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Board charter

Regional Arts Australia



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Board charter

1 Purpose of this charter

The board of Regional Arts Australia (**Regional Arts Australia**) has adopted this charter by at least a 75% majority to outline the manner in which it will exercise its powers and responsibilities.

This charter ensures compliance with principles of good governance, the Australian Charities and Not-for-profits Commission (**ACNC**) Governance Standards and applicable laws.

This charter includes an overview of:

- (a) Regional Arts Australia's entity type, purposes and activities;
- (b) the role, responsibilities and duties of the board;
- (c) accountability to stakeholders; and
- (d) the roles of the chair, secretary and CEO.

This charter and the charters adopted by the board for its committees have been prepared and adopted on the basis that strong corporate governance enhances the performance of the charity and builds confidence in the community.

Any changes to the charter must be agreed by at least a 75% majority of directors.

2 Entity type, charity and tax status

2.1 Entity type and ABN

Regional Arts Australia (ABN 45 000 525 182) is a company limited by guarantee.

2.2 ACNC

Regional Arts Australia is on the ACNC register as a charity under the following sub-types:

- Advancing culture
- Another purpose beneficial to the community

2.3 Tax concessions

Regional Arts Australia is endorsed by the ATO as a tax concession charity for income tax exemption, for GST concessions and FBT rebate.

Regional Arts Australia is also on the Register of Cultural Organisations (**ROCO**) and endorsed by the ATO for the operation of the public fund known as **Regional Arts Australia Fund** which is an item 1 deductible gift recipient (**DGR**).



3 Regulators and key compliance documents

3.1 Regulators

Regional Arts Australia's regulators are the ROCO operated by the Commonwealth Department of Infrastructure, Transport, Regional Development and Communications (DITRC) (Office for the Arts), the ACNC and the ATO.

All changes in directors, address and constitution go to the ACNC through its online charity portal and must also be notified to ROCO. As a registered charity, Regional Arts Australia must submit annual information statements to the ACNC.

ROCO also requires that information on all the tax deductible donations made to the Regional Arts Australia Fund during each 6 month period is reported in a statistical return of donations within 21 days of the end of each period, i.e.:

- 21 July (covering January to June); and
- 21 January (covering July to December).

The government has announced reform which will see the ROCO being changed so that the ACNC rather than DITRC will be the regulator and some of the requirements will be simplified. However, this was expected to happen in 2019, and then 2020 but is yet to occur.

3.2 Key compliance documents

- Constitution (last amended 25.11.2021)
- Board policies: Conflict of Interest Policy (Schedule 2), Decision Checklist for material board decisions (Schedule 3), Board Composition Policy (Schedule 4), and other RAA policies listed on RAA policy register.
- Strategic plan dated 12.11.2019.
- Annual reports.
- Key funding agreements.
- ROCO guidelines.

4 Purpose and activities of Regional Arts Australia

4.1 Purpose

The primary role of the board is to ensure Regional Arts Australia carries out its purposes as expressed in its constitution:

The company's principal purpose is to promote the arts in regional and remote Australia, (namely literature, music, performing arts, visual arts, design, film, video, television, radio, community arts, arts or languages of Indigenous persons or movable cultural heritage) for the public benefit by, without limitation:

- (a) working collaboratively with regional arts organisations, all levels of Government, regional organisations, national peak bodies, and others to strengthen the arts, culture and creative sector;
- (b) increasing, securing and administering resources for regional arts projects and programs;



- (c) organising events and opportunities for the development of the arts in regional and remote Australia;
- (d) undertaking research that connects regional and remote creative practice to sustainable economic, social, cultural and environmental development in regional communities.

4.2 Background

Regional Arts Australia (RAA) was founded in 1943 as the Arts Council of Australia. Today the organisation is a not-for-profit peak body that is the national voice for arts in regional Australia.

We work to address the need for the arts and cultural sectors to be critically positioned across multiple policy platforms.

