

# The future of AREC (Amateur Radio Emergency Communications)

## A document for discussion

### AREC as an evolving organization

AREC in its 90+ years has been and needed to be an organisation that continues to grow, develop, and adapt to external changes. From its initial conception following the Napier earthquake in 1931 as the Radio Emergency Corps (REC) established in 1932 as a national amateur radio emergency organisation to today as AREC (Amateur Radio Emergency Communications).

NZART approved the formation of the REC in January 1932 and urged the formation of sections across New Zealand as soon as possible. By the end of February 1932 amateur radio operators in nine districts had established REC sections. The initial emphasis (which continues to today) was in training members to establish communications from remote sites and in message handling.

From the start AREC's forerunner the REC has contributed and supported search and rescue across New Zealand. A pilot REC section established in Christchurch in late 1931 was called out in January 1932 to provide communications for a search for a missing party at Bealey Spur (near Arthur's Pass).

While the REC sections had access to the Amateur Radio bands, this only supported communications with licensed Amateur Radio operators. There was a requirement for REC to provide communications to non-licensed search teams in the field and hence use of commercial frequencies. In June 1932 the Post & Telegraph department officially recognised REC and allocated an exclusive frequency band 2.85 to 3.00 MHz.

The first official call-out occurred in October 1932 when the Wellington REC was requested to assist in the search for a crashed aircraft at Tawa Flat.

Formalised Search and Rescue (SAR) in New Zealand began in 1933 following a search for four trappers lost in the Tararua Ranges. The search involved 20 teams including tramping clubs, deerstalkers, the Wellington Aero Club, the Citizens' Search Committee, and the Wellington REC. Subsequently in 1935 the Tararua Tramping Club proposed and received agreement that Police liaising with the Federated Mountain Clubs (FMC) (the forerunner to today's Land Search and Rescue (LandSAR) should organise and conduct land searches.

Almost a decade later, government oversight of SAR began with New Zealand signing an international convention on aviation searching, then five years passed before the first national SAR Committee met in 1949. Convened by Civil Aviation, FMC was present, as was the Amateur Radio Emergency Corps (AREC). The REC added the word Amateur to change its name to become AREC in 1949.

AREC has provided communications advice and assistance to local Civil Defence since the 1950s. Its involvement stepped up in the 1960s when CD were donated 200 VHF sets for communications between main Sector Posts. AREC installed and operated these networks during local CD emergencies and exercises. AREC also provided communications advice to the Ministry of Civil Defence in the 1960s and 1970s.

From 1958 AREC applied for and received grants from the Search & Rescue organisation.

In 1964, the NZ Police set up special SAR squads and a couple of years later FMC set up a policy and training organisational committee. In 1994 it was this committee that became New Zealand Land Search and Rescue Inc (LandSAR).

The NZ Police assumed control of SAR in 1980. By 1988 AREC had 75 sections covering the whole of NZ.

The NZART AREC Emergency Funds Trust was established to manage funding and grants from the Search & Rescue organisation. The Trust obtained charitable status in June 2009.

Until recently (2020) AREC had been a 100% volunteer organisation.

One of the outcomes from a 2018 review of the Search and Rescue sector and the SAR partner organisations Coastguard, NZ Surf lifesaving, Land Search and Rescue (LandSAR), and Amateur Radio Emergency Communications (AREC) was the pressing need for AREC evolve to become a sustainable organization committed to supporting and delivering search and rescue services.

In 2020 AREC was granted \$1.67m over three years to transform the organisation into a specialist sustainable organization providing expert service to its stakeholders. This funding was focused on people, process, training, and health safety and wellbeing.

AREC was to develop and deploy a national organisation, with a trained volunteer workforce to support search and rescue, civil defence emergencies incidents and community events.

The granted support workstreams include:

- Business objectives and governance.
- Fulltime and part time staff at the national level.
- SLA finance and milestone reporting
- New IT systems for membership records and training.
- Branding and equipment
- Training and competency assessment
- Health, safety, and welfare

What started as a response to the disastrous Napier earthquake of 1931 has grown over the years into a nationwide organisation, with improved structure and commitments to support other organisations.

Over the decades, AREC has provided essential communications for thousands of emergency events, from search and rescue missions to natural disasters, civil defence emergencies to community events.

