

DECISION

Case number: NDR151-21
Applicant: John Frederick Butteriss
Julianne Maree Butteriss
Respondent: Neil Kershaw
Michele Anne Kershaw

Before: Member Bertelsen
Date: 19 July 2024
Proceeding type: On-papers hearing

IT IS THE DECISION OF THE TRIBUNAL THAT:

1. The registered owner/s of lot 1, 52 Keppel Street Emu Park shall arrange for all those trees/vegetation situated thereon to be pruned/trimmed to a height of 2.5 metres so as to restore/maintain fully the ocean view from the mid-level of the three story dwelling on lot 3, 33 Ferguson Street Emu Park subject only to trees/vegetation in between the mid-section of the backyard area of lot 1, 52 Keppel Street and the rear of the dwelling thereon being pruned/trimmed to a height of 3.0 metres, only if there is no loss of full ocean view from lot 3, 33 Ferguson Street Emu Park.
2. Pruning/trimming to be carried out every six months with first half yearly pruning/trimming to be undertaken on or before 30 August 2024.
3. Where necessary, pruning/trimming must be carried out by an appropriately insured arborist who is qualified to a minimum of Australian Qualifications Framework ('AQF') level 3 in arboriculture.
4. Should the owner/s of lot 3, 33 Ferguson Street Emu Park be required to carry out the work in default of it being done by the owners of lot 1, 52 Keppel Street Emu Park a suitably qualified arborist with appropriate insurance cover engaged by the owner/s lot 3, 33 Ferguson Street Emu Park shall be entitled to enter the land lot 1, 52 Keppel Street Emu Park to carry out such work subject to the owner/s lot 3, 33 Ferguson Street Emu Park giving 14 days written notice of that intention to the owner/s lot 1, 52 Keppel Street Emu Park at his/her/their last known address.
5. The costs incurred by the owner/s of lot 3, 33 Ferguson Street in engaging an arborist to carry out any such work in default shall be recoverable from the owner/s of lot 1, 52 Keppel Street Emu Park as a debt without further notice being required to be given.
6. These orders shall not lapse 10 years after the day upon which these orders were made pursuant to the provisions of section 78(1) of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* but shall remain in force until revoked by the Tribunal.

7. In compliance with Part 6 of the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*, details of these orders will be entered in the register of orders maintained as a public record by the Queensland Civil and Administrative Tribunal.

Signed

A handwritten signature in dark ink, consisting of several loops and a long horizontal stroke extending to the right.

Member Bertelsen
Queensland Civil and Administrative Tribunal