

## Landcare Victoria Inc.

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PO Box 509, FLINDERS LANE VIC 8009



Queensland Water and Land Carers gratefully acknowledges the use of this document by Landcare Victoria. QWaLC has added QLD based information where relevant to assist our member groups. All changes are highlighted in Blue text.

# Preparing for charity registration


## Introduction


This guidance note has been prepared for landcare and environmental volunteering groups preparing to register as a charity with the Australian Charities and Not-for-profits Commission (ACNC). It is intended as general advice for groups wanting to understand the benefits and eligibility requirements of charity registration, and the documentation that must be prepared in support of your application. This information is intended as a guide only and is not legal or financial advice. If you or your organisation has a specific legal issue, you should seek legal advice. If you require financial advice, please contact an authorised financial services provider.

## What is a charity?

The definition of a charity is set out in the *Charities Act 2013*. Simplified, a charity:

- is a not-for-profit entity
- has purposes which are ‘charitable purposes’ that are ‘for the public benefit’ (and may also have incidental or ancillary purposes which further its charitable purposes)<sup>1,2</sup>
- does not have ‘disqualifying purposes’
- is not an individual, a political party or a government entity

 **Not-for-profit (NFP) entity:** An organisation that cannot operate for the profit or personal gain of its members or any other people. This doesn’t mean the organisation can’t make a profit, but rather that it cannot distribute any profits to members and other people. All profits made are put back into the organisation to keep it functioning and conducting activities in support of its purposes.

 **Purposes:** The reason(s) the organisation was created and what it is trying to achieve are its purposes (also known as its mission, goals, aims or objects). These purposes will be set out in a governing document or a Statement of Purpose.

**Note:** *Purposes are not ‘set-and-forget’ - they should be considered whenever your organisation undertakes an activity to ensure the actions you are taking align with your objectives. If your organisation wishes to expand its operations and undertake an activity outside the scope of its original purposes, its documented purposes should be updated accordingly.*

There are 12 ‘[charitable purposes](#)’ set out in the *Charities Act 2013*. For landcare groups, the most relevant charitable purposes are most likely:

- [Advancing the natural environment](#)
- Advancing education

The wording of the purposes in your governing document does not need to be exactly the same as “advancing the natural environment” – if the statement is worded differently, but means the same thing, then it would be

<sup>1</sup>The organisation’s governing document, activities and any other relevant matters may be considered when determining its purposes.

<sup>2</sup> The requirement that a purpose be for the public benefit does not apply in some circumstances.

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considered a charitable purpose. In accordance with the Act, the term ‘advancing’ includes “*protecting, maintaining, supporting, researching and improving.*”

A purpose is considered ‘for the public benefit’ if achievement of the purpose would be of public benefit, and the benefit would be available widely (i.e. the general public or a sufficient section of the general public would benefit from the purpose being achieved). Please note, activities undertaken on private land may still have a public benefit – we all get to enjoy cleaner air and water, increased biodiversity and other benefits from landcare work on private land.

Disqualifying purposes include engaging in or promoting activities that are unlawful or against public policy, and promoting or opposing a political party or a candidate for political office (noting that advocacy in support of a charitable purpose is allowed).

### ***Putting all of this together...***



If an organisation is an **NFP**, its purposes align with one or more **charitable purposes** (e.g. it exists to ‘protect and enhance the natural environment’ and/or ‘educate the general public on sustainable land management practices’), it operates for the **public benefit** (the achievement of its purposes will be of benefit widely), and no disqualifying purposes or other disqualifiers apply, **then the organisation is a charity** (whether it has registered with the ACNC or not). Most landcare groups meet all of the necessary requirements to be a charity.

## **Why register as a charity with the ACNC?**

Reasons to register your organisation as a charity with the ACNC include:

### **Access to charity tax concessions and other benefits**

One of the key benefits of registering as a charity is being able to access various concessions which assist with both fundraising and reducing expenditure.

Registered charities can:

- apply for [charity tax concessions](#) as a charity (such as income tax exemption or goods and services tax concessions) from the ATO
- apply for certain categories of deductible gift recipient (DGR) status – some categories are only available to registered charities
- access [other benefits](#) only available to registered charities

For more information on charity tax concessions, please refer to Landcare Victoria’s guidance note on reviewing your organisation’s income tax status.

