

Proactive Release

The following items have been proactively released by the Rt Hon Jacinda Ardern, Prime Minister:

Paper: COVID-19: Alert Level Framework for Levels 1, 2, and 3: Details and implementation

Minute of Decision: Alert Level Framework: Details and Implementation

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Office of the Prime Minister
Cabinet Business Committee

Alert Level Framework for Levels 1, 2, and 3: Details and implementation

Proposal

- 1 This paper seeks agreement to an implementation framework for moving from Alert Level 4 to lower Alert Levels, noting that a decision about whether and when to step down a level will be made by Cabinet on 20 April 2020.
- 2 This paper includes an overview of proposed restricted activities for Alert Levels 1 to 4, and sets out how the move to Alert Level 3 would be operationalised. It provides information about the compliance and enforcement approach, legislative powers and authorisations required, and how this could be communicated.

Executive summary

- 3 Depending on how health figures track over the next few days, the best case scenario is that we are able to move to Alert Level 3 next week without a high level of domestic transmission present, and with high confidence in our testing and tracing measures.
- 4 We do not yet know what scenario we will be in on 20 April when Cabinet first considers whether the conditions have or have not been met to move down a level. The current data is cautiously optimistic, but it is too early to judge today. We will have the following choices available on Monday, depending on where the public health evidence points us and our level of confidence that transmission is contained and our preparedness for tracing and other system controls:
 - 4.1 Extend Level 4 restrictions for a further period,
 - 4.2 De-escalate to Level 3, with a careful loosening of restrictions in a graduated way for greater economic activity and social flexibility, ahead of a more significant loosening when we reach Level 2.
- 5 It is critical to mitigate the social and economic impacts of the Alert Levels, to the extent permissible within an elimination strategy, and given extant public health risks. We know these restrictions are causing severe economic disruption and hardship, and threaten social wellbeing as well as public acceptability of the measures if they are not seen as proportionate.
- 6 A successful elimination strategy, if quickly achieved, is the best way to limit the economic impact of COVID-19. Of all the economic scenarios in officials' forecast analysis, this strategy involves nominal GDP recovering the fastest and strongest over the next four years. This is primarily because it assumes a long period at Alert Levels 1 and 2 from June 2020. This reinforces the objectives of this paper – to de-escalate Alert Levels in a way that minimises the chances of a future re-escalation.

- 7 When we do move to Alert Level 3, many things will stay the same as under Level 4 because the risk of undetected COVID-19 spread is not gone. However, we can relax restrictions in a few areas that will help people in critical ways, to:
- 7.1 Reconnect with their close family / whānau, or bring in caregivers or support isolated people, by extending their bubble in their local area
 - 7.2 Get back to work, if they cannot work or operate their businesses from home, so that fewer people lose their jobs and income
 - 7.3 Start returning children to school, but they should stay home where they can, and continue to support most children through distance learning
 - 7.4 Access a wider range of consumer goods that they need, by allowing delivery of any goods from any business to homes, and also permitting contactless collection from business premises (pick up or drive through).
- 8 The overall principle of the controls under each Alert Level is that we adopt the least restrictive measures commensurate with managing the public health risk, as expressed in the current Alert Level framework:

New Zealand COVID-19 Alert Levels

Unite against COVID-19

The chart details the alert levels and the range of measures applied at each level.

LEVEL	RISK ASSESSMENT	RANGE OF MEASURES (can be applied locally or nationally)
Level 4 - Eliminate Likely that disease is not contained	<ul style="list-style-type: none"> Sustained and intensive transmission Widespread outbreaks 	<ul style="list-style-type: none"> People instructed to stay at home Educational facilities closed Businesses closed except for essential services (e.g. supermarkets, pharmacies, clinics) and lifeline utilities Restraining of supplies and requisitioning of facilities Travel severely limited Major reprioritisation of healthcare services
Level 3 - Restrict Heightened risk that disease is not contained	<ul style="list-style-type: none"> Community transmission occurring OR Multiple clusters break out 	<ul style="list-style-type: none"> Travel in areas with clusters or community transmission limited Affected educational facilities closed Mass gatherings cancelled Public venues closed (e.g. libraries, museums, cinemas, food courts, gyms, pools, amusement parks) Alternative ways of working required and some non-essential businesses should close Non face-to-face primary care consultations Non acute (elective) services and procedures in hospitals deferred and healthcare staff reprioritised
Level 2 - Reduce Disease is contained, but risks of community transmission growing	<ul style="list-style-type: none"> High risk of importing COVID-19 OR Uptick in imported cases OR Uptick in household transmission OR Single or isolated cluster outbreak 	<ul style="list-style-type: none"> Entry border measures maximised Further restrictions on mass gatherings Physical distancing on public transport (e.g. leave the seat next to you empty if you can) Limit non-essential travel around New Zealand Employers start alternative ways of working if possible (e.g. remote working, shift-based working, physical distancing within the workplace, staggering meal breaks, flexible leave arrangements) Business continuity plans activated High-risk people advised to remain at home (e.g. those over 70 or those with other existing medical conditions)
Level 1 - Prepare Disease is contained	<ul style="list-style-type: none"> Heightened risk of importing COVID-19 OR Sporadic imported cases OR Isolated household transmission associated with imported cases 	<ul style="list-style-type: none"> Border entry measures to minimise risk of importing COVID-19 cases applied Contact tracing Stringent self-isolation and quarantine Intensive testing for COVID-19 Physical distancing encouraged Mass gatherings over 500 cancelled Stay home if you're sick, report flu-like symptoms Wash and dry hands, cough into elbow, don't touch your face

- 9 We want to allow for more social and economic activity when moving from Alert Level 4 to 3, because there are lower public health risks. However, we cannot loosen all restrictions or loosen them too far in Level 3, because there is still a heightened risk the disease is not contained and it is unclear what the cumulative impacts of loosening multiple restrictions will have on disease risk. There are several critical changes we can make, based on the public health risk and evidence, at Level 3:

- 9.1 **Personal movement.** We can allow a small expansion of household bubbles, as long as they live close by. This will enable people to reconnect with their

close family/whānau, bring in caregivers, and support isolated people. This can help mitigate against the worst social harms from restrictions, including mental health impacts, the pressure on single parents and vulnerable people in particular, and potentially family violence. But the instruction remains to keep these bubbles exclusive, stay at home apart from going to work or school (where they cannot be done from home), as well as other essential personal movement.

- 9.2 **Workplaces.** Continuing to take a principles-based approach, we can enable businesses to operate more freely while still containing the risk from significant levels of people movement and contact. This is both to manage the individual safe operation of workplaces and, at the macro level, where the aggregate people movement and contact involved in many workplaces opening can create a critical public health risk. All businesses will be able to open workplaces if their workers cannot work from home and if they can operate safely. But there will be limits on interaction with the public and close personal services, so retail and hospitality premises are closed to the public: they can operate by delivery or contactless collection, apart from existing exceptions under Level 4 which will remain in place (eg for supermarkets, petrol stations, dairies, emergency services and healthcare).
- 9.3 **Education.** We can also enable early childhood education and schools to reopen for Years 1-10, for children who cannot be looked after at home. Physical distancing will impose capacity limits, which means students should continue to access distance learning from home and attend school onsite where they cannot.
- 9.4 **Transport.** Travel will continue to be constrained heavily because of continued limits to only essential personal movement, but this can be further away from home (within the region), with continued exemptions for inter-regional travel as in Level 4 (eg for essential work or medical reasons) and for those relocating or those people who were not home when lock-down began to move home.
- 10 A step down from Level 3 will be easier to communicate and for people to understand and comply with, the closer the concepts stay to those used for Level 4. Level 3 is a progression, but not a rush to normality, and it is not until Level 2 that there is a significantly lower risk to public health, and where there can be a significant loosening of controls on people movement.

Background

- 11 Our current strategy is to eliminate COVID-19. In the coming weeks, we may be able to step down from Alert Level 4. On 9 April 2020, the COVID-19 Ministerial Group noted that the principal matters to be taken into consideration in determining whether the government can step down from Alert Level 4 in all or part of New Zealand are :

- 11.1 The Director-General of Health's satisfaction that:
- 11.1.1 There is sufficient data from a range of sources including testing and surveillance that public health experts, statisticians and modellers can have reasonable certainty that undetected community transmission is unlikely,
- 11.1.2 There is sufficient rigorous and rapid case identification and contact tracing, with surge capacity available in the case of an outbreak,

- 11.1.3 Our self-isolation, quarantine and border measures are robust and adhered to, and
 - 11.1.4 There is capacity in the health system more generally, including the workforce and ICU capacity (plus the availability of PPE for those for whom it is recommended),
 - 11.2 Evidence of the effects of the measures on economy and society more broadly,
 - 11.3 Public attitudes towards the measures and the extent to which people and businesses understand, accept and abide by them, and
 - 11.4 The ability to operationalise restrictions, including satisfactory detailed implementation planning by the All-of-Government (AOG) team and government agencies.
- 12 On 9 April 2020, the COVID-19 Ministerial Group directed AOG officials to report back on the detailed measures required at Alert Levels 3 and 2, and operational preparation underway to implement these measures following a government decision. This paper responds to that direction, and comes ahead of further advice to Cabinet on 20 April 2020 about whether the specific conditions to step down from Alert Level 4 have been met.

Principles that underpin the differences between Alert Levels

- 13 The starting point for determining permitted activities at each Alert Level is the Government's elimination strategy. Within this strategy, we are taking a principles-based approach that seeks to ensure risks are mitigated and Government remains able to:
 - 13.1 identify and stop each transmission chain (e.g. via detection and isolation of cases, rapid tracing, testing, and quarantine of contacts);
 - 13.2 prevent transmission (e.g. via population-level control measures to reduce transmissibility and contact rates);
 - 13.3 prevent seeding of new transmission chains into communities from overseas cases (e.g. via border control measures);
 - 13.4 ensure that adverse consequences (and inequities) from control measures (related to COVID-19 disease impact, non-COVID-19 health outcomes and the wider determinants of health) are anticipated, planned for and mitigated;
 - 13.5 consider fairness, equity and public acceptance of any restrictions on activities, and
 - 13.6 justify all measures from a scientific perspective, but
 - 13.7 balance the overriding priority of managing the public health risk with enabling as much social and economic activity as possible, and
 - 13.8 reduce the impact on the economy's long-term recovery.
- 14 Settings at each Alert Level are also more durable when they promote voluntary compliance. This is key to ensuring continued social licence and supports our overall

enforcement approach for the response to COVID-19. As restrictions are reduced when we lower Alert Levels, managing compliance becomes more difficult due to a combination of:

14.1 restriction fatigue, a perceived reduction in risk signalled by lower infection rates, and economic and social life pressures eroding the social licence and reducing voluntary compliance,

14.2 s9(2)(c)

14.3

14.4

- 15 As a consequence, voluntary compliance will become even more important at lower Alert Levels. Voluntary compliance will be supported by a more coordinated all of government graduated response model that is already underway by operational agencies, to manage coordinated compliance and enforcement across the board. Rigid compliance management and enforcement would not be s9(2)(c) appropriate, except where necessary, at the margins.
- 16 Some measures stay the same at any Alert Level. These are largely modifications to people's behaviour – physical distance, hand-washing, safe coughing and regularly disinfecting surfaces. Health promotion advertising will continue. We will also need to work hard to shape and influence public perception, for example expectations around PPE use by workers, and use of hand sanitiser, so that it matches health guidance (due to supply risks).
- 17 At the highest Alert Levels, people movement and contact must be highly restricted. The bulk of it must be focussed on delivering essential services, including healthcare, because of the risk of unseen community transmission. As we move down Levels, there is an increase in the aggregate amount of people movement and contact that is possible outside of the home while still meeting our public health objectives.
- 18 A step down in Alert Levels carries the risk of inadvertently increasing disease transmission. That is because the social and economic measures which are loosened when stepping down levels inherently involve activities that increase transmission risk: more people will be allowed to move around their local areas, and there is increasing permission and likelihood of contact with people beyond current household bubbles. This is why we cannot move down Alert Levels without confidence in our information about whether there is undetected community spread, and whether we have the necessary public health controls to prevent transmission, stop transmission, and stamp out any clusters or outbreaks.
- 19 It will be critical to mitigate the social and economic impacts of the Alert Levels, to the extent permissible within an elimination strategy, and given extant public health risks. We know these restrictions are causing severe economic disruption and hardship, and threaten social wellbeing as well as public acceptability of the measures if they are not seen as proportionate.

