

In Confidence

Office of the Minister for Economic Development

Cabinet Business Committee

Essential Services Update

Proposal

1. This paper provides an update on the Level 4 essential services regime, and notes that guidance on the maintenance of biological assets (such as golf courses and turf facilities) was published on the essential businesses webpage on Tuesday 14th April, and that clearer guidance for butchers, bakers, and grocers will also be published later this week.

Relation to government priorities

2. This paper is part of the Government's response to COVID-19 as the essential services regime sets out for businesses and consumers what economic and public sector activity is permitted (or not) during Level 4 in the COVID-19 Alert Level system.

Background

3. The Essential Services regime was developed to limit the movement of people – both for work and as consumers. It gives clarity to households that the necessities of life and activity to maintain public health, safety, and security would continue, while economic activity is being limited.
4. The regime declares certain industries to be essential and thus able to operate in their place of business, and others that are non-essential and therefore unable to operate in their premises. It also sets out the conditions under which essential services may operate. These are designed to limit the risks of transmission.
 - a) Minimise, or eliminate if possible, physical interactions among staff and with and between customers
 - b) Ensure appropriate health, hygiene and safety measures are in place
 - c) Restrict activity to only what is essential in the Alert Level 4 period.
5. Examples of these practices are provided for businesses on the COVID-19 website and include the likes of physical distancing, split shifts, contactless delivery, managed entry, frequent cleaning, hygiene basics and providing appropriate personal protective equipment.
6. If a business/entity is not able to do this, they are not to operate during the Alert Level 4 period.
7. The system is largely principles based, with scope for interpretation. Where greater clarity has been required, sector lead agencies have provided further guidance (including seeking further Cabinet decisions), and/or operated some form of register system for parts of the sector. This flexible approach means that the current settings can be loosened or tightened as required. The use of registers, in particular, supports the assessment of the impacts of tighter settings might be and to communicate directly with affected firms/entities.

Evaluation of the operation of essential services regime

8. The regime has been relatively successful in achieving the above aims. General expectations are clear, and have strong public support. Overall, there has been strong support for limiting activity to essential services only. This has included good faith by many businesses, as well as strong public support for those restrictions. Public support includes many examples of significant social and general media pushback on firms who have been testing the boundaries of what 'essential' might mean. MBIE estimates that around 60% of the workforce is staying home (this also aligns with recent Google data releases).
9. However the nature of a system that declares some services able to operate and others not, inevitably generates tensions and boundary issues that have to be managed, alongside the growing cost of so many businesses being unable to operate. As we contemplate the potential transition down from Level 4, I believe that for Level 3 and below we should consider moving away from the essential/non-essential split to a system based only on businesses being able to operate only if they meet public health criteria.

MBIE oversees general commercial activity, and it is working reasonably well

10. Compliance activity has been relatively light touch. For example, use of registers or accreditation has been limited, rather the focus is on providing general advice and some specific follow up with firms operating non-essential services. The need for stronger measures has been limited, so far. MBIE and WorkSafe have been providing support for police enforcement activity.
11. MBIE has recently implemented a register for non-food essential goods retailers. To ensure key businesses could establish on-line trading in essential goods as soon as possible, registration was the only requirement to begin trading. MBIE are currently reviewing all registered businesses, and have begun de-registering those that are not selling essential goods. Of those selling non-essentials there is a mix of more expensive, or specialised versions of essential goods, such as beauty products and high-end fashion, or goods that have been listed to offer recreational options for people in isolation. MBIE will continue to monitor the situation, and adapt the registration system as required. The register is also being used to support Alert Level 4 compliance activity.

Some firms are adapting to Alert Level 4

12. Some areas of the economy are adapting rapidly to the restrictions that Level 4 brings. For example, retail firms including specialty wholefood producers have pivoted to online sales and contactless delivery. There are several decisions covering the purchasing of food during Alert Level 4:
 - a) Supermarkets and dairies are permitted to remain open, in order to provide access to essential goods (food and other fast-moving consumer goods)
 - b) Bakers, green grocers, butchers and other specialty stores are required to close; and
 - c) Whole food contactless delivery can continue to operate.
13. As well as grocery delivery services provided by supermarkets and prominent wholesalers such as My Food Bag and HelloFresh, a number of bakeries, grocers and butchers offer home delivery services (including prior to Alert Level 4). When considering these rules together, bakeries, grocers and butchers with existing wholesale food

delivery services judged themselves as being able to continue their delivery operations. These providers considered themselves to be covered by the rule set out in 13(c) despite the rule in 13(b). These providers also worked to ensure that their service provision was in line with relevant public health advice.

