27/05/2025

Building Notice

BN-073/25

Gerrard R Borghesi & Bronwyn L Borghesi
10-12 View Point Road
MCCRAE VIC 3938

Dear Sir/Madam,

RE: 10-12 View Point Road MCCRAE VIC 3938

As you will recall, I conducted an inspection of the above property on 25 March 2025. The inspection highlighted safety concerns at the above mentioned property. The concerns related to the basement subfloor structure that has been constructed without a building permit.

Pursuant to Section 106 of the Building Act 1993, the Municipal Building Surveyor is required to detail these matters in the form of a Building Notice as attached. You are now required to "Show Cause" within 30 days why you should not comply with the directions of the Building Notice, before we consider further enforcement action.

Please find attached a copy of the Building Notice and a Building Notice Response form for you to complete and return as per the directions at the bottom of the Building Notice Response form.

It is imperative that you respond to the Building Notice within the 30 day period.

It is important you read all of the attached information and do not commence any further works until we have reached agreement based on your response.

I draw your attention to your appeal rights as noted at the rear of the Notice. Should you require any clarification, please do not hesitate to contact me on (03) 5950 1060.

Yours faithfully,

Irrelevant & Sensitive

David Kotsiakos
Authorised Officer
Municipal Building Surveyor
Mornington Peninsula Shire

MORNINGTON PENINSULA Shire

FORM 11

Building Act 1993
Building Regulations 2018
Regulation 180

BUILDING NOTICE

DUE DATE:

1 July 2025

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

TO:

Gerrard R Borghesi & Bronwyn L Borghesi

10-12 View Point Road

MCCRAE VIC 3938

FROM:

I am the Municipal Building Surveyor of the Mornington Peninsula Shire Council. I am authorised to cause a building notice to be served on the owner of the building and land to which this notice applies under Division 2 of Part 8 of the Act.

LOCATION OF THE LAND TO WHICH THIS NOTICE APPLIES:

10-12 View Point Road MCCRAE VIC 3938 CP 109563 Vol 9438 Fol 254

INSPECTION DETAILS:

The date and time of an inspection of the building / land carried out by myself as the relevant building surveyor was:

Time of inspection: 3:00pm Date of inspection: 25 March 2025

REASON(S) WHY THIS NOTICE WAS SERVED:

In accordance with Section 106 of the Act, I am of the opinion that the following circumstances exist:

1. **Danger to life, safety or health from building and land**

The building and land is a danger to the life, safety or health of any member of the public or of any person using the building or land or to any property.

1.1 There is a danger to life, safety and health arising out of the unknown stability of the dwelling in particular the subfloor structure due to unauthorised building work being

carried out to the underside of the dwelling to create a basement level. The works undertaken include the following:

1.1.1 Removal of stump footings.

1.1.2 Removal of earth under the dwelling.

1.1.3 Alterations to the stump footings in the form of extension of the length of the stumps

1.1.4 Alterations to the foundations of the stump footings including new foundations to accommodate the alterations.

1.1.5 Alteration to the subfloor structure including the installation of steel beams to accommodate the removal of stump footings.

1.1.6 The commencement of the construction of a concrete slab.

1.1.7 The construction of a storeroom within the subfloor space.

2. Building work carried out without a building permit being issued and in force under the Building Act 1993.

The following building work has been carried out on the building/land (works under the dwelling) without a building permit as required by the Building Act 1993.

2.1 Removal of stump footings.

2.2 Removal of earth under the dwelling.

2.3 Alterations to the stump footings in the form of extension of the length of the stumps

2.4 Alterations to the foundations of the stump footings including new foundations to accommodate the alterations.

2.5 Alterations to the subfloor structure including the installation of steel beams to accommodate the removal of stump footings.

2.6 The commencement of the construction of a concrete slab.

2.7 The construction of a storeroom within the subfloor space.

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—

1. Why entry, use, or occupation of the building and land should not be prohibited; and

2. Why you should not be required to carry out the building work, protection work, or work required by the Building Regulations 2018 identified in this notice in relation to the building and land:

   a. Undertake the necessary building work to bring the alterations to the subfloor structure and stump footings (described in item 2 above) into compliance with the building regulations and national construction code after first obtaining a building permit from a registered building surveyor. OR

b. Undertake the necessary building work to reinstate the dwelling back to its original approved condition by undertaking the following:

   i. Remove the alterations to the subfloor structure, install stump footings and reinstate the removed earth in compliance with the building regulations and national construction code after first obtaining a building permit from a registered building surveyor; and

   ii. Remove the storeroom within the subfloor area after first reinstating the subfloor structure in compliance with the building regulations and national construction code after first obtaining a building permit from a registered building surveyor.

