

Briefing

ALERT LEVEL REQUIREMENTS: AMENDMENT ORDER FOR SIGNING

To: Hon Chris Hipkins
Minister for COVID-19 Response

Date	8/10/2021	Priority	Urgent
Deadline	8/10/2021	Briefing Number	DPMC-2021/22-544

Purpose

This briefing summarises advice considered by Ministers in response to the risk presented by a positive Whangarei case and proposes amendments to the COVID-19 Response (Alert Level Requirements) Order (No 12) 2021 (the Order), to establish an Alert Level 3 area in Northland.

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 6) 2021 which we recommend that you sign.

Recommendations

- Note** that there was a positive case in Whangarei on Thursday, 7 October 2021 and updated information shows they moved extensively around Northland, creating a higher level of risk;
- Note** in response to the reporting of this positive case, and consistent with the Ministry of Health advice, Ministers with Power to Act have agreed that Northland will go into Alert Level 3 for up to 4 days from 11.59pm Friday 8 October;
- Note** this new Part of the Alert Level 3 Area would be subject to existing Alert Level 3 settings (pre-stage 1), which are currently in place in the Waikato;
- Agree** that travel between the new Northland Part of the Alert Level 3 Area and the rest of New Zealand will be restricted to the same permissions for movement as those that currently exist into and out of Auckland (without the testing requirements);

YES / NO

- 5. **Note** that exemptions for movement over the new Northland-Auckland Alert Level 3 boundary will operate in the same way as for the existing Auckland boundary, and unlike the Waikato Alert Level 3 region there will not be a permission allowing people to travel from the Alert Level 2 areas to the Northland Alert Level 3 area (and home again) for work;
- 6. **Note** that the necessary procedural requirements for the making of COVID-19 Orders have been complied with;
- 7. **Sign** the COVID-19 Public Health Response (Alert Level Requirements) Order (No 12) Amendment Order (No 12) 2021 (Signature Copy); and
- 8. **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

YES / NO



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

8/10/2021



Hon Chris Hipkins
 Minister for COVID-19 Response

8/10/2021

Contact for telephone discussion if required:

Name	Position	Telephone	1st contact
Ruth Fairhall	Head of Strategy & Policy, COVID-19 Group	s9(2)(a)	✓
Matt McGrath	Senior Solicitor	N/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 a person who returned a positive test result in Auckland on Thursday, 7 October after previously returning a weak positive result in Whangarei. This person moved extensively around Northland after travelling there on Saturday 2 October.
2. In response to the reporting of this positive case, on Friday 8 October, Ministers with Power to Act agreed that:
 - a) Northland will shift into Alert Level 3 from 11.59pm Friday 8 October with a review in 4 days; and
 - b) This change will be made through amendments to the COVID-19 Public Health Response Order.

Moving Northland to Alert Level 3

3. Our understanding, based on oral advice, is that the Ministry of Health 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 Northland. This will be in place for up to four days. (We expect you will receive written advice to this effect imminently.)
4. Moving the Northland area to Alert Level 3 for a period of up to four days will allow time for:
 - a) officials to determine the source of these cases, and the extent of the spread of COVID-19 within Northland; and
 - b) testing and targeted COVID-19 vaccination in this area.
5. This agreed timeframe will take these restrictions through to 11.59pm Tuesday 12 October. A public health review is scheduled for Tuesday 12 October and will 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 activity within an Alert Level 3 area

6. This new Alert Level 3 area will be subject to existing Alert Level 3 settings (pre-stage 1), which are currently in place in the Waikato. These are set out in Attachment A. Consistent with the existing permitted movement requirements for Alert Level 3 areas, people will not be legally required to carry evidence of purpose of travel within the Northland Alert Level 3 area – for example, if someone is leaving the house to go to the supermarket.

Travel permissions between Alert Level areas

7. We propose that travel between the new Northland Alert Level 3 region and the rest of New Zealand be restricted to the same permissions for movement as those that currently exist into and out of Auckland (without the testing requirements). Exemptions for movement over the new Northland region Alert Level 3 boundary will operate in the same way as for the existing Auckland boundary, and unlike the Waikato Alert Level 3 region there will not be a permission

allowing people to travel from the Alert Level 2 areas to the Northland Alert Level 3 area (and home again) for work.

8. Where travel was previously permitted between alert level areas, that permission will now also include transit (without stopping) through another alert level 3 area. For example, if someone is permitted to travel from Northland to Waikato for the purposes of a shared caregiving arrangement, that permission will also allow them to transit the Auckland Part of the Alert Level for that purpose.
9. Given that the term 3 school holidays began on Saturday 2 October, officials assume travellers will have entered and left Northland for recreational purposes. The current travel permissions enable people to return home and officials advise that should continue.

Boundary definition

Definition of the area

10. A definition of the boundary will be included in the final order for signing.
11. 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. Northland and Auckland will continue to be treated as separate parts of the Alert Level Three Area, with an enforced boundary despite the change in Alert Levels for Northland. This will limit movement between the two regions.

Exemptions

12. Exemptions for movement over the new Northland Region Alert Level 3 boundary will operate in the same way the existing Auckland boundary has been.

Procedural Requirements for a COVID-19 Order

13. 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

14. 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.
15. This Amendment Order moves Northland 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.
16. 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

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. We understand that this has occurred, and Ministers were in agreement.

Public Health Advice

18. 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.
19. We understand that the Acting Director General of Health will separately provide advice to the effect that the proposed amendments are necessary to address the risks associated with the spread of COVID-19 in the community. Accordingly, this requirement will have been met.

Crown Law Advice

New Zealand Bill of Rights Act 1990 (subject to legal privilege)

20. 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).

21. ^{s9(2)(h)}



Next Steps

22. If necessary, officials will ensure the Alert Level review Cabinet paper is updated before its consideration at Cabinet on Monday 11 October to reflect decisions taken and amendments applied to the Northland region.
23. 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

24. These decisions were publicly announced on Friday, 8 October.

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

The Boundary of the Northland Part of the Alert Level Three Area is defined as “the area within the boundaries of Northland Region as shown on LG-01-2019-Con-1”.

