

BOARD OF INQUIRY INTO THE McCRAE LANDSLIDE

David Simon

Fifth Witness Statement

Prepared for the purpose of a Board of Inquiry

11 June 2025

FIFTH WITNESS STATEMENT OF DAVID SIMON

Name:	David Simon
Address:	2 Queen Street, Mornington
Occupation:	Acting Director Planning and Environment
Date:	11 June 2025

1. I have previously provided four witness statements to the Board. My first witness statement is dated 11 April 2025, my second witness statement is dated 17 April 2025, my third witness statement is dated 7 May 2025, and my fourth witness statement is dated 11 June 2025.
2. I make this fifth witness statement in response to the Request to Produce a Witness Statement dated 27 May 2025 (**Notice**). This statement has been prepared with the assistance of lawyers and Shire officers.
3. This statement is true and correct to the best of my knowledge and belief. I make this statement based on matters within my knowledge and documents and records of the Shire that I have reviewed. I have also used and relied upon data and information produced or provided to me by officers within the Shire.
4. I address the questions in the Notice from the perspective of the Planning and Environment Directorate within the Shire.

Question 5:

Please confirm whether, following the November 2022 Landslide, the Shire:

- (a) considered extending EMO4 and EMO5 to the areas determined to have a high susceptibility to landslides in the Cardno GIS Assessment, and / or 10-12 View Point Road and neighbouring properties on an interim or emergency basis? and / or**
- (b) sought authorisation from the Minister for Planning to do so.**

If not, please provide reasons.

1. To my knowledge, and based on enquiries I have caused to be undertaken, the answer is "no".

2. The reason for this, to the best of my knowledge and belief, is for substantially the same reasons as I set out in answer to Question 4 of the Request to Produce a Witness Statement dated 12 May 2025 in my fourth witness statement at [11].

Monitoring Risk:

[...]

Question 10:

Did the Shire provide the results of the Cardno GIS Assessment to any other relevant authorities with roles and responsibilities in landslide risk such as the Victorian Department of Transport and Planning, South East Water, Melbourne Water, the Victoria State Emergency Service or the Municipal Emergency Management Planning Committee? If so, when? If not, why not?

3. I understand that the solicitors for the Shire have caused the Shire's information technology team to undertake searches of email boxes of those persons at the Shire who were likely to have received the results of the Cardno GIS Assessment to see if those results were sent to any relevant authorities referred to in Question 10. At the time of preparing this witness statement, I understand that those searches have not resulted in the Shire locating any emails providing the results of the Cardno GIS Assessment to such relevant authorities. I understand that the solicitors for the Shire have caused the Shire to make enquiries of various other relevant staff and former staff in regard to Question 10, and that none of those people could recall providing the results of the Cardno GIS Assessment to any relevant authorities, or why they did not share the results of the Cardno GIS Assessment with any relevant authorities.
4. I started working for the Shire on 3 August 2021. To the best of my recollection, I became aware of the GIS layer that shows land within the Shire that is subject to high, medium and low landslide susceptibility a short time after I started at the Shire. I subsequently became aware of the Cardno GIS Assessment on which that GIS layer is based, in either late 2022 or early 2023. I recall that when I became aware of the Cardno GIS Assessment, my main concern was to establish how the Planning team was using that layer, and how that process was integrated with the work of the Development Engineering team in the planning permit application assessment process. I do not recall considering whether or not I should, or the Shire should, provide the results of the Cardno GIS Assessment to relevant authorities. In my experience, it would be unusual to share internal data used by the Shire for the Shire's own planning assessment processes with third parties.

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Signed by David Simon