

Memo

Development Assessment

To: Northern Beaches Local Planning Panel

From: David Auster
Principal Planner

Date: 11 November 2020

Subject: 85-89 Foamcrest Avenue, Newport

Record Number: DA2020/0665

The Panel asked the following questions:

A. Arborist: Impact of the large NIPT behind No 413 Barrenjoey Rd.

J Edey from No 413 submitted:

The lower branches of the tree extend over eight metres from the main trunk. The roots extend out an equal distance. The construction of the proposed car-park, within 6.4 metres from the tree, will impact on the root-zone and could create a safety problem for surrounding homes depending on which way the tree could fall during a high wind situation. The proposed development has construction less than 6 metres from my rear boundary fence with eaves of the units being under 5 metres.

This is too close to the drip and root line of the tree.

Q1. Assuming these measurements are right, is it a good planning outcome to allow the rear portion of this building on the edge/ under this large tree canopy?

Will it require significant pruning so as allow reasonable amenity (including canopy droppings) to the unit, particularly the rear balcony which is only 3.95m from the rear boundary?

Should a larger setback from the tree canopy be required?

Is any special conditioning required regarding the basement excavation considering the root zone proximity?

B. Engineer: Re; Deferred Comm. Drainage Condition.

Q2. Considering the restricted root zone excavation area and unlikely agreement to a downstream DE thru No 413 and 411, what are the realistic options to satisfy this D/C condition?

Council's Senior Landscape Architect has made the following comments in relation to Q1 above:

"The protection of trees is guided by Australian Standard 4970-2009 Protection of Trees on Development Sites, and is based on protection of existing ground levels and the tree root system. Pruning of the canopy is not considered detrimental to tree health when minor in nature. Pittwater DCP permits tree pruning without Council consent to 10% of the canopy.

The relevant information regarding the protection of tree 17 (Norfolk Island Pine) within 413 Barrenjoey Road as considered by Landscape Referral and as identified in the Arboricultural Impact Assessment includes:

- The structural root zone (SRZ) ie. 'no encroachment area' is 3.1m from trunk – no works apart from planting are proposed in this zone,
- The tree protection zone (TPZ) is 10.2m from the trunk – a minor to moderate encroachment (15%) of the TPZ occurs. Under AS 4970-2009 this is acceptable subject to tree protection measures, and the Landscape Referral applies the following condition:

Project Arborist

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection, and ground protection.

The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained, including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works, unless approved by the Project Arborist.

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, including:

- tree 19 (Paperbark) in Council verge in accordance with section 1.3.1,*
- tree 20 (Paperbark) in Council verge in accordance with section 1.3.2,*
- all works in the vicinity of neighbouring properties in accordance with section 1.4, The Project Arborist is required by conditions of consent to supervise all works near neighbouring trees.*
- all works required to retain existing trees under section 2.2,*
- works as recommended in Appendix A: Tree Removal & Protection Plan.*

All tree protection measures specified must:

- be in place before work commences on the site, and*
- be maintained in good condition during the construction period, and*
- remain in place for the duration of the construction works.*

The Project Arborist shall provide certification to the Certifying Authority that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note:

A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.

Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

- Additional conditions of consent are imposed in the Landscape Referral including title under Tree and vegetation protection:

-Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment prepared by RainTree Consulting.

- The Arboricultural Impact Assessment provides a Tree Protection Plan required to be actioned including tree protection fencing located 4.5m from the boundary fencing. This is a works exclusion zone, to protect the SRZ and majority of the TPZ.

The proposal is assessed as not impacting T17 within 413 Barrenjoey Road. T17 has a SRZ of 3.1m that is not impacted and the excavation works for basement (5.3m from boundary) result in an TPZ that is considered acceptable under AS 4970-2009 subject to tree protection measures. The building setback of 5.3m provides existing ground area suitable for the ongoing preservation of T17. The above ground terrace and planters at 3.92m do not impact upon this, and pruning of any canopy is permitted under the limits of Pittwater DCP.”

Given these comments, no change to the recommendation of the report is considered necessary.

In relation to Q2, Council’s Development Engineer has provided the following comments:

“The initial stormwater drainage concept plan provided by the applicant detailed the discharge of stormwater from to site to Foamcrest Avenue via a pit and pipe system to Councils existing pit at the sag point in front of 77 Foamcrest Avenue. This is not acceptable as the site stormwater will be discharged to another catchment with existing severe mapped flooding problems. The increase in the amount of flow to this other catchment will increase flooding and risk to properties (existing units) at this low point in major storm events.

In accordance with Councils Water Management policy the development is to drain to its existing natural catchment and this will require the creation of an inter allotment drainage easement(s) through the downstream properties and connection to the existing stormwater system in Barrenjoey Road. There are possibly four downstream properties as to where a downstream interallotment easement and pipe system could be located. (413, 415,417 and 429 Barrenjoey Road, Newport).

The supreme court under section 88K of the Conveyancing Act 1919 (NSW) gives the Court powers to grant easements over land where the easement is “reasonably necessary” for the effective use or development of the land benefitted by the easement.”