



constitution

current as of december 2012

CLAUSE 1: NAME

- (a) NAME: The name of this Club shall be Nunawading Orcas Masters Swimming Club Incorporated hereinafter referred to as the Club.
- (b) COLOURS: The Club colours shall be Navy Blue and White.

CLAUSE 2: OBJECTIVE

The objectives for which the Club is formed are:

To carry on a Club for the purpose of promoting, administering and encouraging the objectives of Masters Swimming in Australia and to promote fun in fitness by way of a swimming program.

CLAUSE 3: THE CLUB

The Club shall consist of:

- (a) Officers and Honorary Life Members, and ordinary Members of the Club.
- (b) The Officers of the Club shall be (1) President, (1) Vice President, Honorary Secretary, Honorary Treasurer, all of whom shall be elected each year at the Annual General Meeting called for the purpose. Provided, however that any Officer may occupy one or more offices and further provided that in the event of any office not being filled it shall not invalidate the appointment of the other officers. (Should more than the required number be nominated for any office, an election by ballot shall be taken). The Head Coach, appointed by the Executive Committee, shall be an Officer of the Club.

No member shall take any beneficial interest in any of the property or assets of the Club.

If at any General Meeting a resolution for the dissolution of the Club shall be passed by a majority of the members present, the Hon. Secretary shall convene a Special General Meeting for the purpose of considering such resolution to be held not less than (14) days thereafter, and if such resolution or a resolution substantially similar thereto shall be confirmed or passed by a majority of three-quarters of the Members present and voting at such Special General Meeting, the Executive Committee shall thereupon proceed to realise the assets of the Club and after the discharge of all liabilities of the Club such assets shall be transferred to such charitable institutions, or applied for such charitable purpose or to some Association or Associations having similar objects to this Club, as the members at the time of the Dissolution of the Club shall decide. At any time before realisation of the assets of the Club pursuant to this constitution and these Rules, no part or parts of the assets of the Club shall be given or transferred in any way to any member or members other than for services rendered to the Club, or for goods supplied in the ordinary course of business or for reasonable out-of-pocket expenses incurred by a member acting under the authority of the Executive Committee.

CLAUSE 4: MEMBERSHIP

Members of the Club shall be divided into the following classes:

Honorary Life Members and Ordinary Members. Such members shall without exception be subject to all the rules of the Club now in force or at any future time passed by a majority of the members of the Club.

A 'Hon. Life Member' of the Club is any member who, in the opinion of the Executive Committee, has rendered eminent services to the Club for ten years. Such Hon. Life Members shall be exempted from the payment of all subscriptions to the Club. Hon. Life Members shall during the continuance of their life enjoy all the privileges of a Member.

An Ordinary 'Member' who subscribes to the Object of the Club, and is any adult 18 years of age or over or shall attain the age of 18 years by 31st December in the year of joining, and who pays the relevant fees fixed by the Executive Committee, such a member shall be entitled to all the privileges of the Club.

A person who wishes to become a member, may apply for membership by completing the application form. Approval or otherwise of application shall rest with the Executive Committee of the Club.

Members shall be required to conduct themselves in a manner non-prejudicial to the interests of the Club, as may be determined by the Executive Committee.

Misconduct of members shall be dealt with at the discretion of the Executive Committee.

The Secretary shall keep and maintain a register of members in which shall be entered the full name, address and contact details of each member and date of entry into the Club. The register of name and Masters Swimming number shall be available for inspection by members at the address of the Public Officer.

- (a) Termination of membership of the Club

Membership of the Club may be terminated upon:

- (i) receipt by the Secretary or another Executive Committee member of a notice in writing from a member of their resignation from the Club.
- (ii) non-payment by a member of their subscription within two months of the date fixed by the Executive Committee for subscriptions to be paid, unless the Executive Committee decides otherwise.; or
- (iii) expulsion of a member in accordance with clause 4 (b).

CLAUSE 4: MEMBERSHIP (continued)

(b) Suspension or expulsion of members of Club

If the Executive Committee considers that a member's conduct is prejudicial to the interests of the Club then it must communicate, in writing, to the member providing particulars of that conduct and giving the member an opportunity to respond within 14 days if the member so chooses to discuss the matter with the Executive Committee.

