

STEP-BY-STEP GUIDE to the designation process

Designating an area activates powers under the Building Act for managing buildings affected by an emergency event, from the initial response right through to recovery. A designation can be in place at the same time as a state of emergency or transition period or can be a standalone measure. A designated area is an area approved by the responsible persons such as the Civil Defence Emergency Management (CDEM) decision maker or the Minister for Building and Construction to allow a local authority to take specific actions under the Building Act to manage buildings in an emergency.

1 EMERGENCY EVENT

Following an emergency, there is a need to ensure that risks to life and property from damaged buildings and/or land are managed appropriately.

2 DESIGNATING AN AREA



The relevant decision maker (responsible person) may designate an area if satisfied that this decision is in the public's interest and necessary to protect persons, buildings, public thoroughfares, and critical infrastructure from damage or disruption to their use. Who the relevant decision maker is depends on whether there is a state of emergency or transition period in place.

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In a state of emergency or transition period under the Civil Defence Emergency Management (CDEM) Act 2002, the Minister for Emergency Management or the relevant CDEM decision maker (responsible person) may designate an area under the Building Act 2004. They must complete a designation form and provide a map of the designated area. Upon designation, they must notify MBIE who will advise the Minister for Building and Construction.

If a state of emergency or transition period is not in place, the approval to designate an area is carried out by the relevant territorial authority with approval of the Minister for Building and Construction (or by the Minister for Building and Construction if the designation was initiated by the Minister). MBIE will review the designation request and recommend to the Minister for Building and Construction to approve or decline the request. MBIE will notify the requestor of the outcome to designate an area.

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The responsible person who designates an area must, as soon as practicable, notify the public of the designation (and extension or termination where applicable) by publishing the designation on a platform that is publicly accessible and free of charge.

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The responsible persons must notify the public in accordance with the Building Act regarding the outcome of the 90-day review.

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MBIE advises the Minister for Building and Construction about the review of designation where required for an extension or part or whole termination of a designated area.

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REVIEWING A DESIGNATION

The responsible person (territorial authority or the CDEM decision maker) must review the designation every 90 days to determine whether it is still needed. MBIE should be notified of the outcome of the review. As part of the 90-day review the responsible person must consider the current circumstances, in deciding the area coverage and duration of the designation, or a possibility of extension or termination.



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Once an area has been designated under section 133BC of the Building Act, a designation can last for three years after the date it came into force, unless extended or terminated sooner (even if the state of emergency or transition period ends prior to this date).

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A designation may be extended for up to three years under s133BH but may only be done once.

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Once a designation is in place, the Building Act provides several special powers that may be exercised in respect of all buildings within the designated area. These powers include entering buildings and land, direct works (urgent and non-urgent) to remove or reduce risks, direct the evacuation of buildings, employing measures for protecting buildings and keeping people at a safe distance. When considering whether to exercise a power, the relevant responsible person must, to the extent that is practicable in the circumstances, have regard to the principles listed in s133BN.

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EXTENDING A DESIGNATION

A designation made during a state of emergency or transition period may be extended by the Minister for Emergency Management, the person appointed under the CDEM Act, or the Minister for Building and Construction.

If no state of emergency or transition period is in force, the territorial authority may extend the designation with the prior approval of the Minister for Building and Construction, or by the Minister himself.

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The relevant responsible person must publicly notify the extension and include in the notice the time and date to which the designation is extended.

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TERMINATING A DESIGNATION

Designations expire after three years unless extended or terminated sooner.

Where the responsible person is satisfied that the designation is no longer in the public interest, they may terminate the designated area. The termination of a designation may relate to the whole or a part of the designated area. They must seek the approval of the Minister for Building and Construction to terminate a designated area. MBIE will review the designation termination request and recommend to the Minister for Building and Construction to approve or decline the request. The requester should complete the termination of designation form and provide a map of the designated area to MBIE. MBIE will notify the requestor of the outcome.

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The responsible person must notify the public about the termination of designation in accordance with s133BE of the Building Act.

