

Emergency Order

EO-042/25



21/05/2025

Estate of Charles A Pugh and Pamela M Pugh

Irrelevant & Sensitive

Dear Sir/Madam

RE: 6 View Point Road MCCRAE VIC 3938

An inspection of the above property was undertaken on 10 February 2025, 17 February 2025, 4 March 2025, 25 March 2025, 8 April 2025, 22 April 2025, 28 April 2025, 9 May 2025 and 20 May 2025. The condition or use of the buildings and land, being the dwelling and garden wall, have been identified as a potential danger to life or property.

Pursuant to Section 102 of the Building Act 1993, the Municipal Building Surveyor may issue an Emergency Order on the owner or occupier of a 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 condition or use or proposed use of the buildings.

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.

I confirm that the following notices or orders remain in the force in relation to this property;

BN-053/25 Dated 22/04/2025

EO-042/25 Dated 21/05/2025

BN-059/25 Dated 21/05/2025

Any other notice or order previously issued in relation to this property has either lapsed or is cancelled.

Should you require any clarification, please do not hesitate to contact me on (03) 5950 1060.

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Authorised Person

Municipal Building Surveyor

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

ARN: 52 150 900 142



**MORNINGTON
PENINSULA**
Shire

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: The Estate of Charles A. Pugh and Pamela Mary Pugh

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FROM:

I, David Kotsiakos, the Municipal Building surveyor under Section 213 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:

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

ORDER:

I, the Municipal Building Surveyor under Section 213 of the Act, order that:

1. At **12:00pm on 21 May 2025**, entry into the buildings and the land by any person, unless authorised by the Municipal Building Surveyor, is prohibited for a period of **48 hours** 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.

Please note by reason of the issuing of that building notice, pursuant to section 105A(2), the emergency order remains in force for a period of 14 days

INSPECTION DETAILS:

The date and time of any inspection of the building/land carried out by me, being the Municipal Building Surveyor under Section 213 of the Act, is:

Time of inspection: Between 8:30am-12:00pm

Date of inspection: 10 February 2025

AND

Time of inspection: Between 11:00am-12:30pm

Date of inspection: 17 February 2025

AND

Time of inspection: Between 8:30am-11:30am

Date of inspection: 4 March 2025

AND

Time of inspection: Between 3:00pm – 4:30pm

Date of inspection: 25 March 2025

AND

Time of inspection: Between 9:30-11:00am

Date of inspection: 8 April 2025

AND

Time of inspection: Between 9:00am - 11:00am

Date of inspection: 22 April 2025

AND

Time of inspection: Between 9:00am - 10:00am

Date of inspection: 28 April 2025

AND

Time of inspection: Between 1:30pm – 4:00pm

Date of inspection: 9 May 2025

AND

Time of inspection: Between 10am -11:45am

Date of inspection: 20 May 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 condition and use of the buildings and land

In relation to the buildings and land at 6 View Point Road, McCrae, Victoria (**Property**).

1. Landslides occurred on or about 5 January 2025 and 14 January 2025) (the **Landslides**) at the Property and at the adjoining properties known as 10-12 View Point Road, McCrae, Victoria and 3 Penny Lane, McCrae, Victoria (**Landslide Site**).
2. The Landslides have caused the land on the Property to be unstable, with the result that further landslides are highly likely.
3. The condition of the main dwelling on the Property is a danger to the life of any person occupying the buildings, as the structural integrity of the footings of the main dwelling may be compromised. Any movement in the soil on the land may cause lateral movement in the footings system, resulting in a danger of death or serious injury to:
 - (a) any persons occupying or otherwise using the main dwelling or other buildings on the Property;
 - (b) any persons who are otherwise on the land.
4. Persons occupying those buildings or who are on the Property near the buildings, are in danger of death or serious injury by:
 - (a) being physically struck/impacted by parts of the main dwelling if it collapses; and/or
 - (b) being physically struck/impacted by the garden wall, if there is further collapse of the Landslide Site.

EMERGENCY ORDER MADE AND SERVED BY:**The 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

Emergency order no: EO-042/25

Date of making: 21/05/2025

Signature:

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David Kots

Authorised Officer

Municipal Building Surveyor

Mornington Peninsula Shire

Notes

1. Cancellation of Emergency Order.

Pursuant to Section 1056 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 David Kotsiakos of the
Statutory Building Unit on (03) 5950 1060 or 1300 850 600.**