If the matter is not settled at the end of 21 days from the date of the communication, to the Executive Committee's satisfaction or the conduct continues, then if the Executive Committee considers that a member should be suspended or expelled from membership of the Club because their conduct is detrimental to the interests of the Club, the Executive Committee must communicate, in writing, to the member:

notice of the proposed suspension or expulsion and of the time, date and place of the Executive Committee meeting at which the question of that suspension or expulsion will be decided; and

- (i) particulars of that conduct,
- (ii) not less than 14 days before the date of the Executive Committee meeting referred to in paragraph 1.
- (iii) At the Committee meeting referred to in a notice communicated under sub-clause (b), the Executive Committee may, having afforded the member concerned a reasonable opportunity to be heard by, or to make representations in writing to, the Executive Committee, suspend or expel or decline to suspend or expel that member from membership of the Club and must, forthwith after deciding whether or not to suspend or expel that member, communicate that decision in writing to that member.
- (iv) Subject to sub-clause (vi), a member has their membership suspended or ceases to be a member 14 days after the day on which the decision to suspend or expel a member is communicated to them under sub-clause (iii).
- (v) A member who is suspended or expelled under sub-clause (iii) must, if they wish to appeal against that suspension or expulsion, give notice to the Secretary of their intention to do so within the period of 14 days referred to in sub-clause (iv).
- (vi) When notice is given under sub-clause (v):
 1. the Club must convene a general meeting and in a general meeting, must either confirm or set aside the decision of the Executive Committee to suspend or expel the member, after having afforded the member who gave that notice a reasonable opportunity to be heard by, or to make representations in writing to, the Club in the general meeting; and
 2. the member who gave that notice is not suspended or does not cease to be a member unless and until the decision of the Executive Committee to suspend or expel the member is confirmed under this sub-clause.

CLAUSE 5: MEETINGS

(a) ANNUAL GENERAL MEETINGS

- (i) The Annual General Meeting of the Club shall be held within five months of the Club's financial/swimming year.
- (ii) At least fourteen (14) days notice of the Annual General Meeting shall be given to each financial member.
- (iii) A secret ballot must be held on any question where it is demanded by two (2) financial members.
- (iv) All votes shall be given personally or by proxy.
- (v) The business of the Annual General Meeting shall be:
 - to confirm the Minutes of the previous Annual General Meeting.
 - to receive the Annual Report and Financial Statement.
 - to elect the Officers of the Club as listed in subclause (b) of clause 3
 - to consider motions and agenda items for which due notice has been given.

(b) SPECIAL GENERAL MEETINGS

- (i) Special General Meetings shall be summoned by the Executive Committee or within fourteen (14) days of the receipt of a written request made to the Executive Committee and signed by at least fifteen (15) financial members, and setting forth the matter they propose to bring before the meeting.
- (ii) The Secretary of the Club, at least fourteen (14) days, or if a special resolution has been proposed at least twenty-one (21) days, before the date fixed for holding a general meeting of the Club, must cause to be sent to each member of the Club, a notice stating the place, date and time of then meeting, and the nature of the business to be conducted at the meeting.
- (iii) No business other than that listed on the notice paper shall be discussed.

CLAUSE 6: CHAIRPERSON

At all meetings of the Club, the chair shall be taken by the President or in the absence of the President or the President's unwillingness to chair the Meeting, the Vice President, or in their absence a chairperson shall be elected by the members from the office bearers present.

CLAUSE 7: VOTING

At all General Meetings, voting shall be by show of hands, or by secret ballot if so requested by two (2) or more members eligible to vote.

Financial members and Honorary Life Members shall be eligible to vote at any General Meeting of the Club.

A member shall be deemed financial if they have no subscriptions or any part thereof more than four (4) weeks in arrears at the time of the meeting at which such voting or proceedings are taking place.

CLAUSE 8: CASTING VOTE

The President or Chairperson shall have a deliberate vote of any motion, and when voting is equal, then the chairman shall have a casting vote. The chairperson has, however, the right to decline to use the casting vote.

CLAUSE 9: QUORUM

A number equal to twenty (20) per cent of members, who by their classes of membership have voting rights shall form a quorum at all Annual General and Special General Meetings of the Club. If the numbers present are insufficient, the said meeting shall stand adjourned to such time and place as the members present shall determine.

