

# Change in Estate

## About this form

Complete this form if you are a private manager requesting a change to a managed person's estate. Once completed, please return by emailing your Client Service Team or mail to: NSW Trustee & Guardian, Locked Bag 5115, Parramatta, NSW 2124.

## Section A – Personal Information

### Details of managed person

Customer reference number	Surname	Given name(s)
Other name/s	Is the managed person Aboriginal or Torres Strait Islander?	
	Yes Aboriginal	Yes Torres Strait Islander No
Current address		
		Postcode
Home phone	Mobile	Email

### Details of private manager(s)

Surname	Given name	Relationship
Current address		
		Postcode
Home phone	Mobile	Email

Surname	Given name	Relationship
Current address		
		Postcode
Home phone	Mobile	Email

If there are more than two private managers please list their details on a separate sheet.

## Section B – Current estate

Precise detail current financial information for the managed person's estate.

Please outline the managed person's current financial information including assets they own and debts they owe.

### Real estate

Address			Ownership <i>Sole/joint tenant/ tenants in common</i>	Occupancy <i>Managed person/ tenant/vacant</i>	Value \$
					\$
	Postcode				
					\$
	Postcode				
					\$
	Postcode				

### Bank accounts (including term deposits)

Name of financial institution	Ownership <i>Sole/joint</i>		BSB	Account Number	Amount <i>Specify if joint</i>
	Sole	joint			\$ joint
	Sole	joint			\$ joint
	Sole	joint			\$ joint
	Sole	joint			\$ joint
	Sole	joint			\$ joint
	Sole	joint			\$ joint

### Investments (including superannuation, shares, managed funds, debts due to managed person)

Type	Ownership <i>Sole/joint</i>		Description	Units	Amount <i>Specify if joint</i>
	Sole	joint			\$ joint
	Sole	joint			\$ joint
	Sole	joint			\$ joint
	Sole	joint			\$ joint
	Sole	joint			\$ joint
	Sole	joint			\$ joint

### Liabilities (including mortgages, loans, credit cards)

Lender	Type	Term	Amount
			\$
			\$
			\$
			\$
			\$
			\$

## Section C – Proposed changes to estate

If it is intended to make significant changes to the managed person's estate e.g. changes to the lease, purchase, sale or modification of real estate, motor vehicles, carers, gifts, holidays, investment or other please complete the relevant section in Appendix A.

## Section D – Private manager checklist

I acknowledge that I must seek approval from NSW Trustee & Guardian prior to making changes to the managed person's estate.	
I acknowledge that I am required to retain all documentation relating to the management of the estate, and that NSW Trustee & Guardian may request any documents from me under section 116 of the <i>NSW Trustee and Guardian Act 2009</i> (Appendix B).	
I acknowledge that I must not dispose of estate property which is the subject of a specific testamentary gift in the managed person's Will without the prior written approval of NSW Trustee & Guardian.	
I acknowledge that I am not authorised to make a gift or loan from the managed person's estate without prior consultation of NSW Trustee & Guardian.	
I acknowledge that I am not authorised to invest the managed person's estate in a trust environment e.g. family trust, discretionary trust.	
I acknowledge that I am required to seek the managed person's and any other significant people's views on the proposed change in estate and have completed the relevant sections in Appendix A.	
I confirm that any information including that contained in this form is true and correct to the best of my knowledge and ability.	

Manager's signature \_\_\_\_\_ Date \_\_\_\_\_

Manager's signature \_\_\_\_\_ Date \_\_\_\_\_

Manager's signature \_\_\_\_\_ Date \_\_\_\_\_

## Appendix A – Proposed changes to the estate

If significant changes to the managed person's estate are being proposed, please complete the relevant section in Appendix A. For example, the purchase, sale or modification of real estate, or changes to carers, gifts, holidays, or investments.

Tick the boxes on the right and then complete the relevant sections.

Proposed change	Complete section	
Carers		A
Gifts		B
Holiday		C
Investment changes		D
Legal proceedings		E
Legal costs		F
Purchase of motor vehicle		G
Sale of motor vehicle		H
Past gratuitous care		I
Real estate – occupation of managed person's property		J
Real estate – lease of managed person's property		K
Real estate – purchase of property for managed person		L
Real estate – sale of managed person's property		M
Real estate – modifications/renovations to managed person's property		N
Reimbursement of expenses		O
Remuneration		P
Residential accommodation bond		Q
Miscellaneous		R

## Views of family and or other significant people

Please indicate the views of the managed person, family members, including estranged family, or interested persons. Please specify if they support or object to the proposed change.

