DEPARTMENT OF THE PRIME MINISTER AND CABINET
TE TARI O TE PIRIMIA ME TE KOMITI MATUA

MINISTRY OF HEALTH
MANATŪ HAUORA

Joint Briefing

COVID-19 VACCINE CERTIFICATES – SETTINGS FOR DOMESTIC USE

To: Hon Chris Hipkins
Minister for COVID-19 Response

CC: Rt Hon Jacinda Ardern
Prime Minister

Date	14/10/2021	**Priority**	Urgent
Deadline	15/10/2021	**Briefing Number**	DPMC-2021/22-585

Purpose

To report back on stakeholder engagement on the domestic use of COVID-19 Vaccine Certificates (CVCs), and seek policy decisions to inform a paper for Cabinet decision later this month.

Recommendations

1. **Note** officials have consulted on the use of CVCs in domestic settings, with a focus on:
    a. who would be required to be vaccinated in discretionary settings
    b. where vaccination could or should be required in discretionary settings
    c. operational and implementation considerations

Public health benefit for use of CVCs in domestic settings

2. **Note** public health advice is that:
    a. vaccination requirements could be used to reduce the risk of super-spreader events, at least until vaccination rates are well over 90 percent across all (eligible) age and ethnic groups; and
    b. vaccination requirements should be considered as part of a wider suite of interventions to reduce the risk of community transmission of COVID-19
    c. there is public health benefit in people being vaccinated at all higher-risk settings, especially when other public health measures may be challenging to follow

d. vaccination requirements do not mitigate all risk of transmission and cannot always be considered as a substitute for other public health measures, particularly during Alert Levels 3 and 4, and that some settings, regardless of vaccine requirements, should not operate during wider outbreaks

2. **Note** that for this briefing, officials have aligned the use of CVCs to Alert Levels, to enable their introduction earlier than the proposed traffic light framework

3. **Note** that the use of vaccine requirements in the traffic light framework, in particular at 'red' will be resolved by officials through that workstream

4. **Note** officials have developed the following categories to define settings for vaccine requirements:

   a. **Very large high-risk settings:** Over 500 attendees, where significant intermingling is likely to occur, where there will be dispersal outside the local area, and where people would spend lengths of time together in close proximity e.g. concerts

   b. **High risk indoor settings:** Poor or hard to monitor ventilation, face coverings may be impractical, social distancing and movement of people may be challenging to enforce, over 100 patrons (indoor) e.g. nightclubs

   c. **Prohibited settings:** life-preserving and basic needs services, where there are limited alternative options available e.g. supermarkets, health care

   d. **Other settings:** any setting not specified in the above categories, including faith-based services and marae

5. **Agree** to mandate the use of CVCs at very large high-risk settings:

   a. at Alert Level 1 only, to minimise super-spreader events, and not enabling operations at escalated alert levels **YES / NO**

   OR

   b. at Alert Levels 1 and 2 only, to minimise super-spreader events and to permit these events to continue at an escalated Alert Level **YES / NO**

6. **Agree** that these very high-risk settings cannot operate at Alert Level 3 regardless of vaccine requirements or alternate public health measures due to the public health risk **YES / NO**

7. **Agree** to mandate the use of CVCs at high-risk indoor settings:

at Alert Level 2

a. without additional public health measures **YES / NO**

OR

b. with additional public health measures, but no capacity limits **YES / NO**

AND

at Alert Level 3

c. with additional public health measures in place, such as capacity limits and social distancing, noting the additional public health risk in doing so as this would permit a wider range of settings to operate at escalated Alert Levels **YES / NO**

Prohibiting CVCs for patrons in specific venues and settings

8. **Agree** to prohibit the requirements of CVCs at life-preserving and basic needs services where there are limited alternative options available **YES / NO**

Other settings

9. **Agree** officials will develop guidance and enabling legislation on the optional use of CVCs in wider settings, noting their use is discretionary for any setting not specified in mandated or prohibited settings **YES / NO**

Patron exemptions from vaccination requirements

10. **Note** public health advice is that exemptions from vaccine requirements should be limited to those unable to be vaccinated for medical reasons or ineligible due to age

11. s9(2)(h) [redacted]

12. **Note** that the Ministry of Health estimates that the number of people exempt from vaccine requirements on medical grounds only would be fewer than 200 people nationally

13. **Agree** that exemptions from vaccine requirements in CVC settings be limited to medical grounds only, however these individuals will still need to produce a CVC to enter, where applicable **YES / NO**

14. **Agree** that exemptions from presenting a CVC will apply to children under 12 years and 3 months, to allow sufficient time for 12 year olds to be fully vaccinated **YES / NO**

15. **Note** you had previously agreed to introduce an alternate measure to CVCs for adults with exemptions, such as a negative

COVID-19 test, while a broader range of exemptions was being considered

16. **Agree** that no alternate measure for those legitimately exempt from CVC requirements, such as a negative COVID-19 test, should be introduced, as the narrower exemptions category does not present a significant public health risk at this time — **YES / NO**

Operational considerations

17. **Note** feedback from community groups, stakeholders and some agencies highlights that a privacy-preserving approach should be adopted in the development of CVCs, to minimise potential discrimination

18. **Agree** that the CVC will adopt a privacy preserving approach, whereby it may not automatically be considered digital proof of vaccination to prevent discrimination against those with legitimate exemptions — **YES / NO**

19. **Agree** that in order to ensure the privacy of individual's medical details, CVCs are able to be used both by those who have been vaccinated and those who have an exemption from vaccination on medical grounds — **YES / NO**