### **Public trust**

The ACNC is the national regulator of charitable organisations. By registering, you confirm that your organisation meets all of the requirements of a charity and operates for the public benefit.

Registered charities can display the [Tick of Charity Registration](#) on documents (such as on the charity’s letterhead, emails and website) to publicly demonstrate your charity’s ACNC registration. They also have a

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free online presence on the [ACNC Charity Register](#) where the public, potential donors and funding agencies can find out information about them.

### Reducing red tape

Many organisations find themselves needing to report to several different state/territory and federal regulators each year in the course of their duties, such as Consumer Affairs Victoria and the Australian Tax Office. Registered charities must report to the ACNC annually, but the information collected is [shared with other regulators where possible](#). [In Queensland go to Office of Fair Trading https://www.qld.gov.au/law/fair-trading](https://www.qld.gov.au/law/fair-trading) and click the 'Associations, charities and not for profits' box.

This means if your organisation registers as a charity with the ACNC, it will not need to report directly to CAV or the ATO going forward, as the ACNC will share any relevant information it receives with the other regulators.

### Exemptions from requirements under Commonwealth laws

Registered charities may be [exempt from certain requirements under Commonwealth laws](#) if they engage in making unsolicited calls, sending unsolicited emails and other activities.

### Who can register as a charity?

To be eligible to be registered as a charity with the ACNC, your organisation must:

- be not-for-profit
- have only charitable purposes that are for the public benefit (documented in a governing document)
- comply with the [ACNC Governance Standards](#)
- comply with the [ACNC External Conduct Standards](#) if operating overseas
- not have any disqualifying purposes
- not be an individual, political party or government entity
- have an Australian Business Number (ABN) with the right 'entity type'



**Entity type:** An organisation's correct 'entity type' will depend on its [legal structure](#) (incorporated association, unincorporated association, company limited by guarantee, etc.). For example, if your organisation is an unincorporated landcare group, the entity type recorded in its ABN details should be 'Other unincorporated entity.' An organisation does **not** need to incorporate to register as a charity.

### What do I need to do before I start my application?

There is no fee for organisations to register as a charity, but you will need to gather information about your organisation and prepare supporting documents to submit with your application. The ACNC has an [application checklist](#) which you can use to ensure you don't miss anything.

The amount of work that needs to be done will vary. Some organisations will have everything they need ready to go and will just need to double check the details, and others will need to go through a process of reviewing, updating and/or drafting the necessary documents before they can begin.

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## ! Key considerations

This is not an exhaustive list of everything you will need to submit your application, but based on our knowledge of landcare and environmental volunteering organisations, many groups will not be ready to register as a charity due to issues with one or more of the following items.

Additionally, these items may take time to prepare and correct, so it is advisable to consider them early in the process.

### 1. Does the organisation have an active ABN? Are all of the details associated with the ABN correct and current?

An ABN is a unique 11-digit identifier that makes it easier for businesses and all levels of government to interact. If you're not sure whether your organisation already has an ABN, you can [search the Australian Business Register \(ABR\)](#) to check.

If any details are incorrect, you must contact the ABR or ATO to amend them. Changes may be made by authorised contacts via [ABR Online Services](#) (using MyGovID) or via phone (ATO Business enquiry line: 13 28 66, or ABR Business services: 13 92 26).

Updates can also be made by completing the 'Change of registration details' form (available in [PDF format](#) or [hard copy](#)). ~~Member Groups of Landcare Victoria Inc may request a hard copy of this form from us, as we keep copies on hand for members.~~

If you're not an authorised contact for your organisation and prior contacts are unknown, the [ATO has confirmed](#) they will accept the 'Change of registration details' form from a new contact if you provide evidence of your approved nomination (for example, meeting minutes or a letter from your committee which confirms your position as an office bearer).

In some cases, the ABR may ask you to apply for a new ABN. If your organisation registers a new ABN, please be sure to cancel the original one.

### 2. Does the organisation have a governing document? Are all of the details correct and current?

A governing document is a written agreement with your members detailing how the organisation will be run, and is often known as a constitution, rules, or deed of trust. It includes your organisation's documented purposes and other information about its operations, such as who is eligible to be a member or committee member, who is eligible to vote in elections and on special resolutions, etc. All policies and procedures your organisation writes should be based on, and compliant with, the clauses and rules contained within its governing document.

