

	<b>19.2 Gawler River Floodplain Management Authority Charter</b>
	<b>Container No: CON12/314</b> <b>Document No:</b>
<b>Report Date: 20 February 2017</b>	<b>Prepared by: Chief Executive Officer</b>
<b>Corporate Objective:</b>	5.1 Effective governance, leadership and teamwork

<b>Purpose:</b>	The purpose of this report is to advise the Elected Body that Kelledy Jones Lawyers have provided legal advice in relation to the resolution of Council from the 15 December 2016 Special Meeting as it relates to reviewing the Gawler River Floodplain Management Authority (GRFMA) Charter.
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<b>Recommendation 1:</b>	<p>“that Council, having considered Item 19.2 – <i>Gawler River Floodplain Management Authority Charter</i>, dated 20 February 2017, receives and notes the report and in doing so:-</p> <ol style="list-style-type: none"> <li>1. endorses the actions of the Chief Executive Officer who, having determined that Norman Waterhouse Lawyers were unable to provide the said advice due to a conflict of interest, instructed Kelledy Jones Lawyers to prepare the advice as means of expediting matters (refer 15 December 2016 resolution 2016/372);</li> <li>2. instructs the Chief Executive Officer to continue to closely monitor business arising from the GRFMA as it relates to flood mitigation infrastructure, associated costs and a review of their Charter, which has been foreshadowed to be undertaken by the GRFMA in 2017; and</li> <li>3. in keeping a watching brief on the activities of the GRFMA, Council hereby resolves that it will remain silent at this point in advising the GRFMA or the relevant Minister of its intentions regarding the advancement of a particular policy stance as it relates to the GRFMA Charter.”</li> </ol>
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## Impact Summary

### Organisational and Governance

Financial	Nil
Legislation	Nil
Risk	Nil
Consultation	Nil
Asset Management Plans	Nil
Service Standards	Nil

## Background

Council, at its Special Meeting held on 15 December 2016, adopted the following resolution:-

<b>Council Resolution</b>	<b>2016/ 372</b>
Moved Cr Picard	Seconded Cr Keen
“that Council, having considered Item 2.1 – Gawler River Floodplain Management Authority Charter, dated 15 December 2016 instruct its Chief Executive Officer to formally engage Norman Waterhouse Lawyers to conduct a review of the infrastructure percentage rate contributions for each member council of the Gawler River Flood Management Authority and seek advice on what measures Council may follow in order to reduce the current percentage rate contribution for new flood mitigation infrastructure. A report with the attached legal advice shall be provided to elected members in confidential session immediately upon receipt”.	
<b>CARRIED</b>	

In January 2017, the Chief Executive Officer (CEO) formally instructed Norman Waterhouse Lawyers to undertake the said review of the Charter however, given they represent a majority of the constituent councils, Norman Waterhouse Lawyers advised that they were unable to assist. As a means of moving matters along, the CEO took it upon himself to utilise the services of Kelledy Jones Lawyers (Council’s other legal provider) who have undertaken the said review (**Attachment 1**).

## Discussion

At the time the legal advice was received, the CEO was unable to distil the various aspects for members’ ease of understanding, due to looming deadlines with agenda distribution and other workload pressures. While the Elected Body is drawn to the accompanying advice set out in attachment one, the CEO will, as part of deliberations at the meeting, provide a more thorough overview by way of a verbal presentation.

## Summary

This report provides the Elected Body with detailed legal advice on how it may wish to move forward, and the earlier recommendation provides one of a possible number of pathways moving forward.

As a footnote, and following discussions with my fellow GRFMA board member, Councillor Picard, it is deemed appropriate that the summary report prepared by Australian Water Environments (AWE) (**Attachment 2**) in relation to investigating a

floodway along the southern floodplain, be attached. This further overview provides justification behind why, from an engineering perspective, further investigation surrounding the creation of southern floodway is not considered feasible.