Up until 2020 the AREC organisational structure has more or less remained as it was established 90+ years ago, in this time the SAR and Civil Defence sectors has undergone significant change along with the introduction of new legislation and resulting legislation changes including the introduction of health and safety obligations and liabilities. As part of the ongoing transformation of AREC to a fit for purpose and sustainable organization a review of its organisational structure is long overdue.

## AREC current structure

NZART is an incorporated society as well as a registered charity. It is a not-for-profit organisation with the object of the promoting and providing education in relation to amateur radio services in New Zealand. Its head office is in Upper Hutt and the national body (Executive Council) is elected nationally every two years by its members via the NZART branches at its AGM.

AREC is a sub-group (special interest group) of NZART and established by the NZART Council under clause 9 of the NZART Constitution. NZART Branches may on approval of Council establish an AREC Group. AREC Groups, Officers, Staff and Members conform to the AREC Regulations (AREC Rules). AREC itself is not a legal entity but a group of NZART members who join AREC to volunteer to deliver the AREC services as the “service arm of NZART”.

Further NZART, under the constituent section 9, has established a registered Trust called the NZART AREC Emergency Funds Charitable Trust (AREC Trust) operated by a Board of Trustees.

AREC purpose is to provide skilled volunteers enabling essential communications to support search and rescue, disaster response, and the community.

AREC is under the control of the Chief Executive Officer (CEO) of AREC and is governed by the regulations (“AREC Rules”) as approved by the Executive Council on 7 September 2021.

**It is not currently a legal entity and as a result, its liabilities become that of NZART, the Executive Council and its officers. AREC Staff are employed by NZART to run AREC.**

Today forty-seven AREC groups have been established and each group is attached to one or more NZART branches (which may or may not be their own legal entities).

The AREC groups are governed by the AREC Rules and officers consisting of a Group Leader, and such deputies and assistants as the Group Leader chooses.

One of NZART’s objects is to provide emergency and other communication services for search and rescue, civil defence, and other parties as needed, and it was agreed between the New Zealand Search and Rescue Council (NZSAR) and NZART to establish the AREC Trust to hold contributions and make grants. The AREC Trust trustees are the President of NZART, two non-national management AREC members, an independent trustee and a Search and Rescue sector representative who is nominated by NZSAR.

AREC Trust’s purpose is to foster the provision of radio communications for emergency purposes, including search and rescue operations, and to receive and distribute funds to achieve this. Fuel Excise Duty grants from the Ministry of Transport administered by NZSAR are made to the AREC Trust who distributes funds to AREC Operations as part of NZART as required and in accordance with the NZSAR Service Level Agreement (SLA) obligations and milestones.

Further the NZART Council and the AREC Trust Board have agreed that the AREC Trust Board will provide overall Governance and direction of AREC Operations.

## Legal Opinion

In view of the above and after discussion between the AREC Trustees, NZART Council and AREC managers, legal advice was sought from our Lawyers. After substantial analysis a very detailed response was received. The advice concluded that NZART and the Council have significant risks and unlimited liabilities associated with the AREC Operation and this to some extent

extends out to Branches. As part of the engagement the Lawyers provided an analysis of the current structure and four alternate structures that would ring fence the liabilities thereby protecting the association Council and Branches.

## The problem

The current structure is complicated from a governance perspective as there are two governance bodies – the AREC Trust provides strategic direction and governance and a channel for control of funds, while the NZART Council provides some operational governance and is responsible for staff.

This structure causes complications for all of the parties involved. Considerations on where liabilities should sit and where contracts should be owned are ongoing issues.

### Legal Contracts and Employment.

As AREC Operations is not a legal entity, it cannot execute contracts. Contracts must be signed by either the AREC Trust or by NZART, even though the operational control of the contracts is by AREC. This has meant that contracts and their liabilities are spread between both organisations – not a robust outcome.

The same applies for employing staff. At present, staff are employed by NZART, but this is separated from funding of staff costs (AREC Trust) and line management control (AREC Operations). As the Trust is a separate legal entity this introduces potential risks to the NZART Council.

### Control of Funds

AREC funds are controlled by the AREC Trust and are then provided to AREC Operations or NZART as required. The AREC Trust is accountable for ensuring that the funds are applied as NZSAR intended under the Service Level Agreement (SLA). This is an indirect way of channelling funds and may appear less transparent than some funders would like.

### Financial reporting and compliance

AREC currently is required to prepare two sets of accounts. One set aligns with the calendar year and is included in NZART's annual returns and the other aligns with the Government financial year for inclusion in the AREC Trust's annual statements. While, with modern financial management systems, it is not difficult to produce two sets of accounts, but there is an administrative and cost overhead in doing it.