- 20 A successful elimination strategy, if quickly achieved, is the best way to limit the economic impact of COVID-19. Of all the economic scenarios in the Treasury's forecast analysis, this strategy involves nominal GDP recovering the fastest and strongest over the next four years. This is primarily because it assumes a long period at Levels 1 and 2 from June 2020. This reinforces the objectives of this paper –to de-escalate Alert Levels in a way that minimises the chances of a future re-escalation.

The rules of each Alert Level need to be simple and clear, but not so rigid they ban activities that can be done safely

- 21 The proposed approach to defining Alert Levels for permitted workplace and activity is to establish overall principles, and to promulgate guidance consistent with those principles. As Levels 2 and 3 are less restrictive than level 4, it is not necessary to provide a list of permitted services and associated supply chains and to ensure that we have a comprehensive list of 'exemptions' from the overall restrictions on people movement. At Level 4, all workplaces are not permitted to be open, except if identified as an essential service. At lower levels, the approach is flipped and workplaces are permitted to be open to workers (but not for customers) unless they involve prohibited activities or unless they cannot operate safely.
- 22 Clear and simple communications messages are critical to ensuring good compliance and making enforcement easier. However, simple and clear rules tend to also create rigid boundaries that are not necessary and are often not seen as fair, or may lead to inequities and poorer outcomes. The settings and communications for Levels 3 and 2 that Cabinet puts in place will therefore need to balance these competing considerations. A principles based approach to guidance should be continued, which mandates some of the details to be worked through on an industry by industry basis, aligning with public health requirements.
- 23 During our move from Alert Level 2 to 4, the public and businesses asked for detailed guidance about what they could and could not do at each Level. The current Alert Level table is useful for communicating, at a glance, a general sense of what is permitted. However, on the escalation pathway, we only spent 48 hours at Level 3. When de-escalating, it is likely that we will spend longer at Alert Level 3. This means New Zealanders will need clear and detailed guidance as well as ongoing support about what it means to be at Alert Level 3, due to the health and legal risks involved with non-compliance. They want to do the right thing, but will need help knowing what that is. Equally, we need a clear compliance approach across activities.
- 24 As well as applying principles and science, we need to take account of disparate public attitudes to changes in Alert Levels. We may decide on the rules but it is difficult to model actual human response. We will need to be responsive to the emotional attitudes of New Zealanders as part of building trust.
- 25 For these reasons, officials have worked with the Director-General of Health to develop this implementation framework for communicating and implementing a move between Alert Level 4 to/from Level 3 (and, in due course when conditions permit, to/from Levels 2 and 1). s9(2)(c), s9(2)(f)(iv)
- 26 Table 1 shows detailed activities that are permitted at Alert Levels 1 to 4, with more detail in this paper explaining the rationale for settings in each of the activity areas. Because of our rapid movement through Alert Levels 2 and 3, some of this detail may be new to the public. It also reflects what we have learned in the weeks since adopting the Alert Level framework about the questions people have about what they

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can and cannot do at each Alert Level, and where settings could be adjusted. We can expect low levels of public awareness about what Alert Level 3 means and an ongoing intensive public information campaign will be required.

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Table 1. Proposed settings for Alert Levels 1 – 4 (Note: restrictions are cumulative, so at Alert Level 4, all restrictions at Alert Levels 2&3 apply).

	Alert Level 1	Alert Level 2	Alert Level 3	Alert Level 4 (current)
Outcome	Keep out global pandemic. Population prepared for increase in alert levels if necessary.	Physical distancing and restrictions on leisure and social activities to address sporadic cases or a cluster in New Zealand.	Further restrictions on activities, including at workplaces and socially, to address a high risk of transmission within New Zealand.	Strong restrictions to limit all people movement and contact to contain community transmission and outbreaks.
Summary	Be prepared, and be vigilant. Border measures are in place. Public health measures in place, but no physical distancing is needed.	Businesses open, but physical distancing applies. People advised to avoid non-essential travel.	Stay at home, other than for essential personal movement, and going to work/school. Stay in extended bubble, which can now include close family or caregivers.	Stay at home, other than for essential personal movement and doing essential work. Stay in immediate household bubble.
Public health measures	No physical distancing requirements.	People should keep 1 metre apart (especially on public transport).	People encouraged to keep 2 metres apart outside home where possible (apart from with people within their extended bubble). This requirement does not apply to emergency and frontline public services (eg healthcare). In a controlled environment such as a workplace, 1 metre distancing is required.	People should keep 2 metres apart at all times outside home, including at workplaces. This requirement does not apply to emergency and frontline public services (eg healthcare).
	General public health advice: <ul style="list-style-type: none"> Regularly disinfect surfaces; wash and dry hands, cough into elbow, don't touch your face; stay home if you're sick, report flu-like symptoms. Contact tracing: <ul style="list-style-type: none"> Ongoing contact tracing for all confirmed and probable new cases of COVID-19, with appropriate isolation measures put in place. Testing: <ul style="list-style-type: none"> Testing of all potential cases of COVID-19 for people who meet the case definition (ie are displaying relevant symptoms). Tests will take place at dedicated Community-Based Assessment Centres (CBACs) or designated practices. Random testing within communities (including for people who are asymptomatic) may be carried out locally to inform understanding on the spread of the virus in certain areas. Isolation and quarantine: <ul style="list-style-type: none"> Stringent self-isolation of those who display relevant symptoms of COVID-19, test positive for COVID-19, have been in close contact with someone who tests positive for COVID-19, or mandatory quarantine/managed isolation for those who have been overseas in the last 14 days. Quarantine facilities mandated for those who do not have sufficient capacity to self-isolate effectively. Border: <ul style="list-style-type: none"> Robust border measures in place which safeguard against the risk of COVID-19 being transmitted into New Zealand. Currently, isolation on arrival for 14 days before onward domestic travel (subject to regular review). 			
Personal movement	No restrictions on personal movement. Sports and recreational activities allowed.	<p>People asked to stay at home where possible. Participating in sports and recreational activities is allowed subject to conditions on gatherings.</p> <p>People at higher-risk of severe illness from COVID-19 (eg those with underlying medical conditions, especially if not well-controlled) are encouraged to take additional precautions when leaving home. They may work, if they agree with their employer that they can do so safely.</p>	<p>People instructed to stay at home, other than for essential personal movement:</p> <ul style="list-style-type: none"> Accessing local services and businesses Going to work and school (only for those who have to), Low risk recreation in local area, Shared and extended bubble arrangements, Emergencies and giving effect to court orders, Travelling to permitted gatherings, Relocating a home or business, Medical reasons Those who have an exemption to travel because of compassionate reasons, Foreign nationals leaving New Zealand, New Zealanders resident in the Realm returning home, and People arriving in New Zealand from overseas and returning home after 14 days' isolation/quarantine at port of arrival (except air and marine crew). <p>People must stay within their immediate household bubble, but can extend this to reconnect with close family/whānau, or bring in caregivers, or support isolated people. This extended bubble should remain exclusive. Anyone who feels unwell must immediately self-isolate from others in their extended bubble.</p> <p>People at higher-risk of severe illness from COVID-19 (eg those with underlying medical conditions, especially if not well-controlled and the elderly) are encouraged to take additional precautions when leaving home. They may work, if they agree with their employer that they can do so safely.</p> <p><i>Any new Health Act order for Alert Level 3 will allow all "essential personal movement" currently possible at Alert Level 4.</i></p>	<p>People instructed to stay at home, other than for essential personal movement as defined in Health Act order of 3 April 2020.</p> <p>People must stay within their immediate household bubble. There may be extended bubbles where there are shared care and custody arrangements. Anyone who feels unwell must immediately self-isolate from others in their bubble.</p> <p>Sports and recreational activities allowed if within scope of essential personal movement as defined in Health Act Order of 3 April 2020.</p> <p>People at higher-risk of severe illness from COVID-19 (e.g. those with underlying medical conditions, especially if not well-controlled, and the elderly) are encouraged to take additional precautions when leaving home. They may work, if they agree with their employer that they can do so safely.</p>
Travel and transport	<p>No restrictions on freight. All freight can be distributed and received. All freight can enter and leave the country.</p>			All freight can be distributed and received, with essential freight prioritised. This includes devanning, delivery to and receipt by businesses (including those businesses not currently permitted to trade for receipt only) and customers. All freight can enter and leave the country.
	No restrictions on domestic travel. Avoid mass transport if sick, awaiting a result from a COVID-19 test, or required / recommended to self-isolate.	<p>People advised to minimise non-essential travel.</p> <p>Do not use mass transport if required to self-isolate/quarantine, experiencing symptoms of COVID-19, awaiting a result from a COVID-19 test, suspected/probable/confirmed to have COVID-19, or if subject to an individual notice issued under section 70(1)(f) of the Health Act.</p>	<p>Travel is allowed for the following essential personal movement in your local area</p> <ul style="list-style-type: none"> Accessing local services and businesses, Going to work and school, Low risk recreation in local area Extended bubble arrangements, and Travelling to permitted gatherings. <p>Those travelling on public transport should avoid peak times unless they are going to work or school.</p> <p>Travel between regions is allowed for the following essential personal movement:</p> <ul style="list-style-type: none"> Workers travelling to do essential work, Going to work or school (only in neighbouring region), Shared bubble arrangements Relocating a home or business, Those travelling for medical reasons, Emergencies and giving effect to court orders, Those who have an exemption to travel because of compassionate reasons, 	<p>Personal travel (including the use of private cars or public transport) is only permitted within territorial authority, and for essential personal movement as defined in Health Act order of 3 April 2020.</p>

