



Victoria Government Gazette

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Inquiries Act 2014

APPOINTMENT OF A BOARD OF INQUIRY INTO THE McCRAE LANDSLIDE

Order in Council

The Governor in Council, on the recommendation of the Premier under section 53(1) of the **Inquiries Act 2014**, appoints Renée Enbom KC to constitute a Board of Inquiry to inquire into, report on, and make any recommendations considered appropriate in relation to, the terms of reference specified in this Order.

This Order comes into effect on the date it is published in the Government Gazette.

1. BACKGROUND

- 1.1 The Victorian Government understands that for all Victorians, including families and senior Victorians, our homes are the foundation of family life. When a Victorian's ability to enjoy their home is adversely impacted by an unexpected significant event, they want to know what happened, why it happened, and what steps might be taken to minimise the risk of it happening again.
- 1.2 On 14 January 2025, a landslide of approximately 120 tonnes occurred at Penny Lane, McCrae within the Mornington Peninsula Shire Council (**McCrae Landslide**). One house was destroyed, three others were damaged, and a council worker at the site of the destroyed house was injured.
- 1.3 The Victoria State Emergency Service (**VicSES**) set up an exclusion zone around the site of the landslide, and restricted access to multiple residences within the exclusion zone, including closing part of Point Nepean Road and a local government road.
- 1.4 Landslides and landslips have previously occurred in the McCrae area, including:
 - a) a landslide of approximately 20 tonnes in the vicinity of the west end of View Point Road in November 2022, which caused minor damage to two townhouses in Penny Lane; and
 - b) a landslide of approximately 30 tonnes in the vicinity of the east end of View Point Road on 5 January 2025.
- 1.5 The Victorian Government acknowledges that it is important that the people of McCrae, particularly the affected homeowners, understand what caused the McCrae Landslide, whether actions could have been taken to mitigate the risk of the landslide and what action should be taken to assist in minimising the risks and damage of another landslide or landslip occurring in the McCrae area.

2. OBJECTIVES

The objectives of this Board of Inquiry are to:

- 2.1 Determine the cause(s) of the McCrae Landslide;
- 2.2 Determine the adequacy of measures taken to prevent and minimise landslides and landslips in the McCrae area, including reviewing responses to the November 2022 and 5 January 2025 landslides and landslips in the area to the extent that this information is available and relevant to the McCrae Landslide; and
- 2.3 Identify measures to be undertaken for the prevention or mitigation of the risk of similar landslide events to the McCrae Landslide occurring in future in the McCrae area.

SPECIAL

3. TERMS OF REFERENCE

3.1 Scope

Having regard to the objectives set out above, you are required to inquire into, report on, and make any recommendations considered appropriate in relation to, the following terms of reference:

- a) The cause(s) of the McCrae Landslide;
- b) The actions (including any inaction) and decisions of Connected Parties, including:
 - (i) actions taken to prevent or mitigate landslides and landslips in the McCrae area: and
 - (ii) actions and/or decisions taken that may have contributed to causing the McCrae Landslide (including, without limitation, approving and issuing permits, and undertaking building, road, water or other works);
- c) The adequacy of any risk assessments undertaken to determine the likelihood and severity of landslides and landslips in the McCrae area before the McCrae Landslide;
- d) The adequacy of preventative and mitigative measures taken before the McCrae Landslide, including actions that could have been but were not taken by Connected Parties;
- e) Any barriers to the implementation of measures to prevent or mitigate landslides and landslips in the McCrae area that existed before the McCrae Landslide occurred;
- f) The regulatory framework, including the responsibilities, powers, duties and functions of all responsible authorities in relation to the prevention and management of landslides and landslips in Victoria; and
- g) Identify any measures for the prevention or mitigation of the risk of similar landslide events to the McCrae Landslide occurring in future in the McCrae area.

3.2 Definitions

Connected Parties include responsible authorities, contractors undertaking any works in the area and other parties with direct interests in the area.

McCrae area refers to the suburb of McCrae in the Shire of Mornington Peninsula local government area.

Responsible authorities include the Mornington Peninsula Shire Council, water authorities, the Department of Transport and Planning, the Victorian Building Authority, and any other relevant entity established under legislation that had any function or responsibility or took any action in relation to landslides or landslips in the McCrae area.

3.3 Reporting Dates

You must report your findings and any recommendations to the Governor as soon as possible, and not later than 18 June 2025.

3.4 Conducting the Inquiry

Without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, you are directed to:

- a) Conduct your inquiry as you consider appropriate, subject to the requirements of procedural fairness;
- b) Have regard to any existing research relevant to your inquiry;
- c) Have regard to any relevant existing expert or consultant reports, such as geo-technical reports, that may have been procured or are otherwise in the possession of a responsible authority or other person or body;
- d) Have regard to the findings and recommendations of any previous relevant report or inquiry into landslides and landslips in Victoria, and elsewhere in Australia;

- e) Develop a process to allow residents of the McCrae area to engage with your inquiry;
- f) Communicate with the Victorian community about your objectives and progress and the ability of persons with relevant information to provide information to the inquiry;
- g) Have regard to relevant information provided by the residents of the McCrae area or other persons;
- h) Conduct your inquiry in accordance with this Order, the **Inquiries Act 2014**, and all other relevant laws;
- i) In conducting your inquiry:
 - (i) to the extent you think it appropriate, have regard to any ongoing legal proceedings or investigations relating to the McCrae Landslide;
 - (ii) to the extent you think it appropriate, adopt informal and flexible procedures to ascertain the relevant facts as directly and effectively as possible;
 - (iii) avoid unnecessary duplication; and
 - (iv) avoid unnecessary cost or delay.

The following matters are outside the scope of your inquiry and you should not inquire into them:

- j) Actions taken since the McCrae Landslide at the site of the McCrae Landslide;
- k) Without limiting clause 3.4(j), actions taken since the McCrae Landslide relating to the rehabilitation or making-safe of the McCrae landslide area;
- l) Without limiting clause 3.4(j), the emergency response, relief and recovery activities for the McCrae Landslide;
- m) The activities of Emergency Management Victoria, VicSES and the Inspector-General for Emergency Management;
- n) Insurance arrangements of any parties impacted by the McCrae Landslide;
- o) Landslips, landslides and other similar events that occurred in the McCrae area prior to the McCrae Landslide, except to the extent you reasonably consider them to be relevant to the scope of the inquiry as it relates to the McCrae Landslide.

3.5 Exercise of Powers

- a) You may exercise the powers of a Board of Inquiry in accordance with the **Inquiries Act 2014**.
- b) You may engage one or more Australian legal practitioners to assist the Board of Inquiry as counsel.

3.6 Expenses and Financial Obligations

In conducting your inquiry, you are authorised to incur expenses and financial obligations to be met from the Consolidated Fund up to \$3.14 million.

Dated: 18 March 2025

Responsible Minister:

HON JACINTA ALLAN MP

Premier

SAMUAL WALLACE
Clerk of the Executive Council

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