

IN THE MATTER OF DUNEDIN CITY COUNCIL PLAN CHANGE 2024-1: MINOR IMPROVEMENTS

SUMMARY OF PRESENTATION TO THE HEARING COMMITTEE BY IAN WALSH of 35 BRAESIDE,
KINMONT PARK, MOSGIEL. AUGUST 2025

CONCERNING CHANGES TO THE SCHEDULE OF PROTECTED TREES

Summary: My submission to this hearing is not to directly challenge Council intentions to include or exclude the protected trees in group G018 in the Schedule (in which I have an interest). This decision is a matter for Council assessment of the associated ongoing environmental or community amenity value. My submission concerns the need for substantial improvement in the associated obligations of Council to constructively act in good faith towards land owners who willingly agree to limit their long term property interests for a wider community benefit.

Specifically:

- to address management obligations for scheduled protected trees situated on Council property actively and responsibly, including consideration of impacts on neighbouring property, and
- to collaborate with property owners with scheduled protected trees, through the development of agreed lifelong management plans that take adequate cognisance of both parties interests and obligations, along with the associated costs. I suggest a half share of reasonable maintenance costs should apply, or such other proportion as may be agreed.

In the case of tree group G008I, I do not consider it acceptable for Council to have scheduled these trees for community amenity benefit with no associated constructive contribution to maintenance planning or implementation over decades, and to then simply remove them from the schedule leaving all deferred liabilities with the landowner. In my view such an action would not constitute good faith behaviour. A reasonable contribution should be made to the deferred maintenance liabilities created by the original inclusion of the trees in the schedule and the lack of subsequent acknowledgement of the regular maintenance required.

Background: My wife Julie and I reside at our home situated at 35 Braeside, Kinmont Park, Mosgiel. I have owned this property for over 45 years. Prior to completion of the new section of State Highway 1 from Fairfield to East Taieri c1973, this property address was 157 Main South Road. At that time the main telephone lines to Invercargill were carried on poles located along the property road boundary. These overhead lines have subsequently been replaced by overhead cables, and in turn by underground cables.

There is a group of large English Oak trees located along the property road boundary, all but one lie inside the property cadastral boundary, and the eastern most tree in the group lying within the Council road reserve. Six of the trees in the group [G018] have been included on the Schedule of Protected Trees for many years, including the eastern most specimen that is shown incorrectly in the District Plan as lying within our property. I understand from discussions with previous occupiers of our property that the Oak Trees were planted in 1923, and are therefore now over 100 years old.

Many years ago when Council originally advised me of the intention to schedule this group of trees, I was surprised that they considered the condition of the trees to meet their assessment criteria. The trees were severely affected by decades of single sided heavy pruning to clear the overhead

telephone wires, leaving most of them with a significantly unbalanced canopy. However, I did not object and as I valued the shelter offered by the trees I was supportive of the action, despite the sticky black mess deposited on property below the trees. I had the reasonable expectation that if Council considered the trees to have such high community amenity value, they would be cooperative and supportive of the ongoing management obligations associated with such large trees in close proximity to our home and to a public road. I also note that English Oaks in our climate grow relatively quickly and are subject to major limb over-stressing and breakage. We have experienced multiple such incidents.

We have been advised by Council that the group [G018] of trees may be subject to reassessment of their protected status as part of the Second Generation Dunedin City District Plan process.

Points of Concern: My expectations concerning Council cooperation on the long term management of these trees has unfortunately not been realised. I appreciate the requirement for a resource consent to be obtained for any pruning or other significant maintenance, but before going to the effort of submitting a resource consent application to address safety concerns, I have sought to engage with Council staff and advisors to ensure that any such application would align with Council perspectives, and would therefore be likely to be approved. However, our experience of these interactions including site inspections is that evidence of features such as actual limb failures has been ignored when Council has considered the degree of risk going forward. In fact the trees have been declared in writing by Council to present no such risk. I am not an arborist but I am a Chartered Civil Engineer and Fellow of Engineering NZ with professional specialisation in systematic risk management, and I am of the view that Council has not adequately assessed the safety risks or given reasonable and transparent response to the concerns formally raised. Underwriters to our property insurers have expressed concern as to the lack of acknowledgement of the obvious safety concerns.

Further evidence of a failure to respond in good faith to reasonable concerns raised with Council relates to the protected tree in the group that lies outside of our property. When I raised the error in the cadastral setting, the initial Council response was to refuse to acknowledge this error or to take any action to check their work that placed the tree on our property. I found this response defensive and extremely unhelpful. After we pursued this matter further, Council ultimately acknowledged that our information was factually correct. We subsequently advised Council that we were developing plans to redevelop the original ageing garage/workshop in the eastern corner of the property, and that the overhanging tree branches (some touching the roof) needed to be pruned, along with low branches on the roadside that were obstructing visibility for traffic. Council responded saying they may prune the road side branches (they haven't) but they refused to take any responsibility for the nuisance created within our property. As an aside, several low branches projecting into the traffic lane have previously been trimmed on the roadside with no resource consent to my knowledge, but I have no evidence of who undertook this past pruning action. Overall our experience with Council has been frustrating and counterproductive. It has not met our reasonable expectations of a responsible authority.

Attached: Photographs of scheduled trees from the road side and within our property.

 Copies of relevant recent email communications with Council from 2022 to present.