

**BOESMANS-KARIEGA ESTUARY CARE FORUM
(ESTUARY CARE)**

Constitution

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BOESMANS-KARIEGA ESTUARY CARE FORUM

CONSTITUTION

As amended on 4 June 2024

1. NAME

The name of the Organization referred to as a Forum, shall be the Boesmans-Kariega Estuary Care Forum and it shall generally be known as Estuary Care.

2. CORPORATE EXISTENCE

The Forum shall be a legal *persona* having perpetual succession and capable of suing and being sued in its own name and able to own property, movable and immovable, corporeal and incorporeal and acquire rights and obligations apart from its members who will not be answerable for the debts of the Forum. The *domicilium* of the Forum shall be at such physical address as the executive committee may determine.

3. AIM

The aim of the Forum is to assist with and advise on the formulation and implementation of Government Policy on water and sustainable coastal and estuarine environmental management in South Africa with particular reference to the Boesmans and Kariega areas.

4. OBJECTS

Given that the Boesmans and Kariega Estuaries and surrounding coastal areas form the heart of its surrounding community and that responsible and sustainable preservation of their fragile ecosystems and natural beauty is vital to the residents of, and visitors to, the area, the objects of the Forum are to:

- 4.1 ensure responsible and sustainable preservation and use of the Boesmans and Kariega Rivers and their tributaries and environs from their sources to their mouths and the adjacent coastal areas (“the Estuaries”);

- 4.2 ensure that any development within the Estuaries is carried out sensitively and responsibly, so that the natural advantages of all relevant parts of the Estuaries shall be conserved and maintained;
- 4.3 to encourage the preservation of all wild life in the Estuaries, including fauna, flora, fish, shellfish and bird life within the area and the tidal waters and mud flats of the Estuaries, and, for the achievement of the above objects and without derogating from the generality thereof:
- 4.4 enable the organised participation of stakeholders in the co-operative management of the Estuaries; and
- 4.5 assist and advise all competent Government agencies and other authorities in the drafting, promulgation, amendment and enforcement of laws and regulations for the promotion of sustainable use, development and protection of Estuary resources and for the protection of all marine, animal, floral and avian life in and around the Estuaries and in inland and tidal waters generally throughout the Republic;
- 4.6 monitor the activities of anglers, boating clubs, underwater sportsmen, surfers, swimmers and other recreational users of the Estuaries;
- 4.7 foster interest in the conservation and preservation of all forms of marine, animal, floral and avian life and to assist in the collection of scientific knowledge thereof;
- 4.8 secure consultation with authorities concerned with the development of the Estuaries and their surrounding areas in respect of projects for industrial, commercial or residential development, with the object of ensuring that such development be planned or permitted in such a way as to further the objects of the Forum;
- 4.9 affiliate, co-operate and exchange information with any person or association of persons, having objects similar to those of the Forum.

5. POWERS

The Forum shall be empowered:-

- 5.1. to collect subscriptions, donations and contributions in cash or in property, whether movable or immovable in order to provide finance for the achievement of the Forum's objects;
- 5.2. to use the funds of the Forum solely for the objects of the Forum;
- 5.3. to, rent or acquire by purchase or otherwise land, buildings, vehicles, boats or other movable property required for the attainment of the Forum's objects and to sell or otherwise dispose of, develop or hire out any property so acquired;
- 5.4. to invest any funds not immediately required for the purposes of the Forum in financial institutions as defined in Section 1 of the Financial Services Board Act 1990; and to re-invest the income from such investments from time to time;
- 5.5. to make grants or donations to any person or body for the purpose of financing any work, project or activity likely to advance the objects of the Forum;
- 5.6. to borrow money and to secure the repayment thereof by pledging or mortgaging any of the assets of the Forum whether movable or immovable;
- 5.7. to prepare, publish and disseminate such publications as may be considered likely to advance the objects of the Forum;
- 5.8. to engage and pay such staff as may be required;
- 5.8.1. to defend legal proceedings against the Forum and to institute legal proceedings on behalf of the Forum in order to protect its rights or attain its objects,
- 5.9. to appoint bankers and, if deemed necessary, auditors to the Forum.

