

# Decision making framework

Logan City Council



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Photo by Ian Hinrichsen

# Introduction

This guideline is designed to equip councillors of the Logan City Council with the tools to make good decisions in the public interest.

## Your responsibilities as a councillor

Australian government is built on the principles of democracy and the rule of law. In your democratic role as a councillor, you are privileged to represent the current and future interests of residents in a way that serves the overall public interest of the whole of Logan.

In local government, residents have the ability to democratically elect their representatives to Council and entrust them with making important decisions which shape their community. Equally, the rule of law ensures that when these decisions are made, they are done so by councillors acting lawfully and fairly.

Councillors also have an obligation under the Human Rights Act 2019 to make decisions that are compatible with human rights and to give proper consideration to human rights.

The *Local Government Act 2009* sets out five key principles to ensure Council remains accountable, effective, efficient and sustainable. As a councillor, every action you take must be consistent with these principles, which are:

- transparent and effective processes, and decision-making in the public interest
- sustainable development and management of assets and infrastructure, and delivery of effective services
- democratic representation, social inclusion and meaningful community engagement
- good governance of, and by, local government
- ethical and legal behaviour of councillors and local government employees.

Making good, lawful decisions in the public interest is at the heart of everything Council does and it is these principles to which this framework relates.

## Decisions made by Council

The decisions you will make as a councillor will generally fall into two categories:

### STRATEGIC DECISIONS

Broad policy, commercial, contractual and political decisions that have general application, made within or outside of a legislative framework.

For example:

- strategic policies or programs
- a strategic plan
- a sister city partnership
- delivery of the planning scheme
- setting annual budgets and rates
- making or amending local laws.

### ADMINISTRATIVE DECISIONS

A decision that affects the rights and interests of a person or business within Logan, in an individual way, made within a legislative framework.

For example:

- approval or refusal of a development permit
- approval or refusal of a license or permit
- approval or refusal of a lease for a sporting club
- awarding a contract to a supplier.

## Your role in shaping the future

As the community's voice, you do not make all decisions Council has to make, but the most influential ones. To get the balance right, the majority of routine administrative decisions affecting individuals (such as animal registrations, development permits and food licenses) are delegated to the administration. Decisions made under delegation (see intranet: Delegation of Authority).

This is because in your democratic role, the community needs you to be available to make significant strategic decisions that shape the future of the city, rather than be captured by the day to day operation of the business. The principle is that if your time is spent deciding conditions for individual food licenses, the public will not benefit from you implementing a broad strategy for food safety standards to improve public health.

## Good decision making is a shared responsibility

As a councillor, you will not make decisions as an individual but as a group. This is because the *Local Government Act 2009* defines 'local government' as 'an elected body that is responsible for the good rule and local government of a part of Queensland'. In your decision making as a group, you each carry individual responsibility to ensure that Council's decisions are robust and in the public interest.

But it is not a responsibility you carry alone.

Fundamental to good decision making is a strong relationship between councillors and the administration. While each side has a role to play, both need to be committed to good communication and diligently working through issues to find solutions in the public interest.

## How decisions are made

All decisions are made by councillors at Council meetings, covered by the Councillor Meeting Attendance Policy (see intranet: Policies).

Decisions are brought to Council for statutory reasons (for example, a development application under the *Planning Act 2016* that must be decided within a legislative timeframe) or because they are strategic plans, priorities or issues that councillors have identified for discussion. Decisions generally come in the form of resolutions passed by the Council as a whole.

In practice, you will generally make decisions after considering reports provided by the administration, which are debated and deliberated between all councillors at Council meetings.

Just as a business provides reports to its board of directors, so must Council's administration provide you with good quality information to enable you to make informed decisions.

At your request, you are entitled to be informally briefed by the administration on any decision you will have to make. While briefings are not where decisions are made, they are a good chance to understand the issue and ask for advice to help you make your mind up in the future. You can also ask for information outside of these briefings (for example, by email), a practice which is covered by the Acceptable Request Guidelines (see intranet: Acceptable Requests Guidelines).

