

**Before a Panel Appointed by the
Dunedin City Council**

In the Matter of the Resource Management Act 1991 (**RMA**)

And

In the Matter of Proposed Plan Change 1 (**PC1**) of the Partially
Operative 2024 Dunedin City Second Generation
District Plan (**2GP**).

**Brief of Evidence of Emma Rayner Peters
on behalf of Campbell Paton
(Submission 264.01 on SHB3: BX001)**

Dated 2nd May 2025

Background

1. My name is Emma Rayner Peters. I hold a BA and LLB both from the University of Otago and a First Class Honours degree and MA with Distinction, both from the University of Canterbury. I have worked as a solicitor in the areas of commercial and environmental law. I have been the principal of Sweep Consultancy Limited since 2003 providing resource management advice predominantly in the Dunedin City, Clutha, Waitaki, Queenstown Lakes and Central Otago districts. I have produced evidence for hearings at councils and the Environment Court.
2. I have prepared this evidence based upon my investigations and knowledge of the submission, further submission and Plan Change 1 of the 2GP including Council's s32 report, s42a report and evidence from Council staff as each of these pertain to BX001.
3. I acknowledge we are not before the Environment Court. However, I have read the Code of Conduct for Expert Witnesses within the Environment Court Consolidated Practice Note 2014 and I agree to comply with that Code. This statement is within my area of expertise, except where I state that I am relying on the evidence of another person. To the best of my knowledge, I have not omitted to consider any material facts known to me that might alter or detract from the opinions expressed in this evidence.
4. The scope of this statement will cover the following matters:
 - Issue before the Hearing Panel.
 - S42A recommendation.
 - Appendix C of s42A report.
 - Certificate of compliance.
 - S6(f) of RMA.
 - Conclusion.

Issue before the Hearing Panel

5. The issue before the Hearing Panel is whether, on the evidence provided, it ought to schedule as a heritage building, BX001, being the former Andersons Bay Presbyterian Church located at 76 Silverton Street.

6. The owner of the building, Mr Paton, opposes such scheduling. Two submitters¹ support the scheduling, and Heritage NZ also supports, via a further submission on Mr Paton's submission, the scheduling of BX001 as a heritage building.

S42A Recommendation

7. Under the 'Recommendation' heading in relation to BX001, the s42A report states:
"No recommendation."

8. In the discussion segment on BX001, the reporting planner states:

"The assessment of benefits and costs in Appendix C has concluded that scheduling the church has a high overall benefit but high additional costs of maintaining the building and that once the COC for demolition of the church expires, the scheduling will impact on known development plans. Because of this, I consider that the benefits and costs of scheduling the church are finely balanced."

The Hearing Panel will need to consider these costs and benefits, any additional information provided by the submitters at the hearing and the requirements of section 6(f) of the RMA which is reflected in the RPS and 2GP objectives and policies, when making decisions on these submissions."

Appendix C of s42A Report

9. In relation to BX001, Appendix C of the s42A report states:

APPENDIX C - SUMMARY OF ASSESSMENT OF COSTS AND BENEFITS OF SCHEDULING

Building	BENEFITS				COSTS					
	Assessment				Assessment of additional costs of maintaining the building as a result of scheduling				Impact of scheduling on known/planned development that would require demolition of the protected parts of building	
	Degree of heritage value (group A, B, C - see DCC Heritage evidence, Table 1)	Visible from publicly accessible roads, reserves and footpaths/tracks? (Visible, partly, not visible)	Is the building a landmark building or in a high traffic area (including pedestrian traffic) or is it known to be valued by the community (high, moderate, no)	Overall benefit	What current condition does the exterior of the building appear to be in? (good, fair, poor)	Are the exterior materials/design of the building likely to result in additional costs to maintain or need specialised tradespeople? (Yes - higher impact = High proportion of traditional materials and/or very complex design and/or known to require substantial repair; Yes - Lower impact = Traditional materials and/or complex design; No = Typical contemporary materials, not complex design)	Does the building require seismic strengthening?*** (Yes = known to be an EPB, Not Known = outcome of seismic assessment not known, No = not an EPB, N/A = legislation doesn't apply)	Overall assessment of additional cost as a result of scheduling	Will scheduling impact known development plans? (yes, no)	Overall
BX001 - 76 Silvertown Street, former Andersons Bay Presbyterian Church	B (HNZPT Category 2)	Visible	High	High	Fair / poor	Yes - higher impact	Yes	High	Yes (once CoC expires)	Will impact

