

DECISION

Case number: NDR032-23
Applicant: Kathleen Moira McCormack
Alan McCulloch
Respondent: Neil John Kussrow
Cheryl Jayne Kussrow
Before: Member Bishop
Date: 24 April 2024
Proceeding type: Directions Hearing

IT IS THE DECISION OF THE TRIBUNAL, BY CONSENT, THAT:

1. The Respondents, **Neil John Kussrow** and **Cheryl Jayne Kussrow** must engage a suitably qualified contractor to undertake the removal of the Camphor Laurel Tree (identified as Tree 1 in Mr James' Tree Assessment Report dated 27 September 2023) (Tree 1).
2. The Respondents, **Neil John Kussrow** and **Cheryl Jayne Kussrow** must engage a suitably qualified contractor to grind down the exposed surface roots of Tree 1 and the exposed surface roots of the Kurranjong Tree (identified as Tree 2 in Mr James' Tree Assessment Report dated 27 September 2023) (Tree 2) on the Applicants', **Kathleen Moira McCormack's** and **Alan McCulloch's**, land.
3. The Respondents, **Neil John Kussrow** and **Cheryl Jayne Kussrow**, must undertake severance and/or pruning of Tree 2 to provide clearance to the fence and fence post.
4. The Respondents, **Neil John Kussrow** and **Cheryl Jayne Kussrow** must undertake the removal of the Arrowhead vine on the Silky Oak Tree (identified as Tree 3 in Mr James' Tree Assessment Report dated 27 September 2023) (Tree 3) to allow a suitably qualified arborist to conduct an inspection of Tree 3.
5. After the arborist's inspection of Tree 3 as outlined in Order 4, the Respondents, **Neil John Kussrow** and **Cheryl Jayne Kussrow** must either:
 - (a) Remove Tree 3 by a suitably qualified contractor; or
 - (b) Engage an arborist to undertake an initial pruning of Tree 3 and formulate an ongoing maintenance and pruning schedule for Tree 3 (the Schedule).
6. The Respondents, **Neil John Kussrow** and **Cheryl Jayne Kussrow** must undertake the work outlined in Order 1, Order 2, Order 3, Order 4 and Order 5 **on or before 4:00pm on 25 October 2024**.
7. The Respondents, **Neil John Kussrow** and **Cheryl Jayne Kussrow**, must engage an arborist to undertake the ongoing maintenance and pruning of Tree 3 in accordance with the Schedule.
8. Any contractor engaged by the Respondents, **Neil John Kussrow** and **Cheryl Jayne Kussrow** must be appropriately insured to undertake the work outlined in Order 1, Order 2 and/or Order 5(a).

9. The inspection outlined in Order 4 and the work outlined in Order 5(b) and Order 7 must be undertaken by an arborist with a minimum qualification of Australian Qualification Framework level 3 in arboriculture with appropriate insurances.
10. The Applicants, **Kathleen Moira McCormack** and **Alan McCulloch** must allow any contractor or arborist with appropriate insurances engaged by the Respondents, **Neil John Kussrow** and **Cheryl Jayne Kussrow** access to their land subject to seven (7) days' notice or notice as agreed between the parties.
11. The Respondents, **Neil John Kussrow** and **Cheryl Jayne Kussrow** will be responsible for all costs associated with undertaking the work outlined in Order 1, Order 2, Order 3, Order 4, Order 5 and Order 7.
12. If the Respondents, **Neil John Kussrow** and **Cheryl Jayne Kussrow**, fail to undertake the work outlined in Order 1, Order 2, Order 3, Order 4, Order 5 or Order 7 the Applicants, **Kathleen Moira McCormack** and **Alan McCulloch**, shall be entitled to have the work undertaken by a suitably qualified contractor or arborist (as required) with appropriate insurances. The Applicants, **Kathleen Moira McCormack** and **Alan McCulloch** suitably qualified contractor or arborist with appropriate insurances shall be entitled to enter the Respondents', **Neil John Kussrow's** and **Cheryl Jayne Kussrow's**, land and carry out the outstanding work subject to the Applicants, **Kathleen Moira McCormack** and **Alan McCulloch**, giving 14 days written notice of that intention to the Respondents, **Neil John Kussrow** and **Cheryl Jayne Kussrow**.
13. The costs incurred by the Applicants, **Kathleen Moira McCormack** and **Alan McCulloch**, engaging a suitably qualified contractor or an arborist to undertake any of the outstanding work in default of the Respondents, **Neil John Kussrow** and **Cheryl Jayne Kussrow**, shall be recoverable from the Respondents, **Neil John Kussrow** and **Cheryl Jayne Kussrow**, as a debt without further notice being required to be given.

Signed



Member Bishop
Queensland Civil and Administrative Tribunal