

How to set up a native animal organisation or sanctuary in NSW

There are many legal and administrative requirements for setting up a native animal organisation in NSW. This Fact Sheet sets out the main steps you will need to undertake to get your organisation up and running as a formal association or charity.

Step 1: Reserving a name

If you want to reserve a name for your organisation you can lodge an application form ([Form A1](#)) with NSW Fair Trading. The fee is \$53 (Oct 2021). Registering your name before incorporating (see Step 2) ends up being slightly more expensive (\$191) than if you incorporate without first registering the name (\$178).

Step 2: Incorporating the organisation as a not-for-profit association

Incorporating means the association has its own legal identity which is separate from the individual members, so members are not liable for the association.

As an incorporated association you will have to maintain proper financial and membership records and registers, hold Annual General Meetings, and meet annual reporting requirements.

Summary: 6 steps to setting up a native animal organisation or sanctuary in NSW

1. Reserve a name for your organisation (optional).
2. Incorporate as a not-for-profit association.
3. Apply for an Australian Business Number.
4. If you intend to raise more than \$15,000 in funds for the organisation, apply for a charitable fundraising authority.
5. Apply for entry to the Register of Environmental Organisations and endorsement as a deductible gift recipient.
6. Register with the Australian Charities and Not-for-profits Commission as a charity.

If your animal organisation will mainly focus on **non-native** animals, see the ADO Fact Sheet: *How to set up an animal protection organisation or sanctuary in NSW*.

DISCLAIMER

While all care has been taken in preparing the information on this fact sheet, it is not a substitute for legal advice. For any specific questions we recommend you seek legal advice. The Animal Defenders Office accepts no responsibility for any loss or damage suffered by people relying on the information on this fact sheet.



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ANIMAL DEFENDERS OFFICE

[Step 2 continued]

How to incorporate

To incorporate as an association in NSW you will need:

- At least 5 people as ‘members’ of the association
- A ‘constitution’ which sets out the goals and rules for the association
- A committee with at least 3 people (they can be 3 of the 5 association members)
- A ‘public officer’ who:
 - lives in NSW;
 - is the official point of contact between government authorities and the association; and
 - can be either a committee member or an ordinary member of the association
- A NSW address for the association (this can be a residential address).
- A reserved name for the association (see Step 1 above).

You can apply to incorporate your association by lodging an application form ([Form A2](#)) with NSW Fair Trading. The fee is \$138 if the name has been reserved, or \$178 (Oct 2021). More information about incorporating an association in NSW can be found at:

<https://www.fairtrading.nsw.gov.au/associations-and-co-operatives>.

Step 3: Applying for an Australian Business Number

This can be done online:

<https://www.abr.gov.au/business-super-funds-charities/applying-abn>.

Step 4: Apply for a licence to fundraise as an authorised charity

If your organisation intends to fundraise more than \$15,000 in a financial year, it must be authorised to fundraise.

You can apply for an ‘authority to fundraise’ on behalf of the organisation by lodging a ‘Charitable fundraising authority – application’ with NSW Fair Trading. Note that you will be the ‘contact person’ and the organisation is the ‘applicant’ and the ‘Authority Holder’ ie the organisation will actually apply for and hold the authority to fundraise.

The application form is at:

https://www.fairtrading.nsw.gov.au/data/assets/pdf_file/0010/991306/charitable-fundraising-application-form-cf.pdf.

Step 5: Applying for entry on the Register of Environmental Organisations and for endorsement as a Deductible Gift Recipient

If you would like donations to your organisation to be tax deductible, the organisation must be a ‘deductible gift recipient’ (DGR). If your organisation mainly focuses on native animals, you will need to have it entered on the Register of Environmental Organisations (the Register), which is administered by the Commonwealth Department of Agriculture, Water and the Environment. If your organisation is successfully entered on the Register, it will then be assessed by the Australian Tax Office for endorsement as a DGR.

To be entered on the Register, you will need:

- a separate public fund (where the tax-deductible donations will go); and
- at least 50 ‘paid up’ members

You can fill out a single application form to seek both entry on the Register and endorsement as a DGR. The form is available from www.environment.gov.au/node/13367.

Step 6: Registering with the ACNC (Australian Charities and Not-for-profits Commission)

Registration with the ACNC will allow the public to find basic information about your organisation from the ACNC Register. To be eligible to register with the ACNC, an association must:

- Be a ‘charity’, which means:
 - Being not-for-profit
 - Having a charitable purpose (see below)
 - Being for the public benefit, and
- Have an ABN

The ACNC has established that ‘it is a charitable purpose to protect, care for, preserve or study animals’. Therefore, an organisation about native animals can be registered as a charity. You can register with the ACNC online: www.acnc.gov.au

Where to start?

The first thing to decide is whether you want to seek DGR status for your organisation. If you do, you will need to incorporate as an association. You will also need to make sure your association’s constitution has all the specific clauses and rules required for environmental organisations. Examples of the clauses you will need in your constitution can be found in the [Register of Environmental Organisations—Guidelines](#), available on the Department of Agriculture, Water and the Environment’s website.

You will also need to start setting up a separate public fund. And if you don’t have 50 members yet, start recruiting! While you are thinking about these matters, you can start with Step 1 and register your organisation’s name.
