



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 Heritage Resources Act (NHRA) 2/1999
- National Heritage Steering Committee Act (NHCA) 11/1999 and
- any amendments to 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:

- A. exist in its own right, separately from its Members, namely individuals and autonomous bodies;
- B. continue to exist despite the changes that may occur in regard to the individuals or autonomous organisations that constituted NHCB at the time of its inauguration.

3. DEFINITIONS

- A. "Steering Committee" is the committee of the Members elected at each Annual General Meeting (AGM) and responsible for the implementation and establishment of policy between AGMs
- B. "Member" shall mean an individual or autonomous body that subscribes to the objectives of NHCB in the classes referred to under 5.2: Classes of Members.
- C. "Executive Committee" shall mean a non-policy making body delegated to manage and administer the organisation on a day to day basis.
- D. "He/his/him" as reference to gender shall have the same meaning as the feminine form.
- E. "Heritage Resources" means the National Estate as defined in the NHRA.
- F. The "Annual General Meeting" (AGM) or "Special General Meeting (SGM)" shall mean the meetings of NHCB Members.

4. OBJECTIVES

The objectives of NHCB are:

- A. To advocate and make publicly aware the need for the conservation of the heritage resources of Napier by all means possible including the use of public digital media and an internet based website.
- B. To liaise and co-operate with other organisations and structures having an interest in the conservation of heritage resources in Napier.
- C. To provide aesthetical and development guidelines in cooperation with Cape Agulhas Municipality in both the municipal boundary as well as the surrounding conservation area of Napier.
- D. To define the geographical area in which Napier Heritage Assets are to be recorded and protected
- E. To assist Cape Agulhas Municipality to develop and maintain an up to date Heritage Asset Register

5. MEMBERS

A. Eligibility

Member status of NHCB shall be open to all groups and to individuals who profess an interest in the conservation of the National Estate and who shall agree to abide by the letter and spirit of this Constitution.

B. Classes of Members



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i. Member Bodies

Member Bodies are organisations that profess to share the objectives of this Constitution. Member bodies are entitled to be represented at all AGMs and SGMs. One individual can be nominated to represent the organisation and to vote on behalf of the Member Body at such meetings

ii. Honorary Members

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

iii. Individual Members

Individual members must own property in Napier to qualify and will be obliged to read and abide by this constitution.

C. Voting Rights of Members

All Members have one (1) vote at AGMs and SGMs.

D. Termination of Member Status

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

E. Appeals against Termination of Memberships

- i. The appeal hearing shall be by an independent arbitrator who must be appointed by the Steering 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.
- ii. In the event that the two parties cannot agree on an arbitrator within the time stipulated, the Steering Committee shall appoint an independent arbitrator and the Steering Committee's decision shall be final and binding upon the appellant.

F. Member Subscriptions

- i. 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 in the various categories of Membership. The Steering Committee may exempt Members at their discretion.
- ii. Members in arrears of their subscriptions may be stripped of their voting power if the Steering Committee sees fit.
- iii. A Member who refuses to contribute after an application for exemption to pay has been refused by the Steering Committee may be stripped of his right to vote by the Steering Committee provided that the Member may appeal the decision of the Steering Committee.

6. BUSINESS AND AFFAIRS

A. Financial Year

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



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B. Annual Accounts

The Steering 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.

C. Reimbursement

NHCB may not give any of its money or property to staff, Members or office bearers, provided that it may pay for work or reimburse expenses that a staff member, Member, or office bearer has incurred on behalf of NHCB. Authority for such payments shall be approved by the Steering Committee in writing prior to the expense being incurred.

D. Indemnity

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

E. Liability

Every Member's liability shall be limited to his unpaid subscriptions

7. STEERING COMMITTEE

A. Nomination and Election of the Steering Committee

- i. The Chairperson shall be elected at the AGM. The Chairperson cannot serve for more than three (3) consecutive years except when by a two thirds majority ballot his term may be extended for a maximum period of one additional year.
- ii. The Steering Committee consisting of at least five (5) members shall be elected at the AGM.
- iii. The office bearers shall be elected by the Steering Committee from within its own ranks at its first meeting.

B. Powers and duties of the Steering Committee

- i. The Steering Committee shall be responsible for managing the affairs of the NHCB in terms of its mandate.
- ii. Subject to the terms of this Constitution the Steering Committee shall have the power to set policy which does not conflict with the Constitution or the mandate of the AGM or SGM and shall distribute any policy decisions taken to the Members.
- iii. Carry out the approved policy of NHCB during its term of office.
- iv. Generally deal with the property of the Association including buying, 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, or in such other manner as may be prescribed from time to time by an AGM.
- v. All transactions that involve physical movable or immovable property must be confirmed by an AGM.
- vi. Initiate and defend legal proceedings in the name of NHCB and perform all legal acts and execute such legal and other documents as may be necessary with the approval of a general meeting.
- vii. The Steering Committee may co-opt additional persons to the Steering Committee and to sub-committees of the Steering Committee who shall have voting powers and which the next AGM must confirm.
- viii. Delegate any of its powers, except policy making powers, to sub-committees.
- ix. Rescind the delegated powers so given at any time.



