



OUTDOOR SAFETY

NEW ZEALAND MOUNTAIN
SAFETY COUNCIL

MSC Constitution 2024

1. **NAME**

- 1.1 The name of the Council is the “New Zealand Mountain Safety Council Incorporated”, referred to as “the Council” throughout this Constitution.

Status

- 1.2 The Council is registered as a charitable entity under the Charities Act 2005

Contact Person

- 1.3 At its first meeting following an AGM, the Board must appoint or reappoint at least one, and a maximum of three, persons to be the Contact Person, subject to those persons meeting the eligibility criteria set out in the Act. The Board must advise the Registrar of Incorporated Societies of any change in the Contact Person or that person's Contact Details.

2. **PURPOSE**

The charitable purpose of the Council is to be the national body in New Zealand to:
Enable people to enjoy their personal land-based recreation safely in the outdoors.

- 2.1 In order to achieve its purpose, the Council shall focus on:

- (i) Partnering: Working with organisations (whether member organisations or not) that share the same or similar objectives, so that all available resources can be used effectively for the promotion of safer land-based outdoor recreation.
- (ii) Insights: Gathering evidence to develop and support targeted safety strategies that help to set and promote safety standards for individuals and organisations active in land-based recreation;
- (iii) Messaging: Providing publications, technical information and other educational material for the public, to promote self-reliance in and safer enjoyment of land-based outdoor recreation.

3. **MEMBERSHIP**

- 3.1 Member Organisations shall be those national organisations which are offered and accept such membership. A national organisation for the purposes of this clause shall be any national organisation, association, government department, instrument of the Crown, committee or body of people whether incorporated or otherwise, one of whose roles relates to activities or safety in land-based outdoor recreation.
- 3.2 To be eligible for membership the Council must, at its absolute discretion, consider the organisation to be a national representative of its particular activity or sector.
- 3.3 An organisation consents to become a Member by submitting an Application for Membership of the Council that shall be made by the applicant delivering to the Chief Executive a written request for membership supported by sufficient detail to establish the applicant's credentials for membership. Applications shall be circulated at least

three weeks in advance of the next Meeting of Council and be voted upon at that Meeting. Applicants shall be advised of the outcome and, if successful, shall take up membership from that date.

3.4 Any Member Organisation wishing to resign may do so by giving written notice to the Chief Executive and the resignation shall take effect from the date of receipt of such notice

3.5 (i) A Member Organisation may be expelled as a Member Organisation if deemed to have acted in a manner detrimental to the aims, objects or constitution of the Council, or ceased to meet membership criteria. Any notice of motion to expel a Member Organisation from the Council must be circulated at least three weeks prior to the Meeting of Council at which the expulsion shall be voted on. The Member Organisation subject to such notice or a representative of that Member Organisation has the right to speak to the Meeting before a vote is taken. The decision to expel must be passed by a two-thirds majority of those present and entitled to vote.

(ii) Member Organisations must be active participants. Non-attendance at two consecutive Meetings of Council without apology will result in notification being sent to the Member Organisation asking if it wishes to retain membership. After three consecutive unattended meetings without adequate apology or explanation, a Meeting of Council may expel the Member Organisation in accordance with Clause 4.5(i), or require the Member Organisation to appoint a new delegate.

3.6 The Board will ensure an up-to-date Member Register is kept and the register must include:

- (a) each Member Organisation's name;
- (b) each Member Organisation's Contact Details;
- (c) the date each Organisation became a Member.

A Member must provide notice to the Council of any change to their Contact Details. The Member Register will be updated as soon as practicable after the Board becomes aware of changes of the information recorded in the Member Register.

3.7 The Board will keep a record of the name of each organisation that has ceased to be a member of the Council within the previous 7 years and the date on which they ceased to be a member.

4. REPRESENTATIONS AT MEETINGS OF COUNCIL

4.1 Member Organisations shall each be entitled to appoint one delegate to represent them at Meetings of Council. The appointment and nomination of delegates shall be in accordance with Clause 5.2 of this Constitution. Member Organisation's delegates may be changed during the year by notice in writing to the Chief Executive. Each new appointment of a Member Organisation's delegate shall be effective from the date of advice to the Chief Executive.

