



# Notice of Appeal

## NCAT INTERNAL APPEAL PANEL

Complete this form to appeal from a decision to the NCAT Internal Appeal Panel under section 80 of the *Civil and Administrative Tribunal Act 2013*.

Before completing this form and proceeding with an internal appeal or asking for leave to appeal, read [NCAT Guideline 1 – Internal Appeals](#) because:

- There are some types of NCAT decisions that cannot be appealed internally.
- An NCAT decision may be able to be set aside or varied as an alternative to an appeal.
- Appeals must be lodged within the applicable time period.
- You may need permission or 'leave' to appeal.
- You may not be entitled to be represented without the permission or 'leave' of the Tribunal.

If you are also applying for a stay of the order while the appeal is determined you will need to complete an [Application for stay of original decision pending appeal](#) form.

### Appeal Panel File Number

Office use only

## 1. DIVISION

Select Division in which decision being appealed was made

☐ Administrative and Equal Opportunity ☐ Consumer and Commercial ☐ Guardianship ☐ Occupational

## 2. DETAILS OF DECISION

Provide details of decision of completed proceedings you want set aside or varied. Attach a copy of the orders made by NCAT and any written reasons.

### NCAT File Number

Date of Decision

Date notice of decision was received

☐ Copy of NCAT orders and any written reasons are attached

## 3. APPELLANT

Provide details of party seeking to appeal from the decision of the Tribunal. For multiple applicants, attach details on a separate sheet. If a company include Australian Company Number (ACN).

Full name

Postal Address

Contact details

Daytime telephone

Mobile

Email

☐ Tick if you have a representative and want them to receive correspondence on your behalf

Note: You may have to ask for the Tribunal's permission to have a representative.

## REPRESENTATIVE DETAILS (IF APPLICABLE)

Full name

Name of firm or organisation

Postal Address

Contact details      Daytime telephone      Mobile  
Email

## 4. RESPONDENT

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Insert name of other party to the original proceedings. For multiple respondents attach details on a separate sheet. If a company include Australian Company Number (ACN).

Full name

Postal Address

Contact details      Daytime telephone      Mobile  
Email

☐ Tick if the other party had a representative when the decision was originally made.

## REPRESENTATIVE DETAILS (IF APPLICABLE)

Full name

Name of firm or organisation

Postal Address

Contact details      Daytime telephone      Mobile  
Email

## 5. GROUNDS FOR APPEAL

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### A. ORDERS CHALLENGED ON APPEAL

List the orders that were made by the Tribunal that you want to have changed by the Appeal Panel. *Use a separate sheet if needed.*

### B. GROUNDS OF APPEAL

List below a short summary of each reason why you consider the Tribunal was wrong when it decided to make the order/s appealed from. *Use a separate sheet if needed.*

### C. ORDERS THE NCAT APPEAL PANEL SHOULD MAKE

List below the orders which you say the NCAT Appeal Panel should make if you are successful on the appeal. *Use a separate sheet if needed.*

### D. WILL YOU BE APPLYING FOR A STAY OF THE ORIGINAL DECISION?

- ☐ **Yes** Complete the [Application for stay of original decision pending appeal](#) and lodge with this application.
- ☐ **No**

## 6. LEAVE TO APPEAL

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Unless you are appealing a final or ancillary decision of the Tribunal on a **question of law only**, you need permission or 'leave' to appeal. Refer to [NCAT Guideline 1 – Internal Appeals](#) for further information on the types of decision and leave to appeal. You are encouraged to seek independent legal advice regarding your appeal and whether it is on a question of law.

### Are you appealing from a decision of the Consumer and Commercial Division?

- ☐ **No** If 'No' complete section A
- ☐ **Yes** If 'Yes' complete section B

### A. APPLICATION FOR LEAVE TO APPEAL

Are you asking for leave? ☐ Yes ☐ No

**Reasons why the NCAT Appeal Panel should grant leave to appeal against the decision/s** *Use a separate sheet if needed.* Note: The Tribunal can decide whether to give leave on the papers without having an oral hearing.

## **B. APPLICATION FOR LEAVE TO APPEAL FROM A CONSUMER AND COMMERCIAL DIVISION DECISION**

Unless you are appealing a final or ancillary decision of the Consumer and Commercial Division on a **question of law only** you need permission or 'leave' to appeal. For some decisions of the Consumer and Commercial Division there is no right to ask for permission or 'leave' to appeal. Refer to [NCAT Guideline 1 – Internal Appeals](#) for further information.

