



Complaints Resolution Procedures

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Principles

This Framework is based on the following principles:

- It is transparent, accessible, open and effective;
- It is designed to provide confidence in the process such that residents are assured that the system works confidentially and in a timely manner;
- It assists in the lodging of complaints and reaching a resolution satisfactory to all parties involved;
- The rights of both parties to confidentiality, privacy, and respect throughout the process;
- Complaints to be raised and dealt with in a non-judgmental manner;
- It does not penalise, pressure, or in any way prejudice, the residents involved;
- It does not in any way attempt to reward a resident for not complaining, and,
- Operates within a continuous improvement model such that resolution of complaints are evaluated and linked back into existing policies and procedures of Riverside Gardens.

Scope

The Riverside Gardens Complaints Resolution Framework is not intended to override the rights and obligations of Residents or the Operators as established in the relevant legislation as it applies to Retirement Communities. Further, it is not intended to override any contractual or statutory arrangement between the Resident and the Operator.

There are two stages to the Riverside Complaints Framework: Internal and External. Both are outlined further in this document. A summary flow chart is provided in the Attachments.

The Riverside Gardens Complaints Resolution Framework is not intended for complaints which arise from time to time between Residents. It is directed to complaints to the Operator either raised by an individual Resident or through the Residents Committee.

The Riverside Gardens Complaints Resolution Framework does not require a Resident, or the Operator, to renounce their individual legal rights. It is simply intended to assist the Resident and/or the Operator to reach a satisfactory conclusion within legislative and statutory frameworks as applicable to Retirement Communities.

The Riverside Gardens Complaints Resolution Framework is not designed to include what can be termed 'vexatious' complaints, examples of which include:

- Repetitive, vexatious and unsubstantiated complaints;
- Using inappropriate, derogatory, crude, obscene or profane language;

- Fanciful or irrational complaints.

The Complainant must cooperate to reasonable requests from the Operator during the investigation. The Operator cannot request information which would constitute a breach of privacy. Both parties must not use language in documentation which can be described as defamatory.

Complaints System

The detail of the system is provided further in this document against the background of these principles:

- Complaints are managed within the documented system in a confidential, private and timely manner;
- Complaints are acknowledged as having been received and feedback provided as documented;
- Complaints are investigated in a timely manner such that the relevant facts and issues are identified;
- Complaints will be acknowledged within a maximum of 5 days
- Complaints will be internally managed within a 60 day maximum period;
- Complainants will be provided with an expected resolution date;
- Complaints are responded to in plain English;
- Complaints are to attract no financial cost;
- The Operator will maintain a Complaints Register which includes: register of complaints with headings including date complaint lodged, complainant; description, details & dates of actions taken , and outcome (resolved, withdrawn, referred or escalated);
- The Operator will review the complaints received on an annual basis as well as regularly review the Complaints Register;
- The Operator will review the overall Complaints Framework every 2 years; □ Details of each complaint will be maintained for 5 years in the Complaints Register;
- The Operator will ensure that Village staff will be trained in internal dispute resolution.

A Flow Chart is provided in Attachment #1 as a summary of the process.

Riverside Gardens Complaints Resolution Process - Internal

1. Riverside Gardens Resident Complaint

If a Resident has a complaint in relation to the staff of the Village or the Operator which does not override any contractual or statutory arrangement, it is most appropriate that the complaint is put in writing, together with any relevant correspondence or other

documentation. That formal complaint can be submitted directly to the Village Manager or, if the Resident deems it appropriate, submitted to the Residents Committee.

Riverside Gardens Retirement Village Manager

34 Beaumont Avenue

North Richmond NSW 2754

Phone: 4571 4545

OR

The Residents Committee

Riverside Gardens Retirement Village

34 Beaumont Ave

North Richmond NSW 2754

Alternatively, should the complaint directly involve the Village Manager, and the resident deems it appropriate, the complaint can be submitted directly to the Operator.

