

# **BOARD OF INQUIRY INTO THE McCRAE LANDSLIDE**

## **Claudio Flores Witness Statement**

**Prepared for the purpose of a Board of Inquiry**

**22 May 2025**

### WITNESS STATEMENT OF CLAUDIO FLORES

<b>Name:</b>	Claudio Flores
<b>Address:</b>	2 Queen Street, Mornington, VIC, 3931
<b>Occupation:</b>	Principal Building Surveyor
<b>Date:</b>	22 May 2025

1. I make this statement in response to the Request to Produce a Witness Statement dated 12 May 2025 (**Notice**). This statement has been prepared with the assistance of lawyers and Shire officers.
2. Except where I otherwise indicate, I make this statement from my own knowledge. Where statements are not made from my own knowledge, I believe them to be true to the best of my information and belief and I have set out the sources of my belief.
3. I am currently employed as a principal building surveyor at the Shire.
4. I have been employed by the Shire since around August 2015. During my time at the Shire, I have held various roles within the office of the municipal building surveyor at the Shire. When the 15 November 2022 Landslide occurred, I was a senior building surveyor at the Shire. At that time, Ashley Hansen was the Municipal Building Surveyor (**MBS**). Mr Hansen resigned from his role at the Shire in December 2022. I was then appointed Acting MBS until a new MBS, Matt Glover, was appointed in February 2023. I returned to my role as senior building surveyor at that time. In the period between the 15 November 2022 Landslide and up to the First 2025 Landslide I also acted as the Deputy MBS for a short period.

#### **Risk and response - Question 1**

**Is it the case that following the 15 November 2022 Landslide and up to the First 2025 Landslide, the Shire did not take any steps to prevent or minimise the risk of a further landside occurring in the vicinity of 10-12 View Point Road, McCrae.**

5. No. Between 15 November 2022 and 5 January 2025 the Shire did take steps in an attempt to prevent or minimise the risk of a further landslide occurring in the vicinity of

10-12 View Point Road, McCrae. I had direct involvement in those steps and detail them below in answer to question 2.

### Risk and response - Question 2

#### If the answer to question 1 is no, what steps were taken?

6. The steps I took were based on my understanding of the statutory powers I had available to me under the *Building Act 1993* (Vic) and the information I received regarding the risk of a further landslide, the cause (or potential cause) of the 2022 Landslide and what could be done to prevent or minimise the risk of a further landslide in the vicinity of 10-12 View Point Road.
7. The steps I took to prevent or minimise the risk of a further landslide occurring in the vicinity of 10-12 View Point Road were:
  - (a) I determined emergency orders should be issued on (or remain in place for) properties in the vicinity of 10-12 View Point Road where I considered there was a danger to the safety or life of occupants due to another landslide. While I recognise this step could not itself prevent the occurrence of a further landslide, it was a step I took in an attempt to protect the lives and safety of owners and occupiers identified to be at risk;
  - (b) I worked with the owners of 10-12 View Point Road (the **Borghesis**) for a period of time, prior to the Borghesis' dispute with the Shire, on the required stabilisation works to be carried out at the property, which were aimed at making the land safe and preventing or minimising a further landslide at the property; and
  - (c) I issued emergency orders, building notices and building orders on the Borghesis directing that they carry out stabilisation works.
8. I address these steps in further detail below.
9. Immediately following the 2022 Landslide, the Shire obtained advice from a geotechnical engineer, Stantec, concerning the houses in the vicinity of 10-12 View Point Road that were at risk of another landslide. Mr Slade inspected the site and provided advice that **2 Penny Lane** and **3/613 Pt Nepean Rd** were at risk of a further landslide. This was detailed in an email from Mr Slade to Mr Lyne dated 17 November 2022 at 10:51am [**MSC.5003.0001.0030**] which records that (emphasis added):

*Based on my review of the site yesterday which identified that any current movement is limited to the cliff face up slope of 2 Penny Lane and 3/613 Pt Nepean Rd and does not extend significantly up slope of the crest of the cliff it is appropriate for the occupiers of the **remaining houses** to return to their properties.*

*Furthermore, we have provided individual counselling to each of the occupiers with regard to appropriate hillside practice and also signs to look for that could identify potential ground movement outside the area currently affected by the landslide.*

