



# Briefing

## ALERT LEVEL REQUIREMENTS AMENDMENT ORDER FOR SIGNING – COVID-19 PUBLIC HEALTH RESPONSE (ALERT LEVEL REQUIREMENTS) ORDER (NO 12) AMENDMENT ORDER (NO 13) 2021

To: Hon Chris Hipkins  
Minister for COVID-19 Response

Date	9/11/2021	Priority	[URGENT]
Deadline	9/11/2021	Briefing Number	DPMC-2021/22-780

### Purpose

Attached to this briefing is the proposed COVID-19 Public Health Response (Alert Level Requirements) Order (No 12) Amendment Order (No 13) 2021 (the Amendment Order), which we recommend that you sign. This Order moves the Auckland Alert Level 3 areas to Alert Level 3 stage two.

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

1. **Note** the proposed Order moves the Auckland Alert Level 3 areas to Alert Level 3 stage two.
2. **Note** the necessary procedural requirements for the making of the COVID-19 Orders have been complied with.

ALERT LEVEL REQUIREMENTS AMENDMENT ORDER FOR SIGNING -  
COVID-19 PUBLIC HEALTH RESPONSE (ALERT LEVEL REQUIREMENTS)  
ORDER (NO 12) AMENDMENT ORDER (NO 13) 2021


DPMC-2021/22-780

3. **Sign** the COVID-19 Public Health Response (Alert Level Requirements) Order (No 12) Amendment Order (No 13) 2021 (Attachment A) **YES** NO



Ben White  
**Policy Manager**

9 / 11 / 2021



Hon Chris Hipkins  
**Minister for COVID-19 Response**

9 / 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:**

ALERT LEVEL REQUIREMENTS AMENDMENT ORDER FOR SIGNING - COVID-19 PUBLIC HEALTH RESPONSE (ALERT LEVEL REQUIREMENTS) ORDER (NO 12) AMENDMENT ORDER (NO 13) 2021	DPMC-2021/22-780
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# ALERT LEVEL REQUIREMENTS AMENDMENT ORDER FOR SIGNING - COVID-19 PUBLIC HEALTH RESPONSE (ALERT LEVEL REQUIREMENTS) ORDER (NO 12) AMENDMENT ORDER (NO 13) 2021

## Summary of the Order

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### *The Auckland Area to move to Alert Level 3 stage two*

1. This Order provides for the Auckland region that is currently in Alert Level 3 stage one to be moved to Alert level 3 stage two.
2. On 8 November 2021, Cabinet agreed to move the Auckland region to stage two of the three stage Alert Level 3 reduction from 11.59pm Tuesday 9 November 2021 [CAB-21-MIN-0463 refers].
3. The Order is based on the most recent Alert Level 3 settings which moved the Waikato Alert Level 3 area to Alert Level 3 stage two on 2 November [DPMC-2021/22-708 refers], confirmed by Cabinet decision on 8 November 2021 [CAB-21-MIN-0463 refers].
4. Stage two of the Alert Level 3 settings will:
  - a) permit retail businesses to operate with face coverings required for staff and customers and 2 metre physical distancing requirements;
  - b) permit public facilities including zoos, museums and libraries can reopen (but not swimming pools or recreation centres), with face coverings for staff and customers and 2 metre physical distancing requirements;
  - c) increase controlled indoor gathering (funerals, tangihanga and weddings) limits to 25 people (plus staff); and
  - d) increase outdoor gathering limits to 25 people for any purpose.

### *Retail businesses at stage two*

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 at stage two*

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 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.
8. Cabinet confirmed these settings on 8 November [CAB-21-MIN-0463 refers].

*Controlled indoor gatherings at stage two*

9. 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.
10. This requirement was agreed to by Cabinet on 4 October 2021 as part of the initial proposal to introduce a three-stage step down of Alert Level 3 settings [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 at stage 2*

11. 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 from up to two households. At stage two, there is no limit on the number of households able to attend gatherings as long as it is limited to 25 people.
12. 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.

*Other amendments*

13. The Order includes two minor technical amendments to fix cross-referencing errors.

## **Procedural Requirements for a COVID-19 Order**

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14. 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*

15. 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.
16. The Order gives effect to a lessening of restrictions and therefore the 48 hours' notice period is not required, and this Order can come into effect immediately.

*Ministerial consultation*

17. 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.
18. Ministerial consultation in relation to moving Auckland to Alert Level 3 stage two was undertaken through the Cabinet decision making process on 8 November 2021 [CAB-21-MIN-0463 refers].

*Public Health Advice*

19. 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.
20. Public health advice was provided in relation to Auckland through the Cabinet decision making process on 8 November 2021 [CAB-21-MIN-0463 refers].

*New Zealand Bill of Rights Act 1990*

21. Section 9(2)(h)  

22. Section 9(2)(h)  


<b>Attachments:</b>		
<b>Attachment A:</b>		COVID-19 PUBLIC HEALTH RESPONSE (ALERT LEVEL REQUIREMENTS) ORDER (NO 12) AMENDMENT ORDER (NO 13) 2021 (Signature Copy)

<b>ALERT LEVEL REQUIREMENTS AMENDMENT ORDER FOR SIGNING - COVID-19 PUBLIC HEALTH RESPONSE (ALERT LEVEL REQUIREMENTS) ORDER (NO 12) AMENDMENT ORDER (NO 13) 2021</b>	<b>DPMC-2021/22-780</b>
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**ATTACHMENT A – COVID-19 PUBLIC HEALTH RESPONSE (ALERT LEVEL REQUIREMENTS) ORDER (NO 12) AMENDMENT ORDER (NO 13) 2021 (Signature Copy)**

Proactively Released

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