



Landcare
Victoria Inc.



Australian Government



Australian
Charities and
Not-for-profits
Commission



Energy,
Environment
and Climate Action

Understanding income tax reporting changes

*for landcare and environmental
not-for-profit organisations*

Webinar
2 May 2024

If you were unable to attend our webinar with the ACNC or want to re-watch it, the recording is available to stream on [YouTube](#).



A close-up photograph of a tree branch with long, narrow, green leaves and several white, fluffy flower heads. The background is softly blurred, showing more of the same foliage. A thin green horizontal line is positioned above the title text.

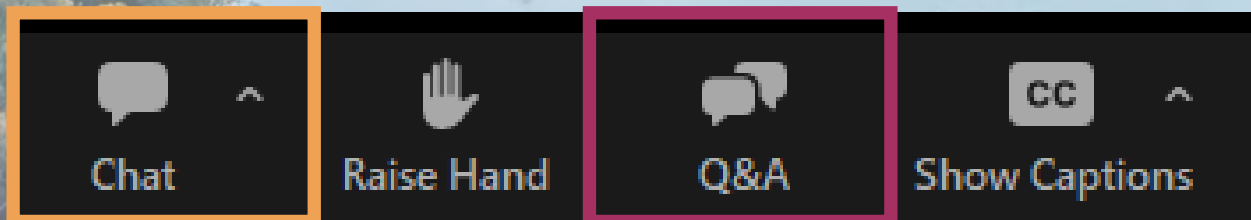
Acknowledgement of Country

We acknowledge the Traditional Custodians
of the various lands on which we meet
and the Aboriginal and Torres Strait Islander
people present here today.

Information for participants

Refer to the menu at the bottom of your Zoom window

- **Chat:** Webinar hosts will post relevant information and links in the chat window during the presentation
- **Q&A:** If you have questions or need clarification, please ask in the Q&A window



Welcome



Landcare Victoria Inc.

Claire Hetzel – Chief Executive Officer

Ana Pimenta – Landcare Development Coordinator

Amanda Grace – Office Coordinator

Australian Charities and Not-for-profits Commission

Vlad Klendo – ACNC Registration

Gabby Aitken – ACNC Education



Thanks to our funding partner



Victorian State Government

Department of Energy, Environment, and Climate Action

Income tax reporting changes

Impacts on landcare

- More than 6000 landcare and environmental volunteer groups across Australia may be impacted by these changes
- In Victoria:
 - Over 600 Landcare Victoria Inc. member organisations
 - 80% report having an **ABN**
 - Only 13% report being current **registered charities**



Australian
Charities and
Not-for-profits
Commission

Not-for-profits, charities and income tax exemption

Presented by:

Vlad Klendo - ACNC Registration

Gabby Aitken - ACNC Education

2 May 2024

acnc.gov.au/webinars





Australian
Charities and
Not-for-profits
Commission

The ACNC acknowledges the Traditional Custodians of country throughout Australia and their connections to land, sea and community.

We pay our respects to them and their cultures and elders, past and present.



Agenda

- Overview of the changes
- What does this mean for you?
- Who can register as a charity?
- Preparing your charity application
- Benefits of registering
- Ongoing obligations
- Questions



What has changed?

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

The law hasn't changed, but reporting of eligibility has.

ato.gov.au/NFPtaxexempt



Non-charitable not-for-profits



From 1 July, **non-charitable NFPs** with a registered ABN need to lodge an annual NFP self-review return confirming income tax exemption status.

The first NFP self-review return that non-charitable NFPs will lodge covers the 2023-24 income year.

Charitable not-for-profits

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

If **charitable**, your organisation needs to:

- register as a charity with the ACNC, and
- be formally endorsed by the ATO

to be income tax exempt.



Charity or not-for-profit?



A not-for-profit is an organisation that does not operate for the profit, personal gain or other benefit of particular people.

A registered charity is a type of not-for-profit.

In addition to being not-for-profit, a registered charity must have only charitable purposes that are for the public benefit.



Self-assess

Register as a charity

Taxable not-for-profit

Self-assess

Self-assess as income tax exempt and lodge an annual NFP self-review return to the ATO

- Only **non-charitable NFPs** can self-assess their eligibility for income tax exemption
- **Eight categories:** community, cultural, educational, employment, health, resource development, scientific and sporting organisations



Register as a charity

Register as a charity with the ACNC and be endorsed as income tax exempt by the ATO

To be eligible to register, an organisation must:

- meet the charity eligibility criteria (including having only charitable purposes)
- have an active Australian Business Number (ABN).



