

DECISION

Case number: NDR203-23
Applicant: Liam O'Brien
Josephine O'Brien
Respondent: David Kirwan
Kate Johnson
Before: Member Bishop
Date: 5 February 2025
Proceeding type: Directions Hearing
Initiating document: Application for a tree dispute filed 20 October 2023

1. **On or before 4:00pm on 28 March 2025, David Kirwan and Kate Johnson** must reduce the height of the Slender Weaver Bamboo (identified as Tree 1 in Michael Sowden's Tree Assessment Report dated 22 September 2024) (Tree 1) to no higher than 1.75 metres (175 centimetres) above the parties shared common boundary fence to form a hedge.
2. **David Kirwan and Kate Johnson** must undertake ongoing maintenance of Tree 1 to reduce its height to no higher than 1.75 metres (175 centimetres) above the parties shared common boundary fence to form a hedge in the months of **February, June and October** of each year. The first maintenance pruning will occur in **June 2025** and the last maintenance pruning will occur in **October 2034**.
3. **David Kirwan and Kate Johnson** must engage a suitable contractor with appropriate insurances (including Public Liability Insurance) or an arborist with a minimum qualification of Australian Qualification Framework level 3 in arboriculture with appropriate insurances (including Public Liability Insurance) to undertake the work outlined in Order 1 and Order 2.
4. **On or before 4:00pm on 27 June 2025, David Kirwan and Kate Johnson** must prune the unknown tree (identified as Tree 2 in Michael Sowden's Tree Assessment Report dated 22 September 2024) to:
 - (a) remove all accessible deadwood throughout the canopy greater than 25millimeters in diameter, and
 - (b) reduce the height and width of the canopy by 8% to 10% to appropriate pruning points and behind the parties shared common boundary fence.
5. If required, **David Kirwan and Kate Johnson** must undertake ongoing maintenance of Tree 2, in accordance with their elected arborist's recommendations, to maintain the height and width of its canopy to behind the parties shared common boundary fence in the month of **June 2026, June 2027, June 2028, June 2029, June 2030, June 2031, June 2032, June 2033 and June 2034**.

6. **David Kirwan** and **Kate Johnson** must engage an arborist with a minimum qualification of Australian Qualification Framework level 3 in arboriculture with appropriate insurances (including Public Liability Insurance) to undertake the work outlined in Order 4 and Order 5.
7. If required, **Liam O'Brien** and **Josephine O'Brien** must give **David Kirwan's** and **Kate Johnson's** elected contractor and/or elected arborist with appropriate insurances (including Public Liability Insurance) access to their land to undertake the work outlined in Order 1, Order 2, Order 4 and/or Order 5, subject to **David Kirwan** and **Kate Johnson** giving them three (3) days' notice or as agreed between the parties.
8. **David Kirwan** and **Kate Johnson** will be responsible for all costs associated with carrying out the work outlined in Order 1, Order 2, Order 4 and Order 5.
9. If **David Kirwan** and **Kate Johnson** fail to undertake any of the work outlined in Order 1, Order 2, Order 4 and/or Order 5 (the Incomplete Work) **Liam O'Brien** and **Josephine O'Brien** shall be entitled to engage their own suitable contractor and/or arborist with appropriate insurances (including Public Liability Insurance) to carry out any of the Incomplete Work subject to **Liam O'Brien** and **Josephine O'Brien** giving **David Kirwan** and **Kate Johnson** fourteen (14) days' written notice of that intention.
10. The costs incurred by **Liam O'Brien** and **Josephine O'Brien** engaging their own contractor and/or arborist to undertake any of the Incomplete Work in default of **David Kirwan** and **Kate Johnson** shall be recoverable from **David Kirwan** and **Kate Johnson** as a debt without further notice being required to be given.

Signed



Member Bishop
Queensland Civil and Administrative Tribunal