

Briefing

ALERT LEVEL REQUIREMENTS ORDER FOR SIGNING

To Minister for COVID-19 Response (Hon Chris Hipkins)			
Date	21/09/2021	Priority	URGENT
Deadline	21/09/2021	Briefing Number	DPMC-2021/22-391

Purpose

Attached to this briefing is the proposed COVID-19 Public Health Response (Alert Level Requirements) Order (No 12) 2021 which we recommend that you sign. This Order moves Auckland and the Upper Hauraki area to Alert Level 3, with the rest of New Zealand to remain at Alert Level 2.

This briefing summarises the effect of the Order and confirms that the necessary procedural requirements for the making of COVID-19 Orders have been complied with.

Recommendations

1. **Note** that this brief provides a summary of the key provisions of the proposed order
2. **Note** that the necessary procedural requirements for the making of COVID-19 Orders have been complied with
3. **Sign** the COVID-19 Public Health Response (Alert Level Requirements) Order (No 12) 2021 (**Attachment A**)

YES / NO

Ben White

Ben White
Policy Manager
COVID-19 Group, DPMC

21/09/21

Chris Hipkins

Hon Chris Hipkins
Minister for COVID-9 Response

21/09/21

Contact for telephone discussion if required:

Name	Position	Telephone	1st contact
Ben White	Policy Manager, COVID-19 Group, DPMC	s9(2)(a)	
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Minister's office comments:

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- Withdrawn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

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ALERT LEVEL REQUIREMENTS ORDER FOR SIGNING

Summary of the Order

Auckland and the Upper Hauraki area will move to Alert Level 3, with the rest of New Zealand remaining at Alert Level 2

1. This Order provides for Auckland and the Upper Hauraki area to be moved to Alert Level 3, with the rest of New Zealand to remain at Alert Level 2.
2. On 20 September, Cabinet agreed to move Auckland to Alert Level 3 [CAB-21-MIN-0379], having agreed in principle to this move on 20 September [CAB-21-MIN-0370]. Following the identification of cases in the Upper Hauraki area on 19 September, the area was moved to Alert Level 4 at 11.59pm Monday 20 September. On 21 September the Director-General of Health agreed that the Upper Hauraki area should move to Alert Level 3 with no additional public health measures.
3. These changes will create an Alert Level 3/2 boundary. Cabinet agreed on 20 September that the permitted travel across the boundary would be the same as the permissions placed for the current Alert Level 4/2 boundary [CAB-21-MIN-0379 refers].

Adjustments to Alert Level 2 and 3 settings

4. The Order is based on the most recent Alert Level 3 and 2 settings, adjusted by Cabinet decision on 20 September. The Order includes changes to revised Alert Level 2 settings, some of which were agreed to by Cabinet on 6 September in response to the increased risk posed by the Delta variant of COVID-19 [CAB-21-MIN-0360 refers]. The changes in the Order are summarised as follows:
 - a) Increasing indoor gathering capacity at Alert Level 2
 - i) The maximum indoor gathering or capacity limit of 50 people in an indoor defined space will be increased to 100 people. This limit applies at:
 - event facilities (including cinemas, stadiums and casinos);
 - hospitality venues (including restaurants, cafes and bars); and
 - social gatherings (including weddings, funerals, parties).
 - b) Face coverings at high schools at Alert Level 3
 - i) At Alert Level 3, it will now be mandatory for face coverings to be worn in indoor settings at secondary schools.
 - c) Excluding workers from controlled gathering limits for funeral and tangihanga at Alert Level 3
 - i) Under previous Alert Level 3 settings, controlled gatherings (funeral, tangihanga, wedding or civil union) are limited to a total of 10 people, including workers.

