

NOTICE OF COUNCIL MEETING

Pursuant to the provisions of section 83(2) of the
Local Government Act 1999

The Special Meeting of the



**Adelaide
Plains
Council**

will be held

by electronic means

on

Monday 29 June 2020 at 6.00pm

A handwritten signature in black ink, appearing to be 'James Miller', written in a cursive style.

James Miller
CHIEF EXECUTIVE OFFICER

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 Adelaide Plains Council	4.1	Approval of Expenditure Prior to the Adoption of the 2020/2021 Annual Budget
	Department:	Finance and Business
	Report Author:	General Manager – Finance and Business
Date: 29 June 2020	Document Ref:	D20/27294

EXECUTIVE SUMMARY

- The purpose of this report is for Council to approve the expenditure of unbudgeted funds for the period between the end of the current budget cycle (being 30 June 2020) and the approval of the 2020/2021 Budget (anticipated to be considered at a Special Council Meeting on 8 July 2020).
- Under section 44(3)(e) of the *Local Government Act 1999*, a council cannot delegate the power to approve expenditure of money on works, services or operations that is not contained in a budget adopted by the Council.
- As there will be a period of time (between 30 June 2020 and the date that the 2020/2021 budget is adopted) that Council will not have an adopted budget in place, in order for Council to continue to operate on a ‘business as usual’ basis (or at all), it is necessary for Council to approve the expenditure of certain funds and, in doing so, provide an authorisation for expenditure by the Chief Executive Officer and the administration that will essentially occur outside an approved budget.
- Provided for Members’ consideration at Table 1 is a summary of works, services and operations deemed necessary for Council to continue to operate on a ‘business as usual’ basis from 30 June 2020 until the 2020/2021 budget is adopted.
- The recommendation below is based on a template, provided by the Local Government Association.

RECOMMENDATION

“that Council, having considered Item 4.1 – *Approval of Expenditure Prior to the Adoption of the 2020/2021 Annual Budget*, dated 29 June 2020, receives and notes the report and in doing so:

- 1. Notes that the 2020/2021 Annual Business Plan and Budget of Council is not proposed to be adopted until 8 July 2020;**
- 2. Pending the adoption of the 2020/2021 Annual Business Plan and Budget, the Council approves the expenditure of Council funds on the works, services and operations of the Council as follows:**
 - a. Employee costs**
 - b. Materials, contractors and other**
 - c. Loan repayments and short term borrowings**
 - d. Interest expenses.**
- 3. The Chief Executive Officer is authorised to expend the Council’s funds approved in paragraph 2 of this resolution in accordance with the terms of this approval as Chief Executive Officer thinks fit; and**
- 4. The Chief Executive Officer may authorise such other employees of the Council to expend funds approved in paragraph 2 of this resolution in accordance with the terms of this approval as Chief Executive Officer thinks fit.”**

BUDGET IMPACT

Estimated Cost:	This report has no specific financial or budget implications other than to seek approval for the expenditure of unbudgeted Council funds for the intervening period between the end of the current budget period (being 30 June 2020) and the adoption of the 2020/2021 budget.
Future ongoing operating costs:	Not Applicable
Is this Budgeted?	Not Applicable

RISK ASSESSMENT

By adopting the above recommendation, Council can continue to operate on a ‘business as usual’ basis to provide Council services to the Adelaide Plain community until 2020/2021 budget is adopted.

Attachments

Nil

DETAILED REPORT

Purpose

The purpose of this report is for Council to approve the expenditure of unbudgeted funds for the period between the end of the current budget cycle (being 30 June 2020) and the approval of the 2020/2021 Budget (anticipated to be considered at a Special Council Meeting on 8 July 2020).

Background/History

Under section 44(3)(e) of the *Local Government Act 1999*, a council cannot delegate the power to approve expenditure of money on works, services or operations that is not contained in a budget adopted by the Council.

Discussion

As there will be a period of time (between 30 June 2020 and the date that the 2020/2021 budget is adopted, anticipated to occur in July 2020) that Council will not have an adopted budget in place, in order for Council to continue to operate on a ‘business as usual’ basis (or at all), it is necessary for Council to approve the expenditure of certain funds and, in doing so, provide an authorisation for expenditure by the Chief Executive Officer and the administration that will essentially occur outside an approved budget. This approach, and the recommendation, is based on advice and a template provided by the Local Government Association.