- 4.2 Member Organisations may appoint substitute delegates to replace delegates appointed under sub-clauses 1 of this Clause who are unable to attend any Meeting of Council. Any such substitute delegates may be required at the Meeting to produce written notice of appointment signed on behalf of the Member Organisation.
- 4.3 A Meeting of Council may require that the appointment of any delegate under Clauses 4.1 of this Clause be rescinded, and that a replacement delegate be appointed in accordance with Clause 4.2.
- 4.4 No employee of the Council may be nominated as a delegate under Clause 4, and will cease to be a delegate on becoming an employee

5. **NOTICE OF MEETINGS OF COUNCIL**

- 5.1 The Chief Executive shall call one Meeting of Council each year as the Annual General Meeting of Council, to be held during the four months following the end of each financial year. Other Meetings of Council may be called by the Chairperson, the Chief Executive or any two Council Members.
- 5.2 The Chief Executive shall send a preliminary notice to all Member Organisations at least two months before the projected date of an Annual General Meeting, including a request for nominations of delegates of Member Organisations appointed under Clause 4.1 of this Constitution. The preliminary notice shall also include a request for nominations for any vacancies in the elective offices of Chairperson, Deputy Chairperson and Board members. All nominations must be in writing and received by the Chief Executive at least four weeks before the notified meeting date and be accompanied by the written consent of the nominee and a résumé.
- 5.3 The Chief Executive shall send notice of any Meeting of Council to all Member Organisations at least three weeks before the date of the meeting. The notice shall contain details of the agenda, date, time and place for the meeting, and written nominations and résumés received for the elective offices. No other nominations for office will be considered at the meeting.
- 5.4 Subject to the requirements of this clause, the Chairperson shall decide the time, date and place of Meetings of Council.

SGM

- 5.5 The Board must call a SGM if it receives a written request stating the purpose of the SGM from:
 - (a) the Board itself; or
 - (b) by 50% of Members.
- 5.6 Members must be given at least three weeks' notice of the SGM unless the Board, in its discretion, decides that the nature of the SGM business is of such urgency that a shorter period of notice is to be given to Members.
- 5.7 A SGM may only consider and deal with the business specified in the request for the SGM.

6. **QUORUM AND PROCEDURE AT MEETINGS OF COUNCIL**

- 6.1 General Meetings are held by a quorum of delegates:
- (a) being assembled together at the time and place appointed for the meeting; or
 - (b) participating in the meeting by means of audio link, audio visual link, or other electronic communication; or
 - (c) by a combination of both the methods described above.
- 6.2 No business is to be transacted at any General Meeting unless a quorum is present at the time when the meeting is due to start. The quorum for a General Meeting is more than half of the delegates or substitute delegates who are entitled to vote under Clause 4, including delegates present by casting votes by electronic means. The quorum must always be present during the General Meeting.
- 6.3 The Board will from time to time adopt standing orders for the conduct at Meetings of Council and shall make copies of such standing orders available to all Member Organisations. If the Board has not adopted and notified Member Organisations of the applicable Standing Orders, the latest version of the Standards New Zealand Model Standing Orders for Meetings shall apply with any necessary modifications. In the event of any ambiguity between the Standing Orders and this Constitution, the provisions of this Constitution shall apply.
- 6.4 Except as otherwise provided in this Constitution (clause 13.4), every motion at a Meeting of Council shall be moved and seconded, and may be moved without any previous notice having been given.
- 6.5 The vote on any motion at a Meeting of Council shall be taken by a show of hands, or by ballot if called for, of delegates appointed under Clause 4 who are present at the Meeting and shall, subject to Clause 3.5(i) (expulsion from membership) and Clause 13 (interpretation and amendment of the constitution), be decided on a simple majority. The decision of the Chairperson on the holding of a ballot shall be final.
- 6.6 Elections of the Elected Board Members at an AGM must be undertaken by secret ballot. Two scrutineers must be appointed at the General Meeting to count the votes.
- 6.7 Voting by electronic means is permitted.
- 6.8 Except as provided in Clause 6.3, where any provision of this Constitution requires any measure to be passed by a specific majority or percentage of votes, the majority or percentage shall apply to the number of valid votes recorded, not the number entitled to vote on that measure.
- 6.9 Full minutes must be kept of all General Meetings.

Resolution passed in lieu of meeting

- 6.10 Any resolution that could be passed by a Meeting of Council shall be valid and binding on Council if the resolution is circulated among all Member Organisations as appropriate, and approved in writing by or on behalf of a 75% majority of not less than 65% of those having the right to vote at the Meeting of Council.

7. ROLE OF MEETINGS OF COUNCIL

7.1 In addition to Clauses 4, 11,13, 14 and 16 of this Constitution, the role of all Meetings of Council shall be:

- (i) To ensure that the purpose of the Council as set out in Clause 2 of this Constitution are pursued and achieved;
- (ii) To monitor the role of the Board and, subject to the provisions of this Constitution, change that role as and when it considers appropriate;
- (iii) To consider any other business referred to it by the Chairperson or the Board.