We provide national reach and impact to resource and promote artistic practice and creative engagement in regional Australia.

We encourage initiatives and programs that support a creative ecosystem that is interconnected and integrated across art forms, across communities and across landscapes.

4.3 Vision statement and values

We seek to ensure the arts in regional Australia are recognised as essential. We work to address the need for the arts and cultural sectors to be critically positioned across multiple policy platforms.

We champion regional, rural, and remote creative practice by speaking across multiple platforms, policy agendas, artforms and cultural landscapes.

As a ROCO we will ensure our principal purpose is promoting any of the art forms approved by ROCO namely:

literature, music, performing arts, visual arts, design, film, video, television, radio, community arts, arts or languages of Indigenous persons or movable cultural heritage.

In all that we do we will be collaborative, inclusive, accountable, equitable, and demonstrate integrity.

4.4 Not-for-profit

The board must ensure the not-for-profit nature of Regional Arts Australia is maintained by not providing any profit, distribution or benefits to members or board members other than in carrying out the purposes.

4.5 Activities

The main activities of Regional Arts Australia are:

- Furthering the interests of regional artists, arts organisations, audiences and communities through the Regional Arts Fund;



- Partnering with stakeholders across the three tiers of Government, corporate and philanthropic Australia to achieve better outcomes for regional Australia;
- advocating for informed national regional arts policy that represents diversity of practice and cultural landscape;
- representing best practice and providing professional development opportunities at a national and international level, through fellowships and exchange programs;
- supporting capacity building, networks and opportunities, including the Regional Arts Network and Artlands;
- pursuing equality of access to, and participation in, cultural experiences for regional Australians;
- undertaking research that encourages sustainable economic, social, cultural and environmental development in regional communities.

4.6 Stakeholders

The key stakeholders are:

- Regional Program Administrators
- National Peak & Industry Bodies
- Federal Government
- State/Territory & Local Governments
- Employees
- Regional Artists & Creative Practitioners
- Regional Arts & Cultural Organisations
- Regional Communities & Audiences
- Donors

4.7 Committees

- Finance and Risk Committee
- Governance Committee
- Regional Network Advisory Group

5 Role, responsibilities and duties

5.1 Role

The role of the board is to govern Regional Arts Australia in such a way that it is able to pursue its purposes successfully and ensure it is compliant with the constitution and relevant law.

The board is responsible for and has the authority to determine all matters relating to the policies, practices, administration and operations of Regional Arts Australia. This includes ensuring good corporate governance, determining and approving strategies and providing guidance and oversight to management.



5.2 DGR and the Regional Arts Australia Fund

The board must ensure the Regional Arts Australia Fund is operated by the board or a sub-committee with a majority of members meeting the Responsible Person requirements of ROCO, and all other compliance requirements of ROCO are met.

5.3 Key responsibilities

- (a) The key responsibilities of the board are:
- (1) set strategies, plans and policies for Regional Arts Australia carrying out the purposes including an investment policy;
 - (2) approve operating budgets and sources of funding;
 - (3) implement, monitor and review systems of risk management and ethical and legal compliance;
 - (4) monitor and review the performance of the board;
 - (5) ensure that Regional Arts Australia is accountable to its stakeholders;
 - (6) monitor and evaluate performance or impact against the purposes, strategies and plans;
 - (7) select and appoint a CEO / managing director and evaluate annually the CEO's performance;
 - (8) ensure there are adequate staff and resources within the strategy and budget;
 - (9) approve major capital expenditure, acquisitions and divestitures, and monitor capital management; and
 - (10) monitor and review management processes aimed at ensuring the integrity of financial and other reporting.
- (b) Board members will consider the attached decision checklist for material board decisions.
- (c) Board members must treat all board meetings, board discussions and information obtained in the course of performing their duties as a board member as confidential, and not disclose information or share board papers outside of the board, without the chair's permission.

