



Briefing

ALERT LEVEL REQUIREMENTS AMENDMENT ORDER FOR SIGNING - COVID-19 PUBLIC HEALTH RESPONSE (ALERT LEVEL REQUIREMENTS) ORDER (NO 12) AMENDMENT ORDER 2021

To: Hon Chris Hipkins
Minister for COVID-19 Response

Date	24/09/2021	Priority	URGENT
Deadline	24/09/2021	Briefing Number	DPMC-2021/22-414

Purpose

Attached to this briefing is the proposed COVID-19 Public Health Response (Alert Level Requirements) Order (No 12) Amendment Order 2021, which we recommend that you sign. This order moves the upper Hauraki area to Alert Level 2 and makes various amendments to the current Alert Level 3 and Alert Level boundary settings.

This briefing summarises the effect of the amendments 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) Amendment Order (No 1) 2021.

YES / NO


Ruth Fairhall
Head of Strategy & Policy

24/9/2021


Hon Chris Hipkins
Minister for COVID-19 Response

24/9/2021

Contact for telephone discussion if required:

Name	Position	Telephone	1st contact
Ruth Fairhall	Head of Strategy & Policy, None	s9(2)(a)	✓
Jess Gorman	Principle Solicitor	s9(2)(a)	

Minister's office comments:

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- Withdrawn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

[Empty box for Minister's office comments]

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Summary of the Amendments

Upper Hauraki will move to Alert Level 2

1. This Amendment Order provides for the upper Hauraki area to be moved to Alert Level 2 alongside the rest of New Zealand outside of Auckland, which remains at Alert Level 3, as agreed by Ministers with Power to Act on Friday 24 September.
2. Following the identification of COVID-19 cases in the upper Hauraki area on Sunday 19 September, the area was moved to Alert Level 4 at 11.59pm Monday 20 September. On Tuesday 21 September the Director-General of Health recommended that the Upper Hauraki area should move to Alert Level 3 with no additional public health measures and Upper Hauraki was moved to Alert Level 3 at 11.59pm that evening together with Auckland.
3. The Director-General has advised that Upper Hauraki now presents a low risk and that it is safe for it to move to Alert Level 2 [DPMC-2021/22-441 refers].

Adjusting the testing requirements for personal travel across the Alert Level boundary

4. On 20 September Cabinet agreed that most people moving across an Alert Level 4/2 or 3/2 boundary for personal reasons be required to carry evidence of a negative COVID-19 test (or having taken a test in some instances) [CAB-21-MIN-0379 refers]. Cabinet agreed that testing evidence required for personal movement would depend on the category of permitted movement and would include either a negative pre-departure test within 72 hours (for most categories), a test as part of the seven-day surveillance testing regime (for those attending a medical appointment or caring for pets and animals), or no testing requirement in some situations (such as an emergency). These requirements came into effect at 11.59pm Thursday 23 September.
5. On 24 September officials, in consultation with the Director-General of Health, provided advice [DPMC-2021/22-441 refers] that the testing requirement for those going into, but not out of, an Alert Level 3 area be amended to exclude those travelling into the Alert Level 3 area, from an Alert Level 2 area, who carry a low risk of COVID-19 transmission.
6. In addition the Director-General of Health and officials proposed that that people travelling into Auckland for a health-care appointment (including vaccinations) and then back to their usual place of residence (outside of the Auckland Alert Level 3 area) should not be required to carry evidence of a test in either direction.
7. The Amendment Order brings into force these amendments as agreed to by Ministers on 24 September.

Clarifying the rules with regard to travelling across the Alert Level Boundary to provide Drug and Alcohol Testing Services

8. The schedule that relates to the type of business or service that can travel across the Alert Level boundary (Schedule 5) has been inadvertently expanded to provide that a person may travel between Alert Level areas if working for a Drug and Alcohol Testing service and is providing drug and alcohol testing for an Alert Level 3 business or service or an exempt business or service. This is broader than intended and the Amendment Order will ensure the permission remains limited to only those businesses listed in Schedule 5 or exempt businesses and services.

Requiring Face Covering Requirements within Veterinary Services

9. Following a recent amendment to the Order, face coverings are now required to be worn by all people on the premises of a veterinary service or animal health and welfare service operating in an Alert Level 2 area (schedule 6 number 15). This requirement was inadvertently not carried over to veterinary service or animal health and welfare services operating in an Alert Level 3 area.
10. The Amendment Order will ensure the requirements for wearing a face covering within a veterinary service or animal health and welfare services are aligned at Alert Level 2 and above.

Procedural Requirements for a COVID-19 Order

11. This proposed Order amends a COVID-19 Order, which you can do pursuant to 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 Orders. You must be sure that these requirements have been complied with before making a COVID-19 Order.

48 Hour Notification Period

12. 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 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.
13. This Amendment Order moves upper Hauraki from Alert Level 3 to Alert Level 2, along with other more permissive measures in adjusting the testing requirements for personal travel across the Alert Level boundary.
14. In this instance, two of the proposed amendments create additional restrictions: removing the ability to cross the Alert Level boundary to provide Drug and Alcohol Testing Services to any businesses and services that is not listed in Schedule 5 of the Order and requiring the use of face coverings in veterinary service or animal health and welfare services within the Alert Level 3 area. We consider that in order for these amendments to be effective measure to limit the spread of COVID-19, they should be applied immediately.

Ministerial Consultation

- 15. 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.
- 16. Ministerial consultation was undertaken regarding the Amendment Order during a call between Ministers, including the Prime Minister, the Minister of Justice, and the Minister of Health, and officials earlier today where the shift of Alert Level for upper Hauraki and change in the testing requirements for personal movement across the Alert Level boundary were agreed.

Public Health Advice

- 17. 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.
- 18. Public Health advice was provided as part of earlier advice regarding the proposed updated to the Alert Level in upper Hauraki and the boundary testing settings [DPMC-2021/22-411 refers].

New Zealand Bill of Rights Act 1990

- 19. 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).

20. s9(2)(h)



Attachments:	
Attachment A:	COVID-19 PUBLIC HEALTH RESPONSE (ALERT LEVEL REQUIREMENTS) ORDER (NO 12) AMENDMENT ORDER (NO 1) 2021

ATTACHMENT A

COVID-19 PUBLIC HEALTH RESPONSE (ALERT LEVEL REQUIREMENTS) ORDER (NO 12) AMENDMENT ORDER (NO 1) 2021

Proactively Released

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