Riverside Gardens North Richmond Pty Ltd

34 Beaumont Ave

North Richmond NSW 2754

2. Riverside Gardens Residents Committee

The Residents Committee meets a minimum of 4 times a year. The nature of the complaint could be such that the resident believes it may have a broader scope than the individual resident and hence, it should be directed to the Committee. The Committee will consider the matter in confidence and seek a resolution.

The Committee will advise the Village Manager of the successful resolution, if applicable.

The Village Manager will record the complaint and the resolution and feed the result into the overall Village policies and procedures.

If the Complaint is not successfully resolved then the Committee will advise the Village Manager who will record the complaint in the Complaints Register.

3. Riverside Gardens Village Manager

Whether a complaint is brought directly to the Village Manager or comes from the Residents Committee, the details are recorded in the Complaints Register. The manager will complete the Village Complaints pro forma, allocate a number (YYYY-00) which is then recorded in the Register. A copy of the Complaints pro forma is provided as Attachment #2

The Village Manager determines whether there is sufficient information to proceed with the Complaint. If there is insufficient information then the Manager requests extra information

from the Complainant. The Complainant will then provide the information to the Village Manager; that information is also recorded in the Complaints Register.

Once the Village Manager has sufficient information to proceed, the Manager will arrange a formal meeting with the Complainant. The Complainant may have present a witness, whether a carer, or family member, or other representative as appropriate. In certain circumstances, the Manager may also have present a third party if it is agreed with the Complainant. (For example a legal representative may be appropriate, or an expert in the particular field relating to the specifics of the complaint.) The details of the meeting are to be kept confidentially between all parties however will be recorded in the Complaints Register.

Where the complaint is satisfactorily resolved, that resolution is to be recorded in the Complaints Register. The Village Manager will feed the resolution into the Village policies and procedures as appropriate.

Where the complaint cannot be satisfactorily resolved, it will be forwarded to the Operator as the next stage in the Complaints Framework.

4. Riverside Gardens Operator

Where a complaint cannot be resolved to the complete satisfaction of the Village Manager or the Resident, then the details are to be provided by the Village Manager to the Village Operator. Alternatively, if it is appropriate, the Resident can forward the details to the Operator directly. The Village Operator will consider the information provided in the Complaints Register, or by the Resident, and determine whether further information or research is required.

Should further information or research be required from the Complainant, the Operator will notify the Complainant. The Operator may also determine that detailed research into the specific issue may be required from the Owners' perspective. Both parties will provide that information, as agreed, to the other party within an agreed timeframe.

When the Operator and Complainant have agreed that the detail provided is sufficient to proceed, they will determine an appropriate time and place for a formal meeting. The Complainant may have present a witness, whether a carer, or family member, or other representative as appropriate. In certain circumstances, the Operator may also have present a third party if it will assist the process.

A formal meeting will then be conducted.

If the matter is resolved, the Operator will record the resolution and advise the Village manager to record the details in the Complaints Register. The Village manager will take into account that resolution and its potential impact on existing Village policies and procedures. It may be that these need updating as a result.

If the matter is not resolved, the Village Operator may consider whether an informal mediation may be a way forward to resolve the complaint. As this Framework is designed to be cost free, a mediator would be a third party, agreed by the Complainant and Operator, who has no direct relationship with either. A meeting time and place will be determined and the result is to be recorded in the Complaints Register.

If informal mediation is not determined to be a way forward to resolution of the complaint, or if the informal mediation does not resolve the matter, the Complainant may determine to seek external resolution.

Riverside Gardens Complaints Resolution Process – External

If the matter is deemed urgent, the complainant may make an application directly to the NSW Civil & Administrative Tribunal. Alternatively if the matter is not urgent, the complainant may make an application to the NSW Department of Fair Trading.

NSW Civil & Administrative Tribunal

This information is taken from the NSW Civil & Administrative Tribunal (NCAT) website.¹

https://www.ncat.nsw.gov.au/Pages/cc/Divisions/Retirement_villages/retirement_villages.aspx

NCAT can resolve disputes about retirement villages in NSW under the *Retirement Villages Act 1999*. NCAT can hear and determine applications from retirement village residents and owners or operators. A hearing in response to an application will usually be made within 6 weeks.

