

DECISION

Case number: NDR188-15
Applicant: Stephen Douglas Whittam
Helen Susan Whittam
Respondent: Jan Cornelis Versteeg
Ngoc Thi Bich Versteeg
Before: Member Hughes
Date: 12 March 2020
Proceeding type: On-Papers Hearing
Initiating document: Application for order by consent filed 17 February 2020

THE TRIBUNAL ORDERS THAT, BY CONSENT:

1. The Respondents will allow access to their property to the Applicants and the Applicants contractor(s) to quote and perform the following Initial Maintenance work:
 - 1.1 Remove all Cocos Palms and grind the stumps below ground level
 - 1.2 Reduce the height of the Dragon Plant in the North West Corner by 2.0 metres
 - 1.3 Remove the 4 tallest Golden Cane Palms in the North West Corner
 - 1.4 Trim the height of the Bamboo in the North West Corner from the Boundary fence of # 44 Raby Esplanade up to the Alexander Palm to a height no more than 2.5 metres as measured from the tiles nearest the pool on the Applicants' side of the fence
 - 1.5 The Alexander Palm may have some leaves removed but must not be trimmed in any way that would cause the subsequent death of the tree.
 - 1.6 The Applicants and/or Applicants' contractors will remove all tree/plant cuttings from the Respondents' property, and the Applicants and/or Applicants' contractors will exercise best endeavours to avoid the tiled areas on the Respondents' property to avoid soil contamination on these tiles.
2. The Applicants will pay the expense of this Initial Maintenance work, and following the completion of the work the Respondents will reimburse the Applicants 50% of this expense up to a maximum of \$500. The Applicants will provide a copy of the Applicants' contractor invoice to the Respondents to verify the expenses charged by the Applicants contractor(s).
3. The Respondents will allow access to their property to the Applicants and/or the Applicants' contractor(s) to quote and perform the following Ongoing Maintenance:
 - 3.1 In the North West corner from the Boundary fence of # 44 Raby Esplanade to the Alexander Palm, to trim the Dragon Plant, the Golden Cane Palms and the Bamboo to a height no more than 2.5 metres as measured from the tiles nearest the pool on the Applicants' side of the fence

- 3.2 The Alexander Palm may have some leaves removed but must not be trimmed in any way that would cause the subsequent death of the tree.
- 3.3 Trim the rest of the Bamboo to a height of no more than 4.0 metres as measured from the tiles nearest the pool on the Applicants' side of the fence
- 3.4 The Respondents grant access to their property for the Applicants and/or Applicants' contractors to remove tree/plant cuttings from the Respondents' property, and the Applicants will exercise best endeavours to avoid the tiled areas on the Respondents' property to avoid soil contamination on these tiles, including leaving any tree/plant cuttings on the tiled area for the Respondents to remove and dispose.
4. The Applicants will pay the expense of the Ongoing Maintenance.
5. The Applicants must provide the Respondents with at least ten business days' notice of any access required to their property to perform the Initial Maintenance and any Ongoing Maintenance and the Respondents will not unreasonably withhold consent. If the Respondents wish to be in attendance for the maintenance then the Applicants and Respondents will agree a date and time that accommodates both parties. The Respondents will attend the Initial Maintenance to supervise the Applicants' contractors.
6. The Respondents agree to remove any other Cocos Palms that may grow on their property after the Initial Maintenance, at the Respondents' expense.
7. The Respondents agree that any trees that subsequently grow in the North West corner to a height greater than 2.5 metres as measured from the tiles nearest the pool on the Applicants' side of the fence, may then be trimmed by the Applicants as part of the Ongoing Maintenance.
8. The application for a tree dispute filed 9 December 2015 is otherwise dismissed.

Signed



Member Hughes
Queensland Civil and Administrative Tribunal