



Briefing

RETAIL BAKERIES AT ALERT LEVEL 3

To Hon Chris Hipkins Minister for COVID-19 Response

Date	11/12/2020	Priority	Urgent
Deadline	14/12/2020	Briefing Number	DPMC-2020/21-365

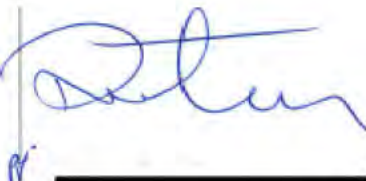
Purpose

1. At your meeting with Greg Harford, Chief Executive of Retail New Zealand, you undertook to consider whether bakeries should be allowed to operate with customers on premises at Alert Level 3. The current position is that bakeries can operate with contactless pick-up outside their premises at Alert Level 3. This aide memoire provides advice on whether to expand this at Alert Level 3.

Recommendations

1. **Note** that Cabinet Business Committee has authorised you to take any further minor and technical policy decisions in relation to drafting of Orders under the COVID-19 Public Health Response Act 2020;
2. **Note** that it is not clear cut as to whether this decision falls within the ambit of "minor and technical"

- 3. **Note** the attached talking points for use if you wish to discuss with your Cabinet colleagues on 14 December whether to allow retail bakeries to operate at Alert Level 3 with customers on premises on the condition no food can be consumed on their premises.

 Arati Waldegrave Head of Strategy and Policy DPMC COVID-19 Group
11/12/2020

Hon Chris Hipkins Minster for COVID-19 Response
...../12/2020

Contact for telephone discussion if required:

Name	Position	Telephone	1st contact
Arati Waldegrave	Head of Strategy and Policy, COVID-19 Group	s9(2)(a) s9(2)(a)	✓
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Minister's office comments:

- Noted
- Seen
- Approved
- Needs change
- Withdrawn
- Not seen by Minister
- Overtaken by events
- Referred to

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Background

2. On 9 December, the Cabinet Business Committee, having been authorised by Cabinet to have power to act, agreed to allow primary produce retailers to operate on the same basis as supermarkets and dairies at Alert Level 3 [CBC-20-MIN-0122 refers].
3. On 10 December, you met with Greg Harford, Chief Executive of Retail New Zealand. At your meeting, Mr Harford asked that retail bakeries be allowed to operate at Alert Level 3 on the same basis as supermarkets. You agreed to consider this.
4. Retail New Zealand argues that bakeries play a key role in the provision of basic foods to many New Zealanders. While there are high-end bakeries specialising in luxury products, most are selling basic breads, filled rolls and pies. In some communities, these bakeries are part of the supply chain for basic foodstuffs that people rely on for their day to day needs. At Alert Level 3, bakeries can operate on the same basis as other takeaway outlets with contactless pick-up.
5. Retail New Zealand estimates that there are around 1,500 retail bakeries open to the public, most of which are small and independent. Most small towns have a bakery. We do not have estimates on their contribution to the economy.
6. In developing the proposals for Cabinet about which further retail outlets should be able to operate at Alert Level 3 with customers on premises, officials ruled out bakeries because of concerns about cafes that bake some goods claiming to be bakeries.
7. In response to this concern, Retail New Zealand suggests that in addition to the usual Alert Level 3 physical distancing and contact tracing provisions, the following conditions be imposed:
 - a. no food can be consumed on-premises; and
 - b. there be no seating at all to be provided in a bakery.
8. Businesses such as supermarkets, dairies and primary produce retailers (Category B businesses) must already have systems and processes to prevent food and drink from being served for consumption on the premises at Alert Level 3. Removing all seating is one way a bakery, like other Category B businesses, can ensure their compliance with requirements.

Public health advice

9. The Ministry of Health advises that there is no specific increase in risk in allowing bakeries to operate under the same conditions as dairies and supermarkets.
10. However, it notes that with a larger number of retail outlets allowed to operate at Alert Level 3 (whether these are bakeries or otherwise), there is an incremental increased overall risk to New Zealand of COVID-19 transmission. There is no set number or threshold from a public health perspective that could guide how many exemptions should be made to mitigate this risk, but the cumulative number of exempted business should be kept in mind.

Comment

11. Further addition to businesses that are permitted to have customers on premises at Alert Level 3, particularly following the recent CBC consideration of the same matter, merits taking further time to develop the associated rationale for several reasons:
 - a. Public health advice notes that such an extension to the business activities permitted at Alert Level 3 would add to the cumulative risk of COVID-19 spread or outbreak.
 - b. Assessment of the need for additional businesses to be added, including justification for extending beyond contactless pick up.
 - c. Taking the time to develop a clear and workable definition.

Next steps

12. Cabinet Business Committee has authorised you to take any further minor and technical policy decisions in relation to the drafting of Orders under the COVID-19 Public Health Response Act 2020. It is not clear cut as to whether the decision in this circumstance falls within the ambit of “minor and technical”. While a decision to allow retail bakeries to operate at Alert Level 3 on the same basis as supermarkets, dairies and primary produce retailers may fall within this authority, you may wish to discuss this with your Cabinet colleagues on 14 November 2020. Talking points for this purpose are attached as Appendix 1.
13. The briefing on the template COVID Order in your bag today notes that this issue has not been included in drafting instructions. If you and your Cabinet colleagues agree to include this extension for the operation of retail bakeries, we would need to further advise you on the legal mechanism for giving effect to this change.

Attachments:	
Attachment A:	Talking points for Cabinet meeting 14 December 2020

ATTACHMENT A: TALKING POINTS FOR CABINET MEETING, 14 DECEMBER 2020 – RETAIL BAKERIES AT ALERT LEVEL 3

- s9(2)(f)(ii), s9(2)(g)(i) [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

Proactively Released