Provided for Members’ consideration at **Table 1** below is a summary of works, services and operations deemed necessary for Council to continue to operate on a ‘business as usual’ basis from 30 June 2020 until the 2020/2021 budget is adopted in July 2020.

Table 1: Works, Services and Operation

Operating Expenses
- Employee costs
- Materials, contracts and other
- Loan repayments and short term borrowings
- Interest expenses

Conclusion

As there will be a period of time (between 30 June 2020 and the date that the 2020/2021 budget is adopted) that Council will not have an adopted budget in place, in order for Council to continue to operate on a ‘business as usual’ basis (or at all), it is necessary for Council to approve the expenditure of certain funds and, in doing so, provide an authorisation for expenditure by the Chief Executive Officer and the administration that will essentially occur outside an approved budget.

References

Legislation

Local Government Act 1999 Part 2 Section 123 Annual Business Plans and Budgets

Local Government (Financial Management) Regulations 2011 - Part 2 Clauses (6) & (7)

Annual Business Plans and Strategic Planning Notice (No 4) 2020

Council Policies/Plans

Budget Management Policy

 Adelaide Plains Council	5.1 Confidential Item
29 June 2020	

5.1 Legal Services Fee Proposals 2020-2021 – Additional Information Requested

5.1 Legal Services Fee Proposals 2020-2021 – Additional Information Requested

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 Executive Office, General Manager – Infrastructure and Environment, General Manager – Finance and Business, Manager Governance and Administration/Minute Taker and Information Technology Officer be excluded from attendance at the meeting of the Council for Agenda Item 5.1 – *Legal Services Fee Proposals 2020-2021 – Additional Information Requested*;**
- 2. Council is satisfied that pursuant to section 90(3)(d) of the *Local Government Act 1999*, Item 5.1 – *Legal Services Fee Proposals 2020-2021 – Additional Information Requested* concerns commercial information of a confidential nature (not being a trade secret), being legal firm fee proposals, 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 and on balance it would 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	5.1	Legal Services Fee Proposals 2020-2021 – Additional Information Requested
	Department:	Governance and Executive Office
	Report Author:	General Manager – Governance and Executive Office
Date: 29 June 2020	Document Ref:	D20/26733

EXECUTIVE SUMMARY

- The purpose of this report is for Council to consider its legal service arrangements for the 2020-2021 now that further information has been provided to Members following a request received from Councillor Margherita Panella (via email) at the conclusion of the Ordinary Council Meeting held on 22 June 2020.
- A report was presented to the 22 June 2020 Ordinary Meeting (22 June report) for Council to consider its legal service arrangements for the 2020-2021 financial year (**Attachment 1**).
- The 22 June report detailed Council’s current (and previous) legal service arrangements, Council’s legal expenditure since the 2012/2013 financial year, and justification for the recommendation.
- The 22 June report also included the following attachments (re-provided as **Attachment 2 to this Report** for ease of reference):
 - Summary of Legal Service Proposals for 2020/2021
 - Proposal from Norman Waterhouse Lawyers dated 26 May 2020
 - Proposal from Wallmans Lawyers dated 29 May 2020
 - Proposal from Kelledy Jones Lawyers dated 1 June 2020
- At the time of considering the 22 June report, a verbal request was made from Councillor Panella for the Chief Executive Officer to provide additional information/documentation, including previous agreements and various cost breakdowns of legal fees incurred since 2017.
- A copy of relevant additional information requested, together with detailed email responses, has now been provided to all Members (via email marked ‘confidential’ sent by Council’s Chief Executive Officer on 26 June 2020).
- With Council’s current legal service arrangements expiring on 30 June 2020, it is prudent for Council to consider its legal service arrangements for the 2020-2021 financial year.
- It remains Management’s recommendation that Council continue to use the services of Kelledy Jones Lawyers and Norman Waterhouse Lawyers for the following reasons:
 - The long-standing, working relationships;
 - Value-for-money/discounts offered;
 - Knowledge retention and depth of expertise;

- Accuracy and quality of advice;
- Flexibility and contingency; and
- More recently, the partnership formed between the LGA and NWL (which has meant Council can access a reduced capped rate of \$350p/hr).

