

Constitution of the Kuseb Basin Management Committee

List of Acronyms and Abbreviations

BMC	Basin Management Committee
CBNRM	Community Based Natural Resource Management
CETN	Coastal Environment Trust of Namibia
DEES	Directorate of Extension and Engineering Services
DRFN	Desert Research Foundation of Namibia
DRWS	Directorate of Rural Water Supply
DWA	Department of Water Affairs
EC	European Commission
ELAK	Environmental Learning and Action in the Kuseb
EON(N)	Environmental Observatories Network of Namibia
ERC	Erongo Regional Council
EU	European Union
FIRM	Forum for Integrated Resource Management
GRN	Government
GTRC	Gobabeb Training and Research Centre
KB	Kuseb Basin
KBMC	Kuseb Basin Management Committee
MAWRD	Ministry of Agriculture Water and Rural Development
MET	Ministry of Environment and Tourism
MFMR	Ministry of Fisheries and Marine resources
MME	Ministry of Mines and Energy
MoA	Memorandum of Agreement
MoU	Memorandum of Understanding
NC	Nature Conservation
NCCI	Namibia Chamber of Commerce and Industry
SHs	Stakeholders
TCF	Topnaar Community Foundation
ToR	Terms of Reference
WBM	Municipality of Walvis Bay
WPC	Water Point Committee

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1. NAME OF THE COMMITTEE AND AREA OF RESPONSIBILITY:

- 1.1. The name of the Committee shall be the Kuiseb Basin Management Committee, hereinafter in the Constitution referred to as “KBMC”.
- 1.2. The “Kuiseb basin” represents the area of jurisdiction of the KBMC as depicted on the map attached to this Constitution. The Kuiseb Basin comprises the surface drainage system of the Kuiseb watercourse/catchment up to the topographic divides with the Swakop, Oanob, Fish and Tsondeb drainage systems, including any endoreic and semi-endoreic drainage areas in between, and bound by a tentative straight line south of the boundary between the Erongo and Hardap regions through the Namib dunes to the south west up to the sea.

2. DEFINITIONS:

In this Constitution the words below shall have the meanings given hereunder:

- 2.1. “commercial farmer” means a person who is engaged in agricultural practices on any land registered in his/her name. Such farmers could also be referred to as Title Deed Farmers. The Commercial farmer does not have to be restricted to agricultural livelihood but may supplement income with alternative endeavours.
- 2.2. “communal farmer” refers to a person to whom a right has been granted to occupy and engage in farming practices on shared, communal land. This person could also be referred to as a farmer in the Freehold Sector, whom is not afforded individual private ownership over the land in question. Communal land is any area which is declared to be communal land under section 16 of the Communal Land Reform Act and described in schedule one of such act.
- 2.3. “core stakeholder” means an organisation identified during the stakeholder workshop sessions as representing people, industry, commerce, animals or plants depending on the Kuiseb basin for their livelihood and survival, or affecting the availability and quality of the water in Kuiseb basin.
- 2.4. “ecological integrity” means the unimpaired ability of an ecosystem to respond to environmental changes without losing key elements, processes or services. An ecosystem is recognised as healthy when indicators, such as those relating to productivity or biodiversity, do not cross threshold limits. This is determined through monitoring.
- 2.5. “ELAK” means Environmental Learning and Action in the Kuiseb and refers to the project: Decision Making in the Kuiseb River Catchment: Interactive

Environmental Learning and Action. This refers to the three year European Union funded project implemented by the Desert Research Foundation of Namibia to test and implement basin management within the Kuiseb Basin.

- 2.6. “Kuiseb Basin Forum” means those organisations that are associated with or interested in, connected to or hold some stake in the Kuiseb basin, and includes many organisations not regarded as a core stakeholder.
- 2.7. “leading agency” refers to the Water Resources Management Agency within the Ministry of Agriculture, Water and Rural Development (MAWRD).
- 2.8. “member” means a person duly nominated by and representing a core stakeholder organisation.
- 2.9. “Minister” shall refer to the Minister of Agriculture, Water and Rural Development.
- 2.9.2.10. “responsible institution” means an organisation specifically responsible for or mandated to implement, operate, control or monitor an issue where that specific issue falls within the jurisdiction of that organisation.

