



Proactive Release

The following Cabinet paper and related Cabinet minute has been proactively released by the Department of the Prime Minister and Cabinet, on behalf of Rt Hon Jacinda Ardern, Prime Minister:

Review of COVID-19 Alert Level 2 Controls

The following documents have been included in this release:

Paper: Review of COVID-19 Alert Level 2 Controls (CAB-20-SUB-0240)

Minute: Review of COVID-19 Alert Level 2 Controls (CAB-20-MIN-0240)

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant section of the Act that would apply has been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to redaction code:

- 9(2)(f)(iv), to maintain the confidentiality of advice tendered by or to Ministers and officials.

Cabinet

REVIEW OF COVID-19 ALERT LEVEL 2 CONTROLS**Proposal**

1. This paper reviews how we are going in countering the spread of COVID-19 and sets a path for the next period.

Summary

2. When we agreed to move to Level 2, we staggered the date of change for schools, bars and clubs, and agreed to phase in the restrictions on gathering numbers. Two weeks on, it is timely to relook at our approach, and also to review other aspects of the Level 2 definition based on our experiences with it so far and feedback from sector groups, businesses and individuals subject to the rules.

A path to Level 1

3. I have signalled publicly that today we will be considering our controls on gatherings. We can think about this choice in the context of a potential future move to Level 1. The Director-General's recommendation is that we spend at least 28 days, ie two transmission cycles for the virus, at the full version of Level 2 with a cap of 100 on gatherings before we consider a move to Level 1. In the interim we would need to continue to see low case numbers, and of course no re-emergence of community transmission.
4. With our usual two-weekly review, there are three broad paths, as set out in the following table. Only the first row is for decision today. Option A, which sets all gathering limits at 100 and retains other settings including the current hospitality rules (seated, single server, separated, 100 maximum), provides the fastest move to the complete Level 2 controls and consideration of a move to Level 1. This is the recommendation of the Director-General of Health. Options B and C are more cautious, reflecting a more gradual easing of restrictions.
5. There is more information on the Director-General's view in paragraphs 28 to 31. There is more detail on the definition and assessment of each option in paragraphs 37 to 48.

Table 1: Potential paths to Level 1

Date	Option A	Option B	Option C
May 25 (today)	Set all gathering limits at 100, and retain other settings, including in hospitality (seated, single server, separated, 100 maximum)	Set all gathering limits at 50 (including in the home, funerals and other private events), retain other settings	Stick with our existing gathering limits for now, ie, 10 in general and in the home, 50 for funerals by exception, and 100 in total for hospitality and event facilities
June 8	No change to Level 2 definition (unless	Set all gathering limits at 100	Set all gathering limits at 50

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	there is a change in case profile or numbers)		
June 22	Consider move to Level 1	No change to Level 2 definition	Set all gathering limits at 100
July 6		Consider move to Level 1	No change to Level 2 definition
July 20			Consider move to Level 1

6. Officials also propose some adjustments to make the set of controls clearer, following a review of the first section 11 Order under the COVID-19 Public Health Response Act.
7. I propose that any changes that we agree today be implemented from 11:59pm on Friday May 29. The new legislation that underlies our Alert Level framework requires 48 hours' notice before a section 11 Order that defines the restrictions can come into force. I also want to allow some time for considered drafting of the Order and development of communications after final policy decisions are made by the Minister of Health.

A note of caution

8. New case numbers remain very low. Active case numbers are low and falling. There continues to be no evidence of community transmission, with all of the more than 700 cases between April 3 and May 22 acquired overseas or connected to previous known cases. Testing volumes and rates remain high, including in under-served populations. Level 2 has brought a big increase in travel and in economic and social activity, and a decline in reports of breaches of the rules. The evidence is that our shared efforts against the virus continue to attract high levels of public support.
9. But COVID-19 remains a dangerous disease, and we must not let it make a comeback as we loosen our controls. As we have seen, given the opportunity, one case can quickly lead to many, and some countries that seemed to have it contained have suddenly discovered that they do not.
10. We must therefore continue the fundamentals of our defences. These are border controls, public health basics such as information provision, hand hygiene and physical distancing, wide availability of testing to identify cases, speedy tracing of cases, isolating those infected and their close contacts, and firm enforcement where necessary. We will continue to monitor our situation closely and make rapid adjustments if we see a change in circumstances.
11. As well, efforts continue to make contact tracing processes more effective and efficient. The new NZ COVID Tracer app will also contribute to improving contact tracing. Early registration numbers through the app are encouraging. 9(2)(f)(iv)

12. 9(2)(f)(iv)

Introduction

13. There are four main parts to this paper:
 - a. An update on where we stand on case numbers and what has changed since our decision to move to Level 2 two weeks ago.
 - b. A discussion of the three options.
 - c. An explanation of the threshold for moving to Level 1.
 - d. The details of a recent review of the section 11 Order.

