six were individual submissions.¹⁸¹

¹⁷⁸ Exhibit 3.08 p 1.

¹⁷⁹ Exhibit 3.09 p 1.

¹⁸⁰ Exhibit 3.08.

¹⁸¹ Exhibit 1.07 p 2.

- [211] Copies of the submissions are attached to the report.¹⁸² The report's summary of them is broadly accurate (although one of the submissions counted as "*template*" I would regard as an individual submission in support).
- [212] The proforma submissions in support of entry of the subject Saleyard on the Queensland heritage register support the listing on the basis that:

"The saleyards are one of the last Heritage Structures in Beaudesert that have not been demolished or lost by fire. The saleyards continue traditional fortnightly livestock auctions which have persisted over 100 years in that location and represent a working part of Beaudesert's history that must not be lost. There are many attendees who have participated in the sales all of their lives and it is an essential part of the social fabric of the Beaudesert community."¹⁸³

- [213] There is an immediate difficulty with the content of this submission, namely that the evidence does not support the assertion that the saleyard referenced in the submission, being the one the subject of the proposed listing, has existed for 100 years in that location. They are also no longer working. It is also difficult to understand how those that signed the submission would know that "*there are many attendees who have participated in the sales all of their lives*". These matters impact on the weight that can be attributed to the proforma submissions.
- ^[214] That it is appropriate to approach the submissions with caution is reinforced by some of the personalised comments added to them. For example, one proforma submission includes an additional comment that "*we are only new to the area*".¹⁸⁴ This comment follows on from the representations extracted in paragraph [212] above.
- ^[215] Further, although most of the submissions included additional comments, many of those comments did not reveal any strong or special association between the Saleyard and a particular community. Rather, they express a general desire to retain historical structures.¹⁸⁵ The same is true of several of the individual submissions.¹⁸⁶
- [216] Of those small handful of submissions that mentioned personal use of the Saleyard, including the submissions of Mr and Mrs Ward, the nature of their comments did not reveal a readily identifiable "*community*" or a special association that would be recognised by the broader community of Queenslanders (or even necessarily by the Beaudesert community).
- [217] I have carefully read all the submissions. They evidence no more than a local interest in the general location where the Saleyard is located (including the remaining railway station that is not the subject of the proposed listing). I am not prepared to afford significant weight to the submissions as evidence of a strong or special association with a particular community or cultural group for social, cultural, or spiritual reasons.

¹⁸² Exhibit 1.01 pp 76-149.

¹⁸³ See, for example, Exhibit 1.07 p 79.

¹⁸⁴ Exhibit 3.01 p 79.

¹⁸⁵ See, for example, Exhibit 1.07 pp 79, 95, 101, 103, 115, 122, 126, and 146.

¹⁸⁶ See, for example, Exhibit 1.07 pp 100 and 149.

