

RESOLVING PLANNING ISSUES

This General Practice Note is a guide to minimising conflict and facilitating constructive discussions in the planning decision-making process.

Planning is about managing change. Proposals to change a familiar environment through development can lead to conflict. In many cases, conflict and delay can be reduced and good planning outcomes achieved if people are provided with an opportunity to meet to discuss the issue and if the meeting is facilitated effectively.

This Practice Note outlines the key principles for minimising conflict, a range of techniques for dealing with conflict, and a process framework suitable for planners and others needing to facilitate discussion and resolution of contentious planning issues.

WHAT ARE THE BENEFITS OF GOOD CONFLICT MANAGEMENT?

The potential benefits include:

- greater community confidence in and acceptance of local planning decisions
- greater confidence by decision-makers that decisions are based on consideration of all relevant issues
- better development decisions and outcomes for the community.

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Start as early as possible

The best way to deal with conflict is to start before it arises. If conflict exists, it pays to address it before it gets out of hand.

For example, ideally a developer will provide clear information about their proposal and discuss it with neighbours before the plans have been finalised in an application for a planning permit (see the Good Design Guide Practice Note series).

It is helpful to adopt a positive approach to this process. Time spent early on good communication can reduce problems later (for example, by avoiding costly appeals). For complex issues, it helps if everyone understands the amount of time that may be required to achieve a successful outcome.

2

Involve all stakeholders

Planning issues can only be effectively dealt with if everyone affected is represented in the discussions. This does not necessarily mean everyone with an interest must be

involved in face-to-face discussions, but the interests of all stakeholders must be adequately represented.

3

Meet with a purpose

Any meeting should have a distinct purpose so that all participants have clear and realistic expectations of what they can hope to achieve. A meeting might be held to

provide information, to gather views or to try to resolve some issues.

A meeting is worthwhile when the participants gain a clearer understanding of the views of others and of the development proposal. Even if little is formally resolved, giving people the opportunity to air their views and to feel they have been taken seriously may prove fruitful.

It should improve sensitivity of the development to local conditions and community views. It should also increase people's ability to understand and accept the final decision and avoid an appeal.

4

Establish ground rules

Ground rules established at the outset enhance the chance of having a constructive meeting, even where there is conflict.

Ground rules normally relate to how people treat each other (for example, with respect and with a commitment to listening and understanding each other's point of view). They may also specify the purpose and procedures of the meeting.

5

Seek to gain trust

To have frank discussion and make commitments to each other, people with differing views must be able to build some trust. This is earned by being trustworthy.

A facilitator can assist trust-building by demonstrating honesty, impartiality, reliability and empathetic listening.

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Allow emotions to be expressed

Emotions are a legitimate dimension to planning issues.

If left unspoken or unheard they can block effective communication about more

substantive issues and possible solutions. A skilled facilitator will allow frustration, anger and other feelings to be expressed and acknowledged in a controlled and effective manner early in the process.

7

Separate the people from the issues

Each person or group must state their understanding of and concerns about the proposal, with this information recorded and acknowledged by the other stakeholders.

In this way the issues to be resolved can be clearly separated from the personalities involved. The issues are then the focus for ongoing discussion with the participants working together as joint problem-solvers.

8

Focus on needs and interests not positions

Participants may not understand the needs and interests which underlie the views or positions of others involved in the discussion.

People may need help in identifying what they are really trying to achieve beyond their initial positions. A facilitator can assist by asking patient, non-threatening questions aimed at determining underlying needs and interests.

In this way there is greater potential for an outcome which maximises the benefit to all participants.

9

Create and evaluate a variety of options before deciding what to do

There is rarely a unique solution to a dispute. Participants may need encouragement to keep an open mind and avoid having a 'bottom

line'. Good conflict management involves generating multiple options from which to develop a solution and avoids rushing blindly to the most 'obvious' solution. A facilitator can help with 'reality checking' to ensure that decisions are not made prematurely and later regretted. Fair and legitimate standards should be established for choosing between options and ensuring the best possible outcome for everyone.

10

Establish a mechanism for future communication

If a workable agreement between the participants has been forged, its implementation may need

monitoring. Further meetings may be required. Participants need to be kept informed. Goodwill established between the participants at the initial meetings can be used to foster ongoing communication between parties.

WHAT ARE THE TYPES OF CONFLICT RESOLUTION PROCESSES?

