

Fact Sheet – Quasi-Judicial Role of Elected Members

Are you seeking support from an Elected Member for or against a development application? Are you wanting to involve Elected Members in a review of a Council decision on an application?

Are you requesting Elected Members help in your application for a licence or permit?

If you are seeking any of the above, we hope the following information assists you to understand the 'Quasi-Judicial' role of Elected Members and how this can impact the extent to which Elected Members can help.

What is a Quasi-Judicial Function?

'Quasi-Judicial' functions are those which involve the making of a decision by the Council (the exercise of a discretionary power). The whole and all parts of the decision making process must be conducted by Elected Members in a judge like manner. This means that an application involving a Quasi-Judicial function must be assessed against statutory requirements and is subject to the principles of natural justice and the controls available through administrative law.

What is the role of an Elected Member and what does 'to act judicially' mean?

An Elected Member must:

- show no bias or conflict of interest.
- have no overriding obligation or loyalty to any Ward, organisation or person.
- make a decision on the merits of the case, based on the facts and the law applying at the time
- make decisions by applying the law and Council policies as they exist, not on what they would like them to be or on their personal moral viewpoints.

An Elected Member may be an advocate for a Ward, organisation or person, but this must be set aside when finally making a decision in good faith for the benefit of the entire community of the City.

An Elected Member has an obligation to act and appear to act with complete judicial fairness.

Lobbying or Contact with Elected Members

If members of the public lobby an Elected Member, it must be noted that Elected Members cannot commit, indicate or state their vote on a proposal. To do so would amount to 'bias' because Elected Members, before making a decision, must consider all relevant facts, including the debate at the meeting. 'Bias' arises when a decision is not based on the merits of the case, or if it appears that way.

If contact is made with an Elected Member on a matter that is before the Council, or likely to come before the Council, then discussion between the Elected Member and the member of the public is limited to the following:

- A request for the reason(s) for making contact, so this can be explained to Elected Members and Officers.
- An explanation briefly by the Elected Member of the Quasi-Judicial role of an Elected Member.
- Advice that the Council will consider the application and an Officer report at a future Council meeting.
- Advice of the methods to inform Elected Members, being to give a verbal submission through the Council's Agenda Briefing Forum, making a written submission, or requiring a site visit so that all Elected Members can receive the same information.
- Information on the processes for making a verbal submission at the relevant Agenda Briefing Forum or for making a written submission.
- Advice on the process for site visits.

gift when involved with a Quasi-Judicial matter.

Can Elected Members Sign Petitions?

Elected Members should not make public comment on a Quasi-Judicial matter that could be construed as support or opposition to it. This includes signing petitions, which could be seen as the Elected Member trying to influence public opinion and should not be requested to do so.

Enquiries and Information

Please contact Council's Information Officers by phone on (08) 9477 7222 or by email at Belmont@belmont.wa.gov.au if you would like some assistance.

Site Visits

To avoid the perception of an Elected Member gaining special information, Elected Members must not conduct site visits on their own whilst acting in their Quasi-Judicial role. The Chief Executive Officer will arrange a site visit for all Elected Members as required.

The Chief Executive Officer or his nominee will advise the property owner or occupier of a site visit and invite the owner or occupier to be part of the onsite visit. The Chief Executive Officer must ensure that the relevant Director or other appropriate officers are present and that a written record is kept of the site visit.

An Elected Member need not attend a site visit if the Elected Member is familiar with the site or considers they have adequate information in order to make a decision.

Can Elected Members Accept Gifts?

The City of Belmont Code of Conduct prohibits Elected Members accepting any