

Protect Private Ownership of Trees Society (POTS)

President: Mr Rob Christie,
9 Koremata Street,
Green Island, Dunedin
Tel: 03 488 1761

Advocate/secretary: Jim Moffat,
63 Fitzroy Street,
Caversham, Dunedin, 9012.

Ph: 456 2567

Email: jbmoff63@gmail.com



Rata, *Metrosideros robusta*, grows to 50-100 ft; has red flowers.

**In support of resource consent application LUC 2018- 295,
Chantal Hiller, 62 Chambers Street, for the removal of T303,
Golden Elm, (*Ulmus glabra* 'Lutescens') under the DCC
operative and proposed (2GP) district plan.**

Protect Private Ownership of Trees Society (POTS) thanks the commissioners for hearing its submission in regard to this application for the removal of T303. I wish to make it clear that I have had no business or personal dealings with any of the commissioners.

Tena koutou katoa. Whai korero turangawaewae. Tihei mauriora.
Kai toa kia ngakaunui. Kaimate te rakau!

Greetings to all. I speak from where I belong. Listen I speak to you.
Have courage, desire greatly for the right way. Kill the tree.

(1) For a rate paying citizen, it seems a gross injustice that a local body can take over a tree growing on a private property because some Dunedin City Council bureaucrat finds it to be significant based on the STEM (Standard Tree Evaluation Method).

(2) Any work to be done on a schedule 25.3 tree under the council plans is almost totally at the property owners cost aside from a small amount from a merger council tree fund. Meanwhile, the surrounding citizens – some living at quite a distance from the tree – can visually consume the amenity of the tree. Or, in a lay person's language, see and admire its beauty in the built landscape at no care or cost. This amounts to them gaining some satisfactory mental reward from the tree's presence for free.

(3) The Resource Management Act, Part 2.5 purpose: (1) the purpose of this Act is to promote the sustainable management of natural and physical resources. (2) In the Act, "sustainable management" managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables **people and communities**, to provide for their social, economic and cultural well being and for **their health and safety**.

(4) There is nothing in the Act – not a word – that says the individual with a heritage tree should be financially penalised by the Act. Yet this is what happens in most cases POTS has been involved with since 2002.

(5) Lets cut straight to the chase. POTS believe the conclusion (P23, 113) to decline the application is – to put it mildly – outrageous. The reasons for this opinion I will try to outline in this submission.

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From 16 years of advocating for private rate paying citizens burdened with a schedule 25.3 tree that they did not gift to the city and who, as often as not, have never had to interface with commissioners and all the 'brohaha' that a hearing entails, this case is easily one of the worst. Look at the POTS supplied photo with the human at its base. Any fair minded ratepayer would see T303 is way too large for its built site. POTS have complete sympathy for Chantal's position and fear of this tree.

(6) How can it be that statements in the conclusion (23,113) by the planner who expresses concern over applicants fear for her family's health and safety, yet says the "council must have regard for the trees vigour and health." What is going on here?

Consideration for the tree rates higher than human health and safety? Yes, POTS is well aware of aborist Mark Roberts comments about falling trees rarely killing a human (See attached appendix).

(7) POTS would wager a\$100 to one dollar that the planner hasn't a schedule 25.3 tree on her property. Aborist Waymouth and Roberts favour retaining the tree providing pruning was done and new cabling installed.

(8) Who pays for the new cabling? The pruning will need to be done every few years. All this falls on one householder! This is simply unjust! Retention of T303 means the surrounding citizens who have enjoyed it beauty for years will not equally share the costs. Further, at this hearing, where are all the people wanting to save the tree?

(9) Aborist Waymouth reports for the applicant, that his STEM appraisal was for 138 points, nine below the schedule 25.3 tree required 147 points He says: "Should the old cables fail during a storm (see attached appendix) there would be a high risk of potential harm."

(10) In regard to Waymouth's option 2, to have the tree removed and replaced with another. Commissioners, this option, is ultra vis. This hearing is about removing T303 and is no way concerned with a replacement tree. POTS is so sure of this legal point it is prepared to take it to the Environment Court.

(11) POTS urges the commissioners to bear in mind that the cabling is 30 years old (Waymouth) and the tree has over grown the attaching ends so no one knows what condition these might be in. Surely this deserves greater attention.

(12) Moving on (P3.17). The STEM of 159 points was done in 2001 by an unknown person who may have been a DCC staff member. Waymouth gives it 138 points. Nine less than the required STEM 147points. Time and time again POTS have pointed out hearings that the council STEM are done by invisible people and their signatures are indecipherable. The DCC should lift its game in regard to this lack of transparency.

