BUILDING PERFORMANCE

Terminate the designation of an area for emergency management

Subpart 6b, Building Act 2004

A designation terminates by default at the end of the day that is three years after the date it came into force, unless extended or terminated sooner.

This form may be used to facilitate the termination of a designated area at a time prior to the scheduled (three year) end date.

Email the completed form to **buildingactemergencymanagement@mbie.govt.nz** with the subject line: *Terminate a Designation of Area – (INSERT LOCATION)*

The Ministry of Business Innovation and Employment (MBIE) will provide relevant information and requests for approval to terminate a designation to the Minister for Building and Construction.

READ THROUGH THIS FORM CAREFULLY AND ENSURE YOU COMPLETE ALL OF THE SECTIONS

Prior to completing this form, confirm the following (please tick):

- [x] a designation is currently in place; and
- [x] I have considered whether it is possible to manage the risk to people, buildings, public thoroughfares and/or critical infrastructure without using the subpart 6B powers (section 133BD(2)(c)).

PART A: WHO IS MAKING THIS DESIGNATION DECISION?

- [ ] I am able to extend/terminate the designation of the area, without approval from the Minister for Building and Construction [refer to the notes], **or**
- [x] I am able to extend/terminate the designation of the area, with approval from the Minister for Building and Construction [refer to the notes].

PART B: EXISTING AREA DETAILS

Designated area short-name *[provide a short name that the designation can quickly be referred to as]*:

Wider Western Bay of Plenty District

Please describe current designated area:

Wider Western Bay of Plenty District

Date of designation: 2 2 0 1 2 6

Scheduled end date: 2 2 0 1 2 9

Who made original designation decision? *(Name and position)*:

Mayor James Denyer

Proposed area of termination of designation:

☐ all of the existing designated area, **or** ☑ part of the existing designated area

Area of [proposed] termination (if not the entire designated area) *[clearly identify the exact area for designation, refer note 1]*:

The designation is terminated for all areas of the Western Bay of Plenty District except the following identified streets and defined road sections:
Esplanade Road, Ongare Point - Potu Road, Ongare Point - Emerton Road, Waihi Beach - Harbour View Road – Omokoroa - Lynley Park Drive, Omokoroa - Omokoroa Road, Omokoroa - 1110 to 1210 Welcome Bay Road, Welcome Bay - Reid Road, Welcome Bay - Rocky Cutting Road, Welcome Bay - Waitao Road, Welcome Bay

Has the state of emergency or transition period status changed during designation period:

○ State of emergency or Transition Period declared, or

○ State of emergency or Transition Period ended, or

◉ No change in status – no State of emergency or Transition Period during the designation period.

Territorial authority responsible for the designated area *[if a joint application include all territorial authorities]:*

Western Bay of Plenty District Council

PART C: DECISION FOR TERMINATING THE DESIGNATION OF AN AREA (BUILDING ACT 2004, SECTION 133BI)

Confirm that terminating the designation of area satisfies the following criteria (section 133BI(2)):

☑ The designation is no longer in the public interest (REQUIRED),

Provide details *[briefly describe]:*

Placards have been removed from certain dwellings, and is no longer required for the following areas:
Oropi Road, Oropi
Chelmsford Road, Tahawai

PART D: INDIVIDUALS AND/OR AGENCIES CONSULTED DURING THE DECISION-MAKING PROCESS (WHERE RELEVANT)

The decision to terminate the designation of an area for building management may be assisted by consultation with one or more partner agencies. However, consultation with all or any of these agencies is not required. Tick agency(ies) consulted:

- [ ] Controller
- [x] Building Consent Authority (BCA)
- [ ] Heritage NZ Pouhere Taonga
- [ ] New Zealand Police
- [ ] Earthquake Commission (EQC)
- [ ] Utility Managers
- [ ] Fire and Emergency New Zealand (FENZ)
- [ ] CDEM Group Members
- [ ] Geological and Nuclear Sciences (GNS)
- [x] Ministry of Building Innovation & Employment (MBIE)
- [ ] National Emergency Management Agency (NEMA)

PART E: PUBLIC NOTIFICATION OF DESIGNATION (SECTION 133BI(4))

Once the designation is terminated you will need to notify the public. Please advise how you intend to do this:

- [x] Publicly accessible internet site *(provide website/s or URL, if known)*

www.westernbay.govt.nz

- [ ] Alternative means of notification:

Designation recommendation (CDEM Decision-Maker/Territorial Authority):

Checklist for CDEM decision-maker

- [x] I have checked that the criteria for terminating the designation of an area set out in section 133BI of the Act are met.
- [x] I have agreed to terminate the designation of the area as proposed in this form in accordance with section 133BI.
- [x] I am sending this form to the MBIE email **buildingactemergencymanagement@mbie.govt.nz** and understand MBIE will provide the relevant information to the Minister for Building and Construction.