Name	Relationship	View* <i>support/object</i>

\*Please obtain a copy of all views in writing for your records. You may be required to submit these at a later date.

If anyone disagrees with your proposal, they must include an alternative proposal. They must address how the proposal benefits the managed person, is in their best interests, and the affordability to the estate.

The private manager will need to consider the alternative proposal and submit a report with this form advising if they agree or disagree.

## A Carers

Please note, private care is not funded by the NDIS or home care package. Nursing home fees are also excluded.

Does the managed person require the hire of carers?	Yes	No
Does the managed person reside in a nursing home or residential accommodation? If yes, why is extra care required?	Yes	No
What is the proposed annual cost for the carers? Please provide a quote or invoice.	\$	
Can the estate afford the cost?	Yes	No
Are the carers qualified to provide the required care services?	Yes	No
Are the carers hired through a professional agency?	Yes	No
If yes, have you obtained advice from a solicitor or accountant?	Yes	No

## B Gifts

Please only include seasonal gifts such as Christmas, weddings, and birthday gifts. For other gifts, such as large donations, please contact your Client Service Team to discuss. Please note gifts listed must fall under section 76 of the *NSW Trustee and Guardian Act 2009* – . See Appendix B.

What is the gift? For example, money, present.		\$
What is the occasion? For example, Christmas, birthday.		
Can the estate afford the gift?	Yes	No
Has the managed person made similar gifts in the past?	Yes	No
Will the gift be made regularly? If yes, how often:	Yes – Frequency No	

## C Holidays

What is the total cost of the proposed holiday?	\$
Can the estate afford the holiday?	Yes No
Have travel quotes been obtained? If yes, please attach a copy.	Yes No
Will travel insurance be obtained?	Yes No
Are you satisfied the costs are primarily for the managed person and or carer (if applicable)?	Yes No

## D Investment changes

Please briefly outline the proposed investment changes:			
What is the amount of funds to be invested?		\$	
Does the investment plan comply with section 14C of the <i>Trustee Act 1925</i> ? See Appendix B – Section C.		Yes	No
Are estate funds to be invested:		Yes	No
overseas	in a business	in a speculative investment for example, a racehorse	in a trust, for example family or discretionary
If the investment portfolio is over \$100,000, has a Statement of Advice been obtained from a licenced financial advisor? If yes, please attach a copy.		Yes	No
Please note, a Statement of Advice is not required if funds are invested in term deposits below \$500,000.			
If no, please outline the reason why a Statement of Advice has not been obtained:			

## E Legal proceedings

Please briefly outline any pending or upcoming legal action:		
Were the proceedings in place before or after the financial management order?	Before	After
Have you sought independent legal advice to commence, continue or defend the legal action?	Yes	No
If yes, please attach a copy of the legal advice obtained.		
If no, please explain why you wish to continue with the proposed legal proceedings:		

## F Legal costs

What are the total estimated legal costs?	\$
Are these costs related to the legal action in Section E or other?	Section E      Other
If other, please outline:	
Have you received a legal cost agreement?	Yes      No
Can the estate afford the legal costs?	Yes      No
Are you satisfied that the legal costs are reasonable?	Yes      No
Have the legal costs been included in the expenditure forecast?	Yes      No
Is anything required from NSW Trustee & Guardian such as additional Directions and Authorities?	Yes      No
If yes, please attach a copy of the solicitor recommendation.	

## G Purchase of new motor vehicle (including modifications)

What is the make and model of the motor vehicle?			
What is the cost of the motor vehicle?	\$		
What is the cost of any required modifications?	\$	N/A	
Has a quote been obtained for the cost of the motor vehicle or modifications? If yes, please attach a copy.	Yes	No	
Can the estate afford the purchase or modification?	Yes	No	
Is the motor vehicle suitable for the managed person's needs and will it be used exclusively for the managed person?	Yes	No	
Will another motor vehicle be traded in? If yes, what is the trade in amount?	Yes	No	\$
Will the motor vehicle be registered in the managed person's name?	Yes	No	
Will the motor vehicle be insured?	Yes	No	
Will the estate be able to afford the ongoing running costs of the vehicle?	Yes	No	