The main processes for dealing with potential or actual conflicts are distinguished by the degree of intervention by a 'third party' who is separate from the disputants. In order of increasing intervention, the types of conflict resolution processes include:

- **Collaborative problem-solving and unassisted negotiation**
The participants work it out themselves.
- **Facilitation**
A general term for group discussion or problem-solving assisted by an independent facilitator. The participants may or may not see themselves as being in conflict but will perceive a need for outside help in running a productive meeting. The actual process can be very flexible and informal.
- **Mediation**
A highly-structured process to assist people in dispute to communicate and work out their own solutions. It is run by one or more trained mediators who make no contribution to the content of the discussion, act impartially and play no part in the decision-making process. This process can provide a safe framework for difficult negotiations.
- **Conciliation**
Where the third party may actively contribute to the content of the discussions by making suggestions or providing advice.
- **Arbitration**
A voluntary process in which participants seek assistance from a neutral third party to make a decision for them.
- **Adjudication**
Involves a court or similar authority making and enforcing decisions about a dispute regardless of the participants' wishes.

Conciliation is the most common process used by local government planners as it can be run by skilled staff without having to involve an independent third party. A difficulty for planners is that they may have to simultaneously juggle the roles of meeting chair/facilitator, notetaker, technical adviser, advocate for particular outcomes and, possibly, delegated decision-maker. In more challenging situations, an independent facilitator or mediator can assist in freeing up staff and decision-makers from the meeting management task. Properly trained staff or councillors can take on this 'independent' role and work with a planner who can provide the technical input.

WHAT IS A GOOD PROCESS FOR DEALING WITH PLANNING ISSUES?

A good process should address each of the key principles for minimising conflict. The step-by-step process outlined overleaf provides a framework for approaching face-to-face discussions that may be adapted to a variety of circumstances.

It presupposes that meetings are more likely to succeed if there is a clear separation of roles and responsibilities among council officers. The two distinct roles are the *facilitator*, who focuses entirely on facilitating the meeting process and the *recorder/adviser*, who records key points and provides any advice or information as needed. A single skilled planner/facilitator can perform both roles with the facilitator role being the dominant one.

The process framework could also provide guidance for unassisted discussions between developers and neighbours.

Be prepared

In line with the principles for minimising conflict, careful preparation should include:

- working out who is likely to have an interest in the proposal or issue at stake
- determining the purpose and value of holding a meeting
- seeking representatives of key interests where there are large numbers of people
- deciding whether to use an independent facilitator
- deciding where to hold the meeting (on site for part or all of the meeting may be productive)
- giving notice of meeting arrangements
- ensuring that decision-makers (if not present at the meeting) are prepared to endorse the outcomes of the meeting

These are dealt with in more detail in *How to Get the Best Out of Planning* (see References).

Just before the meeting, the facilitator and recorder/adviser should arrive in time to ensure that seating and other conditions (for example, light, temperature and refreshments) are adequate. At an indoor venue, material and equipment needs may include butcher's paper fixed to a board or wall at a readable distance from participants, suitable pens and possibly an overhead projector.

The meeting process step-by-step

1. Open the meeting

Establish a positive atmosphere from the outset so that participants accept the facilitator and the process.

The facilitator's introduction should include:

- Welcome and introductions
- Explanation of:
 - the purpose of the meeting and the key steps of the process
 - the facilitator's and recorder/adviser's roles (and the roles of any other council or agency representatives present)
 - the ground rules or 'guidelines' which will be followed to ensure discussion is productive
- Clarification of questions about the process and its purpose

2. Seek uninterrupted statements from all parties

The objective is to enable each person or group to describe their view of the proposal and the issues of concern or interest to them and to be sure they have been heard. The facilitator should ensure that people respect each other's need to be heard uninterrupted. The recorder/adviser should summarise key points on butcher's paper or a whiteboard (or notepad if on site), using the participants' words where possible.

3. List the issues

Establish the agenda for the remaining discussion. It may be that a draft list can be prepared in advance (for example, from objections/submissions) and refined by the participants. Alternatively, the facilitator and recorder/adviser can list issue headings from the opening statements. To avoid bias towards any party it is important to record the issues in neutral terms and avoid the use of emotive terms. Prioritise the list - the precise order is not crucial.

4. Explore the issues

A fundamental aim of the process is to allow participants to fully voice their perceptions, concerns and feelings and know that these have been heard. Once this has occurred, people are more likely to focus creatively on possible solutions.

