

# State Reporting Bureau



Queensland Government  
Department of Justice and Attorney-General

## Transcript of Proceedings

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Date: 3 February, 2003

SUPREME COURT OF QUEENSLAND  
CIVIL JURISDICTION  
CULLINANE J

No S704 of 2002

SUNWATER

Applicant

and

BURDEKIN SHIRE COUNCIL

Respondent

TOWNSVILLE

..DATE 03/02/2003

JUDGMENT

**WARNING:** The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complainants in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

HIS HONOUR: On the 18th of December 2002 the Court delivered judgment in this matter. The applicant succeeded in having set aside the minimum general rate adopted by the respondent council on the 16th of July 2002 but failed in relation to its challenge to the differential rate adopted for the category of land concerned. The total annual amount of rates which these challenges placed in issue was, I am told, some \$350,000, with the amount involved in the challenge to the minimum general rate being some \$37,318.

It is, I think, correct to say that the proceedings involved a number of other issues which the respondent in its written outline on the argument on the issue of costs has identified. These include whether the respondent had specified criteria when adopting a differential rate, as required by the Statute; whether it took into account an irrelevant consideration, namely its own idiosyncratic view of the value of the lands concerned, or associated with this its belief that the valuations ascribed to the lands were too low; whether a separate category could be validly created for the purposes of a differential general rate for the applicant's lands; and whether there was any rational justification for not including in such category other lands used for the supply of water for irrigation purposes. The respondent succeeded on all of these issues.

In my view it is correct to say that whilst the appellant succeeded on one of these issues and the monetary benefit accruing to it as a result of the success is significant, the

respondent should be regarded as having substantially  
succeeded on the application.

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I think that the justice of the case is met by ordering that  
the applicant pay one half of the respondent's costs of and  
incidental to the application, to be assessed, and I so order.

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