

BOARD OF INQUIRY INTO THE McCRAE LANDSLIDE

Rory MacDonald

Witness Statement

Prepared for the purpose of a Board of Inquiry

16 June 2025

WITNESS STATEMENT OF RORY MACDONALD

Name:	Rory MacDonald
Address:	2 Queen Street, Mornington
Occupation:	Manager – Development Services
Date:	16 June 2025

1. I make this witness statement in response to the Request to Produce a Witness Statement dated 6 June 2025 (**Notice**). This statement has been prepared with the assistance of lawyers and Shire officers.
2. 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.
3. In particular, I have been shown the statements of Mr Bulent Oz dated 11 April 2025 (**Mr Oz's Statement**), and Mr David Simon dated 11 April 2025 (**Mr Simon's First Statement**) and 17 April 2025 (**Mr Simon's Second Statement**). I have read those statements, and in particular paragraphs 40 to 46 of Mr Oz's Statement, 14 to 16 of Mr Simon's First Statement, paragraphs 18 to 24 and 62 to 64 of Mr Simon's Second Statement, and the documents referred to at those paragraphs. I agree with the contents of those statements and refer to them in the answers I give below.

Question 1

Please consider the annexed list of properties included in Table 1 of the Report titled 'Evacuation Order Area – Landslide Risk Assessment', prepared by PSM and dated 22 May 2025.

Question 2

In relation to each of the 19 properties listed, please identify:

- 2.1 the date the dwelling on the relevant property was constructed; and
- 2.2 whether, to the Shire's knowledge, any risk assessments were undertaken or commissioned prior to the construction of the dwelling to determine the likelihood and / or severity of the landslides or landslips occurring in the vicinity of the dwelling.

Exhibit the key documents recording the finding(s) of the risk assessment(s).

4. In answering the questions in the Notice, I have caused to be conducted searches of the Shire's records relating to each of the properties listed in Annexure 1 to the Notice.
5. The questions in the Notice request information about when the dwellings located at the 19 properties listed in Annexure 1 to the Notice were constructed and about landslide or landslip risk assessments undertaken or commissioned prior to the construction of those dwellings. I understand that in asking these questions the Board of Inquiry is seeking information in relation to the original construction of the dwellings themselves rather than information about any construction or building activities that may have been performed on those dwellings once built, such as alterations or additions to those existing dwellings. As such, my answers below are confined to the original construction of the current dwellings on the 19 properties.
6. In carrying out these searches, the Shire has not conducted searches of records relating to previous parcels of land that were subsequently subdivided and on which the properties identified in Annexure 1 to the Notice are currently situated. While there may be records held by the Shire in relation the construction of dwellings on previous parcels of land, the Shire has confined its searches to records relating to the properties as they are presently described in the list of properties in Annexure 1 to the Notice. Records relating to previous parcels of land are likely to exist only in hardcopy and to be stored offsite, and given their age are unlikely to contain landslide or landslip risk assessments (for the reasons given below). I understand that if searches of these records would assist the Board of Inquiry in carrying out its Terms of Reference, these searches can be completed and the results provided to the Board of Inquiry as soon as possible.
7. I have been unable to find risk assessments relating to some of the properties listed in Annexure 1 to the Notice. This is likely because of the age of some of the dwellings and the fact that the Shire has only been in possession of data relating to landslide or landslip susceptibility for the whole of the McCrae area since 2012. As referred to at paragraphs 40 to 42 of Mr Oz's Statement, the municipality-wide landslide susceptibility assessment commissioned by the Shire and conducted by Cardno was only completed, and the results incorporated into the geographical information system that identifies areas of 'high', 'medium' and 'low' landslide susceptibility across the municipality, in 2012. As referred to at paragraphs 62 to 64 of Mr Simon's Second Statement, it was then only after 2012 that it became the practice of the Shire's statutory planners when considering a planning permit application in respect of land within an area of 'high' landslide susceptibility to impose a requirement on the permit applicant to obtain a geotechnical report and a peer review of that report. As such, where a dwelling was constructed prior to 2012, it is less likely that a landslide or landslip risk assessment would have been obtained prior to its construction.
8. Below I set out the information that the Shire holds in respect of the date of the construction of the current dwellings at the 19 properties listed in Annexure 1 to the Notice and identify any landslide or landslip risk assessments obtained prior to the construction of those dwellings held by the Shire.

