



**MINUTES  
OF THE  
SPECIAL MEETING OF THE COUNCIL  
HELD ON  
WEDNESDAY 10 OCTOBER 2018  
AT 6.30PM IN THE COUNCIL CHAMBERS  
MELVILLE CIVIC CENTRE**

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**MINUTES OF THE SPECIAL MEETING OF THE COUNCIL HELD IN THE COUNCIL CHAMBERS, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD, BOORAGOON, COMMENCING AT 6.30PM ON WEDNESDAY 10 OCTOBER 2018.**

**1. OFFICIAL OPENING**

The Presiding Member welcomed those in attendance to the meeting and officially declared the meeting open at 6:30pm. Mr J Clark, Governance and Compliance Advisor, read aloud the Disclaimer that is on the front page of these Minutes and then the His Worship the Mayor, R Aubrey, read aloud the following Affirmation of Civic Duty and Responsibility.

**Affirmation of Civic Duty and Responsibility**

I make this Affirmation in good faith on behalf of Elected Members and Officers of the City of Melville. We collectively declare that we will duly, faithfully, honestly and with integrity fulfil the duties of our respective office and positions for all the people in the district according to the best of our judgement and ability. We will observe the City's Code of Conduct and Meeting Procedures Local Law to ensure the efficient, effective and orderly decision making within this forum.

**2. PRESENT**

His Worship the Mayor R Aubrey

**COUNCILLORS**

Cr M Woodall (Deputy Mayor)  
Cr C Robartson  
Cr N Pazolli, Cr S Kepert  
Cr T Barling, Cr N Robins  
Cr G Wieland, Cr J Barton  
Cr K Mair, Cr D Macphail  
Cr P Phelan, Cr K Wheatland

**WARD**

Bull Creek - Leeming  
Bull Creek - Leeming  
Applecross – Mount Pleasant  
Bateman – Kardinya - Murdoch  
Bicton – Attadale – Alfred Cove  
Central  
Palmyra – Melville - Willagee

**3. IN ATTENDANCE**

Mr M Tieleman  
Ms C Young  
Mr S Cope  
Mr M McCarthy  
Ms K Johnson  
Mr J Rae  
Mr J Clark  
Ms C Newman

Ms J Head  
Ms J Arbel

A/Chief Executive Officer  
Director Community Development  
Director Urban Planning  
Director Technical Services  
A/Director Corporate Services  
Land and Property Executive  
Governance and Compliance Advisor  
A/Executive Manager Governance and  
Legal Services  
Governance Officer  
Strategic Communications Officer

At the commencement of the meeting there were 34 members of the public and one representative from the Press in the Public Gallery.

**4. APOLOGIES AND APPROVED LEAVE OF ABSENCE****4.1 APOLOGIES**

Mr L Hitchcock            Executive Manager Governance and Legal Services

**4.2 APPROVED LEAVE OF ABSENCE**

Nil.

**5. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)  
AND DECLARATIONS BY MEMBERS****5.1 DECLARATIONS BY MEMBERS WHO HAVE NOT READ AND GIVEN  
DUE CONSIDERATION TO ALL MATTERS CONTAINED IN THE  
BUSINESS PAPERS PRESENTED BEFORE THE MEETING.**

Nil.

**5.2 DECLARATIONS BY MEMBERS WHO HAVE RECEIVED AND NOT READ  
THE ELECTED MEMBERS BULLETIN.**

Nil.

**6. QUESTION TIME**

Nil.

**7. DEPUTATIONS****7.1 Mr T Fitzgerald, Palmyra and Mr D Maynier, Attadale**

Item M18/5642 – Deed of Variation and Amendment to Ground Lease Agreement for Wave Park Surf Sports Recreation and Leisure Facility

It was clarified that Mr Fitzgerald was presenting at the request of the Swan Foreshore Protection Association.

