

AUSTRALIA / JUDGMENT

Cartledge v Dhadlie

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Land and Environment Court New South Wales Amendment notes Medium Neutral Citation: Cartledge v Dhadlie [2026] NSWLEC 1559 Hearing dates: 7 August 2026 Date of orders: 7 August 2026 Decision date: 07 August 2026 Jurisdiction: Class 2 Before: Galwey AC Decision: The Court orders that:

- (1) The application is granted to the extent of the following orders.
- (2) During August 2026 and again during August 2027, the Applicant and the Respondents are each to obtain, and provide to the other, a quote from a suitably experienced and insured tree contractor to carry out the works in Order (3).
- (3) Should the Applicant wish to have the trees pruned, the Applicant is to engage and pay for the contractor as agreed between the parties, or the contractor with the cheapest quote from Order (2) if they cannot agree, to prune the trees during September 2026 and again during September 2027 to:
 - (a) remove dead branches greater than 25 mm in diameter from trees T1-T3; and
 - (b) remove T1's broken, hanging branch, as well as its lowest branch and an overextended branch over the Applicant's property (2026 only – see Annexure A).
- (4) The works in Order (3) must be done in accordance with Australian Standard 4373:2007 'Pruning of amenity trees' and the SafeWork NSW (2026) 'Tree works' Code of Practice.
- (5) The Applicant is to provide the Respondents with at least 7 days notice of the works in Order (3).
- (6) On at least 7 days notice from the Applicant, the Respondents are to allow access to their property during reasonable hours of the day for the purpose of completing the works in Order (3). Catchwords: TREES (DISPUTES BETWEEN NEIGHBOURS) — Pt 2 application — neighbouring trees — whether the trees are likely to cause damage to the applicant's property — other factors contributing to the likelihood of trees causing damage, including the applicant's actions — orders for tree pruning Legislation Cited: Trees (Disputes Between Neighbours) Act 2006 (NSW), ss 4, 6, 7, 8, 9, 10, 12 Tenterfield Local Environmental Plan 2013 Cases Cited: Joaquim v Adamson [2009] NSWLEC 1312 Texts Cited: SafeWork NSW, 'Tree works' Code of Practice (March 2026) Standards Australia, Australian Standard 4373:2007, 'Pruning of amenity trees' Tenterfield Development Control Plan 2014 Category: Principal judgment Parties: Denis Cartledge (Applicant) Ranjit Dhadlie (First Respondent) Baljit

Dhadlie (Second Respondent) Representation: Counsel: D Cartledge (Self-represented) (Applicant) D Bassett (Solicitor) (First and Second Respondents) Solicitors: Property Law and More Pty Ltd (First and Second Respondents) File Number(s): 2026/231553 Publication restriction: Nil

Judgment

This decision was given as an extemporaneous decision. It has been revised and edited prior to publication.

Background

COMMISSIONER: Denis Cartledge, of 3 Wood Street, Tenterfield (No 3), has applied to the Court pursuant to s 7 of the Trees (Disputes Between Neighbours) Act 2006 (NSW) (Trees Act) seeking orders for his neighbours, Ranjit and Baljit Dhadlie, to remove four trees from their property at 15 Wood Street (No 15). Mr Cartledge says the trees are likely to damage his property. The on-site hearing allowed the Court to view the trees and both properties. The parties have filed no expert evidence; I rely on my own arboricultural expertise and experience in making this decision. The orders that Mr Cartledge seeks are orders the Court could make pursuant to s 9 of the Trees Act if all jurisdictional tests are met, although the Court may make different orders as it sees fit in the circumstances. The land at No 15 is zoned 'RU5 – Village' in the Tenterfield Local Environmental Plan 2013. Pursuant to s 4 of the Trees Act, the Trees Act applies to the trees situated on No 15. Reasonable effort to reach agreement; notice of the application Conditions at s 10(1) of the Trees Act must be met before the Court can make orders in these proceedings. 10 Matters of which Court must be satisfied before making an order

- (1) The Court must not make an order under this Part unless it is satisfied—
 - (a) that the applicant has made a reasonable effort to reach agreement with the owner of the land on which the tree is situated, and
 - (b) if the requirement to give notice has not been waived, that the applicant has given notice of the application in accordance with section 8.
 - (2) ... Mr Cartledge's application includes copies of correspondence between the parties. I am satisfied that Mr Cartledge has made a reasonable effort to reach agreement with the Dhadlies. The timeframe set down by the Court allowed for notice of the application in accordance with s 8 of the Trees Act. Whether the trees are likely to cause damage For each tree in the application, the hurdle at s 10(2) of the Trees Act must be passed before the Court can make orders for that tree. 10 Matters of which Court must be satisfied before making an order
- (1) ...

