

16 CONFIDENTIAL ITEMS**16.1 PROPOSED REMEDIATION OF CONTAMINATED LAND**

139

RECOMMENDATION

That:

1. Pursuant to Section 90(2) & (3) of the Local Government Act 1999 the Council orders that the public, with the exception of the Chief Executive Officer, Manager Property and Development Services, Manager Infrastructure Services, Manager Corporate Services, Coordinator Executive Services, Coordinator Organisational Development and the Minute Secretary, be excluded from attendance at the meeting held on Wednesday 20 May 2020 for Agenda Item 16.1 Proposed remediation of contaminated land;
2. The Council is satisfied that pursuant to section 90 (3) (d)(ii) and (k) of the Local Government Act 1999, the information to be received, discussed or considered in relation to the Agenda Item 16.1 Proposed remediation of contaminated land is:

commercial information of a confidential nature (not being a trade secret) the disclosure of which would, on balance, be contrary to the public interest; AND tenders for the supply of goods, the provision of services or the carrying out of works.
3. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed by the need to discuss this Agenda Item 16.1 in confidence.

**MOVED COUNCILLOR NEVILLE PFEIFFER
SECONDED COUNCILLOR MICK SPARNON**

That:

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3. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed by the need to discuss this Agenda Item 16.1 in confidence.

CARRIED.**The Mayor, Cr Andrew Grieger, vacated the chair at 8.21pm and resumed the chair at 8.22pm**

16.1 PROPOSED REMEDIATION OF CONTAMINATED LAND

Responsible officer: Shilo Wyatt, Manager Property and Development Services

- Attachments:**
1. **Approximate location and boundaries of contaminated area**
 2. **Total Asbestos Services - Results 78757**
 3. **Carters Asbestos Management - Quote AS1921e22458**

Section under the Act	The grounds on which part of the Council or Committee may be closed to the public are listed in Section 90(2) & (3) of the <i>Local Government Act 1999</i> .
Sub-clause and Reason:	(d)(ii) and (k) - commercial information of a confidential nature (not being a trade secret) the disclosure of which would, on balance, be contrary to the public interest and tenders for the supply of goods, the provision of services or the carrying out of works.

Executive Summary

The purpose of this report is to inform Council about the discovery of contaminated land in Pinnaroo and to enable Council to determine the awarding of the lump sum contract for urgent remediation works.

Scattered asbestos containing material (ACM) has been identified in the north-west section of the Pinnaroo Village Green area or former rail yard. The contaminated area is approximately 22,000m² and is the land where the former railway employee cottages were situated along Railway Terrace North, Pinnaroo. These buildings were demolished sometime in the late 1970s and it is believed that the ACM is a remnant of the demolition works that were undertaken at that time. There are numerous ad-hoc walking trails through this area indicating that members of the public are consistently traversing the site. The site is also in close proximity to the main commercial area of Pinnaroo, and opposite residential areas and the Pinnaroo Kindergarten.

Council has a detailed proposal and quotation from Carters Asbestos Management to remediate the site and it is recommended that Council award the contract for this work to commence immediately.

RECOMMENDATION

That Council

1. **notes the content of this report and the serious public safety risk that exists because of identified and confirmed asbestos containing material located across a large area of land at Railway Terrace North, Pinnaroo**
2. **supports remediation of the site as soon as possible to minimise the public health risk.**
3. **supports advocacy to the State Government’s Department of Planning, Transport and Infrastructure in the form of a formal request for a substantial financial contribution for the remediation works necessary to remove contamination from the site.**
4. **exempts itself from the usual requirement to seek tenders for the contaminated site remediation works at Railway Terrace North, Pinnaroo, in accordance with the Procurement Policy Exceptions (Clause 10), on the basis that there is a significant public risk if the procurement is delayed by process requirements, such as emergency situations**

threatening life and property the pressures of time are such that an open call is not feasible.

5. awards the lump sum contract for the contaminated site remediation works of the subject land on the south side of Railway Terrace North, Pinnaroo to Carters Asbestos Management for a contract price of \$68,450.00 (excluding GST).