(13) Turning to page 9 bullet point 7, the DCC consultant aborist, makes a comment on the cable attachment to the tree limbs: "I was unable to assess the integrity of the connection."

Commissioners this will not do, nor serve the interests of the council in relation to the applicant. Why were these important cable connections not investigated thoroughly?

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(14) But it gets worse: consider bullet point 9. Roberts says:

“assuming that the cable supports retained integrity the tree appeared to be free from obvious defects that suggest imminent fracture.”

(15) How about POTS saying for the record, after 30 years the cable connections have had to suffer serious rust damage and are likely rotten. This opinion would be as good, perhaps better than Robert’s opinion. Commissioners, this matter is too important to ignore.

(16) A beautiful heritage elm in Chambers Street Dunedin, lost a major stem in last night’s storm which in falling smashed a large part of the house front. Fortunately the occupants were away on holiday.

A fictional newspaper report (read the appendix).

(17) Consider P13 (60): “Maintaining large scale trees can be a financial burden to the property owners.” Should it be allowed the removal of T303 will cost thousands. If it remains the applicant gets lumbered with the new cabling costs, on going pruning costs, while the public gets its beauty at no cost.

(18) Page 14 (63). Mr Roberts favours the retention of T303. Well he might because trees provide him with a living. **Note:** “All works are to be carried out by an experienced, qualified arborist (nudge, nudge, wink, wink).”

(19) Page 17 (90) based on experience POTS gets tired of reading, or hearing, the statement: “I consider the effects of the proposal to be no more than minor etc.” Now walk a small distance in Chantal Hiller’s shoes. Not many fancy that experience judging by the large huge number present wanting to retain T303.

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(20) Page 22 (111) case law *Butterworth V Auckland City Council* 2009 gives a submitter some support and the commissioner food for thought: "The appellant won the appeal to allow the removal of the tree due (because) of its dominance on a residential site."

Conclusion

The retention of this huge beautiful multi-stemmed tree in the wrong site will add substantial cost of renewing cabling, a continual periodic pruning paid by the applicant on top of the council rates. If this tree is left where it is one does not need to be a clairvoyant to realise, with the passage of time, growing numbers of ratepayers will have nothing to do with tending a tree on their property that could grow to a size to ensnare it into the council's 25.3 schedule with all its associated costs – so much for the RMA intentions.

POTS plea is to use some humanity and social discretion and allow the removal of T303 as costly as this will be to the applicant.

Come all you ratepayers come listen to me.

Don't place your affection on a DCC schedule 25.3 tree.

The leaves they will wither and the roots they will die,

Despite all that an aborist may say.

And you'll never know why.

Jim Moffat. POTS advocate.

Protect Private Property of Trees Society (POTS).

Appendix to the POTS submission for the hearing of Chantal Hillier, 62 chambers Street, Dunedin, Golden elm tree T303 (11/9/18), Otaru Room, Civic Centre.

Storms knock down trees.

In early December 2002, the Dunedin City Council agreed to establish a tree fund to assist ratepayers with trees together with those owning a Schedule 25.3 heritage tree. The amount was set at \$6,250 and has remained at that amount until 2018, never mind the effect of inflation. The money would be distributed on a case-by-case basis by an unknown DCC staff member. A maximum of 25% of any tree work up to a total amount of \$125 would be paid to those tree owners making a case for financial help. One should keep this in mind when reading the following examples of wind damage.

(1): Gordon Timbs was twice refused council permission to cut down seven 30 metre gum trees on his property. Six months later during a storm one of the tree fell on his house **killing him** (ODT, 6/11/02)

(2): A Hamilton pupil was taken to the Waikato hospital after he was hurt by a falling tree during a school sport practice (ODT, 13/11/02).

(3) Winds of up to 100km/h buffeted Otago causing two large trees to fall over the road access to Larnach Castle (ODT, 11/9/02).

(4): A 23 year-old Swiss woman was trapped when a tree fell on her when walking the Purakaanui Falls track.

She was freed by fire fighters and flown to the Dunedin hospital then transferred to Christchurch intensive care unit to make a recovery. (ODT,18/11/03).

(5) Eli Steenjes nearly lost his life when a tree branch pierced his chest. He was driving a Toyota saloon travelling toward Dunedin on the Portobello Road. The branch smashed the wind screen. He suffered a collapsed lung and other chest injuries, but eventually recovered (ODT,2/11/05).

(6): Craig Smith of Hawea had a lucky escape when high winds blew over a rotten poplar tree onto his vehicle (ODT,9/1/06).

(7): A large poplar tree was blown over onto SH8 near Bendigo smashing a tourist bus wind screen as well as hitting and damaging a campervan (ODT,2/3/06)

(8): A large macrocarpa tree fell onto the street when its bank site could no longer support its weight. The tree fell across Fulton Road, Glenleith at about 2am crushing a parked car and cutting off electric power. (ODT,no date).