14. Similarly the market adapted to these rules. Some bakers, grocers and butchers have established new online and phone-based order and contactless delivery systems in order to remain open on a limited basis during this period.
15. There is some uncertainty remaining. On balance I do not think there is any additional public health risk in allowing butchers, green grocers and bakers to establish online or phone-based contactless delivery services.
 - a) There is less public health risk in obtaining this food by way of contactless delivery as this approach reduces the spread of transmission through congregating at local supermarkets.
 - b) There is an increase in the number of people working, compared with limiting to supermarkets and dairies, however, it is easier to trace contacts at a work place, compared with the flow of customers at a supermarket.
16. Food delivery services are a key way of providing food to people, particularly those who may be unable to access supermarkets easily (eg disabled people, over 70 year olds, and people who may have reduced access to supermarkets through public transport). While social services could fill this gap, food delivery services are already performing this function. Food delivery services could also be essential in feeding people, at large-scale, who may be housed in temporary isolation/quarantine facilities. Home delivery services at many supermarkets are also operating at capacity.
17. Enabling more essential goods to be delivered will also relieve stock pressure faced by supermarkets, avoid spoilage in those companies' supply chains, increase competitive tension against the large supermarket chains and help a number of small locally owned businesses continue to operate and bring in a source of revenue.
18. Officials have been asked to provide clarifying guidance to butchers, green grocers and bakers in order to make it clear that they can continue to establish online or phone-based contactless delivery services which adhere to public health advice. Doing so would ensure food delivery services providers are being treated consistently and maintain the response the market has had to essential service delivery.
19. The proposed wording to be included on the Essential services website is:

Butchers, bakeries and similar small-scale food retailers

Shopfronts of butchers, bakers, and fruit and vegetable suppliers are not permitted to open during the Alert Level 4 period. Interactions between people must be limited as much as possible during Level 4, and the products (or close substitutes) from these stores are available at supermarkets and dairies.

Contactless delivery of whole foods from butchers, bakers, and fruit and vegetable suppliers are permitted during the Alert Level 4 period. This includes delivery to consumers' homes, and for the supply of supermarkets, dairies, and whole food delivery providers. Operations must follow strict Covid-19 health guidelines, orders must be taken online or via telephone, and delivery must not involve any interaction with the receiver.

Whole foods includes bread, meat, fish, fruit and vegetables, and specifically excludes cooked or prepared foods such as takeaways.

20. While MBIE has overall responsibility for essential services, decisions on sector specific issues sit with lead agencies, including the Primary Sector (Ministry for Primary Industries), a range of essential public services (Ministry of Social Development, Ministry of Health, Ministry of Justice), the financial sector (Reserve Bank of New Zealand and Financial Markets Authority), and transport (Ministry of Transport).
21. The model is working reasonably well. The speed with which we moved to Alert Level 4 has resulted in instances where inconsistencies or interpretation issues have emerged. These have been identified quickly through inter-agency discussions, or formal channels such as the National Crisis Management Centre Operations Centre, and resolved.
22. There is some inherent tension within the essential services regime and that tension is likely to grow over time, particularly if we remain at alert level 4 for an extended period of time and firms feel increasing financial pressure. Further refinements to the essential services list will also likely contribute to this tension.

Access to premises to maintain biological assets

23. The group of Ministers with Power to Act on COVID-19 matters agreed on 9 April 2020 that the urgent maintenance of biological assets (for example stadium turfs, artificial turf facilities, specialised turf within education facilities, bowling and croquet greens, golf courses and nurseries) should be considered as an essential service for the period of Alert Level 4.
24. Ministers directed the Ministry of Health and the Ministry of Business, Innovation and Employment to develop criteria and a plan for the management of this decision.
25. The guidance that officials have developed is attached as annex 1 and was placed on the essential services website on 14 April 2020.
26. Following Cabinet's decision on this matter, I am aware that representatives from the interior plantscape industry have requested that the maintenance of plants in or on commercial buildings be included as an essential service. I have asked officials for urgent advice on this matter.

Fit with wider COVID-19 economic response

27. The work on essential services sets out for businesses and consumers what economic and public sector activity is permitted (or not) during the different phases of the COVID-19 Alert Level system.

Financial Implications

28. There are no financial implications associated with this paper.

Legislative Implications

29. There are no legislative implications associated with this paper.

Impact

30. As this is COVID-19 related, an impact statement is not required.

Consultation

31. The Ministry of Health was consulted on the guidance material attached.

Communications

32. The guidance providing clarity to butchers, green grocers and bakers who have established online or phone-based contactless delivery services which adhere to public health advice will be published shortly. The guidance for the urgent maintenance and care of turf and nursery plants was published on 14 April 2020.

