

DECISION

Case number: NDR029-23

Applicant: Anthony John Fletcher
Cheryl Fletcher

Respondent: Bruce Mitchell
Sharon Mitchell

Before: A/Member K Chapple

Date: 20 MARCH 2025

Proceeding type: Tribunal Hearing

Initiating document: Application for a tree dispute filed 31 January 2023

IT IS THE DECISION OF THE TRIBUNAL THAT:

1. The Respondent must undertake, on an annual basis, branch reduction of the two Hoop Pine trees to a height of 6 metres from the ground in relation to those branches overhanging the Applicant's land such that the branches do not extend more than 2 metres into the Applicant's land.
2. The Respondent must undertake, on an annual basis, removal of all deadwood and loose branches hanging in the branches and/or canopy of the two Hoop Pine trees to a height of 6 metres from the ground in relation to those branches and/or part of the canopy overhanging the Applicant's land.
3. The Respondent must undertake, on an annual basis, denutting of the two Hoop Pine trees in relation to those areas of the trees that overhang the Applicant's land.
4. The Respondent must engage an arborist with a minimum qualification of Australian Qualification Framework level 3 in arboriculture with appropriate insurances to undertake the work associated with Orders 1, 2 and 3.
5. The Respondent must ensure that the initial work associated with Orders 1 and 2 is undertaken by no later than 31 May 2025.
6. The Respondent must ensure that the initial work associated with Order 3 is undertaken by no later than 31 October 2025.
7. The Respondent must undertake, on an annual basis, maintenance of the Liquidambar tree such that it does not exceed 5 metres in height and 3 metres in spread.
8. The Respondent must ensure that the initial work associated with Order 7 is undertaken no later than 31 May 2025, if the work has not already been undertaken in 2025.
9. The Applicant must allow the Respondent's elected arborist and/or contractor with appropriate insurances, and where necessary, the Respondent, access to 98 Cypress to undertake the work associated with Orders 1 to 8 subject to 3 days' notice as agreed between the parties.
10. The Respondent will be responsible for all costs associated with Orders 1 to 8.
11. If the Respondent fails to undertake any of the work associated with Orders 1 to 8 ('Incomplete Work'), the Applicant shall be entitled to undertake any of the Incomplete Work

in accordance with these orders. Where necessary to comply with these orders, the Applicant's elected arborist and/or contractor with appropriate insurances shall be entitled to enter the Respondent's land and undertake any of the Incomplete Work subject to the Applicant giving 14 days' notice in writing of that intention to the Respondent.

12. If the Respondent undertakes all of the outstanding Incomplete Work prior to the expiration of the 14 days' written notice as outlined in Order 11, the Applicant's entitlement to enter the Respondent's land, with or without their elected arborist and/or contractor, is extinguished.
13. The costs incurred by the Applicant to undertake any of the Incomplete Work in accordance with these orders in default of the Respondent shall be recoverable from the Respondent as a debt without further notice being required to be given.
14. Pursuant to s 78(1) of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* (Qld), it is expressly provided that these orders shall not lapse 10 years after the day on which these orders were made but shall remain in force until revoked by the Tribunal.
15. In accordance with Part 6 of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* (Qld), details of these orders will be entered in the register of orders maintained as a public record by the Tribunal.
16. These orders finally determine the Application and all of the following related applications:
 - (i) Application for miscellaneous matters filed by the Applicant on 27 November 2023.
 - (ii) Application for miscellaneous matters filed by the Respondent on 12 December 2023.
 - (iii) Application for miscellaneous matters filed by the Respondent on 26 November 2024.
 - (iv) Application for miscellaneous matters filed by the Applicant on 10 January 2025.
 - (v) Application for miscellaneous matters filed by the Applicant on 3 February 2025.
 - (vi) Application for miscellaneous matters filed by the Applicant on 21 February 2025.
 - (vii) Application for miscellaneous matters filed by the Respondent on 3 March 2025.
 - (viii) Application for miscellaneous matters filed by the Applicant on 3 March 2025.
 - (ix) Application for miscellaneous matters filed by the Applicant on 4 March 2025.
 - (x) Application for miscellaneous matters filed by the Respondent on 18 March 2025.
17. Each party must bear their own costs of and incidental to the Application and the related applications.



A/Member K Chapple
Queensland Civil and Administrative Tribunal