

BETWEEN: **CAROL JEANETTE BOOTH**
Applicant

AND: **FRIPPERY PTY LTD (ACN 010 890 007)**
First Respondent

MERVYN MEYER THOMAS
Second Respondent

PAMELA ANN THOMAS
Third Respondent

APPLICATION IN PENDING PROCEEDING

Filed on: ..14 October..... 2008

Filed by: Environmental Defenders Office (Qld) Inc
Service address: 30 Hardgrave Road
 West End QLD 4101

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THE APPLICANT applies to the Planning and Environment Court at Brisbane under section 4.1.5 of the *Integrated Planning Act 1997* and rule 926 of the *Uniform Civil Procedure Rules 1999* for the following orders:

1. That the First Respondent, Second Respondent and Third Respondent be punished for contempt of the Court by contravening an order of the Court, particulars of which are specified in the grounds set out below.
2. That the First Respondent, Second Respondent and Third Respondent pay the Applicant's costs of and incidental to the proceedings for contempt on an indemnity basis.

APPLICATION IN PENDING
PROCEEDING
Filed on behalf of the Applicant
PEC-4

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The grounds relied on are:

1. Judge Robin QC DCJ made the following orders on 16 November 2007 in proceedings No. BD 4658 of 2004, for reasons given in *Booth v Frippery Pty Ltd & Ors* [2007] QPEC 099:
 1. *That the First Respondent, Second Respondent and Third Respondent be restrained from the commission of an offence against section 88 of the Nature Conservation Act 1992 by electrocuting, delivering a non-lethal electric shock to, and/or shooting Black Flying Foxes (Pteropus alecto) at 376 Volk Road, Mutarnee, being land described as Lot 85 on CWL 1576, County of Cardwell, Parish of Waterview, in the State of Queensland, unless authorised in accordance with section 88 of the Nature Conservation Act 1992.*
 2. *That within 2 months of the date of this order, the First Respondent, Second Respondent and Third Respondent, and/or their employees or agents dismantle any electric grid system constructed for the purpose of electrocuting or delivering a non-lethal electric shock to Black Flying Foxes (Pteropus alecto) at 376 Volk Road, Mutarnee, being land described as Lot 85 on CWL 1576, County of Cardwell, Parish of Waterview, in the State of Queensland unless the taking of Black Flying Foxes by electrocution or delivering a non-lethal electric shock using such an electric grid is specifically authorised under section 88 of the Nature Conservation Act 1992.*
2. The First, Second and Third Respondents have contravened order 2:
 - (a) by failing within 2 months of the date of the order to dismantle, or caused to be dismantled, any electric grid system constructed for the purpose of electrocuting or delivering a non-lethal electric shock to Black Flying Foxes (*Pteropus alecto*) at 376 Volk Road, Mutarnee, being land described as Lot 85 on CWL 1576, County of Cardwell, Parish of Waterview, in the State of Queensland; and
 - (b) in circumstances where the taking of Black Flying Foxes by electrocution or delivering a non-lethal electric shock using such an electric grid was not specifically authorised under section 88 of the *Nature Conservation Act 1992*.
3. The respondents' electric grids had not been dismantled and no approval had been obtained under the *Nature Conservation Act 1992* as at 15 May 2008, being a date exceeding 2 months from 16 November 2007, the date on which order 2 was made by Judge Robin QC DCJ.
4. At the date of filing this application the Applicant believes that the respondents' electric grids have not been dismantled and no approval has been obtained under the *Nature Conservation Act 1992* for their operation.

For the purposes of the present application, the period during which the contempt was been or will be committed is from 16 January 2008 until the date the order is complied with (if this occurs) or the hearing of the application for contempt.



Jo Bragg

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Jo Bragg (Principal Solicitor)
Environmental Defenders Office (Qld) Inc
Solicitor for the applicant

This application is to be heard for directions by the Court at the Supreme and District Court Complex, George Street, Brisbane on 23 October 2008 at 9.15 am.



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Registrar

If you wish to oppose the application or to argue that any different order should be made, you must appear before the Court in person or by your lawyer or agent and you shall be heard. If you do not appear at the hearing the orders sought may be made without further notice to you.