5.4 Governance Standards

- (a) Board members will:
- (1) exercise their powers and discharge their duties with the degree of care and diligence of a reasonable person in their position;
 - (2) act in good faith, in the best interests of Regional Arts Australia and to further its purposes;
 - (3) not misuse their position e.g. not use the position as board member to gain an advantage for themselves or someone else or to the detriment of Regional Arts Australia;
 - (4) not misuse information obtained in the performance of being a board member e.g. only use this information to further the charity's purposes in its interests and not for the benefit of the board member or someone else, nor for the detriment of Regional Arts Australia;



- (5) disclose perceived, potential and actual conflicts of interest in accordance with the policy and procedures and not vote or participate in board discussions unless permitted;
- (6) ensure Regional Arts Australia's financial affairs are managed responsibly; and
- (7) not allow Regional Arts Australia to operate while insolvent. The board members must adequately understand the finances and ensure there are sufficient resources to pay debts as and when they are due.

5.5 Reliance on others

Board members may rely on information, in good faith, when making decisions if:

- (a) the board member makes an independent assessment of the information;
- (b) the information is given by:
 - (1) an employee that the board member believes on reasonable grounds to be reliable and competent in relation to the matters concerned;
 - (2) a professional adviser or expert on matters the board member believes on reasonable grounds to be within their competence;
 - (3) another board member or committee in relation to matters within their authority or area of responsibility.

6 Accountability

6.1 Members

- (a) The members of Regional Arts Australia are its directors. The members acknowledge that as board members they have full access to governance information and the opportunity to ask questions at any time.

6.2 Stakeholders

We will be accountable to our stakeholders by:

- (a) holding an annual forum for stakeholders with opportunity for questions from attendees
- (b) establishment of the Regional Network Advisory Group, the members of which will be outlined in the Regional Network Advisory Group's terms of reference.

6.3 The public

The board will ensure Regional Arts Australia makes available the following documents to the public by lodging them with the ACNC for the ACNC public register:

- (a) constitution;
- (b) annual reports;
- (c) annual financial statements; and
- (d) annual information statements.



7 CEO / managing director

- (a) The CEO leads Regional Arts Australia and is ultimately responsible and accountable to the board for its operational management.
- (b) The board sets the role and performance expectations of the CEO and monitors the performance of the CEO.
- (c) The CEO is responsible for:
 - (1) Leading the development of strategic and business plans with the board;
 - (2) implementing strategic and business plans;
 - (3) being the public face and speaking for Regional Arts Australia;
 - (4) maintaining an effective organisational structure that clearly assigns responsibility and reporting relationships;
 - (5) developing and implementing appropriate risk management strategies;
 - (6) development of staff capacity, measurement of performance and setting of other staff remuneration levels; and
 - (7) providing regular and reliable reports to the board which allow it to monitor performance and management of Regional Arts Australia.

8 Chair

- (a) The board will appoint one of its members to be chair each year or for a set term in accordance with the procedure in the Board Composition Policy.
- (b) The chair is responsible for:
 - (1) providing leadership and promoting cohesive, effective teamwork by the board;
 - (2) ensuring the board is meeting its functions, duties and responsibilities;
 - (3) setting the board meeting agendas, with the CEO;
 - (4) leading board meetings;
 - (5) ensuring the minutes correctly reflect the meetings;
 - (6) guiding, supporting and mentoring the CEO;
 - (7) ensuring the board maintains an effective relationship with the CEO.

9 Secretary

- (a) The board must appoint at least one secretary.
- (b) The secretary is accountable to the board.
- (c) The secretary is responsible for:



- (1) carrying out the administrative functions of Regional Arts Australia, including coordinating all board business and ensuring compliance with reporting and reporting obligations;
- (2) preparing, compiling and distributing agendas and board papers;
- (3) maintaining minutes of board meetings and following up on action items;
- (4) ensuring the necessary paperwork and resolutions are effective for change in the composition of the board, change to auditors and any changes required to be submitted to the members;
- (5) maintaining member registers or other registers as required;
- (6) communication with regulatory bodies and all statutory, financial and other necessary filing;
- (7) ensuring compliance with legislation and reporting requirements, as applicable; and
- (8) undertaking any other roles clearly delegated to the secretary or required by the board.



