

Office of the Minister for COVID-19 Response

Cabinet

COVID-19 Protection Framework: Updates to Red settings

Proposal

- 1 This paper seeks agreement to update the Red level settings of the COVID-19 Protection Framework, particularly face covering requirements, in response to the more transmissible Omicron variant.

Relation to government priorities

- 2 This paper supports the Government's ongoing response to COVID-19.

Executive Summary

- 3 Current evidence suggests Omicron has higher transmissibility, and vaccines show reduced effectiveness against the Omicron variant compared to Delta. This means that more vaccinated people are likely to become infected and that the number of COVID-19 cases occurring each day will be far greater than at any other time during the pandemic. At the initial stages of this outbreak, the overall response to Omicron will focus on 'stamping it out'. Once community case numbers increase, our focus will shift to 'managing the virus' to slow the spread, mitigate impacts on the most vulnerable and maintain essential activities and supply chains.
- 4 In light of Omicron, Ministers with the Power to Act invited me to bring proposals to Cabinet for tightening Red level settings of the COVID-19 Protection Framework (the Framework). This paper discusses changes to masking and capacity limits as two high impact population-based measures that can reduce transmission.
- 5 There is strong evidence that the correct use of masks decreases the risk of Omicron transmission, and that some types of masks are more effective than others in decreasing this risk. I therefore propose changes to tighten requirements for mask use.
- 6 The paper also discusses options for changes to capacity limits under the Red setting of the Framework for higher risk settings – that is gatherings, events, hospitality, and gyms. When operating with My Vaccine Pass, these locations are currently limited to up to 100 people at Red, based on one metre distancing. These capacity limits are regularly reviewed by Ministry of Health officials. A public health risk assessment is scheduled for Wednesday 2 February and advice will be provided to Ministers following this assessment, should changes to settings be recommended, for example reducing the limits or having different limits for indoor and outdoor settings. No changes to capacity limits are proposed at this stage.

- 7 In addition, public messaging will place increased emphasis on ventilation, including encouraging having gatherings outdoors, as well as staying home if sick and the importance of wearing face coverings. All these measures will help to slow the spread of the virus.

Background

- 8 On Sunday 23 January, Ministers with the Power to Act agreed that all New Zealand would move to the Red level of the COVID-19 Protection Framework (the Framework) at 11.59pm Sunday 23 January, following confirmation of cases of the Omicron variant in Auckland and the Nelson Tasman area and that these cases were present at a high-risk event in Auckland. They also invited the Minister for COVID-19 Response to bring a proposal for tightening Red level settings to Cabinet on Tuesday 25 January.

Our approach to managing COVID-19 through the Framework needs to account for the differences between Omicron and Delta

- 9 The Ministry of Health (MoH) advises that current evidence suggests Omicron has higher transmissibility, and vaccines show reduced effectiveness against the Omicron variant compared to Delta. This means that more vaccinated people are likely to become infected and that the number of COVID-19 cases occurring will be far greater than at any other time during the pandemic.
- 10 Our approach to Omicron will need to be responsive to the number of community cases and the rapidly evolving impacts of Omicron. In the initial stages of this outbreak the overall response to Omicron will focus on 'stamping it out'. Once community case numbers increase, containing the virus will not be feasible, and our focus will shift to 'managing the virus' to slow the spread, mitigate impacts on the most vulnerable and maintain essential activities and supply chains.
- 11 We will implement this approach through the Red setting of the Framework rather than through extensive use of localised lockdowns. However, given the evidence we have on Omicron, it is timely to ensure that the Red settings are fit-for-purpose and are adjusted to take into account the differences between Omicron and Delta.
- 12 Observations from like jurisdictions, such as Australia, show that critical infrastructure settings and services can rapidly become overwhelmed by a high number of Omicron cases and close contacts. Most countries that have been affected by Omicron outbreaks have shown very similar patterns of very high growth in case numbers, reaching peaks and then plateauing with case levels around 2,000 to 4,000 cases per million per day. In many countries, this trajectory is still very recent, and what happens next remains uncertain.
- 13 While New Zealand's peak may follow this example, it does not have to. High caseloads tend to be found in jurisdictions with lower public health interventions, as well as in large metropolitan areas. For example, most Australian states are seeing rapid case growth, with peak cases, per capita, broadly similar to outcomes seen in Europe and the United States of America.