20. **Note** that the use of CVCs by those with exemptions will mean that the CVC cannot be used to distinguish between those who are vaccinated and those who have an exemption

21. **Agree** that CVCs will be the only way of demonstrating ability to enter where vaccination is a requirement — **YES / NO**

22. **Note** if you agree to recommendation 21 primary legislation will be needed to reflect this

Vaccination requirements for workers and legal framework for CVCs

23. **Agree** in principle, subject to work in recommendation 24, that workers in very large high-risk settings, and high-risk indoor settings should also be vaccinated while there is a vaccine requirement on patrons — **YES / NO**

24. **Note** further work on vaccination requirements for workers at very large high-risk settings and high-risk indoor settings will be progressed through work led by MBIE on a public health risk-based framework to set vaccination and/or testing requirements for all work

25. Section 9(2)(g)(i) [redacted] — **YES / NO**

26. **Note** that vaccination status requirements, i.e. mandating the use of CVCs in certain settings, are within the scope of powers provided to the Minister for COVID-19 Response under the

COVID-19 Public Health Response Act 2020, so long as the measures are consistent with the New Zealand Bill of Rights Act

27. **Note** primary legislation is required to prohibit the use of CVCs in certain settings domestically, and to enable CVCs to be used in settings with vaccine requirements

28. **Forward** this briefing to the Minister for Workplace Relations and Safety and the Attorney-General **YES / NO**

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

Ruth Fairhall
Head of Strategy and Policy
COVID-19 Policy, Department of the Prime Minister and Cabinet

Hon Chris Hipkins
Minister for COVID-19 Response

Dr Ashley Bloomfield
Te Tumu Whakarae mō te Hauora
Director-General of Health

15/10/2021

Contact for telephone discussion if required:

Name	Position	Telephone		1st contact
Dr Ashley Bloomfield	Te Tumu Whakarae mō te Hauora Director-General of Health	s9(2)(a)		
Ruth Fairhall	Head of Strategy & Policy, COVID-19 Response	s9(2)(a)	s9(2)(a)	✓

Minister's office comments:

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

COVID-19 VACCINE CERTIFICATES – SETTINGS FOR DOMESTIC USE

Executive Summary

1. COVID-19 Vaccine Certificates (CVCs) have been identified as a tool to help support the broader public health response to COVID-19 while vaccination rates are lower than optimal. CVCs are likely to be most effective in settings where there is greater risk of community transmission, such as large and high-risk settings.

2. Public health advice is that mandating CVCs at very large, high-risk events would reduce the risk of super-spreader events and protect vulnerable persons present. There would also be a public health benefit in extending the use of CVCs to a wider range of venues in the event of a community outbreak. Public health advice is that there is a benefit in people being vaccinated at all high-risk settings, especially when other public health measures may be impractical, such as settings where face covering cannot always be worn (i.e. when eating and drinking, singing or exercising). We have indicated how these wider mandates might sit within Alert Levels at **Attachment A.**

3. Officials have undertaken consultation with sector representatives, business and community groups during the week of 4 October. A stakeholder engagement summary, including the list of stakeholders consulted with, is at **Attachment B.** Key messages from this engagement include:
   a) Operators are wanting a clear framework with easy to understand rules and guidance as to which events and venues should or shouldn't use CVCs.
   b) There is broad support across sectors for the use of CVCs if it is accompanied by clear directives on where CVCs will be mandated to make it easier for operators
   c) The majority supported the exemption framework for individuals who could not be vaccinated because of health reasons and for children ineligible for vaccination.

4. Having considered the public health advice and input from stakeholder consultation, officials consider there are several options for mandating the use of CVCs, which can be closely correlated to the risks of COVID-19 in the community. These options are outlined in the recommendations above.

5. Vaccine requirements cannot be imposed on those who are ineligible to be vaccinated due to medical reasons or age (i.e. under 12). Officials propose that exemptions from vaccine requirements in these settings be applied rather narrowly and recommend limiting exemptions to those on medical grounds and under 12 years and 3 months (to allow suitable time for 12 year olds to be vaccinated).

6. s9(2)(h) [redacted]

7. To preserve the privacy of those with exemptions, the CVC will be constructed so that those who are fully vaccinated and those with legitimate medical exemptions will appear equally authorised to the verifier/venue staff. The CVC itself therefore will not be digital proof of vaccination, as there will be no distinction between those vaccinated and those with an

exemption.

8. In future, should a wider range of settings wish to use the CVC to prove vaccination, they would be required to accept the same exemption categories as accepted for use of the CVC. This would mean that in some higher-risk settings a CVC may not be suitable as proof of vaccination (i.e. border work), however it may be suitable in other lower-risk settings.

9. At present, vaccine requirements in certain settings may be mandated through secondary legislation, however primary legislation would need to be updated to add an avoidance of doubt clause in the COVID-19 Public Health Response Act 2020. Primary legislation is also required to prohibit the use of CVCs in certain settings, and to enable the use of CVCs themselves as a mandatory form of evidence. Further detail on the legislative requirements and processes will be provided next week.

Background

10. You previously received advice on the use of CVCs as public health measure to reduce the risk of spread of COVID-19 [DPMC-2021/22-324 refers]. Following this advice, you directed officials to develop further advice on using CVCs at high-risk events and venues, and a wider set of lower-risk settings.