**Are you asking for leave?** ☐ Yes ☐ No

If yes, the Appeal Panel can give leave only if it is satisfied that the Appellant may have suffered a substantial miscarriage of justice because:

- i. the decision was not fair and equitable
- ii. the decision was against the weight of evidence
- iii. significant new evidence is now available that was not reasonably available at the time of the hearing.

Provide information on each of those grounds that is applicable to this Appeal. Note: The Tribunal can decide whether to give leave on the papers without having an oral hearing.

### **i. Decision not fair and equitable**

It is not enough simply to say the decision was not fair and equitable. You must describe in detail why the decision was not fair and equitable.

### **iii. Decision of the Tribunal against the weight of evidence**

Dissatisfaction with the Tribunal Member's findings does not mean there has been a substantial miscarriage of justice. You must say why some evidence should have been given more weight than other evidence.

**What evidence did you give at the hearing? What documents did you show the Tribunal?**

**What evidence did the other party give? What documents did the other party show the Tribunal?**

**What evidence should the Tribunal have given more weight to? Why?**

**iv. Significant new evidence is now available that was not reasonably available at the time of the hearing**

It is not sufficient to state that you did not have the evidence or you were unaware of the evidence at the time of the hearing. You must show that the new evidence could not have been obtained with reasonable diligence at the time of the hearing and that the new evidence is significant and could have made a difference to the decision.

**What evidence/documents do you now seek to produce to the Tribunal?** If you want to rely on documents or statements you must attach copies to this application form.

**Why was this evidence (including documents) not available at the time of the hearing?**

## 7. EXTENSION OF TIME

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This appeal must be made within the applicable time period after the decision concerned was made. Refer to [NCAT Guideline 1 – Internal Appeals](#) for further information about time for filing. You are also encouraged to seek independent legal advice regarding your appeal.

The Tribunal has the power to grant an extension of time to lodge the appeal if the Tribunal finds that it is warranted in the circumstances. If an extension is required but is not granted the application may be dismissed because it is out of time.

**Do you require an extension of time?** ☐ Yes ☐ No

If yes, explain why the application was not lodged within the time limit, what effect extending or not extending the time would have on you and the respondents, and any other relevant considerations you want the Tribunal to take into account in deciding whether or not to extend the time. *Use separate sheet if needed.*

## 9. HEARING

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### A. SPECIAL NEEDS

Indicate whether you have any special needs such as a hearing loop or wheelchair access:

### B. INTERPRETER

Do you require an interpreter for the hearing?

☐ Yes ☐ No

If yes, specify language and dialect:

## 10. SERVICE OF NOTICE OF APPEAL ON THE RESPONDENT

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Once you have lodged your application the Tribunal will serve your Notice of Appeal and attachments on each respondent using the copies you have provided to the Tribunal.

## 11. NOTICE OF APPEAL CHECKLIST

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☐ **Appeal lodgement fee has been paid or fee waiver obtained**

You must pay the 'internal appeal' lodgement fee when lodging your Notice of Appeal. Refer to the fee schedule available on [www.ncat.nsw.gov.au](http://www.ncat.nsw.gov.au). Payment can be made by attaching a credit card authority form or cheque/money order made to 'NSW Civil and Administrative Tribunal'. Cash, credit card and epos payments can be made in person at NCAT Registry offices or Service NSW Centres.

If you are unable to pay the concession fee or are not eligible, NCAT may consider waiving the fee fully or partially. To request a fee waiver please complete the [fee waiver request form](#).

☐ **All relevant documents are attached**

Attach all documents you are relying upon in support of your Notice of Appeal. Keep a copy of your Notice of Appeal and any attached information for your own records. **Note:** A copy of this Notice of Appeal and all material attached may be viewed by the Respondents. The person completing the documents is responsible for their content.

☐ **Multiple copies of this Notice of Appeal and attachments have been made**

You must provide multiple copies of this Notice of Appeal and any attachments to the Tribunal. The original and two copies for the Tribunal and one copy for each respondent must be lodged with the Tribunal.

☐ **Copy of original orders and any written reasons are attached**

A copy of the Tribunal's original orders and any written reasons provided must be attached to the Notice of Appeal.

## 12. SIGNATURE

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Appellant's signature or signature of legal representative

Name

Signature

**Lodge your Notice of Appeal with the fee at your nearest NCAT Registry**

Post to NCAT Appeal Panel Unit, PO Box K1026 Haymarket NSW 1240 or DX 11539 Sydney Downtown. For NCAT Registry locations refer to information on your Tribunal orders or NCAT correspondence. For all NCAT enquires telephone 1300 006 228 or visit [www.ncat.nsw.gov.au](http://www.ncat.nsw.gov.au).