If your organisation is **incorporated** through Consumer Affairs Victoria (CAV) or an equivalent state/territory regulator, it will have adopted a governing document when establishing its legal structure. The same is true for companies. Organisations set up by an Act of Parliament, canon law, Letters Patent or Royal Charter may not

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have a separate governing document. These organisations should provide a copy of their governing act to the ACNC instead.

### Model Rules

~~In Victoria, many landcare organisations use the [Model Rules for an Incorporated Association](#) provided by [Consumer Affairs Victoria](#) as a template when creating their governing document. If your organisation uses the Model Rules, the template must have been customised with your organisation's name, purposes and financial year, and then adopted by your members for this to be considered your organisation's governing document. <https://www.qld.gov.au/law/laws-regulated-industries-and-accountability/queensland-laws-and-regulations/associations-charities-and-non-for-profits/incorporated-associations/set-up-an-incorporated-association>~~ Some organisations choose to draft their own governing document from scratch. This is perfectly acceptable, as long as it is compliant with any requirements [outlined by CAV](#) or the equivalent state/territory body (if incorporating), and/or the ACNC (if registering as a charity).

If your organisation is **unincorporated**, it may not have a governing document in place prior to deciding to register as a charity. In Victoria, no authority requires unincorporated associations to have a governing document, so most groups do not adopt one unless they decide to incorporate.

The [ACNC has a template](#) specifically for small, unincorporated charities. This template is appropriate for organisations that **want to register as a charity, but not incorporate**, and makes clear which clauses are necessary and which are optional. Note that the ACNC will accept a governing document which complies with state/territory (CAV or equivalent) requirements, but your state/territory regulator will not necessarily accept a governing document based on the ACNC template, as the ACNC's requirements are less strict.

Whether you are reviewing an existing governing document or writing one from scratch, it must:

- be in your organisation's name (and this must be the same name on its ABN registration)
- outline your organisation's charitable purposes
- include a 'not-for-profit' clause and a 'dissolution clause' which confirm its NFP status
- include the rules that outline the way your organisation makes decisions, the way it is governed, and how it is to be wound up
- be a final copy with no drafting notes or amendments

~~Please note, Landcare Victoria Member Groups cannot submit a copy of Landcare Victoria's governing document when applying as a registered charity. Our governing document is not in your organisation's name and most of the clauses apply specifically to our organisation rather than to our members, so it will not be accepted by the ACNC.~~

### 3. Is the organisation a not-for-profit?

Confirm that your organisation functions as a not-for-profit (NFP). If your organisation is an NFP, all profits made are put back into the organisation to further achievement of its purposes. Funds and/or other assets are **not** distributed to members or other persons (other than as reimbursement for services they have provided or for expenses incurred on behalf of the organisation), either while the group is operating or when it winds up.

A 'not for profit clause' and a 'dissolution clause' which prevent the organisation from distributing profits or assets for the benefit of specific people (while it operates and when it winds up) **must** be included in the organisation's governing document which will be submitted when registering as a charity.

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~~If your organisation has adopted the Model Rules for an Incorporated Association from Consumer Affairs Victoria, you'll find the not-for-profit clause in Part 2 (clause 6 *Not for profit organisation*), and the dissolution clause in Part 7 (clause 76 *Winding up and cancellation*).~~

If your organisation has its own rules, or is yet to adopt a governing document, please ensure equivalent clauses are included. [For Queensland please see Appendix 1 for details about requirements.](#)

### **4. Are the organisation's purposes 'charitable' and do they accurately reflect your organisation's mission?**

An important part of this process is to review any documented purposes your organisation has (in its existing governing document, Statement of Purpose, mission statements, etc.). Consider whether these statements accurately reflect the reason(s) your organisation exists and justify the sorts of activity the organisation undertakes. [In Queensland the Statement of Purpose is also the 'objects' in the Model Rules.](#)

A governing document can be a useful tool to keep a group focused on its goals and guide its activities, so rather than just stating your purpose as 'advancing the natural environment' (vague!), have a good think about your organisation's mission and how it intends to achieve its aims, and include some of this detail in its documented purposes. For example, if your group works in a particular geographical area or focuses its efforts on the health of local waterways, it's good to make this clear.