RECOMMENDATION

“that Council, having considered Item 5.1 – *Legal Services Fee Proposals 2020-2021 – Additional Information Requested*, dated 29 June 2020, receives and notes the report and in doing so commits to utilising both **Norman Waterhouse Lawyers and Kelledy Jones Lawyers on a panel (non-exclusive) arrangement for the provision of legal services for the 2020-2021 financial year.”**

Attachments

1. Ordinary Council Meeting 22 June 2020 Agenda Item 21.1 – Legal Services Fee Proposals 2020/2021
2. Attachments 1-4 to 22 June 2020 Agenda Item 21.1 – Summary of Legal Service Proposals for 2020/2021.

DETAILED REPORT

Purpose

The purpose of this report is for Council to consider its legal service arrangements for the 2020-2021 now that further information has been provided to Members following a request received from Councillor Margherita Panella (via email) towards the conclusion of Council's consideration of the matter at the Ordinary Council Meeting held on 22 June 2020.

Background/History

A report (Item 21.1) was presented to the 22 June 2020 Ordinary Meeting for Council to consider its legal service arrangements for the 2020-2021 financial year (22 June report). A copy of the 22 June report is provided for as **Attachment 1** to this report.

As Members are aware, the 22 June report included the following attachments:

- Summary of Legal Service Proposals for 2020/2021.
- Proposal from Norman Waterhouse Lawyers dated 26 May 2020.
- Proposal from Wallmans Lawyers dated 29 May 2020.
- Proposal from Kelledy Jones Lawyers dated 1 June 2020.

For ease of reference, the above attachments are provided for as **Attachment 2** to this report.

At the time of considering the 22 June report, a verbal request was made from Councillor Panella for the Chief Executive Officer to provide additional information/documentation. Although not formally tabled at the meeting under the *Local Government (Procedures at Meetings) Regulations 2013* or *Council's Code of Practice – Meeting Procedures*, an email was subsequently received from Councillor Panella (a copy of which was now been provided to all Members).

With the exception of relevant confidentiality orders, no formal decisions (resolutions) in relation to Council's legal service arrangements were made by Council.

Discussion

A copy of the relevant additional information requested (including updated financial information), together with a detailed response, has now been provided to all Members (via email marked 'confidential' sent by Council's Chief Executive Officer on Friday 26 June 2020).

Further to the information previously provided to Council (both within the 22 June 2020 report and the additional information subsequently provided to Members via email), the following points are highlighted to assist Council in making a decision:

- In accordance with Council's Procurement Policy, a tender process was used to seek three (3) written quotations/fee proposals.
- As detailed within the 22 June report (Attachment 1 to this report), detailed proposals were provided by Norman Waterhouse Lawyers (NWL), Kelledy Jones Lawyers (KJL) and Wallmans Lawyers. The proposals were provided to Council, together with a summary for ease of

reference, as attachments to the 22 June report. The summary and all proposals are provided for ease of reference as further attachments to this report (Attachments 2-5).

- Council has previously followed this process to procure its legal services and to date, no queries/concerns/questions have been received from either Council Members (or staff) in relation to our arrangements.
- Council has utilised the services of both KJL and NWL for a long-period of time (our records indicate agreements in place since 2012) and to date, this arrangement has worked very effectively for Council.
- In light of the above and due to:
 - The long-standing, working relationships;
 - Value-for-money/discounts offered;
 - Knowledge retention and depth of expertise;
 - Accuracy and quality of advice;
 - Flexibility and contingency; and
 - More recently, the partnership formed between the LGA and NWL (which has meant Council can access a reduced capped rate of \$350p/hr).

it is recommended that Council continue to use these two (2) firms.

Council's current legal service arrangements will expire on 30 June 2020, meaning the Council will not have the ability to access/obtain legal advice (with the exception of advice sought from the Local Government Association) after that date without a resolution from the Chamber.

Conclusion

With Council's current legal services service agreements due to expire on 30 June 2020, Council must consider its arrangements for the 2020-2021 financial year.

