



NAPIER HERITAGE AND CONSERVATION BODY

(Registration no: HM/CB/28-02-2020/03)

(Email: napierheritageconservationbody@gmail.com)

CONSTITUTION

PREAMBLE

The Constitution is to be construed in a manner consistent with the intent of the provisions of the Constitution of the Republic of South Africa and to assist with the implementation of the provisions and principles of the:

- National Environmental Management Act (NEMA) 107/1998
- National Heritages Resources Act (NHRA) 25/1999
- National Heritage Council Act (NHCA) 11/1999

And any amendments of the above.

1. NAME

The name of the organisation hereby constituted shall be the *NAPIER HERITAGE AND CONSERVATION BODY* hereafter abbreviated in this Constitution to NHCB.

2. THE ORGANISATION

The organisation shall:

- 2.1. Exist in its own right, separately from its Members; and
- 2.2. Continue to exist despite the changes that may occur in regard to the individuals or autonomous organisations that constituted NHCB at the time of the inauguration.

3. DEFINITIONS

- 3.1. "Committee" is the Committee of Members elected at each Annual General Meeting (AGM) and responsible for the establishment and implementation of policy between

AGMs and the management and administration of the organization on a day-to-day basis.

3.2. "He/his/him/she/her/they/their/them" as reference to gender shall be interchangeable.

3.3. "Heritage Resources" means the National Estate as defined in the NHRA.

3.4. The "Annual General Meeting" (AGM) or "Special General Meeting" (SGM) shall mean the meetings of NHCB Members.

4. OBJECTIVES

4.1. The main objective of NHCB as a non-profit, registered conservation body as stipulated in the NHRA, is to cultivate an appreciation for the conservation of the natural, historical and cultural heritage resources of Napier and surrounding areas.

4.2. The ancillary objectives of the NHCB are to:

4.2.1. Liaise and co-operate with the Cape Agulhas Municipality (CAM) with regard to:

4.2.1.1. Providing aesthetic and development guidelines;

4.2.1.2. Defining the geographical area in which Napier Heritage Resources are to be recorded and protected; and

4.2.1.3. Conducting a heritage survey and maintaining an up-to-date inventory for inclusion into the National Estate.

4.2.2. Liaise and co-operate with other organisations with an interest in the conservation of heritage resources in Napier and surrounding areas and to give support and publicity to organisations having similar aims within other jurisdictions.

4.2.3. Support Heritage Western Cape with heritage management issues.

5. MEMBERS

5.1. Ordinary Members

5.1.1 Member status of NHCB shall, subject to 5.2. and 5.3, be open to all individuals who have a keen interest in heritage and the conservation of the National Estate, who wish to participate in its protection in Napier and the surrounding areas and who agree to support and abide by the letter and spirit of this Constitution.

5.1.2 Such individuals may apply for membership and will receive a membership confirmation, following which the annual fee is due within thirty (30) days.

5.2. Honorary Members

The award of honorary membership shall be determined at an AGM or SGM on condition that notice of this intention is circulated at least fourteen (14) days before the meeting. The Committee or any other Member may nominate an individual or corporate entity for Honorary Member status by providing a short motivation for such nomination.

5.3. Friends of NHCB

Organisations that support the work of NHCB may apply for Membership as a Friend of the organization.

5.4. Voting Rights of Members

All paid up members in good standing have one (1) vote at AGMs and SGMs.

5.5. Termination of Member Status

Members shall cease to be Members upon resignation in writing, or the Committee may decide in its sole discretion, to suspend or terminate the Membership of any individual or organisation. In the event that the Committee decides to withdraw Member status, the Member shall have the right to appeal against the decision.

5.6. Appeals against Termination of Memberships

5.6.1. The appeal hearing shall be by an independent arbitrator who must be appointed by the Committee within fourteen (14) days. The independent arbitrator shall be approved by both parties, shall be the master of the proceedings and shall issue a written reasoned decision.

5.6.2. In the event that the two parties cannot agree on an arbitrator within the time stipulated, the Committee shall appoint an independent arbitrator and the Committee's decision shall be final and binding upon the appellant.

5.7. Member Subscriptions

The AGM shall decide whether annual subscriptions are to be paid by Members in any financial year and, if so, what the subscription shall be. The Committee may exempt any Member at their discretion.

6. BUSINESS AND AFFAIRS

6.1. Financial Year

The financial year of NHCB shall be from 1st March to 28th February.

6.2. Annual Accounts

The Committee shall appoint an appropriately qualified person to verify the accounts and report on the conduct of the finances of both its accounts as well as those of the independent reserve account.

6.3. Reimbursement

NHCB may not distribute any of its money or property to staff, Members or office bearers, except as reasonable compensation for priorly and duly authorized pay for work or expenses incurred on behalf of NHCB.