However, there are early indications that case rates peaked at lower levels in some states (e.g. South Australia) than others (e.g. New South Wales and Victoria). This is likely to be due to a combination of factors, such as demographics and population structures, and relative stringency of public health and social measures. New South Wales (NSW) and Victoria have also had to manage concurrent Delta infections, as they were also still experiencing moderately severe Delta outbreaks in early December while other states had virtually eliminated Delta.

- 14 Singapore and South Korea appear to be achieving much greater control of Omicron case growth than most other jurisdictions. So far in January, Singapore has only experienced moderate case growth in the community, despite a high number of infectious arrivals at the border and regular community transmission. South Korea has experienced stable case numbers, but at a relatively high absolute number (in the thousands per day, within their about 50 million population). To achieve these results, Singapore and South Korea have deployed a range of public health measures including, effective tracing/surveillance and isolation systems, widespread testing, very strict masking policies, and strict gathering limits.
- 15 These international examples highlight the benefits of maintaining a strong public health approach in limiting the spread of Omicron.
- 16 International evidence on the effectiveness of 'boosters' for protecting against infection, symptomatic disease, and severe illness/hospitalisation indicates increased protection against Omicron. In this way, people getting fully vaccinated remains critical in helping to mitigate impacts of infection both at an individual and population-wide level. Additionally, we are continuing to see a small number of new cases of the Delta variant in the community (for which vaccination has a material impact on transmissibility) and so at this stage, the response must account for the characteristics of both variants.

Proposed changes to settings in Red

- 17 Due to increased transmissibility of Omicron and lower rates of vaccine effectiveness compared with Delta, I propose that we consider changes to the high-impact population-based settings at Red, including:
 - 17.1 strengthening face covering requirements, and
 - 17.2 adjusting capacity limits in certain high-risk settings, to reduce the number and risk of exposure events.

Updates to face covering requirements

- 18 Under the current Red settings, face coverings are required (subject to exceptions) when:
 - 18.1 on public transport services (including domestic air travel), at arrival and departure points for public transport services, or on school transport (all people);

- 18.2 at retail businesses and services, public facilities (not swimming pools), pharmacies, vets, courts and tribunals, specified social services, and premises operated by NZ Post or Government (central and local agencies) (all people);
- 18.3 at food and drink businesses (including at events), close-proximity businesses or gatherings (workers only);
- 18.4 on the premises of health services (visitors only, not patients or workers);
- 18.5 indoors at schools for years 4 – 13 (including students and staff);
- 18.6 indoors in public spaces and during formal teaching and learning activities at tertiary education premises (all people); and
- 18.7 indoors at a licensed early childhood service (visitors only).

Public health advice on the settings related to face coverings and mask use

- 19 Evidence shows that some types of masks are more effective than others, with the correct use of masks decreasing the risk. From a public health perspective, a tight and well fitted mask provides the best protection against COVID-19 infection and transmission. International experts have agreed that highly transmissible COVID-19 variants of concern are transmitted by the airborne route.¹ Use of a well-fitting certified medical mask can therefore offer good levels of protection.²
- 20 The MoH's Infection Prevention and Control (IPC) sub-Technical Advisory Group have considered mask use in the context of Omicron. They have recommended that:
 - 20.1 The guidance on the MoH's website is updated relating to types of masks and face coverings to:
 - 20.1.1 Remove non-medical masks and recommend a reusable well-fitting mask with multiple layers (three layer minimum), or a disposable medical mask that meets a standard recognised in New Zealand; and
 - 20.1.2 If there is widespread community transmission, recommending the general public use a certified well-fitting medical mask with the option of layering with a reusable face mask to create an improved fit;

¹ COVID-19 Science Updates 14 May 2021, https://www.health.govt.nz/system/files/documents/pages/csu_14_may_2021_aerosol_transmission.pdf

² Wang, Y., Deng, Z., & Shi, D. (2021). How effective is a mask in preventing COVID-19 infection?. Medical devices & sensors, e10163. Advance online publication. <https://doi.org/10.1002/mds3.10163>

- 20.2 Essential workers should wear a medical mask that meets a standard, including when there is widespread community transmission;
- 20.3 The current mask guidance should apply to health workers until the point of widespread community transmission of COVID-19, then these workers should continue to use a well-fitting certified medical mask Type IIR/Level 2 – 3 or in specific circumstances a fit tested P2 or N95 particulate respirator may be appropriate based on an IPC risk assessment; and
- 20.4 Higher risk health workers or border staff should continue wearing fit tested P2 /N95 particulate respirators throughout.