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	Alert Level 1	Alert Level 2	Alert Level 3	Alert Level 4 (current)
			<ul style="list-style-type: none"> Foreign nationals leaving New Zealand (except Cook Strait ferries), New Zealanders resident in the Realm returning home, and People arriving in New Zealand from overseas and returning home after 14 days' isolation/quarantine at port of arrival (except air and marine crew). <p>All other travel is not allowed.</p>	
Gatherings	No restrictions.	<p>Gatherings only allowed for up to 100 people indoors, and up to 500 outdoors. These are total permitted numbers.</p> <p>This includes funerals and tangihanga up to same number as permitted at this level for gatherings.</p> <p>Additional conditions on gatherings:</p> <ul style="list-style-type: none"> Physical distancing and infection prevention and control requirements must be met. All gatherings must record attendees to ensure contact tracing may be conducted if necessary. No participants allowed who have COVID-19 symptoms or who need to be in isolation/quarantine for any reason. 	<p>Gatherings of up to 10 people at a time for wedding services, funerals and tangihanga,</p> <p>Wedding receptions or other celebrations are not allowed. Consumption of food/drink not permitted.</p> <p>Workplaces, education facilities, public transport and supermarkets are not considered gatherings.</p> <p>Additional conditions on gatherings:</p> <ul style="list-style-type: none"> Physical distancing and infection prevention and control requirements must be met. All gatherings must record attendees to ensure contact tracing can be conducted if necessary. No participants allowed who have COVID-19 symptoms or who need to be in isolation/quarantine for any reason. 	All gatherings cancelled.
Public venues	No restrictions.	<p>Public venues are open, but must comply with conditions on gatherings.</p>	<p>All public venues closed (eg libraries, museums, cinemas, food courts, gyms, pools, amusement parks, playgrounds, farmers' markets).</p> <p>Public open spaces (eg parks) may be used, but people need to maintain physical distancing outside their extended bubbles.</p>	<p>All public venues closed (eg libraries, museums, cinemas, food courts, gyms, pools, amusement parks, playgrounds, farmers' markets).</p> <p>Public open spaces (eg parks) may be used, but people need to maintain physical distancing outside their bubbles.</p>
Health and disability care services	No restrictions.	<ul style="list-style-type: none"> Health and disability care services operate normally as far as possible. Hospitals will operate in line with the National Hospital Response Framework. Physical distance and infection control guidelines followed. Remote consultations used wherever possible. 	<ul style="list-style-type: none"> Hospitals operate in line with the National Hospital Response Framework. Primary care services are open (including dental and allied health) and use virtual, non-contact consultations where possible. Residential facilities remain open with strict visitor policies. In home visiting required for priority populations. Pharmacies remain open. 	<ul style="list-style-type: none"> Hospitals operate in line with the National Hospital Response Framework. Primary care services (including dental and allied health) to use virtual, non-contact consultations where possible. Only urgent acute care conducted in person, maintaining public health guidelines. Routine care postponed. Residential facilities remain open with strict visitor policies. In home visiting required for priority populations. Pharmacies remain open.
Workplaces	<p>Businesses must operate safely. This means:</p> <ul style="list-style-type: none"> Complying with Alert Level 1 settings in this table, <u>and</u> Meeting appropriate public health requirements for their workplace (eg handwashing), <u>and</u> Fulfilling all other health and safety obligations. 	<p>Businesses must operate safely. This means:</p> <ul style="list-style-type: none"> Complying with Alert Level 2 settings in this table, <u>and</u> Meeting appropriate public health requirements for their workplace (eg having contact tracing systems), <u>and</u> Fulfilling all other health and safety obligations. <p>All businesses are encouraged to use alternative ways of working if possible. Business premises can open for staff and customers. Services can also be provided on customers' premises (eg in homes).</p>	<p>People required to work from home unless that is not possible.</p> <p>Workplaces can only open if:</p> <ul style="list-style-type: none"> Workers cannot work from home, <u>and</u> Workplaces are operating safely, <u>and</u> Customers are not allowed on premises, <u>and</u> Businesses can trade without physical contact with customers (eg through phone/online orders, delivery, pick-up and drive-through). <p>Businesses cannot offer services that involve close personal contact, unless it is an essential service, emergency or critical situation.</p> <p>Supermarkets, dairies, and petrol stations can have customers on premises. Retail is possible through delivery and non-contact collection at the door, including of prepared food. No consumption of food/drink is allowed by customers on premises.</p> <p>If businesses cannot operate safely, staff must not go to work and premises should remain closed.</p> <p>"Operating safely" means:</p> <ul style="list-style-type: none"> Complying with Alert Level 3 settings in this table, <u>and</u> Meeting appropriate public health requirements for their workplace, including for workers (eg putting up barriers), <u>and</u> Fulfilling all other health and safety obligations. <p>Essential services operating at Level 4 can operate in the same way at Level 3.</p>	<p>People required to work from home unless that is not possible.</p> <p>Workplaces can only open if:</p> <ul style="list-style-type: none"> Workers cannot work from home, <u>and</u> They are operating safely, <u>and</u> They are essential services. <p>"Operating safely" means:</p> <ul style="list-style-type: none"> Complying with Alert Level 4 settings in the this table, <u>and</u> Meeting appropriate public health requirements for their workplace (eg putting up physical barriers), <u>and</u> Fulfilling all other health and safety obligations. <p>This means if a business providing an essential service cannot operate safely, workers must not go to work and premises should remain closed.</p> <p>Only supermarkets, dairies and petrol/service stations can open their retail premises to the public. Essential services must also comply with any specific restrictions on how they operate.</p>
Education	<p>Any educational facilities connected to a confirmed or probable case of COVID-19 must close on an individual or group basis for 72 hours to allow contact tracing, and then potentially for a further 14 days.</p>	<p>Schools and early learning centres can open.</p> <ul style="list-style-type: none"> Early learning centres and schools are open for all children. Distance learning is available for those unable to attend school (eg self-isolating). Tertiary education facilities open, with arrangements made for vulnerable students for distance learning. <p>Any educational facilities connected to a confirmed or probable case of COVID-19 must close on an individual or group basis for 72 hours to allow contact tracing, and then potentially for a further 14 days.</p>	<p>Early learning centres and schools are open for children in Years 1-10, with appropriate health measures in place.</p> <ul style="list-style-type: none"> Early learning centres will be open to provide childcare for people who are working. Children will not be able to attend playcentres and play groups. Home-based care, education and supervision of young children for more than one family in a home if public health control measures can be implemented. Children are encouraged to stay at home, if caregiving is available. Primary and intermediate schools are open. If there is a parent or caregiver available to look after children at home and school children have access to distance learning, children and young people are encouraged to continue distance learning at home. Secondary schools are open for young people in Years 9 and 10 who may not be able to stay home by themselves. All young people in Years 11–13 learn from home. Tertiary education facilities open for limited activities involving small groups (up to 10 people), and with distance learning provision for others. <p>Any educational facilities connected to a confirmed or probably case of COVID-19 must close on an individual or group basis for 72 hours to allow contact tracing, and then potentially for a further 14 days.</p>	<p>All educational facilities closed.</p> <ul style="list-style-type: none"> All schools engaged in some form of distance learning. Necessary tertiary student and some school hostel (where international students cannot return home and/or it is not safe for domestic students to return home) accommodation can remain open.

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Specific choices can affect how permissive or restrictive lower Alert Levels are set

- 27 Officials' approach in designing this overall package has been maximising the opportunities of a phased reprieve from the social and economic sacrifices required at Alert Level 4, while still managing public health risks.
- 28 It is possible to alter the calibration of particular measures to achieve a different balance of permissiveness or restriction, based on what is considered necessary from a public health perspective. However, there are inter-dependencies between many settings, which means altering one could have consequential effects on others.
- 29 This is particularly evident when considering personal movement, education, workplace and transport measures. If we were confident that we could safely allow more people movement for economic activity, we might say retail stores can allow customers on premises (rather than only retailing goods by delivery or contactless collection). However, this would likely require more people to be at work and customers travelling to shops, putting strain on public transport systems which have very low loading (around 20%) once distancing and other health measures are taken into account. The aggregate people movement and contact across businesses would be high, even if individual operations could be safely managed.
- 30 Allowing more workers to go to work would also require schools to be open for children who are too young to remain at home without adult supervision. However, while schools can be an enabler of economic activity (like public transport), education differs in that it is also an outcome sought. Schools cannot safely open for their entire rolls at Alert Level 3, and would need to continue providing distance learning in addition to on-site activities.
- 31 The proposed settings for Alert Levels 2 and 3 assume we may be at both of these levels for a moderate amount of time (assuming infection prevention and control continues). If we need to be at these Alert Levels for longer, and/or move between them repeatedly over the next one to two years, there will be opportunities to modulate the particular settings to fit the circumstances.
- 32 By contrast, the meaning of Alert Level 4 should remain fixed. This is our most serious combination of interventions, and will be used when we need urgent results and reliable responses from people to achieve infection control. This is the case at a national level, s9(2)(c), s9(2)(f)(iv) [REDACTED] We need people to immediately know what Alert Level 4 means, in order to be able to transition to it swiftly in the future if needed. However, there are some marginal areas where adjustments are needed (such as to keep freight moving and prevent blockages for essential goods), if there is an extended period in Level 4.

Workplace settings can be less restrictive at lower levels, but safe operating practices and limited contact with the public are required

- 33 The chief rationale for the increasing levels of restriction under the Alert Levels framework is to stop the spread of COVID-19 by reducing opportunities for person to person transmission and widespread community transmission taking hold. At the highest level, we are under lockdown because we want as little movement outside households as possible, consistent with the continued provision of the necessities of life in order to stop the chain of transmission.
- 34 This has meant that under Level 4 the relevant first question for businesses is not "who can operate safely" or even "what is the sector's value to the economy". Firms

can only operate outside of the home if they are providing services which are essential to the necessities of life – such as food and hospital treatment – or a part of the supply chain for those necessities, or are required to support ongoing compliance with the Level 4 restrictions (for example, security services for buildings, maintenance of IT systems in offices to support those working from home, supply of computer equipment by contactless delivery to enable distance schoolwork).

- 35 The regulatory framework in place around what businesses can operate outside of working from home and what must not operate is governed for the most part through the s70 notices promulgated by the Director-General of Health under the Health Act 1956. While the paramount consideration is public health, the restrictions imposed with s70 notices must be proportionate and the least restrictive to be able to achieve the public health objective. They must also apply for no longer than is necessary to prevent or minimise the public health risk. This means that whether a sector is high value add or high skilled is not a relevant criterion to defining who is permitted or restricted to operate under Level 4 or under Levels 3 and 2, but the level of risk posed by a particular activity, and the ability to mitigate that risk, is relevant.
- 36 The other existing key regulatory regime is the Health and Safety at Work Act 2015 which provides, alongside the public health powers and guidance, a framework for a balanced approach to consideration of what and how people can operate safely in this context.
- 37 At Alert Level 3, we can permit greater people movement overall and into workplaces, and in doing so, we can increase the amount of economic activity being undertaken across New Zealand, which will be critical for people's ability to earn a living and for firms to operate. This is particularly the case for businesses that cannot operate on the basis of their staff working from home easily, or at all. Enabling more people to go back to work will reduce the need for Government support for households and firms relative to that required under Level 4.
- 38 Under Level 3, I propose all businesses will be able to open their workplaces to workers if they cannot work from home and if they can do so safely. In practice, the public health guidelines mean that there will be constraints on many business models, impacting some sectors more than others (such as retail and hospitality). In particular, these businesses will be impacted by the requirements not to have customers enter their premises (with a few exceptions as at Level 4) and continued physical distancing (of 1m in controlled environments, including workplaces).
- 39 At Alert Level 2, these constraints would begin to be lifted and permit increasing levels of person-to-person contact in workplaces with customers and the wider public.

Provision of close personal services will be restricted under Level 3

- 40 Outside of certain essential services, at Level 3, all public facing work will be strictly limited to reduce the risk of spread of transmission through contact. The risks of disease transmission between workers can be more readily managed, including through physical distancing.
- 41 However, where close personal services are provided, a 1m physical distancing rule between workers, or with their clients or customers, is not implementable at all times. This includes some essential services like some healthcare and aged care where physical interaction with clients is also unavoidable. It also includes frontline public services, including at the border and policing. In these settings, and others like

cleaning and accommodation, different infectious disease controls are required and put in place. This includes use of PPE in some cases, and other specific hygiene measures. The Ministry of Health and WorkSafe have good guidance available to support appropriate infectious disease control measures in these settings.

