



andrew warren associates

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MORTGAGES & FINANCE

Cutting down trees – more risky than you thought

Everybody knows that tree felling is a risky occupation. Two recent decisions in the Land and Environment Court should make it crystal clear to locals that if you cut down a tree, you are risking far more than the a branch dropping on your head.

Most councils have Tree Preservation Orders in place. What constitutes a tree varies from one Council area to the next. In the Bega Valley Shire, a “tree” has to be more than three metres in height, or 300 mm in circumference at a metre above the ground, or have a branch span of three metres. In the Eurobodalla, a “tree” has to be three metres in height or 500mm in circumference at the widest point on the trunk.

If you want to cut down, prune or lop a tree, whether it’s on your property or somebody else’s, or on public land, then you have to comply with the Tree Preservation Order. Generally, this means getting written consent from Council before you touch it, unless the tree is exempt under the Tree Preservation Order for one of a number of possible reasons.

What can happen if you fail to comply with the Tree Preservation Order? Among other things, you can be prosecuted under the Environmental Planning and Assessment Act for carrying out a development without a valid consent. The maximum fine is a massive \$1,100,000, which you would think would be enough to discourage most people.

In two recent cases in which we acted for Eurobodalla Shire Council in the Land and Environment Court, fines of \$10,000 each plus substantial costs were imposed on local residents for illegally dealing with trees. In the first case, three relatively small trees were cut down on a neighbour’s property. In the other case, a Batemans Bay man cut five branches out of the head of a large gum tree on Council land.

Neither of these cases fell even remotely near the “worst case” that could be imagined. The substantial fines imposed by the Land and Environment Court made it clear that the courts will regard failure to comply with Tree Preservation Orders as serious offences.

It is impossible in this short column to give a complete explanation of when Tree Preservation Orders apply. The best advice is that you should assume the Orders apply to all trees and always check with Council before you cut down or prune a tree.