I propose strengthening face covering requirements

- 21 Given the advice of the IPC Technical Advisory Group, and in order to reduce the risk of Omicron transmission, I propose the following changes to strengthen face covering requirements at Red:
 - 21.1 that to comply with face covering requirements, at a minimum all face coverings must attach to the head either via an ear loop or head loop as a well fitted mask provides the best protection;
 - 21.2 all people be required to wear a face covering at food and drink businesses (except for when eating and drinking), close-proximity businesses, events and gatherings (previously only workers had this requirement);
 - 21.3 all primary and secondary school students Year 4 and up be required to wear a face covering on public transport and Ministry of Education funded school transport services (to align with face covering requirements in education settings);
 - 21.4 people in workplaces captured by the legal vaccine mandate in the COVID-19 Public Health Response (Vaccinations) Order 2021 be required to wear a medical grade mask (Type IIR/Level2)³ or above at all times in public facing roles, except for tertiary education sector for which guidance will be updated to complement the updated settings:
- 22 Extending face covering requirements on public transport and Ministry of Education funded school transport services, to include all students Year 4 and up, will align these requirements with current face covering requirements in primary and secondary education settings. Alignment of these settings is supported by the Ministry of Education, Waka Kotahi, Auckland Transport, and the Ministry of Transport.

³ The commonly available “blue” medical grade masks.

- 23 Vaccination mandates capture about 40 percent of the New Zealand work force⁴, though not all of these are public facing roles. These changes will not affect controlled-access workplaces (e.g. non-public facing offices), the current requirements for registered schools Years 1- 3, licensed early childhood education, swimming pools, Department of Conservation huts, and gatherings which have exclusive use of a premises. These locations have various exemptions to mask wearing requirements due to monitoring and compliance, proportionality, and practicality factors.
- 24 In addition, no legislative change is proposed for the tertiary education sector, as the current settings for this sector broadly align with the proposed extended scope of face covering requirements. Instead, the Ministry of Education will update its guidance to the sector to strengthen the encouragement of mask-use across tertiary sites, and on the types of masks that should be used in relevant environments.
- 25 The existing face covering exemptions, including but not limited to when eating and drinking, during exercise, at swimming pools, and at gatherings which have exclusive use of a premises would remain in place. However, it will need to be clarified that the new requirements would mean that people in restaurants, for example, would wear a mask to enter the premises, when moving around, and when paying and leaving, but not when seated at their table.
- 26 In addition, public messaging will be updated to recommend and encourage the use of Type IIR or ASTM Level 2 medical grade masks for all other settings, where face coverings are mandated.
- 27 The changes to face covering requirements will require a transition period before legal requirements take effect. Officials recommend a minimum period of seven days from announcement. This would provide time for New Zealanders and businesses to source the appropriate (although widely available) masks. Legal and drafting requirements discussed in the Legal Implications section below require a minimum of nine days from decisions.

Consideration has been given to equity and access issues

- 28 Consideration of potential issues related to access and equity have been considered within this proposal, alongside ensuring adequate IPC guidance. There is a risk that the new face covering requirements (particularly the requirement to have a face covering that attaches to the head either via an ear loop or head loop) may be difficult for some people to comply with, such as those on low-incomes or who live in remote areas. Therefore, the public health benefits of strengthened face covering requirements need to be weighed against the equity and accessibility challenges that this could create.

⁴ Certain roles in health and disability, education, corrections, Fire and Emergency New Zealand and Police must be fully vaccinated against COVID-19 under a vaccine mandate legislation. Workers in all close proximity businesses – including restaurants, cafes, gyms – are also required to be vaccinated.

s9(2)(f)(iv) [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Penalties, compliance and enforcement of new requirements

36 Pending your agreement to the face covering proposals in this paper, the COVID-19 Public Health Response (Protection Framework) Order will be amended to apply the face covering more widely at the Red level. Non-compliance with the face covering rule is currently, and will continue to be, a medium-risk infringement offence under the Order (to which an infringement fee of \$1000 or a maximum court-imposed fine of \$4000 applies for individuals). No changes are proposed to the categorisation or specification of this offence.