References

Legislation

Local Government Act 1999 (SA)

Council Policies/Plans

Procurement Policy

RECOMMENDATION

“that Council, having considered the matter of Agenda Item 5.1 – *Legal Services Fee Proposals 2020-2021 – Additional Information Requested* in confidence under sections 90(2) and 90(3)(d) of the *Local Government Act 1999*, resolves:

1. That **Attachment 2** pertaining to Agenda Item 5.1 – *Legal Services Fee Proposals 2020-2021 – Additional Information Requested* **remains confidential and not available for public inspection until further order of the Council;**
2. That **Attachment 1, the staff report and the minutes** of this meeting in relation to 5.1 – *Legal Services Fee Proposals 2019-2020 – Additional Information Requested* **remain confidential and not available for public inspection until all nominating firms are advised of Council’s decision** in relation to legal retainers for 2020-2021;
3. Pursuant to section 91(9)(a) of the *Local Government Act 1999*, the confidentiality of the matter will be reviewed every 12 months; and
4. 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.”

 <p>Adelaide Plains Council</p>	<p>21.1 CONFIDENTIAL ITEM</p>
<p>22 June 2020</p>	

21.1 Legal Services Fee Proposals 2020-2021

21.1 Legal Services Fee Proposals 2020-2021

RECOMMENDATION 1

“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 Executive Office, General Manager – Infrastructure and Environment, General Manager – Finance and Business, Manager Governance and Administration/Minute Taker be excluded from attendance at the meeting of the Council for Agenda Item 21.1 – *Legal Services Fee Proposals 2020-2021*;**
- 2. Council is satisfied that pursuant to section 90(3)(d) of the *Local Government Act 1999*, Item 21.1 – *Legal Services Fee Proposals 2020-2021* concerns commercial information of a confidential nature (not being a trade secret), being legal firm fee proposals, 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, being fee proposals submitted by three legal firms, and on balance it would 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	21.1	Legal Services Fee Proposals 2020-2021
	Department: Report Author:	Governance and Executive Office General Manager – Governance and Executive Office
Date: 22 June 2020	Document Ref:	D20/19074

EXECUTIVE SUMMARY

- The purpose of this report is to provide Council with recent proposals received from Norman Waterhouse Lawyers, Kelledy Jones Lawyers and Wallmans Lawyers in relation Council’s legal service arrangements for the 2020-2021 financial year.
- In June 2019, Council committed to continuing to utilise the services of both Norman Waterhouse Lawyers and Kelledy Jones Lawyers on a panel (non-exclusive) arrangement for the 2019-2020 financial year.
- Council has engaged these two (2) firms on the same arrangement for several years, however the current agreements will effectively cease on 30 June 2020.
- After weighting up efficiencies, value for money, knowledge retention, contingency and building strong working relationships, Council must consider its legal service arrangements for the 2020-2021 financial year.

RECOMMENDATION

“that Council, having considered Item 21.1 – *Legal Services Fee Proposals 2020-2021*, dated 22 June 2020, receives and notes the report and in doing so commits to utilising both **Norman Waterhouse Lawyers and Kelledy Jones Lawyers on a panel (non-exclusive) arrangement for the provision of legal services for the 2020-2021 financial year.”**

BUDGET IMPACT

Estimated Cost:	As per attached proposals
Future ongoing operating costs:	Nil
Is this Budgeted?	Yes - \$120,000 included in 2020-2021 Budget

RISK ASSESSMENT

If Council does not engage independent legal advisors, it could be at risk of being exposed to unnecessarily, costly litigation.

Attachments

1. Summary of Legal Service Proposals for 2020/2021
2. Proposal from Norman Waterhouse Lawyers dated 26 May 2020
3. Proposal from Wallmans Lawyers dated 29 May 2020
4. Proposal from Kelledy Jones Lawyers dated 1 June 2020

DETAILED REPORT

Purpose

The purpose of this report is for Council to consider the legal fee proposals provided by Norman Waterhouse Lawyers, Kelledy Jones Lawyers and Wallmans Lawyers and in doing so, consider the direction it wishes to take in order to procure legal services for the 2020-2021 year.