## **8. DECLARATIONS OF INTEREST**

### **8.1 FINANCIAL INTERESTS**

- Cr Pazolli – Item M18/5642 – Deed of Variation and Amendment to Ground Lease Agreement for Wave Park Surf Sports Recreation and Leisure Facility, Financial Interest.
- Cr Wheatland – Item M18/5642 – Deed of Variation and Amendment to Ground Lease Agreement for Wave Park Surf Sports Recreation and Leisure Facility, Financial Interest.
- Cr Barton– Item M18/5642 – Deed of Variation and Amendment to Ground Lease Agreement for Wave Park Surf Sports Recreation and Leisure Facility, Financial Interest.
- Cr Mair– Item M18/5642 – Deed of Variation and Amendment to Ground Lease Agreement for Wave Park Surf Sports Recreation and Leisure Facility, Indirect Financial Interest.
- Cr Kepert – Item M18/5642 – Deed of Variation and Amendment to Ground Lease Agreement for Wave Park Surf Sports Recreation and Leisure Facility, Financial Interest.

### **8.2 DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT**

- Mayor Aubrey – Item 3791 - Ground Lease Redevelopment Proposal 391 Canning Highway and 36-38A Waddell Road, Palmyra, Interest Under the Code.
- Cr C Robartson – Item 3791 - Ground Lease Redevelopment Proposal 391 Canning Highway and 36-38A Waddell Road, Palmyra, Interest Under the Code.
- Cr J Barton – Item 3791 - Ground Lease Redevelopment Proposal 391 Canning Highway and 36-38A Waddell Road, Palmyra, Interest Under the Code.
- Cr K Mair – Item 3791 - Ground Lease Redevelopment Proposal 391 Canning Highway and 36-38A Waddell Road, Palmyra, Interest Under the Code.
- Cr J Barton – Item 3791 - Ground Lease Redevelopment Proposal 391 Canning Highway and 36-38A Waddell Road, Palmyra, Interest Under the Code.

## **9. APPLICATIONS FOR NEW LEAVES OF ABSENCE**

At 6:38pm Cr Robartson moved, seconded Cr Wieland –

**That the application for new leave of absence submitted by Cr Woodall on 10 October 2018 be granted.**

At 6:38pm the Mayor submitted the motion, which was declared

**CARRIED UNANIMOUSLY (13/0)**

**10. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED****Confidential Item P18/3791 - Ground Lease Redevelopment Proposal 391 Canning Highway and 36-38A Waddell Road, Palmyra (Rec) (Confidential Attachment)**

The matter is confidential in accordance with Sections 5.23 and 5.41 of the *Local Government Act 1995* which states as follows:

*“If a meeting is being held by Council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following:-*

- (a) A contract entered into, or which maybe entered into, by the local government and which relates to a matter to be discussed at the meeting;*
- (b) A matter that if disclosed, would reveal information that has a commercial value to a person.”*

**Confidential Item M18/5642 – Deed of Variation and Amendment to Ground Lease Agreement for Wave Park Surf Sports Recreation and Leisure Facility (Rec) (Confidential Attachment)**

The matter is confidential in accordance with Sections 5.23 and 5.41 of the *Local Government Act 1995* which states as follows:

*“If a meeting is being held by Council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following:-*

- (a) A contract entered into, or which maybe entered into, by the local government and which relates to a matter to be discussed at the meeting;*
- (b) A matter that if disclosed, would reveal information that has a commercial value to a person.”*

**11. REPORTS OF THE CHIEF EXECUTIVE OFFICER**

Nil.

*At 6:41pm the Mayor brought forward Item M18/5642 – Deed of Variation and Amendment to Ground Lease Agreement for Wave Park Surf Sports Recreation and Leisure Facility commenced for the convenience of the Public Gallery.*

Disclosure of Interest

Item No. M18/5642  
 Member Cr J Barton  
 Type of Interest Financial, s5.60 of the Local Government Act  
 Nature of Interest Financial  
 Request Leave  
 Decision Leave

Item No. M18/5642  
 Member Cr N Pazolli  
 Type of Interest Financial, s5.60 of the Local Government Act  
 Nature of Interest Financial  
 Request Leave  
 Decision Leave