37 s9(2)(f)(iv) [Redacted]
[Redacted]
[Redacted]
[Redacted]

38 These monitoring issues will be exacerbated by any expansion of the rules' application. If Ministers require greater assurance of compliance as a result of these proposed measures, agencies would need to redeploy significant resources to accommodate an active monitoring and enforcement approach. Striking the right balance between enforcement and encouraging compliance will be important to continuing the Government's social license. Due to this, officials propose a continuation of a high-trust enforcement approach which has characterised the broader COVID-19 government response to date.

Capacity limits for gatherings, events, hospitality and gyms

39 Under the current Red level settings, the capacity limit for all gatherings, events and higher-risk settings (that are operating a My Vaccine Pass (MVP)⁵) is 100 people for both indoor and outdoor settings.

40 Decreasing the number and risk of exposure events is a core public health measure to manage transmission. Public health evidence highlights a clear difference of transmission risk between indoor and outdoor settings. Outdoor settings are lower risk than indoor settings and therefore incentivising outdoor gatherings may help to reduce the number of higher-risk of exposure events.

41 Lower capacity limits in high-risk settings will help to reduce the transmission of the virus. However, there is no precise level of capacity limits for particular kinds of venues that is optimal. Rather, reducing capacity limits is a tool which may be used alongside other public health measures, and specific limits

⁵ High risk settings and services which either must use MVP or either operate with restrictions or cannot operate are: food and drink businesses (hospitality), all gatherings, close-proximity businesses, events, and gyms.

should be set by reference to both those other measures and the practical implications for businesses, whanau and others who will be affected.

42 Evidence from Australia suggests that people’s behaviour is likely to be impacted by surging Omicron cases numbers even without further changes to gathering limits and other restrictions. National spending on dining and shopping in Australia dropped 39 percent in the first week of 2022, compared to the week ended December 24, while spending on dining is down 24 percent with spending on dining in Queensland and Western Australia resembling lockdown conditions. Overall spending in Sydney is at its weakest since COVID-19 began.⁶

43 Some businesses will not be viable at reduced capacity limits and will have to close, including hospitality and the events sector. Businesses in Auckland will be particularly impacted as many are still recovering from the significant lockdown period. It is therefore essential that any changes to capacity limits are weighed by considering both the public health risk and the significant economic impacts on businesses. If there were reduced gathering limits consideration may also need to be given to financial support for businesses in the hospitality and related sectors.

44 To retain social license, a key consideration must also be likely compliance and enforceability coupled with clear communications about what people need to do and the rationale.

45 s9(2)(c) [Redacted]

46 The MoH routinely assesses the suitability of a range of different public health measures, as part of regular public health risk assessments. The next regular public health risk assessment is scheduled for Wednesday 2 February. Should the MoH conclude that there is a need to adjust capacity limits (or other controls) on public health grounds, advice will be provided to Ministers following this assessment. No changes are proposed at this time.

47 Communications will be provided to encourage outdoor gatherings (where possible), given the lower exposure risk at these gatherings. Officials will also provide further guidance on defining ‘outdoors’, and to clarify how businesses and other settings can appropriately manage indoor and outdoor spaces at the same premises when bathroom and payment facilities may be shared and located indoors. Guidance will be provided on this via existing Unite Against COVID-19 (UAC) channels.

⁶ ANZ Research

48 s9(2)(c) [Redacted]

Next Steps

49 A further paper on the broader Omicron Strategy, including testing, tracing, isolation and quarantine settings, will be considered at Cabinet on 1 February.

Financial Implications

50 There are no direct financial implications with the proposals in this paper. Government funding assistance to businesses are not affected by these proposals. There will be some cost associated with supplying public sector employees with Type IIR or ASTM Level 2, or above masks. However, as noted above, these masks are readily available, cheap and likely the type being supplied already.

