

# RICHMOND VALLEY COUNCIL POLICY REGISTER

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<b>POLICY:</b>	<b>MEDIATION</b>
<b>FUNCTION:</b>	<b>Development/Strategic Planning</b>
<b>OBJECTIVE:</b>	<b>To provide a process for the resolution of disputes concerning development and building proposals and related matters</b>
<b>DIRECTORATE:</b>	<b>ENVIRONMENTAL DEVELOPMENT SERVICES</b>

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## **POLICY:**

Council is aware that unresolved dispute or conflict within the development process is time consuming and not cost effective, particularly in respect of litigation in the Land and Environment Court.

Mediation and other alternative dispute resolution techniques have some very clear benefits. These include:

- Disputing parties can meet on a face-to-face basis and resolve their differences in an atmosphere conducive to conciliation.
- Greater responsiveness to local concerns and issues.
- Disputing parties are empowered to resolve their differences among themselves.
- There is greater potential for early resolution of conflict.
- Avoidance of litigation in the Land and Environment Court.
- Reduced community conflict and improved public confidence in the development assessment process.
- Savings for the development industry and the Council because of faster assessment of applications.

To facilitate these benefits, the objectives of this policy are:

- to establish an effective and equitable process for the resolution of disputes relating to development and building applications and related matters.
- to define procedures that enable disputing parties to identify and resolve issues of contention on a mutually acceptable basis.
- to enable building and development proposals to be assessed and determined by the Council without unnecessary delay.
- to ensure consistency and fairness in the manner in which the Council deals with and resolves disputes.

## **MATTERS TO WHICH THE POLICY APPLIES**

This Policy applies to the following matters:

- Development applications
- Subdivision applications
- Rezoning applications
- Complaints
- Other matters to which Council may refer to mediation

## **DEFINITIONS**

Under this Policy, the following expressions have special meanings:

### **DEVELOPMENT ASSESSMENT PANEL**

The Development Assessment Panel is a team of Senior Council Officers with considerable expertise in the assessment of development, building and subdivision proposals.

### **EXPLANATORY MEETING**

An explanatory meeting is a special meeting held between members of the public and the Council Officer dealing with particular development, building or other type of application. The purpose of the meeting is to enable the members of the public to receive a full explanation of the details of the application and related matters. Persons attending the meeting may ask questions concerning any matter which may be unclear to them, such as technical details.

### **FACILITATION**

Facilitation is a form of meeting between the parties to a dispute in which guidance is provided by a neutral party, called “the facilitator”.

The aim of the meeting is not necessarily to settle or resolve the dispute, but to:

- clarify issues
- reduce adversity
- establish facts
- provide information
- help understanding
- confine issue
- give everyone an opportunity to express an opinion

The facilitator does not meet separately with the parties, and does not take information in confidence.

## **PUBLIC ADDRESS TO THE COUNCIL**

A public address to the Council is a formal address made to a meeting of the full Council. An address can be sanctioned by the Council's General Manager in consultation with the Director Environmental Development Services only where all other avenues of dispute resolution have been exhausted.

## **GENERAL PRINCIPLES TO AVOID CONFLICT**

The mediation policy embodies the following principles:

- **Pre-Lodgement Consultation (Development Assessment Panel)**  
In order to identify conflict issues prior to lodgement of development applications, the building and development industry is encouraged to seek Council's advice to the proposed development by making an appointment for pre-lodgement discussions with Environmental Development Services, Development Assessment Panel. Appointments can be made by contacting telephone No. 02 6660 0275.
- **Pre-Application Consultation**  
The building and development industry should gauge and respond to community concerns as part of the initial design process.  
  
