



Queensland Civil and Administrative Tribunal

TREE ASSESSMENT REPORT

Applicant: Sally Leaves
Respondent: Simon Treekeeper
Case number: NDR000-22
Site address: 123 Street Road
SUBURBIA QLD 4321

I, [print your name here], certify that I attended at 123 Street Road
SUBURBIA QLD 4321 on [date of tree assessment]:

Actual Start Time: _____

Actual Finish Time: _____

1. Introduction/purpose

1.1. Brief

My role as Tree Assessor is to gather facts by observations and other simple tree tests, about the trees and alleged tree damage, obstructions etc, and provide expert recommendations that help QCAT to:

- a) determine if the dispute is within the jurisdiction of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* (NDR)
- b) determine if the orders sought are appropriate with respect to the NDR
- c) determine and specify appropriate actions, if any, that may lead to the efficient and fair resolution of the tree dispute.

1.2. Qualifications and Experience (attached and marked A)

1.3. Documents and Information Provided

1.4. Relevant Background Information

1.5. Issues addressed in this report

2. Site Visit and Observations

2.1. NDR Jurisdiction Checks - Ownership/tenure of land, location and type of "tree"

Use Part A of the Checklist as a guide to completing this section.

2.2. Checks as to whether the applicant's land is affected by the tree(s)?

Use Part B of the Checklist as a guide to completing this section.

2.3. Checks against matters for consideration ss70-75

Use Part C of the Checklist as a guide to completing this section

2.4. Recommendations (related to jurisdiction, or further investigations required before an order can be made)

Use Part D of the Checklist as a guide to completing this section

3. Discussion

4. Conclusion and recommendation

If it is recommended that work be carried out on a tree specify, if applicable –

1. the level of qualification recommended for the arborist to carry out the work (including any ongoing maintenance work)
2. the standard to which works are to be carried out (eg AS 4373-2007).

Signed: _____

Tree Assessor

[Print your name here]

Date: ____ / ____ / ____

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[illegible][illegible]

Tree Assessor on-site check list

Pre-onsite checks/preparations also recommended - protection status, extent of information provided in Application, type of “affect” alleged, any other supporting information.

NOTE: This checklist is based on the functions of Assessors under QCAT Act, and the role of the Tree Assessor to gather facts by observations and other simple tree tests, about the trees and alleged tree damage, obstructions etc, and provide expert recommendations that help QCAT to:

- a) determine if the dispute is within NDR jurisdiction
- b) determine if the affects and actions sought are valid re NDR jurisdiction
- c) determine and specify appropriate actions, if any, that may lead to efficient and fair resolution of the tree dispute

Introduction/purpose

A proforma script should be given to the on-site inspection audience, about what is expected of them and what will be done by the Assessor, and won't be done by Assessor (general tree advice, legal advice, recording what is said during inspection for use in other part of proceeding) what comes next.

E.g.

My name is..... I'm a qualified arborist and an Assessor appointed by the Tribunal to check information provided in the Application (about the tree and the affects of the tree on applicant's property) and gather other facts for the Tribunal, about the tree(s) and the affects of the tree(s) alleged in the Application.

What will happen today is:-

- *My inspection of the tree(s)- from both properties,(and any alleged tree damage) including some measuring, photo taking, and recording against my checklist (I won't be climbing the tree(s), nor drilling holes in the tree, nor undertaking any invasive tests of trunk, branches, root zone, or parts of your property)*
- *I'm also not here to provide general tree advice, nor any legal advice.*
- *I may ask some questions of each of you to help with my report to the Tribunal.*
- *I'll then share with you a summary of my relevant observations and recommendations.*
- *I'll ask if there are any points of agreement.*
- *I'll then clarify the points remaining in disagreement between the parties, based on the application, my observations and recommendations.*
- *I expect XYZ behaviour*
- *What happens after this meeting/inspection is – I'll provide a report with recommendations to the Tribunal, which will be shared with the parties. The Tribunal will consider whether it is appropriate to make orders in accordance with my recommendation and if they do you will be asked to consent to those orders. If you don't agree then the matter will be listed for a directions hearing and you will receive directions about the submissions and other material to be filed to progress the matter to a hearing.*

