

 <p data-bbox="422 250 612 376"><b>Adelaide Plains Council</b></p>	<p data-bbox="791 266 1102 295"><b>21.1 CONFIDENTIAL ITEM</b></p>
<p data-bbox="715 465 879 495"><b>24 June 2019</b></p>	

21.1 Legal Services Fee Proposals 2019-2020

21.1 Legal Services Fee Proposals 2019-2020

**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 – Infrastructure and Environment, General Manager – Finance and Economic Development, Governance Officer/Minute Taker and Executive Assistant, be excluded from attendance at the meeting of the Council for Agenda Item 21.1 – *Legal Services Fee Proposals 2019-2020*;**
- 2. Council is satisfied that pursuant to section 90(3)(d) of the *Local Government Act 1999*, Item 21.1 – *Legal Services Fee Proposals 2019-2020* 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.”**

 <b>Adelaide Plains Council</b>	<b>21.1</b>	<b>Legal Services Fee Proposals 2019-2020</b>
	<b>Department:</b>  <b>Report Author:</b>	<b>Governance and Communications</b>  <b>General Manager – Governance and Communications</b>
<b>Date:</b> <b>24 June 2019</b>	<b>Document Ref:</b>	<b>D19/21448</b>

### **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 2019-2020 financial year.
- In June 2018, 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 2018-2019 financial year.
- Council has engaged these two (2) firms on the same arrangement for several years, however the current agreement effectively ceases on 30 June 2019.
- After weighting up efficiencies, value for money, knowledge retention, contingency and building strong working relationships, Council must consider its legal service arrangements for the 2019-2020 financial year.

### **RECOMMENDATION**

**“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.”**

## **BUDGET IMPACT**

Estimated Cost:	As per attached proposals
Future ongoing operating costs:	Nil
Is this Budgeted?	Yes - \$117,000 included in 2019-2020 Budget

## **RISK ASSESSMENT**

No significant risk

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## **Attachments**

1. Summary Table of Proposals.
2. Proposals from Norman Waterhouse Lawyers dated 13 March 2019 and 24 April 2019.
3. Proposals from Kelledy Jones Lawyers dated 8 April 2019, 18 April 2019 and 6 June 2019.
4. Proposal from Wallmans dated May 2019 (including detailed firm information).

## 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 2019-2020 year.

### Background/History

Council, at its meeting held on 18 June 2018, adopted the following resolution:-

21.1 *Legal Services Fee Proposals*

*Moved Cr Lawrence                      Seconded Cr Strudwicke                      2018/ 267*

***“that Council, having considered Item 21.1 – Legal Services Fee Proposals 2018-2019, dated 18 June 2018, receives and notes the report and in doing so recommits to utilising the services of both Norman Waterhouse Lawyers and Kelledy Jones Lawyers on a panel (non-exclusive) arrangement for the 2018-2019 financial year.”***

**CARRIED**

Further details regarding the current panel arrangement with the abovementioned firms can be found within the 18 June 2018 Ordinary Council Meeting Agenda and Minutes. The report submitted to Council dated 18 June 2018 also contains more specific details of the previous fee proposals submitted by all firms.

### Discussion

A summary of Council’s legal expenditure since the 2010/2011 financial year is provided below:-

<b>Financial Year</b>	<b>2010/2011</b>	<b>2011/2012</b>	<b>2012/2013</b>	<b>2013/2014</b>	<b>2014/2015</b>	<b>2015/2016</b>	<b>2016/2017</b>	<b>2017/2018</b>	<b>2018/2019</b> <i>*as at 29/4/19</i>
<b>Actual Legal Expenditure</b>	157,773	102,864	125,438	136,609	125,352	152,640	145,032	134,018	114,136*

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

Council’s legal expenditure has remained reasonably consistent over recent years.

Members will be aware that 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 regarding matters surrounding the Gawler River Floodplain Management Authority.

Over recent years, the use of the two firms has been quite evenly spread. However, a significant shift in this pattern has occurred during the current financial year, with a greater reliance on Norman Waterhouse Lawyers. The approximately percentage split between the two firms over the 2018/2019 financial year has been 74% Normans (\$84,328) and 26% Kelledy Jones (\$29,808). The legal fees for the current financial year have been relatively modest.

The following updated fee proposals for the 2019-2020 financial year have recently been submitted to Council for consideration:-

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

To assist Council in making a decision, a summary (simplified) table has been prepared by Management (**Attachment 1**).

## **Conclusion**

With Council's current legal services fee arrangements due to expire on 30 June 2019, it is timely for Council to consider its arrangements for the 2019-2020 financial year.

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## **References**

### Legislation

*Local Government Act 1999 (SA)*

### Council Policies/Plans

*Nil*



## **RECOMMENDATION**

**“that Council, having considered the matter of Agenda Item 21.1 – *Legal Services Fee Proposals 2019-2020* in confidence under sections 90(2) and 90(3)(d) of the *Local Government Act 1999*, resolves:-**

- 1. That all annexures pertaining to Agenda Item 21.1 – *Legal Services Fee Proposals 2019-2020* 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 2019-2020;**
- 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.”**