



Briefing

ALERT LEVEL REQUIREMENTS: AMENDMENT ORDER FOR SIGNING

To: Hon Ayesha Verrall
Associate Minister of Health
CC: Hon Chris Hipkins
Minister for COVID-19 Response

Date	2/11/2021	Priority	High
Deadline	2/11/2021	Briefing Number	DPMC-2021/22-708

Purpose

Attached to this briefing is the proposed COVID-19 Public Health Response (Alert Level Requirements) Order (No 12) Amendment Order (No 12) 2021 (the Amendment Order), which we recommend that you sign. This Order moves the Waikato Alert Level 3 areas to Alert Level 3 stage two, and Upper Northland (the area north of Hokianga and Kaeo) to Alert Level 3. Auckland remains at Alert Level 3 stage one and the rest of New Zealand to remain at Alert Level 2.

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

Recommendations

- Note** that this brief provides a summary of the key provisions of the proposed order.
- Note** that the necessary procedural requirements for the making of the COVID-19 Orders have been complied with.
- Note** that on the basis of a public health risk assessment, Ministers agreed to move Upper Northland (the area north of Hokianga and Kaeo) to Alert Level 3 from 11.59pm Tuesday 2 November to be reviewed by Cabinet on Monday 8 November 2021.
- Note** in the attached Order travel between the Upper Northland Alert Level 3 area and Alert Level 2 areas will be restricted to the same permissions for movement as those that currently exist into and out of Auckland but without the testing requirements;

YES NO

5. **Agree** this briefing is proactively released, with any appropriate redaction where information would have been withheld under the Official Information Act 1982, in January 2022. **YES** / NO
6. **Sign** the COVID-19 Public Health Response (Alert Level Requirements) Order (No 12) Amendment Order (No 12) 2021 (**Attachment A**) **YES** / NO

Ben White

Ben White
**Manager, Strategy and Policy,
COVID-19 Group, DPMC**

2 / 11 / 2021

Ayesha Verrall

Hon Ayesha Verrall
Associate Minister of Health

2 / 11 / 2021

Contact for telephone discussion if required:

Name	Position	Telephone	1st contact
Ben White	Manager, Strategy and Policy, COVID-19 Group, DPMC	Section 9(2)(a)	
Jessica Gorman	Principal Solicitor, DPMC	Section 9(2)(a)	✓

Minister's office comments:

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ALERT LEVEL REQUIREMENTS AMENDMENT ORDER FOR SIGNING

Part 1: Summary of the Order in relation to Waikato

Parts of the Waikato area in Alert Level 3 stage one to move to Alert Level 3 stage two

1. This Order provides for parts of Waikato that are in Alert Level 3 stage one to be moved to Alert level 3 stage two [CAB-21-MIN-0407].
2. On 1 November 2021, Cabinet agreed to move the relevant parts of Waikato to stage two of the three stage Alert Level 3 reduction from 11.59pm on Tuesday, 2 November 2021 [CAB-21-MIN-0450].
3. The Order is based on the most recent Alert Level 3 settings, adjusted by Cabinet decision on 1 November 2021 [CAB-21-MIN-0450]. The Order includes changes to revised Alert Level 3 settings.
4. Stage two of the Waikato eased Alert Level 3 settings will permit:
 - a) retail businesses to operate with face coverings for staff and customers and 2 metre physical distancing requirements;
 - b) public facilities including zoos, museums and libraries can reopen, with face coverings for staff and customers and 2 metre physical distancing requirements;
 - c) increased controlled indoor gatherings (funerals, tangihanga and weddings) of up to 25 people, plus staff; and
 - d) increased outdoor gathering limits of up to 25 people for any purpose.

Retail businesses

5. While retail malls and shopping centres will be able to reopen at stage two, some businesses and services within these malls and shopping centres will not be permitted to resume operations. For example, event facilities (including cinemas and theatres) and gyms within malls and shopping centres must remain closed at stage two.
6. Hospitality venues in retail malls and shopping centres (e.g. McDonalds) will be permitted to reopen, but only for takeaways and these businesses must have systems and processes in place to prevent food and drink being served for consumption on the premises.

Indoor public facilities

7. Public facility is not defined in the Order. Instead, Schedule 6 provides examples of what constitutes an indoor public facility, including libraries, museums and zoos. Based on the risk profile of these settings and the practicality of wearing face coverings at them, at stage two:

- a) Libraries, museums and zoos should be permitted to reopen, with mandatory face coverings for all people, record keeping for all people other than workers, and physical distancing (1 metre between workers, 2 metres between all other people) required.
- b) Indoor swimming pools, sport, recreation and leisure centres and exercise facilities (for example, gyms or boxing clubs) should not reopen. This is because face coverings are impractical or less effective in most of these settings, making it harder to mitigate transmission risk at these venues.

Controlled indoor gatherings

8. Under Alert Level 3 stage one, controlled gatherings (funeral, tangihanga and weddings) are limited to a total of 10 people, excluding workers. It is proposed that these settings are amended to increase the gathering limit to 25 people, excluding workers. The new gathering limits will also apply to controlled gatherings for the purposes of viewing a tūpāpaku or deceased person.
9. This requirement was agreed to by Cabinet on 4 October 2021 as part of the initial proposal to introduce a three-stage process [CAB-21-MIN-0407]. Transmission risk will be mitigated by requiring attendees to remain physically distanced, with at least 2 meters between them.

