

## DECISION

**Case number:** NDR183-22

**Applicants:** Peter Raymond Smyth-Kirk,  
Carmel Maureen Smyth-Kirk

**Respondent:** Maria Suzanne Pennisi,  
Steven Andrew Whitlock

**Before:** Member D Brown

**Date:** 24 February 2025

**Proceeding Type:** Tribunal Hearing

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### IT IS THE DECISION OF THE TRIBUNAL THAT:

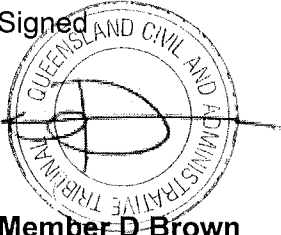
1. Within 2 months, being on or before 24 April 2025 Ms Pennisi must engage an Australian Qualified Framework ('AQF') level 3 or above arborist with appropriate insurances to:
  - a. Conduct target pruning of the Poinciana Tree by pruning to the collar of the limb that extends across the boundary fence.
  - b. Remove the 6 Cocos Palms that have been planted along the length of the dividing fence to the ground level.
  - c. Remove the whole stems from the Golden Cane palms on the Western sides of the plants.
  - d. Prune the shrubs and trees planted along the dividing fence to remove any branches that overhang the dividing fence.
2. Every year, commencing in May 2026, in the months of either May or June, Ms Pennisi is to arrange an inspection and remedial pruning of the trees and shrubs in her property by a level 3 or above arborist with appropriate insurances to:
  - a. Undertaken pruning and maintenance of the shrubs and trees that grow along the dividing fence to ensure there is no branches that overhang the dividing fence; and
  - b. To prune any other trees which overhang into Mr and Mrs Smyth-Kirk's property at 20 Carnation Road, Manly West.
3. Ms Pennisi will be responsible for paying all costs associated with undertaking the tree works in compliance with orders 1-2.
4. Should it be necessary to enter Mr and Mrs Smyth-Kirk's land to undertake the work outlined in Orders 1 to 2, upon giving 72 hours' notice of the intention, Ms Pennisi's elected arborist is entitled to enter Mr and Mrs Smyth Kirk's land to carry out the work.

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5. Ms Pennisi and/or Mr Whitlock shall be entitled to enter Mr and Mrs Smyth- Kirks' property to undertake regular maintenance of their trees outside of the above schedule, up to once every three months upon giving 48 hours notice to Mr and Mrs Smyth- Kirks' of their intention to enter.
6. These orders shall remain in force and effect for a period of 10 years from the date hereof.

Signed



**Member D Brown**  
**Queensland Civil and Administrative Tribunal**