

DECISION

Case number: NDR101-24 and Q2599/24
Applicant: Ylishavai Fabian
Respondent: Baladeva John Dewhirst
Amy Davidson

Before: Member Bishop
Date: 11 September 2024
Proceeding type: Directions Hearing
Initiating document: Application for consent orders

IT IS THE DECISION OF THE TRIBUNAL BY CONSENT THAT:

1. The Applicant, **Ylishavai Fabian** and the Respondents, **Baladeva John Dewhirst** and **Amy Davidson**, must make and agree upon all required arrangements so that **on or before 4:00pm on 9 November 2024**:
 - a) all trees (identified as including the Cocos Palms, Golden Canes, Chinese Elms, Jacaranda Tree, Frangipani Tree, Dracaena, Umbrella Tree, Mock Orange and Fiddle-lead Fig in the Vinton Tree Services Tree Report conducted on 26 June 2024) situated on the Respondents', **Baladeva John Dewhirst's** and **Amy Davidson's**, land 1.5 metres and less from the parties' shared common boundary fence are removed;
 - b) all stumps situated on the Respondents', **Baladeva John Dewhirst's** and **Amy Davidson's**, land 1.5 metres and less from the parties' shared common boundary fence are ground out or poisoned where the stumps are unable to ground out because of the shared common boundary fence's proximity; and
 - c) one large limb of the Pink Bloodwood overhanging into the Applicant's, **Ylishavai Fabian's**, land is removed.
2. The Applicant, **Ylishavai Fabian**, will be responsible for all costs associated with the work outlined in Order 1. The Applicant, **Ylishavai Fabian**, will engage Vinton Tree Services to undertake the work outlined in Order 1 and quoted in IAQ V00865 (\$2,900+GST) and IAQV00866 (\$1,300+GST) for a total of \$4,620+GST.
3. The Respondents, **Baladeva John Dewhirst** and **Amy Davidson**, must undertake ongoing maintenance of their trees situated on their land 1.5 metres and less from the parties' shared common boundary to ensure a clearance channel.
4. The Respondents, **Baladeva John Dewhirst** and **Amy Davidson**, must undertake ongoing maintenance of their palm trees situated on their land to prevent the palm trees impacting upon the Applicant's, **Ylishavai Fabian's**, land.

5. **Within two (2) months** of the work outlined in Order 1 being completed, the Applicant, **Ylishavai Fabian** and the Respondents, **Baladeva John Dewhirst** and **Amy Davidson**, must make and agree upon all required arrangements so that Pointform Construction is engaged to undertake the work outlined in Quote Number 261 issued on 12 August 2024 in the amount for \$9,988.16. That work includes the:
 - a) removal and disposal of the existing shared timber fence; and
 - b) construction of a Colourbond fence using concrete sleepers. The concrete sleepers will consist of 400mm double sleepers for 26 metres and the remainder of the fence will use single sleepers.
6. The Applicant, **Ylishavai Fabian**, will be responsible for \$5,279.08 of the costs associated with the work outlined in Order 5 and the Respondents, **Baladeva John Dewhirst** and **Amy Davidson**, will be responsible for \$4,709.08 of the costs associated with the work outlined in Order 5 (for a total of \$9,988.16). The Applicant, **Ylishavai Fabian**, is responsible for the additional amount of \$570, which is included in the \$5,279.08 amount, because of the use of concrete sleepers instead of timber sleepers.
7. The Applicant, **Ylishavai Fabian** and the Respondents, **Baladeva John Dewhirst** and **Amy Davidson**, will undertake ongoing maintenance of the parties' shared Colourbond boundary fence.

Signed



Member Bishop
Queensland Civil and Administrative Tribunal