11. DPMC and Ministry of Health previously advised on the use of CVCs in high-risk settings [DPMC-2021/22-412]. You agreed to a series of parameters around the use of CVCs for the purposes of consultation. Officials have now concluded this consultation and have revised the proposed framework for categories in which CVCs should be used domestically. There are also proposed changes to the exemption categories and requirements for CVCs.

12. Previous advice indicated the public health benefits of CVCs, depend on the level of vaccination coverage, whether an outbreak is occurring, and the number of COVID-19 cases. CVCs could mitigate the risk of COVID-19 outbreaks in some settings and protect vulnerable populations by reducing the risk of COVID-19 spread.

Consultation and stakeholder engagement

13. You directed officials to consult on a draft framework of where CVCs would be required, optional and prohibited and an exemption framework. DPMC and government departments engaged with a range of representatives and received a substantial level of feedback. We have summarised the key messages below and greater detail is provided in **Attachment B.**

Engagement with Māori as the Treaty Partner

14. Through targeted engagement at the National Iwi Chairs Forum, DPMC Community Panel and Māori-event organisers such as Te Matatini and Waka Ama NZ, the main feedback received was that communication on the use of CVCs should be provided by Māori, and marae leaders should have the authority to make their own decisions on using CVCs. Clear communication is needed to continue to support vaccine rollout. The CVC itself should also be accessible, considering digital equity concerns and Māori health providers. Engagement has not included marae leaders and regional Māori representatives at this stage.

Community representatives

15. Through engagement with several different communities, including people with disabilities, LGBTQI+, seniors, youth, and ethnic minorities, there was a general acceptance of the use of a CVC as a measure to protect communities against the impact of COVID-19. The key

feedback was ensuring a CVC does not differentiate between those who are vaccinated and those who are exempt for privacy reasons, and ensuring communication is clear and accessible for a range of needs.

16. We received mixed feedback from religious organisations. Some strongly opposed any mandatory use of CVCs or negative COVID-19 test to enter their premises as this would impact the freedom of religious expression. Others were interested in having an option to introduce vaccine requirements, should they wish to. We do not propose mandating CVC use in regular religious services or other social gatherings but instead providing the use of CVCs as an option instead of the present number cap on such gatherings.

Business representatives

17. By engaging with tourism, hospitality, events and a range of sector representatives, it was clear that there was overall support for the use of CVCs in particular settings:

    a) Operators want a clear framework with easy to understand rules and guidance as to which events and venues should or should not use CVCs.
    b) There is broad support across sectors for the use of CVCs if it is accompanied by clear directives on where CVCs will be mandated to make it easier for operators
    c) The majority supported the exemption framework for individuals who could not be vaccinated because of health reasons and for children.
    d) There was support for preventing the use of CVCs in key human-need settings and broad agreement that this category should be quite tight to protect workers in those settings (e.g. supermarkets)
    e) Clarity is needed on how CVCs link with employment matters, including expectations for employees working at high-risk events and links to workplace vaccination requirements.

18. Officials also consulted with the COVID-19 Continuous Improvement Advisory Group, led by Sir Brian Roche. They recommended a two-phase approach, starting with a broad application of the vaccination requirement to incentivise vaccination, followed by a period where the requirement could be scaled back to a smaller group of higher risk settings, once high vaccination rates have been achieved.

Data and digital elements of CVCs

19. There was also feedback on the data and digital features of the CVC. This included seeking clarity on what data would be collected and how it would be used, protection against fraud, and the continuity of the process in the event of a CVC system failure. Stakeholders would also like clarity on how international vaccinations will be incorporated into a CVC system.

Domestic settings for use of CVC requirements

Public Health advice on domestic settings for use of CVCs

20. Public health advice is there is a public health benefit to mandating a CVC at very large high-risk events. These events and settings have the greatest likelihood of becoming a super-spreader event during a community outbreak. Public health considers that the riskiest events and venues are those where there are large numbers of people, which continue for a long period of time, where there is close interaction between attendees, and where ventilation is poor.

21. Vaccinated close contacts are much less likely to become a positive COVID-19 case than an unvaccinated close contact. This has flow-on benefits, in that it likely reduces

transmission of the virus and also reduces the number of people who may eventually enter the contact tracing system as contacts.

22. There is a public health benefit in people being vaccinated at all high-risk settings, especially when other public health measures may be impractical, such as settings where face covering cannot always be worn (i.e. when eating and drinking, singing or exercising). When this benefit is considered, there would also be a public health benefit in extending the use of CVCs to a wider range of venues in the event of a community outbreak. Public heath advice notes that depending on the incidence of COVID-19 in the community, a CVC would need to be considered alongside other public health measures.

23. Public health advice also notes that while CVCs will reduce risk of transmission in a particular setting, they will not eliminate this risk entirely, and in the event of a community outbreak, further measures may need to be implemented to address this risk.

24. Additionally, as the use of CVCs cannot fully eliminate transmission within a setting, CVCs also will not prevent a vaccinated person who is infected with COVID-19 at an event, transmitting to non-vaccinated community members outside of the event, potentially leading to a community outbreak.

Domestic settings for mandated CVCs

25. Officials note it will be important to balance the public health rationale of CVCs with operational concerns and interest in introducing them more widely, while maintaining social licence and ensuring human rights are appropriately considered.

26. To account for the alternate measures when there is lower risk of transmission of COVID-19 in the community, officials recommend mandated wider use of vaccine requirements be tied directly to Alert Level settings, and by proxy, risk of transmission of COVID-19 in the community. CVC settings can be incorporated and aligned to any future decisions on new frameworks, such as the proposed 'traffic light' framework.