Item No. M18/5642  
 Member Cr K Mair  
 Type of Interest Indirect Financial, s5.61 of the Local Government Act  
 Nature of Interest Indirect Financial  
 Request Leave  
 Decision Leave

Item No. M18/5642  
 Member Cr K Wheatland  
 Type of Interest Financial, s5.60 of the Local Government Act  
 Nature of Interest Financial  
 Request Leave  
 Decision Leave

Item No. M18/5642  
 Member Cr S Kepert  
 Type of Interest Financial, s5.60 of the Local Government Act  
 Nature of Interest Financial  
 Request Leave  
 Decision Leave

Item No. M18/5642  
 Member Mayor Aubrey  
 Type of Interest Interest Under the Code  
 Nature of Interest Impartiality, Patron of Palmyra Rugby Union Club and Melville Cricket Club by nature of the position of Mayor.  
 Request Stay, discuss and vote  
 Decision Stay, discuss and vote

*Disclosure of Interest continued*

Item No.	M18/5642
Member	Cr N Robins
Type of Interest	Interest Under the Code
Nature of Interest	Impartiality, previously expressed support for this project
Request	Stay, discuss and vote
Decision	Stay, discuss and vote

Item No.	M18/5642
Member	Cr M Woodall
Type of Interest	Interest Under the Code
Nature of Interest	Employed by a law firm on the WALGA Panel
Request	Stay, discuss and vote
Decision	Stay, discuss and vote

**12. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED**

At 6:41pm the Deputation by Mr T Fitzgerald of Palmyra and Mr D Maynier of Attadale on Item M18/5642 – Deed of Variation and Amendment to Ground Lease Agreement for Wave Park Surf Sports Recreation and Leisure Facility commenced.

At 6:55pm Cr Macphail moved, seconded Cr Barling–

**That Mr Maynier and Mr Fitzgerald be granted an extension of five minutes to continue speaking.**

At 6:55pm the Mayor submitted the motion, which was declared

**CARRIED UNANIMOUSLY (13/0)**

*At 6:59pm Cr Pazolli left the meeting.*

*At 6:59pm Cr Wheatland left the meeting.*

*At 6:59pm Cr Barton left the meeting.*

*At 6:59pm Cr Mair left the meeting.*

*At 6:59pm Cr Kepert left the meeting.*

Following the departure of the above Councillors questions were asked of the Deputation.

*At 7:08pm the Deputation by Mr T Fitzgerald of Palmyra and Mr D Maynier of Attadale concluded.*



**CONFIDENTIAL ITEM M18/5642 – DEED OF VARIATION AND AMENDMENT TO GROUND LEASE AGREEMENT FOR WAVE PARK SURF SPORTS RECREATION AND LEISURE FACILITY (REC) (CONFIDENTIAL ATTACHMENT)**

The Confidential Item and attachments were distributed to Elected Members on Friday 5 October 2018 under confidential cover.

At 7:09pm Cr Macphail moved, seconded Cr Phelan–

**That the meeting be closed to the members of the public to allow for items deemed confidential in accordance with sections 5.23 and 5.41 the Local Government Act 1995, to be discussed behind closed doors.**

At 7:09pm the Mayor submitted the motion, which was declared

**CARRIED UNANIMOUSLY (8/0)**

The Confidential Item and attachments were distributed to Elected Members on Friday 5 October 2018 under confidential cover.

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (5642)**

**APPROVAL**

At 7:23pm Cr Macphail moved, seconded Cr Phelan –

**That the Council endorse the recommendations as contained within the Confidential Report associated with this item.**

At 7:27pm Cr Woodall foreshadowed a Reject and Replace motion.