MOVED COUNCILLOR PAUL IRELAND
SECONDED COUNCILLOR REBECCA BOSELEY

That Council

1. notes the content of this report and the serious public safety risk that exists because of identified and confirmed asbestos containing material located across a large area of land at Railway Terrace North, Pinnaroo
2. supports remediation of the site as soon as possible to minimise the public health risk.
3. supports advocacy to the State Government's Department of Planning, Transport and Infrastructure in the form of a formal request for a substantial financial contribution for the remediation works necessary to remove contamination from the site.
4. exempts itself from the usual requirement to seek tenders for the contaminated site remediation works at Railway Terrace North, Pinnaroo, in accordance with the Procurement Policy Exceptions (Clause 10), on the basis that there is a significant public risk if the procurement is delayed by process requirements, such as emergency situations threatening life and property the pressures of time are such that an open call is not feasible.
5. awards the lump sum contract for the contaminated site remediation works of the subject land on the south side of Railway Terrace North, Pinnaroo to Carters Asbestos Management for a contract price of \$68,450.00 (excluding GST).

SUSPENSION OF STANDING ORDERS

MOVED COUNCILLOR NEVILLE PFEIFFER
SECONDED COUNCILLOR REBECCA BOSELEY

A motion was moved that Council suspend standing orders for 10 minutes at 8.25pm.

CARRIED.

Meeting procedures resumed at 8.34pm

MOTION CARRIED.

Background

This issue was first raised when a member of the public delivered a couple of samples of what they thought might be ACM to the Pinnaroo Council Offices. Council conducted a preliminary walk

through the site and collected six random samples of potential ACM and then had the samples processed by Total Asbestos Services a qualified ACM laboratory in Adelaide.

The results from those test (Attachment 2) indicated that three of the six samples were indeed ACM and these results indicated that council should engage a consultant to investigate the extent of the potential remediation works further.

Context

Subsequently, Council engaged Carters Asbestos Management to conduct a preliminary site visit and assess the potential scope of works that would likely need to be undertaken to remediate the site to a point where public safety can reasonably be assured.

These preliminary investigations indicate that the area that would need to be investigated and potentially remediated is approximately 22,000m², Attachment 1 shows the approximate area. Whilst conducting this investigation the Carters team member identified numerous potential ACM across the site, indicating that this is a significantly contaminated site and of some concern given the public access to the contaminated area.

Given the sensitivity and urgency to act on this issue Council requested a detailed proposal and quotation from Carters, (Attachments 3).

Policy and statutory implications

The Local Government Act 1999 is relevant to this matter.

Council's Procurement policy (March 2020) is relevant to this matter.

The Work Health and Safety regulations related to asbestos and the Safework Australia Codes of Practice for the 'Safe Removal of Asbestos' and 'How to Manage & Control of Asbestos in the Workplace' are relevant to this matter.

Council's Risk Management Framework (November 2018) is relevant to this matter. This matter has been treated as an **extreme risk** and escalated and managed accordingly. In accordance with the framework the most appropriate outcome to deal with this risk is to **eliminate** the hazard, ie to remove the hazard completely.

Issues

Council has undertaken a thorough review of the Carter Asbestos Management proposal and quotation and is satisfied that it is well informed and represents value for public money. Council's Procurement policy, section 10 provides for a number of exemptions from the usual procurement processes. Specifically, Council is able to exempt its self from the usual procurement process on the basis that there is a significant public risk if the procurement is delayed by process requirements, such as emergency situations threatening life and property the pressures of time are such that an open call is not feasible. Whilst this is not an emergency situation the site contamination represents an extreme risk to public health and time is of the essence. It could be expected that an open tender process would add at least another two months to the time to award a contract any would be unlikely to result in any additional substantial cost savings.

Carter Asbestos Management is a known contractor to Council having undertaken asbestos audits of our building assets.

The proposed scope is detailed and thorough. Carters visited the site and has undertaken a detailed assessment and estimate of the works required. It is considered that the quotation

represents value for money. The cost is understandable when the associated compliance costs and manual labour costs to undertake the remediation works are considered.

Council has had preliminary discussions with another asbestos removal firm and that firm indicated the works would cost approximately \$50,000. That figure is provided without any commitment and without a site inspection and would likely be revised up after a preliminary site investigation. Council would also need to pay them to undertake a detailed onsite investigation.