- (2) The Court must not make an order under this Part unless it is satisfied that the tree concerned—
- (a) has caused, is causing, or is likely in the near future to cause, damage to the applicant's property, or
- (b) is likely to cause injury to any person. The trees Four pine trees (the trees) grow on the Dhadlies' property approximately 3 metres from the common boundary they share with Mr Cartledge. They are most likely radiata pines (*Pinus radiata*). The trees are over 20 metres tall; branches on their southern side extend beyond the common boundary but not directly above Mr Cartledge's dwelling. In Mr Cartledge's application, he has numbered the trees T1-T4 from east to west, with T4 nearest the Wood Street frontage. I apply that numbering in this decision. The four trees are well established and mature. I made the following observations regarding the trees' health and structural condition. T1 is in fair health, with a slightly sparse crown; one broken branch is suspended in its crown. T2 is in fair health, with a sparse crown that includes some large dead branches. T3 is in fair health, with a sparse crown that includes some large dead branches. T4 is in good health with no apparent structural issues. The trees' stems are all structurally sound and I saw no signs of root disturbance to any tree. Trees T1-T3 each have one drill hole on the southern side of their stems. Risk of damage or injury Mr Cartledge submits that the trees are at the end of their useful lifespans. He relies on comments from tree contractors who have been to the site or worked on the trees. One of these contractors apparently told him that the pattern of branch growth, outwards or downwards rather than upwards, indicated that the trees were reaching the ends of their lives. Mr Cartledge submits that if one of the trees falls over it will damage his dwelling. However, he provided no evidence suggesting any of the trees is likely to fall over. The trees' pattern of branch growth is typical of the species and does not indicate that they are near the ends of their lives. Based on my observations of their root zones and stems, I find it unlikely that any of these trees will fall over in the foreseeable future. Mr Cartledge says that strong winds from the northwest are likely to blow branches onto his dwelling if they fall. Relying on my own observations, the only branches likely to fall in the near future are dead branches, the broken branch suspended in T1, and perhaps one low overextended branch on T1's southern side that extends over No 3. If any of these branches falls during strong north-westerly winds, they will likely cause damage to Mr Cartledge's dwelling as per his submissions, even if that might be relatively minor damage to his roof. This enlivens the Court's jurisdiction to make orders at s 10(2) of the Trees Act. Before making orders, the Court must consider matters at s 12 of the Trees Act. Relevant s 12 matters The trees are close to the common boundary and their branches to the south extend above Mr Cartledge's property. The trees are not native vegetation. The Tenterfield Development Control Plan 2014 states that any vegetation clearing "which does not form part of a Development Application to Council must be approved by the relevant Local Land Services Department through a Property Vegetation Plan." The parties have provided no evidence of a past Development Application nor a Property Vegetation Plan. The trees contribute to the amenity of both properties and to public amenity. They provide ecosystem services

