

# EMERGENCY ORDER

UNDER SECTION 102 OF THE BUILDING ACT  
1993



Date - 15/11/22

TO THE OWNER/S & OCCUPIER/S

AND TO:

SUBJECT PROPERTY: 23/613 Point Nepean Rd, McCrae

An inspection of the above property was conducted on the dwelling from the land on 15/11/22

The inspection highlighted immediate safety concerns relating to the fire-damaged building/s 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 he is of the opinion that the Order is necessary because of a danger to life or property arising out of the condition or use of the building/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 \$150.00).

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

Irrelevant & Sensitive

Benjamin Essinger

Authorised Person

Statutory Building Team

Mornington Peninsula Shire Council

(Duplicate copy)



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 owner/s & Occupier/s  
AND TO:  
Of the building located at: U3/513 Point Nepean Rd, McCree

**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 to which this order applies under Division 1 of Part 8 of the Act.

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

Dwelling on the land

**ORDER:**

I, being a delegate of the Municipal Building Surveyor under Section 216B of the Act, order that:  
1. By 17/11/22 PM 4:00 on 10:40am the owner/occupier of the land 510 impacted ~~fire damaged~~ building must carry out the following work to make the building and land safe pursuant to Section 104(1)(b) of the Act.

1.1 Install temporary fencing (minimum 1.8 meters high) to prevent unauthorised access in to the property. The fencing is to be installed to the following location/s:

1.1 Prohibit occupation of the dwelling + any  
associated buildings on the land.

AND

1.2 Remove the following damaged loose material, roof sheeting and debris.  
Provide evidence of soil stabilization  
on the land to the satisfaction of the  
Municipal Building Surveyor

Note: The property will be reinspected after the above-mentioned due date to ensure compliance with this order.

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**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: 10:40am

Date of inspection: 15/11/22

**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 fire damaged building.

**EMERGENCY ORDER MADE AND SERVED BY:**

The delegate of the Municipal Building Surveyor:

Name: Benjamin Essing

Address: 2 Queen Street, Mornington, Victoria 3931

Email: [benjamin.essing@mornpen.vic.gov.au](mailto:benjamin.essing@mornpen.vic.gov.au)

Building practitioner registration no.: BS-U 41509

Municipal district: Mornington Peninsula Shire

Date of making: 15/11/22

Signature: .....

Irrelevant & Sensitive

(Duplicate copy)



## 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.

**For any enquiries regarding this document, please contact Ben Essing of Statutory Building on - (03) 5950 1060 or 1300 850 600**

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