Our situation now

14. For this intra-level decision, I think it is helpful to briefly update on what has changed since our last review on May 11. Not enough time has elapsed to warrant a full assessment against all eight factors agreed by Cabinet for Alert Level decisions [CAB-20-MIN-0161, CAB-20-MIN-0199]. The economic, fiscal, social and wider health system factors continue to favour the safe easing of controls, meaning easing in a way that does not lead to transmission of the virus re-emerging at any scale.

We are continuing to see positive results in case numbers

15. We continue to see very low daily counts of new cases. As at May 22 we have 28 active cases, down from the peak of 929 on April 6. We have had no confirmed cases of community transmission for seven weeks, since April 2, ie, no people who were infected in New Zealand and are not able to be linked to a known case. We have not seen any new clusters emerge.
16. These low case numbers are despite high volumes of testing. As well as testing anyone with respiratory symptoms, individual DHBs are now undertaking wider sentinel testing to ensure we are not missing cases, particularly of vulnerable groups, such as Māori and Pacific populations, who risk being disproportionately affected by a widespread outbreak. All DHBs have now undertaken a level of testing that compares favourably internationally. Testing rates for Māori exceed or are similar to non-Māori across DHBs, with a lower rate of positive tests.
17. We can be confident now that the effects of the move to Level 3 on April 28 are reflected in the numbers we are seeing. And more than three weeks after the shift to Alert Level 3, there are no cases attributable to relaxed restrictions or non-compliance with the Level 3 rules.
18. It takes about two weeks for changes in controls to start showing up in case numbers. This means that in the coming days, the impacts of our move to Level 2 on May 14 will begin to be seen, and in particular the marked increase in travel it enabled. It is too soon yet for the figures to be reflecting the impacts of the general reopening of schools (May 18) or of the reopening of bars and clubs (May 21).
19. As at May 22, we had reported a total of 21 deaths, all from the particularly vulnerable older population with underlying health conditions. We continue to have relatively few serious cases or admissions to hospital.
20. We have had 16 significant clusters, ie groups of more than 10 connected cases. As at May 21, 14 of these clusters were classified as active, ie, it has been less than 28 days since the last case completed their isolation period. Two reported a case in the last 7 days, one in the last 14 days, and the remaining 11 last reported a case more than 14 days ago. Two clusters are already closed.

21. Remaining cases are mostly in Auckland. As at May 20, there have been no cases for 28 days or longer in 55 of the 67 territorial authorities, and six more have never recorded a case.

Level 2 has meant some changes

22. The shift from Level 3 to Level 2 has seen the expected significant increase in vehicle and personal movement, including inter-regional travel. While light vehicle traffic volumes remain below pre-COVID levels, anonymous movement data from mobile phones suggests that movement patterns during the first few days of Alert Level 2 were close to typical pre-COVID levels.
23. Online public reports and Police-recorded breaches have continued to reduce at Level 2. Public complaints related to gatherings have significantly reduced even with the continued limits on gatherings. In contrast, complaints related to businesses have increased, which could be a result of the much larger number of businesses able to operate at Level 2. Clearer rules would also help. Many of the complaints about businesses have been about contact tracing records, and whether firms should or should not be collecting them.
24. As we saw in the latest weekly Monitoring Report, more information is now becoming available about workplace compliance. As of May 18, WorkSafe had only 11 COVID-19 related notifications of concern under Alert Level 2 (14-17 May), as compared to 75 non-COVID related notifications during the same period. This represents a significant decline from the rate of notifications under Alert Level 3. Worksafe has conducted 143 COVID-19 related assessments of workplaces under Level 2, and a total of 48 actions have been taken, comprising directions, improvement notices and compliance letters.