6. MEMBERSHIP

- 6.1. Membership shall be open to the following persons who have applied for membership and who have been approved by the committee in the appropriate membership group and who, save as is specifically stated, enjoy equal rights privileges and obligations:-
- 6.1.1. ordinary members of the Forum who subscribe to the objects of the Forum;
- 6.1.2. honorary members of the Forum who subscribe to the objects of the Forum and who are elected as honorary members by the executive committee;
- 6.1.3. *ex officio* members who are admitted as members by virtue of the office which they occupy in:
- 6.1.3.1. the Department of Community Services of the Ndlambe Municipality
- 6.1.3.2. the Ward Committee for Ward 3 of the Ndlambe Municipality
- 6.1.3.3. the Ward Committee for Ward 4 of the Ndlambe Municipality;
- 6.1.3.4. the National Department of Environmental Affairs and Tourism
- 6.1.3.5. South African National Parks;
- 6.1.3.6. the Council of the Ndlambe Municipality and
- 6.1.3.7. and any other Governmental or non-Governmental organisation which the Committee deems from time to time to be a stakeholder in the Estuaries;
- 6.1.4. Corporate members, being any organisation with an interest in the Estuaries. Corporate members shall be represented by an individual nominated by the corporate member to represent it.

- 6.2 Admission to membership shall be at the sole discretion of the committee, which shall not be required to furnish its reasons for any decisions to admit or exclude any applicant for membership.
- 6.3 The committee shall be empowered to appoint a Patron-in-Chief and such Patrons of the Forum as it may think fit.

7. SUBSCRIPTIONS

Annual membership fees shall be determined by the Committee from time to time, except that any Patron, honorary member and *ex officio* member shall be exempt from paying any fees. However the Committee shall at its sole discretion have the right to waive fees for such Corporate Members as can show that they are unable to pay such fees.

8. RIGHTS OF MEMBERS

- 8.1. Membership of the Forum does not give any member a right to any of the moneys, property or assets of the Forum.

9. MANAGEMENT OF THE FORUM

- 9.1. The management of the Forum's affairs shall be conducted by a committee, which shall consist of:
- 9.1.1. a Chairperson, vice chairperson, secretary and treasurer, who shall accept fiduciary responsibility for the Forum and who shall be elected at an Annual General Meeting;
- 9.1.2. *ex officio* members, being the representatives appointed to the committee by:
- 9.1.2.1. the Department of Community Services of the Ndlambe Municipality

- 9.1.2.2. the Ward Committee for Ward 3 of the Ndlambe Municipality
- 9.1.2.3. the Ward Committee for Ward 4 of the Ndlambe Municipality;
- 9.1.2.4. the National Department of Environmental Affairs and Tourism
- 9.1.2.5. South African National Parks
- 9.1.2.6. any other Governmental or non-Governmental Organisation which the Committee deems from time to time should be represented on the Committee;
- 9.1.3 an *ex officio* member, being a Councilor of the Ndlambe Municipal Council selected by the Committee; and
- 9.1.4 not more than ten other members, all of whom shall be elected at an annual general meeting.
- 9.2. The term of office of committee members (other than the *ex-officio* members) shall be 3 years, but outgoing committee members shall be eligible for re-election. The term of office of one third of those committee members (other than the *ex-officio* members) who are in office at the commencement of this constitution shall terminate at the next annual general meeting, the term of office of another third at the following annual general meeting, and the term of office of the last third at the next following annual general meeting. The committee shall determine which of its members fall into each third.
- 9.3. The committee shall have the power to invite any individual person, official or representative of any club or organisation to attend a committee meeting and to join in deliberations of the executive committee.
- 9.4. The committee shall:-

- 9.4.1. save at annual general meetings, represent and act on behalf of the Forum in all matters and for all purposes;
 - 9.4.2. fix places and dates of general meetings;
 - 9.4.3. interpret the meaning of any clause of this constitution and adjudicate on any matter referred to it for decision and such adjudication shall by majority vote, be binding on any member;
 - 9.4.4. appoint such sub-committees as it may deem necessary for any special purpose.
 - 9.4.5. appoint and constitute an executive committee as it may deem necessary for the purpose of streamlining decision making.
 - 9.4.6. in its discretion, co-opt any person or persons to serve on the executive committee for the remainder of the current period of office, whether to fill a vacancy or otherwise;
- 9.5. The chairperson shall fix places and dates of committee meetings.

