

DECISION

Case number: NDR 159-20
Applicant: Geoffrey John Brett
Respondent: Nigel Cook

Before: Member Taylor
Date: 27 September 2024
Proceeding type: On the papers
Initiating Document: Application for a Tree Dispute filed by the applicant on 2 August 2022

IT IS THE DECISION OF THE TRIBUNAL THAT:

1. The respondent must cause the following work to be carried out to the seventeen (17) Indian Mast trees on his land at 126 The Esplanade, Grasstree Beach, Qld, 4740 (more properly described as Lot 8 on CP Z8507, Title Reference 20800049), which are located along the common boundary with the adjoining land at 128 The Esplanade:
 - (a) Prune each tree down to a height of 4.5 m;
 - (b) Prune any branch on each tree where such branch overhangs the common boundary, such pruning to be done back to the common boundary line and clear to the sky;
 - (c) Prune out each and every bifurcated codominant stem union as found in any one or more of the trees;
 - (d) Thereafter at all times maintain each of tree at a height not exceeding 6.0 m;
 - (e) In all instances all pruning work is to be:
 - (i) conducted by a person with a minimum AQF Level 3 Certificate in Arboriculture or international equivalent; and
 - (ii) performed to conform to AS 4373-2007 or a corresponding horticultural standard.
2. Save for that required under Order 1(d), the work under Order 1 herein is to be completed with urgency but not later than 28 calendar days of this order, unless:
 - (a) an extended time is agreed to in writing by the applicant, such agreement which must not unreasonable withheld; or
 - (b) otherwise ordered by this Tribunal.
3. To the extent necessary to perform any one or more parts of Order 1 herein, the respondent is permitted access to the applicant's land, but only having first notified the applicant in writing of the requirement for same, such to have been done not later than 7 calendar days in advance of the access being required.
4. In the event the respondent fails or refuses to satisfy Order 1 herein, Orders 5 and 6 herein shall apply.

5. Before any step is taken by the applicant under Order 6 herein:
 - (a) the applicant must first notify the respondent, in writing, of his assertion that the respondent has not complied with any one or more parts of Order 1, and requiring him to do so within 14 calendar days thereafter; and
 - (b) in the event the respondent continues to either fail or refuse to comply with the relevant part or parts of Order 1 after having received that notice, the applicant may proceed to implement Order 6 herein as necessary following expiry of that 14 days.
6. For the purposes of performing the work required under Order 1 herein, subject to that provided for under Order 5 herein, this Tribunal authorises:
 - (a) the applicant to take all reasonable and necessary steps to effect that provided for in paragraph (b) herein; and
 - (b) a person, other than the applicant, at the applicant's request, to enter the respondent's land for the purposes of carrying out such work, including entering the land for the purposes of initially providing a quotation for carrying out such work.
7. In all instances, the respondent is to pay the costs associated with carrying out the costs of complying with Order 1 and Order 6(b).
8. In the event a person authorised under Order 6(b) herein carries out that required by Order 1 herein, and/or provides a quote under Order 6(b) herein, and raises a charge for the cost of any part of same, such a charge is to be levied in the first instance on the respondent. Should the respondent refuse or fail to pay the costs within a reasonable time and the applicant then pays same, the applicant may recover from the respondent the cost paid as a debt.

Signed

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, is written over a faint circular seal of the Queensland Civil and Administrative Tribunal.

Member Taylor
Queensland Civil and Administrative Tribunal