Legislative Implications

51 Following Cabinet decisions, changes to the Red settings in the Public Health Response (Protection Framework) Order (Framework Order) could be drafted within seven days. It is likely that these changes will need to be incorporated into the Framework Order 48 hours before they can take effect, unless they are determined to be urgently required. Timing of the Order coming into force would be adjusted to provide a suitable notice period – e.g. seven days from announcement of the new requirements. The earliest the order could come into force is nine days from decisions.

52 s9(2)(f)(iv) [Redacted]

Impact Analysis

Regulatory Impact Statement

53 Treasury's Regulatory Impact Analysis team has determined that the proposal to amend the Framework is exempt from the requirement to provide a Regulatory Impact Statement. The exemption is on the grounds that the proposal is intended to mitigate the short-term impacts of the COVID-19 pandemic and it is required urgently to be effective (making a complete, robust and timely Regulatory Impact Statement unfeasible). DPMC will be conducting a review of the overall Framework in early 2022.

Population Implications

- 54 The attempt to stamp out this outbreak is designed to mitigate the impacts on populations who are at greatest risk of severe illness if they contract COVID-19, including seniors, those with a disability, immunocompromised, and Māori and Pacific communities. Lower vaccination rates in particularly vulnerable communities, including Māori, increase the risks associated with outbreak of Omicron. Continuing to tailor COVID-19 communication strategies, particularly for Māori and Pacific peoples, will assist in addressing vaccine hesitancy and increasing vaccine uptake further. The attempt to stamp out this outbreak is designed to mitigate the impacts on the most vulnerable populations.
- 55 The proposals to strengthen mask use will help to reduce the spread of Omicron, which will help to reduce transmission to higher-risk population groups. However, requiring that at a minimum, all face coverings must attach to the head either via an ear loop or head loop would mean that some types of home-made coverings, such as bandanas, would no longer be acceptable to enter premises with face covering requirements. Clear communication of any strengthened requirement, and what is and is not acceptable to meet it, will reduce the risk of confusion and unintentional non-compliance.
- 56 There are some equity and accessibility risks associated with these proposals as it may be difficult for more vulnerable groups to comply with requirements. In particular, those on lower incomes and those who live remotely may find it more difficult to access appropriate masks. Stricter masking requirements would also increase costs of compliance for affected businesses.
- 57 To increase people's ability to comply, requests for government provision of face masks to vulnerable communities will likely increase. Consideration could be given to supporting such requests via the MoH's centralised supply of Personal Protective Equipment.
- 58 Reduced indoor capacity limits might result in some firms choosing to close or explore alternative business models, as their normal business models may cease to be viable when limited to lower numbers of people. This would have a significant impact on businesses in sectors such as hospitality and events and could have more significant implications for businesses located in Auckland (which may still be recovering from the impact of prior lockdowns).

Treaty Analysis

- 59 When considering changes to the Framework settings, the Crown must consider the impact of any shift on Māori health and wellbeing and take into account the views of Māori communities.
- 60 The Waitangi Tribunal's December 2021 'Haumarū' report into the government's COVID-19 response reaffirmed the Treaty principles from its 'Hauora' stage one health inquiry report – partnership, active protection, equity, and the principle of options – and found that the Crown's Treaty obligations are heightened due to the threat posed by the virus to the welfare and safety of Māori.

s9(2)(h) [Redacted]

[Redacted]

[Redacted]

Consultation

70 The Ministry of Health has provided the public health advice outlined in this paper. The Crown Law Office provided advice regarding the Bill of Rights Act implications. The Ministries of Social Development, Pacific Peoples, Transport, Foreign Affairs and Trade, Business Innovation and Employment, Te Puni Kōkiri, Te Arawhiti, Customs, Police, NEMA, Public Services Commission, and the Treasury were consulted on the proposals.

Communications

71 Public messaging can be targeted to encourage key behaviours to help the community know what they should do to keep themselves and their families safe. This includes increased emphasis on:

- 71.1 people should stay home if feeling unwell;
- 71.2 getting boosters and paediatric vaccinations;
- 71.3 the importance of wearing a face covering and the benefits of some masks over others;
- 71.4 ensuring indoor spaces are well ventilated and encouraging people gathering outdoors where possible and appropriate.