10. Appendix C states that the current condition of the exterior of BX001 appears to be in *'fair to poor'* condition.

11. I have researched the s32 report including appendices and note the following:

a) Mr Mawdsley, Team Leader Advisory Services, details in his memorandum

¹ Brent Patterson (s249.001), Rose Bergamin (s274.004).

on *Heritage & Urban Design Comments on 2GP Plan Change 1 – Minor Improvements* forming Appendix C.7A to the s32 report, the process undertaken to determine which buildings were selected for potential scheduling as heritage buildings, stating at paragraph 6 (emphasis added):

*“The heritage assessment focuses on determining if a place demonstrates heritage significance. The physical condition of the place does not necessarily negate heritage significance **unless the extent of repair is so great that it will require that a place is substantially altered/rebuilt.** It is typical for a historic building to require repairs and upgrading; however, **extensive rebuilding that results in the substantial loss of historic building fabric may diminish the potential heritage significance of the place.**”*

Mr Mawdsley’s memo does not reference the specific assessment of the exterior condition of BX001.

- b) Appendix C.7A of the s32 report contains the heritage assessments. These assessments are in draft format². The heritage assessment provides a physical description of the exterior but does not provide an assessment of the condition, structural or otherwise, of the exterior of BX001, except noting that plastering of the south wall has occurred due to concerns about weathering.

Exterior

The brick church is built over two levels – a basement below road level housing meeting rooms, and at street level, the nave, offices and kitchen. The main entrance faces Silverton Street through a gabled porch. The church is Gothic in style, with a square tower. The lancet windows have contrasting facings, with the horizontal banding providing the major decorative element of the facade. The nave has gabled ventilators in the roof, with notional transepts provided by gables halfway down the nave. A bridge provides access from Spottiswoode Street to the rooms at the rear of the nave. In later years, the turret was removed, and the current tower has a truncated appearance. The south wall has been plastered because of concerns about weathering.

12. The evidence of Mr Bruce Chisholm, Consultant Structural Engineer, details the poor condition of the exterior of BX001 which is evidenced both on the exterior and interior of BX001. Mr Chisholm finds that the condition of the exterior of BX001 is such that (emphasis added): *“...the work necessary to allow for continued use is equivalent to **a total renewal of the building exterior [excepting bricks]** and with this [exterior renewal] it would be sensible to incorporate seismic*

² Copy of the heritage assessment for BX001 is attached at Attachment 1.

strengthening.”

13. Given Mr Chisholm’s expert assessment that much of the exterior fabric of the building requires renewal, the categorisation provided in Appendix C of the exterior of BX001 being in ‘*fair to poor*’ condition is not likely to be accurate and the categorisation should in fact be ‘*poor to failing*’ meaning that the cost benefit analysis is in fact weighted to **not** scheduling the BX001 as a heritage building.

Certificate of Compliance

14. As noted in the s42A report, Mr Paton has obtained a certificate of compliance³ for demolition of BX001 which does not lapse until 27th March 2030. Mr Paton has informed me that he:

- Intends to exercise the right to demolish BX001 prior to the lapse date of the certificate of compliance; and
- Will definitely demolish BX001 if the Hearing Panel schedules BX001 as a heritage building; and
- The reason for obtaining the certificate of compliance to demolish was due to the financial unviability of costs associated with the renewal of the exterior of BX001, required earthquake strengthening and converting BX001 to another use.

S6(f) of RMA

15. S6(f) states:

“6 Matters of national importance

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

...

(f) the protection of historic heritage from inappropriate subdivision, use, and development...”

16. Mr Chisholm’s expert opinion is that the condition of the exterior of BX001 is such

³ COC-2024-20.

that renewal of much of the exterior fabric of BX001 is required. That rebuild will mean that there will be substantial loss of the historic building fabric (for example, lead point windows and timber frames) thereby diminishing the heritage significance of BX001.

17. Therefore, the question for the Hearing Panel in relation to s6(f) is:

Does BX001 meet the definition of 'historic heritage' requiring protection given:

(a) Mr Chisholm's expert assessment of the condition of the exterior of BX001 being such that much of the exterior fabric of BX001 requires renewal which will lead to a substantial loss of the historic building fabric; and

(b) Earthquake strengthening is required; and

(c) The certificate of compliance to demolish BX001 which does not lapse until 27th March 2030 and Mr Paton's stated intention to exercise his right to demolish BX001.