A copy of the Application form is included here as Attachment #3.

There may be a small charge in lodging a complaint with NCAT, see

https://www.ncat.nsw.gov.au/Pages/apply_to_ncat/fees_and_charges/fees_and_charges.aspx

Mediation is available through Community Justice Centres as determined by the NSW Department of Justice. <https://www.cjc.justice.nsw.gov.au/>

NSW Department of Fair Trading

This information is taken from the NSW Department of Fair Trading website.²

Lodging a complaint

Where a complaint has not been satisfactorily resolved through the Riverside Gardens internal process, the Complainant may choose to take the issue to the process provided via the relevant legislative framework. In NSW, this is through the NSW Department of

¹ Downloaded 29 July 2019

² Downloaded 29 July 2019

Fair Trading Complaints Procedure. The process is usually completed online at

<https://www.cas.fairtrading.nsw.gov.au/icmspublicweb/forms/Tenancy.html> :

Complainants should also read the information provided about Retirement Villages on the department's website: <https://www.fairtrading.nsw.gov.au/housing-and-property/retirement-villages>

The screenshot below shows the first page of the procedure to lodge a formal complaint with the NSW Department of Fair Trading. There are five pages listed across the page indicating the subsequent information required:

- Dispute Details
- Property Details
- Who is your dispute with?
- Is anyone else involved?
- Your details.

The screenshot shows a web browser window with the URL <https://www.cas.fairtrading.nsw.gov.au/icmspublicweb/forms/Tenancy.html>. The page features a navigation bar with five tabs: "Dispute Details" (active), "Property Details", "Who is your dispute with?", "Is anyone else involved?", and "Your Details". A "Submit" button and a "Help" icon are also present. The main content area is titled "Property Enquiry / Complaint - Dispute Details" and contains the following fields:

- "What is your dispute about ? (required)" with a text input field.
- "Have you discussed your complaint with the Other party? (required)" with a dropdown menu showing "Please Select".
- "What outcome are you seeking ?(required)" with a text input field.
- A note: "Agreements; contracts; relevant correspondence / notices or reports can be attached (Maximum size of combined attachments is 10MB)." followed by an "Attach File" section with a "Browse..." button.
- A "Submit" button at the bottom center.
- A blue "NEXT" button at the bottom right.

Fill in the complaints form and depending on the issue, the retirement village complaint service will either recommend mediation, provide dispute resolution assistance, or refer you to the NSW Civil and Administrative Tribunal.

1 Mediation

The free onsite mediation service is voluntary. It's an informal negotiation with a neutral (qualified) mediator to help reach a beneficial settlement. The mediator's role is to help identify the issues in dispute and help find options that could address everyone's concerns.

If the Department of Fair Trading think mediation is appropriate, the complainant will be contacted taken through that process.

What matters are not suitable for mediation?

Time limits for making an application to the Tribunal may apply. Mediation can take some time; if the matter is urgent then the complainant should go straight to the Civil and Administrative Tribunal.

Who attends?

- All relevant people involved in the dispute should attend the session. A solicitor can be present if the other parties approve.
- The mediator will arrange for an interpreter to attend if required.

Where will the mediation take place?

- Mediation can take place onsite at the village or at another mutually acceptable location as agreed to by the parties.

How does the complainant prepare?

- The complainant should be fully prepared for the mediation session.
- The complainant should take any relevant plans, documents or photographs. This also includes getting legal or other advice before the session if the complainant thinks it is appropriate.

What happens during the mediation?

- First, each party will have an opportunity to briefly describe the dispute and state what they are hoping to achieve from mediation.
- Then the mediator will help the parties discuss and explore the issues, identify options and negotiate possible settlements.

What are the results?

- When an agreement is reached, the mediator can help draft a written agreement.
- If the issue can't be resolved by mediation, an application can be made to the NSW Civil and Administrative Tribunal.

What's the cost?

- There is no charge for mediation services. Everyone is responsible for their own costs.

Where the matter is resolved through the mediation process of the Department of Fair Trading, the written agreement should be provided to the Village Manager to be included on the Complaints Register. In addition the Village Manager will consider the agreement in terms of its impact on the Riverside policies and procedures; whether there needs to be an adjustment.

