

How to set up an animal organisation or sanctuary in NSW

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

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 as a not-for-profit association

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

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

Summary: 6 steps to setting up an animal protection 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. Register with the Australian Charities and Not-for-profits Commission ('ACNC') as a charity.
6. Apply to the Australian Tax Office for 'deductible gift recipient status' (this is required if you want donations to the sanctuary to be tax deductible and can be done at the same time as registering with the ACNC under step 5).

If your organisation or sanctuary will mainly consist of **native** animals, see the ADO Fact Sheet: *How to set up a native animal 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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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'
- 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
- 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/0/1010/991306/charitable-fundraising-application-form-cf.pdf

Step 5: Register with the Australian Charities and Not-for-profits Commission (ACNC) as a charity

In order to obtain 'deductible gift recipient' status, an association must be registered with the ACNC. This is a national body and applies to charities and not-for-profit organisations around Australia. To be eligible to register with the ACNC, an association must:

- Be a charity (see below)
- Have an ABN

To be a **charity**, an association must:

- Be not-for-profit
- Have a charitable purpose (see below)
- Be for the public benefit

The ACNC has established that 'it is a charitable purpose to protect, care for, preserve or study animals'. Therefore an organisation that focusses on protecting animals or an animal sanctuary can be registered as a charity. You can register with the ACNC online: www.acnc.gov.au

Step 6: Apply to the ATO for 'deductible gift recipient' status

In some limited circumstances your animal organisation may be eligible for tax deductible donations. The Australian Tax Office (ATO) decides whether an animal welfare charity can be a 'deductible gift recipient' (or 'DGR'). To be a DGR, an animal welfare charity must have as its main activity either or both of the following:

- providing short-term direct care of animals;
- rehabilitating animals who are orphaned, sick or injured.

Typically, animal rescue organisations and some sanctuaries are eligible. The organisation's 'statement of objects' in its constitution would need to state that one or both of the above are the main goals of the organisation. The constitution would also need to include special clauses about what it would do with its 'DGR' funds if the organisation winds up or loses its DGR status, and what other DGR organisation the surplus funds could be transferred to.

To apply for endorsement as a DGR you will need to fill out the 'Animal welfare charity – schedule for deductible gift recipient applicants' (NAT 15401). This is available from www.ato.gov.au/Forms

Where to start?

The first thing to decide is whether you want to incorporate as an association. If you do, you will need to start thinking about the name of your association, and its goals or main activities. Then you can start drafting your constitution! ❄❄❄