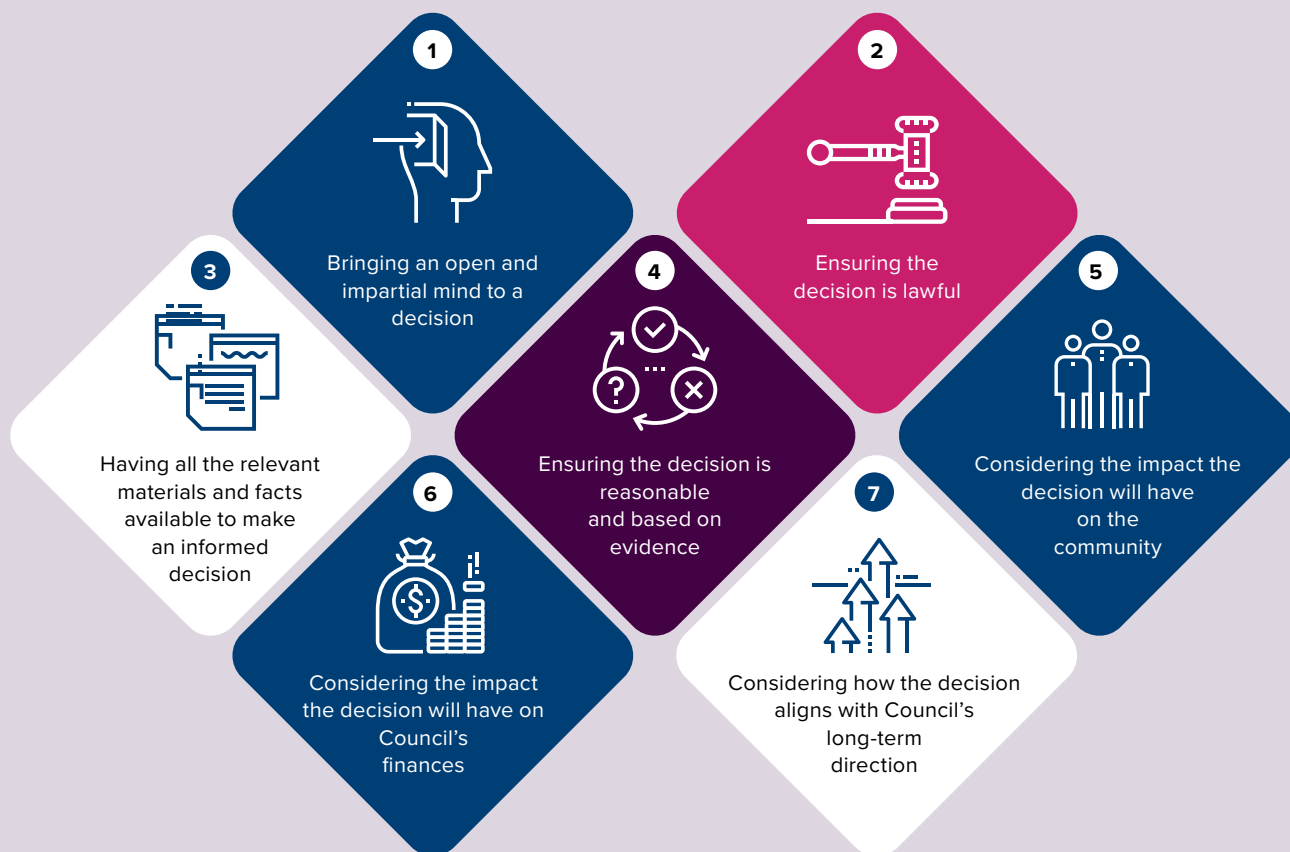
## Navigating the decision making process

Being a councillor is an important leadership role. Carrying such responsibility, it is met with certain challenges. In many cases there are no 'right' or 'wrong' answers to what you might decide. However, good decision making relies on integrity, weighing various interests and following the right process in reaching a decision.

In facing decisions, all councillors have to navigate issues like:

- What is the public interest?
- How do I weigh competing interests in the community?
- How can I represent my constituents while making a decision in the overall interests of the city?
- What freedom do I have in reaching a decision?
- Should councillors or the administration make this decision?
- What information do I need to make an informed decision?

Your ability to reach the best decision in the public interest will be guided by seven key principles articulated in this framework, which are:



# Decision making principles



## 1 | Bringing an open and impartial mind to a decision

### Always go in with an open mind

When approaching any decision, you must do so with an open and impartial mind.

As a councillor, the public entrusts you with the power and privilege to make decisions on its behalf. In turn, it rightly expects that you act differently to how you might act as an individual. This calls on you to act in the interests of the city as a whole, rather than for any individual or divisional interest.

This is because important decisions affecting the lives of residents should be made by councillors who have genuinely and impartially considered all angles before reaching a decision. The principles of natural justice and procedural fairness exists so that:

- a decision maker must hear a person and give them a 'fair go', before making a decision affecting that person's interest
- a decision must not be made by a person who is affected by actual or apprehended bias.

These principles affect all decision makers, including judges, ministers and government agencies. It is not just a theory. Many government decisions, where tainted with bias, are overturned in court.

How does it work? As a minimum, you may need to exclude yourself from any decisions in which you may have a conflict of interest, in accordance with the *Local Government Act 2009*. However, it goes further than this. You must also come to the decision free of prior judgement or prejudice. It doesn't require you *not* to have any views or a position on an issue, because that's realistic. However, it will rely on you giving fair consideration to any alternative views and options before making your decision.

Bias can be actual or apprehended. Actual bias could occur where a councillor tells the media that they will vote in favour of a proposed development before they have heard any submissions from the neighbouring community about how it may impact their lives. Or, it could be apprehended, where a councillor publicly promotes strong opposition during an election campaign towards the proposed acquisition of land from a resident, and makes it clear that they feel incapable of changing their opinion when the time comes to make the decision. In both situations, those councillors must exclude themselves from the final decision as they cannot bring an open mind to either situation.