3. LEGAL STATUS:

- 3.1. The KBMC is established as a pilot project in terms of Clause 21 (1) (a) of the Draft Water Resources Management Bill, November 2001.
- 3.2. The KBMC shall act in an advisory capacity to the leading agency and the Minister on all water related issues affecting the Kuiseb basin.
- 3.3. Members shall only have such rights and privileges as are expressly conferred upon them in terms of the Constitution and the Water Resources Management Bill.
- 3.4. The KBMC may advise and represent stakeholders based on their consent.
- 3.5. In case of a discrepancy between the Constitution and the Act, the Act will prevail.

4. VISION, FUNCTIONS (GOALS) AND STRATEGIC PLAN:

- 4.1. The Vision of the KBMC is

“the efficient and equitable access to water and sustainable, integrated use of related resources in the Kuiseb River basin”.

- 4.2. The Functions (Goals) of the KBMC as provided for in terms of the Water Resources Management Bill is as follows:

- 4.2.1. to promote community participation in the protection, use, development, conservation, management and control of water resources, including groundwater in its water management area through education and other appropriate activities;
 - 4.2.2. to prepare a water resources plan for the basin which plan shall be submitted to the Minister for consideration in the development of the National Water Master Plan provided for in Chapter 6 of the Water Resources Management [Bill](#);
 - 4.2.3. to make recommendations regarding the issuance of licenses and permits under the Water Resources Management [Bill](#);
 - 4.2.4. to promote community self-reliance, including the recovery of costs for the operation and maintenance and replacement of waterworks;
 - 4.2.5. to facilitate the establishment of an operation and maintenance system of waterworks and the accessing of technical support for associations within its water management area;
 - 4.2.6. to monitor and report on the effectiveness of policies and action in achieving sustainable management of the water management area;
 - 4.2.7. to collect, manage and share such data as are necessary to properly manage the basin in coordination with the agency provided for in Section 17 of the Water Resources Management [Bill](#);
 - 4.2.8. to develop a water research agenda, together with the Water Resources management Agency, appropriate to the needs of water management institutions and water users within its water management area; and
 - 4.2.9. to exercise any such additional functions as the Minister may delegate under Sections 14 (1) (d) and 15 of the Water Resources Management [Bill](#).
- 4.3. Additional **Functions** (Goals) identified [by the stakeholder forum](#) sessions and adopted by the KBMC are the following:
 - 4.3.1. Liaise on a local, regional and national level with all stakeholders, thus embodying full consultation and participation by local communities and stakeholders;
 - 4.3.2. Identify and resolve natural resource conflicts, where the KBMC will act in a facilitative capacity;
 - 4.4. For the purposes of attaining its vision and functions, the KBMC will put in place, review and execute a **Strategic Plan** on an annual basis, which Plan shall be in line with national Policies and Plans.

5. MANDATE OF THE COMMITTEE:

- 5.1. The KBMC shall administer the development by the leading agency of a suite of natural resource policies and strategies regarding the Kuiseb basin that will be the guideposts upon which development proposals will be evaluated to ensure basin sustainability.
- 5.2. Any development plans or other envisaged action by responsible authorities that will have a significant impact on the natural resources in the Kuiseb basin must be forwarded to the KBMC for review and discussion. The respective authorities may be requested to make a full presentation to the KBMC if so required and to clarify specific issues. The purposes of the discussions will be to establish:
 - 5.2.1. whether additional information is required;
 - 5.2.2. whether the proposed plans will contribute to the sustainable development of the Kuiseb basin, or
 - 5.2.3. whether the proposed plans will be contrary to this.

The KBMC will act in an advisory capacity to the development.

- 5.3. The KBMC should also discuss:
 - 5.3.1. any development or potential development within the water basin;
 - 5.3.2. the reports on monitoring and remedial actions; and
 - 5.3.3. other relevant activities within the water basin.
- 5.4. Recommendations shall be made to the Minister, the leading agency, or a responsible institution, on the route to follow regarding the sustainable development of the Kuiseb, including the execution of development plans.
- 5.5. The KBMC shall annually forward an assessment of the ecological health of the Kuiseb basin, together with the comments and recommendations, to the leading agency or the Minister.
- 5.6. The KBMC may establish sub-committees, referred to as Working Groups below. The KBMC may delegate any of its powers to the Working Group on such terms and conditions it may seem fit. The KBMC may vary or cancel any such delegations.

6. MEMBERSHIP:

- 6.1. Membership shall be restricted to core stakeholder organisations as defined in par 2 of the Constitution.
- 6.2. Members from such core stakeholder groups shall have the full competence and mandate to represent these broad groups of stakeholders and should keep effective liaison with them.