Common landcare purposes include variations of the following:

- to revegetate, rehabilitate and protect indigenous species in the local area
- to protect and enhance habitat for local wildlife and promote biodiversity
- to engage with landholders and educate the local community on sustainable land management practices
- to work in partnership with other organisations including the Regional Catchment Management Authority, local council and other landcare organisations to collaborate on shared goals
- to engage with Traditional Owners to collaborate on caring for Country

The above examples (and [others available from the ACNC](#)) align with one or more charitable purposes and provide some detail about what the organisation is aiming to achieve, and how it intends to make that happen.

As with any other change to a governing document, updated purposes must be accepted by your organisation's members by special resolution.

### **5. Does the organisation intend to apply for any charity tax concessions? Do you know what you are eligible for?**

There are a number of tax concessions available to charities, both from the Australian Taxation Office (ATO) and from relevant state and territory governments. Organisations must register with the ACNC to apply for charity tax concessions from the ATO.

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These concessions do not automatically apply to all registered charities, but you may apply for any that are relevant to your organisation by completing the relevant section on the charity registration form.

Consider which of the possible concessions may be applicable to your organisation, and if you're not sure, it may be prudent to discuss your options with a registered tax agent or accountant.

The two most common concessions your organisation may wish to apply for are income tax exemption and goods and services tax (GST) concessions.

**Income tax exemption**

Income tax applies to any taxable income received by organisations. All charities registered with the ACNC can apply for income tax exemption. Being income tax exempt means that your charity does not need to pay income tax or lodge income tax returns, unless the ATO specifically asks it to.

**GST concessions**

Goods and services tax (GST) is a tax on transactions. When goods and services are sold, the amount received for the sale may be subject to GST. Similarly, where goods and services are purchased, the purchaser may be able to claim a GST credit for the GST included in the amount paid. Registered charities that have registered for GST may apply for [GST concessions](#).

The GST registration threshold for an NFP organisation is \$150,000. This means your organisation is not required to be registered for GST unless the GST turnover of your organisation is \$150,000 or more.

You may still choose to register your organisation for GST if its GST turnover is less than \$150,000. The decision to voluntarily register for GST should be based on the administrative needs of your organisation. Some organisations may choose not to register for GST because they consider the GST reporting requirements to be a greater burden than the benefit they would receive.

**Other concessions**

If your organisation has employees and provides benefits to them, such as use of a work car or work phone, then you may also wish to apply for Fringe benefits tax (FBT) rebates.

Your organisation may also wish to apply for deductible gift recipient (DGR) endorsement if it meets the specific requirements for a DGR category (e.g. [Environment](#)). Being a DGR allows donors to make tax-deductible donations to your charity. This means that donors can deduct the amount of their donation from their own taxable income when they lodge their tax return. Note that not all charities are DGRs – this is an additional concession your organisation must apply for if it wishes to be endorsed as such.

**6. Does the organisation intend to backdate its charity registration and tax concessions?**

You can request to backdate your registration with the ACNC, but you will need to provide evidence that your organisation was eligible for registration from the date you request.

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The ACNC can only register an organisation **on or after the latest of these dates:**

- the organisation's establishment date
- the date on which the organisation's ABN was made active
- the date on which the organisation meets the requirements to be registered as a charity
- 3 December 2012 (the date that the ACNC was established)

So, even if your organisation was established in the 1980s, was not-for-profit and had charitable purposes since its inception, the earliest date you can select for charity registration is either 3 December 2012 or the date your organisation's ABN was activated (whichever occurred latest).

If your organisation's ABN has been active for years and you have evidence it was eligible for charity registration some time ago, it may be beneficial to backdate your charity status as far as possible within the above restrictions.

The charity registration form also allows your organisation to specify the date from which it wishes to be endorsed for the [tax concessions](#) it chooses to apply for. If your organisation has determined it is eligible to backdate its charity registration, it may be beneficial to backdate its tax concession endorsement accordingly. Details collected on the charity registration form in regard to tax concessions will be shared with the ATO, so please ensure your organisation was eligible for its chosen concessions from the date selected.

## How do we register as a charity?

After considering the above six questions, addressing any issues, and preparing the necessary supporting evidence (accurate and up-to-date ABN registration details and a compliant governing document), you should be ready to commence the registration process.