2. *Complaint service*

If the dispute is not suitable for mediation, the complainant has the option of using the retirement village complaint service.

The Department of Fair Trading Officer will:

- explain the process and provide impartial advice to all parties
- allow all parties to put forward their position
- confirm that all relevant matters have been discussed
- make suggestions as to the best way to finalise the complaint

The officer will not offer any legal advice or continue with the complaint unless both parties show willingness to reach an agreement.

Where the matter is resolved through the Complaints process of the NSW Department of Fair Trading, the written agreement should be provided to the Village Manager to be included on the Complaints Register. In addition the Village Manager will consider the agreement in terms of its impact on the Riverside policies and procedures; whether there needs to be an adjustment.

3. *The Tribunal*

If the issue can't be resolved by mediation or through the complaint service, the complainant can lodge an application with the NSW Civil and Administrative Tribunal.

The Tribunal can make enforceable orders to resolve a dispute whereas Fair Trading cannot.

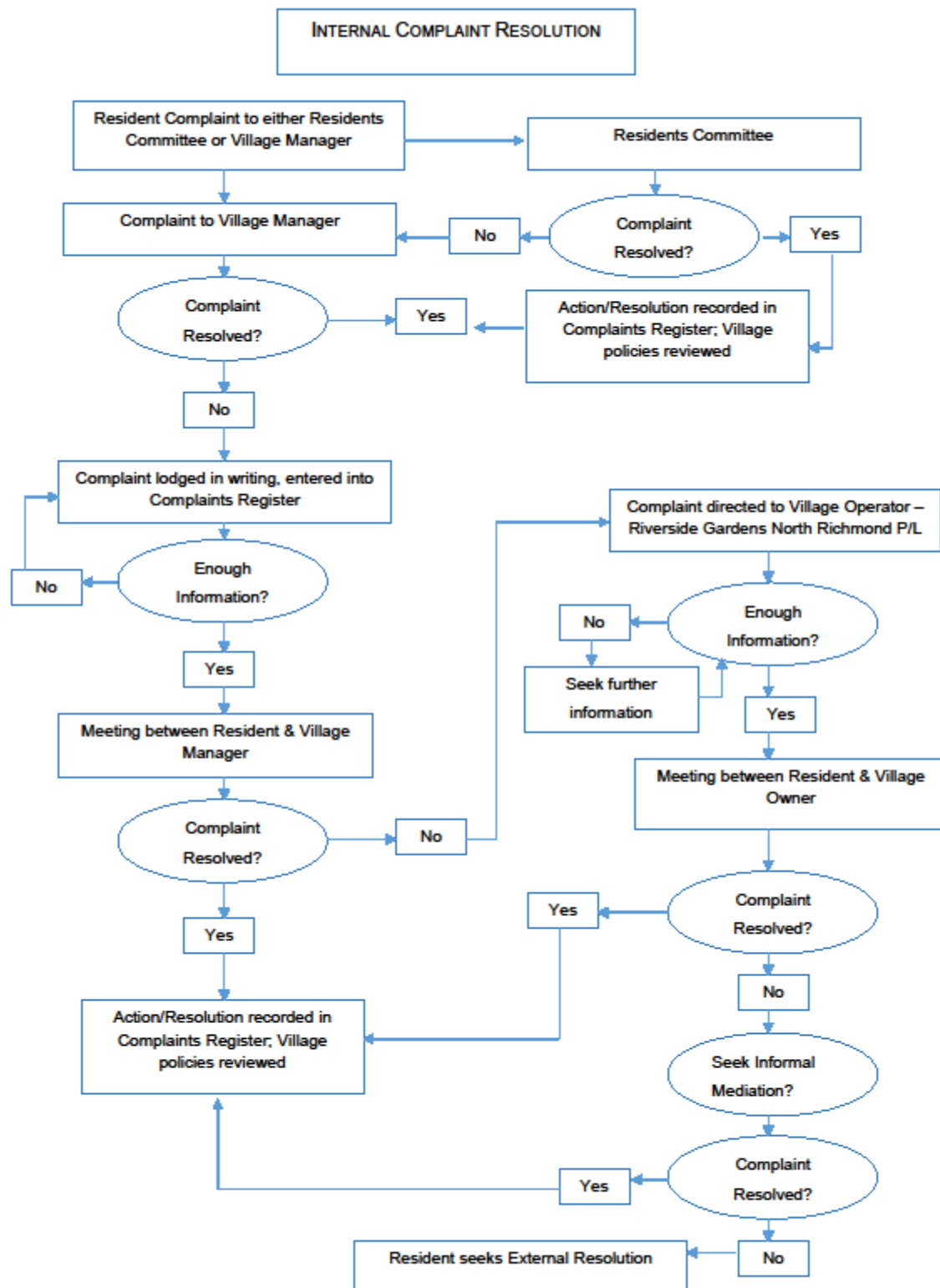
If the matter is to be heard in front of the Tribunal, the complainant should attend the hearing.

