



Queensland Civil and Administrative Tribunal

DECISION

Case number: NDR187-22
Applicant: David Nielsen
Respondent: Janet Ling Yang

Before: A/Member Lumb

Date: 26 June 2024
Proceeding Type: Papers - MOU

IT IS THE DECISION OF THE TRIBUNAL THAT:

1. Body Corporate for Triton Villas Port Douglas Community Titles Scheme 31210 ('the Body Corporate') is joined as a further applicant to the proceeding.
2. David Nielsen is granted leave to represent the Body Corporate in the proceeding.
3. The Respondent must carry out work to remove the following trees ('the Trees') on the Respondent's land:
 - (a) the *Ficus benjamina* (Weeping Benjamin Fig); and
 - (b) the *Mangifera indica* (Mango tree).
4. The removal of the Trees ('the Work') must be carried out:
 - (a) within six (6) weeks of the date of the Decision;
 - (b) by a qualified arborist with a minimum qualification of Australian Qualifications Framework Level 3 in Arboriculture, holding insurance cover for the work; and
 - (c) at the Respondent's cost.
5. If the arborist requires access to any part of the Applicants' land to carry out the Work:
 - (a) the Applicants must provide access to the arborist, if access is requested by notice given by the Respondent or the arborist to the Applicants, by email or personal service, not less than three (3) days prior to the date on which the Work is to be carried out; and
 - (b) any culms, stems, or other vegetative matter must be removed from the Applicants' land in the carrying out of the Work.
6. Should the Work not be carried out by the Respondent within the period set out in Order 4(a):
 - (a) the Applicants shall be entitled to have the Work carried out by an arborist meeting the requirements of Order 4(b);
 - (b) for the purpose of carrying out the Work, the arborist engaged by the Applicants shall be entitled to enter the Respondent's land to carry out the Work, subject to the Applicants giving notice to the Respondent, by email or personal service, not

QCAT

Queensland Civil and Administrative Tribunal

less than (3) days prior to the date on which the Work is to be carried out; and

- (c) the cost incurred by the Applicants in engaging an arborist to carry out the Work shall be recoverable from the Respondent as a debt.

Signed

A/Member Lumb
Queensland Civil and Administrative Tribunal