Note: All relevant planning and building approvals must be issued and be in force prior to undertaking any building work that requires a planning or building permit

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:

Relevant 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-073/25

Date of making: 27/05/2025

Irrelevant & Sensitive

David Kotsiakos
Authorised Officer
Municipal Building Surveyor
Mornington Peninsula Shire

Notes

1. **Representations by owner and cancellation of Notice**
   Under Section 109 of the Act an owner may make representations to the Municipal Building Surveyor about the matters contained in the Building Notice. Any representations are to be made in writing to the Municipal Building
   Surveyor before the end of the 'show cause' period. The Municipal Building Surveyor may cancel a Building Notice if he considers it appropriate to do so after considering any representations made under Section 109.

2. **Building Order**
   Subject to Section 107 of the Act, the municipal or private building surveyor may make a building order under section 111 after the end of the time allowed for making representations.

3. **Appeals to the Building Appeals Board**
   Under Section 142(1) of the Act, an owner of a building or land may appeal to the Building Appeals Board against a decision to serve a building notice, a failure within a reasonable time, or refusal to cancel a building notice. In accordance with Section 146 of the Act and Regulation 271 of the Building Regulations the prescribed appeal period is 30 days from the date of the building notice.

4. **What is a Building Notice?**
   A Building Notice is a 'show cause' Notice. In simple terms, the recipient of a Building Notice is required to provide the Municipal Building Surveyor reasons with why he or she should not comply with the directions detailed in the Notice.

5. **Why has a Building Notice been issued?**
   An authorised officer of the Statutory Building unit has recently inspected the property and identified general safety/non-compliance building related issues. The Municipal Building Surveyor is responsible for addressing these issues in the form of a Building Notice as required by Section 106 of the Building Act 1993.

6. **What are you required to do?**
   It is in your best interest to respond using the attached Building Notice Response form.

7. **Building Notice Response Form**
   You have the option to agree with the direction issued by the Municipal Building Surveyor or provide other written representation or documentation. The Municipal Building Surveyor may request further information after considering your response.

8. **Building Order**
   A Building Order is the next step in the process. If a Building Order is issued, you will be required to undertake the directions of the Order within the stated timeframe. Importantly, compliance with a Building Order is enforceable in the Magistrates Court.

9. **What if you do nothing?**
   The intention of the Building Notice process is to open a discussion between yourself and the Municipal Building Surveyor regarding the issues identified. In the event the Municipal Building Surveyor does not receive a response, a Building Order will be issued containing the same directions detailed within the Notice.

10. **Due date calculation**
    The due date is calculated by adding 5 days postage time to the 30 day show cause period.

MORNINGTON PENINSULA Shire

BUILDING NOTICE RESPONSE

BN-073/25

DUE DATE: 1 July 2025

I/we ....., owner/s of the building located at 10-12 View Point Road MCCRAE VIC 3938 wish to submit the following response to the Building Notice dated 27/05/2025 .

Please select one of the following boxes:

☐ I will demolish the building works identified in the Building Notice that were constructed without the required building permit.
I confirm that these works will be completed within *(please circle one)* **30 days / 60 days / 90 days.**
NOTE: Dismantle the structure carefully if you intend to reconstruct it again in the future after obtaining a building permit.

☐ I wish to retain the building therefore I will:

- Obtain a building permit from a registered building surveyor to restump the building;

  and

- Engage a building surveyor and any other relevant building practitioners to attempt to obtain a Certificate of Compliance for both Design and Inspection, in accordance with the Certification Requirements Checklist.

I understand and accept the costs involved in undertaking this process and confirm that if the required building standards cannot be achieved to the satisfaction of the Municipal Building Surveyor, the structure may still need to be demolished.

I confirm that these works will be completed within *(please circle one)* **30 days / 60 days / 90 days.**

☐ Other – Attach any other written representation or documentation to this form and submit *(i.e do you have a building permit that was not submitted to Council).*

Upon receipt of your response the Municipal Building Surveyor will consider your above representations and issue a direction of works in the form of a Building Order. The Building Order will require the owner to undertake the directions of the Order within a stated time period. Importantly, compliance with a Building Order is enforceable in the Magistrates Court.

Signature: _____ Date: _____

Contact Person: _____ Phone: _____

Email: _____

Please complete this form and return it to:

Statutory Building Team – Municipal Building Surveyor
C/- David Kotsiakos Private Bag 1000
Besgrove Street, ROSEBUD VIC 3939