PART A - NDR jurisdiction checks

Ownership/tenure of land, location and type of “tree”

1. Are each of the trees, which are part of the application, subject to the legislation? - s42	Yes/No
2. Are each of the trees a “tree”? - s45	Yes/No
3. Are each of the trees situated on the adjoining land or land that would be adjoining if not separated by a road? - s47 and s46(b)	Yes/No
4. Are each of the “bases” of the trees situated “wholly or mainly” on the adjoining land? - s47(1)	Yes/No

IF NO to any of the above then DO NOT PROCEED further with tree assessment.
IF further investigation is recommended to determine the certainty of any of the above- then note in the recommendations, and proceed with the tree assessment as below.

IF YES to all of the above then PROCEED with the tree assessment from both the applicant’s and adjoining neighbour’s property, including the relevant parts of Part B (relating to the application):-

5. Identification (including note if weed species for that area or not) and key measurements of the tree(s) (height, average spread, trunk(s) DBH, position in relation to relevant features, or alleged damage)
6. Overall health status of tree, and observations used to establish that status
7. Historic, cultural, social or scientific values of the tree(s) (being as specific as possible re legislation)

PART B- Checks as to whether the applicant's land is "affected by the tree(s)"?

<p>1. Are there branches of the tree on the adjoining land, overhanging the land by more than 0.5m? s 46(a)(i)</p> <p>OR</p>	<p>Yes/No</p>
<p><i>Depending on alleged affect stated in Application</i></p> <p>2. Has/have the (are the) tree(s) caused, causing, likely to cause within next 12 months, <i>serious injury?</i> - s46 (a)(ii)(A)</p> <p><i>Regarding injury from falling branches or whole tree</i></p> <ul style="list-style-type: none"> Are there visually obvious, and arboriculturally significant, defects in the tree(s)? IF YES describe them in simple terms and photograph them and Is there a high likelihood and serious consequence of failure of the defective tree parts? Is there evidence of previous tree or tree part failures, and their consequences? IF YES- describe and photograph. Is there evidence of previous pruning or other tree work? IF YES, describe. <p><i>Regarding injury from other non-defect parts of the tree? e.g. thorns, heavy fruit, tree root trip hazards, allergic reactions, etc.</i></p> <ul style="list-style-type: none"> Is such injury caused, causing, or potentially injury causing tree or tree parts present or likely to be present at particular times of year? In your professional opinion, is there a high likelihood and serious consequence of the presence of such tree parts? Is there peer reviewed, published confirmation of the causal association between the tree(s) and the allergic reaction outlined in this application? 	<p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p>
<p>3. Have the (are the) tree(s) caused, causing, is likely to cause within next 12 months, <i>serious damage to land or property on land?</i> - s46(a)(ii)(B)</p> <ul style="list-style-type: none"> Describe the extent, type (and photograph) of the visually obvious, damage alleged to have been caused, being caused by the tree(s) <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	<p>Yes/No</p>

<ul style="list-style-type: none"> Is there also a clear, visible, or in your opinion, obvious link between the tree and the damage alleged to be caused by the tree(s)? What damage, alleged in the application, is NOT visible? <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	Yes/No	
<ul style="list-style-type: none"> Is there likelihood, in your professional opinion, of damage within the next 12 months, and what do you think would be the extent of this damage <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	Yes/No	
<ul style="list-style-type: none"> Is there evidence of previous pruning or other tree work? IF YES describe: <hr/> <hr/> <hr/> <hr/> <hr/>	Yes/No	
<p>4. Have the (are the) tree(s) caused, causing, or likely to cause within next 12 months, <i>substantial, ongoing and unreasonable interference with the neighbour's use and enjoyment of the land</i> - s46(a)(ii)(C)</p> <ul style="list-style-type: none"> List your factual observations relevant to alleged interference, other than sunlight or views e.g. sap from trees on washing - is the sap from something other than the neighbour's tree? <hr/> <hr/> <hr/> <hr/> <hr/>	Yes/No	
<ul style="list-style-type: none"> If the alleged interference is about <i>obstruction of sunlight to windows or roof or view from a dwelling</i> - <ul style="list-style-type: none"> Does the tree rise at least 2.5m above the ground? Is the obstructed window/roof part of a dwelling or view from a dwelling? What size (nearest square metres) is the applicant's land? 	Yes/No	
		Yes/No