(9): A couple of cars parked in Serpentine Ave., Dunedin were hit by a tree falling on them. Two 100 year-old trees fell in Chisholm Park golf club's first fairway (ODT, 24/10/07).

(10): Wind gust of up to 111km/h felled a large tree beside Dunedin's school of Physical Education blocking Cumberland Street. The report said it was lucky there were no passing vehicles when it fell (ODT, no date).

(11): A giant protected tree fell without warning crushing a car in Cobden Street, Dunedin. The beech had been growing on the Olveston house property. The tree fell about 2 pm. (ODT, 9/2/09)

(12): A massive gum tree landed on the cab of a farmer's utility parked in Tarbert Street, Alexandra. A wind gust of about 58km/h was the cause. Another 20 metre pine growing near a children's play ground was also dislodged and had to be clear felled. (ODT, 13/3/09).

(13): A large pine tree collapsed onto Portobello Road blocking it. As it fell it damaged two other large trees which had to be removed. (ODT, 11/7/09).

(14): A Green Island enormous tree crushed into property owner Glen Miller's yard narrowly missing his caravan and garage. Some branches smashed his kitchen window, (ODT, 6/7/09).

(15): The death of Queenstown farmer Russell Liggett (57) was by a 20 metre Lombardy poplar from a row falling onto his vehicle during high winds (ODT, 30/9/09).

(16): A 60 year old Oak tree almost fell on an Arthurs Point man's parked car. It was not too badly damaged (ODT, 9/12/09)

(17): Three large macrocarpa trees fell on a Kaikorai Valley business workshop narrowly missing one staff member (ODT, 11/6/10).

(18): High winds brought down 11 trees alongside Moonlight Road between Middlemarch and Macraes (ODT, 13/8/10).

(19): Several roads were closed because of falling trees causing traffic delays on the Otago peninsula. Larnach Castle was isolated by a fallen tree on its road trapping four people in the lodge who needed to catch a plane (ODT, 7/9/10).

(20): Esme Knox's quick thinking may have saved her sisters life. After hearing sounds she thought nearby tree branches were cracking in the strong wind.

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She persuaded her eight-year-old sister to leave their Malvern Street, home garden. Moments later a wind gust felled an enormous wattle tree into the garden where they had been playing. It smashed through the roof into the master bedroom. (ODT, 6/9/10).

(21): The cost of cleaning up Dunedin's parks and reserves after the December high winds would be about \$30,000 The DCC parks and reserves officer estimated (ODT, 12/1/11).

(22): Just over 200 trees in the Queenstown lakes district needed to be felled, or pruned, because aborists said they were dangerous. But the council did not have the money to deal with the trees, (ODT, 18/3/11).

(23): A historic macrocarpa tree at Glenfalloch, planted about 120 years ago, blew over landing beside a neighbour's house. It had been checked by an aborist who said there no indications it was at risk of falling (ODT, 13/5/11).

Otago University student had his car written off after a Forth Street tree fell on it while he was at a lecture. (ODT, 13/5/11).

(24): A woman had not long removed her child from a parked car when a huge branch fell onto the vehicle. It was parked near Cumberland College. (ODT, 18/2/13).

(25): A Queenstown Kelvin Heights resident driving to work had a lucky escape when a large macrocarpa tree fell across the road in front of her car. She escaped unhurt, but the car wind screen was smashed (ODT, 5/2/13).

(26): Two German tourists had their car crushed when a Queenstown Lakes District park tree fell on it and part of a motel.

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The tree, a 120 year-old Lombardy poplar was growing in St Omer Park. The council claimed no responsibility (ODT,27/1/14).

(27): A Broad Bay resident said it was lucky a tree that crashed onto the Portobello Road did not injure any one. The tree fell about 20 metres from what appears to be a Dunedin City Council reserve just north of Turnbull Bay. The tree had been identified as a health and safety risk (ODT,23/12/16).

(28): Scott Bezett was in his car waiting for the traffic lights to change at the Queens Gardens when a over hanging tree branch fell onto his vehicle (ODT, 10/11/17).

(29): Several car occupants avoided injury when their car collided with a fallen tree on the Dunedin Northern motorway. Traffic was diverted down Leith Valley Road while the tree and car were removed (ODT: 26/2/18).

Post script: The Court of Appeal found the Queenstown Lakes District Council breached its duty of care in respect of rotting poplar trees on St Omer Park after one fell in 2014 and damaged a motel and vehicles. It was liable in negligence for the amount required to repair the mote. The total cost of the repair was \$63,577.72 (ODT,3/8/18)