Schedule 1

Board member's acknowledgment of board charter

I [insert name of board member] board member of Regional Arts Australia have read the board charter of Regional Arts Australia, adopted by the board on [date].

I am aware that I am subject to the requirements and duties as a board member at law and those set out in the board charter. I will comply with these requirements and duties.

I will resign as a board member of Regional Arts Australia if I have been:

- (a) disqualified from managing a corporation, within the meaning of the *Corporations Act 2001*; or
- (b) disqualified by the ACNC Commissioner.

Signed by

sign here



print name

date



Schedule 2

Conflict of interest policy

1 High standards

Regional Arts Australia wishes to adopt a high standard of conduct to ensure all perceived, actual and potential conflicts of interest are disclosed. This will avoid not only real conflicts of interest affecting the responsible decision making of the board but also avoid any perception of conflicts of interest in relation to the decision making.

2 What is a conflict of interest for this policy?

- (a) A conflict of interest exists where loyalties of board members are divided. This policy covers:
 - (1) if a board member's interests or other duties may affect her or his decision making or may be seen to possibly affect her or his decision making as a board member; or
 - (2) if a board member's interests or other duties may be affected by a decision of Regional Arts Australia.
- (b) Conflicts of interest cover any real or sensible conflicts the board members may have with other duties owed, such as being a board member or trustee of another company or trust, and conflicts with a personal interest, such as the interests of an associate or relative. For example, offering the services to Regional Arts Australia of a business the board member or family member is involved in.
- (c) Board members representing a stakeholder group, e.g. users of the services of Regional Arts Australia, must ensure that they are acting in the interests of the purposes of Regional Arts Australia and not just in the interests of the stakeholder group.
- (d) The conflicting interest may arise as a result of the board member's employment, consultancy or personal interests, often, but not limited to, financial investment.
- (e) A board member can have a potential conflict of interest if any decision they make as a board member may provide an improper gain or benefit to themselves or an associate.
- (f) Board members perform their functions subject to many influences and loyalties but this conflict of interest code of conduct applies to those types of interests and duties which have the possibility or the perception that they could influence the board members when making judgements relating to Regional Arts Australia.
- (g) The issue normally arises only in relation to pecuniary interest but it does extend to all influences, loyalties, interest or duties which may affect or be seen



as likely to affect the board member in his or her decision making for Regional Arts Australia.

3 What must a board member do?

3.1 Disclosure

- (a) Board members must disclose to the board, through the secretary, their employment, their connection to any stakeholder group and other board memberships, as well as any actual potential or perceived conflict of interest.
- (b) The secretary will keep a list of disclosures to be provided to any board member on request and to new board members for their information.
- (c) Board members must disclose any actual, potential or perceived conflicts of interest to the chair prior to a board meeting where the conflict may be relevant or to the board members at a board meeting prior to discussions.
- (d) Board members must ensure any change in circumstances relevant to the disclosure of interest is advised to the chair, secretary or all board members at a board meeting considering a matter that gives rise to or may give rise to that board member having an actual, potential or perceived conflict of interest.
- (e) If the board member wishes to keep the matter giving rise to the possible conflict confidential he or she may just advise board members that he or she has a conflict with the matter under discussion and that the protocol will apply.

3.2 Protocol

If there is a conflict of interest, or the board members or chair have decided there is sufficient potential for a perceived or actual material conflict to arise so as to apply the protocol, then the board member:

- (a) will not receive the papers on the matter, but will be advised that certain papers have been excluded;
- (b) cannot be present (by phone or in person) when the matter is considered unless permitted by law and the other board members resolve that the board member in question can stay; and
- (c) cannot vote on the matter.