Go through the [ACNC's application checklist](#) to confirm you have all of the information required.

If you have never logged in to the [ACNC Charity Portal](#) before, the first thing you will need to do is create an account (Click 'Sign up now' under the big 'Sign in' button).

Once you have logged in, click on 'Apply to register a new charity'. You will then need to complete the charity registration form and submit all of the information detailed in the application checklist.

## How long does charity registration take?

The ACNC advises they generally process applications within 15 business days of receiving all the required information. If your application is missing information or further details are required to assess your eligibility, it will take longer to process, so please be thorough when going through the checklist.



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**Where can we get help?**

Please refer to the [ACNC's FAQ](#) for further information on the charity registration process. The ACNC also has a phone line you can call if you need to speak to someone:

**ACNC – Advice phone line**

Phone: 13 22 62 (available 1:00pm – 5:00pm, Monday to Friday)

For more information on charity tax concessions including income tax exemption, please contact a registered accountant (preferably with expertise in tax and not-for-profit accounting), registered tax agent, or the Australian Tax Office.

**ATO - Not-for-profit Premium Advice Service**

Phone: 1300 130 248 (available 8.00am - 6.00pm, Monday to Friday)

You may also like to watch a recording of [Landcare Victoria and ACNC's webinar on income tax and charity registration for environmental organisations](#), or read Landcare Victoria's guidance note entitled '*Review your organisation's income tax status*' for more information.

**If you have any questions about this guidance note, please contact ~~Landcare Victoria via [info@landcarevictoria.org.au](mailto:info@landcarevictoria.org.au) or call 03 9034 1940.~~ QWaLC, [info@qwalc.org.au](mailto:info@qwalc.org.au), phone: 07 3096 0451**

# Appendix 1

## Getting ready for the 2024 tax changes

This guidance note has been prepared for landcare groups in Queensland reviewing their income tax status. It is intended as general advice for groups wanting to understand how income tax may apply to environmental volunteering groups and the requirements to be endorsed as income tax-exempt. This information is intended as a guide only and is not legal or financial advice. If you or your organisation has a specific legal issue, you should seek legal advice. If you require financial advice, please contact an authorised financial services provider.

### Changes:

1. Qld Office of Fair Trading: Dispute resolution procedures
2. Qld Office of Fair Trading: Remuneration disclosure
3. ATO Income Tax Ruling Change - Does your not-for-profit need to pay income tax? ATO and ACNC

### Change 1: Qld Office of Fair Trading: Dispute resolution procedures

Changes to how incorporated associations resolve internal grievances will begin on 1 July 2024.

Your incorporated associations will need to follow the grievance procedures in the model rules from July 1 2024 or adopt another complaint procedure into your constitution. This will give associations a formal process to handle internal conflicts and help parties resolve them before they incur legal costs. While the grievance procedure won't become part of the model rules until 1 July, you can read below to see if you would like to use them or adopt your own.

**Note: If you don't have a grievance procedure – check your Model Rules/Constitution.**

**If you wish to follow the model rules' grievance procedure, you won't need to make any changes to your constitution—the model rules procedure will automatically apply.**

**If you wish to follow a custom grievance procedure, you will need to adopt it into your constitution. Go to OFT website for more info. [click here](#)**

**Model Rules grievance procedure** (will overrule Clause 12 - General meeting to decide appeal in current doc)

#### *12A Grievance procedure*

1. This rule sets out a grievance procedure for dealing with a dispute under the rules between parties as mentioned in section 47A(1) of the Act.
2. To remove any doubt, it is declared that the grievance procedure can not be used by a person whose membership has been terminated if the rules provide for an appeal process against termination.
3. A member (the aggrieved party) initiates the grievance procedure in relation to the dispute by giving a notice in writing of the dispute: a) to the other party; and b) if the other party is not the management committee, to the management committee.
4. If 2 or more members initiate a grievance procedure in relation to the same subject matter, the management committee may deal with the disputes in a single process and the members must choose 1 of the members (also the aggrieved party) to represent the members in the grievance procedure.
5. Subject to rule 12B, the parties to the dispute must, in good faith, attempt to resolve the dispute.
6. If the parties to the dispute cannot resolve the dispute within 14 days after the aggrieved party initiates the grievance procedure, the aggrieved party may, within a further 21 days, ask the association's secretary to refer the dispute to mediation.
7. Subject to rule 12B, if the aggrieved party asks the association's secretary to refer the dispute to mediation under subrule (6), the management committee must refer the dispute within 14 days after the request.