We are in a very different position from other countries

25. Here we have had a timely lockdown, high compliance, widespread testing, and, recently, a stream of very low case numbers. These factors give us a high degree of confidence about the very low likelihood of community transmission. And our position gives us more freedom to chart our own course.
26. Overseas, we see European countries and states in the US easing restrictions in the context of ongoing cases, deaths, and widespread community transmission. Compared with Australia, we have generally a more liberal set of controls at present and we are, so far, on a faster path of de-escalation. Again, this reflects our own unique context, including that COVID-19 arrived here later.
27. More specifically, the table on the following page summarises research from MFAT on how New Zealand's current gathering restrictions compare with those in Australian states and some European countries. A perfect analysis is difficult, because the rules in each place are so varied and intricate, and because they continue to change. For examples, in all Australian states, the gathering limit for indoor funerals is 10 fewer than outdoor funerals, in Austria the health regulations do not apply to private dwellings, and in Denmark there are no set limits for the numbers at funerals, but instead a group of requirements that must be met including for distancing, layout, hygiene and the availability of health information. As well, many of these countries are on a different path to us in terms of case numbers, and have very different response strategies.

View of the Director-General

28. The public health criteria for considering an increase to the limits on gatherings follow from the criteria that Cabinet agreed for considering moving Alert Levels:

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- a. Cases must remain low, and with the increased time since the move to Alert Level 3, the Director-General is confident that there is a very low risk of community transmission, and relaxing controls has not led to the identification of “hidden” pockets of COVID-19 despite ongoing wide testing;
 - b. Contact tracing capacity is good, and continues to increase; the release of the app is expected to further increase the speed of tracing; and
 - c. Public compliance remains high, with low numbers of complaints and high support for the Government’s measures, meaning we can be confident that people will continue to support the basic public health measures.
29. The Director-General’s advice on May 10 was that uncontrolled gatherings at Alert Level 2 should be limited to 10 people initially, and that, epidemiological data permitting, the limit on should be raised to 50 after two weeks, and 100 after another two weeks. This was based on the limited period spent at Level 3, meaning there had not been time to fully assess the impact of the relaxation of restrictions at that Level.
 30. Now, with more than three weeks of continuing low case numbers, with all new cases linked to an existing case or cluster, the Director-General has increased confidence that undetected community transmission is highly unlikely, and that the changes at Level 3 have not led to a spike in cases. This creates the opportunity to reconsider the earlier advice and move faster to fully implement Level 2.
 31. The Director-General’s advice today is that the limit on gatherings should be raised to 100, as envisaged for Alert Level 2, assuming case numbers remain nil or low over coming days.
 32. These views are reflected in the design of Option A. Options B and C maintain tighter restrictions on gathering numbers.

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Table 2: Comparison of gathering limits by country and Australian state as at May 21

	NZL	NSW	VIC	QLD	WA	SA	TAS	ACT	NT	Austria	Denmark	Ireland	Sweden	UK	HK	Taiwan
Funerals	50	30	30	20	30	30	30	30	No limit	30 indoors	Depends on size of premises	10	50	As few as possible	No limit	100
Weddings	10	10	10	10	30	10	10	10	No limit	10	10	0	50	0	50	250
Church services	10	10	10	10	20	10	10	No info	No info	One person per 10m ²	10	Open for private worship	50	0	50 per cent capacity	100
Other gatherings	10	10	10	10	20	10	10	10	No limit	Depends on size of premises	10	No large public gatherings	50	2	8	Indoor 100 Outdoor 500 Baseball 2,000

South Korea does not have specific limits for different types of gatherings, but general social distancing is advised and detailed guidelines have been issued for event organisers, as well as for funerals, weddings and church services. High risk groups are advised to stay away. Sports events can take place, but spectators are not yet allowed.

Source: MFAT research from public sources

Timing and transition options within Level 2

33. As with previous Alert Level decisions, there are two connected choices to be made today:
- The date from which we make the change.
 - The type of change we make within Level 2, if any.
34. Our judgement needs to take into account the current level of public health risk and assess what is a proportionate restriction on economic and social activity in light of that.

Date

35. Under the new legislation that supports our Alert Level framework, 48 hours' notice is required before a section 11 Order that defines the restrictions can come into force. There is an exception for cases of urgency but that will not apply in this case. I also want to include in the timetable 48 hours for considered drafting of the section 11 Order before final policy decisions are made by the Minister of Health. The 48 notice period will also give us time to ensure that communications are clear and aligned with the Order.
36. Put together, the earliest time that any decision we make today could be considered by the Minister of Health and given effect by an amended Order would be from 11:59pm on Friday night.