27. Officials have identified potential settings where CVCs could be mandated, as illustrated in **Table 1**. Officials have considered public health advice on CVCs, incorporated feedback from stakeholders, and identified discretionary, non-essential settings where a CVC could be introduced in the event of a community outbreak.

28. It is likely that as vaccination rates increase and the chances of moving to or remaining at escalated Alert Levels decreases, the public health rationale and social licence for vaccine mandates in a wider range of settings diminishes. Public health advice is that vaccine mandates should be considered as a temporary measure. Any introduction of CVCs will need a review point, with officials identifying early 2022 as an appropriate point.

29. **Table 1**

Potential settings for mandate	Health risk factors of settings	Public health advice	Other considerations
Targeted to High Risk Events and Venues • 500+ attendees	• Large crowds/number of people and density • Range of areas within settings	• Recommended to reduce risk of event being super-spreader event	• Supports 'future proofing' of events going ahead to provide certainty for businesses and customers

• Non-seated • Range of settings where people may move through • Longer than two hours (and in particular over a number of days) e.g. festivals, music concerts, large conferences, conventions, large spectator sports events.	making harder to contact trace • The proportion of people that attend from outside the region • Dispersal of attendees • Ventilation systems at indoor venues • Time spent at event • Higher risk of transmission behaviour – including singing, dancing and mingling	• Vaccinated close contacts are much less likely to become a case than unvaccinated close contacts. - can help reduce pressure on contact tracing system if there is a case • The risk factors justify a vaccine mandate as it can help provide assurance that super-spread can be prevented if a case attends the event	• May generate public concern but limited to particular high-risk events • Events sectors support mandate if it provides them with certainty to operate
High-risk indoor settings • Generally with 100+ people • Indoors • Face coverings not practicably worn e.g. hospitality, bars, cafes, nightclubs, smaller events	• Poor/hard to monitor ventilation • Other public health measures may be challenging to enforce and impractical for duration of time at setting – face coverings, movement of people • Higher risk of transmission behaviour – including singing, dancing and mingling • The proportion of people that attend from outside the region (in the case of events) • Dispersal of attendees (in the case of events)	• Vaccinated close contacts are much less likely to become a case than unvaccinated close contacts. There is public health benefit in people being vaccinated at all high-risk settings, especially when other public health measures such as masks cannot be worn (ie when eating and drinking, singing or exercising). • Could be mandatory at escalated alert level settings or to manage an existing outbreak	• In escalated Alert Levels CVCs could allow businesses to remain open • Extending the use of CVCs during higher Alert Levels would mean that those who are at lower risk of being infected or infecting others are given more freedom. • Hospitality representatives have strongly supported vaccine mandates to provide certainty to staff and patrons • More likely to maintain social licence in an outbreak • Compliance and policing of CVCs in smaller settings may be difficult.
• *Legislation would enable other settings to choose a vaccine requirement – but no government mandate is proposed in lower risk settings at this stage*			

Very large high-risk events

30. In deciding how CVCs could be mandated at very large high-risk events, officials have identified two options:

- Mandating at Alert Level 1 only – this would minimise the likelihood that an event could become a super-spreader event, however would not allow events to operate at escalated Alert Levels as they would likely still be subject to other public health measures
- Mandating at Alert Levels 1 and 2 – this would reduce risk of event being super-spreader event, while providing certainty to event organisers and patrons than an event has could operate. In some settings, additional public health measures may also be suitable.

31. Public health advice is that very large high-risk events should not be permitted to operate at Alert Levels higher than 1 or 2 even with a CVC due to the associated health risks.

High-risk indoor settings

32. In mandating CVCs in high-risk indoor settings, this could be approached in several ways. It is not recommended that CVCs be mandated at Alert Level 1, as there is insufficient public health rationale to justify the measure outside when community transmission is not occurring.

33. CVCs could be mandated in high-risk indoor settings as specified above during Alert Level 2. In Alert Level 2, CVCs could be considered in lieu of additional public health measures such as social distancing and face coverings. While risk of community transmission is present, but lower than at Alert Level 3, CVCs can serve to add protection, particularly in settings where face coverings and distancing are not always practicable.

34. Alternatively, they could be introduced alongside existing public health measures, and act as an additional public health measure to prevent transmission. This approach may result in fewer businesses adopting CVCs at Alert Level 2, as they may consider them an additional compliance cost without creating certainty for them and staff.

35. You may also wish to consider mandating CVCs at high-risk indoor settings during Alert Level 3. At Alert Level 3, CVCs should only be considered alongside additional public health measures, such as capacity limits and social distancing. There is additional public health risk in this option, as it would enable a greater range of businesses to operate at escalated Alert Levels. For instance, hospitality venues may be able to open with a vaccine mandate and additional public health measures in place.

CVCs should be prohibited for patrons in specific venues and settings

36. Given that businesses are legally able to implement a vaccination entry requirement for customers, and that this could apply quite broadly, officials propose that the use of CVCs is prohibited in certain settings, to ensure that unvaccinated people are not prevented from accessing basic life-preserving services.

37. We consider that the Alert Level 4 services set out in Schedule 2 of the COVID-19 Public Health Response (Alert Level Requirements) Order (No 11) 2021 are too broad to serve as a proxy for settings where CVCs should be prohibited for patrons. This is because certain services in Schedule 2, such as courts and judicial settings, may seek to use CVCs alongside other public health measures to continue operating. Also, prohibiting the use of CVCs in a broad range of settings could outweigh the public health benefit of introducing CVCs to reduce the impacts of COVID-19 transmission.