Taxable not-for-profit

Taxable not-for-profits are required to lodge an annual income tax return

Taxable not-for-profits include:

- NFPs that are not eligible to self-assess or to register as a charity with the ACNC
- NFPs that have only charitable purposes for the public benefit, but do not register as a charity.





If your organisation meets the definition of a charity, it cannot self-assess as income tax exempt.

It must register as a charity with the ACNC and be formally endorsed as income tax exempt.

Otherwise, it will be considered a taxable not-for-profit.

Already a
registered
charity?



Registered charities

Your organisation is not affected by these changes to self-assessing income tax exemption

- Confirm charity registration: acnc.gov.au/charity
- Confirm current tax concessions: abr.business.gov.au





**Applying to
register as a
charity**

Registering as a charity



- 1 Ensure your organisation is eligible
- 2 Review and update information and documents
- 3 Gather information required for your application:
acnc.gov.au/registration-checklist
- 4 Submit an application online in the **ACNC Charity Portal**



**Eligibility to
register as a
charity**

Legal meaning of charity



Your organisation must:

- be not-for-profit
- have only charitable purposes for the public benefit
- not have any disqualifying purposes
- not be an individual, political party or government entity.

acnc.gov.au/charitydefinition

Charitable purposes



The Charities Act defines 12 charitable purposes:

- advancing the natural environment
- advancing education
- preventing or relieving the suffering of animals
- advancing health
- advancing social or public welfare

acnc.gov.au/charitablepurpose

Charitable purposes

- advancing religion
- advancing culture
- promoting reconciliation, mutual respect and tolerance between groups of individuals that are in Australia
- advancing the security or safety of Australia or the Australian public



Charitable purposes

- promoting or protecting human rights
- other similar purposes ‘beneficial to the general public’
- 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 charitable purposes).



Your organisation's charitable purposes



You can determine your organisation's purposes by looking at:

- your organisation's governing document – it should set out its purpose or 'objects'
- other information about your organisation, such as its activities.

Mission drift

Your organisation's activities and purposes may have changed since it was first set up.

Mission drift occurs when an organisation's focus on activities and short-term goals deviate from its objects.



Mission drift

To address this, review your governing document and compare it what your charity is currently doing.

- If there is a clear difference, consider updating your objects.
- You may need to hold a meeting to discuss the issue.



Charitable or non-charitable?



- Can have more than one charitable purpose
- **All** purposes must be charitable unless they are ‘incidental or ancillary to’ charitable purposes
- Can engage in advocacy – must further or aid a charitable purpose
- Some purposes are generally **not charitable** (social clubs, sporting organisations, professional bodies)

Charitable or non-charitable?



If your organisation has non-charitable purposes and these do not further its charitable purposes, your organisation is unlikely to be registered as a charity.

Some purposes cannot be charitable:

- engaging in or promoting activities that are unlawful or against public policy
- promoting or opposing a political party or a candidate for political office.

Additional requirements

To be eligible to register, your organisation must:

- have an active ABN
- comply with the ACNC Governance Standards
- comply with the ACNC External Conduct Standards, if operating overseas.

acnc.gov.au/whocanberegistered



ACNC Governance Standards



Standard 1: Purposes and not-for-profit nature

Standard 2: Accountability to members

Standard 3: Compliance with Australian laws

Standard 4: Suitability of Responsible People

Standard 5: Duties of Responsible People

Standard 6: Maintaining and enhancing public trust and confidence in the Australian not-for-profit sector

acnc.gov.au/governancestandards



**TIME TO
UPDATE**

**Updating
information
and documents**

Australian Business Number (ABN)



Your organisation needs an active ABN to register as a charity.

Check your ABN details: abr.business.gov.au

- Legal name must be correct
- Entity type needs to match legal structure

Contact the Australian Business Register to update details

Legal structure

All charities have a legal structure. It can be incorporated or unincorporated. The best structure will depend on several factors, including how the organisation operates.

Common structures for charities are incorporated associations, companies, co-operatives and unincorporated associations.