Options

37. This paper presents three options for gathering limits:
- Option A: Set all gathering limits to 100, including in the home, for funerals and at other private events. Other settings, including for hospitality (seated, single server, separated, 100 maximum), would remain the same. The total number of people at an event facility continues to be capped at 100, but multiple bubbles of 100 are okay in larger facilities, provided they are kept separate. This is the option the Director-General of Health recommends.
 - Option B: Set all gatherings limits at 50 (in general, including in the home, for funerals, and at other private events), retain other settings including for hospitality (seated, single server, separated, 100 maximum), and keep the event facility cap at 100, with multiple bubbles as above.
 - Option C: Stick with our existing limits for now, ie, gathering limits of 10 in general and in the home, 50 for funerals by exception, and 100 in total for hospitality and event facilities.

Option A

38. Option A provides the most direct step to the complete Level 2 gathering limits of 100. Gatherings, such as weddings and funerals would be limited to 100 people but there would be no legal requirement for physical distancing, which will allow mixing and mingling, sharing food and drink and dancing to occur. Other restrictions currently under Level 2 remain the same. Of the three options, it enables the fastest possible expansion of economic and social activity, and the quickest move to Level 1 if case numbers remain low.
39. As one example of its positive effects, this option would enable notably more local and community sporting and recreational activity. A gathering limit of 100 is far more comfortable for sporting administrators, making the management of players and

spectators, and the scheduling of games and training much easier. That said, large scale events, like running events and triathlon, would still be restricted, and the commercial viability of spectator events will continue to be affected (albeit that Super Rugby and professional netball plan to re-start without spectators).

40. A move to a limit of 100 people on gatherings will give us the maximum opportunity to assess the impact of the shift to Level 2. With the continued low case numbers we are seeing, the rationale for graduating the relaxation of limits on gatherings is less pressing. The full implementation of Level 2 gives an opportunity to take a full four weeks at that level before considering a move to Level 1.
41. We see strong public support for and compliance with the measures the Government has taken. This gives us the opportunity to move more quickly, as we can be confident people will continue to comply with distancing and hygiene measures. It also provides an opportunity to acknowledge the public's efforts and support and by permitting larger gatherings.

Option B

42. Option B allows a meaningful easing in the controls on private gatherings that pose the greatest risk to public health, but also allows time for more data to come through on the impact of the de-escalation measures we have already taken before we liberalise further.
43. This option reduces the restrictions on activities like weddings and funerals, and would enable most if not all community sport to get underway again. It retains the existing restrictions where food and drink are being served (the three S rules) and the overall maximum of 100 for event facilities. While weddings and funerals would both be restricted to a total of 50 people, there could now be a reception, wake or party afterwards. Arrangements would stay broadly the same for other places where people may gather, such as shopping malls, libraries and most public venues.
44. There will continue to be some situations where a commercial venue can host larger events than is possible for private gatherings, and some potential for gaming the rules. Relative to Option A, there will also be some negative economic impacts for those firms that face ongoing restrictions, but overall it will be an improvement on the status quo.
45. Option A or B would bring more coherence to the restrictions under Level 2 and make them easier to communicate. This is because it would reduce the number of individual caps on particular activities and align the controls on different activities that present similar public health risks.

Option C

46. Option C is the most cautious approach, keeping in place our existing restrictions for longer. This option recognises that, although they are linked to existing cases, we are still seeing a trickle of new cases coming through, we still have 14 clusters with active cases, and we have not been at Level 2 for long enough to see its impacts in the numbers, including for schools, bars and clubs. And the step from Level 3 to this first stage of Level 2 is a major one.
47. We might also favour this cautious approach because going back up Alert Levels in the future will be more disruptive than a longer period spent with firmer restrictions now. That said, the disruption caused by moving in and out of periods of restriction needs to be weighed against the economic, social and personal costs of a more precautionary approach, and increasing the national Alert Levels is not the only

response to an outbreak that could be effectively managed with more localised controls or changes to controls within an Alert Level.

48. Option C would be more economically costly than an easing of restrictions, and would place greater strain on our social licence. As noted in previous review, our restrictions are being seen as mismatched with our low case numbers, rather than their cause. Sticking with our current controls would require us to continue to make this case, and it runs the risk of eroding the strong levels of buy-in we see from the public if the restrictions come to be seen as unnecessary. Maintaining the more intricate controls of Option C also creates complexities in enforcement and communication.

The pre-cursors for a transition to Level 1

49. Our Alert Level framework describes Level 1 as meaning that COVID-19 is uncontrolled overseas but contained in New Zealand. We might still be seeing isolated household transmission, and occasional cases coming through the border.