Questions that might help you have an open mind before you make a decision include:

- Am I genuinely prepared to listen to all the arguments presented?
- Am I prepared to consider all of the options and views presented?
- If I have a preference for the decision to be made in a particular way, will I genuinely, honestly and fairly hear the objections and any alternative views to see if they can be accommodated before I make my final decision?
- Have I expressed a final opinion on the issue prior to taking part in the decision-making process?
- Have I exercised a decision-making power on a similar related matter?



Putting it into practice, you can still form an initial view for or against a proposed decision. However, making firm commitments to anyone about how you may vote prior to a Council meeting could lead to you being challenged by other councillors or the public for being biased.

When engaging with the community, perceived fairness is as important as actual fairness. As a councillor, you will often need to meet with constituents to discuss certain issues prior to making a decision. However, you should be seen to do so with an open mind. Make clear to constituents that while you may have a preliminary view on an issue, you are willing to hear and consider all of the options available before ultimately reaching your decision.

## CASE STUDY

You are elected to Council in 2020. One of your key election platforms is the need for housing affordability for young families. A year into your term, you hear about a major developer who is considering lodging a development application for a 200 lot residential subdivision in a rural area. The developer soon asks to meet with you and discuss their proposal, which involves removing 20 hectares of native vegetation to make way for housing around 1000 new residents. You feel personally supportive as you can see the benefits for families. You encourage the developer to proceed with their application. However, you stop short of telling them how you will vote, advising that you also have to hear from local residents.

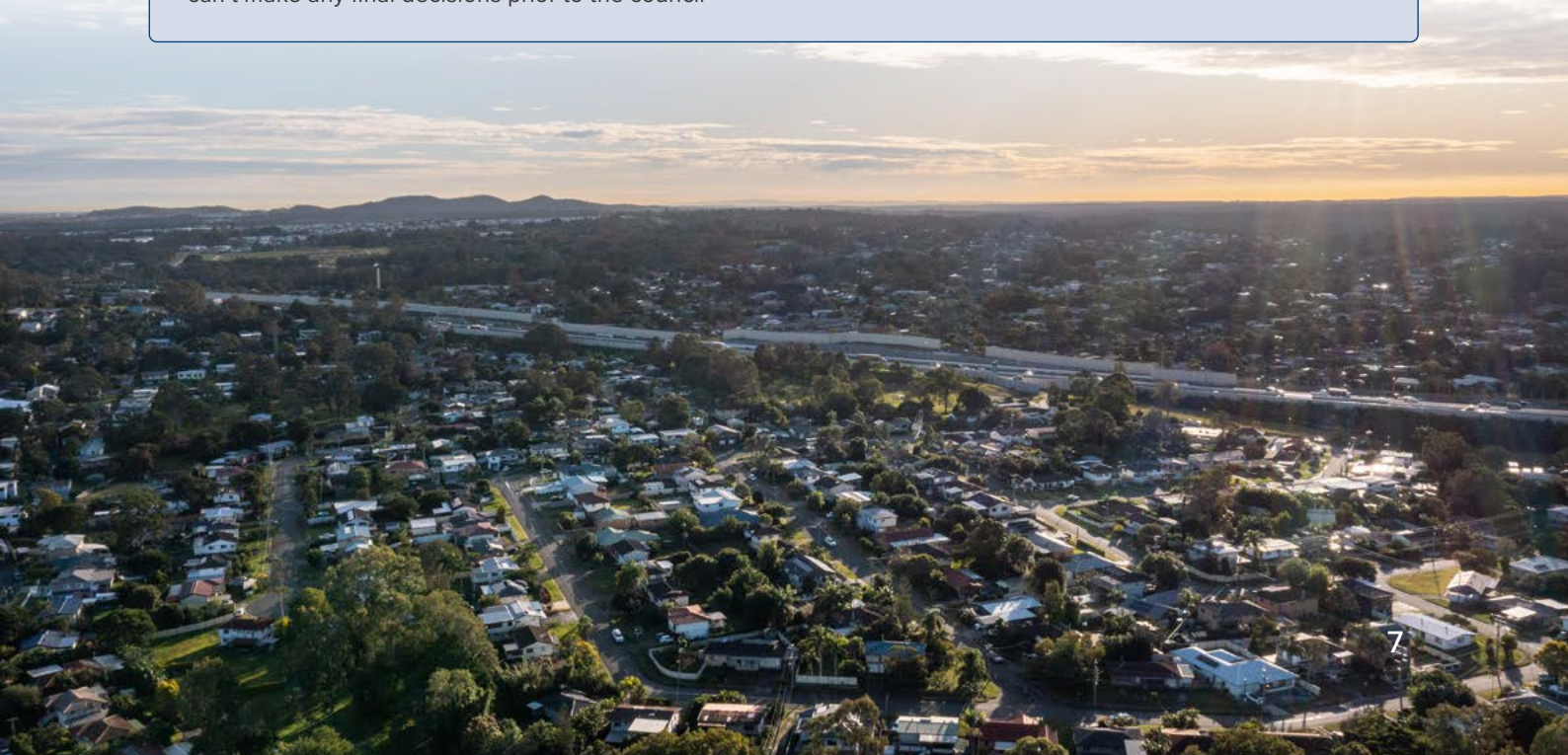
Once they lodge their application, you start hearing on social media from existing residents seriously concerned about the proposal. They ask you how you're going to stop such a development from going ahead, as they think it will destroy the environment for generations to come. You meet with the local action group and genuinely listen to their concerns. However, you remain noncommittal as to how you may vote, telling residents that you can't make any final decisions prior to the council

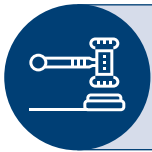
meeting. You do say that while you're supportive of housing affordability, it can't be at the expense of the environment. You undertake to work with the administration to suggest development conditions that reduce environmental impacts.

