



Emergency Order

EO-003/25.01

31/01/2025

James Richard Bendell & Jennifer Ellen Bendell
4 View Point Road
MCCRAE VIC 3938

RE: 4 View Point Road MCCRAE VIC 3938

An inspection of the above property was undertaken on the 14 January 2025. The buildings have been identified as a potential danger to life or property. This is due to the landslip that has occurred at the property known as 10-12 View Point Road, McCrae.

Pursuant to the Section 102 of the Building Act 1993, the Municipal Building Surveyor may issue an Emergency Order on the owner or occupier building, land, or 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 use or proposed use 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 \$165.00).

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

David Kotsiakos
Authorised Officer
Municipal Building Surveyor
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 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: James Richard Bendell & Jennifer Ellen Bendell

Of 4 View Point Road
 MCCRAE VIC 3938

FROM:

I Claudio Flores being a delegate of the Municipal 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 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:

4 View Point Road MCCRAE VIC PC 353964

ORDER:

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

1. At **12:00pm on 31 January 2025**, entry into a building or land by any person, unless authorised by the Municipal Building Surveyor is prohibited for a period of **14 days** pursuant to Section 103(2) of the Act.

Please note that a building notice has also been issued and should be read in conjunction with this order.

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: 10:00am

Date of inspection: 14 January 2025

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 and property arising out of the use or proposed use of the building or land due to a landslip located at 10-12 View Point Road, McCrae and the unknown stability of the landslip area and adjoining land.

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: claudio.flores@mornpen.vic.gov.au

Building practitioner registration no: BS-U 64209

Municipal district : Mornington Peninsula Shire

Emergency order no: EO-003/25.01

Date of making: 31/01/2025

Signature:

Personal Information

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.**

FILE NOTE OF SERVICE EMERGENCY ORDER

Subject Property: 4 View Point Road MCCRAE VIC 3938

Addressee Name: James Richard Bendell & Jennifer Ellen Bendell

Relationship to subject property (circle): **private owner/s** // company owner // director owner // occupier // builder

The Emergency Order (EO-003/25.01) dated 31/01/2025 was viewed by me prior to posting. I certify that the covering letter, signed Emergency Order and attached notes including explanatory notes were served by me by:

- ☐ Delivering the document to (the person).....
at (address).....
on (date)..... at (time) pursuant to **s236(1)(a)**.
- ☐ Leaving the document for the person at (address).....
on (date)..... at (time) with (name of person document left with)
..... pursuant to **s236(1)(b)**.
- Being the persons last known or usual place of residence or business with a person apparently not less than 16 years of age who is apparently residing at that address*
- ☒ Delivering the document to the Australia Post post box outside 15 Main Street, Mornington and sending the document by standard post addressed to the person at the person's last known or usual place or residence or business as indicated on the document on (date) 31/01/2025 at (time) 11:00AM pursuant to s236(1)(c). *Note : Not being a PO Box*

Additional copies of documentation sent (not considered service pursuant to s236):

- ☐ PO Box on (date) at (time)
- ☐ Email address on (date) at (time)
- ☐ Placed onsite on (date) at (time)

In relation to LAND where name and address of owner unknown and there is no occupier

- ☐ Putting the Emergency Order up in a conspicuous position on the land (description of where document put up/placed) on (date) at (time) pursuant to **s236(4)**.

Emergency Order issued under section 103 of the Building Act

- ☐ Putting the Emergency Order up in a conspicuous position on the building, land or place of public entertainment to which it applies (description of where document put up /placed)
.....
on (date)..... at (time) pursuant to **s236(4)(a)**.
- ☐ Other on (date)..... at (time)

Officer Signature:

Personal Information

Authorised Person: Annabelle Weyermann

Statutory Building Team Mornington Peninsula Shire Council