

## Appeals Process for NCAT Decisions in NSW

As a homeowner in New South Wales, you may feel frustrated when you receive an unfavourable [NCAT](#) decision. It is crucial to understand the appeals process and what decisions can be appealed. In this article, we will explore the NCAT appeal process, including who can appeal, the types of decisions that can be appealed, and the procedures involved. Understanding the appeal process is essential for a fair outcome in your dispute.

### Which Decisions Can Be Appealed?

If you are unhappy with an NCAT decision, you may be considering an appeal. It's important to understand which decisions can and cannot be appealed to the NCAT Appeal Panel.

In NSW, the decisions that can be appealed include:

1. Most decisions made in the Administrative and Equal Opportunity Division
2. Decisions made in the Guardianship Division
3. Decisions made in the Occupational Division relating to occupations licensed by State law and regulated by State authorities
4. Decisions made in the Consumer and Commercial Division (some exclusions apply)
5. Decisions of a Registrar that are declared to be 'appealable decisions'

It's important to note that internal appeals can only be made on a question of law. This means that you can only appeal a decision based on the legal process that was followed to arrive at the decision, not on the merits of the decision itself. However, an appeal can be made about the merits of a decision if the Appeal Panel grants leave.

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the right legal advice.

## Decisions That Cannot Be Appealed to the NCAT Appeal Panel in NSW

While the NCAT Appeal Panel can hear and determine most appeals of NCAT decisions, there are some decisions that cannot be appealed. It is important to understand these restrictions before deciding to file an appeal.

### The following types of decisions cannot be appealed to the NCAT Appeal Panel in NSW:

1. NCAT Appeal Panel decisions
2. Decisions of the Tribunal in an external appeal – this is usually where an NCAT matter has been started by a person lodging an External Appeal form with the Tribunal
3. Decisions about contempt of the Tribunal or a contravention of a civil penalty provision
4. Some decisions of the Tribunal where a civil penalty is imposed on a person
5. Decisions that are made for the purposes of an Act that states an internal appeal are not allowed

It's essential to have a clear understanding of the decisions that can and cannot be appealed to the NCAT Appeal Panel in NSW. This can help you determine if you have the right to appeal and what steps to take next in the appeals process.

## How Long Do You Have to Appeal an NCAT Decision?

- **Timeframe for Lodging Notice of Appeal**

If you are considering appealing an NCAT decision, it is important to act quickly. The timeframe for [lodging a Notice of Appeal](#) is generally **28 days from the date of the decision**.

This means that you have 28 days to inform the NCAT that you wish to appeal the decision.

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- **Residential Proceedings Timeframe**

In residential proceedings, such as [disputes](#) between landlords and tenants, the timeframe is shorter. If you are a party in a residential proceeding, you only have 21 days to lodge a Notice of Appeal.

- **Shorter or Longer Timeframe Stated by Relevant Legislation**

It is important to note that some relevant legislation may have a shorter or longer timeframe for lodging a Notice of Appeal. For example, the Strata Schemes Management Act 2015 has a timeframe of only 21 days to lodge a Notice of Appeal.

- **Seeking Extension of Time**

If you have missed the deadline for lodging a Notice of Appeal, you may seek an extension of time from the Appeal Panel. You will need to show a good reason for the delay, and the Appeal Panel will consider factors such as the length of the delay and the impact on other parties.

- **Lodging Notice of Appeal by Deadline and Paying Fee**

It is essential to lodge the Notice of Appeal by the deadline, otherwise, you may lose the right to appeal the decision. The Notice of Appeal should be accompanied by a fee, which varies depending on the type of matter and the relief sought. It is important to note that if the fee is not paid, the appeal may not be heard.

## How to Appeal an NCAT Decision

If you are dissatisfied with an NCAT decision and wish to appeal it, you must follow a specific process. The following steps will guide you through the appeal process.

Steps	Action
Step 1: Obtain a Copy of the Decision	You must obtain a copy of the decision you wish to appeal. You can obtain a copy of the decision by contacting the NCAT registry where the decision was made.

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<p>Step 2: Consider the Decision</p>	<p>It is important to carefully consider the decision and determine the grounds on which you wish to appeal. You may wish to seek legal advice to assist you in this process.</p>
<p>Step 3: Complete the Notice of Appeal</p>	<p>To appeal an NCAT decision, you must complete a Notice of Appeal form. The form is available on the NCAT website or can be obtained from the NCAT registry where the decision was made.</p>
<p>Step 4: Lodge the Notice of Appeal Form by the Deadline and Pay the Fee</p>	<p>You must lodge the Notice of Appeal form with the NCAT registry within the timeframe specified in the decision. You will also need to pay the appeal fee.</p>
<p>Step 5: Apply for a Stay of the Original Decision (Optional)</p>	<p>If you wish to delay the original decision while the appeal is pending, you may apply for a stay of the decision. This will prevent the original decision from being enforced until the appeal is heard.</p>
<p>Step 6: The Other Party Lodges a Reply to Appeal</p>	<p>Once you have lodged the Notice of Appeal, the other party will have an opportunity to lodge a Reply to the Appeal form. This form sets out their response to your grounds for appeal.</p>
<p>Step 7: Attend a Callover</p>	<p>A callover is a meeting with an NCAT registrar to discuss the appeal and determine how it will proceed. Both parties are usually required to attend.</p>

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<p>Step 8: Prepare for the Hearing</p>	<p>You will need to prepare for the hearing by gathering all necessary evidence and documents and preparing your arguments. It is recommended that you seek legal advice to assist you with this process.</p>
<p>Step 9: Take Part in a Hearing</p>	<p>At the hearing, both parties will have an opportunity to present their case to the Appeal Panel. The panel will consider all evidence and make a decision based on the merits of the case.</p>
<p>Step 10: The Appeal Panel Makes a Decision</p>	<p>After considering all evidence and arguments presented, the Appeal Panel will make a decision. The panel may allow the appeal, dismiss the appeal, confirm, affirm or vary the decision under appeal, quash or set aside the decision under appeal, substitute the decision under appeal with another decision, or order the Tribunal to reconsider a part or the whole case.</p>

By following these steps, you can ensure that your appeal is lodged correctly and effectively. Remember to [seek legal advice](#) if you are unsure about any part of the appeal process.

## How an Expert Construction Lawyer Can Help

Appealing an NCAT decision can be complex, so it's essential to understand what can and cannot be appealed, how long you have to appeal, and how to go about it.

An [expert construction lawyer](#) can provide legal advice, help you complete the Notice of Appeal, represent you at the hearing, negotiate a settlement, and ensure compliance with

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NCAT rules. Contact an expert construction lawyer to discuss your options and protect your rights and interests.

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