



Briefing

ALERT LEVEL REQUIREMENTS: AMENDMENT ORDER FOR SIGNING

To: Hon Chris Hipkins
Minister for COVID-19 Response

Date	Hon Chris Hipkins	Priority	High
Deadline	3/10/2021	Briefing Number	DPMC-2021/22-480

Purpose

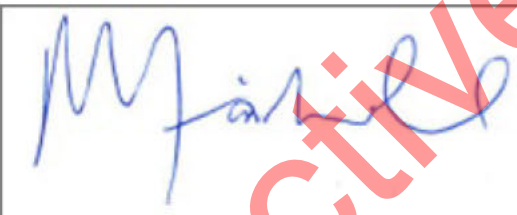
This briefing summarises advice considered by Ministers in response to emerging cases of COVID-19 outside Auckland and proposes amendments to the COVID-19 Response (Alert Level Requirements) Order (No 12) 2021, to establish an Alert Level 3 area in parts of the Waikato, including Hamilton city and Raglan.


This briefing summarises the effect of the amendments and confirms that the necessary procedural requirements for the making of COVID-19 Orders have been complied with. Attached to this briefing is the proposed COVID-19 Public Health Response (Alert Level Requirements) Order (No 12) Amendment Order (No 3) 2021 which we recommend that you sign.

Recommendations

1. **Note** that the Ministry of Health was advised of two new cases recorded overnight on 2 October 2021, and that there is a higher level of risk associated with these two cases;
2. **Note** in response to the reporting of these positive cases, and consistent with the Ministry of Health advice, Ministers with Power to Act met on Sunday 3 October and agreed that parts of the Waikato will go into Alert Level 3 for up to 5 days from 11.59pm Sunday 3 October;
3. **Note** this new Alert Level 3 area would be subject to existing Alert Level 3 settings (pre-stage 1), which are currently in place in the Auckland region;
4. **Note** that travel between the Auckland region and the new Waikato Alert Level 3 region would be restricted to the same permissions for movement as those that currently exist into and out of Auckland (and with the same testing requirements);

5. **Agree** that travel between the Waikato Alert Level 3 region and the Alert Level 2 areas would also be restricted to the same permissions for movement as those that currently exist into and out of Auckland (without the testing requirements); YES NO
6. **Agree** to add a permission allowing people to travel from the Alert Level 2 areas to the Waikato Alert Level 3 area (and home again) for any type of work; YES NO
7. **Note** Police advise due to operational constraints; they will not be able to enforce the boundaries for the new southern and eastern Alert Level 3 area with checkpoints in the same way that the current boundaries have been enforced;
8. **Note** that exemptions for movement over the new Waikato region Alert Level 3 boundary will operate in the same way as for the existing Auckland boundary;
9. **Note** that the necessary procedural requirements for the making of COVID-19 Orders have been complied with;
10. **Sign** the COVID-19 Public Health Response (Alert Level Requirements) Order (No 12) Amendment Order (No 3) 2021 (Signature Copy); YES NO
11. **Agree** that this briefing is proactively released, with any appropriate redaction where information would have been withheld under the Official Information Act 1982, following any announcements of a change in policy. YES NO


Ruth Fairhall
Head of Strategy & Policy, COVID-19 Group
...../...../2021


Hon Chris Hipkins
Minister for COVID-19 Response
..3../10../2021

Contact for telephone discussion if required:

Name	Position	Telephone		1st contact
Ruth Fairhall	Head of Strategy & Policy, COVID-19 Group	s9(2)(a)	s9(2)(a)	✓
Nita Sullivan	Senior Policy Advisor	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

Proactively Released

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Situation report

1. The Ministry of Health was advised of two new cases recorded overnight on 2 October 2021.
2. One of the cases is an unvaccinated male based in Raglan. He has been unwell since Tuesday 28 September and was working through 26-28 September. ^{s9(2)(a)}
[REDACTED]
3. The other case is based in Hamilton and has a known link to the Raglan case. The individual, who is unvaccinated, has been active in the community during his likely infectious period. ^{s9(2)(a)}
[REDACTED]
4. Ministry of Health officials understand that the Hamilton case infected the case in Raglan but are yet to determine a source of these infections (i.e. a clear link between these two cases and the Auckland outbreak).
5. In response to the reporting of these positive cases, Ministers with Power to Act met on Sunday 3 October to discuss the emerging situation and make decisions on appropriate actions to manage the presenting risk. At this meeting, Ministers agreed that:
 - a) parts of the Waikato will go into Alert Level 3 from 11.59pm Sunday 3 October, with a review in 5 days;
 - b) officials confirm a definition of the area affected by these amendments;
 - c) given the large number of entry and exit points for the new Alert Level 3 area, Police checkpoints are not practical and there will be limited enforcement of travel restrictions across the new boundary. Due to this, the Waikato boundary will not be able to be enforced to the level that is operating at the Auckland border during this time; and
 - d) this change will be made through amendments to the COVID-19 Public Health Response Order.

