



Landcare Notes

Incorporation for Landcare groups

If you want to trade as an entity in your own right, your group will need to be incorporated. Many groups may opt to be a financial member of an incorporated entity.

Operating as an incorporated entity allows you to be eligible for grants, be insured in your own right, to own, lease or rent land or other property, and to enter into contracts.

This Landcare Note explains what's involved in incorporation, and the options for Landcare groups.

What incorporation involves

Incorporation is something you can choose to do to enable your group to be recognised as a legal entity, separated from the responsibility of individual members and regardless of any change in membership. In other words, you take on corporate status.

This gives you protection from being held personally responsible for any of the group's liabilities and debts. If there is any legal action against a group, it's the group's assets which are vulnerable, not anything belonging to the individual members. It does not protect individual members against the consequences of their own negligence.

As a corporation, there potential contracting parties such as lenders, lessors, employees and suppliers of goods and services that you are dealing have greater certainty with and it also gives you greater eligibility to apply for grants.

The *Association Incorporation Act 1981* provides the legislative base for Incorporated Associations. Consumer Affairs Victoria administers it and is responsible for maintaining an accurate and current register of incorporated associations, and ensuring they

comply with the reporting requirements of the Act.

There are several legal requirements you must be aware of and adhere to. This Landcare Note looks at two options that are available to you if you want to become incorporated, and what aspects you should consider.

How to do it

If you decide to incorporate, you have to decide if you will seek incorporation as an independent body or whether you will gain the advantage of incorporation by becoming a member or associate of another incorporated body.

Option 1: Incorporating as an independent body

To become an incorporated association, you will need:

- At least 5 members
- To be a not-for-profit association
- A suitable name that is not too similar to a registered business name or one held by another organisation
- A written statement of purposes that sets out your proposed objectives
- A set of rules (constitution) that meets the requirements set out in the Schedule to the Act (the terms of contract between the association and its members); or adoption of the Model Rules.

Once you have all these in hand, there are a number of steps you have to follow. You need to:

- Conduct an annual general meeting of members
- Authorise a person to incorporate the association (known as the Public Officer, see below)



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- Approve a proposed statement of purposes and rules that comply with the Act **or** adopt the Model Rules
- Submit the Application for Association Incorporation, a copy of your proposed rules and copies of any trusts which may affect you (this is done by the Public Officer who submits these documents with the application fee).

As an incorporated association, you are required to hold an annual general meeting and pay an annual fee. You also need to lodge an annual statement by 'Public Officer Form' with Consumer Affairs Victoria (CAV) each year, along with the appropriate fee and a copy of your current financial statement.

You need to have a Public Officer with the responsibility for lodging documents with CAV and you must use the group's name, including the word 'Incorporation' or 'Inc' on all your stationery and documentation.

It's also important to note that you must avoid having any committee member make improper use of their position to receive any pecuniary benefit or material advantage, or cause any detriment to your association.

The Public Officer

You must elect a Public Officer who is the contact person for CAV. That person must live in Victoria and be 18 or older.

The Public Officer has several obligations on your behalf, including informing the Registrar of their appointment and any changes to the Public Officer or registration of the group. The Public Officer is also responsible for lodging the annual group statement and other documents along with the prescribed fee.

Option 2: Becoming a member of, or associated with an independent incorporated body

Under this option, you won't be incorporated in your own right. The group has incorporated status because of its association with the

incorporated umbrella group. That means you have to operate under their rules.

Incorporated groups that commonly support Landcare groups in this way include the Victorian Farmers Federation Farm Tree and Landcare Association (VFF FTLA), local government or a local progress association.

Other incorporated bodies that are associated with your group may also be happy to support the group in particular circumstances or until the group has organised its own incorporation.

The VFF FTLA

The FTLA is an incorporated association established by the Victorian Farmers Federation in 1986. It acts as an umbrella body for Landcare groups involved in natural resource management activities.

The FTLA provides protection and status for groups as if they are an incorporated body without the statutory obligations which must be met if you are incorporated directly with the CAV.

The FTLA will accept your liabilities, provided you have complied with their Model Rules. The FTLA option is a way to reduce the administrative load of office bearers however there is a membership fee that must be considered with this option.

A proviso

Incorporation does not provide your group with absolute protection. It can reduce risk to the committee and members' assets but it is still recommended that you carry insurance to protect members, office bearers, and volunteers in all aspects of the conduct of your activities (see Landcare Note 7.3: Insurance for Landcare Groups).

There are some funding bodies who require you to be incorporated as a group in your own right rather than under a large organisation such as the FTLA.



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Key tools

The *Associations Incorporation Kit* is an invaluable resource if you want to learn more about what is involved with becoming incorporated in this state. The following information sheets are provided by Consumer Affairs Victoria.

Becoming incorporated

- Factsheet 1: How does an association become incorporated?
- Association Incorporation application form

Rules of operation

- Factsheet 2: The rules of an incorporated association
- Model Rules as specified under the *Associations Incorporation Act 1981*

Obligations

- Factsheet 3: The obligations of an incorporated association;

Annual general meeting

- Factsheet 4: Annual General Meetings

Reporting

- Factsheet 5: Annual statements
- Factsheet 7: The Public Officer
- Annual Statement by Public Officer form
- Change of Association Details form

If you choose to become a member of an already incorporated body, you may still be required to follow most of the above listed obligations of an incorporated body.

Further references

Victorian Landcare Gateway:
www.landcarevic.org.au

Consumer Affairs Victoria:
www.consumer.vic.gov.au

Consumer Affairs Victoria – information about incorporation for community groups:
<http://www.consumer.vic.gov.au/CA256EB5000644CE/page/Incorporated+associations?OpenDocument&1=85-Incorporated+associations~&2=~&3=~>

Victorian Farmers Federation – Farm Tree and Landcare Association:
http://www.vff.org.au/newsite/policy_issues/farm_tree_and_landcare_association.php

Landcare coordinators in your region – contact your Catchment Management Authority

Related Landcare Notes

This Landcare Note is one of a series. These notes provide an excellent guide for the ongoing operation of your group.

Landcare Note 4.1: Financial Management

Landcare Note 7.3: Insurance for Landcare Groups

Landcare Note 7.4: Risk Management: Why Worry?

Acknowledgements

Compiled by the Port Phillip and Westernport Catchment Management Authority's Landcare Support Team



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