- 42 However, where businesses want to provide services or undertake activities which inherently involve close personal contact with multiple people or customers this presents too high a risk, unless it is an essential service like healthcare, or a critical or emergency situation requiring physical contact. Outside of these essential, emergency, or critical situations, close personal services will be restricted under Level 3.
- 43 As more types of work are allowed to operate under Levels 2 and 3, Government will work collaboratively with other sectors (beyond close personal services) to establish acceptable infectious disease controls where 2m distancing is not always possible and where WHO guidelines indicate that 1m can therefore be appropriate physical distancing in a controlled environment, such as workplaces.

Customers will be restricted from business premises (including retail and hospitality)

- 44 While allowing more workers to return to the workplace will necessarily involve a significant increase in people movement and interaction compared to Level 4, this can be managed with strong guidance to businesses on how to operate safely, and corresponding enforcement action. There is already a significant volume of detailed guidance and advice available across Government to businesses and the public, from Level 4. This is being updated through Ministry of Health and WorkSafe, in partnership with business and union leaders, to apply more widely across different sectors and activities.
- 45 However, the cumulative and uncontrolled nature of people movement and contact that would result from opening up retail stores and hospitality to *customers* would undermine our public health objectives at Level 3. This is because people would be out to shop and consume more than is necessary and the aggregate movement and interactions would be too high a risk. I therefore propose that only those premises which can open to customers under Level 4 would should be able to do so under Level 3 (eg supermarkets, dairies, petrol/service stations).
- 46 Many other businesses are able to operate through remote ordering and contactless delivery under Level 4, but only for essential goods. We can manage the risks of people being caught short of goods under Level 3 by opening up home deliveries to wider goods (all, not just essential, goods) and to all businesses that can operate safely from their homes or premises. Because of the restrictions on movement under Level 4, it is likely many retail businesses will be low on stock, and until stock can be ordered and repositioned, there may be localised shortages particularly in more remote areas. Communications with the public on this will need to be carefully managed.
- 47 I therefore also propose to permit all contactless purchases or delivery, which can include contactless collection under Level 3, including drive through, which minimises the potential for person to person contact (stay in vehicle), although there would be an increase in vehicle movements.
- 48 At Level 3, we can allow customers to collect goods ('click and collect') at the door of hospitality and retail shops if it is contactless. Measures to manage those collection services would need to be put in place to meet public health guidelines and we have

seen some models establish in this way under Level 4 (such as for pharmacies). However, even where individual businesses can put such measures in place (in time and with guidance), there is the cumulative people movement and contact from these customer movements and interactions that pose a risk to public health, such as when travelling to the shop front and waiting outside. More work is needed to put guidelines in place that work across the board to enable this approach.

- 49 Some businesses or stores will not be able to deliver goods easily or will take time to set up online or telephone ordering or contactless collection. Many will face significant financial pressures and may close if they have to wait until Level 2 when customers may enter business premises (with the right public health controls are in place such as cleaning, physical distancing).
- 50 Under Level 2, there would be a loosening of restrictions on collection and on customers entering premises, including for retail and hospitality, but still with public health measures such as physical distancing and contact tracing measures in place, and there would be limits on numbers of people at gatherings. The guidance developed with the hospitality sector under Level 2 provides a basis for working with that and wider sectors over coming weeks on safe operating practices ahead of a return to Level 2.

Workers will be allowed to enter customers' homes

- 51 At Alert Level 4, workers are not allowed onto customers' premises or homes unless they are performing an essential service. This is because the level of people movement and close personal contact involved with going into a person's home, and bursting their bubble, should only happen in essential circumstances, such as an emergency repair.
- 52 At Level 3, we can allow workers into homes where they are not providing a close personal service and can operate safely. The same public health measures they must take in their workplace need to be given effect to even if work is happening in a customer's home. These include regular disinfecting of surfaces, good hand hygiene, keeping track of all people on premises, not having sick people in the workplace, and meeting physical distancing requirements (which is 1 metre for workplaces at Alert Level 3). This means that at Alert Level 3, for example:
 - 52.1 Open homes, auctions and property inspections must happen remotely and without anyone in a home that is currently occupied, but people can move home and businesses.
 - 52.2 Hairdressers, non-medical massage and nail salons cannot operate at Alert Level 3 because they involve close personal contact and are not essential services (even in customers' homes).
 - 52.3 Tradespeople can enter a customer's property to do non-essential work.
 - 52.4 Home cleaning services are not available at Alert Level 3.
- 53 Under Alert Level 2, the restrictions can be loosened again commensurate to the overall public health risk and level of confidence in preparedness and low levels of transmission within New Zealand. Under Level 2, all businesses may open, but must operate safely. This means meeting appropriate public health requirements for their workplace (eg using PPE in some situations), and fulfilling all other health and safety obligations. All businesses are still encouraged to use alternative ways of working, if

possible. Business premises can open for workers and for customers, services can also be provided on customers' premises (eg in homes), and restrictions on gatherings still apply to retail and hospitality, including at public venues.

Guidance on safe operation for workers and employers about workplaces reopening

- 54 WorkSafe and the Ministry of Health have guidance available for sectors and firms in terms of how to meet the additional requirements imposed by the need to reduce the risks of COVID-19 infection in their workplaces. This guidance has been in place since before the country hit Level 2 and has been updated as required. The next steps are to support industries to translate this into general operational approaches that make sense at an industry level as we get more industries and firms up and running again under lower Alert Levels.
- 55 The Ministry of Business Innovation and Employment (MBIE), WorkSafe, the Ministry of Health, industries and unions (as well as other key relevant agencies such as the Ministry of Primary Industries (MPI) for the primary sector) are working together to make sure there are clear approaches that make sense for each industry and to develop the necessary guidance for them. This guidance will show, at a more granular level, what the specific restrictions in place at Alert Levels 2 and 3 mean for workplaces.
- 56 Given the reasonable questions that were asked about the definition of "essential services" when we moved to Alert Level 4, I anticipate calls to say exactly which businesses can operate, and under what conditions, and concerns from workers and the public about whether it is safe at Alert Levels 3 and 2. However, I do not think it will be sustainable or realistic to attempt to provide specific responses for every business or public query across the economy. Instead, businesses need to:
- 56.1 Ensure as many of their workers are working from home where possible,
 - 56.2 Open premises for other workers safely and operate in ways that meet public health infection prevention and control measures and guidelines, and
 - 56.3 If they are retail or hospitality businesses, only sell goods (including prepared food) to customers by delivery or to wholesale customers, or by contactless collection.
- 57 What it means to operate premises safely will differ from one workplace to the next. Businesses are responsible for knowing their particular work hazards and risks. While there are some public health basics (eg hand hygiene practices, physical distancing, disinfecting surfaces regularly, contact tracing) that will be needed in all workplaces, what public health measures are appropriate for each workplace and worker, and how they are put in place, will differ greatly.
- 58 MBIE is also scaling up its capacity to support workers and employers dealing with substantial restructurings and redundancies. Demand is already increasing for employment advice, including complaints about employers.
- 59 One area where it would be appropriate for the Government to be more directive across Alert Levels is the use of PPE in workplaces. The current global stockpile of PPE is insufficient, particularly for medical masks. Misinformation, panic buying and stockpiling will result in further shortages of PPE globally. We are aware of a proliferation of agreements between workers and employers where PPE is provided in exchange for workers returning to work, even where PPE is not required to safely

carry out work under the most up to date health advice. This could come at the expense of the national good in terms of PPE supply for those who actually need it. Priority should be given to an integrated approach to assessing national supply and demand of PPE, its allocation to high priority users and guidance for its use. As part of this work, we will develop a public campaign to set expectations about PPE use by workers.

Giving confidence to workers they can safely return to workplaces

- 60 Workers will also need to feel safe returning to workplaces at Alert Levels 3 and 2. Without this, there is a risk that workers may not return to work. On the other hand, we do not want workers to feel forced to return to work despite misgivings about safety, for example, for personal financial reasons. We are taking a tripartite approach to this issue, as set out in para 55, and WorkSafe, the CTU and BusinessNZ are jointly preparing guidance for businesses and workers to implement the principles for workplaces at Alert Level 3.
- 61 In addition, at Alert Level 3, people at higher-risk of severe illness from COVID-19 (eg those with poorly-controlled underlying medical conditions or who are over 70 with medical issues) are encouraged to take additional precautions when leaving home. Under all levels, some people are more at-risk of severe illness from COVID-19, but only in certain circumstances and not as a general rule. While we want to ensure these groups are protected from infection, this needs to be balanced with encouraging them to do more outside their homes at Alert Level 3 if they want, that can be done safely without compromising their bubbles. This includes being able to go to work in their workplace if they wish to and if appropriate measures can be taken to make this safe for them.
- 62 We also want to ensure that these more at-risk people are respected when they do take these opportunities and do not face criticism from the public when they are at work, or out for a walk. This means the public messaging will need to move away from blanket messaging that those over 70 or with underlying health conditions should stay at home – but rather that they can choose to work if they wish to do so and that it can be made safe for them. It will also be important that there is appropriate support and services in place for these people when they do face greater restrictions than the rest of the population. Further advice and guidance is being prepared on this.

Supporting workers who cannot go to work and/or cannot work from home

- 63 Consideration needs to be given to extending the COVID-19 leave scheme into Level 3 and possibly Level 2, so that workers do not go to work sick, nor face a loss of income to protect the public health good. Eligibility is likely to also need to be broadened beyond essential services to all workplaces. Consideration will need to be given to how this interacts with the wage subsidy scheme and further advice will be provided on the range of business and worker support required under Levels 3 and 2.
- 64 While I propose that all businesses, including non-essential businesses, can operate premises at Alert Level 3 for workers who cannot work from home (as long as they do so safely), in practice, the expected limited capacity at schools and early learning centres for on-site learning is likely to act as a significant capacity constraint on some workers being able to return to work.

- 65 The availability of school and ECE services could be seen as a natural handbrake on the number of people working at Alert Level 3. However, these capacity restrictions could end up hurting low income workers more, if they lack alternatives for childcare.
- 66 This will need to be monitored and policy responses may need to be put in place to remedy this. Because of restricted capacity for early childhood education and care, additional financial support for alternative childcare arrangements may need to be considered to support the workforce returning to work. The extension of individual household bubbles to bring in caregivers also offers potential childcare options. There may also be ways to ease the pressure on public transport services, such as Councils continuing to allow free parking in city centres.
- 67 Capacity for some public services will also be constrained by physical distancing requirements, and others will have human resources constraints where public sector workers continue to be redeployed from their business as usual activities to COVID-19 response. This includes local government services, where staff are heavily deployed into emergency management. It may be difficult to recalibrate the public's expectations about what to expect from public services under Level 3, and for even those expectations to be met in reality.