### *12B Grievance procedure not continued in particular circumstances*

1. This rule applies if— a) a member initiates a grievance procedure in relation to a dispute and the association or association's management committee is the other party to the dispute; or b) the aggrieved party asks the association's secretary to refer the dispute to mediation under rule 12A(6).
2. The management committee does not have to act under rule 12A(5) or (7) if—
  - a) the aggrieved party has, within 21 days before initiating the grievance procedure, behaved in a way that would give the management committee grounds for taking disciplinary action under the rules against the aggrieved party in relation to the matter the subject of the grievance procedure; or
  - b) before the grievance procedure was initiated, a process had started to take action under the rules against the aggrieved party or terminate the aggrieved party's membership, as provided for under the rules, and the dispute relates to that process or to a matter relevant to that process; or
  - c) the dispute relates to an obligation under the Liquor Act 1992 or any other State law to prevent the entry of the aggrieved party to, or to remove the aggrieved party from, premises used by the association, or to refuse to serve liquor to the aggrieved party at the premises; or
  - d) the dispute could reasonably be considered frivolous, vexatious, misconceived, or lacking in substance or the dispute relates to a matter that has already been subject of the grievance procedure.

### *12C Appointment of mediator*

1. If a dispute under rule 12A is referred to mediation:
  - a) the parties to the dispute must choose a mediator to conduct the mediation; or
  - b) if the parties are unable to agree on the appointment of a mediator within 14 days after the dispute is referred to mediation, the mediator must be
    - i) for a dispute between a member and another member—a person appointed by the management committee; or
    - ii) for a dispute between a member and the management committee or the association—an accredited mediator or a mediator appointed by the director of the dispute resolution centre.
2. An accredited mediator may refuse to be the mediator, or the director of a dispute resolution centre may refuse to appoint a mediator, to mediate the dispute.
3. If subrule (2) applies, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law. 1. If a mediator is appointed under rule

### *12D Conduct of mediation*

1. If a mediator is appointed under rule 12A, the mediator must start the mediation as soon as possible after the appointment and try to finish the mediation within 28 days after the appointment.
2. Subrule (1) does not apply if the mediator is the director of a dispute resolution centre.
3. The mediator—
  - a) must give each party to the dispute an opportunity to be heard on the matter the subject of the dispute; and
  - b) must comply with natural justice; and
  - c) must not act as an adjudicator or arbitrator; and d) during the mediation, may see the parties, with or without their representatives, together or separately.
4. The parties to the dispute must act reasonably and genuinely in the mediation and help the mediator to start and finish the mediation within the time required under subrule (1)
5. The costs of the mediation, if any, are to be shared equally between the parties unless otherwise agreed.
6. If the mediator can not resolve the dispute, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

### *12E Representation for grievance procedure*

1. A party to a dispute may appoint any person to act on behalf of the party in the grievance procedure. 2. If a party appoints a person under subrule (1) to be the party's representative, the party must give written notice of the appointment to each of the following entities—
  - a) the other party to the dispute;
  - b) the management committee;
  - c) if a mediator has been appointed before the party appoints the representative—the mediator.
3. A representative who acts for a party at a mediation must—
  - a) have sufficient knowledge of the matter the subject of the dispute to be able to represent the party effectively; and

b) be authorised to negotiate an agreement for the party.

### *12F Electronic communication for grievance procedure*

Any meeting or mediation session required under the grievance procedure may be conducted by electronic means if the parties to the dispute and, for a mediation, the mediator agrees.

## **Change 2: Qld Office of Fair Trading: Remuneration disclosure**

**From 1 July 2024**, all incorporated associations will need to disclose remuneration and other benefits at their annual general meeting (AGM), even if the amount to report is zero. This applies to benefits and remuneration given to management committee members, senior staff and their relatives.

Remuneration and benefits may be disclosed as the total value given to all persons, but must include the number of people who benefited. This requirement will provide greater transparency and accountability within associations and enable members to assess if remuneration and benefits paid to key individuals were an appropriate use of the association's resources.