Moving Hamilton City and Raglan areas to Alert Level 3

6. The Ministry of Health advise that there is a higher level of risk associated with these two cases. This is due to the Hamilton case's high level of mobility and the length of time they were symptomatic in the community (note that the symptoms over this period may or may not be due to COVID-19).
7. The Ministry considers Alert Level 3 controls to be appropriate for the level of risk at this time, and therefore supports a move to Alert Level 3 for the specific geographic area. This will involve putting in place an eastern and southern boundary (in addition to the existing Auckland boundaries) which will include Hamilton city and Raglan and will be in place for up to 5 days.
8. Moving the Waikato area to Alert Level 3 for a period of up to 5 days will allow time for:

- a) The Ministry of Health officials to determine the source of these cases, and the extent of the spread of COVID-19 outside of Auckland; and
 - b) testing and targeted COVID-19 vaccination in this area.
9. This agreed timeframe will take these restrictions through to 11.59pm Friday 8 October. A public health risk assessment is already scheduled for Thursday 7 October and would be a useful point to assess whether the proposed measures need to be extended or not, and if so for how long. The Order itself does not expire and will continue unless it the provisions are revoked.

Permitted movement within an Alert Level 3 area

10. This new Alert Level 3 area would be subject to existing Alert Level 3 settings (pre-stage 1), which are currently in place in the Auckland region. These are further detailed in Attachment A, and include:
- a) people working from home if possible;
 - b) limiting travel to essential services such as supermarkets and some food retailers, banks, pharmacies, petrol stations and some other places;
 - c) other businesses may open if they can have contactless pick-up or delivery, including takeaways, but no in person/sit down hospitality; and
 - d) people can exercise outdoors but must stay close to home.
11. Consistent with the existing permitted movement requirements for Alert Level 3 areas, people would not be legally required to carry evidence of purpose of travel within the Waikato Alert Level 3 area, for example if someone is leaving the house to go to the supermarket.

Travel permissions between Alert Level areas

12. Ministers have agreed that travel between the Auckland region and the new Waikato Alert Level 3 region would be restricted to the same permissions for movement as those that currently exist into and out of Auckland (and with the same testing requirements).
13. Travel between the Waikato Alert Level 3 region and the Alert Level 2 areas would also be restricted to the same permissions for movement as those that currently exist into and out of Auckland (without the testing requirements). In addition, an additional permission is required for people to travel from the Alert Level 2 areas to the Waikato Alert Level 3 area (and home again) for any type of work. No testing requirement would apply to this new permission.
14. Police advise due to operational constraints; they will not be able to enforce the boundaries for the new southern and eastern Alert Level 3 area with checkpoints in the same way that the current boundaries have been enforced.
15. Given that the term 3 school holidays began on Saturday 2 October, officials assume a number of travellers will have entered and left the Hamilton city and Raglan area for recreational purposes. The current travel permissions to and from Alert Level 2 areas enable people to return home. Officials advise a continuation of this approach as it is important that people in these situations can return home.

Boundary definition

Definition of the area

16. A definition of the boundary and map of the specified area is included in Attachment B and will be included in the final order for signing.
17. The Auckland boundary remains in place and enforced. Officials do not recommend, and Ministers have not indicated a desire for, any changes to the Auckland boundary at this stage.

Exemptions

18. Exemptions for movement over the new Waikato region Alert Level 3 boundary will operate in the same way the existing Auckland boundary has been. The Ministry of Business, Innovation and Employment will manage applications for exemptions for business reasons. Given the short duration, there will not be a need to make an application via the Business Travel Document register – communications on this will be critical.
19. The Ministry of Health will manage applications for exemptions for personal travel. Based on the additional boundaries involved, and the system change needed to operationalise these changes, the Ministry of Health will commence receiving and processing exemptions from 7am on Tuesday 5 October. This will require pro-active communications to ensure the public is clear when they can apply for an exemption in order to avoid frustration.