72 Guidance regarding working from home will also be updated as the Omicron situation evolves. At present, the current guidance for Red settings suggests that for some people “working from home may be appropriate”. Once we enter the flatten the curve phase of this outbreak, public messaging and guidance will be strengthened to “encourage people to work from home if practicable”.

73 Decisions on updated Red settings will need to be supported by clear public messaging on the new requirements, including what is expected of those responsible for the affected spaces (gatherings, events, hospitality, gyms) and by when. Public communications will need to be tailored to specific audiences

(translation of materials into 27 languages) and guidance will be provided where appropriate.

Recommendations

The Minister for COVID-19 Response recommends that Cabinet:

- 1 Note that on Sunday 23 January 2022, Ministers with the Power to Act agreed that all New Zealand would move to the Red level of the COVID-19 Protection Framework at 11.59pm Sunday 23 January;
- 2 Note that Ministers with the Power to Act also agreed that the Minister for COVID-19 Response would bring a proposal for tightening Red level settings to Cabinet on Tuesday 25 January 2022, in light of the increased transmissibility of Omicron and lower rates of vaccine effectiveness (when compared to Delta);
- 3 Note that in the initial stages of this outbreak the overall response to Omicron will focus on 'stamping it out' then once community case numbers increase, our focus will shift to 'managing the virus' to slow the spread and mitigate impacts on the most vulnerable and maintaining essential activities and supply chains;

Strengthening face covering requirements

- 4 Note that there is strong evidence that the correct use of masks decreases the risk of Omicron transmission, and that some types of masks are more effective than others in decreasing this risk;
- 5 Agree to make the following changes to face covering requirements under the Red setting of the COVID-19 Protection Framework:
 - 5.1 Require that to comply with face covering requirements, at a minimum all face coverings must attach to the head either via an ear loop or head loop; and
 - 5.2 Require all people to wear a face covering at food and drink businesses, close-proximity businesses, events and gatherings; and
 - 5.3 Require all primary and secondary school students Year 4 and up to wear a face covering on public transport and Ministry of Education funded school transport services; and
 - 5.4 Require employees in public facing roles in workplaces captured by the legal vaccine mandate to wear a medical grade mask (Type IIR/Level2) or above at all times based on the improved efficacy of these face coverings in mitigating transmission, except for tertiary education, for which guidance will be updated to complement updated settings;
- 6 Authorise Ministers with the Power to Act to make any changes to detailed face covering settings which arise through the legal drafting process;

- 7 Note that the changes to face covering requirements can take effect at least seven days after announcement to provide time for New Zealanders and businesses to source the appropriate (although widely available) masks, and that public messaging will strongly encourage adherence with the recommended face covering use until the legal requirement takes effect;
- 8 Note that changes to the Red settings in the Public Health Response (Protection Framework) Order could be drafted within seven days, and would take effect 48 hours after they are incorporated into the COVID-19 Protection Framework (nine days from the decision);
- 9 Note existing face covering exemptions, including when eating and drinking and during exercise, would remain in place, but that people in restaurants would be required to wear a mask when entering and moving around a restaurant, and only remove it when seated to eat or drink;
- 10 Note the proposed changes to face covering requirements will not affect controlled-access workplaces (e.g. non-public facing offices), registered school requirements for Years 1 to 3, licensed early childhood centres, swimming pools, Department of Conservation huts, and gatherings which have exclusive use of a premises, due to monitoring and compliance, proportionality, and practicality factors;

Revising capacity limits

- 11 Note officials have identified several likely options for capacity limits under the Red setting of the COVID-19 Protection Framework for gatherings, events, hospitality, gyms at Red (which are operating with MVP), based on one metre distancing;
- 12 Note that these settings are regularly reviewed by Ministry of Health officials, that there is a public health risk assessment scheduled for 2 February 2022 and that advice will be provided to Ministers following this assessment, should changes to settings be recommended;

Public messaging

- 13 Agree that once we enter the 'manage the virus' phase of this outbreak, public messaging and guidance be strengthened to encourage people to work from home if practicable, rather than suggesting that people 'work from home if appropriate', which is the current guidance for Red;
- 14 Note that in support of the strengthened Red settings, public messaging will place increased emphasis on ventilation, including encouraging having gatherings outdoors, as well as staying home if sick and the importance of wearing face coverings.