At the Council meeting where the decision is about to be made, a fellow councillor claims that you're biased as you have pre-judged the outcome by supporting housing affordability in Logan. Have you? In considering whether you should exclude yourself from the decision, you consider:

- Have you genuinely heard arguments for and against from both parties?
- Have you made commitments to any party around how you might vote on the day?
- Have you genuinely considered how other's views may be accommodated, through a potential compromise?
- Have you made a final decision before the council meeting?

You reasonably conclude that you do not bring bias to the decision making process, and proceed to vote at the council meeting.





## 2 | Ensuring the decision is lawful

### Do your homework

When making a decision, it is important that you are on a sound legal footing. Any decision that is legally unsound or inconsistent with the local government principles can be subject to legal challenge or be revoked by the Local Government Minister under section 121 *Local Government Act 2009*. However, having is easily achievable.

Firstly, many decisions made by Council have a head of power in legislation. In your role as a decision maker, you need to understand the source and limits of any power to make any decision that comes before you. The legislative head of power should be clear to you. For example, under section 94(1) *Local Government Act 2009*, Council has the power to levy general rates on all rateable land within Logan.

Once you have established the source of power to make the decision, you should establish whether there is any scope for discretion in the decision. Discretion exists in some areas, but not in all. Following on from the example above, Council's requirement to set general rates and charges at the budget meeting for a financial year is in section 94(1)(a) *Local Government Act 2009*. This leaves Council with no option but to set general rates at this time. However, section 94(1)(b)(i) says that Council may levy 'special rates and charges'. Therefore, while Council has to set general rates and charges, councillors have the flexibility and discretion to set special rates and charges, to suit future needs.

When making a decision in which you exercise discretion, you should also consider all relevant matters and discount irrelevant matters. What this means is only thinking about factors that are relevant to the decision. Often, there is guidance for this in the legislation. For example, Council may choose to close a road under section 69(2)(b) *Local Government Act 2009* only if it is in the interests of public safety. A relevant consideration for you might be around the potential risk to small children from the nearby school if the road were not closed. In the case of a development application, section 43(2) *Planning Act 2016* states that the decision maker cannot consider a person's finances when assessing a development application. When approving a development application from a struggling small business for an expanded shop floor area, if councillors considered that their approval would help the business improve their financial situation, this could be an irrelevant consideration, putting the approval at risk.

Decisions made by Council and its Councillors must also comply with the Human Rights Act 2019. The Human Rights Act requires Councillors to act and make decisions which are compatible with human rights and to give proper consideration to human rights before making a decision.

Under the Human Rights Act, an act or decision will be compatible with human rights if it either does not limit human rights, or only limits human rights to an extent that is 'reasonable and demonstrably justifiable'.

When determining whether a particular decision is 'reasonable and demonstrably justifiable' Councillors should:

- a. Identify relevant rights — Councillors need to be aware of the 23 human rights protected under the Act and see what rights are relevant to the particular decision.
- b. Consider the impact of the decision — Councillors need to consider whether the decision will limit or restrict any of the relevant rights that have been identified
- c. Determine whether the limit is reasonable and justified — Councillors need to consider does the decision achieve a legitimate purpose?
- d. Do the benefits outweigh the harm caused by the limitation?



Finally, some decisions are prohibited by legislation. For example, section 36 *Local Government Act 2009* prohibits Council from making a local law that bans the placement of election signs and posters, as that would limit freedom of political communication. All councillors should be conversant with the limitations of their decision making powers.

Despite the above, not every decision made by Council needs to have a basis in legislation. A large number of decisions (particularly those strategic in nature) are made by Council under its executive powers. An example of such a decision is where Council decides to contribute funds to a regional association advocating a future tourism strategy. While it sits outside of any specific statutory power, it still falls within Council's general competence power and legitimately contributes to the strategic vision for the city. Where these types of decisions are made, consideration of the local government principles and Decision Making Principles 5-7 become paramount.

Before making a decision you should seek guidance from the administration or independently establish the following:

- whether there is a head of power to make the decision or whether it is a decision which sits outside of legislation
- whether the legislation requires you make a particular decision or whether you have discretion to make a decision
- whether there is any legislative criteria you must have regard to when applying your discretion
- factors relevant or irrelevant to the decision.

## CASE STUDY

A report comes to a Council meeting recommending the approval of a development application proposing a controversial service station next to a residential area. Under the Logan Planning Scheme 2015, the application is code assessable and complies with the requirements of the planning scheme. You've heard lot of public outrage about the proposal, particularly from the adjoining neighbours.