It is considered appropriate for Council to advocate to the State Government for a substantial financial contribution for the necessary remediation works. Whilst it is unknown who demolished the old railway workers cottages and under what authority the works were undertaken it is considered appropriate for Council to progress this matter with the Department of Planning, Transport and Infrastructure (DPTI). DPTI financial assistance to undertake the site remediation would seem appropriate given that it was likely under the auspices of that office that the final order for demolition was issued. Additionally, a portion of the subject site remains in the ownership and control of DPTI.

Alternate options

Council should not delay action on this matter due to the public health risk posed by the existence of contaminated material on this site.

Financial implications

The proposed works, if approved, would be an additional operating expense for this financial year and be reconciled in the next budget review at the end of the financial year.

Carters conducted the site investigation works for no charge. This enabled them to provide a thorough project scope and quotation. Carters did this because of the existing client relationship we have with them. There would be a cost to Council to have any other firm conduct an onsite investigation.

Work Health and Safety and Risk implications

The contaminated material is a friable type of chrysotile asbestos commonly associated with mesothelioma. It is scattered in significant quantities throughout the identified area and is a potential danger to the public, given this is a thoroughfare. Not only does the contaminated site contain a number of pedestrian connections between the commercial centre of Pinnaroo and residential area to the north it is directly opposite residential properties and a kindergarten.

Council staff undertake maintenance of the subject site including mowing. This activity has been modified until the contamination is removed.

Consultation

Council should utilise its media and communications service provider to prepare a suitable media and public communications strategy in response to this sensitive issue.

Approximate location and boundaries of contaminated area



TAS Enterprises (Aust) Pty Ltd
PO Box 10276
Adelaide BC SA 5000
Phone 08 8234 1282
Facsimile 08 8234 7211
E-Mail admin@totalasbestos.com.au



Sample ID

ABN 74 082 296 535

Job Number 78757

Order Number

Asbestos Analysis Report

23-Oct-19

Shilo Wyatt
Southern Mallee District Centre
PO Box 49
PINAROO SA 5304

SITE: Railway Terrace North & Railway Terrace South, PINNAROO, SA 5304

Serial ID	21874	Sample ID	00993A	Analysis Type	PLM - NATA
Location Name	Building product				
Description	Cement sheeting				
Result	Chrysotile (white) asbestos detected by Polarised Light Microscopy including Dispersion Staining.				

Description of Analysis Method

This sample was analysed by polarised light microscopy by an independent NATA accredited laboratory.

NOTE 1: Chrysotile is a fibrous silicate commonly known as white asbestos, amosite is a fibrous silicate commonly known as brown or grey asbestos and crocidolite is a fibrous silicate commonly known as blue asbestos.

NOTE 2: We take no responsibility for the accuracy of externally supplied samples or data related to said samples. This report is not intended for use in an asbestos Register.



Carters

Asbestos Management

- ▶ Asbestos Registers & Reviews
- ▶ Asbestos Management Plans
- ▶ Asbestos Repairs & Maintenance
- ▶ Asbestos Training & Safety Products
- ▶ Asbestos Removal & Management
- ▶ Asbestos Advice and Consultancy

QUOTATION

Attention : Shilo Wyatt

Date: 03.03.20
 Enquiry Number: 22458
 Valid Until: 03.04.20

Southern Mallee District Council
 PO Box 49
 PINAROO SA 5304
 AUSTRALIA

Dear Shilo,

Asbestos Consultancy - Former Railway Worker Accomodation Reserve, Railway Tce Pinnaroo

Further to our recent correspondence regarding management and control of asbestos containing materials (ACM) at the above property, and in line with the WHS regulations and the Safework Australia Codes of Practice for the 'Safe Removal of Asbestos' and 'How to Manage & Control of Asbestos in the Workplace', we have pleasure in providing our quotation for the following Asbestos Consultancy based scope of works as requested;