10. I received Mr Slade's email from David Simon [MSC.5003.0001.0030].
11. The "remaining properties" referred to in Mr Slade's email were 10-12 View Point Road, 14-16 View Point Road, 3 Penny Lane, 1/613 Pt Nepean Road, 2/613 Pt Nepean Road and 4/613 Pt Nepean Road. These properties were listed in the email from Mr Lyne dated 17 November 2022 at 10:28am to which Mr Slade had replied.
12. Mr Slade identified the risk of another landslide at 10-12 View Point Road as being limited to "the cliff face up slope of 2 Penny Lane and 3/613 Pt Nepean Rd and [did] not extend significantly up slope of the crest of the cliff".
13. On 18 November 2022, I had an online meeting with Mr Slade and Mr Essing to discuss Mr Slade's advice and the properties he considered at risk of a further landslide. During the conversation, Mr Slade recommended the area near and around the November 2022 Landslide be avoided, in addition to 2 Penny Lane and 3/613 Pt Nepean Rd remaining evacuated.
14. Mr Essing and I considered Mr Slade's advice and what emergency orders could be lifted and what had to stay in place. Mr Essing and I decided, with Mr Slade, that:
  - (a) there was a danger to the life and safety of the occupants of 2 Penny Lane and 3/613 Pt Nepean Rd and the emergency orders to vacate (which had been earlier issued) should stay in place; and
  - (b) there was a danger to the life and safety of the occupants of 10-12 View Point Rd and 14-16 View Point Rd near the area of the November 2022 Landslide, and orders should be issued to the owners/occupiers of those properties, restricting access to areas within 3m of areas deemed a possible risk.

15. Following this conference, on 18 November 2022 I sent an email to David Simon, Christopher Lyne, and other of the Shire recording this outcome **[MSC.5003.0001.0030]**.
16. On 18 November 2022, I attended 10-12 View Point Road to inspect the site.
17. Subsequently, Mr Essing issued a number of notices cancelling the orders to vacate, including:
  - (a) a notice cancelling the order to vacate 10-12 View Point Road **[MSC.5007.0003.0515]** ;
  - (b) a notice cancelling the order to vacate 14-16 View Point Road **[MSC.5007.0003.0646]**; and
  - (c) a notice cancelling the order to vacate 3 Penny Lane **[MSC.5007.0003.0141]**
18. In these notices, the owners of 10-12 View Point Road, 14-16 View Point Road and 3 Penny Lane were directed to follow hillside practices and to continue monitoring for changing site conditions in accordance with advice from a suitably qualified geotechnical engineer.
19. I subsequently issued an emergency order (EO-152/22) on the Borghesis prohibiting entry and use of land within 3m of the embankment because I considered there was a danger to life or property arising out of the condition of that land **[MSC.5007.0003.0858]**.
20. No further emergency order was issued on 14-16 View Point Road. I do not now recall why no further emergency order was issued on 14-16 View Point Road, however, I believe it may have been because I formed the view that there were accessibility issues near the landslide from 14-16 View Point Road.
21. On 28 November 2022, I issued a further emergency order (EO-153/22) on the Borghesis to engage a geotechnical engineer to undertake an assessment of the site and provide recommendations to undertaken make safe work to stabilise the land and engage someone to carry out that work within the time prescribed **[MSC.5007.0003.0804]**. This direction was aimed at preventing a further landslide or landslip in the area of the November 2022 Landslide.
22. The Borghesis subsequently submitted to me a geotechnical report from Civil Test. Mr Slade provided comments on the Civil Test Report at the request of the Shire, and undertook a geotechnical assessment of the site on 7 December 2022

**[MSC.5000.0001.0292]** (Stantec Report). Mr Slade concluded the risk to life and safety of 3/613 Point Nepean Road McCrae and 2 Penny Lane McCrae was not tolerable.