<ul style="list-style-type: none"> • If the alleged interference is about <i>severe obstruction of sunlight to windows or roof of dwelling</i> - 	
<ul style="list-style-type: none"> - Check the measurements and orientation provided by the applicant about the exact location of the tree(s) in relation to the location of the obstructed windows/roof of the dwelling. <hr/> <hr/> <hr/>	
<ul style="list-style-type: none"> - In your professional opinion, was the tree(s) in an obstructing position at the time the window, roof, solar panels etc were installed? 	Yes/No
<p>OR</p> <ul style="list-style-type: none"> - has the tree grown to be an obstruction since the window, roof, skylight etc. was installed? 	Yes/No
<ul style="list-style-type: none"> - In your professional opinion, what would be the extent of obstruction within the next 12 months? <hr/> <hr/> <hr/>	
<ul style="list-style-type: none"> • If the alleged interference is about <i>severe obstruction of a view from a dwelling</i> - 	
<ul style="list-style-type: none"> - What is the view of? (Photo) Describe the elements which may help determine the significance of the view. <hr/> <hr/> <hr/>	
<ul style="list-style-type: none"> - To what extent, (Photo) and from what types of viewing locations/positions, is the view obstructed? <hr/> <hr/> <hr/>	
<ul style="list-style-type: none"> - In your professional opinion, was the tree(s) in an obstructing position at the time the dwelling was acquired by the applicant? 	Yes/No
<p>OR</p> <ul style="list-style-type: none"> - Has the tree grown to obstruct the view since the dwelling was acquired? 	Yes/No
<ul style="list-style-type: none"> - In your professional opinion, based on the tree(s) growth rate and form, how extensive would the obstruction be within the next 12 months? (% vs current %). <hr/> <hr/> <hr/>	

Part C- Checks against Matters for consideration ss70-75

	Yes/No
<ul style="list-style-type: none"> In your professional opinion, has anything other than the tree contributed to the alleged tree affects in dispute, including any actions by the applicant, or affects of trees on applicants land? IF YES, please describe. 	
<ul style="list-style-type: none"> In your professional opinion, regarding sunlight or view issues what is the contribution of tree(s) to protection or revegetation of a waterway or foreshore? 	
<ul style="list-style-type: none"> In your professional opinion, are there any other considerations which need comments/observations made about? <ul style="list-style-type: none"> E.g. observations relating to specific points raised in others reports provided with the application, or in reports/permits provided by the vegetation protection authority. 	

<ul style="list-style-type: none"> Comments about the likely impact and feasibility of recommended tree works, as compared to other tree works sought in the application, related to efficient resolution of the dispute and/or health, longevity, risks to the tree. 	

Part D - Recommendations (related to jurisdiction, or possible QCAT orders - s66)

<ul style="list-style-type: none"> Is there a need to Survey the tree location in relation to boundary to determine NDR jurisdiction? 	Yes/No
<ul style="list-style-type: none"> Are there other expert tests /reports/ and what are they, and what information will they yield, critical to determine NDR jurisdiction, or other facts important to the decision making process. 	Yes/No
<ul style="list-style-type: none"> Are there any tree work recommendations, specific to the restraint, remedying or preventing established tree affects on the applicant's property? If so, what are they specifically - removal, pruning (branch and/or root), specifications, qualifications of tree workers, timing, frequency of ongoing, access, etc. 	Yes/No

<ul style="list-style-type: none"> If tree work, or interference with trees, is recommended, and the trees are protected, then recommend appropriate permit be sought (note if you believe the works may be exempt under the relevant vegetation protection legislation). <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	
<ul style="list-style-type: none"> Are there any recommendations about other work related to remedying or preventing the tree's affect? <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	Yes/No
<ul style="list-style-type: none"> If any quotes have been provided with the application, would you offer an opinion on those, or recommend other quotes be sought? <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	Yes/No
<ul style="list-style-type: none"> If tree removal is recommended- are there recommendations regarding replacements? <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	Yes/No
<ul style="list-style-type: none"> All recommendations should not be onerous, or not feasible in the circumstances. 	

Part E – Points of Agreement / Disagreement

[illegible]