**Deferral Motion**

7:44pm Moved Cr Barling, seconded Cr Robins

**That the item be deferred to the 16 October Ordinary Meeting of Council, for decision on consideration of the matter at a future date.**

At 7:46pm the Mayor submitted the motion, which was declared

**LOST (3/5)**

<b>Vote Result Summary</b>	
Yes	3
No	5

<b>Vote Result Detailed</b>	
Cr Barling	Yes
Cr Robins	Yes
Cr Woodall	Yes
Cr Macphail	No
Cr Phelan	No
Cr Robartson	No
Cr Wieland	No
Mayor	No

**CONFIDENTIAL ITEM M18/5642 – DEED OF VARIATION AND AMENDMENT TO GROUND LEASE AGREEMENT FOR WAVE PARK SURF SPORTS RECREATION AND LEISURE FACILITY (REC) (CONFIDENTIAL ATTACHMENT)**

At 7:50pm Cr Phelan moved, seconded Cr Wieland -

**That the Council permit further questions after debate has closed.**

At 7:50pm the Mayor submitted the motion, which was declared

**CARRIED (7/1)**

Vote Result Summary	
Yes	7
No	1

Vote Result Detailed	
Cr Barling	Yes
Cr Macphail	Yes
Cr Phelan	Yes
Cr Robartson	Yes
Cr Robins	Yes
Cr Wieland	Yes
Cr Woodall	Yes
Mayor	No

At 7:54pm Cr Woodall moved, seconded Cr Barling -

**That the City of Melville Meeting Procedures Local Law 2017 be suspended to allow Elected Members permission to speak more than once.**

At 7:54pm the Mayor submitted the motion, which was declared

**CARRIED (7/1)**

Vote Result Summary	
Yes	7
No	1

Vote Result Detailed	
Cr Barling	Yes
Cr Macphail	Yes
Cr Robartson	Yes
Cr Robins	Yes
Cr Wieland	Yes
Cr Woodall	Yes
Mayor	Yes
Cr Phelan	No

**CONFIDENTIAL ITEM M18/5642 – DEED OF VARIATION AND AMENDMENT TO GROUND LEASE AGREEMENT FOR WAVE PARK SURF SPORTS RECREATION AND LEISURE FACILITY (REC) (CONFIDENTIAL ATTACHMENT)**

At 8:04pm Cr Barling moved, seconded Cr Woodall -

**That the City of Melville Meeting Procedures Local Law 2017 be resumed.**

At 8:04pm the Mayor submitted the motion, which was declared

**CARRIED UNANIMOUSLY (8/0)**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (5642)**

**APPROVAL**

At 7:23pm Cr Macphail moved, seconded Cr Phelan –

**That the Council endorse the recommendations as contained within the Confidential Report associated with this item.**

At 8:06pm the Mayor submitted the motion, which was declared

**CARRIED (6/2)**

<b>Vote Result Summary</b>	
Yes	6
No	2

<b>Vote Result Detailed</b>	
Cr Macphail	Yes
Cr Phelan	Yes
Cr Robartson	Yes
Cr Robins	Yes
Cr Wieland	Yes
Mayor	Yes
Cr Barling	No
Cr Woodall	No

At 8:06pm Cr Wieland moved, seconded Cr Barling-

**That the meeting come out from behind closed doors and the public be invited back into the meeting.**

At 8:06pm the Mayor submitted the motion, which was declared

**CARRIED UNANIMOUSLY (8/0)**

At 8:08pm the Mayor provided advice for the interested members of the public that the Council endorsed the recommendations as contained within the Confidential Report associated with this item.

**CONFIDENTIAL ITEM M18/5642 – DEED OF VARIATION AND AMENDMENT TO  
GROUND LEASE AGREEMENT FOR WAVE PARK SURF SPORTS RECREATION AND  
LEISURE FACILITY (REC) (CONFIDENTIAL ATTACHMENT)**

*Information inserted after the meeting.*

The Deed of Variation and Amendment to the Ground Lease Agreement was signed and executed by the City of Melville after the meeting with the following resolution from the Confidential Report now being made public.