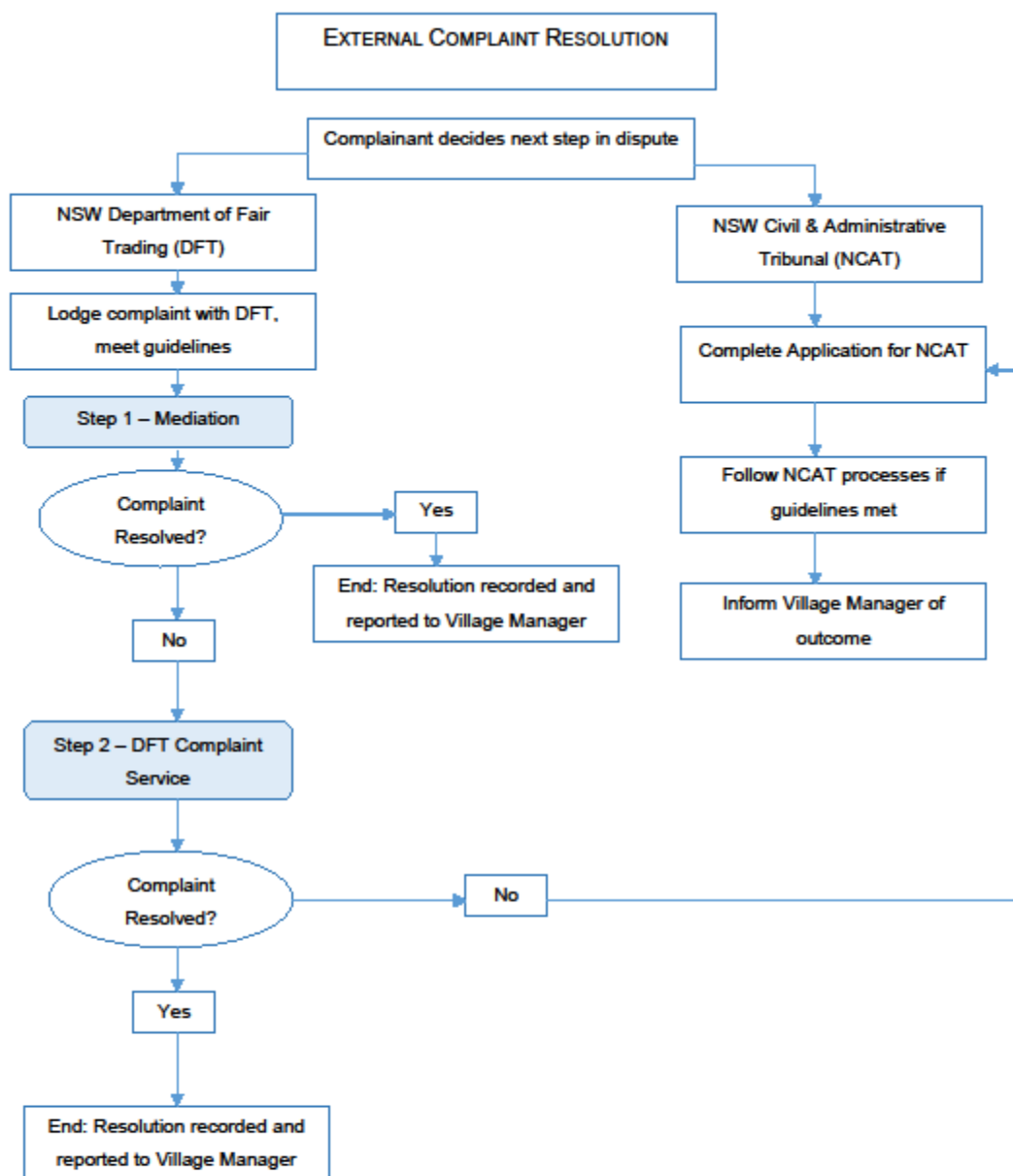
If the complainant is unable to attend in person, then the complainant can request a telephone hearing or to present the case in written form. Time limits for making an application to the Tribunal may apply.

