


 <p data-bbox="422 250 612 376">Adelaide Plains Council</p>	<p data-bbox="791 273 1114 304">21. CONFIDENTIAL ITEM</p>
<p data-bbox="687 465 906 497">15 October 2018</p>	

21.1 Stony Point - Historical Asbestos Finding and Site Remediation

RECOMMENDATION

“that:-

- 1. Pursuant to section 90(2) of the *Local Government Act 1999*, the Council orders that all members of the public, except Chief Executive Officer, General Manager – Governance and Communications, General Manager – Development and Community, General Manager – Finance and Economic Development, Acting General Manager – Infrastructure and Environment, Governance Officer/Minute Taker and Executive Assistant be excluded from attendance at the meeting of the Council for Agenda Item 21.1 – *Stony Point - Historical Asbestos Finding and Site Remediation*;**
- 2. Council is satisfied that, pursuant to section 90(3)(b)(i) of the *Local Government Act 1999*, Agenda Item 21.1 – *Stony Point - Historical Asbestos Finding and Site Remediation* concerns information the disclosure of which could reasonably be expected to prejudice the commercial position of Council, being information relating to a potential contractual dispute, and would, on balance, be contrary to the public interest; and**
- 3. Council is satisfied that the principle that Council meetings should be conducted in a place open to the public has been outweighed by the need to keep the information, matter and discussion confidential.”**

 Adelaide Plains Council	21.2	Stony Point – Historical Asbestos Finding and Site Remediation
	Department:	Executive Office
	Report Author:	Chief Executive Officer
Date: 15 October 2018	Document Ref:	D18/48000

OVERVIEW

Purpose

The purpose of this report is to update Council in relation to the location of Asbestos Contaminated Material (**ACM**) at the site on the corner of Shannon Road and Dublin Road, Stony Point (**Stony Point**).

Background

Council was formally briefed, by way of a confidential report at its Ordinary Meeting on 20 August 2018 (**the 20 August Meeting**), in relation to the location of long standing ACM at Stony Point. The purpose of the report presented to Council at the 20 August Meeting was to advise Council that substantial ACM still remains at the site and, as a result, Council has not yet complied with the Environment Protection Authority (**EPA**) Clean Up Order (**Clean Up Order**). The Clean Up Order required Council to have the Stony Point site cleared of ACM, and fully remediated, by Friday 22 June 2018.

As advised at the 20 August Meeting, McMahon Services, being the licensed contractor engaged to remove the ACM from the site (**McMahons**), exceeded the quoted tonnage threshold outlined in the initial quotation and subsequent purchase order by a significant amount prior to being ordered to vacate the site and cease all work until further notice. Management has engaged, and will continue to liaise with, Norman Waterhouse Lawyers over the preceding four (4) month period, with a view of determining duty of care and onus of guilt aspects pertaining to these events. However, what is clear is that Council and McMahons were working towards achieving compliance with the Clean Up Order deadline of 22 June 2018.

Discussion

Mindful of cost overruns to remedy the site and comply with the Clean Up Order, coupled with contractual obligations, environmental considerations and site security obligations, Management has acted with speed and diligence in ensuring all associated aspects are adequately addressed.

First and foremost, Management has been regularly reporting to the EPA in relation to site security and the EPA has indicated that it is satisfied with Council's interim maintenance of the site and matters of site safety and risk mitigation. Importantly, the EPA has not sought to act on the Clean Up Order which required the site to be remediated by 22 June 2018; primarily due to the fact that Council continues to demonstrate a commitment to working towards a solution.

Secondly, Management is working closely with McMahons in relation to the overrun on ACM. While the overrun has well exceeded the quoted threshold by an amount of approximately 1000 tonnes, or in monetary terms \$90,000, the Chief Executive Officer has a commitment from McMahons to meet and discuss an agreed final sum for the works undertaken to date, as well as the further works needed to remedy the site and finalise the matter of ACM at Stony Point.

Thirdly, in terms of finalising the matter, Council is aware that Greencap was engaged to prepare a Site Assessment and Action Plan. The draft Site Assessment and Action Plan, currently with the EPA for consideration and advice, provides three options for remediation. The EPA is yet to consider and endorse an approach in relation to remediation however the strong message from Council to the EPA will be that it is Council's intention to remedy the site in the most cost effective manner possible. A meeting between Greencap, the EPA and Council will occur shortly and once an agreed position is reached between the parties, Management intend to engage McMahons to carry out the relevant remediation works and close out the site, to the satisfaction of the EPA. The justification in engaging McMahons to complete these works is that there is likely to be greater negotiation power afforded to the Chief Executive Officer in arriving at a discounted figure in relation to the overrun, given discussions and events that have occurred to date.

Summary

With Council endorsement and the appropriate delegations put in place, Management is confident that Stony Point can be remedied in an expedient and cost effective manner.

RECOMMENDATION 1

“that Council, having considered Item 21.1 - *Stony Point - Historical Asbestos Finding and Site Remediation*, dated 15 October 2018, receives and notes the report and in doing so instructs the Chief Executive Officer to advance discussions with the Environment Protection Authority and Greencap with a view of arriving at the most appropriate solution to remedy the Stony Point site from asbestos contaminated material.

RECOMMENDATION 2

“that Council, having considered Item 21.1 – *Stony Point – Historical Asbestos Finding and Site Remediation*, dated 15 October 2018, delegates authority to the Chief Executive Officer to engage McMahon Services to remediate the site from all outstanding asbestos contaminated material that remains, on the premise that a negotiated discount be obtained on the outstanding total sum of works undertaken by McMahon Services at Stony Point.”

RECOMMENDATION 3

“that Council, having considered Item 21.1 – *Stony Point – Historical Asbestos Finding and Site Remediation*, dated 15 October 2018, instructs the Chief Executive Officer to ensure that a budget variation relating to the outstanding total sum of works is accounted for in the budget review process.”

Attachments

Nil

References

Legislation

Environment Protection Act 1993

Council Policies/Plans

Procurement Policy

RECOMMENDATION

“that Council, having considered the matter of Agenda Item 21.1 – *Stony Point – Historical Asbestos Finding and Site Remediation* in confidence under sections 90(2) and 90(3)(b)(i) of the *Local Government Act 1999*, resolves that:-

- 1. The agenda item, report and any other associated information submitted to this meeting and the minutes of this meeting in relation to the matter remain confidential and not available for public inspection until further order of Council;**
- 2. Pursuant to section 91(9)(a) of the *Local Government Act 1999*, the confidentiality of the matter will be reviewed every 12 months; and**
- 3. Pursuant to section 91(9)(c) of the *Local Government Act 1999*, Council delegates the power to revoke this confidentiality order to the Chief Executive Officer.”**