3.3 Open discussion

- (a) When any matter is being discussed at board level, any board member may query another board member as to whether they consider they have a possible conflict of interest with the matter under discussion.
- (b) This matter should then be discussed and considered by the board and if the board (other than the board member who is being queried) considers that there may be a possibility of a perceived or actual material conflict of interest, then disclosure must be made and the protocol must apply.
- (c) If a board member is uncertain as to whether he or she has or may have a perceived or actual material conflict of interest, he or she must disclose this at the board meeting discussing the matter or with the chair.



3.4 Records

Any discussions, disclosures, resolutions and the application of the protocol relating to a conflict of interest should be recorded in the board member's minutes.

3.5 Confidentiality

- (a) Board members must remember that board papers and matters discussed at board meetings are confidential as each board member has a duty to maintain the confidentiality of information he or she learns by virtue of his or her position as board member.
- (b) If there is a need or desire by a board member to disclose or report on resolutions or matters discussed at board meetings, or information gained as a result of the being a board member, to third parties, then the disclosure or reporting can only be made with the consent of the board members at the meeting or by the chair.

3.6 Chair's role

- (a) The chair will be available to discuss with any board member the application of this procedure to particular circumstances and provide guidance as to whether he or she should be making a disclosure or whether the protocol should apply.
- (b) The chair shall also seek to remind the board members from time to time of their obligations and commitments under this policy and this policy will be given to any new board members.



Schedule 3

Decision checklist

- Is the proposal in furtherance of the Regional Arts Australia's purposes, or incidental to the Regional Arts Australia's purposes, and is the reason for the proposal for a proper purpose?
- Do you or any other board members have a conflict of interest or perceived conflict of interest related to the proposal?
- Does the proposal comply with the constitution and the not-for-profit nature?
- Does the proposal comply with the tax status?
- Is the proposal consistent with the strategic plan and within budget?
- Does the decision comply with applicable laws, e.g. fund raising, local government approvals, copyright, privacy, OH&S, etc.?
- Are the risks adequately identified and considered, e.g. financial, reputational, personal injury, property damage?
- Have you considered the effect on all the stakeholders e.g. clients, funders, donors, local community, employees, volunteers, public?
- Is the proposal in the best interests of the charity as a whole, i.e. you are not favouring any one group of stakeholders over another?
- If there is a chance things could go wrong, is there a plan to reduce the effects of things going wrong?
- Does the board need to amend or develop any budgets or policies with respect to the proposal?
- Is there a plan to communicate the outcome of this proposal to any stakeholders (government agencies, communities, media. etc.)?
- Does the proposal contain a system for monitoring how the decision will be actioned and/or the impact of the decision?
- If the proposal is controversial, do you have more than one source of information and/or a source of independent advice?
- Are you satisfied that you have been fully informed on the topic?
- Would your common sense lead you to accept or reject this proposal?



Schedule 4

Board composition policy

1 Board composition and size

1.1 General

- (a) The Corporations Act requires the board to comprise a minimum of 3 members. The constitution requires between 3-9 directors, with a broad range of skills, expertise and experience from a diverse range of backgrounds.
- (b) The board may decide to have executive positions on the board including the CEO as a managing director.
- (c) The board is committed to achieving diversity, including a balance of age, gender, cultural background, geographic location and representation from each State and Territory
- (d) The board, as a whole, should ideally have the following skills:
 - (1) experience or knowledge specific to the arts, especially in regional Australia;
 - (2) experience or knowledge in government funding, philanthropic funding and fundraising;
 - (3) experience on governance issues and practices;
 - (4) accounting or auditing skills;
 - (5) marketing, communications or media experience;
 - (6) strategic planning experience; and
 - (7) legal experience in relevant fields;
- (d) The board and CEO will annually review the skills represented by the board members and determine whether the composition and mix of those skills remain appropriate for Regional Arts Australia's strategy, subject to the limits imposed by the constitution.