- 6.3. The core stakeholder group may change from time to time based on organisational developments or changes in the Kuiseb basin or its decision-making bodies.
- 6.4. Members nominated from government departments and local authorities must be in a senior position and have a responsibility in the field of natural water resource management.
- 6.5. Representatives from the Erongo and Khomas Regional Council shall be automatic members.
- 6.6. The following core stakeholder organisations were identified to form the basis of the KBMC:
 - 6.6.1. Department of Water Affairs
 - 6.6.2. NamWater
 - 6.6.3. Commercial farmers
 - 6.6.4. Communal farmers
 - 6.6.5. Municipality of Walvis Bay
 - 6.6.6. Gobabeb Training and Research Centre
 - 6.6.7. Ministry of Environment and Tourism
 - 6.6.8. Erongo Regional Council
 - 6.6.9. Khomas Regional Council
 - 6.6.10. Coastal Environmental Trust of Namibia
 - 6.6.11. Directorate of Extension and Engineering Services.
- 6.7. Individual persons shall be nominated as members by each core stakeholder organisation. A *secundus* shall also be nominated for each member and shall attend meetings in the absence of the nominated member. It shall remain the prerogative of the core stakeholder organisation to replace the nominated member or *secundus* if so required.
- 6.8. A member or his/her *secundus* shall cease to be a member of the KBMC when such member or *secundus* for whatever reason leaves the organisation he / she represents. The affected core stakeholder organisation shall within 3 months nominate a replacement member. Should a member or his/her *secundus* not be present for three (3) consecutive meetings, the Chairperson will request the member's organisation to nominate another member.
- 6.9. Membership of the KBMC is not closed, but shall be limited to a maximum of 12 members, with the provision that persons may be identified to be called upon to attend meetings to discuss specific issues where their expertise is required. New core stakeholder organisations shall apply to the KBMC for membership.
- 6.10. Members have the responsibility to give feedback to the organisation they represent.

7. CHAIRPERSON:

- 7.1. A Chairperson shall be elected by the members of the KBMC.
- 7.2. For each nomination there must be a seconder. Election shall be done by way of a show of hands with only the core stakeholders having voting rights. Should only one person be nominated, this person will automatically be elected as Chairperson.
- 7.3. To ensure continuity, the term of office of the Chairperson shall be two (2) years. Any person may be re-elected as Chairperson, but shall not serve more than two (2) consecutive terms.
- 7.4. The Chairperson shall be in charge of the routine functioning of the KBMC, which includes, chairing meetings, press statements, liaison with the Ministry and other stakeholders, etc.

8. VICE CHAIRPERSON:

- 8.1. A Vice Chairperson shall also be elected by the members of the KBMC.
- 8.2. For each nomination there must be a seconder. Election shall be done by way of a show of hands with only the core stakeholders having voting rights. Should only one person be nominated, this person will automatically be elected as Vice Chairperson.
- 8.3. To ensure continuity, the term of office of the Vice Chairperson shall also be two (2) years. Any person may be re-elected as Vice Chairperson, but shall not serve more than two (2) consecutive terms.
- 8.4. The Vice Chairperson shall act as Chairperson in his absence. Should the position of Chairperson become vacant as outlined above, then the Vice Chairperson shall automatically act as Chairperson until a new Chairperson is elected.

9. SECRETARIAT:

- 9.1. ELAK will continue to perform the secretariat duties for the 1st year of the KBMC. Thereafter the Secretariat will revert to the organisation of the Chairperson to ensure continuity.
- 9.2. The Secretariat will perform all the agenda and minute taking duties as outlined elsewhere in the Constitution.
- 9.3. The Secretariat must confirm with all members of the KBMC one (1) week prior to each meeting regarding their attendance and receipt of all the documentations.

- 9.4. The Secretariat shall at all times keep a register of the members of the KBMC and of the broader Kuiseb Basin Forum and the said register shall at all times be open for inspection.
- 9.5. Should a meeting of the KBMC be adjourned due to a quorum not being present, the Secretariat shall within forty eight (48) hours inform all members not present of the adjournment of the said meeting.

10. TREASURER:

- 10.1. A Treasurer shall be appointed from amongst the members. Any person may be re-elected as Treasurer, but shall not serve more than two (2) consecutive terms.
- 10.2. The Treasurer shall be responsible for the financial management of the KBMC and report back quarterly to the KBMC on the financial status thereof. All accounting records of the KBMC shall at all times be open for inspection by any member.
- 10.3. A banking account shall be opened by the Treasurer and all monies received shall be deposited into the banking account.
- 10.4. The Treasurer with the approval of the KBMC shall be responsible for the investment of funds.
- 10.5. Signing powers are given to the Chairperson, Vice Chairperson and the Treasurer, of which any two (2) may co-sign cheques.
- 10.6. The Treasurer shall prepare annual financial statements according to generally accepted accounting principles and have these statements audited. The auditors shall be appointed by the KBMC. The audited report shall annually be submitted to the broader Kuiseb Basin Forum for information.