10-12 View Point Road

9. As stated in Mr Simon's First Statement at paragraph 15 and Mr Simon's Second Statement at paragraph 21, the Shire has been unable to locate documents that provide information about the date on which the current dwelling at 10-12 View Point Road was constructed. However, based on an aerial photograph dated 1939 that appears to show a dwelling at 10-12 View Point Road that has similar features to the dwelling that is currently situated at that address (which photograph appears in Figure D2 Appendix D to the Report of Dane Pope (rectification) dated 11 June 2024 [MSC.5000.0001.1565]), I understand that the dwelling was built some time before 1939.
10. I have also been unable to find any risk assessments that were undertaken or commissioned prior to the construction of the current dwelling at 10-12 View Point Road to determine the likelihood and/or severity of landslides or landslips occurring in the vicinity of that dwelling.

6 View Point Road

11. As stated in Mr Simon's Second Statement at paragraph 22, it appears that the current dwelling situated at 6 View Point Road was constructed between December 2003 and August 2006. My understanding is based on documents held by the Shire that I have read, which are identified in the table below.

Date	Event	Document ID
15/12/2003	Building Permit BS-1061 / 200317925/0	MSC.5003.0002.1422
17/08/2006	Occupancy Permit BS-1061 / 200317925/0	MSC.5001.0001.2137

12. I have been unable to locate any risk assessments that were undertaken or commissioned prior to the construction of the current dwelling at 6 View Point Road to determine the likelihood and/or severity of landslides or landslips occurring in the vicinity of that dwelling.
13. However, I have been given a Site Investigation Report prepared by CE Lawrence & Associates (Vic) Pty Ltd dated 30 April 2002, which was undertaken prior to the construction of the current dwelling at 6 View Point Road. While this report does not contain a specific landslide or landslip risk assessment, it provides a site classification (including an assessment of the soil profile, site geology and soil moisture condition) for the purposes of recommending footing design details. This report is at [MSC. 5001.0001.3151 at .3160-3165]. I also note that condition 11 of the Planning Permit P02/1833 for the development of the current dwelling at 6 View Point Road issued 6 August 2003 required that the development be in accordance with that report [MSC.5002.0001.5728 at .5767].

603 Point Nepean Road

14. I have been unable to locate documents that provide information about the date on which the current dwelling at 603 Point Nepean Road was constructed. The documents returned by searches conducted by the Shire in respect of 603 Point Nepean Road relate to alterations or additions to a dwelling at that address and construction of a carport, rather than to the construction of the current dwelling.

15. I have also been unable to find any risk assessments that were undertaken or commissioned prior to the construction of the current dwelling at 603 Point Nepean Road to determine the likelihood and/or severity of landslides or landslips occurring in the vicinity of that dwelling.

605 Point Nepean Road

16. Searches of the records held by the Shire in respect of 605 Point Nepean Road have returned no documents relating to the construction of the current dwelling at that address. The documents returned by those searches relate to installation of an inclinometer and construction of a sun deck, rather than to the construction of the current dwelling.
17. I have also been unable to find any risk assessments that were undertaken or commissioned prior to the construction of the current dwelling at 605 Point Nepean Road to determine the likelihood and/or severity of landslides or landslips occurring in the vicinity of that dwelling.

607-609 Point Nepean Road

18. I have been provided with and read documents held by the Shire in relation to the construction of the current dwelling at 607-609 Point Nepean Road, which are identified in the table below. Based on these documents, I understand that that dwelling was constructed between June and August 1992.

Date	Event	Document ID
01/06/1992	Building Approval 55937	MSC.5001.0001.0904 at .0985
24/08/1992	Certificate of Occupancy 55937	MSC.5001.0001.0904 at .0976

19. I have been unable to locate any risk assessments that were undertaken or commissioned prior to the construction of the current dwelling at 607-609 Point Nepean Road to determine the likelihood and/or severity of landslides or landslips occurring in the vicinity of that dwelling.
20. However, I have been provided with a Site Classification Report prepared by MacGregor Soil & Rock Engineering Pty Ltd dated 28 November 1991. This report does not contain a specific landslide or landslip risk assessment, but it does provide an assessment of the soil conditions at 607-609 Point Nepean Road prior to the construction of the current dwelling at that address. This report is at [MSC.5001.0001.0904 at .1004-.1007].

613 Point Nepean Road and 2 Penny Lane

21. As stated at paragraph 15 of Mr Simon's First Statement, the land at 611-613 Point Nepean Road was subdivided in or around May 2005. I understand that the dwellings at 1/613, 2/613, 3/613 and 4/613 Point Nepean Road, and 2 Penny Lane, as they currently exist, were then constructed on portions of the subdivided land. The construction of those dwellings appears to have occurred between April 2005 and February 2006. I have based this on documents held by the Shire that I have read, which are identified in the table below.