10. ANNUAL GENERAL MEETING

- 10.1. The annual general meeting of the Forum shall be convened by the committee within six months of the completion of the Forum's financial year. The secretary shall forward by e-mail to each member who has furnished the Forum with an e-mail address at least twenty-one (21) days' written notice of the meeting. Written notice of any item to be included on the agenda may be given by a member to the secretary, by e-mail or otherwise, to be received by the secretary not later than seven (7) days before the date of the annual general meeting.
- 10.2. Ten (10) persons or one fifth of the total membership (whichever is the lesser) entitled to vote as members and present in person shall constitute a quorum at any annual general meeting. If no quorum is present within half hour after the time

fixed for the meeting, the meeting shall stand adjourned to a date 7 (seven) days later at the same time and place. At such adjourned meeting the members then present shall be deemed to be a quorum and shall be entitled to transact all the business of the meeting.

- 10.3. Each member in good standing and present at the meeting shall be entitled to one vote.
- 10.4. The chairperson of the committee shall take the chair and failing him, the vice-chairperson shall do so. In the event of the absence of the chairperson and the vice-chairperson the meeting shall elect a chairperson from the members present to act as chairperson.
- 10.5. The business of the annual general meeting shall be as follows:-
- 10.5.1. approval of past minutes;
- 10.5.2. delivery and discussion of the chairperson's and/or committee's report;
- 10.5.3. delivery and discussion of the treasurer's report, including the financial report for the past financial year;
- 10.5.4. delivery and discussion of any matter approved by the committee;
- 10.5.5. the election of committee members.

11. GENERAL MEETINGS

General meetings may be held at the discretion of the committee and the provisions of clause 10 shall *mutatis mutandis* apply to notices and procedure at such meetings.

12. SPECIAL GENERAL MEETINGS

- 12.1. Special general meetings shall be convened by the committee either upon its own initiative or upon the written request of at least ten (10) members. Such written request shall clearly set forth the purpose for which the special general meeting is required.
- 12.2. Within fourteen (14) days after receipt of such a request, the secretary shall forward, by e-mail to each member who has furnished the Forum with an e-mail address, a notice convening the special general meeting which shall give a minimum of twenty-one (21) days notice of the meeting together with an agenda. The rules governing the procedure at an annual general meeting shall apply *mutatis mutandis* to special general meetings, save that the business of the meeting shall be confined to the items or subjects set out on the agenda and that twenty five (25) persons or one fifth of the total membership of the Forum (whichever is the lesser) entitled to vote as members, shall constitute a quorum. If no quorum is present within half an hour of the time fixed for the meeting, the meeting shall be adjourned and the items contained in the agenda placed on the agenda for the next annual general meeting.

13. COMMITTEE MEETINGS

- 13.1. The committee shall meet at least twice in every financial year.
- 13.2. Notice of meetings as may be determined by the chairperson, shall be given to members of the committee.
- 13.3. At all meetings five (5) members shall constitute a quorum. If no quorum is present within half an hour after the time fixed for the meeting the meeting shall stand adjourned to a date seven days later at the same time and place and at such adjourned meeting and the members, then present shall be deemed to be a quorum and shall be entitled to transact all the business of the meeting.
- 13.4. If neither the chairperson nor the vice-chairperson is present, the members present shall elect one of their numbers to act as chairperson and in all cases of an equality of votes, the chairperson of the meeting shall have a casting vote.