7.2 In addition to Clause 7.1, the role of the Annual General Meeting of Council shall be:

- (i) To elect annually a Chairperson and a Deputy Chairperson of Council, who must not be employees of the Council.
- (ii) To elect up to three members of the Board from amongst the delegates appointed under Clause 6 of this Constitution (who must not be employees of the Council) for a term of up to three years as required, to fill a vacancy arising at the end of a three-year term or on a casual vacancy.
- (iii) Receive notification of any co-opted members of the Board.
- (iv) To receive a report presented by the Board regarding the business plan and budget for the coming year.
- (v) To consider and adopt an annual report and financial statement for the previous year presented by the Board;
- (vi) To consider and adopt the auditor's report to members on the financial statements audited by a qualified auditor;
- (vii) Confirm the appointment of an auditor as recommended by the Board.
- (viii) Receive notice of any disclosures of conflicts of interest made by Board Members (including a brief summary of the Matters, or types of Matters, to which those disclosures relate)
- (ix) To consider and adopt or modify longer-term strategic plans presented by the Board

8. Board

8.1 The membership of the Board shall be the Chairperson, the Deputy Chairperson, three members elected under Clause 7.2(ii) or appointed under Clause 8.4, and up to three members co-opted under Clause 8.6.

8.2 The Chief Executive of the Council shall be entitled to attend meetings of the Board at the discretion of the Board but shall not be a member of the Board or have voting rights.

8.3 If a casual vacancy arises in the office of Chairperson, the Board may appoint the Deputy Chairperson to fill the vacancy until the next election under Clause 7.2(i).

- 8.4 If a casual vacancy arises in the office of Deputy Chairperson, the Board shall appoint one of their number to fill the vacancy until the next election under Clause 7.2(i).
- 8.5 If a casual vacancy arises on the Board because a Board member ceases to be a delegate appointed under Clause 6 or for any other reason, the remaining members of the Board may appoint a replacement who is eligible to be an elected member and who shall hold office until the next election under Clause 7.2(ii).
- 8.6 At any time, the Board may co-opt up to three further members for the balance of the then current year where workload or other factors make this desirable, and such co-opted members shall have full voting rights, but shall not be required to be delegates appointed under Clause 4.
- 8.7 Every Board Member must, in writing:
- (a) consent to be a Board Member; and
 - (b) certify that they are not disqualified from being elected, appointed or holding office as a Board Member by this Constitution or under section 47 of the Act or under the Charities Act 2005.
- 8.8 The following persons are disqualified from being elected, appointed or holding office as a Board Member
- (a) A person who is an employee of, or contractor to the Council.
 - (b) A person who is disqualified from being elected, appointed or holding office as a Board Member under section 47 of Act or under section 36B of the Charities Act 2005.
- 8.9 A person ceases to be a Board Member if:
- (a) their term expires;
 - (b) the person resigns by delivering a signed notice of resignation to the Board;
 - (c) the person is removed from office under this Constitution;
 - (d) the person becomes disqualified from being an officer under section 47(3) of the Act;
 - (e) the person becomes disqualified from being an officer under section 36B of the Charities Act 2005
- 8.10 The quorum at any meeting of the Board shall be three members who may be present in person or in direct communication by electronic means and who undertake at the commencement of that meeting to remain in communication until the termination of that meeting and not to withdraw from communication without giving prior notice to the chairperson of that meeting.
- 8.11 Each Board Member has one vote. Voting is by voices or on request of any Board Member by a show of hands or by a ballot. Proxy and postal votes are not permitted. Voting by electronic means is permitted.

8.12 Except to the extent specified in the Act or this Constitution, the Board may regulate its own procedure.

8.13 In addition to Clauses 11 and 15 of this, the role of the Board shall be:

- (i) To have full power to manage the business of the Council within the Purpose set out in Clause 2 and all other provisions of this Constitution, and the decisions of Meetings of Council;
- (ii) To appoint a Chief Executive who shall be responsible for the day to day management of the Council's affairs, including management of other staff employed by the Council and the expenditure of Council funds within budgeted allocations; and to supervise the Chief Executive's work;
- (iii) To formulate policy and strategic plans for achieving the Purpose in Clause 2 to present them to a Meeting of Council for its consideration and amendment or approval;
- (iv) To develop, approve and present to the Annual General Meeting of Council a business plan and budget for the coming year, such business plan and budget to be approved by the Board prior to the commencement of each financial year;
- (v) To present an Annual Report and Financial Statement for the previous year to the Annual General Meeting of Council;
- (vi) To monitor the work of any joint ventures with other organisations, in association with the Chief Executive;
- (vii) To carry out assignments or take on or relinquish responsibilities allocated to it by Meetings of Council;
- (viii) To establish from time to time such subcommittees as it may deem necessary or expedient, and depute or confer on them such powers and duties of the Board as it may decide.

