

DECISION

Case Number: NDR140-20
Applicant: Rebecca J Ferguson
Respondent: Joan Stewart Riley
Before: Member Howe
Date: 6 April 2022
Initiating Document: Proposed agreement

The parties have agreed to the works necessary to resolve this dispute in accordance with their agreement.

IT IS THE DECISION OF THE TRIBUNAL THAT:

1. The application for a tree dispute is dismissed.

Signed

Member Howe
Queensland Civil and Administrative Tribunal

AGREEMENT

Case Number: NDR140-20
Applicant: Rebecca J Ferguson
Respondent: Joan Stewart Riley

THE PARTIES AGREE THAT:


1. The following definitions apply to this proposed agreement:
 - (a) “the neighbour” – Rebecca J Ferguson
 - (b) “the tree keeper” – Joan Stewart Riley
 - (c) “the neighbour’s property” – 2 Slater St, Queenton
 - (d) “the tree keeper’s property” – 9 Mt Leyshon Rd, Queenton
 - (e) “the trees” – rubber fig / fig tree (*Ficus elastica*) identified as tree 7 in the Tree Assessor’s Report filed 4 January 2022.
2. The tree works (“the works”) comprise the installation of a 900mm deep root barrier on the side of the tree keeper’s property, along the length of the common boundary, from the Western end to as far as the house, and appropriate remediation works as follows:
 - (a) Excavate the two roots by hand where they cross under the fence and sever them with a saw, removing a section of approximately 100mm. Do not rip them up with an excavator as this will cause splitting of the roots and increase the likelihood of fungal infection into the tree. Root severance may only be done with clean, sterilised saws to prevent fungal infestation from other trees.
 - (b) Using an excavator with a narrow bucket (no bigger than 300mm wide), or by means of hydrovac, excavate the rest of the trench to the depth of the root barrier. Any other roots that may be encountered, needs to also be cut cleanly with a saw.
 - (c) Install the root barrier to the full length of the trench. If possible, use a single uncut length of root barrier but if any joins have to be made ensure they are overlapped and sealed on both sides of the overlap. Fungal paints or drenches (Except for bitumen based paints) can be applied but is not essential, unless roots have been damaged during excavation
 - (d) Backfill the trench whilst ensuring that at least 100mm of the barrier is above the adjacent soil level to prevent roots from growing over the barrier.
 - (e) Once a root barrier is installed, the severed roots to be removed and any pavers disturbed by the works reinstated (including any compaction and filling necessary) by someone with relevant experience.
3. All rubbish and debris to be removed from the neighbour’s / tree keeper’s property after the works are performed.
4. All tree works to be performed in compliance with the requirements of Australian Standard 4373-2007 by a minimum Australian Qualifications Framework (AQF) level three (3) qualified arborist. Landscaping/paving works to be undertaken by an appropriately qualified landscaper or similar.
5. The attending contractors shall provide proof of current Public Liability and Work Cover insurances prior to works onsite.

For more information on QCAT

Call 1300 753 228 or visit www.qcat.qld.gov.au

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6. The tree keeper will arrange for the works and pay the cost of the works.
7. The works identified in paragraph 2 must be carried out within 60 days of the date of this Agreement.
8. Each party will otherwise bear its own costs of the application for a tree dispute.

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