

**MINUTES OF CITY OF MOUNT GAMBIER COUNCIL MEETING
HELD AT THE COUNCIL CHAMBER, CIVIC CENTRE, 10 WATSON TERRACE,
MOUNT GAMBIER ON TUESDAY, 18 APRIL 2023 AT 6.00 P.M.**

PRESENT: Mayor Lynette Martin (OAM), Cr Frank Morello, Cr Josh Lynagh, Cr Max Bruins,
Cr Paul Jenner, Cr Sonya Meziniec, Cr Jason Virgo

OFFICERS IN ATTENDANCE:

Chief Executive Officer	- Mrs S Philpott
General Manager City Infrastructure	- Ms B Cernovskis
General Manager Corporate and Regulatory Services	- Mrs J Fetherstonhaugh
General Manager City and Community Growth	- Mrs Sue La Greca
Media and Communications Coordinator	- Mr M Brookes
Councillor Support Officer	- Mrs M Telford

23.5 MITCHELL STREET TREES - ESTIMATED COSTS FOR STEM INJECTIONS/REMOVAL – REPORT NO. AR23/15854

RESOLUTION 2023/60

Moved: Cr Sonya Mezinec

Seconded: Cr Jason Virgo

CONSIDERATION FOR EXCLUSION OF THE PUBLIC

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except the Mayor, Councillors and Sarah Philpott, Barbara Cernovskis, Jane Fetherstonhaugh, Sue La Greco, Julie Scoggins, Madeleine Brookes and Melissa Telford be excluded from attendance at the meeting for the receipt and consideration in confidence of Agenda Item 23.5 AR23/15854 Mitchell Street Trees - Estimated Costs for Stem Injections/Removal.

The Council is satisfied that, pursuant to section 90(3) (b), (d), (g), (h) and (i) of the Act, the information to be received, discussed or considered in relation to the Agenda Item is:

- information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is
 - conducting business; or
 - proposing to conduct business; or
 - to prejudice the commercial position of the Council
- commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected:
 - to prejudice the commercial position of the person who supplied the information, or
 - to confer a commercial advantage on a third party
- information concerning matters that must be considered in confidence in order to ensure that the Council does not:
 - breach any law, order or direction of a court or tribunal constituted by law,
 - breach any duty of confidence, or
 - breach any other legal obligation or duty
- legal advice
- information relating to:
 - actual litigation, or
 - litigation that the Council or Council committee believes on reasonable grounds will take place,
 - involving the Council or an employee of the Council

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the information to be considered includes quotations provided by consultants and contractors on proposed works for which a procurement process is yet to be undertaken, which information if released could reasonably be expected to confer a commercial advantage on 3rd parties and prejudice the commercial position of Council or the parties that provided that information. Further, the subject matter and attachment includes legal advice on a matter that could result in litigation and includes 3rd party information for which a duty of confidence has been established.

CARRIED

The Mayor sought the approval of at least two-thirds of the members present at the meeting to suspend meeting procedures:

Purpose of the Suspension: To consider item 23.5 Mitchell Street Trees

Carried by more than two-thirds of the members present at the meeting.

Meeting Procedures were suspended at 07:31 pm.

The Mayor determined that the period of suspension should be brought to an end;

Carried by more than two-thirds of the members present at the meeting.

The Period of Suspension came to an end and Meeting Procedures resumed at 07:50 pm.

MOTION

Moved: Cr Max Bruins

Seconded: Cr Paul Jenner

1. That Council Report No. AR23/15854 titled 'Mitchell Street Trees - Estimated Costs for Stem Injections/Removal' as presented on 18 April 2023 be noted.
2. That insect control stem injection be investigated for any anticipated risks or implications, before being implemented on an initial basis to the Mitchell Street *Lagunaria Patersonia* (Norfolk Island Hibiscus) trees
3. That a report be prepared following a review of initial seasonal results of the insect control stem injections on the Mitchell Street *Lagunaria Patersonia* (Norfolk Island Hibiscus) trees, including written feedback from both the property owner and Aborman tree solutions as to their professional opinion of the efficacy of the injections, the subject property owner on their satisfaction with the full season results, for consideration by Council on whether to continue with further stem injection treatments or to pursue any alternate actions.
4. Seek advice from Council's Heritage Advisor as to the heritage values of the trees in light of the nuisance considerations currently before Council.

The motion was put and lost.

Cr Max Bruins called a division.

The declaration was set aside.

Voting by division being:

In Favour: Crs Max Bruins and Paul Jenner

Against: Crs Frank Morello, Josh Lynagh, Sonya Meziniec and Jason Virgo

The Mayor declared the motion

LOST 2/4

RESOLUTION 2023/61

Moved: Cr Frank Morello

Seconded: Cr Sonya Meziniec

- (a) That Council Report No. AR23/15854 titled 'Mitchell Street Trees - Estimated Costs for Stem Injections/Removal' as presented on 18 April 2023 be noted.



- (b) That Council progresses the process to remove the Mitchell Street Norfolk Island Hibiscus trees subject to any regulatory requirements.

CARRIED

RESOLUTION 2023/62

Moved: Cr Sonya Mezinec

Seconded: Cr Jason Virgo

CONSIDERATION FOR KEEPING ITEMS CONFIDENTIAL

1. In accordance with Sections 91(7) and 91(9) of the *Local Government Act 1999* the Council orders that the report 23.5 AR23/15854 Mitchell Street Trees - Estimated Costs for Stem Injections/Removal and its attachments, resolution/s and minutes arising from the report, having been considered by the Council in confidence under Section 90(2) & (3) (b), (d), (g), (h) and (i) be kept confidential and not available for public inspection until the matter has been considered by Council, with Resolutions/Minutes to be released immediately following consideration by Council, the covering report AR23/15854 and legal advice (Attachment 1) be retained in confidence and reviewed annually in accordance with the *Local Government Act 1999*.
2. Further that Council delegates the power to review, revoke, but not extend the confidential order to the Chief Executive Officer in accordance with the provisions of Section 91(9)(c) of the *Local Government Act 1999*.

CARRIED