Specific Scope of Works

1. Mobilise to the site and establish asbestos work areas, undertake toolbox talk with removalist confirm ARCP, SWMS & JSEA to ensure scope of works is qualified.
2. Subdivide the total site area (approx. 22,000m2) into asbestos work zones/sections to ensure each zone is cleared and inspected in a formal logical order.
3. Cordon off working section and install signage to indicate asbestos work zone.
4. Set up perimeter air monitoring programme.
5. Grid walk work zone marked off and collect all visible asbestos cement debris fragments accessible on soil surface.
6. Duration of work anticipated to be 9 working days.
7. Working days will be Monday to Friday 07.00 till 17.30
8. Air monitoring results will be forwarded on a daily basis
9. Upon completion of each section a licensed asbestos assessor will grid walk the area and confirm no visible Acm present upon completion a visual clearance certificate will be issued.
10. Whilst on site, additional visual inspection will be undertaken as to potential occurrence of further buried asbestos cement waste, this will be in the form of trial pits being dug (10 in total to various depths on a random basis across the site). The spoil will be placed through a 7mm sieve and any ACM's noted and photographed. This is a minor inspection only and may not be representative of the whole area based upon limited inspections.
11. All waste will be double bagged, transported and disposed of as non-friable (bonded) asbestos waste with waste tracking forms being supplied upon completion.
12. We have included for travel and accommodation in our proposal.

Carter Corporation's scope of works as the asbestos manager will be to:

Preliminary management (before commencement of work)

1. Verify the asbestos removalist license details are suitable for the nature of the work.
2. Verify the sub-contractor has conducted notification to Safework SA (where required).
3. Be provided by the contractor with a copy of the Safework SA notification number (where required). A copy of the notification number is to be included within the inspection clearance certificate on completion of the work.

4. Verify the sub-contractor has provided an asbestos removal control plan, risk assessment and safe work method statement for the work.
5. Co-ordinate the asbestos removal contractor's works programme in liaison with the client.

On-site Management

6. Ensure the contractor has the above information available on-site prior to commencement of and during the work.
7. Conduct preliminary meeting with the contractor's nominated supervisor prior to commencement of the work.
8. Ensure contractor supervisor is aware of the project requirements to allow set-up asbestos work area, isolating the area with bunting / barricading and signs indicating restricted access. Liaise with / advise on-site personnel (client / tenants) regarding proposed works.
9. Verify the location of the air-monitoring equipment is in accordance with the control plan and notification.
10. If specified, carry out random checks as necessary for conformance that the contractor is working in accordance with the applicable notification and safe work method statement.
11. Consult with the contractor should scope of works or conditions alter and report to the client.
12. Carry out inspection with the asbestos removal contractor supervisor upon completion by the contractor to ensure all visual / accessible asbestos material has been removed.
13. Provide client with confirmation of verbal air-monitoring clearance result to allow the work area to be returned back to prior conditions / normal occupation following the removal. No access to the work area until verbal clearance provided.
14. Upon completion of job, compile documentation sufficient to provide client with an inspection clearance certificate with removalist details, notification number, copies of air-monitoring results and any further limitations and conditions regarding in-accessible areas for inclusion into the asbestos register by the client as required by regulations.

Description	Amount (AUD)
Asbestos Management	68,450.00
Quotation Subtotal	68,450.00
Total Tax	6,845.00
Quotation Total	75,295.00

Clarifications

1. Access to the site will always be maintained to allow the completion of works
2. The application of work permits, development applications council permits authorities to work etc will be the responsibility of others
3. No allowance has been included to cut any grass, bushes, vegetations etc. which may conceal surface fragments of asbestos cement.
4. No allowance to disturb soil by digging or raking to remove any buried asbestos waste. This is a surficial collection and inspection only.
5. Cultural Heritage assessment, monitoring and the effects thereof will be undertaken by others.
6. No allowance for any PSI/DSI (preliminary site investigations/detailed site investigation) or development of any site management documentation.
7. No allowance for any environmental assessments.

Quotation Limitations

1. Programme is based upon mobilisation and site inspection within 4 weeks lead time from date of receipt of written order unless agreed otherwise, or when in area for remote/country works.
2. Job will not be programmed until confirmation of written email/confirmation work order is received. Programme and method to be confirmed.
3. Work to be carried out during normal working hours (7am to 3:30pm weekdays) - unless stated otherwise.
4. All work carried out in accordance with "Approved Codes of Practice".
5. Air-monitoring is included when/as required by the regulation requirements for all asbestos associated removal projects. No access to areas whilst work is being performed. Access to area will only be given upon receipt of "All Clear"

air monitoring results.

