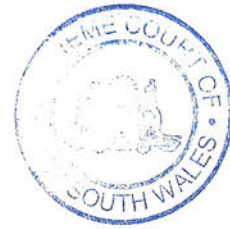


FILED

10 MAY 2023



## NOTICE OF APPEAL

### COURT DETAILS

Court Supreme Court of New South Wales, Court of Appeal  
Registry Sydney  
Case number 2023/128467

### TITLE OF PROCEEDINGS

Appellant Christian Community Ministries Ltd  
Respondent Minister for Education and Early Learning

### PROCEEDINGS IN THE COURT BELOW

Title below Christian Community Ministries Ltd v Minister for Education and Early Learning  
Court below Supreme Court of New South Wales  
Case number below 2022/65859  
Date of hearing 14 March 2023  
Material date 27 March 2023  
Decision of Basten AJ

### FILING DETAILS

Filed for Christian Community Ministries Ltd, the Appellant  
Filed in relation to Whole decision below  
Legal representative Gregory John Wrobel, Holding Redlich  
Legal representative reference  
Contact name and telephone  
Contact email

### HEARING DETAILS

This notice of appeal is listed for directions at

9am on 31/05/2023

### TYPE OF APPEAL

Other (Administrative Law List)

### DETAILS OF APPEAL

- 1 This appeal is brought under s 101(1)(a) of the *Supreme Court Act 1970* (NSW).
- 2 This notice of appeal is not filed pursuant to leave to appeal.

- 3 The appellant has filed and served a notice of intention to appeal, which was served on the prospective respondent on 21 April 2023.
- 4 The appellant appeals from the whole of the decision below.

### APPEAL GROUNDS

- 1 The primary judge erred in holding (at [46]) that the school operated by the appellant (the **School**) could have the status of “a non-compliant school” for the purpose of s 83E(3) of the *Education Act 1990* (NSW) (the **Education Act**) prior to the respondent (the **Minister**) forming the state of satisfaction required by that subsection.
- 2 Further and in the alternative to ground 1, the primary judge erred in holding (at [52]) that s 83F(1) of Education Act permitted the Minister to declare that the School was, or had been, a non-compliant school with respect to periods prior to the Minister forming the state of satisfaction required by either s 83E(2) or s 83E(3).
- 3 The primary judge erred in holding that s 83J(1) of the Education Act permitted the Minister to recover financial assistance provided to the School for any period prior to 10 May 2021 (when the Minister formed the state of satisfaction required by s 83E(3) and made a declaration under s 83F(1)).

### ORDERS SOUGHT

- 1 Appeal allowed.
- 2 Set aside the orders of the Supreme Court dated 27 March 2023, and in their place, order that:
  - (a) the decision of the defendant purportedly made on 8 December 2021 pursuant to s 83J of the Education Act 1990 (NSW) be set aside or quashed;
  - (b) the defendant pay the plaintiff's costs in an amount as agreed or assessed.
- 3 The respondent pay the appellant's costs of the appeal.

### UCPR 51.22 CERTIFICATE

The right of appeal is not limited by a monetary sum.

### SIGNATURE OF LEGAL REPRESENTATIVE

This notice of appeal does not require a certificate under clause 4 of Schedule 2 to the [Legal Profession Uniform Law Application Act 2014](#).

I have advised the appellant that court fees will be payable during these proceedings. These fees may include a hearing allocation fee.

Signature



Capacity

Solicitor on the record

Date of signature

9 May 2023

## NOTICE TO RESPONDENT

If your solicitor, barrister or you do not attend the hearing, the court may give judgment or make orders against you in your absence. The judgment may be for the orders sought in the notice of appeal and for the appellant's costs of bringing these proceedings.

Before you can appear before the court, you must file at the court an appearance in the approved form.

## HOW TO RESPOND

**Please read this notice of appeal very carefully. If you have any trouble understanding it or require assistance on how to respond to the notice of appeal you should get legal advice as soon as possible.**

You can get further information about what you need to do to respond to the notice of appeal from:

- A legal practitioner.
- LawAccess NSW on 1300 888 529 or at [www.lawaccess.nsw.gov.au](http://www.lawaccess.nsw.gov.au).
- The court registry for limited procedural information.

Court forms are available on the UCPR website at [www.ucprforms.nsw.gov.au](http://www.ucprforms.nsw.gov.au) or at any NSW court registry.

## REGISTRY ADDRESS

Street address

Supreme Court of New South Wales, Court of Appeal  
Law Courts Building  
Queen's Square  
Level 5, 184 Phillip Street  
Sydney NSW 2000

Postal address

GPO Box 3  
Sydney NSW 2001

Telephone

1300 679 272

**PARTY DETAILS**

A list of parties must be filed and served with this notice of appeal.

**FURTHER DETAILS ABOUT APPELLANT****Appellant**

Name Christian Community Ministries Ltd

Address

**Legal representative for appellant**

Name Gregory John Wrobel

Practising certificate number

Firm

Holding Redlich

Contact solicitor

Kim Nguyen

Address

Level 65, 25 Martin Place  
Sydney NSW 2000

Telephone

Email

Electronic service address

**DETAILS ABOUT RESPONDENT****Respondent**

Name Minister for Education and Early Learning

Address

Parliament House, Macquarie Street  
Sydney NSW 2000