Date	Event	Document ID
15/04/2005	Building Permit BS-1441 / 200510/0	MSC.5014.0001.1275
03/02/2006	Occupancy Permit 200550010/0	MSC.5014.0001.1164

22. I have been unable to find any risk assessments that were undertaken or commissioned prior to the construction of the current dwellings at 1/613, 2/613, 3/613 and 4/613 Point Nepean Road, and 2 Penny Lane, to determine the likelihood and/or severity of landslides or landslips occurring in the vicinity of those dwellings.

3 Penny Lane

23. As stated at paragraph 24 of Mr Simon's Second Statement, the Shire has been unable to locate documents that provide information about the date on which the current dwelling at 3 Penny Lane was constructed. The documents held by the Shire in respect of 3 Penny Lane that I have read relate to alterations or additions to a dwelling at that address, rather than to the original construction of the current dwelling.
24. I have also been unable to find any risk assessments that were undertaken or commissioned prior to the construction of the current dwelling at 3 Penny Lane to determine the likelihood and/or severity of landslides or landslips occurring in the vicinity of that dwelling.

14-16 View Point Road

25. I have read documents returned by searches of the Shire's records in respect of the construction of the current dwelling at 14-16 View Point Road, which are identified in the table below. Based on these documents, I understand that that dwelling was constructed between May 2017 and December 2020.

Date	Event	Document ID
02/05/2017	Building Permit 201744639/0	MSC.5001.0001.1931
02/12/2020	Occupancy Permit 201744639/0	MSC.5001.0001.1926

26. Searches of the Shire's records have returned a number of reports that contain a landslide or landslip risk assessment in respect of 14-16 View Point Road and which were commissioned prior to the construction of the current dwelling at that address. I have read these reports and they consist of the following:
- (a) Geotechnical Report, Proposed Residential Dwelling report prepared by GeoAust Geotechnical Engineers Pty Ltd dated 18 August 2009 [MSC.5001.0001.2040 at .2044-.2083];
 - (b) Geotechnical Report, Proposed Residential Dwelling report prepared by GeoAust Geotechnical Engineers Pty Ltd dated 27 May 2011 [MSC.5001.0001.2185];
 - (c) Review of Consultant's Report prepared by LanePiper dated 8 August 2011 [MSC.5001.0001.2950];

- (d) Geotechnical Report, Proposed Residential Dwelling report prepared by GeoAust Geotechnical Engineers Pty Ltd dated 14 September 2011 [MSC.5065.0001.0002]; and
- (e) Land Stability Assessment report prepared by Civil Test Pty Ltd dated 19 May 2014 [MSC.5002.0001.1899 at .1904-.1949];
- (f) Peer Review of Civil Test Landslide Stability Assessment prepared by Intrax dated 25 November 2014 [MSC.5068.0001.0096];
- (g) Land Stability Assessment report prepared by Civil Test Pty Ltd dated 19 December 2014 [MSC.5068.0001.0001 at .0002];
- (h) Peer Review of Civil Test Landslide Stability Assessment prepared by Intrax dated 24 February 2015 [MSC.5001.0001.3004 at .3008-.3010];
- (i) Land Stability Assessment report prepared by Civil Test Pty Ltd dated 23 October 2015 [MSC.5068.0001.0049];
- (j) AS James Pty Ltd Peer Review dated 12 October 2015 [MSC.5068.0001.0111]; and
- (k) Land Stability Assessment report prepared by Civil Test Pty Ltd dated 11 January 2017 [MSC.5001.0001.3060].

18-20 View Point Road

- 27. Searches of records held by the Shire in respect of 18-20 View Point Road returned no documents relating to the construction of the current dwelling at that address. As a result, I do not have any information about the date on which the current dwelling at 18-20 View Point Road was constructed.
- 28. These searches have also not returned any risk assessments that were undertaken or commissioned prior to the construction of the current dwelling at 18-20 View Point Road to determine the likelihood and/or severity of landslides or landslips occurring in the vicinity of that dwelling.

2 View Point Road

- 29. I have not been able to locate any documents relating to the construction of the dwelling at 2 View Point Road. The documents returned by searches of the Shire's records for this property relate to alterations or additions to a dwelling at that address and recladding, rather than to the construction of the current dwelling.
- 30. I have also been unable to find any risk assessments that were undertaken or commissioned prior to the construction of the current dwelling at 2 View Point Road to determine the likelihood and/or severity of landslides or landslips occurring in the vicinity of that dwelling.

22 View Point Road

- 31. Searches of the Shire's records relating to 22 View Point Road have returned no documents regarding the construction of the current dwelling at that address. The documents returned relate to

alterations or additions to a dwelling at that address and other works, rather than to the construction of the current dwelling.