6. No allowance has been included for the disconnection/reconnection or diversion of services. Client to provide confirmation of relevant approvals and verification of isolation and/or disconnection of services by the various authorities (eg electrical, gas, etc). Client to ensure security / fire and smoke detectors and air-conditioning are isolated for the duration of the work.
7. All works to be conducted by licensed sub-contractors.
8. No allowances have been included for replacing removed materials or making good other than work specified above.
9. No allowance for the removal of unforeseen, concealed or previously unidentified asbestos containing material during the removal such as additional layers, underlying glues, adhesives / resins containing residual asbestos or ACM that becomes apparent following the removal from further demolition or from buried / below ground level.
10. Unless specifically stated otherwise, no allowance for demolition of materials to gain access for asbestos removal.
11. Client to provide Access via meeting on-site with keys or security requirements.
12. Client responsible to provide unrestricted / clear access to the work area and to advise employees, occupants / tenants / adjoining property owners of the time and duration of the works.
13. Any work not included in the original scope will incur additional costs.
14. This price is valid for fourteen (14) days from the above date.
15. Refer to terms of Trading Agreement available on our website.
16. Payment terms are strictly 7 days from date of invoice.

We look forward to being of service to you in this asbestos matter and take this opportunity to advise that we are available to assist you in a broad range of asbestos and hazardous materials services in both the commercial and residential sector.

TOTAL HAZARDOUS MATERIALS SERVICE - YOUR SINGLE SOURCE SOLUTION

Our Asbestos Services Include;

- Asbestos Registers
- Review of existing Asbestos Registers
- Pre-Demolition Asbestos Inspections and Risk Assessments
- Asbestos Management Plans
- Asbestos Maintenance / Repair works
- Asbestos removal.
- Sample analysis.
- Air monitoring
- Caution Signs.
- Site consultancy inspections.
- Asbestos Awareness Training.

In addition to our asbestos services, we can provide assistance in relation to any Occupational Hygiene or Contamination issue that you may require.

These services include;

- Contaminated Soil Assessment, including remediation works.
- Hazardous Dust Assessments and sampling programmes
- Hazardous Materials Registers incorporating Synthetic Mineral Fibres, Lead in Paints, Ozone Depleting Substances, Polychlorinated biphenyls (PCB's) etc.
- Inspection and identification of Meth-Amphetamine presence
- Creation of Emergency Evacuation Plans

We thank you for the opportunity to provide a quotation for our services and should you have any queries in relation to this proposal or on any of the above in general, please do not hesitate to contact us.

Yours faithfully



Trevor Harris

Senior Consultant

**CARTER CORPORATION PTY. LTD.
(Carters Asbestos Management)**

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TRADING AGREEMENT TERMS & CONDITIONS OF ENGAGEMENT FOR ASBESTOS CONSULTING SERVICES