By discussing proposals with the affected community before lodging applications with the Council, unnecessary conflict and delay can be avoided, and the standard of proposals improved.
- **Pre-Objection Consultation**  
Prospective objectors to development or building proposals should discuss the matter with Council staff before lodging objections or seeking conflict resolution options. Council staff should in turn provide adequate information and advice during the public exhibition period in order to increase understanding of the application and the assessment process.
- **Early Initiation of Dispute Procedures**  
Dispute resolution procedures should be initiated as early as possible. Normally, procedures should be initiated prior to the end of the public exhibition period for the proposal. This will avoid parties becoming locked into inflexible positions of conflict.
- **Face-to-Face Contact**  
Parties should be able to meet each other on a face-to-face basis. Meetings should allow parties to explain details, express points of view, confine issues and resolve differences in an atmosphere conducive to conciliation.
- **Self-Resolution of Differences**  
A statement of issues and areas of agreement and disagreement should be prepared at the conclusion of facilitation in order to guide the Council in its determination of the matter.

- **Time Limit for Dispute Resolution**  
A time limit may be imposed by the Director of Environmental Development Services for the successful conclusion of dispute resolution procedures. In the event that these procedures remain incomplete or unworkable at the end of the time limit, the matter may proceed directly to the Council for determination.
- **Address to the Council as Last Resort**  
The opportunity for a party to publicly address the Council should be limited to situations of last resort at the direction of the General Manager in consultation with the Director Environmental Development Services. All other avenues for dispute resolution must have been exhausted. This avenue should be available to all parties.

## **PROCEDURES**

The Policy will operate according to the following procedures:

### **Pre-Application Consultation**

The development and building industry will be encouraged to consult with local communities by:

1. Suitable notation on development application forms.
2. Special brochures available at the Council's Customer Enquiry Centre.
3. Advice and information given by Council officers to developers and builders.

### **Pre-Objection Consultation**

Prospective objectors to development proposals will be encouraged to consult with Council Officers before lodging objections by:

1. Suitable notation on notification letters to adjoining and nearby landowners and occupiers; and
2. Special brochures available at the Council's Customer Enquiry Centre.

Provision of adequate information and advice to the public during the public exhibition period will be achieved by rostering staff on duty at the Council's Customer Enquiry Centre.

An explanatory meeting will be undertaken by Council staff as appropriate, however such meetings must be completed within 7 days of the closing date for submissions.

### **Request for Facilitation Meeting**

Facilitation can be expected to be employed in situations involving a diversity of interests and parties.

Subject to an explanatory meeting being held, before commencing facilitation a request for a facilitation meeting in writing can be submitted to Council or alternatively the Director Environmental Development Services may instigate a facilitation meeting to resolve conflict issues.

Any request for a facilitation meeting must contain a statement explaining the matters and issues which are subject of the objection and such request be received within 7 days of the completion of an explanatory meeting or if such meeting has occurred during the normal process, 7 days from the closing date of objections.

### **Chair of Meeting**

The nominated Council Officer at a facilitation meeting will have a knowledge of the subject matter but will be independent of any application processing procedure.

### **Outcome of Facilitation Meeting**

Following a facilitation meeting, all issues resolved/unresolved are to be recorded and the Director Environmental Development Services determines if the application should be referred to Council.

If the issues are resolved subject to conditions that are directly between the parties and the objections to the application can then be determined under delegated authority.

If there is no agreement, or only partial agreement on the issues, it is important for the parties to document the issues and indicate any common ground and the areas of conflict. This will enable the Director Environmental Development Services to determine whether the matter should proceed directly to the Council for determination. This determination will also include any recommendations for refusal to Councils.

### **Public Address to the Council**

The parties may apply to the General Manager in consultation with Director Environmental Development Services for permission to make a public address to the Council. To be successful, all of the following criteria must be satisfied:

- Facilitation meeting has failed to produce a resolution of the issues in dispute.
- Decisive issues remain unexplored.
- The General Manager and Director Environmental Development Services considers that a public address to the Council would assist the Council's determination of the matter.

### **AUTHORISATION**

Under this Policy the General Manager is authorised to instigate mediation facilitation procedures.

## **MONITORING POLICY**

Records will be kept of the outcomes of this Policy for the monitoring of its effectiveness.

## **REVIEW OF POLICY**

The Policy Document will be reviewed annually following its adoption by Council.

## **VARIATION**

Council reserves the right to vary and/or revoke this policy from time to time.