

## Contracting with Directors and Directors Owned Businesses

### 1. Rationale

In years gone by RAAus has been reluctant to engage with directors or businesses owned/operated by directors in fear of the perception that such engagements may be improper. On occasion it has been noted that directors of RAAus cannot remove their RAAus hat and should therefore not engage in certain activities. Such arguments defy logic and would result in directors being in breach of their obligations arising out of holding other positions in other organisations.

### 2. Policy Statement

Directors and their businesses may engage in business with RAAus providing that they:

- Meet with the requirements of this policy, and where required by this policy,
- Seek approval from the board.

Nothing in this policy shall be taken to override any requirements or obligations as outlined in the Corporations Act 2001 (the Act). Any arrangement entered into under this policy shall be declared in accordance with the relevant requirements of the Act and/or any policy of the company.

#### For agreements where a standard fee is in place

When a *director owned business* engages in an activity where an existing fee structure exists (e.g. flying schools and related activities) any agreement will be covered by that structure. In the event that the fees are to be varied (including raised, lowered or waived entirely) then such a variation is to be first agreed to by the CEO and then approved by the board.

If a fee that is varied is to be varied by less than \$500, then the approval given by the CEO does not have to be approved by the board. For clarity, variations to fees are cumulative in nature and a series of variations that total more than \$500 in any given calendar year are subject to the approval of the board. Furthermore, a positive variation does not cancel out a negative variation (that is, a lowering of one fee by \$500 (i.e. - \$500) and an increase in another by \$500 (i.e., +\$500) is a total variation of \$1000 for the purpose of this policy.

#### For agreements where the arrangement is or will be made available to other parties

Where there is no standard fee structure in place but an agreement being proposed is one that is or will be made available to other parties (e.g., sponsorship arrangements), that agreement will be subject to the approval of the CEO. That is, if the *director owned business* is entering into an arrangement that is available to other businesses on the same or substantially similar terms, then that agreement is not subject to scrutiny beyond that which would be given to other businesses.

Any decision for RAAus regarding an agreement proposed by the *director owned business* will be reviewed at the discretion of the CEO within the existing constraints of the Delegation Policy and within a timeframe that would be reasonably expected by any external business seeking to engage with RAAus. Under this clause, the CEO will always retain the right to choose as to whether he/she believes a proposal from the *director owned business* is suitable for the organisation.

For clarity, a *director owned business* may be the first business to enter an arrangement of this nature.

#### For agreements where no other fee or arrangement with another party exists (or will exist)

Where a *director owned business* seeks to enter into a commercial agreement with RAAus and the agreement is unique to that *director owned business*, (i.e., there is no standard structure nor is it envisaged to be in place to cover other businesses), then that agreement is subject to approval by the board. Any such proposed agreement will be first made between the *director owned business* and the CEO. If an agreement is reached between the director owned business and the CEO then that agreement shall be provided to the board for consideration. The board shall consider the governance arrangements of the agreement, including assuring themselves that the commercial terms meet the requirements of the Act, and either approve or reject the agreement. If the board rejects an agreement, they shall provide advice of why the agreement was rejected but shall not vary the terms of the agreement.

Reasons for not approving an agreement shall be limited to those concerning governance matters that have not been sufficiently addressed (i.e., issues relating to material interests in a matter). Other matters relating to commercial terms and conditions shall be dealt with by the CEO per the Delegations Policy in place at the time.

Where an agreement is not approved by the board, the CEO and *director owned business* may renegotiate the terms of the agreement to address the concerns of the board and resubmit a revised agreement for approval.

When the board is reviewing an agreement, they shall:

- Provide a response within 14 days of a request for approval being made (this timeframe may be varied by agreement between RAAus, and the *director owned business* where a proposal warrants more vigorous debate by the board).
- Consult with the CEO and/or *director owned business* for any clarifications required.
- Not allow the CEO or director who holds an interest in the *director owned business* to partake in the decision-making process beyond providing any clarifications sought by the board.

Directors may, but are not necessarily obligated to, seek external advice on whether the commercial agreement being considered meets the requirements of the Act. In the absence of external advice, the board may rely on the knowledge and experience of directors, officers and employees together with publicly available information.

## Notes

*Director owned business* – for the purpose of this policy, a *director owned business* is one in which a current director:

- Holds an ownership interest in the business (a business may be a company, partnership, sole trader, individual or any other structure recognised in Australia), or
- Holds a position within that business that confers some sort of influence over the actions of that business, or
- Holds a position where that director gets any advantage, income or other benefit from that business (including acting as an unpaid employee where benefits such as flying time at reduced or no cost are gained), or
- Any other business where it may be reasonably viewed that a director holds a material interest, or
- Any other business that is considered to be a related party under Chapter 2E of the Act.

