

# DESIGNATION OF AN AREA

\*For territorial authorities

When an emergency strikes an area and buildings are damaged there are powers to designate an area for managing buildings during and after the emergency under Subpart 6B of the Building Act 2004.

## Process for designating an area

**Step 1:** You 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. You must consider the following:

1. Does it appear to you that an emergency has occurred or may occur within the area?
2. Is the situation an emergency as defined in the Civil Defence Emergency Management (CDEM) Act 2002 (CDEM Act)?
3. Is designating an area in the public interest and necessary or desirable to protect (see section 133BD(1) of the Building Act):
  - a. Persons from death or injury; or
  - b. Buildings damage or disruption to use; or
  - c. Public thoroughfares from disruption; or
  - d. Critical infrastructure from damage or disruption; or
  - e. People and buildings from insanitary conditions.

**Step 2a:** If, after consideration, the tests in the Building Act are not met, consider alternative regulatory powers to manage building damage. This can include:

Legislation	Powers
Civil Defence Emergency Management Act 2002 sections 86-88, 91-92	Provides powers to manage buildings including (but not limited to) powers of evacuation, inspection, entry on premises. These powers only apply when a state of emergency is in force.
Building Act 2004 sections 121- 130 sections 220 - 221 section 222(1)(b)	Special provisions to manage dangerous, affected, or insanitary buildings; General provisions for carrying out building work on default; Entering buildings to undertake inspections with the consent of the occupier or an order of the District Court.
Local Government Act 2002 section 173	Provides powers of entry to land and buildings and inspection if there is a sudden emergency.

or

**Step 2b:** If, after consideration, the tests in the Building Act are met, and no state of emergency or transition period is in force, 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). As the responsible person, you will need to complete the [Form to designate an area for emergency management \[PDF 343KB\]](#) form.

**State of emergency:** means a state of national emergency (declared under section 66 of the CDEM Act) or a state of local emergency (declared under section 68 or 69 of the CDEM Act).

**Transition period:** means a national transition period (notified under section 94A of the CDEM Act) or a local transition period (notified under section 94B of the CDEM Act)

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

**Step 3:** Complete the application form. It is important that the information can be clearly conveyed to all interested parties. Usually this is by using words that identify the names of roads or landmarks or geographical features (such as a river) and preferably using commonly known terms or names that can be subsequently located on an official map. The area description needs to identify where the designated area begins and ends, ensuring any possible ambiguity or confusion is avoided.

A clearly marked-up map should be attached to this application.

Email the completed form, with supporting documentation to [buildingemergencymanagement@mbie.govt.nz](mailto:buildingemergencymanagement@mbie.govt.nz)

**Step 4:** The Ministry of Business Innovation and Employment (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.

If the request to designate an area is not approved, consider alternative regulatory powers to manage building damage (see Step 2A)

**Step 5:** A designation comes into force at the time and on the date that the designation is made. Once made, it must be immediately publicly notified by publishing the information on a publicly accessible and free-to-access website or, if this is not practicable, through other appropriate means. The notice must describe the designated area, describe the relevant emergency and specify the date/time the designation was made.

*Note: A designation can be made during a state of emergency or transition period by:*

- *the Minister for Emergency Management,*
- *the person appointed or otherwise authorised to declare a state of emergency or give notice of a transition period under section 25 CDEM Act.*

## Reviewing, extending or terminating a designation

Any designation of an area for building emergency management must be reviewed at least every 90-days and will expire after three years unless terminated sooner or extended. The designation is reviewed to decide whether the powers conferred by the designation are still required to manage the response and recovery. See the [Reviewing and Extending a Designation factsheet](#) for further information.

Following the review, the designation may continue to be in force, be extended, or it may be terminated prior to the scheduled expiry date if it is no longer in the public interest. See the [Terminating a Designation factsheet](#) for further information.