## H Sale of motor vehicle

What is the make and model of the motor vehicle?	
What are the reasons for selling?	
What do you intend to do with funds from the sale?	
Have you obtained a valuation? If yes, please attach a copy.	Yes No
What is the proposed selling price?	\$
Is the vehicle listed in the Will?	Yes No Not sure
Is the vehicle being sold to a family member?	Yes No

## I Past gratuitous care

What is the total cost of the past-care claim?	\$
What is the relationship of the person(s) making the claim?	
Are you satisfied that there is no conflict of interest in paying past gratuitous care?	Yes No
Can the estate afford the costs?	Yes No
Are you satisfied that the past gratuitous care services were supplied for the managed person as per the claim and approved Terms of Settlement?	Yes No
Is this the final past gratuitous care claim on the estate?	Yes No

It is important that you attach a copy of the following supporting documentation for past gratuitous care to be considered:

1. Schedule of damages.
2. Calculation of the total amount.
3. Terms of settlement.
4. Judgement order.
5. Confirmation in writing from claimant that this will be the only claim.
6. Evidence the claimant provided care at their economic loss.
7. Centrelink medical clearance statement, including preclusion period.
8. Any past experience or reimbursement claim pending.
9. Statement of Advice including report on life expectancy.
10. Statement of Particulars.

## J Real estate – occupation of managed person's property

Do not complete this section if the occupant is a joint owner of the property.

Who will occupy the property?			
What is the relationship of the occupant to the managed person?			
What will be the terms of the occupancy?	Market rent	Reduced rent	Rent-free
If reduced rent or rent-free is proposed, please outline reasons why:			

Has a real estate agent rental appraisal been sought? If yes, please attach a copy.	Yes	No
What is the recommended weekly market rent as per real estate agent rental appraisal?	\$	
How long is the occupational proposal intended to stay in place?		
Who will be responsible for the property outgoing costs. That is, council and water rates, strata levies, insurance, maintenance, repairs and consumables?		
Have you considered the financial impact on the estate and an Centrelink entitlements?	Yes	No
Can the estate afford the proposed occupancy?	Yes	No

## K Real estate – lease of managed person's property

Has an independent real estate agent rental appraisal been sought? If yes, please attach a copy.	Yes	No
What is the recommended weekly market rent as per appraisal?	\$	
What is the weekly rental amount you recommend?	\$	
Is the rental amount you recommend above or below market value? If below, please outline your reasons why and how the proposed amount was established:	Above	Below
Is leasing the property below market rent affordable to the estate?	Yes	No
Are renovations required to bring the property to a rental state?	Yes	No
If renovations are required what is the cost as per the real estate agent appraisal? Please provide a copy of the quote.	Yes	No
Have you considered the financial impact on the estate and any Centrelink entitlements?	Yes	No
Will leasing the property contribute to other property costs? For example, rates and maintenance? If yes, please outline:	Yes	No

## L Real estate – purchase of property for managed person

Please provide the full property address:		Postcode:
What is the cost of the property, excluding associated costs?		\$
What is the total cost of associated costs?		\$
Are modifications required? If yes, what is the quoted amount?	Yes	No
		\$
Have you obtained a valuation of the property by a licenced valuer? If yes, please attach a copy.		Yes
		No
How will the purchase be funded?	Mortgage	Sale proceeds
	Investments	Other – please state:
What is the purpose of purchasing the property?	Accommodate the managed person	Investment property
Who will reside in the property?		
Have you considered the financial impact on the estate and any Centrelink entitlements?		Yes
		No
Can the estate afford the purchase of the property?		Yes
		No



Has an occupational therapist inspected the premises and advised that they meet the managed person's needs? If no, please outline the reasons below:	Yes	No
Have you obtained a building inspection? If yes, please attach a copy of the report. If no, please outline reasons why:	Yes	No
Have you received a pest inspection? If yes, please attach a copy of the report. If no, please outline reasons why:	Yes	No

## M Real estate – sale of managed person's property

Please list the address of the property to be sold:		Postcode
Please briefly outline reasons for proposing the sale:		
What is the proposed sale price, excluding associated costs?	\$	
What are the associated costs?	\$	
Have you obtained two real estate agent appraisals or one licensed valuation? If yes, please provide a copy.	Yes	No
What is the recommended sale price?	Minimum \$	Maximum \$
Will the property be sold to a family member or friend? If yes, is the sale price consistent with the real estate agent valuation? If no, please provide further information:	Yes	No
Is the property specifically left to an individual in the managed person's Will? If yes, please outline why you continue to recommend the sale. Please attach a copy of the Will.	Yes	No
Have you considered the financial impact on the estate and any Centrelink entitlements?	Yes	No
Will the funds be used for the payment of a Residential Accommodation Bond? If yes, please complete Appendix A – section Q	Yes	No
Will the funds be invested? If yes, please complete Appendix A – section D	Yes	No
Will the funds be used to purchase another property? If yes, please complete Appendix A – section L	Yes	No

## N Real estate – modifications/renovations to managed person's property

Please list the address of the property proposing to be modified:	Postcode
Briefly outline the work to be carried out:	



## R Miscellaneous

Please outline any other approvals not listed.