A number equal to sixty (60) per cent of the elected members shall form a quorum at any other Committee or sub Committee meeting.

CLAUSE 10: ADMINISTRATION

(a) The Club shall be administered by the Executive Committee consisting of the following five (5) officers:

President	Treasurer	Vice President
Secretary	Head Coach	

(b) These Officers, except the Head Coach, shall be elected at the Annual General Meeting.

(c) Any other Officers required by the Club shall be appointed by the Executive Committee. The Head Coach shall be appointed by the Executive Committee.

(d) Each ordinary member of the Executive Committee shall, subject to these rules, hold office until the annual general meeting next after the date of his election, but is eligible for re-election.

The Executive Committee shall meet at least quarterly at the time and place most expedient to the majority of the Executive Committee and/or such other times as shall from time to time be determined.

The Executive Committee shall have the power to conduct and settle all disputes and the Executive Committee's decision thereon shall be final, subject however to any decisions arrived at by a Special General Meeting which may be called as herein provided.

No resolution of the Executive Committee shall be repealed or altered without the consent of the majority of the members present at any Committee meeting.

Members of the Executive Committee absenting themselves from three consecutive meetings without notice to the secretary shall, at the discretion of the Executive Committee, have their membership of the Executive Committee terminated, provided always that such members shall have the right to be nominated again to fill such vacancy on the Executive Committee.

CLAUSE 11: SOCIAL FUNCTIONS

The Executive Committee shall have the power to appoint members of the Club to a Social Committee to arrange social functions and raise money for the benefit of the Club.

The Social Committee shall hand over all funds and documents at any time as directed by the Executive Committee.

The Social Committee shall be subject to direction from and be responsible to the Executive Committee of the Club.

CLAUSE 12: ELECTION OF OFFICERS

If required, the chairperson for the Annual General Meeting shall appoint a Returning Officer and two (2) scrutineers from those present at the meeting who are not nominating for any office.

- (a) If required the election of all officers shall be done by secret ballot.
- (b) All voting shall be determined by a simple majority of financial members.

CLAUSE 13: DUTIES OF OFFICERS

Executive Committee

- (a) The Executive Committee shall meet as often as is necessary, but at least quarterly.
- (b) Three (3) members of the Executive including any two (2) of the President, Secretary and Treasurer shall constitute a quorum at Executive meetings.
- (c) The Executive may appoint individuals or sub Committees to carry out specific tasks.

The President

- (a) The President shall chair all meetings. In the absence of the president, the Vice President shall act as President.
- (b) The Chairperson shall rule on the constitutional validity of all proposals and actions.

The Vice President

- (a) The Vice President shall assist the President in discharging those duties given to the President.
- (b) The Vice President shall act in the place of the President during the President's absence.
- (c) If at any meeting both the President and the Vice President are absent the Executive shall appoint a Chairman for that meeting.

The Secretary

- (a) Shall be required to give notice of all General meetings to all financial members and to the Executive as specified in Clause 5.
- (b) Shall be required to keep an accurate record of all meetings excepting where a Minute Secretary has been appointed for this purpose.
- (c) Shall receive and acknowledge receipt of all mail, referring to the Executive Committee as necessary.
- (d) Shall inform the State & National Branch Secretary of:
 - Club activities
 - changes in officers, and shall forward as requested
 - an annual report and copy of financial statement
 - member registrations with covering cheque
 - times for Top Ten
 - award claim forms
 - other information requested by State Branch or the National Executive
- (e) Shall prepare and submit a report of the Club's activities to the Annual General Meeting.

CLAUSE 13: DUTIES OF OFFICERS (continued)

The Treasurer

The Treasurer of the Club must:

- (a) collect and receive all moneys due to the Club and make all payments authorised by the Club; and
- (b) keep correct accounts and books showing the financial affairs of the Club with full details of all receipts and expenditure connected with the activities of the Club.
- (c) the accounts and books referred to shall be available for inspection by members.

All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by two (2) members of the Executive Committee.

The funds of the Club shall be derived from entrance fees, annual subscriptions, donations and other such sources as the Executive Committee determines.