14. FINANCE

- 14.1. The Forum shall open and operate a banking account as determined by the committee.
- 14.2. All transfers of funds, whether electronic or otherwise, shall be authorised in writing by any two (2) of the following: chairperson, vice-chairperson, secretary or treasurer or if an executive committee has been constituted, by any two (2) members of the executive committee.
- 14.3. Proper books of account shall be kept, reflecting all business transactions of the Forum.
- 14.4. The financial year of the Forum shall end on the last day of October in each year and a detailed income and expenditure account and a balance sheet at that date shall be drawn up by the treasurer in accordance with generally accepted accounting practice.
- 14.5. The appointed treasurer shall at the end of each financial year, examine the books of the Forum and if necessary, have them certified by an independent Accounting Officer appointed by the Committee, before the financial report is presented at the annual general meeting. An annual income tax return shall be submitted to SARS.
- 14.6. The Forum shall not be liable for any debts incurred by any official of the Forum without the sanction of the executive committee.

15. COMPLIANCE WITH SECTION 30 OF THE INCOME TAX ACT

15.1. The activities of the Forum are carried on in a non-profit manner and with an altruistic or philanthropic intent.

15.2. No activity will directly or indirectly promote the economic self-interest of any fiduciary or employee of the Forum otherwise than by way of reasonable remuneration.

15.3. At least three persons who accept fiduciary responsibility for the Forum will not be connected persons in relation to each other, and no single person directly or indirectly controls the decision making powers relating to the Forum.

15.4. No funds will be distributed to any person (other than in the course of undertaking any public benefit activity).

15.5. The funds of the Forum will be used solely for the objects for which it was established.

15.6 The organization is and will not be knowingly become a party to, and does not and will not knowingly become a party to, and does not and will not knowingly permit itself to be used as part of an impermissible avoidance arrangement contemplated in Part IIA of Chapter III of the Income Tax Act, 1962, or a transaction, operation or scheme as contemplated in section 103(5) of that Act

15.7. No donation will be accepted which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of section 18A: Provided that a donor (other than a donor which is an approved public benefit organisation or an institution, board or body which is exempt from tax in terms of section 10(1)(cA)(i), which has as its sole or principal object the carrying on of any public benefit activity) may not impose any conditions which could enable such donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation.

15.8. No remuneration will be paid to any employee, office bearer, member or other person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered and has not and will not economically benefit any person in a manner which is not consistent with its objects.

15.9. No resources will be used, directly or indirectly, to support advance or oppose any political party.

16. AMENDMENTS/NOTICES

16.1 The constitution shall be amended only with the approval of two thirds of the members present and entitled to vote at an annual general meeting or special general meeting of the Forum.

16.2 Non-receipt by a member of any written notice of a meeting will not affect the validity of any meeting or decisions taken there at.

16.3 The Commissioner for the South African Revenue Service shall be informed of amendments to the Constitution within 30 days after such amendments, by a committee member with fiduciary responsibility.

17. DISSOLUTION / WINDING UP

17.1 The Forum may be dissolved at a general meeting by resolution passed by not less than 2/3 (two thirds) of the members or their proxies present at such a meeting, which meeting shall specifically be called only for the purpose of such dissolution.

17.2 Upon the winding up or liquidation or within six months from the withdrawal of its exemption (or such longer period as the Commissioner may allow), the Forum shall transfer its assets remaining after the satisfaction of its liabilities to: -

- (a) Another entity with similar objects and which is approved in terms of section 10(1)(d)((iii) or (iv) of the Income Tax Act, 1962; or
- (b) a public benefit organization approved in terms of section 30 of the Act; or
- (c) any institution, board or body approved in terms of section 10(1)(cA)(i) of the Act; or
- (d) any department of state or administration in the national or provincial or local sphere of government of the Republic, contemplated in section 10(1)(a) or (b) of the Act, which is required to use those assets solely for purposes of carrying on one or more public benefit activities.

17.3 When the organization closes down it has to pay off all its debts. After doing this, if there is property or money left over it should not be paid or given to members of the organization. It should be given in some way to another non-profit organization that has similar objectives. The organization's general meeting can decide what organization this should be.

18. ADOPTION OF THE CONSTITUTION

This constitution as amended, was approved and accepted by members of the Boesmans-Kariega Estuary Care Forum at Boesmansriviermond on 4 June 2024.

A handwritten signature in black ink, appearing to be 'CG Wilmot', written in a cursive style.

CG Wilmot – Chairperson