Looking at your source of power under section 60(2)(a) *Planning Act 2016*, you find that Council must approve a code-assessable development proposal that complies with all of the assessment benchmarks. You therefore identify that you have no discretion to refuse it, even if you wanted to. What's more, advice from the administration is that if you do try to refuse it, your decision could be successfully overturned on appeal to the Planning and Environment Court.

However, under section 60(2)(c) you identify that Council may impose development conditions on an approval. Therefore, while you cannot refuse the application, you and your colleagues do have discretion to choose reasonable and relevant development conditions that minimise the impact of the service station on the affected community.

When deciding whether to impose the conditions, you would also need to consider any human rights affected by the decision. The rights which could be affected by the approval of the development application and imposition of conditions are the property rights of the developer (section 24 of the Human Rights Act) and the right to privacy (section 25 of the Human Rights Act) of the neighbours affected by the development. When deciding whether to impose any conditions you would need to identify the limits on these rights and consider whether those limits are reasonable and necessary to achieve the purpose.

You decide to approve the application and propose tougher operating conditions to give the adjoining neighbours peace of mind that negative impacts will be minimised. You also document your decision, including the human rights considered when reaching the decision.



### 3 | Having all the relevant materials and facts available to make an informed decision

#### Have the full picture

The ability to make a good decision is achieved through the joint commitment of councillors and the administration to getting it right.

As a councillor, you will be asked to make a large number of decisions that influence the future of the city. Often, you will have limited time to form a view. In addition, you will hear a range of strong views from your colleagues and support or objection from your constituents. In that climate, your ability to make an informed decision will rely on the quality of information you are provided by Council's administration.

You should expect reports from the administration to be well drafted, factual and impartial, generally providing:

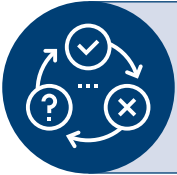
- background information
- linkages to Council's corporate plan or other strategic documents
- any legislative framework in which the decision is being made
- details of any parties specifically affected by the decision
- any consultation with stakeholders
- the risk implications of making the decision (such as legal, financial or reputational)
- any available options and public interest considerations
- a recommendation.

For example, a report that recommends the purchase of a new sporting facility for Logan should clearly articulate to councillors how this aligns with Council's vision, the financial viability of the proposal and how it is in the public interest.

Ultimately, you must be comfortable that information provided to you as part of any decision-making process is truthful, accurate and complete. Review it through a critical lens by testing it and asking questions.



Photo by Aishrawy Fadi



## 4 | Ensuring the decision is reasonable and based on evidence

### Ensure it makes sense

Any decision you make should be rational and based on supporting evidence. Put simply, a decision should generally be common-sense and logically follow the evidence available. Decisions that are unreasonable may be an improper exercise of power and subject to legal challenge. Even if Council has taken into account all relevant considerations and excluded any irrelevant considerations, Council's decision could still be the subject of legal challenge on the basis that its decision was so unreasonable, no reasonable authority could ever have come to the same conclusion.

For example, a reasonable decision may be where Council has decided to approve a proposed acquisition of private land for road purposes. The supporting report contained evidence from a transport expert justifying the community need for a road in this location to support future population growth in the area.

It identified that there was no other location for the road. It also contained details of fair compensation being given to the affected land owner. It is likely that most reasonable people would think that Council's decision to acquire the land would have been reasonable in the circumstances.

In practice you should evaluate whether the decision makes sense, keeping in mind the following:

- Would an ordinary person see it as reasonable and proportionate?
- Is it arbitrary or well-planned and consistent?
- Is there clear evidence to justify it?

### CASE STUDY

Council receives a complaint from a few residents that they can't park outside their properties because people visiting relatives in the local hospital park their cars outside their houses.

A report is prepared that recommends Council change its local law to prevent visitor parking within 5 km of the hospital. The supporting report includes no expert traffic evidence justifying the need to do so, no evidence of alternative public transport solutions or any other parking areas proposed in the vicinity to compensate.

In evaluating the decision, you might consider:

- The public would not see this as a reasonable response, because it disproportionately helps a few people at the expense of a large number of people.
- It is not a decision that has been planned for. Rather, some might see its implementation as a reaction to a problem that could be resolved in other ways.
- There is no evidence to support it.

If Council approved this recommendation, the decision could be challenged as unreasonable. It would be so fundamentally illogical, with insufficient justification, that no other reasonable local government could make it in the same circumstances.





## 5 | Considering the impact the decision will have on the community

### Be clear about what you value

As part of your decision making process, considering the immediate, medium and long term impact the decision will have on the community is fundamental to ensuring it is in the public interest. As your community representative, you are expected to make decisions that affect them only after you have considered the potential implications on their lives and those of their families.

This is one of your greatest challenges, as the Logan community is rich with diverse views, lifestyles and interests. In many situations, you will have to make decisions that advance the interests of one individual or group at the expense of another (for example, approving an aged care facility to create increased care capacity for the elderly at the expense of homeowners whose property prices will be reduced by the presence of the facility). Alternatively, you will have to make decisions that concurrently affects people beneficially and detrimentally (for example, a strict enforcement policy aimed at lifting development industry standards, which increases fines and penalties for developers but improves the lives of people who live near construction activity).