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION(5642)                      APPROVAL****That the Council;**

- 1. Approves the Deed of Variation and Amendment to the Ground Lease Agreement for Wave Park Surf Sports Recreation and Leisure Facility between the City of Melville and Urbnsurf (Perth) Pty Ltd which has the effect of extending the lessee's and lessor's obligations to 28 February 2020; and**
- 2. Directs the Acting Chief Executive Officer and the Mayor to sign and execute the Deed of Variation and Amendment which will be made public after signing.**

*At 8:10pm Cr Pazolli returned to the meeting.*

*At 8:10pm Cr Wheatland returned to the meeting.*

*At 8:10pm Cr Barton returned to the meeting.*

*At 8:10pm Cr Mair returned to the meeting.*

*At 8:10pm Cr Kepert returned the meeting.*

Item No. M18/3791  
Member Mayor Aubrey  
Type of Interest Interest Under the Code  
Nature of Interest Impartiality, Patron of Melville Theatre Company by nature of the position of Mayor.  
Request Stay, discuss and vote  
Decision Stay, discuss and vote

Item No. M18/3791  
Member Cr C Robartson  
Type of Interest Interest Under the Code  
Nature of Interest Impartiality, Vice President of the RAAF Association WA Division.  
Request Stay, discuss and vote  
Decision Stay, discuss and vote

Item No. M18/3791  
Member Cr J Barton  
Type of Interest Interest Under the Code  
Nature of Interest Impartiality, Patron and Board member of Melville Cares.  
Request Stay, discuss and vote  
Decision Stay, discuss and vote

Item No. M18/3791  
Member Cr K Mair  
Type of Interest Interest Under the Code  
Nature of Interest Impartiality, Patron of Melville Theatre Company.  
Request Stay, discuss and vote  
Decision Stay, discuss and vote

Item No. M18/3791  
Member Cr J Barton  
Type of Interest Interest Under the Code  
Nature of Interest Impartiality, Patron of Melville Theatre Company.  
Request Stay, discuss and vote  
Decision Stay, discuss and vote

At 8:11pm Cr Barling moved, seconded Cr Wieland –

**That the meeting be closed to the members of the public to allow for items deemed confidential in accordance with sections 5.23 and 5.41 the *Local Government Act 1995*, to be discussed behind closed doors.**

At 8:11pm the Mayor submitted the motion, which was declared

**CARRIED UNANIMOUSLY (13/0)**

At 8:12pm the Mr J Rae, Strategic Land and Property Executive commenced a presentation to the meeting on Item P18/3791 – Ground Lease Redevelopment Proposal 391 Canning Hwy and 36-38A Waddell Road, Palmyra, concluding at 9:

*At 9:05pm Cr N Robins left the meeting and returned at 9:07pm.*

*At 9:06pm Cr C Robartson left the meeting and did not return.*

*At 9:13pm Cr M Woodall left the meeting and returned at 9:17pm*

**CONFIDENTIAL ITEM P18/3791 - GROUND LEASE REDEVELOPMENT PROPOSAL  
391 CANNING HWY AND 36-38A WADDELL ROAD, PALMYRA (REC) (CONFIDENTIAL  
ATTACHMENT)**

The Confidential Item and attachments were distributed to Elected Members on Friday 5 October 2018 under confidential cover.

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (3791) APPROVAL**

At 9:13pm Cr Macphail moved, seconded Cr Phelan –

**That the Council approves the advertising of the Business Plan for Major Land Transaction and Public Notice of Major Land Transaction for the proposed ground lease with Melville Health, Aged and Community Care (WA) Pty Ltd as per the requirements under Section 3.59 of the *Local Government Act 1995* and that this recommendation be made public upon resolution by the Council.**

At 9:19pm the Mayor submitted the motion, which was declared

**CARRIED (12/0)**

The Mayor acknowledged the work of the former CEO and the staff in working towards this project for the benefit of the City.

At 9:20pm Cr Phelan moved, seconded Cr Barling–

**That the meeting come out from behind closed doors and the public be invited back into the meeting.**

At 9:20pm the Mayor submitted the motion, which was declared

**CARRIED UNANIMOUSLY (12/0)**

At 9:20pm the Mayor reopened the meeting and no members of public returned. The Mayor advised of the Council's resolution.

**13. CLOSURE**

There being no further business to discuss, the Mayor declared the meeting closed at 9:20pm.