

*Report by Neale Redman, Director Corporate Services*

**RECOMMENDATION**

***That Council authorise the payment of past Councillor fees due to former Councillor Lim in accordance with his written request and relevant provisions of the Local Government Act.***

**PURPOSE OF REPORT**

To report to Council that former Councillor Lim made a written request for the payment of past Councillor fees.

**REPORT**

On 26 September 2011, Council received a written request from former Councillor Lim requesting unpaid Councillor fees for his term as a Councillor.

Mr Lim was not paid Councillor fees in accordance with numerous written instructions received by Council from him. Mr Lim also made certain verbal comments that he would not accept his Councillor fees. Council acted in good faith at all times by abiding by Mr Lim's written requests. These requests included an Internal Memorandum to the General Manager on 21 October 2008 which returned a cheque payable to him for his Councillor fee.

Council has a statutory duty to pay the annual Councillor fees under s248(1) of the *Local Government Act 1993* which sets strict procedures in regards to the withholding of such fees. Regardless of Mr Lim's requests to not be paid the fees, s248(1) provides that for Council to withhold Councillor fees it must resolve to do so on the grounds that the payment would adversely affect Mr Lim's pension or other benefit. Council has no evidence that the payment of fees would affect a pension or other benefit to Mr Lim.

Council sought external legal advice on this matter which reaffirmed Council's internal legal advice. The external legal advice states:

*"Therefore under the statutory scheme Mr Lim is entitled to be paid the relevant annual fees for the period that he was Councillor."*

The external legal advice has been separately circulated to Councillors.

Mr Lim's past Councillor fees equate to \$27,311.16

In summary, despite Council acting in good faith and following Mr Lim's written instructions at the time, Council is obligated to pay Mr Lim his past Councillor fees despite his past numerous representations to the contrary.

REFERRAL FROM OTHER DEPARTMENT

Council's Legal department has been consulted on this matter.

FINANCIAL IMPLICATIONS

Funding has not been provided in the current budget for this purpose. Should Council approve the expenditure, the source of funding will need to be identified in the budget.