

DECISION

Case number: NDR114-22
Applicant: Cathryn Elizabeth Absolon
Thomas John Absolon
Respondent: Bradley John Hetherton
Tracy Lorraine Hetherton

Before: Member Howe
Hearing Date: 19 August 2024
Delivered on: 25 November 2024
Proceeding type: Tribunal Hearing
Initiating document: Application for a tree dispute filed 6 June 2022

IT IS THE DECISION OF THE TRIBUNAL THAT:

1. Mr and Mrs Hetherton shall be entitled to enter Mr and Mrs Absolon's property at 40 Bellay Road, Beachmere to perform the suggested arboriculture management work noted in the tree assessor's report dated 8 May 2023, a copy of which is attached to these orders.
2. The work is to be undertaken by a suitably qualified arborist at the cost of Mr and Mrs Hetherton.
3. The arborist so engaged may also perform such additional branch cutting and pruning work as the arborist recommends as necessary to ensure Mr and Mrs Hetherton comply with their obligations as tree-keepers under the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* (Qld).
4. The work shall be done on or before 31 December 2024 after giving Mr and Mrs Absolon 7 days written notice of the intention to enter to perform the work.
5. Should the work not be completed by 31 December 2024, subject to Mr and Mrs Absolon having acted in good faith and not prevented or hindered Mr and Mrs Hetherton performing the work, Mr and Mrs Absolon shall be entitled to have the aforesaid work performed by a suitably qualified arborist engaged by them on their giving 14 days written notice of that intention to Mr and Mrs Hetherton.
6. Should Mr and Mrs Absolon be required to carry out the work mentioned above or the further biennial work provided for by Order 8 below in default of it being done by Mr and Mrs Hetherton, their suitably qualified arborist shall be entitled to enter Mr and Mrs Hetherton's property at 30 Bellay Road, Beachmere to carry out the work.
7. The costs incurred by Mr and Mrs Absolon engaging a suitably qualified arborist to do the work in default of Mr and Mrs Hetherton shall be recoverable from Mr and Mrs Hetherton as a debt without further notice being required to be given.
8. Mr and Mrs Hetherton shall also ensure a suitably qualified arborist attends and prunes the trees along the common boundary every 24 months after the trees are first pruned pursuant to Orders 1, 2 and 3 above.

9. Mr and Mrs Hetherton and any suitably qualified arborist engaged by them to perform the initial work or biennial pruning shall be entitled to enter Mr and Mrs Absolon's land to do that, subject to 7 days written notice being given of the work to be done.
10. A suitably qualified arborist shall be someone with a minimum qualification of Australian Qualifications Framework level 5 in arboriculture with appropriate insurance cover.
11. These orders shall remain in force and effect for a period of 10 years from the date hereof.
12. The claim for compensation by Mr and Mrs Absolon is refused.
13. The claim for legal costs by Mr and Mrs Absolon is refused.

Signed

A handwritten signature in black ink is written over a circular, light blue seal. The seal contains the text "QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL" around its perimeter. The signature is a stylized, cursive script.

Member Howe
Queensland Civil and Administrative Tribunal