



Briefing

SETTINGS FOR HOSPITALITY, EVENTS, AND GATHERINGS AT ALERT LEVEL 2

To: Rt Hon Jacinda Ardern
Prime Minister

Cc: Hon Grant Robertson
Deputy Prime Minister

Hon Chris Hipkins
Minister for COVID-19 Response

Date	12/10/2021	Priority	[Low]
Deadline	19/10/2021	Briefing Number	DPMC-2021/22-537

Purpose

1. Following the recent adjustments to Alert Level 2 settings, Ministers have received numerous inquiries about how the adjusted settings apply to different situations. In particular, why different restrictions apply to event facilities, hospitality venues and social gatherings despite similar activities (eating, drinking, socialising) occurring at each of these places.
2. As requested by your office, this briefing outlines the current Alert Level 2 settings that apply to retail businesses, hospitality venues, event facilities, and social gatherings. It also notes the public health or system rationale for why different settings apply, and identifies where officials are currently progressing work to remedy alignment issues.

Recommendations

1. **Note** the contents of this briefing.

2. **Agree** that this briefing is proactively released, with any appropriate redaction where information would have been withheld under the Official Information Act 1982, in December 2021. **YES / NO**

Ben White

Ben White
Manager, Strategy & Policy, COVID-19 Group

12/10/2021

Rt Hon Jacinda Ardern
Prime Minister

...../...../2021

Contact for telephone discussion if required:

Name	Position	Telephone	1st contact
Ben White	Manager, Strategy & Policy, COVID-19 Group		Section 9(2)(a) ✓
Anna Ferguson	Policy Advisor	Section 9(2)(a)	Section 9(2)(a)

Minister's office comments:

- Noted
- Seen
- Approved
- Needs change
- Withdrawn
- Not seen by Minister
- Overtaken by events
- Referred to

SETTINGS FOR HOSPITALITY, EVENTS, AND RETAIL AT ALERT LEVEL 2

Background

1. At Alert Level 2 there are broadly four settings in which large numbers of people can come together to eat, drink and intermingle.
 - a) Retail businesses – including malls and farmers markets;
 - b) Hospitality businesses – including cafes, restaurants, bars and other food and drink businesses or services;
 - c) Events held within event facilities – including those held at cinemas, theatres, stadiums, concert venues, casinos, and conference venues; and
 - d) Social gatherings.
2. As outlined in Attachment A, different Alert Level 2 restrictions (including capacity limits) apply in each of these environments. These restrictions are provided for in the COVID-19 Public Health Response (Alert Level Requirements) Order (No 12) (the Order).
3. On Monday 4 October Cabinet agreed to amend Alert Level 2 settings to enable greater activity. The adjustments increased capacity limits at hospitality venues and event facilities (indoor or outdoor) by removing the cap on the number of people permitted at these facilities and venues and instead relying on the physical distancing requirements (1 metre) to determine capacity limits [CAB-21-MIN-0407]. These changes have prompted an influx of enquiries to both Ministers and officials, as the event and hospitality sectors adopt the new settings.
4. In responding to these enquiries, officials have identified some potential alignment issues in how the settings apply to similar venues, facilities and gatherings. These are being considered as part of future amendments to the current Order, or as part of future opportunities to further adjust settings including the future COVID-19 Domestic Response Framework.

Alert Level 2 settings

5. The Alert Level 2 settings for retail businesses, hospitality venue, event facilities, social gatherings are summarised in Attachment A. These settings are based on public health advice regarding minimising transmission of COVID-19 and are overlaid with system considerations, such as the economic viability of various activities with a combination of restrictions in place. These include the following:
 - a) Capacity limits – if capacity is not capped at 100 attendees, then the 1 metre physical distancing rules apply which determine the maximum capacity of the venue, facility or business.
 - b) Face coverings – required for all people on the premises or for staff only.
 - c) Record keeping – systems and processes for attendees creating a contact record.

- d) Seated and separated rule – customers must be seated to consume food and drink on the premises, and to order and be served within on-licence or club licence premises.