In any case, this policy does not vary the rights of the board to exercise their duties or responsibilities under any law or regulation governing their actions. Details of any agreement made under this policy will be made available to the board and will not be made available to any other party except to the extent required by law (i.e., agreements with *director owned businesses* shall be subject to the same commercial protections as an agreement made with any other business).

The CEO is not to be unduly influenced by the director and likewise, the director shall expect to be treated no differently to that of a non-director owned business. All parties shall discharge their relevant obligations in accordance with the Corporations Act 2001, specifically Part 2D.1 of the Act, in relation to their responsibilities to both RAAus and the *director owned business*.

### 3. Scope and Application

The CEO and Board retain the authority to establish the timeframes regarding the review of a proposal, as if the proposal would be made by a non-director owned business.

Any *director owned business* should expect to be treated fairly, transparently, and afforded the same level of respect and professionalism regarding their dealings with RAAus as any non-director owned business.

This policy shall at all times be made available publicly on the RAAus website for transparency.

This policy does not apply to agreements where:

- Another policy is in place or separate board approval has been given to that agreement.
- The arrangement was already in place at the time of this policy being made and that agreement has not been renewed or the fee has not yet fallen due for payment.

### 4. Definitions

<b>CEO</b>	The person occupying the position of Chief Executive Officer.
<b>Board</b>	RAAus' governing body, elected from the membership.
<b>Policy</b>	<p>A statement about what* is to occur in relation to the operations of RA-Aus, which has the corporate authority of the board or, by delegation, the CEO.</p> <p>* Policy statements are not normally concerned with how the policy will be implemented—this is a matter of processes, procedures and guidelines as used by those responsible for implementing the policy.</p>
<b>RAAus</b>	Recreational Aviation Australia Limited.
<b>Workplace Participant</b>	<p>Means:</p> <ul style="list-style-type: none"><li>• employees of RAAus—permanent, occasional, interns and students, part-time and full-time;</li><li>• consultants and independent contractors (and their employees and subcontractors), labour hire workers, or other persons having a contractual relationship with RAAus;</li><li>• volunteers; and</li><li>• Board members.</li></ul>
<b>Workplace</b>	The workplace of RAAus extends beyond the office of RAAus to any location RAAus employees conduct business and includes any personal direct person to person communication.
<b>Executive Team</b>	Executive Leadership team as per the organisation structure that includes the CEO, the Corporate Services Executive (CSE), Innovation and Improvement Executive (I&I) Head of Airworthiness and Maintenance (HAM), Head of Flight Operations (HFO)

### 5. Legislation

There is not Legislation regarding this policy.

Directors are required to adhere to the requirements of the Corporations Act (Cth).

## 6. Breaches of the code or the policy

Breaches of the policy and procedures may result in disciplinary action being taken, up to and including dismissal.

This policy does not affect your rights as an employee under common law, relevant legislation, and industrial awards and agreements.

## 7. Responsibilities

Approval:	Board
Implementation:	CEO
Review:	Board and Corporate Services Executive
Improvement:	Board

## 8. Resources

No Resources

## 9. Review Schedule

This policy will be reviewed every two years. From time-to-time RAAus may make changes to this policy and relevant guidelines to improve the effectiveness of its operation.

## 10.Lapse Date

This policy does not have a lapse date.

## 11.Meta Data

<b>ID</b>	POL-2023-56 <sup>1</sup>
<b>Version</b>	1.0
<b>Version date</b>	17 February 2023
<b>Type</b>	Board
<b>Approval date</b>	17 February 2023
<b>Availability</b>	All staff, Board, members on request
<b>Keywords</b>	Director, Board, businesses, owned, sole trader, recognised in Australia.
<b>Responsible officer</b>	The Chair
<b>History</b>	17 February 2023: This is the first time this policy has been established at organisational level.

---

<sup>1</sup> Nomenclature: year edited, policy number of year edited, check master policy list  
POL-2023-55-B Contracting with Directors and Directors Owned Businesses Policy

<b>Review date</b>	February 2025
<b>Related documents</b>	Governance Policy Corporations Act (Cth). Delegations Policy
<b>Contact</b>	Recreational Aviation Australia Ltd PO BOX 1265 FYSHWICK ACT 2609 <a href="mailto:admin@raaus.com.au">admin@raaus.com.au</a> <a href="http://www.raaus.com.au">www.raaus.com.au</a> 02 6280 4700