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C. Steering Committee Meetings

- i. The Steering Committee members can meet or hold meetings with the assistance of technology. In either instance, the decisions shall be valid and binding provided they conform to the constitutional provisions and accepted standards.
- ii. The Steering Committee shall determine how, where and when it shall meet provided that Steering Committee members shall meet in person once out of a total of at least three (3) times in a year.
- iii. Voting at all meetings of the Steering Committee shall be in accordance with accepted voting procedures.
- iv. When a voting deadlock occurs, the Chairman or the presiding officer shall use his vote as a casting vote.
- v. The Chairman of the Steering Committee may adjourn a meeting *sine die* or to a date determined by the meeting.
- vi. A quorum for any meeting shall be fifty percent (50%) of the members plus one (1). If a quorum is not present the Chairman can adjourn the meeting for thirty (30) minutes and then recommence with members present (in person or by skype).

D. The Executive Committee of the Steering Committee

The Steering Committee may appoint an executive committee with a defined brief, or terms of reference, and with defined delegated powers.

E. Sub-Committees or Portfolio Committees of Steering Committee

The Steering Committee may:

- i. Appoint sub-committees/portfolio committees.
- ii. Define how many members sub-committee/portfolio committees shall comprise and their terms of reference.
- iii. Delegate specific powers to sub-committees/portfolio committees.
- iv. Withdraw these delegated powers as and when it deems fit.

F. Annual General Meeting (AGM)

i. Date of Meeting

- An AGM shall be held once in every twelve (12) month period, within six (6) months of the end of the financial year.
- The date, time and place of an AGM or SGM will be determined by the Steering Committee.

ii. 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.

iii. Agenda

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

- A Chairman's review of the previous year's business.
- A financial report of NHCB's accounts for the financial year.
- Fixing of subscription fees.
- Election of Chairman and Steering Committee.
- Additional agenda items may be added from the floor at the meeting.
- Report to the members in respect of the plans approved or declined & any appeals involved

iv. Quorum

A quorum for the AGM shall be twenty five percent (25%) of the Members present in person or by designated proxy. If a quorum is not present at the scheduled time for the meeting to commence, the Chairman may adjourn the meeting for at least thirty (30) minutes when the meeting resumes, the number of Members that are present, shall then constitute a quorum.

v. Secret Ballots

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



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vi. 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/Chairman prior to the meeting.

H. Special General Meetings (SGM)

i. Reasons for SGM

- A SGM may be called by the Steering Committee as and when it is deemed necessary.
- A SGM must also be called by the Steering Committee when five (5) Members have:
 - all signed the request for a meeting.
 - submitted the request to the Steering Committee and stated the reasons for, and the purpose of, the proposed meeting.

ii. Date of Meeting

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

iii. Notice of Meeting

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

iv. Agenda

- When an SGM is called on the initiative of the Steering Committee it (the Steering Committee) shall determine the agenda.
- When an SGM is held in terms of subsection 7.7.1 the agenda must first deal with the matter raised for the meeting and can then include other business.

v. Decision of the SGM

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

vi. Quorum

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

vii. Secret Ballots

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

viii. Proxy Votes

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

8. AMENDMENT OF THE CONSTITUTION

A. 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 Member no less than twenty one (21) days before the date of the meeting.

B. Ballot Vote Required



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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.

9. DONATIONS

NHCB may accept donations from individuals and non individuals.

10. 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 fulfill its purpose and/or objectives.

11. INTERPRETATION

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

12. DISSOLUTION OF NHCB

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

- A. A resolution is passed by not less than two thirds of Members present in person or by proxy at a duly constituted meeting of the Members of NHCB.
- B. A merger has occurred or is due to take place, then the assets of NHCB may be transferred to the body with which the merger is being effected, unless the terms of the merger specifically exclude the assets of NHCB.
- C. A properly constituted application is made to the Supreme Court by an Member of NHCB on the grounds that NHCB has become dormant, or is unable to fulfill its purposes or objectives, then the assets of NHCB shall be transferred to the body with which the merger is being affected. Such application shall not be brought until the Member requiring dissolution has arranged a general meeting that did not achieve a quorum.
- D. A default disposal of assets to an organisation with compatible aims

13. LEGAL POWERS OF THE MEMBERS

- i. 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.
- ii. The Members have the legal power to sign and operate these accounts as provided for by the banking regulations of the country.
- iii. All signing authority must be with at least two (2) Members, one of which must be a permanent Member.

14. DISPUTE RESOLUTION

In the event of a dispute arising between the Members themselves, the Members and NHCB, the Members and any other party, the dispute will be referred to L van Wyk Attorneys, or any other local (CAM based) Attorney for