



Reporting on the use of powers during a transition period

This factsheet provides advice on how to report on the powers exercised under a transition period.

Background – requirement under the Act

Section 94P of the Civil Defence Emergency Management Act 2002 (the Act) requires that if a Recovery Manager (National, Group, Local) or person acting under the authority of a Recovery Manager exercises powers during a transition period, the Recovery Manager must provide a written report that:

- (a) identifies the power or powers exercised under Part 5B of the Act during a transition period and the person who exercised the power or powers; and
- (b) include the reasons for the exercise of that power or those powers.

The reporting requirements were put in place to provide transparency as the powers are significant and may be in place for long periods of time.

Who must prepare a report?

The Recovery Manager must prepare the report. If a power was exercised by a person other than the Recovery Manager preparing the report (i.e. a local Recovery Manager or a person acting under the Recovery Manager's authority), the Recovery Manager must consult with the persons who exercised the power(s).

If the local transition period covered more than one district and the transition period involved a Group Recovery Manager, we recommend that the Group Recovery Manager coordinate the preparation of the report on behalf of all Recovery Managers in that area.

In relation to a national transition period, it is recommended that each Recovery Manager record their own use of the powers and then provide a copy to the National Recovery Manager (if there is one) or the Director of Civil Defence Emergency Management to prepare a collated report.

Who must receive a written report?

A report on the use of powers during a local transition period must be provided to:

- Director of Civil Defence Emergency Management; and
- A copy to the Civil Defence Emergency Management Group.

The Director may provide a report relating to the powers exercised during a local transition period to the Minister. If the Director does, the Minister must present it to the House of Representatives as soon as practicable.

A report on the use of powers during a national transition period must be provided to the Director of Civil Defence Emergency Management. The Director must provide this report to the Minister. The Minister must then present the report to the House of Representatives as soon as practicable.

When are reports due?

A report must be given within 7 days after the date on which the relevant transition period ends.

In the case of a national transition period, we recommend that Recovery Managers should provide information about their use of powers to the National Recovery Manager (if there is one) or the Director within 3 days of the transition period ending. This will provide sufficient time for the information to be turned into a collated report.

Do the reports have to be published?

On receiving a report on the use of powers during a local transition period, a Civil Defence Emergency Management Group must publish it on the Groups website as soon as practicable.

If the National Recovery Manager gives a report to the Director on the use of powers during a national transition period, the National Recovery Manager must publish a copy of the report on a website as soon as practicable.

How should reports to the Director on local transition periods be formatted?

Appendix One sets out the suggested format for reports on the exercise of powers during a transition period.

These reports should be succinct and only provide the key information required.

Please note that there is no need to itemise each use of a particular power. Instead, the report should state the total number of times the power has been used for a particular reason by a particular person.



Appendix One: Template report to the Director

Report to Director of Civil Defence Emergency Management – use of powers during [national/local – specify as appropriate] transition period relating to the [describe emergency]

To Director of Civil Defence Emergency Management

[Insert date]

Introduction

This report is intended to address the Recovery Manager's obligation under section 94P of the Civil Defence Emergency Management Act 2002 (the Act) to report on the exercise of statutory powers during a transition period.

Statutory requirement

Pursuant to section 94P, within 7 days of the end of the transition period, the relevant Recovery Manager or person acting under the authority of the Recovery Manager is required to provide a report to the Director of Civil Defence Emergency Management:

- (a) The power or powers exercised under the Act;
- (b) The person who exercised the powers; and
- (c) The reasons for the exercise of those powers.

Depending on whether the report relates to a national or local transition period, the report may also be provided to the Civil Defence Emergency Management Group, the Minister, and the House of Representatives.

Powers exercised

Under section [specify section for the power] of the Act which provides the power to [describe power], [insert person who exercised the power and their position] exercised this power [specify number of times] for the purpose of [specify reasons].

For example:

John Smith, Local Recovery Manager, exercised section 94K power, which provides for the exclusion of any persons or vehicles from any premises or place for the preservation of human life during the flooding event. John Smith also used section 94H(a)(iii) five times to examine buildings for the risk of structural collapse. John Smith also exercised section 94L three times, the power of entry, to enter flood affected buildings for the purposes of assessments under section 94(H)(a)(iii).

This information could be displayed in table form if a number of powers have been used during a transition period and it would be easier to read than text:

Power exercised	Number of times exercised	Person who exercised the power	Reason for exercising the power
For example, section 94K, Evacuation of premises and places	14	7 times Recovery Manager [insert name] 7 times [insert name and title] on delegate authority from recovery manager	7 uses were to protect public safety while buildings were assessed. 7 uses were protection of public safety related to removing occupants from buildings near buildings that were to be demolished

[Insert name of Recovery Manager]

[National, Group, Local – as appropriate] Recovery Manager