including shading and cooling, wind reduction, reduction of water run-off, and carbon sequestration. At s 12(h) of the Trees Act, the Court is to consider any acts or omissions of the parties that have contributed to the likelihood of trees causing damage. Mr Bassett argued that the Dhadlies had no reason to drill holes in the stems of trees T1-T3. Mr Bassett submitted that Mr Cartledge has been asking the Dhadlies to remove trees for several years, and that only Mr Cartledge has any motive for interfering with the trees in this way. I observed the three holes, one in each of T1-T3's stems. The holes are a metre or so above ground, are perfectly round, approximately 2.5 cm in diameter, and are clearly the result of deliberate use of a drill. The drill hole in T1 is very shallow, while the holes in T2 and T3 are deeper. This aligns with the condition of the three tree's crowns: T1 is only slightly sparse, with a small amount of dead foliage, while T2 and T3 have lost more foliage and now have large dead branches. Based on the presence of small dead tips at their ends, those branches have died within the last few years. T1 has no drill hole and has a healthy full crown. The pattern of dieback within T1-T3 is consistent with the effects of poison being applied to trees through drill holes. That the pattern of dieback aligns with the presence and depth of drill holes seems more than coincidental – I find it most likely that poison has been applied to the trees, resulting in dieback and the presence of dead branches. When invited to comment on the drill holes, Mr Cartledge said words to the effect of: "Holes appear in trees all the time." Mr Cartledge is the only person who has been seeking, unsuccessfully, the removal of these trees. On the balance of probabilities, I find that the actions of Mr Cartledge, or a person associated with Mr Cartledge, have caused dieback in trees T1-T3, resulting in the presence of dead branches near and above Mr Cartledge's property. Therefore, if works are needed to prevent dead branches falling, it is reasonable that Mr Cartledge pays for the works. The Court has taken such an approach in other cases where an applicant was found to have interfered with the trees, resulting in the need for tree works. For instance, in *Joaquim v Adamson* [2009] NSWLEC 1312, the Court found at [74]-[77] that the applicants' actions resulted in the need for tree removal, and at [120] ordered the applicants to reimburse the respondents for the cost of removing the affected fig tree. In the current proceedings, Mr Cartledge can arrange and pay for the removal of dead branches. Removal of two other hazardous branches identified above at [12], and a low branch from T1 that might interfere with Mr Cartledge's use of his property, will take little extra time for a tree contractor who is engaged to remove dead branches. Therefore, for simplicity, the cost of removing those three branches will also fall to Mr Cartledge. The parties submit that they should each have the opportunity to obtain quotes for the works. They submit, and I accept, that it may be difficult to find an arborist with a minimum AQF level 3 qualification in the region but a local tree contractor should be able to complete the work to the required standard. The effects of poison on trees T1-T3 may not yet have been fully realised if it was applied only recently. The trees may continue to decline. Therefore, orders will include removal of any further deadwood after 12 months. Pursuant to s 6(3) of the Trees Act, Tenterfield Shire Council's consent is not required for any of the tree works ordered below. Mr Cartledge submits that his financial circumstances will not allow him to pay for the works and so the works are unlikely to occur despite any Court orders. To avoid any potential for contempt due to a

breach of orders, the orders will give Mr Cartledge the discretion to carry out tree works only if he has sufficient resources. This seems reasonable in the circumstances, where there is no risk of damage to the Dhadlies' property because the trees' branches are over a low-use area of their garden. Mr Cartledge has brought the matter to Court because of his concern that these branches will damage his property; I have found that Mr Cartledge's actions led to the risk; and he now has the opportunity to mitigate the risk.

Orders

The Court orders that: The application is granted to the extent of the following orders. During August 2026 and again during August 2027, the Applicant and the Respondents are each to obtain, and provide to the other, a quote from a suitably experienced and insured tree contractor to carry out the works in Order (3). Should the Applicant wish to have the trees pruned, the Applicant is to engage and pay for the contractor as agreed between the parties, or the contractor with the cheapest quote from Order (2) if they cannot agree, to prune the trees during September 2026 and again during September 2027 to: remove dead branches greater than 25 mm in diameter from trees T1-T3; and remove T1's broken, hanging branch, as well as its lowest branch and an overextended branch over the Applicant's property (2026 only – see Annexure A). The works in Order (3) must be done in accordance with Australian Standard 4373:2007 'Pruning of amenity trees' and the SafeWork NSW (2026) 'Tree works' Code of Practice. The Applicant is to provide the Respondents with at least 7 days notice of the works in Order (3). On at least 7 days notice from the Applicant, the Respondents are to allow access to their property during reasonable hours of the day for the purpose of completing the works in Order (3). D Galwey Acting Commissioner of the Court

Annexure A (1.01 MB, docx) Amendments 28 August 2026 - Correction made at [16] to replace "Mr Bassett" to "Mr Cartledge" in the beginning of the third sentence. DISCLAIMER - Every effort has been made to comply with suppression orders or statutory provisions prohibiting publication that may apply to this judgment or decision. The onus remains on any person using material in the judgment or decision to ensure that the intended use of that material does not breach any such order or provision. Further enquiries may be directed to the Registry of the Court or Tribunal in which it was generated. Decision last updated: 28 August 2026

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