This step and the next may not proceed in a logical sequence. Discussion may move naturally from exploration to negotiation on particular issues. Aim to have explored all the issues on the list before negotiations are finalised and anyone 'signs off' on significant matters.

The facilitator should encourage the participants to communicate directly with each other. Keep discussion flowing and clarify feelings and concerns with open-ended questions and by summarising or paraphrasing what is said. Identify shared interests and any potential

areas of agreement. Assert the ground rules as necessary to ensure the focus is on issues rather than individuals.

The recorder/adviser should record any common ground or potential areas of agreement and provide relevant factual information (for example, about policies or legislation).

5. Encourage negotiation and document any agreement

The aim is to focus on the future and on finding mutually acceptable solutions to some or all of the issues through collaborative problem-solving. Complete agreement is not the only measure of success. Improved understanding of the issues by all participants and a greater appreciation of the issues from a different perspective are also useful outcomes. This level of understanding may mean that participants have a heightened appreciation for the factors bearing on the final decision.

The facilitator can encourage the participants to suggest solution options and to listen to each other. The facilitator can recognise common elements, build on these and ask participants to consider the implications of possible solutions. Will they really work? What are the implications of not reaching agreement? The facilitator can also assist the participants to make firm agreements (signed if possible), and include follow-up mechanisms in the event of any change to the agreement.

The recorder/adviser should record options and points of agreement, provide relevant factual information which affects the range of possible solutions and draft the final agreement in the participants' own words. Any agreement needs to be consistent with relevant policy and legislation and should not adversely affect wider interests (such as community or environmental interests not represented at the meeting).

6. Close the meeting

Endings are important. Aim to foster positive feelings about the experience of the process. The facilitator should acknowledge the efforts and achievements of all participants. This may be simply that everyone has a better understanding of each other's point of view. The recorder/adviser should outline the next steps in the planning process, including relevant actions agreed to by the participants.

7. Debrief

After the participants have left, review the meeting. What worked? What could be improved? Each should provide constructive feedback on performance. Deal with any negative feelings about the experience by talking about them. It is important to respect the confidentiality of the discussion so that both sides give honest feedback.

Follow up and review

Formal follow-up once an agreement is reached may be unnecessary. Often, however, the agreement will have little status until it is endorsed by decision-makers through the formal planning process. If the meeting process is to maintain any credibility, decision-makers will need to be prepared to endorse agreements which are consistent with the planning framework. Where full agreement has not been reached, decision-makers can still take into account any areas of common ground.

More complex agreements may require a monitoring mechanism during implementation. In any event, it is important to keep lines of communication between participants open for the future.

RESOURCES

Facilitation skills are developed through good training, direct experience and ongoing peer or mentor feedback and support. There will be times when it is difficult or inappropriate for council staff to run a meeting, and an experienced, independent facilitator is needed. Independent facilitators have been used successfully in planning disputes since 1991. In conjunction with the Victorian Association for Dispute Resolution, the Department of Infrastructure is preparing a directory of practitioners and organisations providing facilitation, mediation or training services for circulation to all councils. For a copy, contact Bruce Turner at the Department of Infrastructure on (03) 9655 8817. A number of organisations and other resources are listed in *How to Get the Best Out of Planning: A Guide to Facilitating Meetings*, August 1997.

REFERENCES

1. *HOW TO GET THE BEST OUT OF PLANNING: A Guide to Facilitating Meetings*, August 1997
2. Good Design Guide Practice Note series, particularly relevant topics include *The decision-making process*, *Making an application* and *Site analysis and design response*.

All are available from the Department of Infrastructure Customer Service Centre.

3. A reference particularly relevant to rural councils and communities dealing with native title issues is *Towards Common Ground* produced by professional mediators across Australia. Copies can be obtained by contacting (03) 9642 4001.

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Department of Infrastructure
 Customer Service Centre
 Upper Plaza
 80 Collins Street
 Melbourne 3000
 Telephone 03 9655 8830
 Fax 03 9655 8847

FOR FURTHER DETAILS CONTACT:

South East Metropolitan Region
 Telephone 03 9881 8895

North West Metropolitan Region
 Telephone 03 9313 1333

Eastern Region
 Telephone 03 5172 2677

North Eastern Region
 Telephone 03 5761 1857

Northern Region
 Telephone 03 5434 5150

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