8.14 The Board shall meet at least four times a year at such times and places as it deems fit. A meeting of the Board may otherwise be summoned at any time by the Chairperson the Chief Executive or any two other members of the Board.

9. **CHAIRPERSON**

9.1 The Chairperson shall chair all Meetings of Council and Board Meetings. If the Chairperson is absent from any meeting, the Deputy Chairperson shall chair that meeting. In the Deputy Chairperson's absence, those present shall appoint one of their numbers to act as chairperson.

9.2 The Chairperson shall have an original and a casting vote at any Meeting of Council unless at the commencement of that meeting the delegates present resolve that for the purposes of that meeting, the Chairperson shall not have a casting vote. The Chairperson shall have an original but not a casting vote at Board Meetings.

10. **TERMS OF OFFICE AND RE-ELECTION**

- 10.1 Terms of office for those elected under Clause 7.2 shall run from the end of the Annual General Meeting at which the election takes place to end of the Annual General Meeting in the year when the office becomes vacant.
- 10.2 Notwithstanding Clause 10.1, Chairpersons, Deputy Chairpersons and Board members shall cease to hold office in the event that they become employees of the Council. Appointments to casual vacancies shall run to the end of the Annual General Meeting in the year when the office would have become vacant.
- 10.3 The Chairperson and Deputy Chairperson may be re-elected annually.
- 10.4 Board members may be re-elected for one further three-year term only. A Board member who leaves the Board after a term of less than three years may be replaced by an appointed delegate for the balance of that Board member's term. Upon completion of an Board member's second consecutive term they shall stand down as an Board member. Board members who have served two consecutive terms may be re-elected to the Board for further terms provided that an Board member shall not be eligible to be a member of the Board in the twelve-month period following the expiry of every second consecutive term in office.

11. **FINANCE**

- 11.1 The funds and property of the Council are:
- (a) controlled, invested and disposed of by the Board, subject to this Constitution; and
 - (b) devoted solely to the promotion of the Purposes.
- 11.2 The funds of the Council shall be held in the name of the New Zealand Mountain Safety Council Inc., and shall be paid into an account of such bank or savings bank as the Board shall determine.
- 11.3 Cheques can be signed by any two of the following signatories:
- Chief Executive (with certain restrictions)
 - Chairperson
 - Any three other persons nominated by the Board.
- 11.4 The financial year of the Council shall be from 1st July in each year to 30th June in the next following year, or such other dates as a Meeting of Council may by resolution adopt.
- 11.5 The Council may borrow funds from such sources and on such terms as the Board may determine and may give or enter into guarantees provided that the total level of borrowing, and of exposure under guarantees, shall not exceed 20% of the Council's estimated annual operating budget without the authority of a resolution of Council passed at a Meeting of Council, or on a postal ballot pursuant to Clause 6.2 of this Constitution.

12. **DISPUTE RESOLUTION**

Application of other legislation to a Dispute

- 12.1 The Disputes Procedure will not apply to a Dispute to the extent that other legislation requires the Dispute to be dealt with in a different way. The Disputes Procedure will have no effect to the extent that it contravenes, or is inconsistent with, that legislation.

Dispute Procedure

Raising a Complaint

- 12.2 A Delegate or an Officer may start the Disputes Procedure (a Complaint) by giving written notice to the Board setting out:

- (a) the allegation to which the dispute relates and who the allegation is against; and
- (b) any other information reasonably required by the Council.

- 12.3 The Council may make a Complaint involving an allegation against a Member Organisation or an Officer by giving notice to the Delegate of the Member Organisation concerned setting out the allegation to which the Dispute relates.

- 12.4 The information given must be enough to ensure a person against whom the Complaint is made is fairly advised of the allegation concerning them, with sufficient details given to enable them to prepare a response.

Investigating and determining Disputes

- 12.5 Unless otherwise provided, the Council must as soon as is reasonably practicable after receiving or becoming aware of a Complaint, ensure the Dispute is investigated and determined.

- 12.6 Disputes must be dealt with in a fair, efficient, and effective manner.