1. Carter Corporation Pty Ltd (Carters Asbestos Management) shall provide to the Client the consulting services described in the quotation letter/proposal together with such other services as may be agreed from time to time.
2. In providing these services, Carter Corporation Pty Ltd will exercise the degree of skill, care and diligence generally exercised by competent asbestos consultants in similar circumstances at the time of conducting the services.
3. The Client shall make available and provide, at its own cost, as soon as reasonably practical to Carter Corporation Pty Ltd briefing and documentary notification of all information concerning the Clients requirements for the job/project/service as necessary for Carter Corporation Pty Ltd to rely upon such information, documents and other particulars as provided to carry out the works.
4. The Services will be performed at either or both the site of the project or at other places required by the Client. Where the locations of the job/project are not under Carter Corporation Pty Ltd control, the Client must provide reasonable access to allow Carter Corporation Pty Ltd to fulfil its obligations.
5. The client must at all times maintain at its own cost with reputable insurers and on terms consistent with prudent risk management, a public and products liability insurance policy that covers all claims for not less than \$20 million for each and every claim, Workers compensation insurance in the name of the client covering all liabilities, insurance that provides cover against loss or damage of any property for which Carter Corporation Pty Ltd is responsible, and a motor vehicle policy in respect of liability to third parties.
6. These terms will apply to the exclusion of any inconsistent terms and conditions which may appear on any order form or any other document issued by the client, unless agreed in writing by Carter Corporation Pty Ltd. The client will be deemed to have accepted these terms and conditions when the client accepts or signs the proposal or when Carter Corporation Pty Ltd commences the proposed services at the request (written or otherwise) of the client. These terms also apply to any variation to the scope of the service requested (verbally or in writing) by the client.
7. Carter Corporation Pty Ltd shall maintain, and where required by the client provide evidence of currency for the following insurances for the duration of the role on the agreed service/project:
 - a. Professional Indemnity - not less than \$1,000,000
 - b. Public and Products Liability - not less than \$20,000,000
 - c. Return to Work Services (Workers Compensation)
8. The Client shall pay to Carter Corporation Pty Ltd the quotation fee and any applicable reimbursable expenses as set out in correspondence together with such other amounts in respect of other services agrees to be provided. This payment must be without set-off or deduction of:
 - a. The amount payable under this Agreement for the services provided during the relevant period.
 - b. The GST payable under this Agreement for the services provided during the relevant period.
9. Progress Claim invoices are normally issued at weekly, fortnightly or completion of project stage intervals. All monies payable by the Client to Carter Corporation Pty Ltd shall be paid within the period from the date of the invoice as set out in the quotation letter/proposal. Monies not paid within that period shall, at the option of Carter Corporation Pty Ltd, attract interest from the date of the invoice until payment at the rate of 20%pa. In the event that the amount owed to Carter Corporation Pty Ltd has fallen outside standard payment terms, and where no arrangement has been made to pay this amount, the debt may be referred to a collection agency. All associated collection and legal costs will be payable by the Client.
10. A cancellation fee of a minimum of 10% of the total quoted fee will apply if a job is cancelled where there is limited work in progress recorded by Carter Corporation Pty Ltd. Where any service requested which is not listed in this Fee schedule and requires Carter Corporation Pty Ltd to engage external services / contractors / consultants on behalf of the Client, an administration fee of 15% applies.
11. To maximum extent permitted by law, the client releases, discharges, waives and forever holds harmless Carter Corporation Pty Ltd from all claims for any loss sustained by the client arising from the services, whether caused by Carter Corporation Pty Ltd negligence or wilful act or omission, breach of contract, breach of statutory duty or otherwise in connection with the services:
 - a. Carter Corporation Pty Ltd is not liable to the Client in respect of any indirect, consequential or special losses (including loss of profit, loss of business opportunity and payment of liquidated sums or damages under any other agreement).
 - b. Carter Corporation Pty Ltd shall be deemed to have been discharged from all liability in respect to the Services whether under contract, in tort, in equity, under statute or otherwise, at the expiration of the period specified in the Proposal, or if no date is specified, upon completion of services.