Checklist for a Territorial Authority

- [ ] I have checked that the criteria for terminating a designated area as set out in section 133BI of the Building Act are met.
- [ ] I am sending this form to the MBIE email **buildingactemergencymanagement@mbie.govt.nz** and understand MBIE will provide the relevant information to the Minister for Building and Construction to seek approval of the proposed termination.

PART F: CONTACT DETAILS

	Name and position	Email address	Phone number/s
CDEM Decision-Maker Or Territorial Authority *(if a joint application, include all territorial authorities)*	Matthew Potton - CEO	matt.potton@westernbay.govt.nz	021 544 855
Emergency Coordination Centre/ Emergency Operations Centre Contact			
Lead Person *(contact for building management activity within designated area)*	Ryan Cutbush - TL Inspections - Building Response Manager	ryan.cutbush@westernbay.govt.nz	0273059105

PART G: ADDITIONAL EVIDENCE TO SUPPORT THE APPLICATION, INCLUDING A BOUNDARY MAP OF THE DESIGNATED AREA. (LIST AND SHORT DESCRIPTION OF ATTACHMENTS):

- Western Bay of Plenty District Locations.pdf

NOTES

1. Describing an area for designation

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.

2. Powers for managing buildings in an emergency

Many of the powers are equivalent to those available under a state of emergency, however they are ring-fenced to building management activity within a designated area. The designation of an area lasts for a longer period than a state of emergency. For more information refer to **Fact Sheet: Designating an area for building management**.

3. Alternative legislation for managing buildings impacted by an emergency

Alternative regulatory options to manage building damage after an emergency, include the following:

Legislation	Powers
Civil Defence Emergency Management Act 2002 sections 86-88, 91-92	Provides powers to manage buildings including powers of evacuation, inspection, giving direction.
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

4. Authority to extend or terminate a designation of area for building management (section 133BH, 133BI)

If the original designation was made when:	And now:	The person(s) who can extend or terminate the designation are:
A state of emergency or a transition period was in force	The state of emergency or transition period is still in force	› the CDEM decision-maker who made the designation; or › another CDEM decision-maker; or › the Minister for Building & Construction
	The state of emergency or transition period has ended	› the relevant Territorial Authority, with the Minister's approval
No state of emergency or a transition period was in force	No state of emergency has been declared and no transition period notified since the designation	› the Minister for Building & Construction; or › the relevant Territorial Authority, with the Minister's approval
	A state of emergency has been declared or a transition period notified since the designation	› the Minister for Building & Construction › the CDEM decision-maker who declared the state of emergency or notified the transition period; or › another CDEM decision-maker

DEFINITIONS

For the purposes of this form:

CDEM Act means the Civil Defence Emergency Management Act 2002.

CDEM Decision-Maker means –

(a) **(i)** the Minister responsible for administration of the CDEM Act; or

(ii) a person who is appointed or otherwise authorised under **section 25** of that Act to declare a state of local emergency or give notice of a local transition period (as the case may be) for the area; and

(b) in **sections 133BG** and **133BH [of the Building Act]**, also includes a person who, at the relevant time, is the successor in office of a person referred to in paragraph (a) (ii).

Emergency means a situation that—

(a) is the result of any happening, whether natural or otherwise, including, without limitation, any explosion, earthquake, eruption, tsunami, land movement, flood, storm, tornado, cyclone, serious fire, leakage or spillage of any dangerous gas or substance, technological failure, infestation, plague, epidemic, failure of or disruption to an emergency service or a lifeline utility, or actual or imminent attack or warlike act; and

(b) causes or may cause loss of life or injury or illness or distress or in any way endangers the safety of the public or property in New Zealand or any part of New Zealand.

responsible person means a person who is authorised by **section 133BJ** or **133BK [of the Building Act]** to exercise powers under Subpart 6B.

For other relevant definitions, see sections 7 and 133BB of the Building Act 2004.