23. It was my understanding at this time, from the Stantec Report, that the cause of the November 2022 Landslide was a significant rainfall event and a failed irrigation pipe. The failed irrigation pipe was fixed, and it was my understanding this would assist with the prevention of a further landslide because it removed that cause. I also note that as part of the notice cancelling the order to vacate, the Borghesis were directed not to irrigate unless it was under or met the conditions of a qualified engineer. In respect of the rain event, I did not consider there was something I could do in my role to remove or minimise that risk factor. The evacuation of the dwellings downslope from the landslide were made in part due to factors we could not control such as rain.
24. I communicated with the Borghesis between approximately December 2022 and August 2023 regarding proposed stabilisation works. The Shire engaged Stantec to peer review the proposals put forward by the Borghesis and provide advice to the Shire about the required works. During this period:
  - (a) On 28 March 2023, I issued a building order for minor works (MW-127/23) under s 113 of the Building Act to the Borgehsis directing that retaining walls or other site stabilisation walls (with an approved design and work methodology) be carried out: **[MSC.5007.0003.0564]**. This building order was directed at having works carried out to prevent a further landslide occurring on the site.
  - (b) The Borgehsis informed the Shire that they considered voids in the kerb had allowed water to enter the ground, which caused or contributed to the November 2022 Landslide. When the Borghesis informed the Shire of this in May 2023, drainage works were being undertaken on View Point Road **[MSC.5005.0011.4483]**. The Borgehsis' email was considered within the Shire. The Shire later obtained an opinion from Mr Pope of PSM on whether voids in and under the kerb, as a source of water, was a possible cause of the November 2022 Landslide. I have been shown a copy of the report from Mr Pope **[MSC.5000.0001.0639]**. I don't recall considering Mr Pope's report at the time, however, I note that Mr Pope e concluded that damaged infrastructure had a minor to negligible contribution to the November 2022 Landslide (page 27).
25. On 7 February 2024, I issued a building notice to the Borghesis (No. BN-001/24): **[MSC.5002.0001.0898]**. The building notice required the owners to show cause as to

why the Borgehsis should not be required to carry out stabilisation work to the landslip-affected land in accordance with the geotechnical recommendations and structurally engineered design after obtaining the relevant building and planning permit approvals.

26. On 4 April 2024, I issued a building order to the Borgehsis (No. BO-004/24): **[MSC.5002.0001.1567]**. The building order required the owners to carry out stabilisation work to the landslip-affected land in accordance with the geotechnical recommendations and structurally engineered design after obtaining the relevant building and planning permit approvals. This building order was directed having works carried out to prevent a further landslide occurring at the site.
27. I do not have geotechnical engineering qualifications, and it is beyond my expertise (and in my experience, that of a typical building surveyor) to identify the risk of a further landslide or determine, without advice, what works may be required to prevent or minimise the risk of a further landslide.
28. I note that the stabilisation works concerned a different area of 10-12 View Point Road to the area that subsequently failed in 2025.
29. I am aware that the Building Appeals Board has recently determined that I did not have the power to issue the emergency order or the building notices and building orders directing the owners of 10-12 View Point Road to carry out work to stabilise the property. However, these were the steps I took in an effort to protect the lives and safety of residents, and prevent a further possible landslide.
30. At no stage between the November 2022 Landslide and the First 2025 Landslide was I aware that there was a risk of a further landslide occurring at the specific location on 10-12 View Point Road or of the magnitude of the McCrae Landslide.

#### **Additional information - Question 5**

**If the Shire wishes to include any additional information regarding prevention or minimisation of risk of further landslides, please set it out in the witness statement.**

31. On 24 January 2025, the Shire engaged PSM to undertake a landslide characterisation of the escarpment on which the McCrae Landslide occurred **[MSC.5016.0001.1713]**. An image of the escarpment that Mr Pope has been asked to characterise is at **[MSC.5016.0001.1718]**. I have had no direct involvement in this engagement of Mr Pope. However, I am informed by Derek Rotter, Director McCrae Landslide Incident of

the Shire, that the landslide characterisation of the escarpment involves conducting an assessment and analysis of the slope to understand its stability conditions and landslide risks, and that this process typically includes:

- (a) identifying the geological and geomorphological features of the escarpment;
- (b) assessing existing landslide features, including the McCrae Landslide;
- (c) analysing factors that contribute to slope instability;
- (d) determining the potential failure mechanisms; and
- (e) evaluating the risk of future landslides.

32. I am informed by Mr Rotter that the Shire intends to consider the outcomes of this assessment and then consider what if any steps can be undertaken to prevent or minimise the risk of further landslides, if the assessment identifies such risks.

Personal Information

**Signed** by Claudio Flores

on 22 May 2025