Where the matter is resolved through the Tribunal (NCAT) a written agreement should be provided to the Village Manager to be included on the Complaints Register. In addition the

Village Manager will consider the agreement in terms of its impact on the Riverside policies and procedures; whether there needs to be an adjustment.

Attachment # 1 Riverside Gardens Internal/External Complaints Procedure





Attachment #2 – Riverside Complaints pro forma

Riverside Gardens Complaint Pro Forma					
Date Lodged		Complaints Register No:			
Applicant					
<input type="checkbox"/> Resident					
<input type="checkbox"/> Family member of resident					
<input type="checkbox"/> Resident Committee					
<input type="checkbox"/> Other (specify)					
Name					
Address					
Telephone					
Email					
Description					
Supporting Documents					

Action Date	Actions Taken				
Resolution					
Signature			Date		



NCAT
NSW Civil &
Administrative Tribunal

April 2019

Retirement villages application

CONSUMER AND COMMERCIAL DIVISION | RETIREMENT VILLAGES LIST

Complete this form to apply to NCAT's Consumer and Commercial Division for orders under the *Retirement Villages Act 1999* to resolve a retirement village dispute. Retirement villages applications can also be lodged online with [NCAT Online](#).

File Number
Office use only

1. VILLAGE DETAILS

A. VILLAGE PREMISES

Provide the name and address of the retirement village.

Village name:

Village address:

B. WHAT IS THE DISPUTE ABOUT?

Tick the box that best describes the dispute that is the subject of the application.

- | | | |
|--|--|--|
| <input type="checkbox"/> Annual Budget/Accounts | <input type="checkbox"/> Sale/Letting of Premises | <input type="checkbox"/> Payment of money/compensation |
| <input type="checkbox"/> Capital Maintenance/Replacement | <input type="checkbox"/> Security and safety | <input type="checkbox"/> Village contract |
| <input type="checkbox"/> Recurrent charges | <input type="checkbox"/> Termination/Vacant possession | <input type="checkbox"/> Village rules |

2. APPLICANT

A. APPLICANT TYPE

Tick the box that best describes the person or company applying to the Tribunal.

- | | | |
|---|---|--|
| <input type="checkbox"/> Resident | <input type="checkbox"/> Operator | <input type="checkbox"/> Administrator or Executor of Estate |
| <input type="checkbox"/> Former Resident / Occupant | <input type="checkbox"/> Former Operator | <input type="checkbox"/> Rescinding Party |
| <input type="checkbox"/> Resident's Relative (or Guardian) | <input type="checkbox"/> Prospective Resident | |
| <input type="checkbox"/> Secretary, Department of Finance Services and Innovation | | |

B. APPLICANT'S DETAILS

Provide details of person or company applying to the Tribunal. For multiple applicants attach details on a separate sheet.

Full name:

Business or company name (if applicable):

ABN or ACN:

Postal address:

Contact details: Daytime telephone

Mobile

Email address:*

* By providing an email address you are agreeing that any NCAT notices, orders and correspondence can be emailed to you. Ensure the email address provided is accurate and the account is checked regularly.