

DECISION

Case number: NDR169-17
Applicant: Martin Luke McComish
Anthea Marie McComish
Respondent: Danielle Kendall

Before: Senior Member Howard
Date: 6 March 2018
Proceeding type: Application for Consent Order

WITH THE CONSENT OF THE PARTIES AND WITH THE AGREEMENT OF THE BRISBANE CITY COUNCIL, THE TRIBUNAL ORDERS THAT:

1. Terms used in these orders are defined as follows:
 - (a) "the neighbour" – Martin Luke McComish & Anthea Marie McComish
 - (b) "the tree-keeper" – Danielle Kendall
 - (c) "the neighbour's property" – 103 Crescent Road, Hamilton Qld 4007
 - (d) "the tree-keeper's property" – 18 Circe Street, Hamilton QLD 4007
 - (e) "the tree" – one White Fig
 - (f) The "tree works" comprise the 'initial tree works' in accordance with order 2 and the 'maintenance tree works' in accordance with orders 2 and 5;
2. The tree works must be performed in accordance with these orders as follows:
 - (a) The 'initial tree works':
 - i. pruning of the tree to reduce the canopy (by approximately 5 metres) to approximately the line of the white masonry retaining wall at the rear of 103 Crescent Road Hamilton;
 - ii. removal of deadwood larger than 50 mm in diameter;
 - iii. where possible, the cat's claw creeper must be removed and/or the cut stems poisoned with a gel-type herbicide;
 - (b) The 'maintenance tree works': as defined in order 5.
3. (a) Danielle Kendall as the tree keeper must engage only qualified arborists to perform the tree works; and
 - (b) All tree works must be performed on the tree by arborists with a minimum qualification of AQF Level 3- Certificate in Arboriculture and must be supervised by an arborist with a minimum qualification of AQF Level 5-Certificate in Arboriculture;

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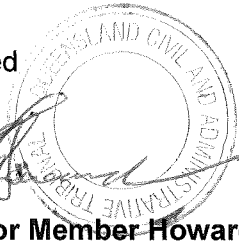

- (c) All pruning works must be performed in compliance with the requirements of Australian Standard 4373-2007 Pruning of Amenity Trees.
4.
 - (a) Danielle Kendall as the tree keeper must engage the Tree Doctor to perform the initial tree works in accordance with the quote from the Tree Doctor numbered C1053 dated 30 January 2018; and
 - (b) The tree keeper must make arrangements for the initial tree works to be undertaken as soon as possible, but **not later than 31 March 2018**.
5. Danielle Kendall must engage arborists to undertake 'the maintenance tree works' as follows:
 - (a) To compile a ten year maintenance plan for the tree that complies with this order and includes provision for inspections on a 12-18 month basis (as may be recommended by the arborist), assessments, recommendations and guidelines, and maintenance pruning, as follows:
 - i. The inspections, assessments and recommendations must include the following:
 - A. An assessment of general tree health, including the presence of pest and disease; and
 - B. structural assessment of the tree, including the presence of defects of weakness; and
 - C. a risk assessment based on quantitative principles;
 - D. extent of growth since previous inspection; and
 - E. maintenance pruning required.
 - ii. Guidelines for maintenance pruning of the tree; and
 - iii. Recommendations for more significant pruning, if necessary.
 - a. If more significant pruning is recommended from time to time, (for example, removal of large diameter or scaffold branches) that requires the provision of a permit from Brisbane City Council, the tree keeper must take all reasonable steps to apply for and obtain such a permit.
6.
 - (a) Danielle Kendall must pay the Tree Doctor for the initial tree works and the other costs referred to in order 7(a), as well as any arborist engaged in the future to perform the tree works; and
 - (b) The neighbours must reimburse the tree keeper from time to time in accordance with the apportionment prescribed in direction 7.
7. The cost of the tree work is to be apportioned as follows:
 - (a) Danielle Kendall must pay for the cost of the initial tree work as well as the cost of the provision of consulting services and the preparation of the arborist report as per invoice 10958 dated 31 January 2018.

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- (b) Martin Luke McComish and Anthea Marie McComish must pay the sum of \$1,817.75 to Danielle Kendall as contribution to the cost of the initial tree work and the other costs referred to in order 7(a). The payment of the contribution must be made in full within 7 days of completion of the initial tree work.
- (c) The costs of the maintenance tree works shall to be apportioned as follows:
- i. Danielle Kendall: 80% contribution; and
 - ii. Martin Luke McComish and Anthea Marie McComish: 20% contribution.
8. The tree keeper and the neighbour must allow access to their respective properties to facilitate The Tree Doctor and any other arborist engaged from time to time to undertake the initial tree works and the maintenance tree works.
9. Danielle Kendall must provide reasonable notice to Martin Luke McComish, Anthea Marie McComish and the Brisbane City Council of the date and time on which the initial tree works and all ongoing maintenance tree works will take place and must allow Martin Luke McComish and Anthea Marie McComish to participate in discussions with the arborist/s engaged for the tree works.

Signed



Senior Member Howard
Queensland Civil and Administrative Tribunal