Education facilities can open safely at Level 3, but with limited capacity

- 68 At Level 4, educational facilities are all closed, but distance learning is able to take place where arrangements can be accessed. Necessary tertiary student accommodation can remain open. Distance learning is being set up across the school system for the remainder of Level 4.
- 69 At Alert Level 3, more parents and caregivers will need to return to work unless they are able to continue to work from home. ECEs, primary, and intermediate schools will be open for children and young people whose parents have returned to work. Secondary schools will be open to enable distance learning and for young people in years 9 and 10, who may still require supervision. Senior students in years 11 – 13 will undertake distance learning from home. Secondary schools will be closed for these students.
- 70 Public Health officials have advised that schools and ECEs are safe to open at Alert Level 3, if appropriate public health control measures are put in place. These are:
- 70.1 Ensuring that all children and staff stay home if they are sick
 - 70.2 Physical distancing with 1m distance between children, young people and staff (including desks or group tables, school transport, staggered breaks, and staggered starts and finishes) and cancellation of any school events and assemblies
 - 70.3 Processes to support contact tracing with all children and young people sitting in the same place everyday
 - 70.4 Hygiene measures such as frequent hand washing, making hand sanitiser available in classrooms and bathrooms, and daily cleaning of all surfaces.
- 71 Although the expectation is that staff will do their best to do so, it will not be possible to implement physical distancing of 1m in an early childhood setting because young children require a lot of physical support. It will not be possible to explain or maintain a physical distance between young children given the age of the children and smaller

spaces in most centres. This will be a challenge for young children at school also. In these settings, it will be more important to practise hygiene measures including frequent cleaning of hands and surfaces, removal of toys that cannot be easily cleaned or disinfected, and to ensure no food is eaten out of shared platters or containers. Public health officials have indicated that they are not concerned about strict physical distancing in early learning settings given the evidence from overseas about patterns of infection – in particular, young children are not super spreaders of the virus (in contrast to the evidence around influenza).

- 72 If there is a parent or caregiver available to look after children at home, and school children have access to distance learning, children and young people should stay home. This will support physical distancing and reduce the number of people in close proximity in ECEs and schools.
- 73 Public Health officials recommend monitoring research as more relevant COVID-19 specific studies emerge. It will also be important to include schools and ECEs in health monitoring and surveillance in Māori and Pacific communities.
- 74 A significant proportion of the education workforce is considered more at-risk for COVID-19 (eg because of age). Even though people more at-risk can choose to work if they want to, they may not wish to, which would also result in capacity constraints for the education network.
- 75 Parents and staff may be concerned about a perceived contradiction between the restrictions on gatherings, and the number of children and young people in a class or school. There will also be concerns due to the significant size of the Marist College cluster of positive cases. It will be important for clear and consistent messages and guidance to be provided, particularly from the Director General of Health and Public Health officials about the public health prevention and control measures that are being implemented and how they will reduce the risk for children, young people and staff. This will need to include strong messaging as to why gathering rules do not need to apply in early learning and school settings.
- 76 Officials continue to work on developing the detailed public health control measures and guidance that will apply in schools and ECE are finalised. This may not be finalised until later this week and will form the basis of a series of discussion forums with Principals and separately with ECE leaders on 21 April about how to ensure the public health control measures are implemented. This will then form the basis of national level guidance that will support schools and ECE to develop detailed plans. In order to ensure success it is important for the Ministry of Education to work with the sector on how best to implement the public health criteria.
- 77 The Ministry of Education's regional staff will work with each Principal and Early Learning Leader to develop a detailed plan that will work for them and their parent communities. This will include working with their parent community to understand how many children will return when schools open (or later in Level 3). Schools and ECEs will also be provided with draft communications for parents. Ministry officials will keep close to Principals and ECE Leaders to ensure
- 78 Following the Alert Level change, officials anticipate that following an announcement the earliest timeframes for schools to re-open would be (based on a 20 April decision date, just for illustration):

- 78.1 Thursday 23 and Friday 24 April: workers could be on site, undertaking cleaning, ground maintenance, and property maintenance to prepare for school opening.
 - 78.2 Monday 27 April: public holiday.
 - 78.3 Tuesday 28 April: teacher only day.
 - 78.4 From Wednesday 29 April: first students in the schools. It may be later than the 29th for some schools
- 79 However, this is the earliest timeframe schools may be able to open and, in practice, it may take more time for some to implement their plans to re-open or for parents to have the confidence it is safe to send their children back to schools.

Essential personal movement can be extended, but still needs to be kept local

- 80 Public health control measures apply at all Alert Levels to mitigate (and monitor) the risk of spread of COVID-19 within communities. Some control measures – to identify and stop transmission, surveillance, and border measures – are essential to Government’s elimination strategy and should be deployed at all Levels, with changes largely driven by demand due to levels of COVID-19 infection.
- 81 Physical distancing measures vary the most at different Alert Levels based on risk of spread. Alert Level 3 will also allow an increased level of social activities than possible at Alert Level 4, across personal movement, gatherings, and public venues. However, restrictions remain high.
- 82 Social interaction and connecting to our close-by family and caregivers are critical to the mental health and well-being of people across New Zealand, in particular to our most vulnerable populations. Allowing an opportunity for people to extend their bubbles to reconnect with close family/whānau, bring in caregivers, or support isolated people, responds to this need, while wider restrictions on personal movement continue.
- 83 This measure would also:
 - 83.1 respond to the harms of extended social isolation, including risk of rising domestic violence and wider mental health issues. Particularly people who are not going to work, or whose children are not going to school, or single parents and isolated older people. These groups need the permission (and support on what is safe) to think about who else could be in their bubble.
 - 83.2 manage down the risk of non-compliance over Level 3, as people struggle to cope with a confined environment, particularly if there are low daily case numbers nationally. However, enabling more flexibility for only highly vulnerable communities would be difficult to justify or to enforce, so extended bubbles should be available to everyone.
- 84 While this would mean an inevitable increase in risk of transmission, this can be offset by straightforward bubble-by-bubble contact tracing and reversion to smaller bubbles if there is a return to Level 4. These extended bubbles must be within the local area to minimise the risk of spreading person to person transmission between geographic areas. People will need to be ready to revert back to their household bubbles if we have to return to Level 4. I consider this approach manages the public

health risk, because it is a limited expansion and otherwise the non-compliance risk puts the whole approach of elimination in danger.

- 85 We know that the vast majority of people are following the rules and designing restrictions to maximise voluntary compliance remains the only viable option to manage on-going risk. If these limited extensions to social interaction are understood, make sense to New Zealanders and seem proportionate to manage known risks, people are more likely to comply. s9(2)(c)
- 86 We must therefore provide clear guidance on expanding bubbles and how to minimise the risk this entails. For example, advice to keep their extended bubble exclusive, to keep it local, and (where people are in a workplace or school) to consider how this can be factored into their extended bubble.
- 87 It is important to maintain consistency of public health messaging across levels, so we advise that people are encouraged to keep 2 metres apart at all times outside home within reason, except in controlled environments (such as workplace) for which 1 metre distancing is required. 1 metre distancing is in the World Health Organisation guidance.
- 88 For recreational activities, at Level 3, the proposed settings are similar to Level 4. This reflects the continued restrictions on personal contact needed to manage the high public health risk. Limited safe (low injury risk) sport and recreational activities can be undertaken, where they are close to home and do not involve additional ‘bubbles’ (ie no contact sport or mixing with others outside extended bubbles), or which risk requiring search and rescue. Fishing off a local wharf, for example, is permitted if physical distancing can be maintained.
- 89 At Level 2, however, the bubble concept is set aside and people can move freely and interact with their friends, family and strangers in their region, providing they follow basic hygiene practices (eg washing hands, coughing into their elbow). Self-isolation will still be required if people get sick. At Level 2, recreation is also permitted more generally, so long as restrictions on gatherings and on physical distancing are observed. This means activities with a higher risk of injury, higher personal contact, or requiring rescue (such as motorised water sports and playgrounds) would be permitted.

Gatherings and public venues are continued sources of transmission risk

- 90 All gatherings are cancelled at Level 4. Our experience to date of transmission in New Zealand reflects experience overseas: clusters have formed around social gatherings. Where social gatherings (private or public) have resulted in significant clusters of cases, the following people movement has transmitted the virus across New Zealand. As a result, officials have revisited the settings for gatherings in light of the public health evidence, experience and international practice.
- 91 Missing significant life moments that cannot easily be delayed (such as funerals) can have a significant impact on wellbeing, and in particular, should be allowed to enable those people impacted by a death to grieve, where the gatherings can be done safely. I therefore propose that gatherings for funeral services or wedding services or tangihanga should be permitted for these reasons under Level 3 and 2, but with strict conditions in place around numbers and public health measures such as contact tracing and physical distancing. These should be services only, not receptions or

other celebrations, and shared or served food/drink should not be permitted. For Level 3, gatherings are restricted to up to 10 people at a time, and for Level 2, up to 100 indoors (in total) and up to 500 outdoors (in total).

- 92 Similarly, public venues – indoors and outdoors – present a risk of members of the public mixing together with high levels of interaction, and where there are limitations to contact tracing, physical distancing, and effective cleaning and hygiene measures in practice. The exception is for public open spaces (such as parks but not playgrounds or farmers' markets), where this should be manageable at Level 3 for physical distancing to be practised between extended bubbles. As we reach Level 2, these public venues can start to be opened with public health control measures in place.

Transport restrictions will continue to be needed at lower Alert Levels

- 93 At Level 4, travel is highly restricted with only the most essential movement taking place locally or between regions. Essential freight is prioritised. Even though we can loosen some travel restrictions at Alert Level 3 allowing people to move around within their region, we still need to limit recreational and social travel and inter-regional travel.
- 94 After four weeks at Alert Level 4, and having missed out on the Easter long weekend, there will be a natural inclination to 'celebrate' lockdown being lifted. However, we need to manage the aggregate level of people movement around the country at Alert Level 3. If we can get through Alert Level 3 successfully, and be confident that the disease is contained, a greater level of unconstrained social and recreational travel can be permitted across New Zealand at Levels 2 and 1.
- 95 In relation to daily movement, at Level 3 people should still largely be staying in their neighbourhoods. They may now also travel to work and education facilities, in addition to travel for essential services such as collecting groceries and pharmaceuticals or personal exercise. As we are allowing customers to collect goods at the door of retail or hospitality shops ('click and collect'), people should also be able to go and pick up non-essential goods locally where it is contactless.

There will be capacity constraints on local public transport, due to physical distancing

- 96 There are going to be capacity constraints on most public transport networks when moving from Alert Level 4 to 3. While most workers should continue to work from home, some workers will return under Level 3, and also some children will be able to return to school. Given physical distancing requirements on buses, buses are only running at 20% capacity based on their normal weekend schedules. This will place pressures on some parts of the network, particularly at some times of the day. Some of the ways to address this capacity issue will be:
- 96.1 Advanced warning to ensure more public transport services can be geared up. A phased scaling up of services may nevertheless still be required in some regions given constraints on the number of drivers that may be available to work, although allowing 70 year olds to return to work in certain circumstances may help.
- 96.2 Good communication that people should avoid using public transport services at peak times unless they are going to work or education. People taking public transport who have some discretion around when to take essential trips

(e.g. like going to the supermarket) should be encouraged to not take these trips when people might be going, and returning, from work or school.

- 96.3 People should also drive where they have access to a car. Councils continuing free parking in city centres may also help.

