

DECISION

Case number: NDR059-20

Applicant: Noel Martin Jarrett
Susan Maree Jarrett

Respondent: Debra Jane Bliss
David John Bliss

Before: Member Bishop

Date: 31 May 2024

Proceeding type: Tribunal Hearing

Initiating document: Application for a tree dispute

IT IS THE DECISION OF THE TRIBUNAL THAT:

1. The Respondents must prune or remove all trees, including trees in pots, contained in the designated area of the Respondents' front yard ('the Designated Area') so that no tree contained in the Designated Area is taller than 2.50 metres, on or before 4:00pm on 2 August 2024.
2. The Respondents must undertake ongoing maintenance during the months of January, April, July and October of every year, if required, in the Designated Area so that no tree contained in the Designated Area is taller than 2.50 metres. The initial maintenance will occur, if required, in October 2024.
3. The Designated Area is bordered by the parties' shared side boundary from the Respondents' front boundary to the edge of the Respondents' house (currently most of the Hedge) and the Respondents' front boundary (currently where the Palms are located) and the Respondents' shared side boundary with the house located on the Esplanade from the Respondents' front boundary to the first post in the Respondents' side fence (this part of the Respondents' fence increases in height to meet the post and the post is in line with the side of the Esplanade's house.)
4. The Respondents must maintain the clearance channel between the Respondents' trees and the parties' shared side boundary fence (except the Pink Euodia, Pink Trumpet, Native Frangipani and Mock Orange Hedge), if required, three times a year in the months of January, May and September. The initial maintenance will occur in September 2024.
5. The Respondents must engage an arborist with a minimum qualification of Australian Qualification Framework level 5 in arboriculture with appropriate insurances to assess the Pink Euodia, Pink Trumpet, Native Frangipani (identified as T1, T2 and T3 in Damian Green's report dated 10 November 2023) and provide maintenance recommendations (the 'Initial Maintenance Work') in writing, on or before 4:00pm on 2 August 2024.

6. Upon completion of the Initial Level 5 Assessment outlined in Order 5, the Respondents must engage an arborist with a minimum qualification of Australian Qualification Framework level 3 in arboriculture with appropriate insurances to undertake the Initial Maintenance Work, on or before 4:00pm on 1 November 2024.
7. Unless there is a significant weather event and Order 8 is enlivened, twelve (12) months after the Initial Level 5 Assessment outlined in Order 5, and on an annual basis thereafter (to be completed in the same month of each year) (the 'Yearly Level 5 Assessment'), the Respondents must engage an arborist with a minimum qualification of Australian Qualification Framework level 5 in arboriculture with appropriate insurances to assess the Pink Euodia, Pink Trumpet and Native Frangipanni and provide written yearly maintenance recommendations ('Yearly Maintenance Work').
8. If within twelve (12) months after the Initial Level 5 Assessment outlined in Order 5 the Pink Euodia, Pink Trumpet and Native Frangipanni are subjected to a significant weather event, the Respondents must engage an arborist with a minimum qualification of Australian Qualification Framework level 5 in arboriculture with appropriate insurances to assess the Pink Euodia, Pink Trumpet and Native Frangipanni within two (2) months of that significant weather event ('Level 5 Severe Weather Assessment') and on an annual basis thereafter (to be completed in the same month of each year) (the 'Yearly Level 5 Assessment'), and provide written weather event maintenance recommendations ('Severe Weather Maintenance Work').
9. Upon completion of the Yearly Level 5 Assessment outlined in Order 7 or Level 5 Severe Weather Assessment outlined in Order 8, the Respondents must engage an arborist with a minimum qualification of Australian Qualification Framework level 3 in arboriculture with appropriate insurances to undertake the Yearly Maintenance Work or the Severe Weather Maintenance Work within two (2) months of receiving those assessments.
10. Upon completion of the Initial Level 5 Assessment, the Yearly Level 5 Assessment or the Severe Weather Assessment the Respondents must give the Applicants a copy of the Initial Maintenance work, the Yearly Maintenance Work or the Severe Weather Maintenance Work within seven (7) days of the Respondents' receiving them.
11. Prior to the Respondent's elected level 3 arborist undertaking the Initial Maintenance Work, the Yearly Maintenance Work and/or the Severe Weather Maintenance Work outlined in Order 6 and Order 9, the Respondents must provide their elected level 3 arborist a copy of the Initial Maintenance Work, the Yearly Maintenance Work and/or the Severe Weather Maintenance Work to be undertaken.
12. The Respondents' elected arborist (with a minimum qualification of Australian Qualification Framework level 3 in arboriculture with appropriate insurances) must perform all pruning in accordance with AS4373-2007 Pruning of Amenity Trees.
13. The Respondents will be responsible for all costs associated with Order 1, Order 2, Order 4, Order 5, Order 6, Order 7, Order 8 and Order 9.
14. If required the Applicants must allow the Respondents' elected arborist and/or elected contractor with appropriate insurances access to their land to undertake the work outlined in Order 1, Order 2, Order 4, Order 5, Order 6, Order 7, Order 8 and/or Order 9 subject to three (3) days' notice or as agreed between the parties.

15. If the Respondents fail to undertake any of the work outlined in Order 1, Order 2, Order 4, Order 5, Order 6, Order 7, Order 8, Order 9 and/or Order 10 ('Incomplete Work') the Applicants shall be entitled to undertake any of the Incomplete Work in accordance with these Orders. The Applicants' elected contractor and/or arborist shall be entitled to enter the Respondents' land and carry out any of the Incomplete Work subject to the Applicants giving 14 days written notice of that intention to the Respondents.
16. If the Respondents undertake all of the outstanding Incomplete Work prior to the 14 days written notice period expiring as outlined in Order 15, the Applicants' entitlement to enter the Respondents' land is extinguished.
17. The costs incurred by the Applicants engaging a contractor and/or arborist to undertake any of the Incomplete Work in default of the Respondents shall be recoverable from the Respondents as a debt without further notice being required to be given.

Signed



Member Bishop
Queensland Civil and Administrative Tribunal