32. These searches have also not returned any risk assessments that were undertaken or commissioned prior to the construction of the current dwelling at 22 View Point Road to determine the likelihood and/or severity of landslides or landslips occurring in the vicinity of that dwelling.

4 View Point Road

33. I have been provided with documents returned by searches of the Shire's records in relation to the construction of the current dwelling at 4 View Point Road, which are identified in the table below. From these documents, I understand that that dwelling was constructed between August 2001 and March 2003.

Date	Event	Document ID
16/08/2001 (amended 21/08/2002)	Building Permit 200011325/0	MSC.5002.0001.4342 at .4361 MSC.5002.0001.4342 at .4353
05/03/2003	Occupancy Permit 200011325/0	MSC.5002.0001.4342 at .4342

34. I have been provided with a Slope Stability Assessment prepared by Civil Test Pty Ltd dated 14 February 2001. This report contains a landslide or landslip risk assessment in respect of 4 View Point Road undertaken before construction of the current dwelling at that address. The report is at [MSC.5002.0001.4342 at .4367-.4376].

16 Prospect Hill Road

35. I have been provided with and read documents relating to the construction of the current dwelling at 16 Prospect Hill Road held by the Shire, which are identified in the table below. Based on these documents, I understand that that dwelling was constructed between February 2006 and March 2007.

Date	Event	Document ID
27/02/2006	Building Permit 20060153	MSC.5001.0001.1639 at .1640
01/03/2007	Occupancy Permit 20060153	MSC.5006.0001.0001 at .0001

36. I have been unable to find any risk assessments that were undertaken or commissioned prior to the construction of the current dwelling at 16 Prospect Hill Road to determine the likelihood and/or severity of landslides or landslips occurring in the vicinity of that dwelling.
37. However, I have been given a Geotechnical Site Investigation Report prepared by Civil Test Pty Ltd dated 19 March 1999. This report does not contain a specific landslide or landslip risk assessment in respect of the property at 16 Prospect Hill Road. However, it does provide a site classification (including an analysis of the soil profile). The report is at [MSC.5001.0001.1639 at .1654-.1666].

599-601 Point Nepean Road

38. Based on information held by the Shire, I understand that there is currently a dwelling at 599 Point Nepean Road but the land at 601 Point Nepean Road is currently vacant.
39. Searches of the Shire's records have not returned any documents relating to the construction of the current dwelling at 599 Point Nepean Road. The documents returned relate to additions and alterations to a dwelling at that address and other works, rather than to the original construction of the dwelling.
40. I have been unable to find any risk assessments that were undertaken or commissioned prior to the construction of the current dwelling at 599 Point Nepean Road to determine the likelihood and/or severity of landslides or landslips occurring in the vicinity of that dwelling.
41. Searches of records held by the Shire in relation to 601 Point Nepean Road have returned documents relating to a proposal to construct a dwelling at that address, including Planning Permit P14/1538 issued 5 May 2015 [MSC.5002.0001.4919], amended plans relating to that planning permit [MSC.5002.0001.4919], and Building Permit 201746346/0 for the demolition of a dwelling and a shed issued 28 November 2017 [MSC.5002.0001.0141]. Based on discussions with other Shire officers, I understand that the construction of that dwelling has not proceeded, and Planning Permit P14/1538 has now lapsed.
42. These searches have also returned risk assessments that were undertaken in connection with the proposed construction of the dwelling at 601 Point Nepean Road to determine the likelihood and/or severity of landslides or landslips occurring in the vicinity of that dwelling. I have read those reports, which consist of the following:
- (a) Geotechnical Investigation Report No 116269 prepared by AS James Pty Ltd dated 4 December 2014 [MSC.5067.0001.0147];
 - (b) Peer Review of AS James Pty Ltd Report No 116269 prepared by Civil Test Pty Ltd dated 11 March 2015 [MSC.5002.0001.4819]; and
 - (c) Response to Peer Review of Land Stability Assessment prepared by AS James Pty Ltd dated 22 April 2015 [MSC.5002.0001.0087].

617 Point Nepean Road

43. I have been provided with documents held by the Shire in relation to the construction of the current dwelling at 617 Point Nepean Road, which are identified in the table below. Based on these documents, I understand that that dwelling was constructed between February and October 1978.

Date	Event	Document ID
08/02/1978	Building Permit 11642	MSC.5001.0001.0570 at .0593
05/10/1978	Certificate of Occupancy 1961	MSC.5001.0001.0570 at .0592

44. I have been unable to locate any risk assessments that were undertaken or commissioned prior to the construction of the current dwelling at 617 Point Nepean Road to determine the likelihood and/or severity of landslides or landslips occurring in the vicinity of that dwelling.