### AREC Assets

At present, AREC does not own assets. They are paid for and expensed by the AREC Trust then owned by NZART. Depreciation is through NZART. AREC is required to maintain a separate asset record of AREC assets.

### Risk Insurance

AREC members who are also members of NZART are covered by NZART liability insurance, but non-NZART members would require separate liability insurance. AREC Officers and employees

require Officers and Directors Liability insurance. Likewise legal opinion says that the NZART Council also should have Officers and Directors liability insurance.

For the current structure, the AREC Trustees have limited personal liability if they act prudently and within the Trust's purpose but require Directors liability insurance all the same.

In summary, maintaining the status quo has the least work and cost involved. However, this structure is confusing to external stakeholders and as AREC is not a separate legal entity:

- NZART has been having to employ staff to run AREC (this introduces liabilities and risks in doing so).
- NZART and its branches are not protected against creditors and litigants of AREC as there is no ring fencing of liability.
- AREC cannot enter into legal contracts, which is causing complications for AREC management and its operations. Any AREC contract liabilities would accrue to NZART and the Council.
- AREC groups must be established and attached to an NZART branch. However, members of AREC groups must also be financial members of NZART – this is a complex membership structure which results in a membership sustainability risk with aging reducing membership and not easily being able to bring new members into AREC groups. AREC is largely dependent on Branches to increase membership to provide AREC volunteers.
- AREC operations and associate liabilities become that of NZART, the Executive Council and its officers.
- AREC Groups are attached and governed by NZART Branches, which potentially exposes branch committees to liabilities of AREC activity and operations.

## Proposed solution

A Limited Liability Company (LLC) with not-for-profit charitable status, wholly owned by NZART.

The issue and problems identified above under the AREC / NZART / Trust structure would be mitigated with a wholly owned limited liability charitable company (and have the AREC Trust merged into the company), In summary:

- Charitable companies are like for-profit companies in their structure and can undertake profit making activities if the profits go to the charitable purpose(s).
- Governance is straightforward and they are relatively easy to set up.
- Financial statements can be consolidated with NZART (if the balance dates are the same) to streamline financial reporting.
- As a company, liability would be ring-fenced – mitigates operational risks associated with AREC.
- As a charitable company, it would have charitable tax status and can give tax deductible receipts to donors.
- As it is its own legal entity, staff and assets can be held by the company and it can enter contracts.

The governance would be simplified with the LLC having a Board with Directors appointed by the NZART Council.

With a LLC the constitution lays out the process for election of directors, term of appointments, membership constraints. A constitution could also provide guidelines for AREC about classes of membership and the associated membership fees, including whether volunteers or employees must be members of NZART and any other conditions as required.

Additionally for the LLC the NZSAR funds and grants can be provided directly to the organisation that will be controlling and using the funds and reporting on the outcomes.

The assets would be owned by the company (LLC) and would have to be used for advancing the charitable purposes or be distributed to the charitable shareholder.

Any liability for officers and employees is limited with an LLC, although the Board members may require liability insurance.

Advice from the NZART accountant (Treasurer) is that the LLC would be easier to manage from a financial perspective than the current structure.

It is recommended that NZART and AREC proceed with incorporating AREC as a Limited Liability Company (LLC) that is **wholly owned by NZART**. With the agreement of the NZART Council, a constitution would be drafted for submission to the NZART Council for approval and for consideration by NZART members.

With the agreement of the NZSAR Secretariat, the duties of the AREC Trust will be moved to the LLC Board and the AREC Trust will subsequently be closed, subject to the Charities Commission approval. Initial contact with NZSAR indicated that they have no objections to this approach provided it is suitably governed.

## Next Steps

This document having set out the issues and possible solution provides a basis for informing NZART members and promoting discussion on the recommended solution. Time has been set aside at the NZART Conference AREC Forum session on Saturday afternoon after the NZART AGM to start a discussion with those present.

Further online video conference webinar sessions will be set up to allow other members not attending the conference to provide feedback and ask questions. These would be conducted July through September enabling an agreed way forward by October 2024. Once this is agreed the process for establishing the company, its constitution, make up of the board and all the other details can be finalised. This would then be presented to NZART members at a special general meeting for ratification of the changes.

Question and answers will be developed during this process to provide clarity and satisfy any queries.