Increased outdoor social gathering limits

10. At stage two, outdoor social gathering limits are increased from 10 to 25 people for any purpose. At stage one, we mitigated the risk of gatherings by capping the number of people to 10 people from up to two households. At stage two, there is no limitation on the number of households able to attend gatherings as long as it is limited to 25 people.
11. In practice, this will mean that at stage two 25 people will be permitted to gather outdoors, and these 25 people can come from up to 25 different households. Physical distancing will not be mandatory but will continue to be encouraged through the Unite Against COVID-19 website.

Part 2: Moving Upper Northland to Alert Level 3

12. Following two people in Kaitaia returning positive tests for COVID-19 on Monday 1 November, on 2 November Ministers decided to move “Upper Northland” to Alert Level 3 – essentially the area north of a line between Hokianga Harbour and Kaeo on the east coast to Alert Level 3 from 11.59pm tonight (Tuesday 2 November), with a review of the settings by Cabinet on 8 November 2021.

Public Health Risk Assessment and proposal regarding Alert Levels

13. A public health risk assessment (PHRA) was conducted on Tuesday 2 November, which concluded that while the risk of undetected community transmission in Northland continues to be low, the risk around Kaitaia is low-medium due to the two unlinked cases where the source of infection is unknown.
14. Based on this assessment, the PHRA recommended that the area around Upper Northland move to Alert Level 3 for a period of five days starting at 11:59pm tonight to incentivise testing (and enable further vaccinations to take place).

Permissions to cross the Alert Level boundary

15. Permitted travel between the Upper Northland Alert Level 3 area and Alert Level 2 area will be the same as what is permitted currently into and out of Auckland (but without the testing requirements).
16. However, an additional permission is included to allow people to travel from the Alert Level 2 area to the Upper Northland Alert Level 3 area and home again for any type of work. No testing requirement would apply to this permission but evidence of a person's permission to travel would be required. These settings are consistent with the Waikato Alert Level 3 settings made on 3 October 2021.
17. New Zealand Police advise there are a small number of staff (about five) in the Upper Northland area, with resources in the north focused on supporting the Northern Auckland Alert Level boundary. Therefore, enforcing compliance on any boundary in addition to Auckland would be very difficult. They will, however, endeavour to work with the community to encourage compliance where possible.

Procedural Requirements for a COVID-19 Act Order

18. This proposed Order amends a COVID-19 Order, which you can do pursuant to sections 11 and 15 of the COVID-19 Public Health Response Act 2020 (The Act). The Act imposes certain requirements for the form, publication and making of COVID-19 Orders. You must be sure that these requirements have been complied with before making a COVID-19 Order.

48 Hour Notification Period

19. The Act requires that a COVID-19 Order must be published and gazetted at least 48 hours before it comes into force. However, this notice period is not required to be observed where you are satisfied that the Order should come into force urgently to prevent or contain the outbreak or spread of COVID-19 or where the effect of the Order is only to remove or reduce requirements imposed by a COVID-19 Order.
20. The Amendment Order provides for more permissive settings within the Waikato region. The 48-hour notice period does not need to be observed with respect to these amendments.
21. In the instance of Upper Northland, all these proposed amendments create additional restrictions. We consider that in order for these amendments to be effective measures to limit the spread of COVID-19, they should be applied immediately.

Ministerial Consultation

22. The Act requires that before making a COVID-19 Order, you must consult with the Prime Minister, the Minister of Justice and the Minister of Health. You may also consult with any other Minister you think fit.
23. Ministerial consultation in relation to:
 - a) the step down to stage two of Alert Level 3 in Waikato was undertaken through the Cabinet decision making process on 1 November 2021 [CAB-21-MIN-0450]; and
 - b) moving Upper Northland to Alert Level 3 was undertaken through the Ministerial decision that included the relevant Ministers.

Public Health Advice

- 24. The Act requires that before making a COVID-19 Order, you must have had regard to advice from the Director-General of Health about the risks of the outbreak or spread of COVID-19 and the nature and extent of measures (whether voluntary or enforceable) that are appropriate to address those risks.
- 25. Public health advice was provided in relation to Waikato through the Cabinet decision making process on 1 November 2021 [CAB-21-MIN-0450]. The public health risk assessment concluded that given the nature of the outbreak in Waikato, it is considered proportionate to move to Alert Level 3 stage 2 with the above restrictions in place.
- 26. Public health advice in relation to the Upper Northland area was provided orally to Ministers and is summarised in paragraph 13.

New Zealand Bill of Rights Act 1990

27. Section 9(2)(h)

[Redacted]

28. Section 9(2)(h)

[Redacted]

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

**ATTACHMENT A: COVID-19 PUBLIC HEALTH
RESPONSE (ALERT LEVEL REQUIREMENTS)
ORDER (NO 12) AMENDMENT ORDER (NO 12)
2021**

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