There are no right or wrong answers, however, it is important you can show you have made the effort to arrive at a decision that is in the public interest by balancing all relevant factors.

In navigating through a decision, Councillors should consider the following:

- Firstly, identify the people or groups whose interests will be affected by the decision;
- Secondly, identify the human rights of affected people including the scope and protections of those human rights;
- Thirdly, identify the relevant public interest factors and conflicting or competing interests;
- Fourthly, weigh each public interest, including considering whether there are less restrictive and reasonably available ways to achieve the desired purpose without limiting human rights; and
- Fifthly, make a decision which balances these public interest factors.





## CASE STUDY

With Australia's National Disability Insurance Scheme focusing on lifting nationwide standards of care for disabled people, Logan is starting to experience increased demand for these services. Disability support groups have been lobbying Council for a while to introduce community-based care facilities in residential areas, to help people with disabilities live normal lives in the community. The local Member of Parliament writes to the Logan Mayor asking for Council to support greater inclusion and diversity in the community.

Following this, a report is prepared for Council that proposes to amend the Logan Planning Scheme 2015 to make it easier for community-based day care facilities to be developed in residential areas, through code assessment. Being subject to code assessment under the *Planning Act 2016* will mean that the public does not get to have a say during the development application process. In consulting your constituents, quite a few people say that while they support the policy change in principle, they don't want to live near such facilities. They are genuinely concerned about negative impact on their lives due to the increased traffic from support workers, impacts on parking and potential behavioural issues. Disability providers and charities have also contacted you, expressing support for how it will really help to improve the lives of those living with disabilities.

In reaching your decision, you:

- identify the interested parties as being disabled persons, local residents, disability support groups and commercial service providers;
- identify the human rights of affected people being the right to recognition and equality before the law (section 15 of the Human Rights Act), property rights (section 24) and privacy rights (section 25); and
- identify the key competing factors as the need for better inclusion of disabled people in the Logan community and also the public's right to enjoy their residential neighbourhoods. Constituents are concerned with increased traffic which may impact parking and potentially infringe their property rights. However, amending the Planning Scheme is consistent with the principles of equality and dignity; upholding the right to recognition and equality before the law and right to health services.

You weigh these factors, ultimately placing more importance on society's obligation to improve the standards of disabled people's lives over people's enjoyment of a residential neighbourhood, taking into account that many potential impacts can be controlled through imposing meaningful development conditions.





## 6 | Considering the impact the decision will have on Council's finances

### Make sure it financially measures up

When making a decision, it is important that it adds up financially. There is a constant pressure on public finance at all levels of government, and in a local context ratepayers expect their money is spent in ways that have been carefully considered by their Council. Ultimately, councillors are accountable to the community for ensuring that public money is spent effectively, efficiently and economically.

Given resources are scarce, when you make financial decisions you are effectively choosing to use money for one purpose and not another. Every financial decision you make means giving up other options, that equally have some value. For example, in allocating \$200,000 to restore a local waterway in a park, you may not be able to also fund a new public bicycle track in that same park.

Some financial decisions are mandatory. For example, where the state government brings in new legislation, Council must resource its business to effectively implement the legislative change. Doing this is not optional. However, many decisions are discretionary, based on the strategic vision of Council for the community. There is no legislative driver for them, but they help to shape the future of the city.

An example of a discretionary decision would be one where Council decides to allocate part of its budget in revitalising a local city centre to make it a more attractive place to visit. It is decisions like these that require even greater rigour.

While the administration should provide you with sufficient information to determine whether Council can afford to support the proposal, some questions you could ask yourself include:

- Is the proposal value for money?
- Is it logically supported with sound financial analysis?
- Will council be able to measure its progress and outcome?
- Is it tied to Council's overall vision for the city?

It is also important that, as an individual, you are comfortable with the decision and do not heavily rely on the opinions of fellow councillors in making up your mind. For example, if a councillor who has portfolio responsibility for City Treasury functions assures all councillors that a proposal is viable, you should also reach that view based on the information at hand rather than simply accepting that view without question.

### CASE STUDY

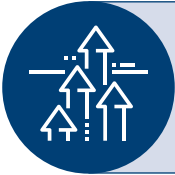
A proposal comes to Council for consideration as part of the annual budget process. It involves funding a green zero-emissions public transportation network using autonomous driverless vehicles that connects suburbs east and west of the Pacific Highway at a cost of \$50 million. While the state government is prepared to fund 5% of the project, Council must fund the remaining amount for it to be viable. In considering its feasibility, you have identified the following:

- The economic feasibility study is not conclusive on its future value creation.
- Given the population size and future strategic plan for the area, the relative demand may not exist.

- Significant infrastructure upgrades to the road network will be needed, which will affect people's lives and properties in the short term.
- Council's vision is to create local activity centres where people live and work, so commuting is not a long-term strategic issue for the organisation.

While other councillors are trying to convince you it will be an innovative flagship project for Council, your decision is not to support it as it doesn't represent value for money.