Proactive Release

33. This paper will be proactively released within 30 days, subject to redaction as appropriate under the Official Information Act 1982.

Proactively Released

Recommendations

34. The Minister for Economic Development recommends that the Committee:

- a) **Note** the Level 4 essential services regime is operating largely as intended, supporting significant economic lockdown whilst enabling access to the necessities of life and supporting public health, safety, and security
- b) **Note** that there has been strong support for limiting activity to essential services only, although the nature of the regime inevitably generates tensions and boundary issues
- c) **Note** that estimates suggest around 60% of the workforce is staying home
- d) **Note** that compliance activity has been relatively light touch and the need for stronger measures has been limited
- e) **Note** that there are some areas of the economy that have adapted rapidly to the restrictions of Level 4, particularly in the wholefood delivery sector
- f) **Note** that there has been some uncertainty with respect to how butchers, green grocers and bakers, who have established online and or phone based contactless delivery services, can operate
- g) **Note** officials are working to provide clarifying guidance to butchers, green grocers and bakers in order to make it clear that they can continue to establish online or phone-based contactless delivery services which adhere to public health advice and this will shortly be released on the Essential Businesses website
- h) **Note** that the group of Ministers with Power to Act on COVID-19 matters agreed on 9 April 2020 that the urgent maintenance of biological assets (for example stadium turfs, bowling greens, and golf courses) should be considered as an essential service for the period of Alert Level 4 and they directed officials to develop criteria and a plan for the management of this decision.
- i) **Note** that guidance on the maintenance of biological assets was published on the essential services website on Tuesday 14th April and is attached as annex 1.
- j) **Note** that representatives from the interior plantscape industry have requested that the maintenance of plants in or on commercial buildings be included as an essential service on the basis of maintaining a biological asset, and that I have asked officials for urgent advice on this matter.

Authorised for lodgement

Hon Phil Twyford

Minister for Economic Development

Guidance for the urgent maintenance and care of turf and nursery plants

Background

From Tuesday 14th April urgent maintenance of turf and care for plants in nurseries will be permitted under Alert Level 4 restrictions.

Maintenance providers should adhere to the following guidance. In doing so, operators and owners will need to form a judgment as to: (1) how best to apply this guidance to their particular circumstance; and, (2) which of their maintenance activities are genuinely urgent. We expect operators to minimise maintenance during Alert Level 4.

Definitions

This guidance relates to:

- Golf Courses – public and private courses
- Bowling greens and croquet greens – both public and private greens
- Turf at facilities which hold national events and external/supplementary supply chain facilities required for the maintenance of that turf, and specialist or artificial turf facilities (including on school grounds).
- Nurseries – all nurseries¹ including floral suppliers and bulb growers and nurseries supplying gardens

Principles

Urgent maintenance of biological assets must be undertaken in a manner that:

- minimises, or eliminates if possible, physical interactions among staff
- ensures appropriate health, hygiene and safety measures are in place
- restricts activity to only what is essential during the Alert Level 4 period.

Practices

The following practice criteria provide guidance for those involved in the upkeep and maintenance of biological assets. Business should:

- limit work to only that needed to avoid the degradation of key biological assets (this does not include ornamental assets, for example)
- keep precise and up to date phone and address information for all maintenance workers until the end of the pandemic. This information is important for the process of contact tracing, should it be required to track down and prevent the further spread of COVID-19
- limit, or eliminate if possible, physical interaction between staff, for example
 - minimising the number of maintenance staff working during Alert Level 4
 - operating split shifts, or introducing staggered start times and meal breaks

¹ noting that MPI has separate guidance for plantation nurseries

- adhering to the physical distancing requirements to ensure at least 2m physical separation between staff. See here for further information: <https://covid19.govt.nz/covid-19/how-were-uniting/physical-distancing/>
- provide hygiene basics of handwashing and sanitisers and. Specific further guidance can be found here: <https://covid19.govt.nz/covid-19/how-were-uniting/wash-your-hands/>.
- most maintenance workers should not need to use PPE (assuming they can maintain physical distancing from other people). Further information can be found here: https://www.health.govt.nz/system/files/documents/pages/hp7353-ppe-ipc-poster-nonessential-final-28mar2020-v2_0.pdf. Further information is also available here: <https://www.health.govt.nz/our-work/diseases-and-conditions/covid-19-novel-coronavirus/covid-19-novel-coronavirus-health-advice-general-public/covid-19-face-mask-and-hygiene-advice>
- ensure appropriate cleaning of tools, machinery and staff facilities, with specific cleaning at the end of a shift. Guidance on how to clean surfaces correctly is available here: <https://covid19.govt.nz/covid-19/how-were-uniting/cleaning-surfaces/#how-do-we-get-rid-of-the-virus-on-surfaces>
- ensure staff who are unwell or maybe contacts of someone with COVID19, stay home