Inter-regional travel remains highly restricted, with some exceptions

- 97 Inter-regional travel should remain limited to specific reasons consistent with Level 4, across modes of transport. It will also be permissible to cross regional boundaries for local area travel to a neighbouring region eg to attend school or work or access essential services.
- 98 An addition for Level 3 is that people who have been in lock down, but need to relocate or have been ‘stuck in wrong place’ and need to get back to their home/place of work should be allowed to return home, or to move home. Level 3 therefore includes ‘travel for one-way relocation’ as being permitted. This includes a person taking their belongings (goods) with them directly, or using a moving company (all businesses would be permitted to operate for freight including non-essential goods).
- 99 This also includes foreign nationals requiring domestic travel to exit New Zealand. It includes New Zealand citizens and permanent residents who are normally resident in the Realm, but who are currently stranded in New Zealand and must travel domestically to connect to a flight home. This cohort (fewer than 500 people) is not included in the current domestic travel exemptions for departing foreign nationals¹.
- 100 The aviation sector and Government need certainty around what inter-regional travel is allowed at Levels 3 and 2 as it will help with planning. It also helps the Government think about what form of financial support might be needed over the next few months for the sector. Essentially most of the aviation sector is in hibernation, with only a few scheduled air services, charter flights and air cargo movements. Many airports, airlines, and tourism businesses are not really operating or are at significantly reduced capacity and struggling financially. This will remain the case in Alert Level 3.
- 101 Allowing people to travel for recreation and tourism at Level 2 across New Zealand, where it can be done safely, would re-open large parts of the aviation sector, and support aviation and tourism businesses to recover sooner, and may stop some from going out of business. However, it does also bear the risk of allowing more people to move around the country, making it harder to track and trace contacts and risks spreading the virus and community transmission, including from undetected cases.
s9(2)(f)(iv), s9(2)(g)(i)
- 102 At Level 1, the level of risk has reduced to the point that free movement can be allowed across New Zealand for any reason. Public health control measures remain in place and international travel remains heavily restricted, particularly to manage the risk of importation of cases from overseas arrivals resulting in onward transmission again. The main limitation on outward travel to other countries will be those countries’

¹ Within the Realm, there are currently only direct flights to Niue. Their borders are open to returning residents, who must then go into supervised isolation. There is a proposal under discussion for around 300 Cook Islanders to complete a period of supervised isolation in an Auckland Hotel prior to their international flight (once flights/borders re-open). Access to Tokelau will depend on Samoa’s border decisions as well as their own border decisions and ability to provide isolation facilities (which may not be able to be adequately managed for some time).

own alert levels and border restrictions, and our own restrictions and requirements for people returning to New Zealand.

Movement of non-essential freight will need to increase under Level 3

- 103 At Alert Level 4, the movement and distribution of essential freight is prioritised, with flexibility to move non-essential freight to make way for essential freight. The Alert Levels Table in this paper provides additional wording for freight to provide more detail to support the overall objective of prioritising essential freight getting through smoothly during Level 4, including down the supply chains.
- 104 The intent of the existing settings is that essential freight needs to move freely. To achieve this, non-essential freight can be moved through the whole distribution chain so that no particular point becomes a bottle neck, for example, due to lack of space for lay-down at the port of arrival. The last point in that chain is receipt (including making safe any freight for businesses not operating) and addresses concerns with warehousing space.
- 105 To date, to ensure freight moves as freely as possible to move the essential freight, we have allowed non-essential freight to be moved out of containers to put the containers back into the supply chain to address concerns there are insufficient empty containers moving through the system. We have also allowed people to move non-essential freight out of the way and store it.
- 106 The updated Alert Level Table now specifies that under Alert Level 4, we allow non-essential freight to be received (including making safe any freight for businesses not operating). This will address the issue that we are starting to run out of space to hold non-essential freight and we need it to move it to allow critical supply chains to continue to move freely (including food supply chains). This clarification does not extend to non-essential businesses (who are not allowed to operate premises under Level 4) being able to pack up new freight to put into the distribution system.
- 107 Freight forwarders, exporters and importers do not make distinctions between essential and non-essential goods, they fill containers and planes with both to make it economic. There are some examples of issues already occurring around backhauling where chains are becoming uneconomic as there are not sufficient goods to fill trucks and containers as only the essential goods are being moved. This movement includes freight entering and leaving the country.
- 108 For these reasons, I propose all freight should be able to be moved and distributed at Level 3. While this will mean some additional people movement, public health measures and physical distancing should be able to be achieved; this also needs to be balanced against people not getting goods. As foreshadowed above, international supply chains will become uneconomic if there remain insufficient goods to fill containers (if only essential goods are moved and other goods are delayed) under Level 3.

Border restrictions will continue to be needed at lower Alert Levels

- 109 At every Alert Level, we need to make sure there are robust border measures in place which safeguard against the risk of transmitting COVID-19 into New Zealand. As long as COVID-19 continues to spread overseas, there is a risk of importing it and undermining our domestic health controls. This could trigger a return to a high Alert Level for an extended period of time.

- 110 Border settings should be kept under regular review, in particular to manage the existing exemptions from these restrictions, which may need to be adjusted over time. Cabinet agreed to review the current border restrictions when the Alert Level was next considered, and advice will be provided as part of that Cabinet paper.
- 111 Work is underway to develop our future approach to managing the border, so that we can shift from high cost and high impact requirements for quarantine and managed isolation on arrival in New Zealand to a more sophisticated approach such as health screening once high volume, high accuracy testing or vaccines are available. As health and technology advances are made, additional options for safely managing the border may emerge. These could facilitate New Zealand's economic recovery and re-engagement with the international community. We will need to keep in close contact with Australia and Pacific partners in particular, given the interconnected nature of our borders.

Health and disability services

- 112 The response of health and disability services under the Alert Levels should be underpinned by the principle of balancing the risks associated with COVID-19 with the health outcomes for the population as whole, including the outcomes of vulnerable groups. Services should open and operate normally where possible. Decisions to close or postpone services, or to change the model of delivery to avoid face-to-face contact, should consider the potential impact on all people of limiting access and equity.
- 113 The Alert Level framework determines the intensity of public health control measures based on the risk of spread of infection in communities. The level of these controls does not correlate directly with the impact on all health and disability services. Instead, changes to healthcare provision is largely driven by variation in demand, which will be influenced by COVID-19 and wider factors (e.g. usual seasonal fluctuations in winter).
- 114 This means that for many health services, a change to the Alert Level will not in itself require a change to the type or range of services available. Any such changes will be dependent on whether there is an escalation of demand for services that requires a change to the health response to manage pressures more effectively. Such changes in demand could occur without necessitating a change to the Alert Level overall. This means that:
- 114.1 Public and private hospitals will remain open and operate normally where possible. Acute and emergency health services will be available to meet the needs of the whole population at all Alert Levels.
- 114.2 Planned hospital care (including elective surgery and radiology) will be provided in order of clinical priority, as is usually the case. Outpatient appointments will continue but should be managed wherever possible via online/telephone/non-contact methods. However, depending on the demand for hospital services (including as a result of both COVID-19 and other non-COVID conditions and needs), some non-urgent services or treatment may be deferred in order to manage pressures. Hospitals have a separate 4-level COVID-19 National Hospital Response Framework that sets out the nature of the response to mitigate any increase in demand. This framework is determined by the context of each individual hospital and does not necessarily map to the Alert Levels.

- 114.3 General practices will be open at Level 3. Appointments will be conducted online/by telephone where possible, with face-to-face consultations available if required. Essential primary care will continue – this includes the assessment and treatment of urgent issues, the management of long-term conditions and routine health needs (including mental health consults, prescription of contraception and other medication, treatment of common illnesses), and vaccinations/childhood immunisation. Referral of patients from primary care to secondary/tertiary care will be managed according to clinical need and the status of hospital sector (and therefore may be delayed where clinically appropriate to help manage hospital pressures).
- 114.4 Community-based health services will use virtual or telephone appointments where possible at Level 3, including midwifery, physiotherapy, podiatry and other health professions. Face-to-face appointments will still be used for vulnerable groups or where otherwise essential, with appropriate measures taken to meet public health objectives. Pharmacies will remain open and will use tele-health for medicine management and advice where possible.
- 114.5 Disability services, including aged care, will operate as normal. Service users who are at high risk from COVID-19 may have additional steps put in place to ensure distancing and minimise their risk. Some support services such as house cleaning may be reduced to essential provision, based on the individual's needs and circumstances.
- 114.6 Mental health services will also operate as usual. Community mental health services will similarly operate on a virtual/telephone basis as far as possible; although community crisis services will operate as usual. The Ministry of Health's Psychosocial Response plan proposes a range of welfare, mental health and wellbeing programmes to minimise harm to communities.

If Level 4 is extended, then adjustments may be needed to settings

- 115 However, if the conditions to move to Level 3 are not met when Cabinet considers this on 20 April, and a decision were taken to extend Level 4 lockdown, then some settings for Level 4 may need to be adjusted to enable essential services to continue.
- 116 Even within Alert Level 4, and without transitioning to Alert Level 3, there are adjustments that can be made to further mitigate adverse impacts and collateral consequences. If we have to return to Level 4 in future, consideration should be given to changes. One example would be whether to allow online ordering and delivery of goods, beyond essential products, where this can be managed within overall workplace settings and public health control measures.

How changes to the Alert Level settings and essential services will be made if needed

- 117 We may find that as public health evidence improves, we wish to tighten or loosen some of the Alert Level restrictions proposed in this paper. Any future policy changes to the settings approved as part of Table 1 will need to be approved by Cabinet.
- 118 As noted above, it is important to maintain a stable list of essential services that is principle-based for as long as Alert Level 4 is in place. Nonetheless, officials consider that some changes may be required at the margins particularly if Level 4 remains in place for some time, for example where strains on supply chains are causing significant unexpected and unmanageable risks or harms. Annex 1

describes the process for agreeing changes to the essential services list which is consistent with the principles and process agreed to by Cabinet on Monday 23 March
s9(2)(h)

[REDACTED]

[REDACTED]

119 Officials therefore recommend that:

- 119.1 Any future changes to the restrictions at each Alert Level as set out in the Table 1 be made by Cabinet, on advice of the Director-General of Health and MBIE, and implemented through changes to s70 notices under the Health Act if required; and
- 119.2 Changes to the Essential Services List continue to be made in accordance with the process set out in Annex 1 as needed and reflected on the COVID-19 website which provides the link to the s70 Notice exemptions from restrictions for essential services.

The transition down to Alert Level 3 or 2 could take a graduated approach

- 120 COVID-19 is a disease with a slow fuse. This means that even at the point when we transition from Alert Level 4 to Alert Level 3, our public health data will be based on transmission and infection levels from two weeks prior. For de-escalation, therefore, it is an option to take a graduated approach to unlocking Alert Level 3 measures and subsequently Level 2 measures. Any decision on taking a graduated approach should be part of the wider Cabinet decision on whether and when to shift down to Level 3. It relates directly to conditions at that time and latest available information on the level of risk that needs to be managed.
- 121 We are monitoring how other countries are approaching their exit strategies from lockdown. There is international precedent for taking a graduated approach when exiting a lockdown. For example, Austria is in the process of lifting measures corresponding to Alert Level 4. They have begun by allowing small businesses to open in mid-April 2020, followed by all shops at the start of May 2020. Restaurants, hotels and other services could then open in mid-May 2020, with large gatherings only allowed again at the end of June 2020. This approach allows for regular review and adjustment within alert levels if required to suppress virus outbreaks.
- 122 Taking a graduated approach in New Zealand would incrementally allow more people movement and contact, in a way which manages people's enthusiasm for re-engaging with their communities and workplaces after Alert Level 4 restrictions. It also avoids overwhelming systems that have been dormant for a while and may have initially limited capacity when returning to operation.
- 123 A stepped change to moving between Alert Levels, accompanied by rigorous monitoring of impact, is far more likely to manage risk than a shorter, sharper change. In this sense, the Alert Levels should be seen as a continuum rather than as four separate states, with gradual changes implemented in an approach that emphasises precaution. We should be clear on the order of prioritisation in which measures are relaxed, based on the available evidence and an assessment of the cumulative risk of individual measures. We should also be ready to pause and re-escalate if needed to continue with our elimination strategy.
- 124 A graduated approach would be based both on when services may naturally be ready to 'turn on' due to lead in times (eg when businesses are individually able to

put the practices in place to safely re-open) and on the relevant public health risk associated with relaxing control measures (eg when we choose as the earliest date schools may re-open).