Authorised for lodgement

Hon Chris Hipkins
Minister for COVID-19 Response

Proactively Released



Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

COVID-19 Protection Framework: Updates to Red Settings

Portfolio **COVID-19 Response**

On 25 January 2022, Cabinet:

Background

- 1 **noted** that on Sunday, 23 January 2022, the COVID-19 Ministerial Group (Ministers with Power to Act, CAB-21-MIN-0353) agreed that all New Zealand would move to the Red level of the COVID-19 Protection Framework at 11.59 pm on Sunday, 23 January 2022;
- 2 **noted** that Ministers with Power to Act also agreed that the Minister for COVID-19 Response would bring a proposal for tightening Red level settings to Cabinet on Tuesday, 25 January 2022, in light of the increased transmissibility of Omicron and lower rates of vaccine effectiveness (when compared to Delta);
- 3 **noted** that:
 - 3.1 in the initial stages of this outbreak, the overall response to Omicron will focus on ‘stamping it out’;
 - 3.2 once community case numbers increase, the focus will shift to ‘managing the virus’ to slow the spread, mitigate impacts on the most vulnerable, and maintain essential activities and supply chains;

Strengthening face covering requirements

- 4 **noted** that there is strong evidence that the correct use of masks decreases the risk of Omicron transmission, and that some types of masks are more effective than others in decreasing this risk;
- 5 **agreed** to make the following changes to face covering requirements under the Red setting of the COVID-19 Protection Framework:
 - 5.1 require that to comply with face covering requirements, at a minimum all face coverings must attach to the head either via an ear loop or head loop;
 - 5.2 require all people to wear a face covering at food and drink businesses, close-proximity businesses, events and gatherings;

- 5.3 require all primary and secondary school students in Year 4 and up to wear a face covering on public transport and Ministry of Education funded school transport services;
- 5.4 require employees in public facing roles in workplaces captured by the legal vaccine mandate to wear a medical grade mask (Type IIR/Level 2) or above at all times based on the improved efficacy of these face coverings in mitigating transmission, except for tertiary education, for which guidance will be updated to complement updated settings;
- 6 **authorised** Ministers with Power to Act to make any changes to detailed face covering settings that arise through the legal drafting process;
- 7 **noted** that the changes to face covering requirements can take effect at least seven days after announcement to provide time for New Zealanders and businesses to source the appropriate (although widely available) masks, and that public messaging will strongly encourage adherence with the recommended face covering use until the legal requirement takes effect;
- 8 **noted** that changes to the Red settings in the Public Health Response (Protection Framework) Order could be drafted within seven days, with due consideration given to the supply and availability of relevant face coverings, and would take effect 48 hours after they are incorporated into the COVID-19 Protection Framework (nine days from the decision);
- 9 **noted** that existing face covering exemptions, including when eating and drinking and during exercise, would remain in place, but that people in restaurants would be required to wear a mask when entering and moving around a restaurant, and only remove it when seated to eat or drink;
- 10 **noted** that the changes to face covering requirements will not affect controlled access workplaces (e.g. non-public facing offices), registered school requirements for Years 1 to 3, licensed early childhood centres, swimming pools, Department of Conservation huts, and gatherings which have exclusive use of a premises, due to monitoring and compliance, proportionality, and practicality factors;

Revising capacity limits

- 11 **noted** that officials have identified several likely options for capacity limits under the Red setting of the COVID-19 Protection Framework for gatherings, events, hospitality, gyms at Red (which are operating with My Vaccine Pass), based on one metre distancing;
- 12 **noted** that these settings are regularly reviewed by Ministry of Health officials, that there is a public health risk assessment scheduled for 2 February 2022, and that advice will be provided to Ministers following this assessment, should changes to settings be recommended;

Public messaging

- 13 **agreed** that once the 'manage the virus' phase of this outbreak is entered into, public messaging and guidance be strengthened to encourage people to work from home if practicable, rather than suggesting that people 'work from home if appropriate', which is the current guidance for Red;

- 14 **noted** that in support of the strengthened Red settings, public messaging will place increased emphasis on ventilation, including encouraging having gatherings outdoors, as well as staying home if sick and the importance of wearing face coverings.

Michael Webster
Secretary of the Cabinet

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