

In the Environment Court of New Zealand  
At Christchurch

I mua i te Kōti Taiao o Aotearoa  
I te rohe o Ōtautahi

ENV-2025-CHC-

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*under:* the Resource Management Act 1991

*in the matter of:* an appeal under clause 14 of Schedule 1 of the  
Resource Management Act 1991

*between:* **Church Property Trustees**  
*Appellant*

*and:* **Mackenzie District Council**  
*Respondent*

Notice of appeal by Church Property Trustees against Mackenzie  
District Council's decision on Plan Change 28 to the Mackenzie  
District Plan

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Dated: 29 August 2025

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## **NOTICE OF APPEAL BY CHURCH PROPERTY TRUSTEES AGAINST MACKENZIE DISTRICT COUNCIL'S DECISION ON PLAN CHANGE 28 TO THE MACKENZIE DISTRICT PLAN**

*Clause 14(1) of Schedule 1, Resource Management Act 1991*

**To** The Registrar  
Environment Court  
Christchurch

### **Introduction**

- 1 Church Property Trustees (*CPT*) appeals against part of the decision of the Mackenzie District Council (*Council*) on Plan Change 28 (Historic Heritage) (*PC28*) to the Mackenzie District Plan (*District Plan*) (*Decision*).

### **CPT's interest in these proceedings**

- 2 CPT made submissions and further submissions on PC28 relating to the Church of the Good Shepherd Historic Heritage Overlay (the *Heritage Overlay*).
- 3 CPT's submission sought that the extent of the Heritage Overlay surrounding the Church of the Good Shepherd (*Church*) and the Sheepdog Statute be reduced to (at least) exclude the area on the landward side of Pioneer Drive (*Area A*) shown in **Figure 1** below:



**Figure 1:** Figure shows previous Proposed Heritage Overlay outlined in purple, and land owned by CPT shaded in red.

- 4 CPT is the legal owner of the land affected by the Overlay, including the land occupied by the Church.
- 5 CPT is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 (*RMA*).

- 6 CPT received notice of the Decision on 24 July 2025. The notice directed that appeals must be lodged within 30 working days.
- 7 The part of the Decision that CPT appeals is the extent of the Heritage Overlay, and, in particular, the decision to reject CPT's request to exclude the land identified in its submission as Area A from the Heritage Overlay.

### **Reasons for the Appeal**

- 8 The reasons for CPT's appeal are that:
- 8.1 the Decision does not accord with the relevant requirements of the RMA and is contrary to Part 2 of the RMA.
- 8.2 In particular, the Decision:
- (a) Does not promote the sustainable management of natural and physical resources of the Mackenzie District;
  - (b) Does not appropriately enable social, economic and cultural well-being;
  - (c) Does not result in the most appropriate plan provisions in terms of section 32 of the RMA;
  - (d) Does not implement Council's functions under section 31 of the RMA; and
  - (e) Is contrary to best resource management practice.

### **Specific reasons for appeal**

- 9 Without limiting the generality of the reasons above, CPT's specific reasons for its appeal points are set out below.

### ***The Decision is wrong on the effects of excluding the whole of Area A from the Heritage Overlay***

- 10 The Decision was wrong to conclude that fully removing Area A from the Heritage Overlay would not maintain the historic heritage values of the Church and was wrong to adopt that alternative Heritage Overlay (*Alternative Overlay*) put forward by Council's heritage advisor, Mr Richard Knott.
- 11 The Alternative Overlay does not represent an appropriate or balanced level of protection for the heritage values of the Church. The approach adopted in the Decision does not adequately address the key concerns raised by CPT and fails to recognise that heritage values can be maintained through less restrictive means.

***The Decision is not supported by robust evidence***

- 12 The Decision is not supported by robust evidence. The heritage assessment undertaken by Council advisor, Mr Richard Knott, does not provide adequate rationale to explain why 'Area A' should be included as part of the Heritage Overlay.
- 13 The Decision also fails to give adequate regard to the evidence of Mr David Person, heritage expert for CPT, which demonstrates that the inclusion of Area A does not contribute significantly to the heritage values of the Church.

***Failure to give adequate consideration to social and economic impacts***

- 14 The Decision fails to give adequate weight to the social and economic impacts on the landowner, including the significant effects on the value and development potential of the land. The imposition of the Heritage Overlay over Area A places an unreasonable burden on the landowner, which in this case, is a trustee whose primary purpose is to support the mission and ministry of the Anglican Parish of Mackenzie which enhances the social and cultural well-being of the community, including by providing church services and safeguarding the long-term interests of the Parish.
- 15 The Decision does not have proper regard to evidence that the inclusion of Area A within the Heritage Overlay would result in a material loss of land value which would adversely affect the future financial sustainability of the Parish and the use, care and maintenance of the Church.

***The decision does not reflect a balanced consideration of the matters of national importance***

- 16 The Decision does not reflect a balanced consideration of the matters of national importance in section 6(f) of the RMA, specifically the protection of historic heritage from inappropriate subdivision, use, and development.
- 17 The evidence of Mr David Person, heritage expert for CPT, demonstrated that:
  - 17.1 The heritage values associated with the Church and the Sheepdog Statue can be appropriately maintained and safeguarded without extending the Heritage Overlay to Area A; and
  - 17.2 The Historic Heritage chapter of the District Plan (and in particular those expressed in objectives HH-O1 and HH-O2) can be achieved through a reduced extent of the Heritage Overlay.

- 18 The Decision goes beyond what is necessary to protect the heritage significance of the protected items and therefore imposes unreasonable restrictions on CPT's ability to use and develop the land.

**Relief sought**

- 19 The Appellant seeks the following relief:
- 19.1 that the Heritage Overlay be amended to exclude all of Area A; and
- 19.2 any consequential, alternative or other amendments required to give effect to the relief sought.

**Documents**

- 20 The following documents are attached to this notice:
- 20.1 A copy of CPT's submissions (**Appendix 1**);
- 20.2 A copy of CPT's further submissions (**Appendix 2**);
- 20.3 A copy of the relevant part of the Decision (**Appendix 3**). Other parts of the Decision are available on request or can be accessed at: <https://letstalk.mackenzie.govt.nz/district-plan-review-stage-four>; and
- 20.4 A list of names and addresses of persons to be served with a copy of this notice (**Appendix 4**).

**Signed** for and on behalf of Church Property Trustees Limited by its solicitors and authorised agents Chapman Tripp




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Jo Appleyard  
Partner  
29 August 2025

Address for service of Church Property Trustees

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c/- Jo Appleyard, Partner  
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### **Advice to recipients of copy of notice of appeal**

#### *How to become party to proceedings*

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must, -

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

#### *How to obtain copies of documents relating to appeal*

If the copy of this notice served on you does not attach a copy of the appellant's submission (or or) the decision (or part of the decision) appealed. These documents may be obtained, on request, from the appellant.

#### *Advice*

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.