Conclusion

18. It is open to the Hearings Panel to accept the submission of Mr Paton and **not** schedule BX001 as a heritage building because of the following facts:

- Based on Mr Chisholm's expert evidence that much of the exterior of BX001 requires renewal:
 - i. The best categorisation of the condition of the exterior of BX001 is 'poor to failing'; and
 - ii. The cost benefit analysis with respect to scheduling BX001 as a heritage building is in fact weighted to **not** doing so.
- Mr Paton has obtained a certificate of compliance to demolish BX001 and intends to exercise his right to demolish BX001 prior to the lapse date of 27th March 2030.

Dated this 2nd day of May 2025



Emma Rayner Peters (BA (First Class Honours), MA (Distinction), LLB)

**HERITAGE ASSESSMENT FOR SCHEDULED HERITAGE BUILDING:
FORMER ANDERSONS BAY PRESBYTERIAN CHURCH AT 76 SILVERTON STREET**



Heritage New Zealand Pouhere Taonga image

PROPERTY INFORMATION

Temporary 2GP Scheduled Heritage Building Reference No:	BX001
Address:	76 Silvertown Street, Andersons Bay, Dunedin
Other Building Name:	N/A
Located within a Heritage Precinct:	No
HNZPT List Reference:	List No. 9695, Category 2 historic place
Heritage Covenant:	No
Building Use at Time of Record:	LUC granted for residential development 2022
Condition of Property:	Earthquake Prone Building Register No. 2304

SUMMARY OF HERITAGE SIGNIFICANCE ASSESSMENT

Historic/Social	Meets criteria
Spiritual/Cultural	Meets criteria
Design	Meets criteria
Technological/Scientific	Does not meet criteria

RECOMMENDATION:

The building meets one or more of the significance criteria from Policy 2.4.2.1.b and is recommended for inclusion in Appendix A1.1 of the 2GP.

RECOMMENDED PROTECTION

[Tick]	Features	Details
✓	Building envelope	Entire external building envelope excluding the adjacent hall.
	External/ancillary elements	
	Internal elements and/or rooms	Not considered as part of this desktop assessment. Owner may nominate interior elements for protection
✓	Excluded elements	Hall/Former Kindergarten – approved for demolition

STATEMENT OF SIGNIFICANCE

Heritage New Zealand Pouhere Taonga's summary statement is reproduced below:

'Built in 1914, to a design by Dunedin architect Edward Walden, Andersons Bay Presbyterian Church is historically significant as it represents the establishment of suburban churches in Dunedin in the 1860s. The parish was one of the earliest established in Dunedin outside First Church and reflects the importance and growth of the Free Church of Scotland settlement. Its subsequent growth and decline represent the history of Presbyterianism in the nineteenth and twentieth centuries. The church has aesthetic significance as a local landmark on a prominent corner site and is also of architectural and spiritual value.'

The former Andersons Bay Presbyterian Church is comparable to scheduled heritage buildings within Dunedin of a similar function and period. When compared with other scheduled buildings, the former church meets the threshold to be included on the district plan heritage schedule.

HISTORICAL SUMMARY

Architectural Period	Edwardian
Style	Gothic Revival
Era/Date of Construction	1914
Architect/Designer/Builder	Edward Walden (architect) Joseph Eli White (contractor)
Historic Use & Cultural Associations	Church
Primary Construction Materials	Masonry, slate, timber
Notable Architectural Characteristics	Gothic Revival detailing, stained glass windows.

HISTORY

Heritage New Zealand Pouhere Taonga's List Entry text is reproduced below:

Kāti Mamoe-Kāi Tahu had several landing places in the Otago harbour at the time of colonial settlement of the Otago region. Māori named this area Puketahi (also known as Puketai) for the single hill that dominates the landscape of this area. A trail led through the sandhills at St Clair and Tomahawk to Sandfly Bay and Hoopers Inlet and then to the kaik. Māori from Ōtākou traded fish and potatoes with settlers at Puketai.

The first European settler was James Anderson, who came from Nelson to Port Chalmers in December 1844. The area was subdivided into suburban allotments of ten acres in the late 1840s. Andersons Bay was isolated – in the 1850s travellers had to take a boat or make a long sweep via St Clair. The area was connected to the city by rail from 1877, but the area was not in demand for residential settlement. The first clusters of housing grew up around Silverton Street, Shiel Hill, Sunshine and Tainui once the electric tram service began in 1907.

The early Presbyterian settlers attended First Church. Local historian Henry Duckworth writes that '[i]t was not easy to get over the swamp road as it was called, and it is a well-known fact that some of the women travelled barefoot through the mud, carrying their boots and stockings in their hands, and that, before going into church, washed their feet at a spring prior to putting on their stockings and boots again.' Reverend Thomas Burns used to make fortnightly visits to Andersons Bay to conduct services and prayer meetings.