Deciding when to move

50. The choice about when to move to Alert Level 1 is a decision for Cabinet based on advice from the Director-General of Health. We have previously agreed that Level 1 is for a situation where any transmission is restricted to isolated cases, and where there are no or few cases with unknown transmissions for many days.
51. It is apparent that we should move as quickly as we safely can since Alert Level 2 is significantly more costly than Alert Level 1. Physical distancing on public transport networks and in workplaces in particular continues to depress economic activity by limiting workforce participation and productivity, as well as social, cultural and community activities. A rough estimate from the Treasury is that the economic costs of three weeks at Alert Level 2 compared with Alert Level 1 amount to around \$1.4b in lost output. Those costs don't include the pressure on business balance sheets, particularly tourism-related and hospitality businesses that are most affected by physical distancing rules.
52. The main uncertainty is how many days we should hold at Level 2 for, given we need to understand whether the move to Level 2 has led to an increase in transmission of the virus. Possible ways to guide that choice are under discussion amongst officials:
- a. At the more risk averse end, we could require a period of 28 days since the last locally acquired case was infectious. This implies zero new locally acquired cases for about a month, and is likely to mean we also have zero or near zero active cases. We had our last locally acquired case on May 22, an infection within one of our clusters.
 - b. A less constraining guide would be spending 28 days at the full Level 2, with continuing low case numbers, all acquired overseas or linked to known domestic cases, before a move to Level 1. This is the recommended approach of the Director-General of Health. It does not require zero case numbers (although we expect case numbers to be consistently low). It does require that we stop the transmission of COVID-19 in our community, and to be confident that we can effectively contain any future imported cases.

Defining Level 1

53. The restrictions at Level 1 will need to be defined in detail. The fundamental public health controls, including border controls, will remain in place, but there will be significant increases in gatherings and travel with the removal of physical distance requirements and gathering limits.

54. The Alert Level framework at present says that:
- a. Border entry measures would remain with a 14-day quarantine on arrival (although we might in due course have exceptions for safe zones, starting with Australia).
 - b. Surveillance and targeting testing would continue to protect against undetected transmission. Rapid contact tracing of any positive case, and self-isolation and quarantine for those infected and their close contacts would likewise continue.
 - c. Core public health measures would remain in place, including encouraging people to stay home if they are sick, report flu-like symptoms, and maintain hygiene measures.
 - d. Physical distancing would no longer required in public, or in public transport or planes.
 - e. There would be no restrictions on gatherings in general (although we might decide on some initial restrictions in transition, eg, an upper limit of 500, and requirements for record-keeping of attendees might remain).
55. The detailed definition of Level 1 is being reviewed by officials now. There will be a paper on it at SWC on June 3, including information on how the Level 1 controls will operate at a sector-specific level.

Review of the Section 11 Order

56. The rules we put in place should be predictable and simple, so that our communities, businesses, and people can readily understand and comply with them. The rules should also:
- a. Reflect the underlying public health risk while taking into account social and economic considerations,
 - b. Ensure similar treatment for similar activities, and
 - c. Provide flexibility for businesses, service providers and individuals in how they meet the requirements provided that that does not increase the public health risks.
57. Officials have reviewed the first section 11 Order under the COVID-19 Public Health Response Act in this light and with the benefit of some experience operating at Level 2 and feedback from sector groups, businesses and individuals. Some changes will be proposed to the Minister of Health to fix unanticipated problems and improve clarity, regardless of the decision Cabinet comes to on gatherings numbers.
58. The core adjustments are to give businesses, sectors and organisations greater clarity around how the rules in the Order are intended to apply and what innovations in the way they operate are permitted with in the strictures of the Order.
59. At this point, the Minister of Health advises that the changes to the Order could include:
- a. Aligning more closely the requirements for sporting, social, cultural and recreational activity with activities that take place within workplaces,
 - b. Allowing customers to order and collect food and drink and the counter of cafes and fast food establishments that do not serve alcohol, provided that 1 metre physical distancing is maintained,

- c. Clarifying that event facilities and hospitality venues can have more than 100 people at a time, provided that groups are kept separated and don't use shared facilities at the same time, and
 - d. A range of technical amendments and any other changes to restrictions for gatherings discussed in this paper.
60. The table attached as Appendix 1 summarises the controls in the Order and the most significant proposed changes. Officials continue to work on some details. This includes how any increase we might agree to the gathering limits reads across into the hospitality rules, particularly the limit of 10 on group size. There is also thinking going on about how to make it clearer whether the business and services rules, or the gathering rules apply to any situation.