11. MEETINGS:

- 11.1. The Secretariat will inform all members in writing at least four (4) weeks in advance of meetings to take place. The date, time and venue of the next meeting will be determined at each meeting.
- 11.2. The KBMC will meet at least quarterly, unless more urgent matters will necessitate more frequent extra-ordinary meetings.
- 11.3. A quorum at meetings will be five (5) members of the core stakeholder organisations. Should a quorum not be present within half an hour after the appointed time of the meeting, the meeting shall stand adjourned for a maximum of one month. The Secretariat shall be responsible to notify all members of such adjourned meeting. A quorum at any such adjourned meeting shall be the members present at the meeting.

- 11.4. If the Chairperson is not present at a meeting, the Vice Chairperson will preside over the meeting. Should both not be present, while a quorum is present, then the members present must elect a temporary Chairperson from amongst those members present.
- 11.5. Voting when required to nominate someone, shall be done as follows:
 - 11.5.1. if not already elected, the Chairperson shall be elected first and will thereafter count the votes and declare the results;
 - 11.5.2. for each position nominated, there must be a seconder;
 - 11.5.3. voting shall be by means of a show of hands, with the Chairperson having only a casting vote should the show of hands be a equal number;
 - 11.5.4. each member of the KBMC shall have only one (1) vote;
 - 11.5.5. should there be only one nomination, the person will be elected without any further voting taking place;
- 11.6. Decisions / recommendations should preferably be taken on consensus, but should voting be required to obtain a decision at a meeting, the voting shall be done as follows:
 - 11.6.1. by means of a show of hands, with the Chairperson having only a casting vote should the show of hands be a equal number;
 - 11.6.2. the Chairperson shall count the votes and declare the results;
 - 11.6.3. each member of the KBMC shall have only one (1) vote;
 - 11.6.4. should there be a major objection to the decision taken, the case shall be referred to the Minister for arbitration;
 - 11.6.5. should the relevant parties not be satisfied with the finding / decision of the Minister, the matter shall be referred to the Ombudsman for final arbitration.
 - 11.6.6. the cost involved will be split on an equal basis between the conflicting parties.
- 11.7. Should a decision / recommendation be urgently required from the KBMC between quarterly meetings, the Chairperson may call an extra-ordinary meeting to discuss the problem and effect a decision / recommendation. A notice will be served in this regard as per the provisions of the Constitution. Should voting be required on the subject at the meeting, the procedure will be followed as outlined in par 11.6.
- 11.8. Should a decision / recommendation be urgently required between meetings and it is not possible to call an extra-ordinary meeting, the following procedure shall be followed:
 - 11.8.1. The Chairperson shall inform all members of the KBMC on the decision to be taken / recommendation to be made by sending out an appropriate notice;

- 11.8.2. Each member shall respond or commend on the issue at stake within 48 hrs of receiving the notice and forward such comments to the Chairperson via e-mail or fax;
 - 11.8.3. The Chairperson in consultation with the Secretariat shall formulate the final decision / recommendation and return it via e-mail or fax to the members for final approval.
 - 11.8.4. The final decision / recommendation will contain a page for each member to sign that they are in agreement. Such signed copy shall be returned to the Chairperson by fax only as it should contain a signature of the member.
 - 11.8.5. All decisions taken in this manner shall be presented to the next scheduled meeting for review.
- 11.9. One stakeholder shall not dominate or restrict the freedom of another stakeholder to express an opinion at any meeting.

