



Building Notice

BN-005/24

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 mentioned property on 6 February 2024. The inspection highlighted safety concerns at the above mentioned property.

Pursuant to Section 106 of the Building Act 1993, the Municipal Building Surveyor is required to detail these matters in the form of a Building Notice as attached. You are now required to "Show Cause" within 30 days why you should not comply with the directions of the Building Notice, before we consider further action.

Please find attached a copy of the Building Notice and a Building Notice Response form for you to complete and return it as per the directions at the bottom of the Building Notice Response form.

It is imperative that you respond to the Building Notice within the 30 day period.

It is important you read all of the attached information and do not commence any further works until we have reached agreement based on your response.

I draw your attention to your appeal rights as noted at the rear of the Notice. Should you require any clarification, please do not hesitate to contact me on (03) 5950 1060.

Yours faithfully

I/S

Claudio Flores

Authorised Person

Statutory Building Team

Mornington Peninsula Shire Council

Contact the Mornington Peninsula Shire

☎ 1300 850 600

🌐 mornpen.vic.gov.au

✉ customerservice@mornpen.vic.gov.au

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

**FORM 11**

Building Act 1993
Building Regulations 2018
 Regulation 180

BUILDING NOTICE

DUE DATE:
12 March 2024

This Building Notice is served under Section 106 of the **Building Act 1993**.

TO:

The owner 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.

I am authorised to cause a Building Notice to be served on you, as owner of the building/land to which this notice applies, under Division 2 of Part 8 of the Act.

LOCATION OF THE BUILDING/LAND TO WHICH THIS NOTICE APPLIES:

3/613 Point Nepean Road MCCRAE VIC 3938 Lot 3 PS 508696 Vol 10939 Fol 933

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 NOTICE WAS SERVED:

In accordance with Section 106 of the Act, I am of the opinion that the following circumstance exists:

1. Danger to life, safety or health from building/land

The building and land is a danger to the life, safety or health of any person using the building and land due to the condition of the landslip affected land on the adjoining property known as 10-12 View Point Road McCrae.

The building and land is considered a danger based on my assessment to the risk to life, supported by a risk assessment report obtained by Council at the instruction of the Municipal Building Surveyor.

SHOW CAUSE PROCESS:

Under Section 108 of the Act, you are required to show cause within 30 days of the date of service of this notice—

- a. why entry, use, or occupation of the building/land should not be prohibited until such time the adjoining landslip affected land has been made to the satisfaction of the Municipal Building Surveyor.

Specified period for making representations:

A 30 day show cause period has been provided for you to make representations.

Specified manner for making representations:

The manner for making representations in response to the matters contained in this notice is by completing the Building Notice Response form attached and return it as per the directions at the bottom of the Building Notice Response form.

BUILDING NOTICE SERVED BY:**Relevant 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

Building notice no.: BN-005/24

Date of making: 06/02/2024

Signature:

I/S

Notes

1. Representations by owner and cancellation of Notice

Under Section 109 of the Act an owner may make representations to the Municipal Building Surveyor about the matters contained in the Building Notice. Any representations are to be made in writing to the Municipal Building Surveyor before the end of the 'show cause' period. The Municipal Building Surveyor may cancel a Building Notice if he considers it appropriate to do so after considering any representations made under Section 109.

2. Building Order

Subject to Section 107 of the Act, the municipal or private building surveyor may make a building order under section 111 after the end of the time allowed for making representations.

3. Appeals to the Building Appeals Board

Under Section 142(1) of the Act, an owner of a building or land may appeal to the Building Appeals Board against a decision to serve a building notice, a failure within a reasonable time, or refusal to cancel a building notice. In accordance with Section 146 of the Act and Regulation 271 of the Building Regulations the prescribed appeal period is 30 days from the date of the building notice.

4. What is a Building Notice?

A Building Notice is a 'show cause' Notice. In simple terms, the recipient of a Building Notice is required to provide the Municipal Building Surveyor reasons with why he or she should not comply with the directions detailed in the Notice.

5. Why has a Building Notice been issued?

An authorised officer of the Statutory Building unit has recently inspected the property and identified general safety/non-compliance building related issues. The Municipal Building Surveyor is responsible for addressing these issues in the form of a Building Notice as required by Section 106 of the Building Act 1993.

6. What are you required to do?

It is in your best interest to respond using the attached Building Notice Response form.

7. Building Notice Response Form

You have the option to agree with the direction issued by the Municipal Building Surveyor or provide other written representation or documentation. The Municipal Building Surveyor may request further information after considering your response.

8. Building Order

A Building Order is the next step in the process. If a Building Order is issued, you will be required to undertake the directions of the Order within the stated timeframe. Importantly, compliance with a Building Order is enforceable in the Magistrates Court.

9. What if you do nothing?

The intention of the Building Notice process is to open a discussion between yourself and the Municipal Building Surveyor regarding the issues identified. In the event the Municipal Building Surveyor does not receive a response, a Building Order will be issued containing the same directions detailed within the Notice.

10. Due date calculation

The due date is calculated by adding 5 days postage time to the 30 day show cause period.

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



BUILDING NOTICE RESPONSE

BN-005/24

DUE DATE:
12 March 2024

I/we ,
owner/s of the building located at 3/613 Point Nepean Road MCCRAE VIC 3938 wish to submit the
following response to the Building Notice dated 06/02/2024 .

☐

.....

.....

.....

.....

☐ Other – Attach any other written representation or documentation to this form and submit (*i.e do you have a building permit that was not submitted to Council*).

Upon receipt of your response the Municipal Building Surveyor will consider your above representations and issue a direction of works in the form of a Building Order. The Building Order will require the owner to undertake the directions of the Order within a stated time period. Importantly, compliance with a Building Order is enforceable in the Magistrates Court.

Signature/s: _____ Date: _____

Contact Person: _____ Phone: _____

Email: _____

Please complete this form and return it to:

Statutory Building Team – Municipal Building Surveyor

C/ - Claudio Flores

Private Bag 1000

Besgrove Street, ROSEBUD VIC 3939