## 7 | Considering how the decision aligns with Council's long-term direction

### Think big picture

A decision in the public interest should be one that aligns with Council's agreed strategic vision for the city. Good frames of reference are Council's corporate values or organisation-wide strategic documents, such as the Corporate Plan (see intranet: Corporate Plan 2017–2022). Through elected representatives, these strategic documents are shaped by the public and reflect community expectations of where Council should focus its goals for the future.

Major decisions that sit outside of the strategic vision risk criticism from the public, which expects decisions consistent with Council's vision.

When evaluating a proposal, some questions you could ask yourself include:

- How does it help achieve Council's vision and goals?
- Will it help achieve social, environmental or economic health now and for future generations?
- How does it sit within the context of Council's other strategic aims?

Photo by Chao Lee

### Further information

For further advice or support around good decision making, please contact Council's Corporate Governance Branch.

# Frequently asked questions

## 1 How can I respond where a constituent asks me to intervene in a decision the administration has made under delegation?

Routine decisions made by the administration (for example, licences, animal registrations, collection of rates) affect a lot of people, every year. Not all of these decisions will be welcomed by every person. As their representative voice in Council, residents will sometimes look to you as the problem-solver and ask you to change a decision the administration has made.

While the public might expect otherwise, you don't have individual power to overturn administrative decisions of this nature. Your options are to:

- seek information from the administration about why the decision was made and explain this to the resident, with or without senior staff present to help
- refer the resident to Council's complaints management policy and encourage them to seek internal administrative review of the decision.

If you feel the Council's strategy, policy or framework that informed the decision is incorrect, and this is likely to have strategic implications for the city generally, you can raise the issue at a Council meeting, seeking a resolution around how it could be fixed. To do this, you'll need to put forward a good argument so you can convince Council to agree with the solution you propose.

An example is where a resident contacts you unhappy with Council's decision to give them a parking infringement for a breach of a local law relating to timed parking in a shopping centre. They ask you to make staff withdraw the fine. While you can't do this, you have been hearing this same concern from a number of residents, both from within and outside your division. You also believe Council's timed parking rules at this shopping centre are too restrictive and know of other councillors who feel the same way. You raise the item at a Council meeting for discussion and councillors agree that it is a broader issue that warrants further inquiry, deciding the administration should prepare a report on the viability of amending the local law to increase timed parking limits. Following this report, Council will consider whether or not the local law should be amended to increase timed parking limits at this shopping centre for the benefit of all residents.

## 2 What should I do when a customer complains to me about an issue?

Council has the power to investigate and resolve complaints on a broad range of issues, such as development, animals, roads, buildings, parking and amenity issues. Council must also respond to complaints about alleged contraventions of a person's human rights. While residents mainly lodge complaints through the administration directly, some residents will prefer to raise a complaint directly with you.

In this situation, you should:

- listen to the resident's concerns
- advise the resident that you will refer their complaint to Council's administration for investigation and a direct response to you
- refer it to the administration.

If you are interested in the progress of the investigation, you may ask the administration for a briefing at any time in accordance with the Acceptable Requests Guidelines.

## 3 How can I help my constituent navigate a local government process without influencing a decision made by the administration under delegation?

At an individual level, some residents may reach out to you to help them understand their rights and obligations when it comes to a situation with Council.

For example, a person who has been given an enforcement notice by Council that requires them to obtain a development approval for unlawful earthwork may need your help in understanding what they need to do to comply with it. While you can't influence the fact an enforcement notice has been given, you could still assist the resident by:

- asking for a briefing from the administration on the matter and walk the resident through this advice and information
- arranging a meeting with the resident and staff, in which staff can help the resident in your presence
- referring the request to the administration to help the resident directly.

#### **4 How do I deal with a situation where Council has no power to help?**

Sometimes, a resident will come to you seeking your help on a problem. However, if the issue falls outside local government administered legislation, Council may not necessarily have the legal authority to help.

An example of this would be where a resident seeks your help following a bad experience with a builder who has carried out defective work. In that situation, Council has no legislative power to assist. Their recourse would be to complain to the Queensland Building and Construction Commission, which can investigate complaints about builders under legislation it administers.

To help the customer in this situation, you could:

- seek advice from the administration to determine if the matter falls within Council's authority
- ask the administration for the contact details of the appropriate agency
- provide these contact details to the resident.

Keep in mind that there could also be a range of local community legal centres and welfare service providers also able to help, and this avenue could be considered as well.

#### **5 How do I handle a situation where a constituent contacts me unhappy with the decision or conduct of a staff member?**

As a service provider, Council's core functions bring staff into all kinds of interactions with residents. For example, Council staff sometimes have the difficult task of notifying residents that their rates are overdue.

Often, where residents are dissatisfied in their dealings with staff or service levels, they reach out to their divisional councillor for help. They may expect you to be able to investigate their complaint, or fix the problem. In this situation, you are best to:

- acknowledge and listen to the resident's concerns
- tell the resident that you will refer their concerns to the appropriate manager in Council's administration to be reviewed in accordance with Council's complaints management policy.