Border measures review

61. Global conditions continue to be such that current border restrictions and exceptions should remain in place until further decisions are taken by Cabinet.
62. We are continuing to look at the pre-conditions for developing a safe travel zone initially between New Zealand and Australia, and with an eye towards the Pacific, once that can be done safely and those countries are ready to do so. This is of course only part of our approach to re-opening to the world. In due course, safe travel zones could be extended to other COVID-free countries as conditions allow. We will continue to work with other partners and with international aviation bodies to be as ready as we can be to move as public health considerations allow.
63. By themselves, whether we are at Alert Level 1 or 2 does not determine whether or not a safe travel zone would be possible. However, the particular restrictions that apply at each Level will be relevant to implementation. For example, the physical distancing requirements at Level 2 would make flights a less viable commercial prospect and airport management more challenging.

Financial Implications

64. It is not possible to quantify the implications of a change to Alert Levels on the Government's finances, though moves to more liberal controls are expected to be more positive than more restrictive controls, so long as we do not have to return to more restrictive controls at a later date as a result of liberalising too early.

Legislative Implications

65. There are no legislative implications arising from the recommendations in this paper.
66. Before making any amendment to the Level 2 Order, the Minister of Health must have regard to the Director-General's advice about the risks of the outbreak or spread of COVID-19, and the nature and extent of any measures that are appropriate to address those risks. The Minister may also have regard to our decision on the level of public health measures appropriate to respond to those risks and avoid, mitigate, or remedy the effects of the outbreak or spread of COVID-19.

Impact Analysis

67. The requirement for a Regulatory Impact Analysis did not apply because this is a policy proposal directly related to the COVID-19 response.

Human Rights

68. The human rights implications of the controls in place to slow the spread of COVID-19 are significant and have been set out in detail in previous papers on Alert Level decisions [CAB-20-MIN-0161, CAB-20-MIN-0176].
69. Relevant departments and the Solicitor-General will continue to keep all restrictive measures under review to ensure that they remain necessary and are implemented in a way that is consistent with the New Zealand Bill of Rights Act.

Population impacts

70. As we transition back to more normal life in New Zealand, government departments, NGOs and communities will continue to provide support for New Zealand's 'at risk' populations. The experience of lockdown saw government agencies, NGOs and communities work together in unprecedented ways to support those who needed help. We will be working with regional leaders and local organisations to keep the best of this going as we step down from crisis response and transition back to more usual ways of working.
71. The government has also put in place a number of permanent improvements to the support it provides, including across the board increases to benefit rates and the winter energy payment, extending the wage subsidy, expanding lunches in schools, additional funding for NGOs and funding to improve food security for vulnerable groups. We also made it easier and quicker to access assistance from MSD – removing the stand-down period for benefits, expediting access to special needs grants and deferring other benefit obligations. These changes, along with the large amount of additional funding for getting New Zealanders who lose their jobs back to work, will put us in a good position to mitigate the impact COVID-19 on 'at risk' groups, particularly if a proactive and inclusive approach is taken to supporting groups who have traditionally been disadvantaged in the labour market back into work.
72. Disabled people will continue to benefit from reduced restrictions at Alert Level 2, though more opportunities to participate in their communities for with an increase in the size of mass gatherings. It will be important to ensure that information is provided about any changes to Alert Level 2 in a range of formats (New Zealand Sign Language, blind formats, Easyread).

Consultation

73. This paper was prepared by the Department of the Prime Minister and Cabinet (Policy Advisory Group). Consultation on a draft of the paper was undertaken with the Ministries of Health, Business, Innovation and Employment, Education, Social Development, Transport and Primary Industries, the All of Government COVID-19 unit, the Treasury, the State Services Commission, Crown Law and my Chief Science Advisor.

Communications

74. I will communicate the decisions set out in this paper after Cabinet agreement. Communications will be co-ordinated with the Government's broader communications around its COVID-19 response.
75. Before any change comes in to force, we will need to be ready with clear and comprehensive answers to the questions we can expect from the public, especially from those businesses concerned to know any changes to requirements they need to meet to be open at Level 2.

