

## DECISION

**Case number:** NDR123-14  
**Applicant:** Kerryn Smith  
**Respondent:** Nerida French  
**Before:** Member Gardiner  
**Date:** 9 June 2015  
**Proceeding Type:** Tribunal Hearing


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### IT IS THE DECISION OF THE TRIBUNAL THAT:

1. The tree keeper of the lot at 20 Lavarack Road Bray Park in the State of Queensland is to engage a qualified arborist, with minimum Australian Qualification Framework at Level 3 and appropriate insurance cover, to carry out pruning above ground and of the canopy of the fig tree that overhangs the tree keepers' boundary with the property at 18 Lavarack Road Bray Park in the State of Queensland to the maximum extent in accordance with AS 4373- 2007 *Pruning of Amenity Trees* but limited to the overhang of the tree onto the property at 18 Lavarack Road Bray Park in the State of Queensland.
2. The registered owner of the lot at 18 Lavarack Road Bray Park in the State of Queensland is authorised to engage a qualified arborist, with minimum Australian Qualification Framework at Level 3 and appropriate insurance cover, to carry out pruning of any roots that extend or protrude in lawn at 18 Lavarack Road Bray Park in the State of Queensland emanating from the fig tree located at 20 Lavarack Road Bray Park in the State of Queensland.
3. The expense of the work described in order 1 above is to be borne equally by the parties and completed within two (2) months of this order.
4. The expense of the work described in order 2 above is to be borne by the registered owner of 18 Lavarack Road Bray Park and completed within one (1) month of this order.
5. The tree keeper Nerida French is to undertake a pruning maintenance program of the fig tree every three years in accordance with AS 4373- 2007 *Pruning of Amenity Trees* with the cost of such maintenance to be borne equally by the parties.

#### For more information on QCAT

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GPO Box 1639, Brisbane Qld 4001 Fax: 07 3221 9156  
Email: [enquiries@qcat.qld.gov.au](mailto:enquiries@qcat.qld.gov.au) ABN: 13 846 673 994



6. Nerida French shall take all reasonable steps to ensure compliance with s.94 of the *Neighbourhood Dispute (Dividing Fences and Trees) Act 2011* by:-
  - (a) directing the arborist to provide notice of their intention to enter the land and carry out the relevant work, at least seven days prior to entering the land, to:
    - i. The owner of the land; and
    - ii. Any lessee of the land that they are aware of and
  - (b) directing the arborist to enter the land for the purpose of completing the work only at a reasonable time and only to a reasonable extent needed to carry out the work.
7. If Nerida French fails to comply with Order 1 above, Kerryn Smith may access the tree-keeper's property for purposes of having an AQF Level 3 Arborist perform the works, and may recover the costs of the work from Nerida French in a court or tribunal of competent jurisdiction.
8. That the cost of the arborist's report in these proceedings be born equally by the parties and that the sum of \$500 be deducted from any contribution required by Kerryn Smith under these orders to recompense Kerryn Smith for the full payment of the report already made by her on behalf of both parties.

Signed

**Member Gardiner**  
**Queensland Civil and Administrative Tribunal**