38. The primary legislation will need to be centred around an enabling provision, with further details on specific venues to be addressed in either secondary legislation or amendments.

We have suggested an initial list drawing from the Alert Level 4 businesses and services, as a list of settings where there is not a viable alternative option available, where patrons cannot be required to present a CVC to enter. This includes:

a) supermarkets
b) pharmacies
c) health services (other than pharmacies)
d) food banks
e) petrol stations
f) entities required to provide learning for primary and secondary education - in teaching settings and for students only except as part of the management of a case or outbreak connected with or in the facility

39. There will need to be further work on the extent to which CVCs are prohibited in classroom and teaching settings, as there may be a range of education settings captured in the higher Alert Level categories unintentionally. Additionally, there may be some school based settings, such as concerts and graduations, where a CVC may wish to be considered. We will continue to engage with the Ministry of Education on these matters and how best to differentiate education settings.

40. CVCs will not be prohibited in other government services at this time, as there are a range of settings where it may be suitable to introduce a CVC. For example, the Ministry of Justice advises that will be important to provide an assurance of safety for those people who are compelled to attend court, and we do not intend to impose a CVC requirement on people who are compelled to attend court. However, the Ministry of Justice would like some flexibility to require a CVC from others, if that was considered necessary to ensure public safety – for example, it may be appropriate to require a CVC from members of the public who want to attend court.

41. In creating a more enabling provision in the primary legislation, there is the option to expand the prohibited category to include government services as appropriate. We will continue to engage with the Public Service Commission on CVCs in government services.

42. Prohibiting the use of CVC in specific venues and settings would apply to customers and attendees only. Workers would be subject to any applicable vaccine requirements to undertake work in certain settings, including those where CVCs are not permitted for patrons. Mandating vaccines for types of work will progress through a risk-based framework to determine vaccination and testing requirements for all work, which MBIE is developing in parallel.

Other settings can choose to implement a CVC

43. Officials had previously indicated that there was a broader 'optional' category, where guidance would be provided for any operator to, at their discretion, implement a vaccine requirement through CVCs.

44. There is still optionality for businesses and operators not specified in the settings framework, however this is not explored in depth in this briefing. Feedback from stakeholders was that there was more need for a clear line as to where government saw CVCs being required. Our approach in seeking agreement on settings for mandating and prohibiting CVCs is intended to clearly signal the settings where there will be legal requirements around the use of CVCs.

45. We propose government develop guidelines to support uptake of vaccine requirements in other settings. Some businesses and operators have already signalled their plans to

introduce their own vaccine mandates; and further advice will explore how they can be appropriately empowered and protected to do so.

46. Guidance will need to make the legal position clear: that private bodies can limit the general public from accessing their premises, as long as this does not amount to unlawful discrimination. This guidance will also need to include examples of what lawful/unlawful discrimination might be. A clear statement of the legal position and how this translates to reality will ensure any guidance is of practical use to businesses, and reduce the need for them to seek their own advice (which could be onerous for smaller businesses).

47. There has been mixed interest from operators in lower risk settings (e.g. retail). Mandating the use of CVCs in these settings does not have a significantly strong enough public health rationale at this time, as alternate public health measures and social distancing are easier to implement and enforce. In these contexts, government would provide the tools for businesses and other parties to enable, appropriately limit and implement a vaccination requirement if they choose to put one in place – for example, providing documentation of exemptions, and guidance – and monitoring the effectiveness and equity of the use of CVCs. There would also need to be an avoidance of doubt provision legislated to protect those who may wish to implement CVCs.

Patron exemptions from vaccine requirements in CVC settings

Exemptions from vaccination entry requirements would be limited to those with medical/health reasons and children under 12 years and 3 months

48. New Zealand's COVID-19 vaccines have been demonstrated to be sufficiently safe and effective to be recommended for all from 12 years of age. There are very few situations where a vaccine is contraindicated and as such, medical exemption is expected to be rarely required.

49. The Ministry of Health recommends permanently exempting a small number of individuals with clear contraindication to the Pfizer vaccine, according to the Medsafe datasheet and known precautions. The size of this group should decrease if a second vaccine becomes available to offer the public. The size of this group is likely to be between 100-200 individuals and will rely on a robust process for providing medical exemptions for genuine medical reasons.

50. A small number of other people could be temporarily exempted for other reasons including the following:
    - A severe reaction to dose 1
    - A severe reaction with no identifiable cause
    - Post infection
    - Undergoing acute major surgery
    - A severely autistic person who injured themselves during prior administration of the Pfizer vaccine and needing delay for additional resources to facilitate a safe administration of a second dose

51. The Ministry of Health does not recommend exempting people outside of the group above, even if they have had negative reactions or experiences with other vaccines in the past. It is likely that these people can be safely vaccinated with extra precautions and care for their wellbeing.

52. People with disabilities will not be exempt unless they have a clear contraindication to having the Pfizer vaccine. As is the case generally, the benefits of receiving the vaccine outweigh any risks.

53. Officials are considering the process through which a person could apply for an exemption. One possible process would be for a person to request their general practitioner to write to the Ministry of Health. The request would then be processed by an exemptions team and, if successful, the exemption status would be registered in the COVID Immunisation Register and a CVC issued. Provided the total number of exempted persons in the country remains in the low hundreds, the processing of the exemptions would not be overly administratively burdensome.

54. By exempting those under 12 years and 3 months, we are assuming a high-trust model. As there may be operational challenges with requesting identification from adolescents, venues will need to use their discretion when requesting supplementary identification from those under 18.

