

DECISION

Case number: NDR200-12
Applicant: Mr Bruce Day
Respondent: Mrs Patricia Lurati
Before: Mr Jeremy Gordon,
Date: 22 July 2013
Proceeding Type: Hybrid Hearing

IT IS THE DECISION OF THE TRIBUNAL THAT:

1. Mrs Patricia Lurati being the registered owner of the lot at 7 Wongawallan Road, Eagle Heights QLD 4271 must arrange to have the following works carried out on the *Eucalyptus grandis* trees shown on the plan dated October 2012 which is attached to this order. The work shall be at the expense of Mrs Lurati and must be completed by **4:00pm on 5 September 2013**.
 - (a) Tree No. 1. Remove deadwood. Remove dead secondary leader from base. Remove hanging branches which extend over the boundary between number 7 and number 9 Wongawallan Road.
 - (b) Tree No. 2. No work.
 - (c) Tree No. 3. Remove a large dead branch which extends over the boundary between number 7 and number 9 Wongawallan Road.
2. If the above work is not carried out by 5 September 2013 Bruce Day may himself arrange to have it done or completed by his own contractors, and Mrs Lurati is hereby ordered to pay him the reasonable cost of doing so.
3. By **5 September 2016** and every 3 years thereafter (the "maintenance date") Mrs Lurati at her own expense shall engage an arborist to recommend and to carry out (or at least supervise) such work on Trees No.1, 2 and 3 as is necessary (a) to prevent serious injury to any person or (b) to remedy, restrain or prevent:
 - (i) serious damage to No. 9 Wongawallan Road or any property on that land; or
 - (ii) substantial, ongoing and unreasonable interference with the use and enjoyment of No. 9 Wongawallan Road.
4. If the work above has not been done by any maintenance date Bruce Day may himself arrange to have it carried out (or at least supervised) by his own arborist and Mrs Lurati is hereby ordered to pay him the reasonable cost of doing so.

For more information on QCAT

5. Any person engaged under this order to advise as to the trees or to carry out any work on them must have a minimum AQF Cert III in Arboriculture and be a member of the Queensland Arboricultural Association Inc. Any pruning work carried out under this order must comply with the Australian Standard for Pruning of Amenity Trees (AS 4373-2007). If and in so far as required under the Nature Conservation Act 1992 (Qld) any such pruning work must be overseen by a qualified wildlife expert.
6. A reference in this order to AQF Cert III in Arboriculture includes any equal qualification. A reference to the Queensland Arboricultural Association Inc. includes any organisation which replaces it. A reference in this order to the Act is a reference to the Neighbourhood Disputes ((Dividing Fences and Trees) Act 2011 (Qld) or to any Act which replaces it.
7. Under section 94 of the Act if access is required to land owned by another to carry out the work required by this order, at least **7 days** before entering that land written notice must be given of the intention to do so with workmen and/or experts.
8. In this order a party may prove that a cost is reasonable by obtaining two genuine quotes. The lower quote shall be conclusively reasonable.
9. Under Part 7 of the Act this order may bind Mrs Lurati's successors in title or may continue to bind Mrs Lurati despite ownership of the land being transferred to a buyer.
10. This order shall lapse 10 years after it is made unless it is revoked by QCAT earlier.

Signed

Mr Jeremy Gordon
Member
Queensland Civil and Administrative Tribunal