**Part C – Suitability for appointment and consent to act as guardian, if appointed**

**Suitability for appointment as guardian**

I (full name)

of (address)

 (email)

wish to be considered for appointment as the person’s guardian.

Name of the person:

 **PLEASE NOTE** – If you are not the applicant, you are not automatically a party to the proceedings, and therefore you will not receive the hearing papers or have a right of appeal.  You must become a party to proceedings to receive hearing papers and have a right of appeal.  You can confirm you want to become a party by ticking the box below.

Please see the [Information Sheet – Applying to be Joined as a Party](https://www.tascat.tas.gov.au/__data/assets/pdf_file/0004/764122/Information-Sheet-Application-to-Join-as-a-Party-all-streams-V4.pdf) which will provide further information in relation to ‘Party’ status.

**Do you wish to be joined as a party the proceedings**:                          Yes  [ ]          No  [ ]

**Please complete:**

Has the person expressed any wishes and preferences about who should be their guardian?

[ ]  Yes: Date? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [ ]  No

If yes, please specify.

Detail the nature of the relationship between you and the person (is it an existing relationship, is it an important relationship to the person, are you compatible with the person and why)?


Are you compatible with the person’s administrator if there is one?

Detail how:

Do your interests conflict with the interests of the person?

Detail your availability to act as guardian.

What skills and access to support do you have to competently perform the role?



Declaration and consent to act as Guardian:

I (full name)

1. Consent to act as a guardian for the person, if appointed.
2. Understand the obligations and duties of a guardian as set out in the *Guardianship and Administration Act 1995* (the Act), sections 5, 8 and 9 and Part 4 Division 3, as follows.

**Meaning of** **promoting a person’s personal and social well being** (section 5)

1. To respect the inherent dignity of the person and their autonomy, including the freedom to make their own choices and their right to independence;
2. To respect and promote the person’s own decision making ability;
3. To ensure the person is free from neglect, abuse, exploitation and other forms of harm;
4. To recognise the importance of preserving the dignity of risk of the person and using it to inform decisions;
5. To ensure the person is treated without discrimination;
6. To respect the person’s individuality, including personal and lifestyle activities that provide pleasure, purpose and fulfilment to the person;
7. To have regard to the person’s existing supportive relationships, religion, values, gender identity, gender expression, sexual orientation and cultural and linguistic environment;
8. To respect the right of the person to enjoy their culture, including with other people who share that culture;
9. To respect the person’s right to privacy and to contact and communicate privately with others;
10. To recognise the importance of, and facilitating access to the provision of supports that enable the person to exercise autonomy;
11. To recognise the importance to the person of, and the benefits obtained from having a companion animal.

**Principles to be observed** (section 8)

1. To respect and promote the person’s decision making ability;
2. To provide access to the support necessary to enable the person to make and participate in decisions affecting them, express their will and preferences and to develop their decision making ability;
3. To respect the views, wishes and preferences of the person in respect of decisions and use them to inform decisions;
4. To recognise the role of close family members, carers and other significant person in the life of the person in respect of decisions;
5. To recognise the importance of preserving the cultural and linguistic environment of the person;
6. To promote the personal and social wellbeing of the person in respect of decisions;
7. To adopt the means which is the least restrictive of the person’s freedom of decision and action as possible in the circumstances.

**Decision making process (section 9)**

In determining whether to make a decision for the person, to have regard to:-

* an advance care directive if one has been made in respect of the decision to be made, and
* whether the person is likely to regain decision making ability in respect of that decision, and if so, whether the decision can be postponed without the delay causing harm to the person.

If a decision needs to be made for the person: -

* to give effect to the views, wishes and preferences of the person, if known, and if not known, to give effect to what I reasonably believe the views, wishes and preferences are, based on all available information; and
* act in a manner that promotes the personal and social well being of the person in accordance with section 5, and
* is the least restrictive of their human rights.
* To consult with close family members, carers and other significant people in the person’s life who I reasonably believe the person would want to be consulted.
* To only override the views, wishes and preferences of the person if necessary to prevent serious harm, or the risk of serious harm to the person or another person or if the implementation of the decision would be unlawful.
* If I override the views, wishes or preferences of the person I will provide the person with information as to why I have done so in a way that is appropriate to the person’s circumstances.

**Authority of guardian** (section 25)

I understand that I can only make decisions in relation to such of the person’s personal matters as are specified in the guardianship order.

**Exercise of authority by guardian** (section 26)

1. I must promote the personal and social wellbeing of the person;
2. I must act in accordance with the principles set out in section 8 (set out above);
3. I must have regard to the decision-making process set out in section 9 (set out above);
4. I must act honestly, diligently and in good faith;
5. I must treat the person with respect and dignity;
6. I must communicate with the person by means that the person will be best able to understand;
7. I must keep the person informed about decisions made, information obtained and steps taken by me, as appropriate in the circumstances;
8. I must regularly consult with any other guardian or administrator of the person and keep them informed about substantial decisions or actions subject to the terms of my appointment;
9. I must act as an advocate for the person where possible;
10. I must encourage and support the person to develop their decision-making ability where possible;
11. I must protect the person from violence, neglect, abuse and exploitation.

I must make reasonable efforts to ascertain whether the person has given an advance care directive, and if they have, to obtain a copy of it.

**Keeping of records (**section 27A)

I must keep an accurate record of all dealings and transactions made by me as guardian for the person, and keep them for 7 years after ceasing to act as guardian for the person.

If I am requested to provide a copy of the records I have retained by a guardian, the person, if they have ceased to be a represented person, a legal representative for the person if deceased or the person’s person responsible, I must provide them within 14 days of the request.

**Annual reporting (**section 66)

I acknowledge that I am required to submit a written report to TASCAT annually in accordance with section 66 of the Act, and at any other time requested by TASCAT.

**Change of circumstances** (section 21A)

I undertake to inform TASCAT if there has been a change in circumstances that means I may no longer be eligible to be appointed as a guardian for the person under section 21 of the Act.

 **Failure to comply**

I understand the consequences of failing to comply with my obligations and duties under the Act as follows:

1. If I do not comply with the obligations and duties, as set out above the guardianship order made in relation to the person may be reviewed by TASCAT.
2. If I do not comply with section 27A of the Act (set out above) I understand that there are penalties.
3. I undertake to act in accordance with the Act.
4. I understand I will be required to attend a hearing of TASCAT to enable TASCAT to assess my suitability as guardian for the person.

Signature: Dated:

(Proposed Guardian)