1.2 Responsible Person requirements

- (a) Inclusion on ROCO requires that a majority of the board Regional Arts Australia are Responsible Persons as defined in the constitution, which means an individual who:
 - (1) performs a significant public function;
 - (2) is a member of a professional body having a code of ethics or rules of conduct;
 - (3) is officially charged with spiritual functions by a religious institution;



- (4) is a director of a company whose shares are listed on the Australian Securities Exchange;
 - (5) has received formal recognition from government for services to the community;
 - (6) is an individual before whom a statutory declaration may be made;
 - (7) is otherwise accepted by ROCO as having the requisite degree of responsibility to the wider Australian community; or
 - (8) is approved as a Responsible Person by the Tax Commissioner.
- (b) ROCO provides a list of responsible persons in their guidelines: https://arts.smartygrants.com.au/s/site/doca/ROCO_Guide.pdf.
- (c) If the majority of the board do not meet these requirements, the board must either appoint additional members of the board or must establish a sub-committee to manage the Regional Arts Australia Fund, as set out in the constitution.

2 Suitability of board members

Board members must:

- (a) not be disqualified from acting as a director under the Corporations Act;
- (b) not be disqualified from acting as a responsible entity under the ACNC Act;
- (c) be willing to undergo a Federal police check
- (d) not have been convicted of fraud;
- (e) not have been bankrupt.

3 Selection and appointment of board members

- (a) Board members will be selected for their individual skills, experience and expertise which they can bring to the board, and their suitability.
- (b) The board will review the nomination of a potential board member candidate
- (c) Factors to be considered when reviewing a potential candidate include, without limitation:
 - (1) the skills, experience, expertise and personal qualities that will best complement board effectiveness;
 - (2) the capability of the candidate to devote necessary time and commitment to the role;
 - (3) advice from Regional Network Advisory Group and any external sector consultation;
 - (4) potential conflicts of interest; and
 - (5) the suitability requirements in this board charter.



4 Retirement, term or re-appointment

- (a) Board members should review their appointment after 3 years with the assistance of the chair to ensure they are still adding value to the board, and if so, put themselves forward to the board for re-appointment.
- (b) There is a maximum term of 9 years, unless the board otherwise decides for a particular board member, and in each case, this must be reviewed each year.
- (c) The secretary will keep a schedule of appointments and re-appointments and will note the period of service of each board member to determine if any board member is up for review.

5 Board review

The board will annually consider the following to ensure the role of the board can be carried out:

- (a) the size and composition of the board;
- (b) the board succession plan;
- (c) the necessary and desirable competencies and skills of the board members;
- (d) the number and type of sub-committees and their size and composition;
- (e) the appointment of board members and consideration of candidates for appointment to the board;
- (f) the performance evaluation of the board, board committees and individual board members, and the development and implementation of plans for identifying, assessing and enhancing board member competencies;
- (g) the suitability of board members, including satisfying itself that the board members:
 - (1) are not disqualified from managing a corporation, within the meaning of the Corporations Act 2001; and
 - (2) are not disqualified by the ACNC Commissioner nor have been disqualified by the ACNC Commissioner at any time during the preceding 12 months;
- (h) any amendments required to this board charter; and
- (i) any remuneration issues.

6 Procedure for appointing the Chair

Within three months of Chair's term ending or on notice of chair wishing to step down, the board will establish a chair recruitment committee to:

- (a) determine what are the most important skills and expertise necessary in the chair and review the position description of the chair
- (b) determine if there is someone on the board suitable to take the position or whether an outside search is required



- (c) establish a shortlist of potential candidates
- (d) approach potential candidates and discuss position
- (e) recommend candidates to present to board
- (f) seek agreement of at least 75% of board to appoint a preferred candidate as a director and chair.