Entity type and legal structure

Entity type	Legal structure
Other incorporated entity	State/territory incorporated association
Other unincorporated entity	Unincorporated association
Australian public company	Company limited by guarantee
Co-operative	Co-operative

Governing document

Your organisation's governing document may be referred to as the constitution, rules or trust deed.

It is the formal document that sets out:

- your organisation's charitable purposes
- that your organisation operates on a not-for-profit basis
- how your organisation's governing body makes decisions and consults any members.



Governing document

Before you apply, please review your governing document. It must include:

- organisation name
- objects (purpose)
- not-for-profit clause and winding up clause.

Your governing document should reflect your organisation's legal structure.



Objects



What your organisation aims to achieve

- Objects may also be referred to as your organisation's purpose, objectives or mission
- Objects and activities must be directed towards achieving a charitable purpose

The purpose clause in a charity's governing document must reflect its activities.

Not-for-profit and winding up clauses



A **not-for-profit clause** sets out how the organisation's assets and income are to be used and distributed.

A **dissolution or winding up clause** sets out what happens to the organisation's assets if it dissolves or winds up. For registered charities, the clause must state that the assets go to another charity.

Updating your governing document

You may need to update your governing document so it is appropriate for charity registration.

If you change your governing document, ensure you follow any governance or legislative requirements.



Templates



Sample charitable purpose clauses

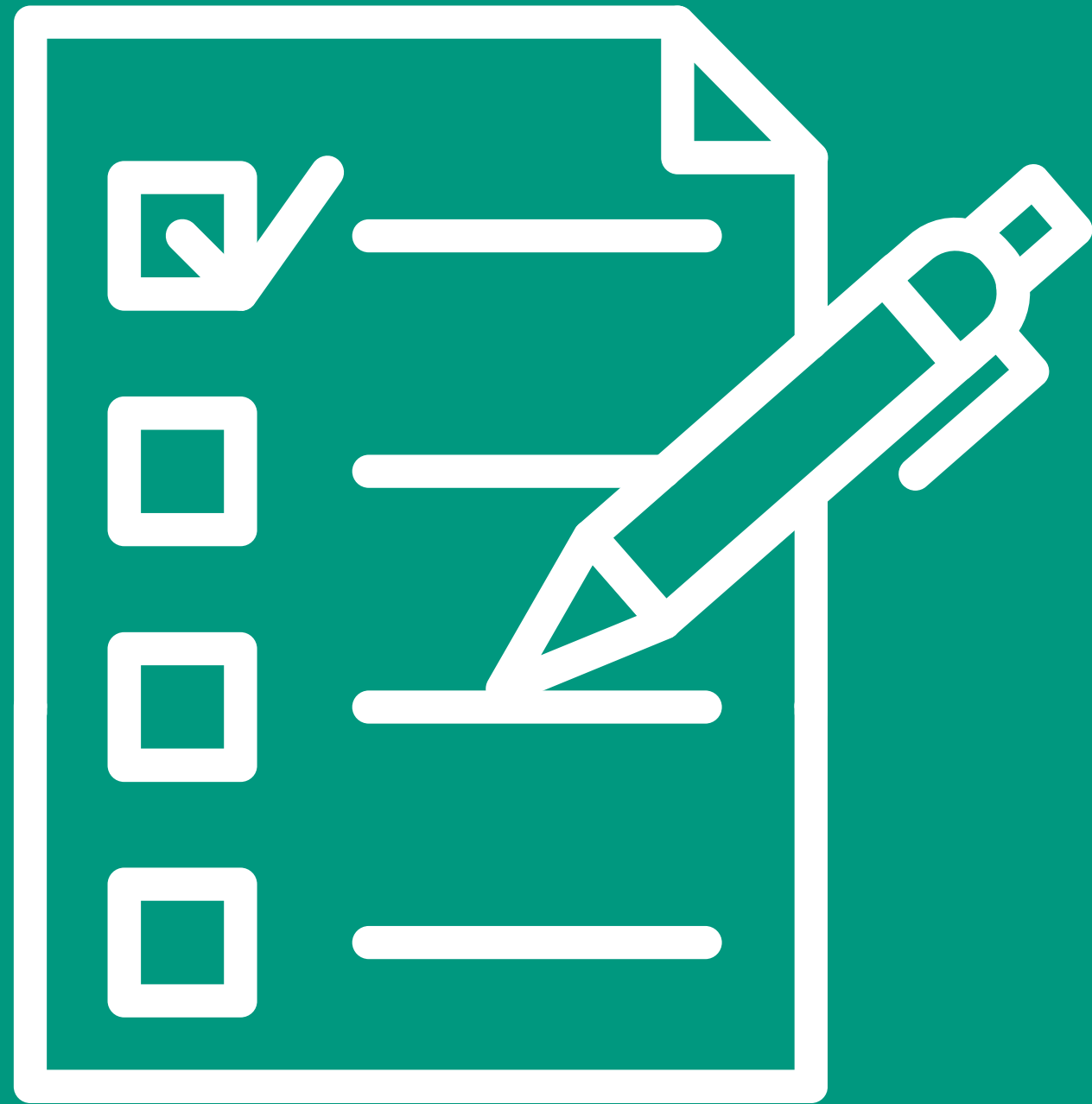
acnc.gov.au/tools/templates/charitable-purpose-examples