- (d) Whenever income for a financial year is \$20,000 or greater, the Club shall appoint an auditor to examine the accounts and express an opinion as to the correctness of the Financial Statement and Balance Sheet, and shall issue a written statement as to this opinion. Whenever income for a financial year is less than \$20,000 the Executive Committee shall have the option of appointing an auditor and must appoint an auditor if requested in writing to do so by at least fifteen (15) financial members.

Head Coach

Shall supervise Club training sessions, passing on to the members a knowledge of the laws of swimming, stroke correction and competition techniques.

Shall supervise other Club Coaches in the delivery of programs listed in (a).

CLAUSE 14: SUBSCRIPTIONS

The Executive Committee shall determine from year to year the subscriptions to be paid by members to the Club, such subscriptions shall become due and payable as soon as the amount thereof has been so determined.

In the event of any members failing or being unable to meet their financial obligations to the Club, the Executive Committee shall have power to grant exemption or reduction from same upon such conditions as it deems fit or to terminate their membership.

CLAUSE 15: FINANCIAL YEAR

The financial year of the Club shall be from the first of January to the last day of December.

CLAUSE 16: AFFILIATION

The Club shall affiliate each year with Masters Swimming Australia (MSA).

Affiliation may also be arranged with other organisations at the absolute discretion of the Executive Committee subject to such terms, conditions and provisions as the Club may from time to time prescribe, taking into account the objectives of the Club.

CLAUSE 17: AMENDMENT TO THE CONSTITUTION AND PURPOSES

The constitution and purposes may only be altered by notice in writing received by the Secretary, minimum 21 days prior to a General Meeting called for that purpose and must be carried by a three quarter (¾) majority of financial members present.

CLAUSE 18: INDEMNITY

The Club shall indemnify any Seal holder, Officer Bearer or Member against any liability incurred by such Seal holder, Office Bearer or Member in doing or intending to do any act as agent or servant or in the interests of the Club.

CLAUSE 19: CONDUCT

The provisions of this constitution shall be strictly adhered to and in the event of any inconsistency between this constitution and the constitutions of MSA, the provisions of the constitution of MSA shall prevail.

CLAUSE 20: MEETING PROCEDURE

Any matters of meeting procedure not dealt with in this constitution shall be governed by the principles set out in 'Guide for Meetings and Organisations' by N.E. Renton to the extent that they are not inconsistent with this Constitution nor resolutions passed by the Club.

CLAUSE 21: SEAL

The Common Seal of the Association shall be kept in the custody of the Secretary.

The Common Seal shall not be affixed to any instrument except by the authority of the Executive Committee and the affixing of the Common Seal shall be attested by the signatures either of two members of the Executive Committee or of one member of the Executive Committee and of the Public Officer of the Association.

CLAUSE 22: WINDING UP OR CANCELLATION

In the event of the winding up or the cancellation of the incorporation of the Club, the assets of the Club shall be disposed of in accordance with the provisions of the Associations Incorporations Act 1981 and this Constitution.

CLAUSE 23: CUSTODY OF RECORDS

Except as otherwise provided in Rules, the Secretary shall keep in his/her custody or under his/her control, all books, documents and securities of the Association

CLAUSE 24: DISPUTES AND MEDIATION

- (a) The grievance procedure set out in this rule applies to disputes under these Rules between:
 - (i) a member and another member; or
 - (ii) a member and the Club.
- (b) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.
- (c) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within 10 days, hold a meeting in the presence of a mediator.
- (d) The mediator must be:
 - (i) a person chosen by agreement between the parties; or
 - (ii) in the absence of agreement-
 - in the case of a dispute between a member and another member, a person appointed by the Executive Committee of the Club; or
 - in the case of a dispute between a member and the Club, a person who is a mediator appointed or employed by the Dispute Settlement Centre of Victoria (Department of Justice).
- (e) A member of the Club can be a mediator.
- (f) The mediator cannot be a member who is a party to the dispute.
- (g) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (h) The mediator, in conducting the mediation, must-
 - (i) give the parties to the mediation process every opportunity to be heard; and
 - (ii) allow due consideration by all parties of any written statement submitted by any party; and
 - (iii) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (j) The mediator must not determine the dispute.
- (k) If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.