Background/History

Council, at its meeting held on 24 June 2019, adopted the following resolution:-

21.1 Legal Services Fee Proposals 2019/2020

Moved Councillor Strudwicke Seconded Councillor Lush 2019/ 265

“that Council, having considered Item 21.1 – Legal Services Fee Proposals 2019-2020, dated 24 June 2019, receives and notes the report and in doing so commits to utilising both Norman Waterhouse Lawyers and Kelledy Jones Lawyers on a panel (non-exclusive) arrangement for the provision of legal services for the 2019-2020 financial year.”

CARRIED

Further details regarding the current panel arrangement with the abovementioned firms can be found within the 24 June 2019 Ordinary Council Meeting Agenda and Minutes. The report submitted to Council dated 24 June 2019 also contains more specific details of the previous fee proposals submitted by all firms.

Discussion

As Members are aware, Council currently utilises the services of both Norman Waterhouse Lawyers and Kelledy Jones Lawyers for the provision of legal advice and has done so for many years (Council’s records reflect retainer arrangements being in place with these two firms since 2012/2013). Council’s Development and Community Department primarily uses Kelledy Jones in relation to planning and compliance matters, while Council often relies on the advice from Norman Waterhouse in relation to Governance, Property and Industrial relation matters. More recently, Council has utilised the services of Kelledy Jones to represent Council in the Environment, Resources and Development Court and also in relation to matters surrounding the Gawler River Floodplain Management Authority.

A summary of Council’s legal expenditure since the 2012/2013 financial year is provided below:-

Financial Year	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020 <i>*as at 3/6/20</i>
Actual Legal Expenditure	125,438	136,609	125,352	152,640	145,032	134,018	138,000	153,207*

**Actual Legal Expenditure – figures do not include debt collection fees*

Council’s legal expenditure has remained reasonably consistent over recent years, and the use of Norman Waterhouse Lawyers and Kelledy Jones Lawyers has been quite evenly spread. The

approximate percentage split between the two firms during the 2019/2020 financial year has been 63% Norman Waterhouse, and 37% Kelledy Jones.

In line with Council's Procurement Policy, updated fee proposals for the 2020-2021 financial year were requested from Norman Waterhouse Lawyers, Kelledy Jones Lawyers and Wallmans Lawyers. These proposals have recently been submitted to Council for consideration. To assist Council in making a decision, a simplified summary table of the proposals has been prepared and is provided for at Attachment 1 to this report.

The detailed fee proposals are also attached to this report for Council's consideration as follows:

- Norman Waterhouse Lawyers (**Attachment 2**)
- Wallmans Lawyers (**Attachment 3**)
- Kelledy Jones Lawyers (**Attachment 4**)

In considering the attached proposals, Council needs to contemplate several factors, including (but not limited to) the following:-

- Value for money, including any discounts offered
- Quality and timeliness of advice
- Consistency/level of certainty
- Relationships and service levels (i.e. previous/existing arrangements)
- Depth of expertise and ease of access

Finally, it is worth noting the recent partnership formed between Norman Waterhouse Lawyers and the Local Government Association (LGA) and the benefits available to Council due to being a member of the LGA (refer Attachment 2).

Conclusion

With Council's current legal services fee arrangements due to expire on 30 June 2020, it is timely for Council to consider its arrangements for the 2020-2021 financial year.

References

Legislation

Local Government Act 1999 (SA)

Council Policies/Plans

Procurement Policy

RECOMMENDATION

“that Council, having considered the matter of Agenda Item 21.1 – *Legal Services Fee Proposals 2020-2021* in confidence under sections 90(2) and 90(3)(d) of the *Local Government Act 1999*, resolves:-

1. That **Attachment 1, Attachment 2, Attachment 3 and Attachment 4** pertaining to Agenda Item 21.1 – *Legal Services Fee Proposals 2020-2021* remain confidential and not available for public inspection until further order of the Council;
2. That the **staff report and minutes** of this meeting in relation to 21.1 – *Legal Services Fee Proposals 2019-2020* remain confidential and not available for public inspection **until all nominating firms are advised of Council’s decision** in relation to legal retainers for 2020-2021;
3. Pursuant to section 91(9)(a) of the *Local Government Act 1999*, the confidentiality of the matter will be reviewed every 12 months; and
4. 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.”