- 125 More widely, there will need to be choices on how we deploy resources within the public sector and transition back towards normal operations. Level 3 will not mean an immediate return to business as usual. There will be a similarly slow start to public services returning to operation where they have been scaled back under Level 4. The expectation will continue to be that these are done remotely where possible via alternative ways of working, and that working from home will be the default for those who can do so.
- 126 For many public services, demand will either be growing exponentially (such as for welfare) or, for others, will continue to be depressed. A reset of what those agencies will be doing as their 'new normal' in operations is likely to be required, with choices on what work is prioritised. Many operational and policy agencies have also diverted significant resources to the COVID-19 response which will continue to be required during Level 3 and potentially at Level 2, as well as being ready in case we revert to Level 4.

s9(2)(c), s9(2)(f)(iv)



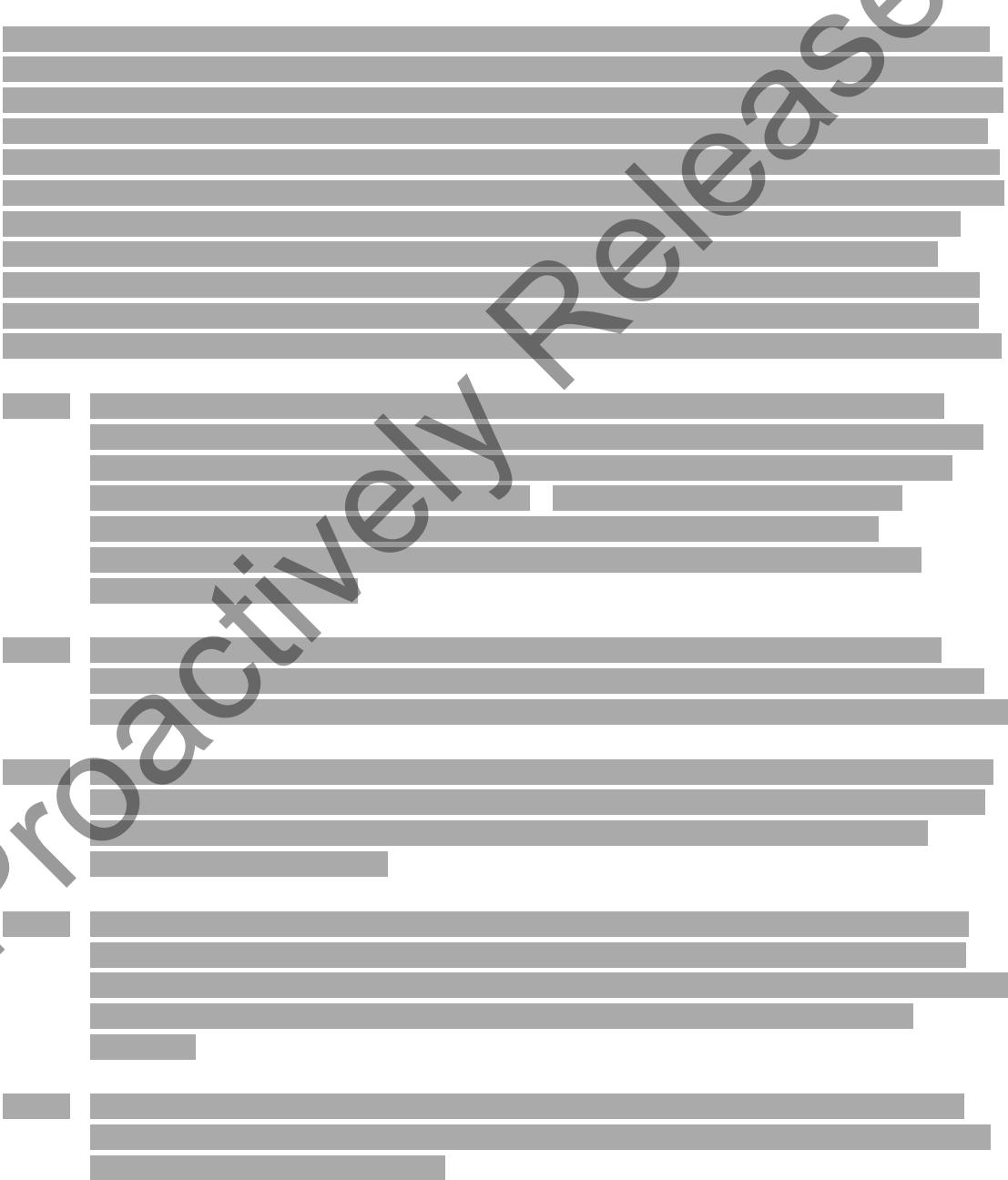
Operational preparation for transition, including compliance and enforcement, is underway

- 131 The settings for different Alert Levels have been tested with agency operations teams to proceed with planning for the shift down and ensure any implementation issues are identified as early as possible. This engagement is ongoing to ensure an orderly transition between Alert Levels.

- 132 Existing legal powers and authorisations can be used to give effect to Alert Level 3 measures. These include:
- 132.1 a Medical Officer of Health making a new Order or Orders under section 70(1) of the Health Act 1956,
 - 132.2 the Secretary of Education under Part 33A of the Education Act 1989 and
 - 132.3 the use of powers under the Civil Defence Emergency Management Act 2006.

- 133 These are the same legal tools being available or being used at Alert Level 4, but recalibrated to achieve the desired settings at Alert Level 3. s9(2)(h)

134

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135

s9(2)(h)

[REDACTED]

136

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

137 As we move away from Alert Level 4, the compliance or regulatory environment will become more complex. Restriction fatigue will rise, incentives for non-compliance will grow as business premises start to re-open or regional differentiation comes into effect, s9(2)(c)

In addition, the less rigid, more tailored approach to rule setting proposed for Alert Level 3 makes compliance management more complex and difficult.

138 All of this will be occurring in a context where there are likely to be low, and declining, numbers of positive COVID-19 cases and many businesses will reach crisis point, all of which may strain public support for restrictions.

- 139 As we prepare to step between levels (most likely from Alert Level 4 to 3, and then to Alert Level 2), we can manage this by:
- 139.1 Taking a consistent, joined-up, all-of Government approach to compliance and enforcement that emphasises a model of co-operative enforcement (engage, encourage, educate) before escalating into warnings and prosecutions (noting that these would be a last resort unless there was an exceptionally egregious case of non-compliance).
- 139.2 Consciously designing that approach to be legitimacy-maximising, by ensuring we have transparency, accountability, and participation as regulatory interventions are designed or modified (for example, working in partnership with business and union leaders to develop guidance for workplaces that is workable in a range of different sectors). This includes being transparent about the trade-offs that may be involved between certain rights (e.g. freedom of movement in return for public health outcomes). In practice, while compliance will be encouraged and non-compliance exemplified, the core focus will continue to be on supporting voluntary compliance through a relatively light-touch graduated response model.
- 140 This overarching regulatory approach is reflected in Annex 2. Operationalising this regulatory approach will require a compliance operating model that involves: increasing cooperation and coordination across all government agencies that can contribute to encouraging and educating (to maximise outreach to individuals and businesses); and enhanced information from frontline agencies which, in combination with health data and strategic insights, can inform risk-based critical command decisions, including strategic communications and integrated case management.
- 141 This AoG Compliance Operating Model is currently being established, with a Compliance Governance Board chaired by the Ministry of Health, and operating procedures that ensure effective coordination. It will be fully operational by the time there is a step-down to Alert Level 3. Because many agencies are potentially involved, particularly in encouraging and educating, the Compliance Governance Board will seek to develop a 'hub and spoke' model where appropriate. For example, MBIE will lead in relation to business, but will develop a coordinated approach to business with other agencies who also have a role, in line with the AoG Compliance Operating Model.

Financial implications

- 142 There will be financial implications from the recommendations in this paper. Any move down Alert Levels is likely to be more positive than remaining at Alert Level 4. However, the extent to which Alert Level 3 results in more economic activity will depend on the specific calibration of Alert Level 3 measures, and will increase over time from a standing start.
- 143 Further extensions to business and income support and leave provisions may be required the longer we take to move down Alert Levels and the slower the pace of return to unconstrained economic activity.

Legislative implications

- 144 The COVID-19 Alert Levels and State of National Emergency are two distinct and separate things. The Alert Levels specify the range of measures that the government is taking against COVID-19. A State of National Emergency, under the Civil Defence

Emergency Management Act 2002, provides the civil defence emergency management personnel (and Police constables) managing the response in an emergency, in this case COVID-19, access to powers they would not normally have, but may require now to implement and enforce these. A State of National Emergency lasts for 7 days, so the Minister of Civil Defence is considering advice on the need for, and scope of, renewing his declaration every week.

- 145 NEMA officials will provide the Minister with advice about the need for further extensions of the State of National Emergency, ensuring this is aligned with wider COVID-19 measures and messaging. NEMA advice is that the declaration should continue to refer to a State of National Emergency, so the response is considered and managed at a national level, s9(2)(c), s9(2)(f)(iv)
[REDACTED] The Civil Defence Emergency Management Act 2002 also provides a framework for moving from Response to Recovery, which will be relevant as New Zealand's response to COVID-19 progresses.
- 146 Some public and media commentary at the time of the first extension of the 7-day State of National Emergency suggests that the alignment between this and Alert Levels is not well understood, so the communications approach to Alert Level changes will need to explain the distinction.

Impact analysis

- 147 The impact analysis requirements do not apply because this is a policy proposal directly related to the COVID-19 response.

Population implications

- 148 The impact of COVID-19 on population groups is not yet clear. However, we do know that some groups have a higher incidence of the risk factors that lead to severe illness from contracting the disease, especially Māori and Pacific people, older people and the disability community. The lockdown at Level 4 and the restrictions at Levels 2 and 3 will also disproportionately impact on single parent households, and therefore women, in an economic and social sense. It is also likely that family and sexual violence will increase, under the lockdown and also in light of the economic downturn with more joblessness expected, with a disproportionate impact on women and children. Measures, including information and increased support, are being put in place or considered to help mitigate and reduce these impacts.
- 149 Managing the communication of requirements and criteria governing changes to alert levels needs careful attention. Not all Māori or Pacific peoples will need specific management, but the more vulnerable parts of these communities most certainly will. Managing contagion in crowded households and households where unwell and older people live poses a serious problem if we are not prepared. Increasing the health surveillance for these particular groups within these communities is the best way for us to learn more about the spread or containment of the virus. A concerted effort in this regard is essential.
- 150 Overall, the disability community is anxious and its existing vulnerabilities are magnified in a situation where changes need to be made to routines of everyday life in a short timeframe, and where disability needs are not able to be specifically considered. A proportion of disabled people are at greater risk of COVID-19 from a clinical perspective and/or because they are exposed to more people as a result of requiring support for activities of everyday living. There are also a group of disabled

people who require information to be provided in a format they can access (New Zealand Sign Language, blind formats, Easyread).

- 151 A large number of issues for disabled people are the same as for the broader community, and will be met through universal information and support (such as income support). It will be important that there is clear and consistent messages about what is required of them and any support people or NGOs they work with. This includes providing information in accessible formats ahead of a shift to Alert Level 3. This will need to be supported by some disability specific guidance and FAQs around PPE and where to access it, welfare support, transport, and any changes to requirements about bubbles. It would be useful to disseminate this through disability networks including Disabled People's Organisations, providers and NASCs. It may also be valuable to have a disability specific channel (online or phone) for identifying and responding to gaps in guidance.