Decision to not proceed with a matter

- 12.7 Despite the contents of the Disputes Procedure, the Council may decide not to proceed with a matter if:

- (a) the Complaint is trivial; or
- (b) the Complaint does not appear to disclose or involve any allegation of the following kind:
 - (i) any material misconduct; or
 - (ii) any material breach or likelihood of material breach of a duty under this Constitution or the Act; or
 - (iii) any material damage to a Member Organisations rights or interests or Member Organisations' rights or interests generally; or
- (c) the Complaint appears to be without foundation or there is no apparent evidence to support it; or
- (d) the Member Organisation who makes the Complaint has an insignificant interest in the matter; or

- (e) the conduct, incident, event, or issue giving rise to the Complaint has already been investigated and dealt with under this Constitution; or
- (f) there has been an undue delay in making the Complaint; or

Complaint may be referred

12.8 The Council may refer a Complaint to:

- (a) a hearing body or person authorised, delegated or appointed by the Board to hear and resolve Disputes, and includes an arbitral tribunal (**Hearing Body**); or
- (b) a subcommittee or an external person to investigate and report; or
- (c) any type of consensual dispute resolution with the consent of all parties to the Complaint.

Hearing Body

12.9 The Board may determine the composition, jurisdiction, functions and procedures of, and any sanctions which can be imposed by, any Hearing Body. Each Hearing Body has delegated authority by the Board to resolve, or assist to resolve, Complaints.

Bias

12.10 An individual may not be part of a Hearing Body in relation to a Complaint if two or more members of the Board or of the Hearing Body consider there are reasonable grounds to believe that the individual may not be:

- (a) impartial; or
- (b) able to consider the matter without a predetermined view.

Complainant's right to be heard

12.11 The Member Organisation or Officer has a right to be heard before the Complaint is resolved or any outcome is determined. If the Council makes a Complaint, the Council has a right to be heard before the Complaint is resolved or any outcome is determined, and a Board Member may exercise that right on behalf of the Council.

12.12 A Member Organisation or Officer or the Council must be taken to have been given the right if:

- (a) the Member Organisation or Officer or] the Council has a reasonable opportunity to be heard in writing or at an oral hearing, if one is held; and
- (b) an oral hearing is held if the Hearing Body considers that an oral hearing is needed to ensure an adequate hearing; and
- (c) an oral hearing, if any, is held before the Hearing Body; and

12.13 the Member Organisation's or Officer's or the Council's written statement or submission, if any, are considered by the Hearing Body.

Respondent's right to be heard

- 12.14 The Member Organisation or Officer who, or the Council which, is the subject of the Complaint (**Respondent**) has a right to be heard before the Complaint is resolved or any outcome is determined. If the Respondent is the Council, a Board Member may exercise the right on behalf of the Council. A Respondent must be taken to have been given the right if:
- 12.15 the Respondent is fairly advised of all allegations concerning the Respondent, with sufficient details and time given to enable the Respondent to prepare a response; and
- 12.16 the Respondent has a reasonable opportunity to be heard in writing or at an oral hearing, if one is to be held; and
- 12.17 an oral hearing is held if the Hearing Body considers that an oral hearing is needed to ensure an adequate hearing; and
- 12.18 an oral hearing, if any, is held before the Hearing Body; and
- 12.19 the Respondent's written statement or submissions, if any, are considered by the Hearing Body.

13. INTERPRETATION AND AMENDMENT OF CONSTITUTION

- 13.1 Only the delegates of Member Organisations appointed under Clause 4 are entitled to vote on motions to interpret or amend this Constitution.
- 13.2 Any interpretation or amendment of this Constitution must be adopted by two-thirds majority of those entitled to vote under this Clause and voting at a Meeting of Council.
- 13.3 Subject to any ruling of the High Court, the decision of a Meeting of Council upon any question of interpretation of this Constitution or upon any matter affecting the Council and not provided for in this Constitution shall be final and binding.
- 13.4 Notice of a motion to interpret or amend this Constitution must be included on the agenda for the Meeting of Council at which it is to be put, and sent out with the agenda in accordance with Clause 5.
- 13.5 No interpretation or amendment under this Clause shall detract from the general charitable aims of the Council.

14. RULES

A Meeting of Council may from time to time promulgate rules to be observed by the Council, provided that no rule shall be valid if and to the extent that it is inconsistent with any provision of this Constitution.

15. **COMMON SEAL**

The Council shall have a common seal which shall be kept in the custody of the Chief Executive. This shall be affixed to any document or instrument in the presence of the Chairperson of Council or a deputy appointed by the Board, and the Chairperson of Council or the appointed deputy, shall sign every document or instrument to which the Seal is affixed.

16. **WINDING UP**

In the event of the winding up of the Council a Meeting of Council shall be called for the purpose of disposing of the property of the Council, which may be donated as directed by such meeting to any charitable, educational or sporting body, association or society in New Zealand having objects not opposed to those of the Council. No part of the funds of the Council shall be used or shall be available to be used for the private pecuniary profit of any member thereof.