Proactive Release

76. I intend to proactively release this Cabinet paper following Cabinet consideration.

Recommendations

77. The Prime Minister recommends that Cabinet:

1. **note** that we declared border restrictions and have imposed a series of restrictive controls in an attempt to eliminate the COVID-19 virus in New Zealand [CAB-20-MIN-0142, CAB-20-MIN-0133, COVID Ministers 25/03/2020 decision, CAB-20-MIN-0176, CAB-20-MIN-0220];
2. **note** that these measures have been very effective at containing the spread of COVID-19 but that the social, economic, fiscal and non-COVID health costs of continuing Alert Level restrictions are large;
3. **note** that a review of the best available information shows that we can now consider an easing of our Level 2 controls;
4. **note** that the Director-General of Health is satisfied that:
 - 4.1. with the increased time since the move to Alert Level 3, there is a very low risk of community transmission, and relaxing controls has not led to the identification of “hidden” pockets of COVID-19 despite ongoing wide testing;
 - 4.2. Contact tracing capacity is good, and continues to increase, and the release of the app is expected to further increase speed of tracing; and
 - 4.3. Public compliance remains high, with low numbers of complaints and high support for the Government’s measures, meaning we can be confident that people will continue to support the basic public health measures.
5. **note** that Cabinet may decide the appropriate level of public health measures to respond to those risks and avoid, mitigate, or remedy the effects of the outbreak or spread of COVID-19 (taking into account the social, economic, or other factors) and to that end;

EITHER (Option A)

6. **agree** to set the limit on the number of people at a gathering to 100 effective from 11:59pm on Friday May 29;

OR (Option B)

7. **agree** to set the limit on the number of people at a gathering to 50 effective from 11:59pm on Friday May 29;

OR (Option C)

8. **agree** that the existing gathering limits remain an appropriate level of public health control;

AND (for all options)

9. **note** that the Minister of Health intends to make changes to the Level 2 Order under s11 of the COVID-19 Public Health Response Act 2020 to give effect to the public health response;
10. **note** that the Minister of Health expects to make a range of small changes to the existing controls to reflect the results of a review of the previous Order;

11. **agree** that Cabinet will again consider whether the Alert Level controls are appropriate no later than two weeks from now, on Monday June 8;
12. **note** that officials are working on defining Level 1 controls in detail and that a paper on these matters will come to SWC on June 3;
13. **note** the risk that if our Alert Level 2 controls and public health measures are not sufficiently effective, we will need to return to higher Alert Levels in the future;
14. **direct** 9(2)(f)(iv) [REDACTED]
15. **note** that the response to COVID-19 will continue to be this Government's highest priority;
16. **agree** that no changes be made at this time to border restrictions (including exemptions) agreed by Cabinet on 30 March 2020 for Alert Level 4 [CAB-20-MIN-0142] and updated as regards transit passengers on April 20 [CAB-20-MIN-0176];
17. **agree** that the current border restrictions, case-by-case exemptions for entry, and transit arrangements be further reviewed no later than when Cabinet next re-considers COVID-19 Alert Levels;
18. **note** that the human rights implications of the restrictions imposed under Alert Levels are significant and the measures will be subject to regular review, including scrutiny by the Solicitor-General;
19. **agree** that Cabinet's decisions today will be communicated by the Prime Minister.

Rt. Hon. Jacinda Ardern
Prime Minister

Appendix 1 – Outline of proposed Alert Level Two Order

Changes from the existing Order are shaded in green. This table does not reflect changes being contemplated by the Minister of Health as part of the more technical review of the Order.

	Business and services rules				Gathering rules	
What is covered	Business and service rules apply to businesses including public and private sector, commercial venues, professional sports.				Otherwise, gathering rules apply only if not a business or service (eg not-for-profit sporting, recreational, social or cultural activities).	
					People 2 metres apart are not a gathering (regardless of number)	
Activities	Retail	Specific controlled businesses and services	Food & drink consumption activities	Proximity business and services	Lower risk gatherings	Funeral or tangihanga gathering of more than 10 (only retained under Option C)
Relevant clause	<i>Clause 10</i>	<i>Clause 11</i>	<i>Clause 12</i>	<i>Clause 13</i>	<i>New clause (to replace clause 18)</i>	<i>Clause 19</i>
Examples	Supermarkets, retail stores, takeaway food outlets.	Office workplaces, museums, pools, galleries, cinemas, stadiums, casinos	Restaurants, cafes, soup kitchens	Hairdressers, taxis	Weddings, funerals, tangihanga, religious services, parties, informal get-togethers.	Anywhere (including business and service premises).
Physical distancing	2 metres for customers	1 metre for everyone	1 metre between tables and people.	1 metre when not delivering service.	No legal requirement but encouraged through guidance.	No legal requirement but encouraged through guidance.
Number limit	No cap on total numbers, cap achieved through physical distancing.	100 person cap for event facilities.	100 total, 10 per table (but under further consideration).	No cap on total numbers.	Option A: 100 Option B: 50 Option C: 10 (current position)	50 (current position)
Record keeping for contact tracing	Yes for workers.	Yes for everyone.	Yes for everyone.	Yes for everyone.	Yes for everyone (except if exclusively friends and whanau).	Yes for everyone.
Other	-	-	Seated, 1 server Counter service except on licence	Mitigations given physical distancing cannot occur.	-	Further conditions specified by DG in approval process.