6.4. Indemnity

Every member of the Committee or any sub-committee, or agent of NHCB, shall be indemnified out of the funds of NHCB against all costs, charges, expenses, losses and liabilities incurred by them in the authorized conduct of NHCB's business and in the discharge of their authorized duties. Such person/s shall not be liable for any loss incurred other than that due to their own willful acts or defaults.

6.5. Liability

Every Member's liability shall be limited to their unpaid subscriptions.

6.6. Assets

Members or office bearers of the organization do not have rights with regards to the property or other assets that belong to the organization.

7. COMMITTEE

On a day to day basis and between AGMs and SGMs, NHCB is managed by a Committee of duly elected and seconded members who meet regularly and whose mandate, powers and responsibilities are set out below:

7.1. Nomination and election of the Committee

- 7.1.1. The Committee consisting of at least five (5) members but not more than eleven (11) members shall be elected at the AGM.
- 7.1.2. All office bearers including the Chair as well as their portfolios shall be elected by the Committee from within its own ranks at its first meeting.
- 7.1.3. The Chair shall serve for no more than three (3) consecutive years except when, by a two thirds majority ballot, their term may be extended for a maximum period of one additional year.

7.2. Powers and duties of the Committee

The Committee shall be responsible for managing the affairs of NHCB in terms of its mandate set out in this Constitution or as mandated at the AGM and SGM. It holds the powers and duties of the organization which shall include:

- 7.2.1. Setting and carrying out the approved policy of NHCB during its term of office.
- 7.2.2. Generally dealing with the property of the NHCB including letting, hiring, exchange, transfer and receipt of all funds due to NHCB by way of donations or contributions, provided that NHCB may only invest its funds with a registered financial institution.
- 7.2.3. All transactions that involve physical movable and immovable property must be confirmed by an AGM.
- 7.2.4. Initiating and defending legal proceedings in the name of NHCB and performing all legal acts and executing such legal and other documents as may be necessary with the approval of a general meeting.
- 7.2.5. Co-opting additional persons up to a maximum of four (4) to the Committee and/or to sub-committees. Such co-opted Members will have voting powers at Committee meetings and their appointments will be confirmed at the next AGM.
- 7.2.6. Delegating any of its powers, except policy making powers, to sub-committees
- 7.2.7. Rescinding the delegated powers so given at any time.

7.3. Committee Meetings

- 7.3.1. The Committee members may meet or hold meetings with the assistance of digital technology.
- 7.3.2. The Committee shall determine how, where and when it shall meet provided that the Committee members shall meet in person once out of a total of at least three (3) times in a year.
- 7.3.3. Voting at all meetings of the Committee shall be in accordance with accepted voting procedures.
- 7.3.4. When a voting deadlock occurs, the Chair or the presiding officer shall use their vote as a casting vote.
- 7.3.5. The Chair may adjourn a meeting *sine die* or to a date determined by the meeting.
- 7.3.6. A quorum of any meeting shall be fifty percent (50%) of the members plus one (1). If a quorum is not present, the Chair may adjourn the meeting for thirty (30) minutes and then recommence with members present provided there is then a quorum.

7.3.7. Minutes of all meetings shall be kept in writing, circulated to members of the Committee to ratify and shall be formally adopted at the subsequent Committee meeting.

7.4 Sub-committees or Portfolio Committees

The Committee may:

7.4.1 Appoint sub-committees/portfolio committees.

7.4.2 Define how many members sub-committee/portfolio committees shall comprise and their terms of reference.

7.4.3 Delegate specific powers to sub-committees/portfolio committees.

7.4.4 Withdraw these delegated powers as and when it deems fit.

8. ANNUAL GENERAL MEETING (AGM)

8.1. Date of Meeting

8.1.1. An AGM shall be held once in every twelve (12) month period, within six (6) months of the end of the financial year.

8.1.2. The date, time and place of an AGM or SGM will be determined by the Committee.

8.2. Notice of Meeting

All Members must be notified of the date and venue of such a meeting, in writing, at least twenty one (21) days before the date of the meeting. The meeting notice shall include an agenda as well as a statement that proposed additional agenda items must be submitted to the Committee in writing 14 days prior to the date of the AGM.

8.3. Agenda

The agenda for an AGM shall be determined by the Committee and must include:

8.3.1. The Chair's review of the previous year's business

8.3.2. A financial report of NHCB's accounts for the financial year

8.3.3. Fixing of subscription fees

8.3.4. Election of the Committee; and

8.3.5. A Report to the members in respect of the plans approved or declined and any appeals involved.

8.4. Quorum

A quorum for the AGM shall be twenty five percent (25%) of the paid up Members present in person or by designated proxy. If a quorum is not present at the scheduled time for the meeting to commence, the Chair may adjourn the meeting for at least thirty (30) minutes. When the meeting resumes, and there is still no quorum, the meeting shall be postponed to a later date, no more than 40 days hence.