12. AGENDA AND MINUTE TAKING:

- 12.1. Items for the Agenda shall be submitted to the Secretariat by members in writing at least two (2) weeks prior to the meeting. The Secretariat will in return forward such finalised Agenda to members at least one (1) week prior to the meeting. Items may be added to the Agenda at the meeting under General if all members present are in agreement.
- 12.2. Apart from the customary introduction and confirmation of minutes, standing items on the Agenda shall be;
 - 12.2.1. Feedback from each core stakeholder organisation on activities / developments in its area;
 - 12.2.2. Financial report back;
 - 12.2.3. Feedback from Working Groups;
 - 12.2.4. Progress into the Strategic Plan
- 12.3. The Secretariat shall take minutes to reflect every decision taken. Decisions taken and recommendations to the leading agency or the Minister shall clearly spell out the decision that was resolved.
- 12.4. Minutes shall be circulated within 30 days after the meeting and shall be submitted to the next meeting for confirmation as to the correctness thereof. A copy of the minutes shall be submitted to the Minister's office.
- 12.5. Should the Secretariat not be present at the meeting, then the Chairperson may appoint a member from the meeting to compile the minutes.
- 12.6. Any notice, albeit the Agenda for the next meeting, circulating the Minutes, confirming attendance, etc., shall be deemed to have been received by a member:

- 12.6.1. if such notice was forwarded to the address given by the member in Namibia, and which is recorded in the database of the Secretariat;
- 12.6.2. if it is hand delivered, faxed or e-mailed, on the date on which it is so hand delivered, faxed or e-mailed; or
- 12.6.3. if it is sent by post, five (5) business days after the date on which it is posted.

13. WORKING GROUPS:

- 13.1. The Chairperson of the KBMC may from time to time establish a Working Group to address specific water related issues. Experts in that specific field will be identified to form the Working Group.
- 13.2. The Working Group should preferably not have more than 6 members and shall act in an advisory capacity to the KBMC. Any person or organisation in the specific field being investigated may be co-opted onto the Working Group.
- 13.3. A Working Group Chairperson shall be elected from the members of the Working Group and such Chairperson shall attend all KBMC meetings to give feedback on the activities of the Working Group. This attendance shall cease once the Working Group is abolished.
- 13.4. The Working Group shall prepare a final report with recommendations and submit such to the KBMC. The Working Group shall be abolished once it has completed the task assigned to it.
- 13.5. The Chairperson of the KBMC shall be an ex officio member of such Working Group, but shall not have any voting rights.

14. KUISEB BASIN FORUM:

- 14.1. The broader stakeholder groups shall form the Kuiseb Basin Forum. The KBMC organisations also form part of the broader Forum.
- 14.2. The Kuiseb Basin Forum should meet at least once per year. The date and venue to be determined by Secretariat and conveyed to all stakeholders.
- 14.3. The Chairperson of the KBMC shall submit a report to the Forum on the issues discussed by the KBMC.
- 14.4. The KBMC Secretariat is responsible for organising the Kuiseb Basin Management Forum meetings and to keep all Stakeholders informed. The KBMC shall nominate the chairperson for the Forum meetings. The KBMC must use the forum to gain information, discuss issues and give feedback on work done and decisions taken by the committee.

- 14.5. Any plans to be put in place in the Kuiseb basin must on recommendation from the KBMC be adopted by the forum before they can be presented to the Minister.
- 14.6. The functions of the Kuiseb Basin Forum are as follows:
 - 14.6.1. Forum to share information among stakeholders by keeping them involved and updated on developments within the Kuiseb basin;
 - 14.6.2. Platform to raise irregularities / issues / problems;
 - 14.6.3. Platform to clarify misperceptions;;
 - 14.6.4. Platform to brainstorm and develop strategies, basin plans;
 - 14.6.5. Approval of Basin strategy and plans for submission to the Minister;
 - 14.6.6. Platform for stakeholders to share their strategic plans and request commitment from other stakeholders to assist where possible with identified needs.
- 14.7. Any stakeholder can directly contact the chair of the KBMC and/or submit relevant information to the Secretariat for circulation

15. FINANCIAL ADMINISTRATION / FUNDING:

- 15.1. Members of the KBMC shall not be remunerated for attending meetings, ie receive meeting allowances, and their input of expertise shall be regarded as cost free value adding to the meetings.
- 15.2. It may be considered to pay travel and accommodation costs for members where required.
- 15.3. All moneys received from sponsorships or donations, or any other funds accrued, shall be paid into the applicable bank account.
- 15.4. The general admin cost associated with the KBMC meetings, where applicable, may be financed from these funds.
- 15.5. The Treasurer shall in consultation with the Chairperson and the Vice-Chairperson prepare an annual budget and submit such budget to the KBMC for approval by the end of May of each year. The financial year of the KBMC will run from July of each year to June of the following year.
- 15.6. The KBMC shall compile a Financing Policy that shall serve as a guide for the general financial administration of the KBMC.

16. ALTERATION OF THE CONSTITUTION:

The KBMC shall be entitled to alter the provisions of its Constitution, including the amendments relating to the object and powers of the KBMC.