The Order does not apply to health services; school transport; public transport (including airplanes); Oranga Tamariki residences; prisons, custodial and detention services (and transport to and from such services); the New Zealand Defence Force; the New Zealand Police; Fire and Emergency New Zealand and people at an education entity (except for inter-school activities and those who do not usually attend the entity). Behaviour in these sectors is controlled through sector-specific Health and Safety requirements.



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.

Review of COVID-19 Alert Level 2 Controls

Portfolio **Prime Minister**

On 25 May 2020, Cabinet:

- 1 **noted** that the government declared border restrictions and have imposed a series of restrictive controls in an attempt to eliminate the COVID-19 virus in New Zealand [CAB-20-MIN-0142, CAB-20-MIN-0133, COVID-19 Group of Ministers decision taken on 25 March 2020, CAB-20-MIN-0176, CAB-20-MIN-0220];
- 2 **noted** that these measures have been very effective at containing the spread of COVID-19 but that the social, economic, fiscal and non-COVID health costs of continuing Alert Level restrictions are large;
- 3 **noted** that a review of the best available information shows that we can now consider an easing of our Level 2 controls;
- 4 **noted** that the Director-General of Health is satisfied that:
 - 4.1 with the increased time since the move to Alert Level 3, there is a very low risk of community transmission, and relaxing controls has not led to the identification of “hidden” pockets of COVID-19 despite ongoing wide testing;
 - 4.2 contact tracing capacity is good, and continues to increase, and the release of the app is expected to further increase speed of tracing;
 - 4.3 public compliance remains high, with low numbers of complaints and high support for the government’s measures, meaning we can be confident that people will continue to support the basic public health measures;
- 5 **noted** that Cabinet may decide the appropriate level of public health measures to respond to those risks and avoid, mitigate, or remedy the effects of the outbreak or spread of COVID-19 (taking into account the social, economic, or other factors);
- 6 **agreed** to set the limit on the number of people at a gathering to 100 effective from midday on Friday, 29 May 2020;
- 7 **noted** that the Minister of Health intends to make changes to the Level 2 Order under section 11 of the COVID-19 Public Health Response Act 2020 to give effect to the public health response;

- 8 **noted** that the Minister of Health expects to make a range of small changes to the existing controls to reflect the results of a review of the previous Order;
- 9 **noted** that further work will also be undertaken to make changes to the Order to clarify that event facilities and hospitality venues can have more than 100 people at a time, provided that groups are kept separated and do not use shared facilities at the same time;
- 10 **noted** that All of Government (AOG) officials are working across agencies on an appropriate enforcement approach;
- 11 **agreed** that Cabinet will again consider whether the Alert Level controls are appropriate no later than two weeks from now, on Monday, 8 June 2020;
- 12 **noted** that officials are working on defining Level 1 controls in detail and that a paper on these matters will be considered by the Cabinet Social Wellbeing Committee (SWC) on 3 June 2020;
- 13 **noted** the risk that if our Alert Level 2 controls and public health measures are not sufficiently effective, we will need to return to higher Alert Levels in the future;
- 14 **directed** ^{9(2)(f)(iv)} 
- 15 **noted** that the response to COVID-19 will continue to be the government's highest priority;
- 16 **agreed** that no changes be made at this time to border restrictions (including exemptions) agreed by Cabinet on 30 March 2020 for Alert Level 4 [CAB-20-MIN-0142] and updated as regards transit passengers on 20 April 2020 [CAB-20-MIN-0176];
- 17 **agreed** that the current border restrictions, case-by-case exemptions for entry, and transit arrangements be further reviewed no later than when Cabinet next re-considers COVID-19 Alert Levels;
- 18 **noted** that the human rights implications of the restrictions imposed under the COVID-19 Alert Levels are significant and the measures will be subject to regular review, including scrutiny by the Solicitor-General;
- 19 **agreed** that Cabinet's decisions be communicated by the Prime Minister.

Michael Webster
Secretary of the Cabinet