Procedural Requirements for a COVID-19 Order

20. 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

21. 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.
22. This Amendment Order moves the Hamilton City and Raglan areas from Alert Level 2 to Alert Level 3, along with more stringent controls on permitted movement within the Level 3 area, and transit permissions in and out of the area.
23. In this instance, 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

24. 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.

25. A summary of the proposed amendments was sent to your office on the evening of 3 October. Your office undertook the required Ministerial consultation and we understand no feedback was received.

Public Health Advice

26. 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.
27. We have consulted with the Ministry of Health during the drafting of this briefing, which has confirmed that these amendments align with public health advice provided by the Director-General of Health about the appropriate settings for responding to these new cases. Accordingly, this requirement has been met.

Crown Law Advice

New Zealand Bill of Rights Act 1990

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

29. This briefing proposes an increase from Alert Level 2 to Alert Level 3 for Hamilton and Raglan.

s9(2)(h)

s9(2)(h)

Next Steps

Potential implications for tomorrow's decisions

31. If necessary, officials will ensure the Alert Level review Cabinet paper is updated and re-lodged before its consideration at Cabinet tomorrow to reflect decisions taken and amendments applied to the Waikato region.

32. Tomorrow's Alert Level Review Cabinet paper proposes moving to the first stage of relaxed Alert Level 3 settings for Auckland. Should Cabinet agree to these changes, Auckland will be operating under different permitted movement settings within the Auckland Alert Level 3 area to within the Hamilton and Raglan Alert Level 3 area. These settings reflect the different circumstances of the two areas and therefore the requirements at this time. The Ministry of Health has advised that further public health risk assessments are required before any further move to the further two stages of Alert Level 3.

33. Some issues may not have been identified or resolved in the time available to propose these policy changes and legal amendments. Officials will continue working to manage future issues and resolve them through existing decision making and implementation processes in the coming days.

Communications

34. These decisions were publicly signalled, at a high level, by the Prime Minister at the 1pm COVID-19 update on Sunday 3 October. Further details could be communicated at the post-Cabinet press conference scheduled for Monday 4 October, with supporting information shared on the Unite Against COVID website (and associated channels).

Attachments:	
Attachment A:	Attachment A: Alert Level 3 settings (before moving to Stage 1)
Attachment B:	Boundary Definition and Map

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Attachment A: Alert Level 3 settings (before moving to Stage 1)

The following controls form existing Alert Level 3 settings and do not reflect any change as a result of any move to Stage 1 of an Alert Level 3 step-down:

- **Stay home in your bubble**, other than for essential personal movement, including going to work or school if you have to, or for local recreation.
- **Keep two metres apart** from people you do not know outside your bubble (including at supermarkets, petrol station and pharmacies), or 1 metre in controlled environments such as schools and workplaces.
- Stay within your immediate household bubble, but you can **expand this to reconnect with close family/whānau**, enable caregiving, or support isolated people. This extended bubble legally must remain exclusive.
- **Schools (years 1 to 10) and Early Childhood Education centres can safely open**, but with limited capacity. Children should learn at home if possible.
- You should **work from home** unless it is not possible.
- **Businesses cannot have customers on site**, unless it is a supermarket, bank, primary produce retailer, pharmacy, petrol station or hardware store providing goods to trade customers, or it is an emergency or critical situation.
- Other businesses can open premises, but **customers cannot enter**.
- **Low-risk local recreation activities are allowed**.
- **Public facilities are closed** (for example, libraries, museums, cinemas, food courts, gyms, pools, markets).
- **Gatherings of up to 10 people are allowed but only for weddings, civil union ceremonies, funerals and tangihanga**. Physical distancing and record keeping legally must be maintained.
- Healthcare services should use virtual, non-contact consultations where possible.
- **Inter-regional travel is highly limited with limited permissions**.
- People at **high risk of severe illness**, such as older people and those with existing medical conditions, are **encouraged to stay at home** where possible, and take additional precautions when leaving home. You may choose to work.
- You are encouraged to wear a face covering when leaving your home. You legally **must wear a face covering**:
 - i. on **public transport** and at departure points, for example airports, train stations and bus stops
 - ii. if you are a **delivery driver** to residential addresses
 - iii. if you are a driver or passenger of a **taxi or ride-share** vehicle
 - iv. when you visit a **healthcare facility** (other than as a patient)
 - v. **inside businesses or services that are open**, such as **supermarkets, pharmacies, and petrol stations**.

Attachment B: Boundary Definition and Map