- [218] Scenic Rim Regional Council submits that the evidence of Mr Richards demonstrates that criterion (g) is not satisfied. Mr Richards opines that the only group of people who may value the Saleyard for a valued customary experience over time would be the Beaudesert pig farming community. This is a small subset of the wider Beaudesert farming community referenced in the significance statement. He also notes that the Beaudesert farming community is itself a small subset of the wider Beaudesert community, which Mr Richards regards as the relevant community for consideration of criterion (g) in this case.¹⁸⁷
- ^[219] Mr Richards says that it is debateable whether the wider Beaudesert community has any regard for the Saleyard structure over and above its presence in the town and has any special regard or affection for the Saleyard structure. He notes that the peak period for the pig industry in Beaudesert was the early twentieth century, and this structure was built well after that time.¹⁸⁸
- [220] Mr Richards is of the opinion that the Saleyard does not represent any of the threshold indicators for social significance under criterion (g) that are set out in the Guideline, being length of association, demonstrated extent and degree of community association or significant former association. Mr Richards explains the basis of that opinion. He says that the length of association of the community with the Saleyard structure is relatively short in heritage terms. His views with respect to the extent and degree of association are set out in paragraph [218] above.¹⁸⁹
- [221] Mr Richards accepts that the Saleyard has been a place of business and transaction since the early 1960s but says this is not a long time in heritage terms. Further, he says the Saleyard's significance is little more than as a place of business and transaction. In more recent times, the Saleyard operated as a general market, selling many types of commodities other than animals. Mr Richards opines that this lessens whatever association the place may have had as predominantly an animal saleyard.¹⁹⁰
- [222] For those reasons, Mr Richards opines that there is no significant former association with the place. He says that the place was purpose-built as a saleyard structure and has now ceased operating as a venue for the market and sale of rural produce.¹⁹¹
- [223] Mr Richards agrees with Dr Blake that, in assessing whether cultural heritage criterion (g) is satisfied, account should be taken of the views of the people who made representations to the Queensland Heritage Council during the assessment process. For that purpose, Mr Richards reviewed the submissions.
- [224] Mr Richards observes that three of the submissions did not support the entry of the site in the Queensland heritage register. One was from the Scenic Rim Regional Council. Another was from the National Trust of Queensland, whose submission indicated that the place did not meet the thresholds or criteria for cultural significance as a State heritage place. That submission further states that the Saleyard was neither early nor representative, nor does it appear that any strong or

¹⁸⁷ Exhibit 3.01 p 16.

¹⁸⁸ Exhibit 3.01 p 16.

¹⁸⁹ Exhibit 3.01 p 16.

¹⁹⁰ Exhibit 3.01 p 16.

¹⁹¹ Exhibit 3.01 pp 16-7.

special association with the community was evident. The third submission that did not support the entry of the site in the Queensland heritage register was from a member of the public. It observed that the Saleyard was used for four hours once every two weeks. Mr Richards also notes that a submission by the Department of Transport and Main Roads did not express an opinion about the listing as there was not enough information in the application documents for that Department to form a view at the time that it wrote its submission.¹⁹²

- [225] Mr Richards says that a total of 34 submissions were prepared in support of the entry of the Saleyard in the Queensland heritage register. Of those submissions, he says 12 were from persons who identified themselves as customers of the Saleyard. He accepts that others may have been customers but notes that they did not raise this in the submission lodged. Some made exaggerated statements in their submissions about the town having no heritage left if the Saleyard was demolished as part of Scenic Rim Regional Council's revitalisation project.¹⁹³
- [226] Based on that analysis, Mr Richards opines that there are not many people who have long associations with the Saleyard and who made representations to the Queensland Heritage Council during the assessment process about that association.¹⁹⁴ He says there were, perhaps, 12 persons who indicated they had been participants in the calf and pig sales at the Saleyard. Given the size of the town of Beaudesert, Mr Richards does not regard this as constituting a community group for the purpose of criterion (g).¹⁹⁵
- [227] Mr Richards also notes that a recent online poll in the local newspaper, the Beaudesert Times, taken in April 2021 after the Saleyard had closed, found that more than 50 per cent of the respondents did not want the pig and calf sales to continue at Beaudesert. A total of 1,242 people provided responses in the poll. Of this total, there were 719 (57.89 per cent) who voted for the sales to be finished and 516 (41.55 per cent) who voted to continue the pig and calf sales in the town.¹⁹⁶
- ^[228] Mr Richards says that, while perhaps not a wholly representative sample of a crosssection of all Beaudesert residents, the poll is useful, to some degree, in providing some evidence of recent community sentiment on the issue, albeit an informal snapshot of public opinion on the issue. To assist with assessing its usefulness, Mr Richards observes that the population of Beaudesert is around 6,000 people. As such, the poll represents the views of just over 20 per cent of the population. Mr Richards regards this as a reasonable percentage.¹⁹⁷
- [229] I prefer the evidence of Mr Richards to that of Dr Blake. Mr Richards' analysis of the submissions made to the Queensland Heritage Council is supported by the documents themselves. He also provides cogent explanations for his opinions, which are supported by reasonable inferences drawn from facts that I accept. The same cannot be said of the evidence of Dr Blake.