The first local Presbyterian services in Andersons Bay were held at the school in 1863, with Reverend James McNaughton answering the call and inducted into the charge in July 1863. Robert Arthur Lawson designed a timber church, the second Dunedin church. The 200-seat church opened in March 1864, the service conducted by Reverend Thomas Burns. Anglicans built their own church in Dunedin in 1874, with the Methodist, Baptist and Catholic churches also building places of worship.

Lawson's timber church was enlarged in the early 1880s with the addition of two transepts, making it cruciform in plan, designed by architects Oakden and Begg.

Andersons Bay parish celebrated its jubilee in 1913, passing a resolution to build a new church, as part of the celebrations. Architect E.W. Walden's plans were approved by the Presbytery and in February 1914, Walden called for tenders. The tender of Joseph Eli White was chosen from the seventeen tenderers. The 480-seat brick church was built by White to a cost of £3532. The original plans allowed for a spire, but this was never built. Two foundation stones were laid on 6 May 1914 (one by Mrs Cameron, wife of the then minister, and the other by five of the pioneer women members of the congregation), and the building opened with much celebration on 6 December 1914.

The new church incorporated two memorial windows transferred from the old timber church: the Somerville Memorial Window (in memory of William Somerville (1900)), and the Holmes Window depicting Matthew, Mark, Luke and John (in memory of the Hon. Matthew Holmes (1899)).

The church became an Andersons Bay landmark. Local historian Henry Duckworth, writing in 1923, states that the church '...stands in a noble position, at the junction of five roads, overlooking White Island in one direction and the greenest of green valleys in the other. A more romantic situation could not be wished for....Everybody concerned seems to be pleased with the look of the new building, and passers-by admire it. The burning bush over the doorway declares the denomination, and the general appearance of the front is in agreement with the symbol, the design being characterised by a suggestion of sturdiness and resoluteness which fits in with one's ideas about Presbyterianism. The square louvered tower strengthens the plan, and the architectural details nicely break up the design and save it from anything in the way of uncompromising utility. It is, in fact, a beautiful church as viewed from the exterior. '

Inside the church, Duckworth commented that '...everything satisfies the eye. The walls are of white granite plaster, the ceiling and the fittings of oiled red pine. Plenty of light is admitted, and special pains have been taken to perfect the ventilation and the heating arrangements.' An organ was located behind the pulpit, and there were plans to add a gallery that would provide access to the tower. When the church was opened, the bells were still to be installed, awaiting sufficient funds. There was ample space for the vestry and classrooms, and a large basement hall. Sunday School was held in the old church. The church had electric lighting.

The brick Sunday School and social hall was built in 1924. The Somerville Room, a lounge, links the church and the adjacent kindergarten (former parish centre). The south wall of the church was plastered in 1924 to provide weather proofing when the 'sand bricks' used in the basement wall failed and let in the damp. In 1926, the 'whole front' of the church was 'rearranged'. The pulpit and choir seats were moved, and oak panelling added as an organ screen. Two further memorial windows were added to the church in the late 1920s/early 1930s; in 1928 the Cameron window was added in memory of Dr Andrew Cameron who died in 1925, and in 1930 the Whyte window was added, a memorial to John Whyte who died in 1925.

In 1953, in celebration of the ninetieth anniversary, a memorial window located behind the communion table was dedicated. This window was in memory of the pioneers who established the church. In 1954 a new bell was dedicated.

In 1963, the centenary of the induction of the first minister was celebrated with the publication of a small booklet. The author considered that the church 'stands sturdily as a tribute to the initiative of the congregations of half a century ago', and to those who continue to maintain the building. In 1965 the cornice parapets and pinnacles on top of the bell tower were removed as they were judged to be unsafe. A second booklet recounting the church's history was published in June 1988, to celebrate the 125th jubilee.

The church's status as a local landmark was again recognised in 2000, when historian Ron Tyrrell described the church as 'the district's most prominent building, exemplifying permanence and resolution.' The church remained in use throughout the 2000s, but its congregation was declining. Late in 2014, the church was found to be earthquake prone. The parish, already diminished, did not have the funds to repair the building and bring it up to standard, and there were discussions about its future. In 2015, the Southern Presbytery approved the dissolution of the Andersons Bay parish. The last service was held in April 2015, and the parish ceased to exist on 24 April 2015. The governance of the building passed to the Southern Presbytery and the

Synod of Otago and Southland. In 2016, the future of the former Andersons Bay Presbyterian Church remains undecided.