Not-for-profit and winding up clauses

acnc.gov.au/not-profit

Governing document for companies limited by guarantee
and unincorporated associations

acnc.gov.au/tools/templates/governing-document-templates-and-model-rules



Preparing your application

Information you need to provide



- ABN and organisation name
- Contact details
- Legal structure
- Governing document
- Date of establishment
- Requested date of registration
- Operating locations
- Charity subtype
- Activities
- Beneficiaries
- Responsible People
- Financial information
- Governance
- Tax concessions and DGR
- Withholding information

Information you need to provide



Charity subtypes

Charity subtypes are categories that reflect a charity's charitable purpose. You can select one or multiple subtypes.

Activities

Provide details about the types of activities your organisation undertakes to achieve its objects and charitable purpose.

Information you need to provide



Responsible People

- Board or committee members, trustees
- Provide details of **all** Responsible People
- Only name and position will be on the Register
- Must meet minimum requirement for legal structure and governing document

acnc.gov.au/responsiblepeople

Date of registration

You can request to backdate your registration.

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

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



Date of registration

The ATO intends on taking a practical compliance approach, focusing its resources on ensuring organisations are assessing their income tax exemption correctly from **1 July 2023 onwards**.

However, the ATO may take compliance action if it identifies deliberate tax evasion or fraudulent behaviour prior to the 2023-24 income year.





Tips for your registration application

Registration application tips



- Do not submit a draft governing document
- Make sure your governing document includes all the required information
- List the correct number of Responsible People
- Choose the charity subtype that matches the objects in your governing document
- Provide information about managing conflicts of interest and finances

Applying for income tax exemption

- Your organisation can apply for charity tax concessions (including income tax exemption) in your ACNC charity registration application
- ACNC will pass this information on to the ATO for assessment





Benefits of registering as a charity

Why register?



- Charity tax concessions, including income tax exemption
- Public confirmation of charity registration by the national regulator – listing on the Charity Register, and use of the Charity Tick
- Reduced regulatory burden through our streamlined requirements with other regulators

Ongoing obligations of registered charities



Ongoing obligations

Charities have ongoing obligations to the ACNC that they must meet in order to remain registered.

- Keep charity status
- Notify the ACNC of changes



Ongoing obligations

- Keep financial and operational records
- Comply with the ACNC Governance Standards and External Conduct Standards
- Report annually by submitting an Annual Information Statement





**What do you
need to do
right now?**



Check your eligibility to register



Review and update your documents



Apply for charity registration

Questions?



ACNC resources

Charity registration criteria:

[acnc.gov.au/whocanberegistered](https://www.acnc.gov.au/whocanberegistered)

ACNC Charity Portal: charity.acnc.gov.au

Information about the changes to self-assessing
income tax exemption: [acnc.gov.au/selfassessing](https://www.acnc.gov.au/selfassessing)



ATO resources

Guidance on reporting requirements to self-assess income tax exemption: ato.gov.au/NFPtaxexempt

1300 130 248

ATO not-for-profit advice phone line
8am to 6pm, Monday to Friday



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- Webinars - acnc.gov.au/webinars
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 youtube.com/ACNCvideos

 linkedin.com/company/australian-charities-and-not-for-profits-commission



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Questions, comments, feedback:
education@acnc.gov.au