¹⁹² Exhibit 3.02 p 7.

¹⁹³ Exhibit 3.02 p 7.

¹⁹⁴ Exhibit 3.02 p 7. ¹⁹⁵ Exhibit 3.02 p 7.

¹⁹⁵ Exhibit 3.02 p 7.

¹⁹⁶ Exhibit 3.01 pp 17.

¹⁹⁷ Exhibit 3.01 p 17.

- [230] The only facts to which Dr Blake referred to support his opinions was the content of the article published in the Beaudesert Times in 1936. He did not provide copies of any other material on which he relied to draw his inferences. For example, he did not reveal the basis of his opinion that the opportunity to travel to the Saleyard represented a limited opportunity to socialise for farmers.
- [231] Having regard to Dr Blake's contribution to the Joint Expert Report, his individual report, and his oral evidence, including my observations of his demeanour during his oral evidence, and my other findings with respect to his opinions on the other criteria, I do not find Dr Blake's evidence to be compelling. It seems to me that Dr Blake's opinions are founded on speculation or inferences drawn by him from unsubstantiated facts or a shaky factual foundation.
- [232] The *Queensland Heritage Act 1992* does not specify a minimum number of people to constitute a community group. Further, as the definition of "*cultural heritage significance*" recognises, associations are not to be identified by reference to the present generation alone, but also by reference to past generations. Nevertheless, having regard to my findings above, I am satisfied that the Saleyard does not have a strong or special association with a particular community.

Conclusion regarding criterion (g)

[233] For the reasons provided above, I am satisfied that the Saleyard does not have a strong or special association with a particular community or cultural group for social, cultural, or spiritual reasons. It does not satisfy criterion (g).

Should the Saleyard be included in the Queensland Heritage Register in the exercise of the discretion?

[234] I am satisfied that the Saleyard does not satisfy any of the criterion for cultural heritage significance. In those circumstances, it is not appropriate for it to remain listed.

Conclusion

- [235] Scenic Rim Regional Council has demonstrated that the Saleyard does not satisfy the cultural heritage criteria.
- [236] I order that the decision of the Queensland Heritage Council to enter the Beaudesert Pig and Calf Saleyard on the Queensland heritage register as a State heritage place is set aside and replaced with a decision not to enter the Beaudesert Pig and Calf Saleyard on the Queensland heritage register.

11 Confidential Matters

11.1 Finalisation of Appeal - MCU20/050 SDA Property Nominees Pty Ltd v Scenic Rim Regional Council and Ors - Planning and Environment Court Appeal No.BD2001 of 2021, 1-11 Eagles Retreat Place, Tamborine Mountain [Closed s.254J(3)(e)]

Executive Officer: General Manager Customer and Regional Prosperity

Item Author: Manager Regional Development, Health and Biodiversity

This report is **CONFIDENTIAL** in accordance with Section 254J(3)(e) of the *Local Government Regulation 2012*, which permits the meeting to be closed to the public for business relating to the following:

- (e) legal advice obtained by the local government or legal proceedings involving the local government including, for example, legal proceedings that may be taken by or against the local government.
- 11.2 Notice of Motion by Cr Swanborough re Recovery of Court Costs MCU20/050 SDA Property Nominees Pty Ltd v Scenic Rim Regional Council and Ors -Planning and Environment Court Appeal No.BD2001 of 2021, 1-11 Eagles Retreat Place, Tamborine Mountain [Closed s.254J(3)(e)]

Executive Officer: Chief Executive Officer

Item Author: Business Support Officer - Office of the Mayor and Chief Executive Officer

This report is **CONFIDENTIAL** in accordance with Section 254J(3)(e) of the *Local Government Regulation 2012*, which permits the meeting to be closed to the public for business relating to the following:

(e) legal advice obtained by the local government or legal proceedings involving the local government including, for example, legal proceedings that may be taken by or against the local government.