Alternate measures for those exempted from CVC requirements, such as a negative COVID-19 test, are no longer recommended

55. We propose that due to the very small number of people expected to be legitimately exempt, that an alternative measure, such as a negative PCR test, is not recommended. There are feasibility issues with enforcing a testing measure on children, and the projected number of those with legitimate health exemptions is relatively small, and therefore reasonably low risk. At this stage, we do not recommend using proof of recovery from COVID-19 as an alternative measure, as at present, there has not been widespread COVID-19 infection in New Zealand, meaning this would not be available for most people. This may need to be revisited in future.

s9(2)(h)

56. s9(2)(h)

57. s9(2)(h)

58. s9(2)(h)

59. s9(2)(h)

s9(2)(h) [redacted]

60. s9(2)(h) [redacted]

Exemptions framework

61. On the basis of the above approach, officials have developed the following exemptions framework:

Exemption from using CVCs	Evidence to present for entry	Rationale
Children under the age of 12 years and 3 months	Not required	Children under the age of 12 are not eligible for vaccination in New Zealand. We have proposed an exemption for those aged under 12 years and 3 months that does not require the use of a COVID-19 negative test. No evidence would be required from children under 12 years and 3 months, as they largely do not have identification documents aside from passports. Passports are inconsistently available, so this would operate on a high-trust based model.
Those who are not able to be vaccinated for a specific set of medical reasons	CVC	By requiring those exempt on medical grounds to produce a CVC, the privacy of these people is preserved

Operational considerations

Operational considerations on exemptions

62. The CVC will be constructed so that those who are fully vaccinated and those with legitimate medical exemptions will appear equally authorised to the verifier/venue staff. The Ministry of Health is developing a verifier app that will allow event organisers and venue security to scan the QR code on the vaccine certificate to confirm its validity, with either a mobile phone or a scanning device. Confirmation would be displayed as a green tick or a red cross. The green tick would either mean that the person was vaccinated or exempt. The QR code will be available digitally, with a paper option to ensure accessibility. Data from the QR code will not be stored by the verifier, to ensure privacy is preserved.

63. The Ministry of Health has consulted with the Office of the Privacy Commissioner who recommended that the app should be designed to be as privacy-preserving as possible. As the scanning of apps is likely to be undertaken by event and venue security guards, restaurant and café staff, and others, there is a strong case for the confirmation green tick being identical for both vaccinated and exempt people. This would:
    - avoid scanning staff seeing attendees' private medical information,
    - eliminate the possibility of scanning staff asking for further information about attendees' exemptions, and
    - prevent businesses from discriminating against exempted persons.

64. Should this approach be adopted, CVCs could not by proxy prove if an individual has been fully vaccinated. Rather, they would demonstrate that an individual is authorised to enter a setting by either being fully vaccinated or legitimately exempt from vaccination based on health or medical grounds. In settings where there is a vaccine mandate with no exemptions, a CVC would not be a useful tool to determine vaccination status should this approach be adopted. In settings where there may be a vaccine mandate, such as to undertake certain types of work, it is anticipated that alternative proof of vaccination could be presented.

65. Vaccination information should not be collected, held or used by venues. The Ministry of Health will provide further advice on how this will be accounted for in the CVC and verifier ecosystem.

Overseas vaccinations

66. Work is underway to establish policy and pathways for people who have been vaccinated overseas to obtain a domestic CVC. This relates to which overseas administered COVID-19 vaccinations can be recorded against an individual's health record for people now living in New Zealand, and how domestic vaccination certificates can be issued to people who are visiting New Zealand for a short period.

67. For domestic CVCs, key policy considerations include:
    a) *Whether CVCs would be issued to anyone who has been fully vaccinated against COVID-19 overseas, with any vaccine.* Under the new 1 November 2021 pre-entry requirement for non-New Zealand citizens to be vaccinated against COVID-19 prior to arrival to New Zealand by air - any vaccine that has been approved a government or an authority (or an approved combination of those vaccines in their origin country) would be accepted at the border. This list was intentionally broad given the issues of vaccine equity and that all arrivals will undergo testing and 14 days MIQ. Currently there are 22 such vaccines on this list. Officials are seeking public health advice on whether all of these, or only a subset, would be acceptable for a domestic certificate, where the aim is

to reduce the risk of transmission in high risk settings.

b) *What form of proof of vaccination would need to be shown, and to whom in order to obtain a domestic CVC.* Currently, there is considerable variation in vaccination certificates being issued internationally. Most of which are paper based, may or may not be in English, and have no security features, which make them prone to fraud and falsification. A small but increasing number of countries are now issuing verifiable digital certificates (with a scannable QR code) to prove a COVID-19 vaccination or test result. Further work is required to determine if other forms of proof, including letters or cards, will be accepted so as to be issued with a domestic CVC. Proof that can be electronically verified is considerably more scalable, but will need to be supported with accessible non-digital options. Key considerations are the trade-offs of a high trust and high inclusion approach versus a low trust and high exclusion approach.

68. There are several options for how people who have received their COVID-19 vaccination overseas might be able to request a domestic CVC.
    a) For people already in New Zealand, officials are investigating several methods for converting an international record of vaccination into a CVC, and/or adding that record to a person's health records (in the COVID Immunity Record). This includes leveraging digital self-service channels like My Covid Record, supported by assisted service channels like call centres and GPs.

    b) In future, for people entering New Zealand there is a possible integration with the Travel Health Declaration System being developed by Customs NZ. This would allow a person entering New Zealand with proof of vaccination to be automatically issued with a domestic CVC. The Travel Health Declaration System is expected to be in place at the end of the first quarter 2022.