The matter is then handled either as an administrative complaint or staff conduct complaint in accordance with Council's complaints management policy. If the resident feels that internal processes have not resolved these concerns, their next avenue of recourse is the Queensland Ombudsman.

In practice, even though you may sympathise with the resident's concerns, a transparent internal review process needs to take place. To enable this, you can assure the resident that Council is taking their concerns seriously, but stop short of making any commitment to them around how the matter will be resolved. Keep in mind that you are entitled to request a briefing from Council's administration on how they will address the resident's concerns.

#### **6 How can I be seen to be open and impartial in the face of public pressure?**

Constituents or local interest groups may expect you, as their elected representative to take a strong platform on certain issues. As the guideline suggests, you're entitled to have particular views about issues. Your opinions and values may have helped you get elected.

However, when it comes to an upcoming decision about an individual issue, you should be cautious in making firm commitments about how you will vote. This is because you need to have (and be seen to have) an open and impartial mind going into the decision. This is particularly important before making a decision on a development application, where any prior judgement on your part could jeopardise the entire approval process.

In a situation where a constituent is pressuring you for a position, you could:

- hear and acknowledge their views on the issue
- tell them that while you may have a preference for or against the decision, the rules of natural justice require that you openly hear all of the arguments, views and options presented at the upcoming Council meeting
- confirm that your final decision will be at that meeting.

#### **7 What if I don't agree with the recommended decision in an upcoming Council report?**

There may be times that you don't agree with a recommendation being made by the administration. However, a recommendation is open for discussion and debate at a Council meeting. At the meeting, your job is to persuade fellow councillors of the merits of your view. If you believe an alternative decision should be made by Council in the public interest, you should prepare for the meeting:

- your case for why it is in the public interest that an alternative decision to be made
- logical arguments in favour of this alternative
- evidence to support this alternative.

If the majority of councillors agrees with you, then an alternative decision may be made. If they don't agree, Council may simply choose to make its decision in accordance with the recommendation. If it can't reach agreement, Council may decide to postpone the decision until further work is done to explore viable alternatives.



## 8 What if I disagree with an operational decision the administration has made?

Council's administration makes countless decisions every week and there will naturally be occasions in which you disagree with one of its decisions.

For example, you may not agree with the decision to refuse a development permit because a proposed shop in the Centres Zone of the Logan Planning Scheme 2015 can't meet car parking requirements, because you believe Council should support local businesses to flourish in Logan.

While legally you can't overturn a decision made, you have the following options:

- You can speak with the administration to understand why it made the decision.
- Where you understand the reasoning for the decision, but feel the Council's policy that informed the decision is incorrect, and this is likely to have strategic implications for the city generally, you can raise the issue at a council meeting and propose a change to the policy.
- Where you understand the reasoning for the decision, but believe the state or federal legislation that informed the decision is incorrect, you can raise the issue at a Council meeting proposing the organisation decide to advocate for legislative reform.

Following the car parking example above, you could raise the issue of planning scheme parking requirements at a Council meeting to hear if your fellow councillors agree it is of broader strategic concern. If the majority thinks that it is, then Council may decide to commission a review of car parking requirements in the Centres Zone to examine possible alternatives, to better support local business generally.

## 9 What if I disagree with a decision the Council has made at a meeting?

You're entitled to disagree. The democratic process of decision making will mean the vote won't always go the way you thought it should have. Further, all Australians have a right to freely express their political views, including those about government decisions. However, keep in mind that the public most respects Council when it appears democratic and functional—so keep any public comments on your views about the decision factual and unemotional. For example, you could say: 'I voted this way, but on the day, Council chose to vote the other way'.

## 10 What if I need more information to help me make up my mind?

Good decision-making relies on good information. You are entitled to ask for information from the administration around any aspect to assist in your decision. While staff can't give you advice about the potential political implications of a decision, they can advise you on risk, community impact and options to help you make the assessment. This can be provided either verbally in a briefing or more formally in writing. For example, if you are concerned about the potential legal implications of a decision, you can ask the administration to seek a legal opinion to help you in reaching your decision. This opinion will then be shared with all councillors, to ensure everyone has the same information available to make an informed decision.

## 11 How can I actively keep in touch with real issues affecting the public while enabling the administration to make decisions under delegation?

Understanding the impact of decisions made by the administration is critical to developing broader strategic changes to shape the community. In your strategic decision-maker role, you will find that it's still important for you to remain connected to real, grassroots issues that affect the daily lives of your residents.

The complicating factor is that a lot of those issues are managed by the administration under delegation. Given the size of the city and complexity of Council's business, it is not possible for any councillor to be across every single decision made.

To remain proactively connected with these kinds of issues, you have many options. For example, you could seek from Council's administration:

- a briefing on a particular matter it is dealing with (for example, request an update on the progress of a specific development application)
- specific information or data in monthly reports to Council (for example, a graph showing whether complaints are increasing or decreasing on a particular subject)
- a workshop on an issue of special interest (for example, how the planning scheme rules affect local residents who want to start a small home business)
- a survey on public sentiment about a particular issue (for example, how people feel about proposed changes to animal keeping laws).







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