Incorporated associations registered with the Australian Charities and Not-for-profits Commission who are exempt from submitting annual financial reports to OFT are not exempt from this requirement.

### **How to disclose remuneration and benefits**

Your association must disclose remuneration and other benefits at its AGM in either:

- a document required by the Act to be presented at your AGM (e.g. your financial statements or the information you provide to the ACNC)
- a written remuneration statement for the financial year.
- If your association did not provide remuneration or other benefits, you can state this verbally, but it must be recorded in the AGM minutes.

**NOTE:** These topics should be an agenda item and members notified. The motion should be tabled at the meeting noting the direction the group has taken.

## **Change 3: ATO Income Tax Ruling Change - Does your not-for-profit need to pay income tax? ATO and ACNC**

There have been changes to the administration of not-for-profit organisations that self-assess as income tax exempt.

If your not-for-profit organisation has charitable purposes, it cannot self-assess as income tax exempt.

In order for it to be eligible for income tax exemption, it may need to register as a charity with the Australian Charities and Not-for-profits Commission (ACNC) and be endorsed by the Australian Taxation Office (ATO).

You can find out more about income tax exemption for not-for-profits from the ATO.

### *Charitable not-for-profits –*

Charitable not-for-profit organisations with an Australian Business Number (ABN) must:

- register as a charity with the ACNC, and
- be formally endorsed by the ATO
- to be income tax exempt.

If your organisation is charitable but does not register as a charity with the ACNC, it will be taxable, as it will not be eligible to self-assess as income tax exempt. If your organisation is a taxable not-for-profit, you may need to lodge an annual income tax return (or notify the ATO if a return is not necessary).

### *Eligibility for charity registration*

To be eligible for charity registration, an organisation must:

- be not-for-profit
- have only charitable purposes that are for the public benefit
- not have any disqualifying purposes (which are engaging in, or promoting activities that are unlawful or contrary to public policy; and promoting or opposing a political party or candidate for political office)
- not be an individual, a political party or a government entity (for example, government departments, local government authorities and entities that are under government control)

- comply with the ACNC Governance Standards
- comply with the ACNC External Conduct Standards (if operating overseas).
- Your organisation must also have an Australian Business Number (ABN) with the right 'entity type' (see our guidance about legal structures for more information).

### *Charitable purposes*

The definition of 'charitable' covers 12 charitable purposes.

Please read through the list of purposes below and how they correspond to the common types of not-for-profit organisations to see if your organisation has a recognised charitable purpose.

*The 12 charitable purposes set out in the Charities Act are:*

1. advancing health
2. advancing education
3. advancing social or public welfare
4. advancing religion
5. advancing culture
6. promoting reconciliation, mutual respect and tolerance between groups of individuals that are in Australia
7. promoting or protecting human rights
8. advancing the security or safety of Australia or the Australian public
9. preventing or relieving the suffering of animals
10. advancing the natural environment
11. other similar purposes 'beneficial to the general public', and
12. promoting or opposing a change to any matter established by law, policy or practice in the Commonwealth, a state, a territory or another country (where that change furthers or opposes one or more of the purposes above).

*If you are unsure if your organisation's purposes align with one or more of these charitable purposes, you should examine its:*

- governing document (constitution or rules)
- activities
- history, and
- how it uses its funds.

**NOTE: This information is collated from the following websites. We recommend you review the information yourself and seek professional advice if unsure.**

### **Qld Office of Fair Trading**

<https://www.qld.gov.au/law/laws-regulated-industries-and-accountability/queensland-laws-and-regulations/associations-charities-and-non-for-profits/incorporated-associations/law-changes/july-2024>

### **Australian Charities and Not-for-profits Commission**

<https://www.acnc.gov.au/organisations-have-been-self-assessing-income-tax-exempt>

### **ATO**

<https://www.ato.gov.au/businesses-and-organisations/not-for-profit-organisations/your-organisation/does-your-not-for-profit-need-to-pay-income-tax>

**Postal address:** PO Box 851, Maleny Qld 4552 **Phone:** 07 3096 0451

**Website:** <http://qwalc.org.au> **Email:** [info@qwalc.org.au](mailto:info@qwalc.org.au)