8.5. Secret ballots

Any resolution to be voted on at an AGM may be decided by a majority show of hands, or the Members may decide by a show of hands that a secret ballot should be held. The Chair of the meeting may decide in the absence of a request (by delegates) to hold a secret ballot.

8.6. Proxy Votes

Any Member who is eligible to attend and vote at any meeting, but who is unable to attend in person, shall be entitled to vote by proxy on any matter raised. An authorization should be signed by the Member (not able to attend the meeting) and sent to the Secretary/Chair twenty four (24) hours prior to the meeting.

9. SPECIAL GENERAL MEETINGS (SGM)

9.1. Reasons for SGM

9.1.1. A SGM may be called by the Committee as and when it is deemed necessary.

9.1.2. A SGM must also be called by the Committee when five (5) Members

9.1.2.1. Have all signed the request for a meeting; and

9.1.2.2. Have submitted the request to the Committee and stated the reasons for, and the purpose of, the proposed meeting.

9.2. Date of Meeting

The date, time and place of a SGM will be determined by the Committee.

9.3. Notice of Meeting

All Members must be notified in writing of the date and venue of such a meeting, at least twenty one (21) days before the date of the meeting.

9.4. Agenda

9.4.1. When a SGM is called on the initiative of the Committee, it shall determine the agenda.

9.4.2. When a SGM is held in terms of subsection 9.1, the agenda must first deal

with the matter raised for the meeting and may then include other business.

9.5. Decision of the SGM

The decision of the SGM will be final and binding on the Committee.

9.6. Quorum

A quorum for the SGM shall be twenty five percent (25%) of the Members either present in person or by designated proxy. If a quorum is not present at the scheduled time for the meeting to commence, the Chair may adjourn the meeting for at least thirty (30) minutes, or postpone, to a later date.

9.7. Secret Ballots

Any resolution to be voted on at an SGM may be decided by a majority show of hands, or the Members may decide by a show of hands that a secret ballot should be held. The Chair of the meeting may decide in the absence of a request (by delegates) to hold a secret ballot.

9.8. Proxy votes

Members are entitled to vote by proxy as set out for AGMs.

10. AMENDMENTS OF THE CONSTITUTION

10.1. Written Notice

Amendments to the Constitution in the form of a written special resolution of the Members shall be decided upon at an AGM or SGM of NHCB, convened for that purpose, and upon written notice of such meeting having been communicated to each paid up Member no less than twenty one (21) days before the date of the meeting.

10.2. Ballot vote required

A ballot vote is required to change this Constitution. This requires that at least two thirds of the Members present vote for the proposed change.

11. DONATIONS

NHCB may accept donations from individuals and non-individuals. The Committee may refuse to accept a donation for considered reasons, which decision shall be communicated to the AGM.

12. PERPETUAL SUCCESSION

NHCB shall continue notwithstanding changes to the composition of its Members or office bearers and shall only be deemed to have become dormant if it is unable to fulfil its purpose and/or objectives.

13. INTERPRETATION

If any dispute should arise at any Committee or general meeting with regard to the interpretation of this Constitution, the Chair of the meeting shall rule thereon. Such a ruling may be overturned by a majority of those physically present at the meeting provided that the minimum quorum is maintained.

14. DISSOLUTION OF NHCB

NHCB may be dissolved and/or reconstituted and/or merged with another association with similar purposes and objectives when either:

- 14.1. A resolution is passed by not less than two thirds of Members present in person or by proxy at a duly constituted SGM or AGM of the Members of NHCB; or
- 14.2. A properly constituted application is made to the High Court by a Member of NHCB on the grounds that NHCB has become dormant, or is unable to fulfil its purposes or objectives. Such application shall not be brought unless the Member requiring dissolution, reconstitution or merger has arranged a general meeting that did not achieve a quorum.
- 14.3. As part of the dissolution, reconstitution or merger, the assets of the NHCB which remain after all its liabilities have been met, must be transferred to another non-profit organisation having similar objectives to the NHCB.

15. LEGAL POWERS OF MEMBERS

- 15.1. The Members have the legal power to open and operate banking and investment accounts with any financial institution registered in South Africa in the name of the NHCB Reserve Fund.
- 15.2. The Members have the legal power to sign and operate these accounts as provided for by the banking regulations of the country.
- 15.3. The organisation's financial transactions shall be conducted by means of a bank account.

15.4. All signing authority must be with at least two (2) Members, one of which must be a Member of at least two years standing.

16. DISPUTE RESOLUTION

In the event of a dispute arising between the Members themselves, the Members and NHCB, the Members and any other party, and such dispute is not able to be resolved internally by the NHCB, the dispute shall be finally resolved in accordance with the Rules of the Arbitration Foundation of Southern Africa and by an arbitrator appointed by the Foundation.

17. ACCEPTANCE

Accepted at the NHCB Annual General Meeting on this day

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Signed:

Chair:

Signature	Printed Name
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Secretary:

Signature	Printed Name
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Final amended version 23 May 2024