- c. If, and to the extent that, any of this Clause is void as a result of Section 69 of the Trade Practices Act 1974, then Carter Corporation Pty Ltd liability for a breach of condition or warranty is limited to:
- i. the supplying of the relevant services again, or
 - ii. the payment of the cost of having the Services supplied again.
12. The warranties contained within these conditions are additional to the warranties implied by law. Each of the warranties will be read and construed as a separate and independent warranty and will not be limited by reference to each other. All warranties will be valid at all times during the provision of the services and will be continuing warranties which will survive completion of the service and the termination or expiration of this agreement.
- The client warrants to Carter Corporation Pty Ltd that as of the date of this agreement and for the duration of the agreement;
- a. It has complied with applicable legislation the client is subject to, that affects Carter Corporation Pty Ltd performance of the services
 - b. The client will identify in writing to Carter Corporation Pty Ltd prior to the commencement of services all hazards known to the client that may affect the persons who perform the services.
 - c. The client will provide a safe workplace for performance of the services subject to the hazards specifically identified by the client
 - d. The client is not insolvent, and no controller has been appointed over any part of its assets and no such appointment has been threatened; and
 - e. The client is not bankrupt or in liquidation or administration and no proceedings have been brought or threatened for the purpose of bankrupting or winding up the client.
13. The client shall be liable for and shall indemnify Carter Corporation Pty Ltd (including Carters related bodies corporate, if any), its directors, officers, employees, servants and agents against any;
- a. loss or damage suffered by any of them in the course of performing the services
 - b. any liability, claim, suit, action or proceeding whatsoever against Carter Corporation Pty Ltd in respect of personal injury (including illness) or death or loss of damage to property;
 - c. any liability, claim, suit, action or proceeding whatsoever under statute or common law in respect of personal injury (which expression shall include illness) or death of any or all persons employed by the client or any contractors engaged by the client, and
 - d. any costs or expenses Carter Corporation Pty Ltd may incur in respect of such loss, damage, claim, suit, action or proceeding or liability, including legal costs on a full indemnity basis arising out of, in connection with or as a consequence of the omissions or actions of the client, Where such loss or damage is caused directly or indirectly, or is contributed to as a result of any breach of this agreement by the client, or otherwise by any act or omission by the client, its servants, agents or contractors.
14. As between the Client and Carter Corporation Pty Ltd, the ownership of the IP rights vests in Carter Corporation Pty Ltd.
15. Any dispute between the Client and Carter Corporation Pty Ltd shall first be the subject of mediation, provided this provision shall not prevent Carter Corporation Pty Ltd from instituting legal action at any time to recover any monies owing by the Client to Carter Corporation Pty Ltd.
16. The Client may terminate their obligations under this Agreement:
- a. In the event of a substantial breach by Carter Corporation Pty Ltd of their obligations hereunder, which breach has not been remedied within 30 days of written notice from the Client requiring the breach to be remedied; OR
 - b. Upon giving Carter Corporation Pty Ltd 30 days written notice of his intention to do so.
17. Carter Corporation Pty Ltd may suspend or terminate their obligations under this Agreement:
- a. In the event of:
 - i. monies payable to Carter Corporation Pty Ltd hereunder being outstanding for more than 14 days from standard payment terms;
 - ii. other substantial breach by the Client of their obligations hereunder, which breach has not been remedied within 30 days of written notice from Carter Corporation Pty Ltd requiring the breach to be remedied; OR
 - b. Upon Carter Corporation Pty Ltd giving 30 days written notice of the intention to do so.
18. If Carter Corporation Pty Ltd considers it appropriate to do so, they may, with the Client's prior approval, which shall not be unreasonably withheld, engage another consultant to assist Carter Corporation Pty Ltd in specialist areas. The Client accepts responsibility for all monies payable to such other consultants.
19. The client must not assign, transfer or sublet any obligations under this Agreement without written consent of the other. Unless stated in writing to the contrary, no assignment, transfer or subletting shall release the

- assignor from any obligation under this Agreement.
20. Time spent on forensic and or as an expert witness on legal matters, mediations, arbitrations, litigations and commissions of enquiry will be charged at not less than 50% in excess of Carter Corporation Pty Ltd normal hourly rates. This increased rate will apply to all aspects of work including investigation, analysis, reporting, briefing of legal advisors, appearance to give evidence, participation in mediation and other services as required.

CONFIDENTIAL



Carter Corporation Pty Ltd 42 Trembath Street Bowden SA 5007

P (08) 8346 2999 **F** (08) 8346 3888 **E** enquiries@cartercorporation.com.au **W** www.cartercorporation.com.au

ABN 58 007 881 763 **Asbestos Lic** 72803 **EPA Lic** 13933 AS4801 OH&S Accredited

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16 CONFIDENTIAL ITEMS**16.1 PROPOSED REMEDIATION OF CONTAMINATED LAND****RECOMMENDATION**

That having considered agenda Item 16.1 in confidence under section 90 (2) and (3) (d)(ii) and (k) of the Local Government Act 1999, the Council pursuant to section 91 (7) of the Act orders that the documents considered by the Council, including the officer's report and all minutes be retained in confidence. This order is to be reviewed at or before the ordinary Council meeting to be held in January 2021, as to if this order is to continue in operation.

MOVED COUNCILLOR PAUL IRELAND**SECONDED COUNCILLOR NEVILLE PFEIFFER**

That having considered agenda Item 16.1 in confidence under section 90 (2) and (3) (d)(ii) and (k) of the Local Government Act 1999, the Council pursuant to section 91 (7) of the Act orders that the documents considered by the Council, including the officer's report and all minutes be retained in confidence. This order is to be reviewed at or before the ordinary Council meeting to be held in January 2021, as to if this order is to continue in operation.

CARRIED.

