

Show Cause Notice

5 December 2022

What is a Show Cause Notice?

Queensland's planning legislation provides a range of matters that may warrant investigation and enforcement. The most common matters investigated by local governments are carrying out assessable development without a development permit and contravening conditions of a development approval.

As an enforcement authority, Council has a responsibility for investigating and determining an appropriate response to development matters. During an investigation, Council will examine the facts and circumstances to determine whether any 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 not received a final inspection certificate or certificate of classification.

As part of the investigation, Council may issue a **show cause notice** if it reasonably believes there may be a contravention of the *Planning Act 2016*, the *Building Act 1975* or *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 a person to respond to Council, explaining why no enforcement action, such as issuing an **enforcement notice**, should be taken.

The legislation requires that Council gives 20 business days to respond however, if there are compelling reasons that you may require further time to respond, please discuss with Council prior to the end date in the show cause notice.

If 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 a person to respond to Council outlining what steps are intended to resolve the issue promptly or why you believe Council should take no further action. However, a person is not obligated to respond. If there is no dispute that there has been a contravention of the legislation, a person may 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 first consider any advice of intentions to comply, restore or remediate in deciding whether to take further action.

If clarification on a fact/s is needed, Council will contact by telephone or email. However, a meeting in person to discuss the show cause notice can be made by appointment.

How to Resolve the Matter

Resolving the matter may include consultation with a Private Certifier, a Solicitor, a Town Planner or another professional to give advice on the matter. These professionals may be able to provide an understanding of the required time and costs involved, if any, in resolving the matter.

If the matter has been resolved before the date within the show cause notice, 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.

Case Study:

Council received a notification from a member of the public of a suspected unlawful shed that had been built on a residential property.

A week later, Council inspected the property and sent the property owner a show cause notice, stating that it believed a development offence had occurred under Section 163 of the *Planning Act 2016*. The notice requested a response within twenty (20) business days.

The owner then sought advice from a Private Certifier, who confirmed that the structure required a building approval and advised the appropriate timeframe for obtaining an approval would be three months.

The owner wrote to Council confirming that they had engaged a Private Certifier and required three months in which to have the structure approved. Council considered this response and decided not to take any enforcement action as the owner had taken the right steps towards achieving compliance with the legislation.

Council finalised the investigation after the shed was approved.

Confidentiality

A person may obtain a copy of a Show Cause or Enforcement Notice from Council, as the *Planning Regulation 2017* Part 4, Section 11 requires the Chief Executive of Council to keep Show Cause and Enforcement Notices available for inspection and purchase.

Council deals with all other personal information of all parties to an investigation in a strictly confidential manner. We will not disclose personal details, or the details of any complainant, to any party. Council will not reveal the source or details of a complaint or complainant to a third party.

A person can 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 [Right to Information and Information Privacy – Scenic Rim Regional Council](#)

For more information

Visit www.scenicrim.qld.gov.au, email mail@scenicrim.qld.gov.au or contact Scenic Rim Regional Council's Compliance Services section on 07 5540 5111.