



**MORNINGTON  
PENINSULA**  
*Shire*

## Emergency Order

EO-003/24

06/02/2024

Paul Willigenburg & Denise Willigenburg  
3/613 Point Nepean Road  
MCCRAE VIC 3938

Dear Paul and Denise,

**RE: 3/613 Point Nepean Road MCCRAE VIC 3938**

I conducted an inspection of the above property on 6 February 2024. The inspection highlighted immediate safety concerns at the above mentioned property.

Pursuant to the Section 102 of the Building Act 1993, the Municipal Building Surveyor is required to issue an Emergency Order on the owner or occupier building/land/place of public entertainment if they are of the opinion that the Order is necessary because of a danger to life or property arising out of the condition of the building or land.

Please find attached a copy of the Emergency Order.

It is imperative that you address the items in the Order immediately, non compliance with the Order can carry a penalty of 500 penalty units for a natural person or 2500 penalty units for a body corporate (one penalty unit equates to in excess of **I&S**

I draw your attention to your appeal rights as noted at the rear of the Order.

Once the directions in the Order have been completed please contact me to confirm such and arrange any required inspections.

Should you require any clarification, please do not hesitate to contact me on (03) 5950 1060.

Yours faithfully

Personal Information

Claudio Flores  
**Authorised Person**  
Statutory Building Team  
Mornington Peninsula Shire Council

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### Contact the Mornington Peninsula Shire

☎ 1300 850 600  
🌐 [mornpen.vic.gov.au](http://mornpen.vic.gov.au)  
✉ [customerservice@mornpen.vic.gov.au](mailto:customerservice@mornpen.vic.gov.au)

By post: Private Bag 1000,  
90 Besgrove Street, Rosebud VIC 3939  
ABN: 53 159 890 143



## FORM 10

**Building Act 1993**  
**Building Regulations 2018**  
 Regulation 178

# EMERGENCY ORDER

This emergency order is made under section 102 of the Building Act 1993.

**TO:**

The owners Paul Willigenburg & Denise Willigenburg  
 Of 3/613 Point Nepean Road MCCRAE VIC 3938

**FROM:**

I am a delegated building surveyor under Section 216B of the Building Act 1993(“**Act**”) for the Mornington Peninsula Shire Council.

The Municipal Building Surveyor is authorised to cause an emergency order to be served on the owner/occupier of the building/land to which this order applies under Division 1 of Part 8 of the Act.

**LOCATION OF THE BUILDING/LAND TO WHICH THIS ORDER APPLIES:**

**3/613 Point Nepean Road MCCRAE VIC 3938 Lot 3 PS 508696 Vol 10939 Fol 933 (the Land)**

**ORDER:**

I, being a delegate of the Municipal Building Surveyor under Section 216B of the Act, order that:

1. By 5pm on 6 February 2024, the owner/occupier must evacuate the land.
2. At 5pm on 6 February 2024, occupation of the dwelling and land by any person is prohibited for a period of *14 days* pursuant to Section 103(2) of the Act, unless permitted by the Municipal Building Surveyor.

**This order is to be read in conjunction with BN BN-005/24 and replaces Building Emergency Order EO-147/22**

**INSPECTION DETAILS:**

The date and time of any inspection of the building/land carried out by me, being a delegate of the Municipal Building Surveyor under Section 216B of the Act, is:

Time of inspection: 1:00pm

Date of inspection: 06 February 2024

**REASON(S) WHY THIS EMERGENCY ORDER WAS MADE:**

In accordance with section 102 of the Act, I am of the opinion that this order is necessary because of a—

Danger to life arising out of the condition of the landslip affected land on the adjoining property known as 10-12 View Point Road McCrae.

**EMERGENCY ORDER MADE AND SERVED BY:****The delegate of the Municipal Building Surveyor:**

Name: Claudio Flores

Qualification: AdvDipBS

Address: 2 Queen Street, Mornington, Victoria 3931

Email: florescl@mornpen.vic.gov.au

Building practitioner registration no: BS-U 64209

Municipal district : Mornington Peninsula Shire

Emergency order no: EO-003/24

Date of making: 06/02/2024

Irrelevant & Sensitive

Signature:

# Notes

## 1. Cancellation of Emergency Order.

Pursuant to Section 105B of the Act the Municipal Building Surveyor may cancel an emergency order by written notice given to the person to whom the notice was directed if the order was made in error or the circumstances giving rise to the making of the order have changed.

## 2. Contravention of Emergency Order

Pursuant to Section 118(1) of the Act a person to whom an emergency order is directed must comply with that order. Non-compliance with the order can carry a penalty of 500 penalty units in the case of a natural person or 2500 penalty units in the case of a body corporate.

Pursuant to Section 118(2) of the Act if an emergency order so directs a person must not occupy a building, land or place in contravention of an emergency order. Non-compliance with the order can carry a penalty of 500 penalty units in the case of a natural person or 2500 penalty units in the case of a body corporate.

## 3. Appeals to the Building Appeals Board.

Pursuant to Section 142(3) of the Act, an owner or occupier of a building or land may appeal to the Building Appeals Board against a refusal of the municipal building surveyor to cancel an emergency order or a failure, within a reasonable time, to cancel the order. In accordance with Section 146 of the Act and Regulation 271 of the Regulations the prescribed appeal period is 30 days from the date of the order.

Pursuant to Section 146(3) of the Act an appeal under section 142(3) does not stay the operation of the emergency order to which the appeal relates.

**If you require any further information, please contact Claudio Flores of the  
Statutory Building Unit on (03) 5950 1060 or 1300 850 600.**