Please include:

- a reason for the proposal
- how the proposal is in the managed person's best interest
- its affordability to the estate
- the amount to be approved
- copies of supporting documents such as invoices.

If urgent approval is required, please contact your Client Service Team.

### Appendix B - Legislative references

#### A – Section 116 of the NSW Trustee and Guardian Act 2009

##### **116 NSW Trustee may require information and documents to be provided**

- (1) The NSW Trustee may, by notice in writing given to a person, order the person to furnish to the NSW Trustee such information or records (or both) as the NSW Trustee requires in connection with any matter relating to the responsibilities of the NSW Trustee when acting in a protective capacity.
- (2) Any such notice must specify the manner in which the information or records are required to be furnished and a reasonable time (not less than 14 days after the giving of the notice) by which the information or records are required to be furnished.

#### B – Section 76 of NSW Trustee and Guardian Act 2009

##### **76 Gifts**

- (1) A manager may use property of the estate of a managed person for the following gifts:
  - (a) a gift to a relative or close friend of the managed person that is of a seasonal nature or is given because of a special event (such as a birthday or marriage)
  - (b) a donation of a nature that the managed person made when the managed person had capacity to do so or that the managed person might reasonably be expected to make.
- (2) A manager may make a gift under this section only if the value of the gift is not more than what is reasonable having regard to all the circumstances and, in particular, the managed person's financial circumstances and the size of the managed person's estate.

#### C – Section 14C of Trustee Act 1925

##### **14C Matters to which trustee is to have regard when exercising power of investment**

- (1) Without limiting the matters that a trustee may take into account when exercising a power of investment, a trustee must, so far as they are appropriate to the circumstances of the trust, if any, have regard to the following matters:
  - (a) the purposes of the trust and the needs and circumstances of the beneficiaries
  - (b) the desirability of diversifying trust investments
  - (c) the nature of, and the risk associated with, existing trust investments and other trust property
  - (d) the need to maintain the real value of the capital or income of the trust
  - (e) the risk of capital or income loss or depreciation
  - (f) the potential for capital appreciation
  - (g) the likely income return and the timing of income return
  - (h) the length of the term of the proposed investment
  - (i) the probable duration of the trust
  - (j) the liquidity and marketability of the proposed investment during, and on the determination of, the term of the proposed investment
  - (k) the aggregate value of the trust estate
  - (l) the effect of the proposed investment in relation to the tax liability of the trust
  - (m) the likelihood of inflation affecting the value of the proposed investment or other trust property,
  - (n) the costs (including commissions, fees, charges and duties payable) of making the proposed investment
  - (o) the results of a review of existing trust investments in accordance with section 14A (4).
- (2) A trustee may, having regard to the size and nature of the trust, do either or both of the following:
  - (a) obtain and consider independent and impartial advice reasonably required for the investment of trust funds or the management of the investment from a person whom the trustee reasonably believes to be competent to give the advice
  - (b) pay out of trust funds the reasonable costs of obtaining the advice.

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- (3) A trustee is to comply with this section unless expressly forbidden by the instrument (if any) creating the trust.

**D – Section 39 of the *NSW Trustee and Guardian Act 2009***

**39 General principles applicable to Chapter**

It is the duty of everyone exercising functions under this Chapter with respect to protected persons or patients to observe the following principles:

- (a) the welfare and interests of such persons should be given paramount consideration
- (b) the freedom of decision and freedom of action of such persons should be restricted as little as possible
- (c) such persons should be encouraged, as far as possible, to live a normal life in the community
- (d) the views of such persons in relation to the exercise of those functions should be taken into consideration
- (e) the importance of preserving the family relationships and the cultural and linguistic environments of such persons should be recognised
- (f) such persons should be encouraged, as far as possible, to be self-reliant in matters relating to their personal, domestic and financial affairs
- (g) such persons should be protected from neglect, abuse and exploitation.