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- ii) These settings have been amended to exclude workers (e.g. celebrants and funeral directors) from the 10-person limit at funerals and tangihanga under Alert Level 3.
 - iii) Transmission risk will be mitigated by limiting the number of workers to 5 people, allowing for up to 15 people present in total, and requiring the two groups (attendees and workers) to remain physically distanced, with at least 2 metres between them.
- d) Expanded testing requirements for people permitted to cross the Alert Level boundary (delayed commencement)
- i) People moving across an Alert Level 3/2 boundary (in either direction) for most of the permitted personal reasons will need to carry evidence of a negative COVID-19 test. Specifically, people who move across an Alert Level 4/2 or Alert Level 3/2 boundary:
 - for personal reasons likely to be on a regular basis (caring for animals or attending a health service appointment) would be required to carry evidence of having had a COVID-19 test within seven days of crossing the boundary;
 - for personal reasons likely to be a single trip (the other reasons for permitted personal travel) will be required to carry evidence of a negative COVID-19 test received within 72 hours of crossing the boundary.
 - ii) There are some situations where testing requirements may not be appropriate for personal movement across the boundary, e.g. when travel is urgent or when there would be no additional public health risk caused by this movement. These situations include: emergency, urgent care of child, support or care to person in critical or terminal condition, among others.
 - iii) These additional testing requirements will take effect from 11.59pm Thursday 23 September. Adequate lead in time is needed to implement the additional testing and exemption requirements for personal travel and to ensure that they are understood.
- e) Permit face-to-face Family Group Conferences (FGC) at Alert Level 3
- i) The Order also includes changes to the Alert Level 3 settings to permit face-to-face FGC. Appropriate mitigations will be put in place to reduce the risk of transmission at FGC.
5. The Order also incorporates recent amendments to Alert Level 4 settings that apply at Alert Level 3.

Procedural requirements for a COVID-19 Act Order

6. You can make Orders under sections 11 and 15 of the COVID-19 Public Health Response Act 2020 (The Act). The Act imposes certain requirements for the form, publication and making of COVID-19 Act Orders. You must be satisfied that these requirements have been complied with before making a COVID-19 Order.

48 Hour Notification Period

7. The Act requires that a COVID-19 Order must be published and gazetted at least 48 hours before it comes into force. However, this notice period is not required to be observed where

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you are satisfied that the Order should come into force urgently to prevent or contain the outbreak or spread of COVID-19 or where the effect of the Order is only to remove or reduce requirements imposed by a COVID-19 Order.

8. This Order moves Auckland from Alert Level 4 to Alert Level 3 and increases the number cap at social gatherings, event facilities and hospitality venues at Alert Level 2, alongwith other more permissive measures which are both a reduction in the requirements imposed by the current COVID-19 Order. Accordingly, the requirement for a 48 hour notification period does not apply to these aspects of the Order.
9. The requirement for those travelling for permitted personal reasons to carry evidence of a test or a negative result of a test is an increased requirement on those travelling across the Alert Level 2/3 boundary. However, the commencement of this requirement is delayed until 11.59pm on 23 September 2021, which means that the 48 hour notification period is complied with.

Ministerial Consultation

10. The Act requires that before making a COVID-19 Order, you must consult with the Prime Minister, the Minister of Justice and the Minister of Health. You may also consult with any other Minister you think fit.
11. Ministers, including the Prime Minister, Minister of Justice and Minister of Health were consulted on the Order during the Cabinet discussion on 20 September 2021. Specific consultation with Ministers on the amendment regarding FGC and the inclusion of the Upper Hauraki area was undertaken by your office on 21 September 2021.

Public Health Advice

12. The Act requires that before making a COVID-19 order, you must have had regard to advice from the Director-General of Health about the risks of the outbreak or spread of COVID-19 and the nature and extent of measures (whether voluntary or enforceable) that are appropriate to address those risks.
13. The Director-General of Health provided advice to Cabinet to inform its decision to move Auckland to Alert Level 3 and the changes it made to Alert Level 2 settings. He has also agreed, informed by a public health risk assessment, that the Upper Hauraki area should move to Alert Level 3. We also consulted the Ministry of Health on the proposed change to Alert Level 3 settings in relation to FGC.

New Zealand Bill of Rights Act 1990

14. In addition to the specified requirements from the Act, a further matter for you to consider each time a COVID-19 order is proposed is whether the exercise of your power to do so is appropriate in the circumstances. In particular, the power to make an order under section 11 of the Act must be exercised consistently with the New Zealand Bill of Rights Act 1990 (NZBORA).
15. s9(2)(h)

Attachments:	
Attachment A:	COVID-19 Public Health Response (Alert Level Requirements) Order (No 12) 2021 (Signature Copy)

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