

DECISION

Case number: NDR229-23

Applicant: Penelope Guthrie, Alan Fraser Guthrie

Respondent: John N Eldred, Janati

Before: Member Taylor

Date: 30 October 2024

Proceeding Type: Tribunal Hearing

IT IS THE DECISION OF THE TRIBUNAL THAT:

1. The respondents must carry out, or cause to be carried out, work to remove the following tree, sufficient to ensure regrowth of the tree will not occur, from their land at 11 Cicero Close, Mooroolbool, 4870 (more properly described as Lot 249 on RP 738488) which adjoins the applicants' land at 10 Marcus Close, Mooroolbool 4870 (more properly described as Lot 260 on RP 738499) which is located close to the common boundary:
 - (a) The 'Cocos Nucifera' commonly known as 'Coconut Palm'.
2. The work under Order 1 herein is to be completed with urgency but not later than 28 calendar days of this order, unless:
 - (a) an extended time is requested by the respondents and agreed to in writing by the applicants, such agreement which must not unreasonably be withheld; or
 - (b) otherwise ordered by this Tribunal.
3. To the extent necessary to perform Order 1 herein, the respondents are permitted access to the applicants' land, but only having first notified the applicants in writing of the requirement for same, such to have been done not later than 7 calendar days in advance of the access being required.
4. In the event the respondents fail or refuse to satisfy Order 1 herein, Orders 5 and 6 herein shall apply.
5. Before any step is taken by the applicants under Order 6 herein:
 - (a) the applicants must first notify the respondents, in writing, of their assertion that the respondents have not complied with Order 1, and requiring them to do so within 14 calendar days thereafter; and
 - (b) in the event the respondents continue to either fail or refuse to comply with Order 1 after having received that notice, the applicants may proceed to implement Order 6 herein as necessary following expiry of that 14 days.

6. For the purposes of performing the work required under Order 1 herein, subject to that provided for under Order 5 herein, this Tribunal authorises:
 - (a) the applicants to take all reasonable and necessary steps to effect that provided for in paragraph (b) herein; and
 - (b) a person, other than either of the applicants, at the applicants' request, to enter the respondents' land for the purposes of carrying out such work, including entering the land for the purposes of initially providing a quotation for carrying out such work.
7. In all instances, the respondents are to pay the costs associated with carrying out the costs of complying with Order 1 and Order 6(b).
8. In the event a person authorised under Order 6(b) herein carries out that required by Order 1 herein, and/or provides a quote under Order 6(b) herein, and raises a charge for the cost of any part of same, such a charge is to be levied in the first instance on the respondents. Should the respondents refuse or fail to pay the costs within a reasonable time and the applicants then pay same, the applicants may recover from the respondents the cost paid as a debt.
9. Pursuant to s 66(5)(e) of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011 (Qld)*, the respondents are to pay the applicants \$595.00, within 28 calendar days of the date of this order, such to be in addition to the respondents' costs which arise under Order 7 herein.

Signed



Member Taylor
Queensland Civil and Administrative Tribunal