Timeframes

69. The Ministry of Health is working to the following timeframes for implementing the CVC:

Phase 1 **My COVID Record & interim period (12 Oct – early November)**	• Online portal to view COVID-19 vaccination records • Targeted invitations to domestic individuals with first or second vaccination • Manual support channels available
Phase 2 **Piloted non-mandated use (early November)**	• Vaccine certificate via email in PDF form • Verifier app that can read certificates and communicate authorisation to enter venue • Operational framework for Verifier app usage • Pilot ticketed events
Phase 3 **General non-mandated use (late November)**	• Events and/or environments that meet defined Verifier requirements *may* participate
Phase 4 **General mandated use following product testing**	• Events and/or environments that meet defined Verifier requirements *must* participate - *assumption*

70. The Ministry of Health advises that consideration should be given to building in a short gap between the launch of the technical solution and mandating use. A short gap would allow any issues with public and business understanding of how to use the CVC product to be resolved and certificate requests where human intervention is needed to be processed (there will likely be a subset of NHI's where matching and data quality issues may require human intervention). This gap would also give time for exemptions to be processed by GPs and health professionals, and the Ministry of Health exemption team; and for businesses to be operationally ready to use the product.

Worker vaccination requirements across domestic settings

71. Public health advice remains that workers in settings where a CVC is required for the general public/customers should also be vaccinated, to maintain the intention of the measure.

There should be a duty on both workers and their employers/Person Conducting a Business or Undertaking (PCBUs)

72. We recommend a double-barrelled duty, similar to the approach taken for border and MIQ workers. In other words, there would be a duty on workers not to work at high-risk events and settings without being vaccinated, and also a duty on PCBUs/employers not to allow workers to work at high-risk events and settings without being vaccinated. PCBUs/employers could also be required to cooperate with PCBUs who are running the event/venue to ensure workers do not undertake specified work without being vaccinated.

73. Similar to the requirements for attendees, workers who have a medical reason for not being vaccinated would be exempt from the vaccination requirement. We consider it also desirable to allow one-off exceptions in certain circumstances. The threshold for this should be the same as in the Vaccinations Order for border and MIQ workers: that work is unanticipated, necessary and time-critical and cannot be carried out by a person who is unvaccinated, and must be carried out to prevent the ceasing of operations. Further work is needed on who could approve these exceptions, and appropriate checks on approvals.

Workers will not need CVCs to prove they are vaccinated

74. While members of the public will need to use a CVC to enter high-risk events and venues, workers will not necessarily need to do the same. Instead, they may need to prove that they are vaccinated (or medically exempt) to their PCBU/employer. A CVC, which will not distinguish between vaccination and medical exemptions, may not be sufficient in some circumstances.

75. Employers/PCBUs will likely need to retain their own records about workers' vaccination status. A centralised register (as with border and MIQ workers) is neither needed nor feasible given the likely scale of high-risk events.

Employment law will determine the outcome for unvaccinated employees

76. Based on information available, we have not been able to assess the potential size of the workforce covered by this proposal.

77. Unvaccinated employees may face changes to their work duties/arrangements (eg redeployment to non-high-risk work) or need to take leave. Employers and employees can agree any option among themselves that is lawful. However, stakeholders have said

redeployment options are limited within the workplaces covered. This could mean that redundancy or termination of employment are likely when the requirement comes into force.

78. For some workplaces where CVCs are mandatory for customers and workers, it is likely that COVID-19 vaccination will become a condition of new employment, and that employment will not be offered without proof of vaccination. Discrimination on an individual basis can still be challenged if unlawful.

A framework for vaccination and testing requirements for all work

79. More broadly, MBIE is leading work on a single public health risk-based framework to determine vaccination and testing requirements for all work. Further work on vaccination requirements for workers at very large high-risk settings and high-risk indoor settings will be progressed through that work, in alignment with the specific definitions of high-risk events for CVCs.

Legal mechanisms and enforcement [legally privileged]

80. s9(2)(h)

81. s9(2)(h)

82. s9(2)(h)

83. s9(2)(h)

Te Tiriti o Waitangi considerations

84. In developing approaches to CVCs, we have considered the distinct rights and interests of Māori to understand Te Tiriti o Waitangi considerations. We have informed where distinct Māori interests arise from through feedback from Te Arawhiti, Te Puni Kōkiri, DPMC's Community Panel and at a ministerial level, the National Iwi Chairs Forum (NICF). These interests include the Crown's duty to protect Māori health equitably and actively, protect Māori cultural activities and the Crown's responsibility to address the disproportionately low vaccine uptake by Māori. Engagement with Māori as the Treaty Partner has occurred on a

targeted limited basis as summarised in **Attachment B.**

85. The use of CVCs would positively impact the Crown's duty to support equitable health outcomes for Māori by providing another tool to support the public health response to COVID-19. The development of where CVCs should be applied considers the heightened risk of negative health impacts of COVID-19 transmission disproportionately affecting Māori to reduce the impact of COVID-19 transmission with the use of CVCs and other public health measures. This could provide opportunities for Māori organisations and businesses interested in opportunities provided by CVCs to operate and to support safety of attendees.

