

**FORM 11**

Building Act 1993
Building Regulations 2018
 Regulation 180

BUILDING NOTICE

BN-053/25

**DUE DATE FOR
 MAKING
 REPRESENTATIONS:**

20 May 2025

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

TO:

Estate of Charles A Pugh and Pamela M Pugh (Care Of; Leiza Cester)

Irrelevant & Sensitive

FROM:

I am the Municipal building surveyor under Section 213 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:

6 View Point Road MCCRAE VIC 3938 Lot 2 LP 114212 Vol 9088 Fol 778

INSPECTION DETAILS:

The date and time of any inspection of the building and land carried out by myself as the municipal building surveyor for the purpose of making this notice, and the name and qualifications of the persons who conducted the inspection

Time of inspection: 9:50am

Date of inspection: 22 April 2025

Name of persons: David Kotsiakos

Building practitioner registration no. of persons:

- David Kotsiakos - BS-U 1397

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 or land

The use of the building and land on 6 View Point Road (**Property**) is a danger to the life, safety or health of any member of the public, to or of any persons using the building or land, and to property, by reason of an uncontrolled collapse of the unstable soil fill in the head scarp of the 14 January 2025 landslide (**landslide regression**) located on the western side of the Property as identified in the attached diagram, tumbling or sliding downslope of its location on the Property resulting in a danger of:

- A. Major to catastrophic damage to buildings located at 607 Point Nepean Road McCrae;
- B. Major to catastrophic structural damage to the building on 6 View Point Road McCrae;
- C. Major to catastrophic structural damage to outbuildings on 10-12 View Point Road McCrae; and
- D. Death or serious injury to any persons in behind or, adjacent to or, downslope of the landslide regression.

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 why you should not be required to carry out the following work identified in this notice in relation to the building/land:

1. Undertake demolition work, and associated required works, to the unstable fill in the head scarp located on the western side of the property as identified in the attached diagram in accordance with:
 - a) Geotechnical recommendations; and
 - b) An engineered design prepared by a RPEV registered professional engineer of Victoria; sufficient to return the land, as close as is safe and reasonably practical to do so, to the existing geometry prior to the construction of the retaining wall as set out in the 2014 feature survey (a copy of which is attached) (**Works**).
2. By no later than 6 May 2025, submit to the Municipal Building Surveyor a scope of works detailing the Works to be undertaken in accordance with paragraph 1 above (**Scope of works**). The scope of works shall include but not limited to a "Works plan" detailing;
 - a) the extent of excavated material;
 - b) the sequence of the proposed excavation;
 - c) any "Hold" points to reassess the condition of the head scarp;
 - d) details of control measures to be adopted to mitigate risks while the Works are undertaken including geotechnical risk;
 - e) details of monitoring and verification activities to be undertaken while the Works are undertaken;
 - f) interaction between the balance of the head scarp at the interface of 10-12 View Point Road and 6 View Point Road;
 - g) nomination of clear restriction on excavation activities, including what is permitted to be excavated, and what materials must remain in place;
 - h) nomination of conditions on Works (including whether all Works must be observed by the design engineer);
 - i) nomination of exclusion zones, and how the zones will be cordoned off; and
 - j) nomination of monitoring or slope performance indicators that would require a stop of the works.
3. By no later than 19 May 2025, submit to the Municipal Building Surveyor details of the methodology to be adopted by appointed contractors to undertake the Works (**Methodology**), including but not limited to:
 - (a) nomination of monitoring or slope performance indicators that would require a stop of the works;
 - (b) details of control measures to be adopted to mitigate risks while the Works are undertaken including geotechnical risk;

- (c) nomination of conditions on Works (including whether all Works must be observed by the design engineer);
 - (d) nomination of exclusion zones, and how the zones will be cordoned off;
 - (e) nomination of monitoring or slope performance indicators that would require a stop of the Works; and
 - (f) necessary protection works of other properties.
4. By no later than 26 May 2025, submit a copy of the engineered design to the Municipal Building Surveyor with written confirmation from a RPEV registered professional engineer of Victoria confirming that the Scope of works and Methodology are consistent with the engineered design.
 5. To the extent it is necessary to obtain building permits or planning permits to undertake the Works, they must be obtained prior to the commencement of any Works, and by 16 June 2025.
 6. The Works the subject of this notice must be completed by 30 June 2025 and undertaken to the satisfaction of the Municipal Building Surveyor.
 7. Upon completion of the Work, sufficient evidence must be provided to the satisfaction of the Municipal Building Surveyor to confirm the Works have the suitably removed the danger to life or property identified above under **“REASON(S) WHY THIS NOTICE WAS SERVED”**.

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:

Municipal Building Surveyor

Name: David Kotsiakos

Address: 2 Queen Street, Mornington, Victoria 3931

Email: david.kotsiakos@mornpen.vic.gov.au

Building practitioner registration no. BS-U 1397

Municipal district : Mornington Peninsula Shire

Building notice no.: BN-053/25

Date of making: 22/4/2025

Signature:

David Kotsiakos

Authorised Officer

Municipal Building Surveyor

Mornington Peninsula Shire