Potential alignment issues identified

Outdoor retail businesses

- 6. Section 9(2)(h)



- 7. Section 9(2)(h)



Application of the 'seated and separated' rule across venues, facilities and gatherings

- 8. Clause 38 of the Order sets out requirements for customers and clients at food and drink businesses and services operating at Alert Level 2. One of these is requiring customers and clients to be seated at a table and separated while consuming food and drink. Currently, this rule applies to both hospitality venues and other businesses serving food and drink such as event facilities (including stadiums), but not to cinemas, theatres or gatherings. Where the food and drink business that is an on-licence, or club licence, premises (i.e. anywhere that has a license to sell alcohol on a regular basis) customers must be served at their table, and cannot order or collect food and drinks from a counter.
- 9. This creates a perceived alignment issue where an event facility, such as a conference centre, that is attached to a hospitality venue within them are required to apply different conditions upon attendees based on the primary function of the area they are occupying. For instance, if a conference is being held the event organiser must have systems and processes in place to ensure that attendees maintain 1 metre physical distancing and be seated at a table to eat and drink. However, if attendees were to enter the attached restaurant area then the 'seated and separated' would apply. If either space is an on-licence premises, then customers must be seated to order and to be served.
- 10. The public health rationale for this is that requiring people to be seated to consume food and drink reduces the interaction between people who do not know one another, and therefore reduces the complexity of contact tracing if necessary.

Event is not defined in the Order

- 11. There is no definition of "event" in the Order. This means that the settings that apply to an event are determined by where the event is held, as well as their regularity in some instances. For example, if an event is held at an event facility, the restrictions that apply for event facilities apply. However, if an event is held outdoors and cannot be defined as a retail, the restrictions for social gatherings would apply in most instances.

12. This creates an alignment issue where large outdoor events (e.g. a Christmas parade or marathon running event) are unable to have more than 100 people in attendance, where if the same event was held indoors then the capacity would be constrained by the 1 metre physical distancing rule. Section 9(2)(b)(ii)
- Section 9(2)(b)(ii)

Hosting of a social gathering within a 'defined space'

13. In addition to the above hospitality venues and event facilities are also able to hire out a 'defined space' for social gatherings to take place. This means that one venue could have potential to apply the social gathering rules to one area, the event facility rules to another, and the hospitality rules to a third area.

Next Steps

14. Officials are considering the definition of an event facility and whether this could include an outdoor setting component. This will include consideration of what types of large outdoor events held in public spaces could be held, and what systems and processes need to be in place to ensure the participants' safety. However, any amendment to the order is unlikely to capture events in uncontrolled outdoor spaces (e.g. Santa parades, swap meets, or marathons).
15. Officials will also continue to progress work on the abovementioned alignment issues, including as part of future opportunities to further adjust settings including the future COVID-19 Domestic Response Framework.

Attachments:	
Attachment A:	Table of Current Alert Level 2 Settings



ATTACHMENT A

Table of Current Alert Level 2 Settings

This table outlines the current Alert Level 2 settings and the relevant rationale.

	Capacity Cap of 100	Face coverings	Record keeping	Seated and separated	Additional Notes
Event facilities (e.g. cinemas, theatres, stadiums, concert venues, conference venues, casinos).	<p>✗</p> <p>(1 metre physical distancing will determine maximum capacity)</p>	✗	✓	✗ (unless food or drink is consumed)	<p>The seated and separated rule does not apply to cinemas and theatres that serve food and drink, including those that operate as an on-licence premises.</p> <p>If a facility is an on-licence or club licence premises then customers must be seated to order, be serve, and consume food and drink.</p> <p>This means that someone attending a rugby game at a stadium, operating as an on-licence premise, will need to be seated at a table to order and consume food and drink (e.g. their hot dog and beer that would be able to be consumed at their seat at AL1).</p> <p>The 'seated and separated' rule does not apply to cinemas and theatres because it would not otherwise be economically viable for these to operate. Therefore, the Order allows customers to purchase food and drink from the snack bar and consume these at their seats which watching the movie or performance.</p> <p>The public health rationale is that requiring customers to be seated and separated reduces the risk of transmission by minimising the intermingling of different groups.</p>

	Capacity Cap of 100	Face coverings	Record keeping	Seated and separated	Additional Notes
Hospitality venues (e.g. Cafes, restaurants, bars, clubs, soup kitchens, and other food and drink businesses or services).	✗ (1 metre physical distancing will determine maximum capacity)	✗	✓	✓	Section 9(2)(h)
Retail (including outdoor farmers markets that regularly occur).	✗ (1 metre physical distancing will determine maximum capacity)	✓	✗	✗ (unless food or drink is consumed)	Section 9(2)(h)
Gatherings (including event held somewhere that doesn't meet the definition of an event facility, e.g. a park, or an outdoor market that happen irregularly, e.g. a Christmas fete).	✓	✗	✓	✗	Section 9(2)(h)

	Capacity Cap of 100	Face coverings	Record keeping	Seated and separated	Additional Notes
					Section 9(2)(h)

Proactively Released