86. Currently, the disproportionately lower vaccination levels for Māori means that distinguishing access to domestic settings based on vaccination status would have greater restrictions on personal freedom for Māori on an individual and collective basis. The option to introduce requirements for very large high-risk events (e.g., music festivals) would minimise the level of restriction due to being for a focused list of events. It would have an impact on large, Māori-organised events (e.g., Te Matatini, Waka Ama Sprint Nationals). The NICF and DPMC Community Panel recommended that Marae, Māori businesses and event organisers should decide how to operate with CVCs, for example through developing guidance, and how to communicate the use of CVCs. Te Matatini organisers have already been proactive by introducing vaccination requirements for attendees.

87. A use of CVC requirements in a broader set of high-risk indoor settings (e.g., hospitality) would support reducing the risk of COVID-19 transmission alongside other public health measures but has even greater restrictions on Māori in their ability to access venues and events. This could negatively impact the trust that has been built for the COVID-19 vaccination rollout and could enhance vaccine hesitancy. To reduce the impact of this, a communication strategy could be developed to work with Māori to support the use of CVCs. It was also raised through the DPMC Community Panel that Māori-led communications could better support trust and ability to build understanding about using CVC as a public health tool against COVID-19.

88. For the operationalisation of CVCs, the Crown should ensure that there are minimal barriers for people to have a CVC, addressing digital equity concerns and proactively addressing privacy and data sovereignty issues should they arise. This would also address privacy concerns on the use of data, although note that the proposed use of CVCs will not store data.

Financial Implications

89. There are no financial implications with the proposals in this paper.

Next Steps

90. Following your decisions, officials will develop a paper for Cabinet decision on 26 October. We anticipate high-level decisions on the use of CVCs will be included in the next traffic light framework paper for Cabinet decision.

91. Officials will undertake further work on developing the guidance for businesses who may wish to implement CVCs.

92. Officials across the DPMC, the Ministry of Health, MBIE and Crown Law will work together on the legislation required for the use of CVCs.

ATTACHMENT A I

ALERT LEVEL 2 SETTINGS WITH CVC REQUIREMENTS/OPTIONS

Activities	Retail	'Controlled access' businesses and services	Gyms, public facilities, social service offices	Event facilities	Hospitality venues	Public transport	Social gatherings OPTIONS	
Examples	Supermarkets, retail stores, shopping malls, takeaway food outlets	Non-public-facing office workplaces and factory floors	Gym classes, libraries, museums, recreation centres, swimming pools, MSD offices	Cinemas, stadiums, theatres, casinos, conference venues	Restaurants, cafes, bars	Busses, trains, planes	Weddings, funerals, religious services, parties, informal get-togethers	
Physical distancing	2m for customers (except from friends/family)	1 metre for everyone (except from friends/family)	Could be replaced by CVC	Could be replaced by CVC	Could be replaced by CVC	No legal requirement but encouraged where practicable.	No legal requirement but encouraged.	Could be replaced by CVC.
Number limit	No cap on total numbers; limits achieved through physical distancing	No cap on total numbers; limits achieved through physical distancing	Could be replaced by CVC	Could be replaced by CVC	Could be replaced by CVC	No specific cap, but no standing permitted during journey	100 in a defined space.	Could be replaced by CVC
Face coverings	Yes	No	Yes indoors (not for gyms or swimming pools)	No	Yes for staff	Yes	No	
Record keeping (business or organiser obligation)	No	No	Yes for visitors	Yes for visitors	Yes for customers	No	Yes (Obligation on the people responsible for the gathering)	
CVC	No	No	Yes (not social service offices)	Yes	Yes	No	No	Yes
Other					Seating requirement			

NEW POTENTIAL ALERT LEVEL 3 SETTINGS WITH CVC REQUIREMENTS

Activities	Retail	'Controlled access' businesses and services	Gyms, public facilities, social service offices	Event facilities	Hospitality venues	Public transport	Social gatherings	Controlled gatherings
Examples	Supermarkets, retail stores, shopping malls, takeaway food outlets	Non-public-facing office workplaces and factory floors	Gym classes, libraries, museums, recreation centres, swimming pools, MSD offices	Cinemas, stadiums, theatres, casinos, conference venues	Restaurants, cafes, bars	Busses, trains, planes	Weddings, funerals, religious services, parties, informal get-togethers	Weddings, civil unions, funerals, tangihanga
Physical distancing	2m for customers (except from friends/family)	1 metre for everyone (except from friends/family)	2m for customers (except from friends/family)	1 metre for everyone (except from friends/family)	1 metre between tables adjacent tables	No legal requirement but encouraged where practicable.	No legal requirement but encouraged through guidance.	No legal requirement except between workers and guests (2m)
Number limit	No cap on total numbers; limits achieved through physical distancing	No cap on total numbers; limits achieved through physical distancing	No cap on total numbers; limits achieved through physical distancing	No cap on total numbers; limits achieved through physical distancing	No cap on total numbers; limits achieved through physical distancing	No specific cap, but no standing permitted during journey	100 per defined space	10 plus 5 workers
Face coverings	Yes	No	Yes indoors (not for gyms or swimming pools)	No	Yes for staff	Yes	No	Yes for workers
Record keeping (business or organiser obligation)	No	No	Yes for visitors	Yes for visitors	Yes for customers	No	Yes (Obligation on the people responsible for the gathering)	Yes (Obligation on the people responsible for the gathering)
CVC	No	No	Yes (not social service offices)	Yes	Yes	No	Yes	No – (optional)

Attachment B: Summary of Agency Engagement with Stakeholders

s9(2)(g)(i)		

s9(2)(g)(i)		

	s9(2)(g)(i)	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]

s9(2)(g)(i)		

s9(2)(g)(i)		