PHYSICAL DESCRIPTION

Setting

Andersons Bay Presbyterian Church is located in the southern suburb of Andersons Bay. This suburb is located at the southern end of the peninsula, overlooking St Kilda beach and South Dunedin. The church sits on a prominent corner site at the meeting of several streets and is regarded as a local landmark. It is opposite what was the tram terminus and sits across the road from the local shops. The surrounding buildings are houses, largely single residences on well planted sections. The church has a view over Andersons Bay Inlet and in the distance, the city. Alongside the church is the former parish centre, now used as a kindergarten.

Exterior

The brick church is built over two levels – a basement below road level housing meeting rooms, and at street level, the nave, offices and kitchen. The main entrance faces Silverton Street through a gabled porch. The church is Gothic in style, with a square tower. The lancet windows have contrasting facings, with the horizontal banding providing the major decorative element of the facade. The nave has gabled ventilators in the roof, with notional transepts provided by gables halfway down the nave. A bridge provides access from Spottiswoode Street to the rooms at the rear of the nave. In later years, the turret was removed, and the current tower has a truncated appearance. The south wall has been plastered because of concerns about weathering.

Interior

The main body of the church at street level is approached through a porch and lobby from Silverton Street. To the right of the lobby is the former minister's office, notable for its two lancet windows with quarry panes. The joinery is also of note, with original doors, panelling, as well as door and window furniture surviving.

The nave has a timber floor, partially carpeted. The walls are plastered and painted. The ceiling is match lined in diagonal timbers. The nave is notable for its four memorial windows to significant parishioners. The original pews, altar furniture, pulpit and organ remain in place. To the rear of the nave is a functional kitchen and office space. The organ is built into the end wall of the church. The windows are a significant interior feature, with aesthetic and historical value, linking this church with its predecessor and to important families in the congregation.

At basement level, there are two large spaces providing a generous meeting hall (currently used for storage for the kindergarten), and a sports room used for indoor basketball. The meeting space has built in cupboards and is match lined.

ASSESSMENT OF HERITAGE SIGNIFICANCE

HISTORIC/SOCIAL

The building demonstrates heritage values within this criterion. Heritage New Zealand Pouhere Taonga's assessment of historic significance is reproduced below:

'Andersons Bay parish was the first developed outside First Church and is therefore one of the significant early parishes in the history of the Presbyterian Church in Dunedin's Free Church settlement. Associated with the church are individuals and families of note, including the Hon. Mathew Holmes and the Somerville family who played key roles in the city and the suburb. The 1914 church was built to commemorate the jubilee of the first church and represents the parish at its heyday. Its subsequent history represents the important role that the parish played in community outreach, and still later, the decline of organised religion in twenty and twenty-first century Otago, and more generally in New Zealand.'

SPIRITUAL/CULTURAL

The building demonstrates heritage values within this criterion. Heritage New Zealand Pouhere Taonga's assessment of spiritual significance is reproduced below:

'The Andersons Bay Presbyterian Church has spiritual significance as the place of worship for the Andersons Bay parish for over 100 years. Despite the closure of the church, the sense of spiritual intention and worship remains evident in the architecture and the memorial windows.'

DESIGN

The building demonstrates heritage values within this criterion. Heritage New Zealand Pouhere Taonga's aesthetic and architectural significance assessments are reproduced below:

'The Andersons Bay Church has architectural significance as a suburban church dating from the early years of the twentieth century. It is the work of Dunedin architect Edward Walden, known for his commercial and residential work, including the former King Edward Picture Theatre. Walden's Gothic design in brick represents the solidity and permanence of the community and their religious ideals. The stained-glass windows add significant value to the building.'

'The Andersons Bay Presbyterian Church has aesthetic significance its prominent location at the intersection of several streets, overlooking Andersons Bay and the distant city makes it a local landmark and key building in this suburb. The brick building, stained glass window, timber interior detailing and chattels give the church strong visual appeal.'

TECHNOLOGICAL/SCIENTIFIC

The building does not demonstrate heritage values within this criterion.

REFERENCES

Refer to Heritage New Zealand's List entry report saved to Pataka. Online list entry available.

Date Assessment Completed	11 April 2023 - Transcribed and reformatted from HNZPT list entry report. Minor editing for sense.	Author	HB
Date Peer Reviewed	9 August 2024	Reviewer	MM
Date Confirmed Complete	9 August 2024		

DRAFT