Activity that is not permitted

- activity that is not related to urgent maintenance of key assets (i.e. care of ornamental assets, building maintenance that does not relate to an immediate health and safety issue)
- any commercial activity
- gatherings of people that are not usually involved in day-to-day maintenance to assist with essential maintenance of grounds or facilities (i.e. clubs must not organise volunteer working bees)
- turf maintenance is limited to major sports grounds as outlined above. General maintenance of school sports fields, recreational grounds not used for national events, fields used for casual recreational activity, sports club fields that do not host national events, or general use green spaces is not permitted (with the exception of hazard management, which is permitted under other Alert Level 4 rules and urgent maintenance of artificial turf).
- maintenance of driving ranges and mini-golf facilities

Enforcement

New Zealanders are relying on each other to keep everyone safe and stop the spread of COVID-19. If operators are too generous in their interpretation of what is essential or flout these rules, Government will take further action.

Further Information

For the most up-to-date information about both the spread of the virus and measures you can take to keep yourself safe please go to: <https://www.health.govt.nz/our-work/diseases-and-conditions/covid-19-novel-coronavirus/covid-19-novel-coronavirus-health-advice-general-public/covid-19-novel-coronavirus-questions-and-answers>.



Cabinet Business Committee

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.

Essential Services Update

Portfolio Economic Development

On 15 April 2020, the Cabinet Business Committee, , in accordance with the Power to Act authorised by Cabinet [CAB-20-MIN-0145]:

- 1 **noted** the Level 4 essential services regime is operating largely as intended, supporting significant economic lockdown whilst enabling access to the necessities of life and supporting public health, safety, and security;
- 2 **noted** that there has been strong support for limiting activity to essential services only, although the nature of the regime inevitably generates tensions and boundary issues;
- 3 **noted** that estimates suggest around 60 percent of the workforce is staying home;
- 4 **noted** that compliance activity has been relatively light touch and the need for stronger measures has been limited;
- 5 **noted** that there are some areas of the economy that have adapted rapidly to the restrictions of Level 4, particularly in the wholefood delivery sector;
- 6 **noted** that there has been some uncertainty with respect to how butchers, green grocers and bakers, who have established online and or phone based contactless delivery services, can operate;
- 7 **noted** officials are working to provide clarifying guidance to butchers, green grocers and bakers in order to make it clear that they can continue to establish online or phone-based contactless delivery services which adhere to public health advice and this will shortly be released on the Essential Businesses website;
- 8 **noted** that the group of Ministers with Power to Act on COVID-19 matters agreed on 9 April 2020 that the urgent maintenance of biological assets (for example stadium turfs, bowling greens, and golf courses) should be considered as an essential service for the period of Alert Level 4 and they directed officials to develop criteria and a plan for the management of this decision;

- 9 **noted** that guidance on the maintenance of biological assets was published on the essential services website on Tuesday 14th April and is attached as annex 1 to the paper under CBC-20-SUB-0039;
- 10 **noted** that representatives from the interior plantscape industry have requested that the maintenance of plants in or on commercial buildings be included as an essential service on the basis of maintaining a biological asset, and that I have asked officials for urgent advice on this matter.

Vivien Meek
Committee Secretary

Present:

Rt Hon Jacinda Ardern (Chair)
Rt Hon Winston Peters
Hon Kelvin Davis
Hon Grant Robertson
Hon Phil Twyford
Hon Dr Megan Woods
Hon Chris Hipkins
Hon Andrew Little
Hon Carmel Sepuloni
Hon Dr David Clark
Hon David Parker
Hon Nanaia Mahuta
Hon Stuart Nash
Hon Iain Lees-Galloway
Hon Jenny Salesa
Hon Damien O'Connor
Hon Kris Faafoi
Hon Ron Mark
Hon Tracey Martin
Hon Shane Jones
Hon Peeni Henare
Hon James Shaw

Officials present from:

Office of the Prime Minister
Department of the Prime Minister and Cabinet
Treasury
Ministry of Business, Innovation and Employment
Ministry of Health
New Zealand Police
Ministry for Primary Industries