



SHOW CAUSE NOTICE

What is a Show Cause Notice?

Queensland's planning legislation provides a range of development offences that may warrant investigation and enforcement. The most common development offences investigated by local governments are carrying out assessable development without a development permit and contravening conditions of a development approval. Council as an enforcement authority has a responsibility for investigating and deciding an appropriate response to development offences. During an investigation, council will examine the facts and circumstances and determine whether enforcement action is necessary.

An investigation might relate to:

- Works which have been carried out without a development permit.
- Non-compliance with development approval conditions.
- Building works or a structure in a dangerous or dilapidated state.
- Building works which have never received a final inspection certificate or certificate of classification.

As part of the investigation, council may issue a show cause notice if they reasonably believe there may be a contravention of the *Planning Act 2016*, the *Building Act 1975* or the *Plumbing and Drainage Act 2018*. A show cause notice allows for procedural fairness (natural justice), giving a person the opportunity to provide their perspective as part of the investigation.

Receiving a Show Cause Notice

A show cause notice allows a person the opportunity to respond to council's allegations, before council takes any further action. A show cause notice is a formal document which:

- Sets out the grounds for council's understanding of the alleged offence; and
- Invites you to respond to council, explaining why no enforcement action, such as issuing an enforcement notice, should be taken to resolve the issue.

The legislation requires that council gives a response timeframe of at least 20 business days. However, if there are compelling reasons that you may require further time to respond, please notify council prior to the date in the show cause notice as we can discuss the possibility of an alternative response timeframe.

In the event that an alleged offence poses a significant environmental or safety risk, an enforcement action may be taken by council without the giving of a show cause notice.

Responding to a Show Cause Notice

A show cause notice is a valuable opportunity for you to respond to council outlining what steps you intend to take to resolve the issue promptly or why you believe council should take no further action. However, you are not obligated to respond. If you do not dispute that there has been a contravention of the legislation, you might choose to advise council:

- What steps you intend to take to resolve the matter; and
- The timeframe for resolution.

Providing a response to a show cause notice enables council to determine whether it is reasonable to proceed with formal enforcement action (such as issuing an enforcement notice to remedy the breach of legislation) by assessing all the available information. Council will always consider any advice of intentions to comply, restore or remediate before deciding whether or not to take further action. If council needs clarification on any fact/s, we will contact you. However, if you prefer a meeting to discuss the show cause notice, you are welcome to make an appointment.



INFORMATION SHEET



How to Resolve the Matter

To resolve the matter, you may wish to consult a private certifier, a solicitor, or another professional to give you advice on the matter. These professionals may be able to give you an understanding of the required time and costs involved, if any, in resolving the matter. If you resolve the matter before the date within the show cause notice, we encourage you to notify council to arrange for a further inspection, so that the investigation can be finalised as soon as possible. Please refer to the case study below for an example of how a matter may easily be resolved.

Confidentiality

Council deals with the personal information of all parties to an investigation in a strictly confidential manner. We will not disclose your personal details, or the details of any complainant, to any party. You may be able to make a right to information request about the matter. However, details such as the name and address of the complainant will generally not be available to an applicant under the privacy legislation.

Related Websites and Information

Livingstone Shire Councils Planning Scheme and mapping

<https://www.livingstone.qld.gov.au/doing-business/building-and-development/town-planning/planning-scheme-information>

Related Information Sheets and Checklists

<https://www.livingstone.qld.gov.au/homepage/247/development-information-sheets-and-checklists>

DISCLAIMER: This information sheet is a summary only and has been prepared to assist the reader to understand planning requirements. The information is general advice only and does not bind or fetter Council in any way in exercising statutory responsibilities or in assessing any development application which might be made to the Council. Please refer to the full Livingstone Planning Scheme 2018 document on Council's website for further detail.

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