Human rights

- 152 The restrictions imposed at Levels 3 and 4 of the Alert system involve the most significant and widespread interference with human rights in New Zealand in living memory. We refer to 'limits' on rights in the examples below, by which we mean only that the rights are *prima facie* limited. The limits identified are only unlawful if they cannot be shown to be demonstrably justified (i.e. a proportionate response to the objective of protecting the public health and lives of New Zealanders).
- 153 Several of the measures at all alert levels raise significant human rights issues. We note:
- 153.1 Restrictions on gatherings could limit the right to manifest religion or belief in worship, observance, practice or teaching, particularly in community with others, affirmed in section 15 of the Bill of Rights Act 1990 (BORA).
 - 153.2 Restrictions on gatherings limit the right to peaceful assembly affirmed in section 16 of BORA and potentially freedom of association in s 17.
 - 153.3 Travel restrictions, both domestically and at the border and the nationwide enforced quarantine order (generally confining people to their homes, with limitations on people's freedom to swim, surf, hunt, tramp etc) all limit freedom of movement affirmed in section 18 of BORA (and freedom of assembly and association).
 - 153.4 All measures have the potential to limit the right to be free from discrimination affirmed in section 19(1) of BORA, due to their potential disproportionate impact on some groups (particularly people of faith, Māori, Pacific peoples, older people, people with disabilities and women).
 - 153.5 Restrictions on gatherings could limit the rights of ethnic, religious or linguistic minorities to enjoy the culture, to profess and practice the religion, or to use the language, of that minority affirmed in section 20 of BORA.
 - 153.6 The enforced quarantine of new arrivals in specified managed facilities may amount to an arbitrary detention contrary to section 22 of BORA and/or limits the rights to freedom of assembly, association and movement. The manner in which controls are implemented in places of detention for public health reasons could affect the right of persons deprived of liberty to be treated with humanity and respect for the inherent dignity of the person affirmed in section

23(5) of BORA. The Solicitor-General provided general advice on human rights issues stemming from the nationwide quarantine order, and the quarantine of all new arrivals in specified managed facilities. On the former, she advised that if health experts assessed that voluntary compliance with stay-home guidance was not sufficient to control the spread of the virus, because universal compliance is required, then the necessity for the order would have a proper evidential foundation and the order would probably not breach rights in the Bill of Rights Act. The existence of exceptions and exclusions within the nationwide order was important to the analysis. On the latter, the Solicitor-General was mindful of advice from health officials that the previous arrivals regime (which involved mandatory quarantine but generally at people's homes), did not meet the heightened objective of preventing new vectors of transmission and maintaining complete control over the main pathway through which COVID-19 cases have emerged. It did not therefore fully or adequately stop the spread of the virus. Giving weight to the Director-General's expert assessment as to what is necessary to protect public health in the current circumstances, she concluded that a direction for quarantine within managed facilities could lawfully be made. She was also satisfied that the provisions for compulsory medical examination would authorise reasonable searches, so would not constitute a breach of s 21 of BORA (right to be free from unreasonable searches).

- 154 As for international human rights obligations, the rights protected by the International Covenant on Civil and Political Rights are fully reflected in BORA. Several rights affirmed in the International Covenant on Economic, Social and Cultural Rights are also engaged by measures discussed in this paper. These include:
- 154.1 The right to work (article 6).
 - 154.2 The right to the highest attainable standard of physical and mental health (article 12) which requires states to prevent, treat and control epidemic illnesses, and also access to elective procedures.
 - 154.3 The right to education (article 13).
- 155 This paper does not, in itself, seek decisions which could impact on the above rights. However, a decision to maintain or amend alert level conditions, or to step up or step down alert levels will have significant human right impacts. A downward movement in alert level is generally expected to create a more rights-consistent environment in New Zealand.
- 156 The relevant government departments will keep all restrictive measures under constant review to ensure they have a firm legal basis, are sufficiently well-defined, can be demonstrably justified in the circumstances, and remain proportionate to the threat posed by COVID-19. It is important for the Solicitor-General, supported by an inter-agency process, to ensure that such ongoing review takes place and reports back to Cabinet on a regular basis.

Consultation

- 157 This paper was prepared by AOG officials at the National Crisis Management Centre. The following agencies were consulted: Ministry of Health; Ministry of Education; Ministry of Transport; Ministry of Foreign Affairs and Trade; Ministry of Business, Innovation and Employment; Department of Prime Minister and Cabinet; National Crisis Management Centre including Operations Command Centre; the Treasury;

Ministry for Primary Industries; Department of Internal Affairs; Ministry of Housing and Urban Development; Ministry of Justice; Ministry of Social Development; Department of Conservation; New Zealand Police; New Zealand Customs Service; Department of Corrections, National Emergency Management Agency, Crown Law Office.

Communications

- 158 I will communicate the decisions set out in this paper after Cabinet agreement. Communications will be coordinated with the Government's broader communications around the COVID-19 response.
- 159 If a decision is made to step down from Alert Level 4 to 3, we need everyone:
- 159.1 To know why we are moving to Alert Level 3: the risk of widespread transmission has decreased, but there is still a high risk the disease is not contained.
 - 159.2 To know what the restrictions at Alert Level 3 are, how to comply, and what expectations they can have of others.
 - 159.3 To feel like they are part of a collective effort to protect their families, communities and at-risk people.

Proactive release

- 160 I intend to proactively release this Cabinet paper following Cabinet consideration.

Recommendations

The Prime Minister recommends that the Committee:

- 1 **Note** that we declared border restrictions and an Alert Level 4 lockdown until 22 April 2020, supported by a State of National Emergency, 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);
- 2 **Note** that our existing Alert Level framework can be modified to take account of what we have learnt during the lockdown, and to reflect emerging international evidence about the effectiveness of various measures;
- 3 **Note** that the COVID-19 Ministerial Group directed All Of Government officials to report back to the Cabinet Business Committee on 15 April 2020 on the detailed measures required at Alert Levels 3 and 2, and operational preparation underway to implement these measures following a government decision;
- 4 **Note** that measures at each Alert Level can be calibrated to achieve the desired level of public health controls, particularly in terms of aggregate people movement and contact, and will have corresponding impacts on social and economic activity;
- 5 **Note** that moving to a particular Alert Level could look different depending on whether we are on an escalation pathway or a de-escalation pathway, and how long we expect to remain at that Alert Level;
- 6 **Agree** that measures at Alert Levels 1 to 4 are as set out in Table 1;

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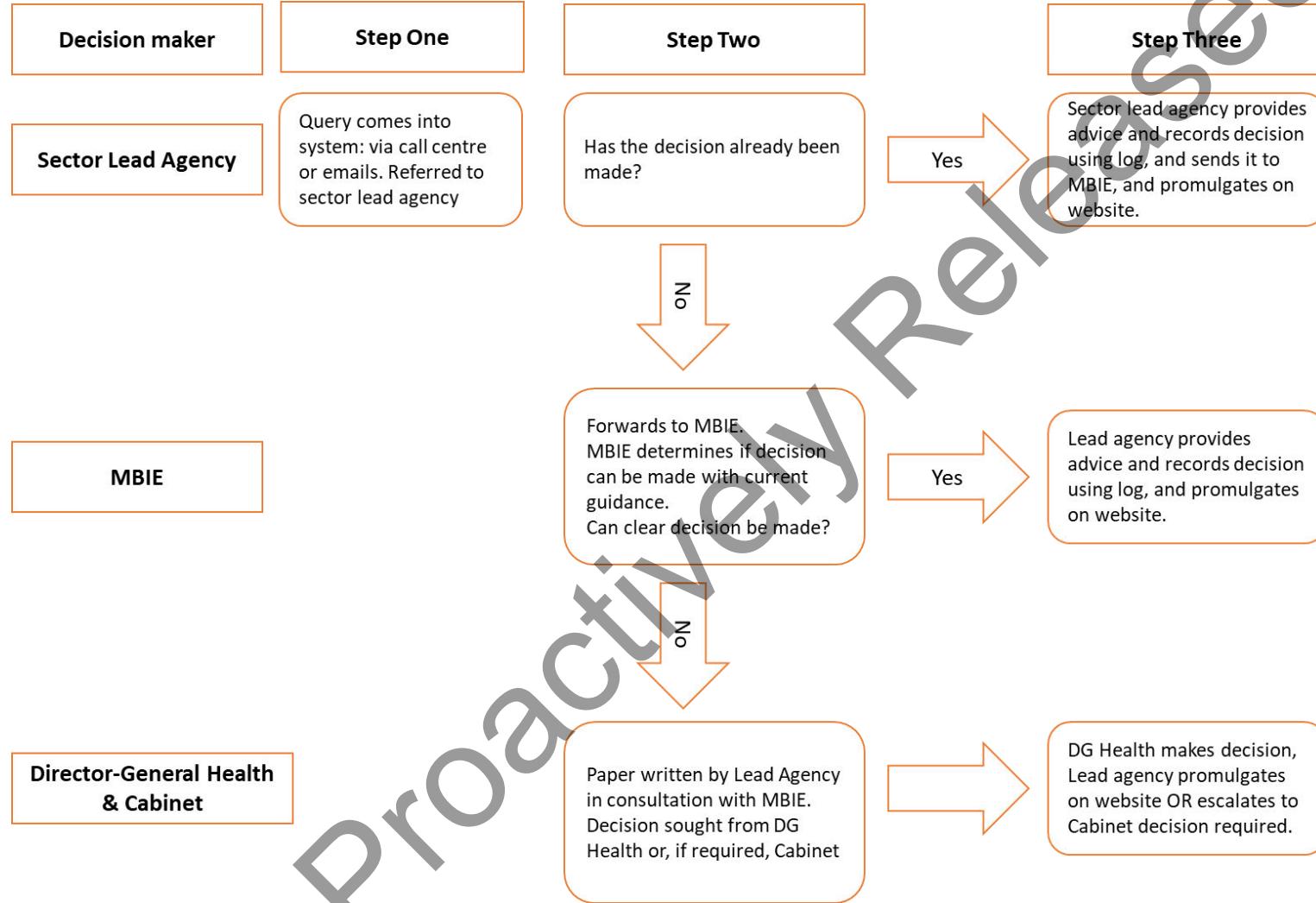
- 7 **Agree** that the decision in recommendation 6 will be communicated by the Prime Minister;
- 8 **Note** that when a decision is made to move to Alert Level 3, that a graduated implementation is likely;
- 9 **Direct** all government agencies to continue preparing for a change in Alert Level, particularly by ensuring implementation requirements are met, and preparing to issue guidance, communications and support for sectors and the public;
- 10 **Note** that officials have been engaging with business, local government and union leaders to develop guidance, identify risks and issues ahead of any move down Alert Levels, and ensure settings can be operationalised;
- 11 **Agree** that any future changes to the restrictions at each Alert level as set out in the table at Table 1 be made by Cabinet, on advice of the Director-General of Health and the Ministry of Business, Innovation and Employment, and that decisions are implemented through changes to s70 notices under the Health Act 1956 if required;
- 12 **Agree** that changes to the Essential Services List continue to be made in accordance with Annex 1 as needed and that decisions are reflected on the COVID-19 website which provides the link to the s70 notice exemptions from restrictions for essential services;
- 13 **Direct** the Ministry of Business, Innovation and Employment, in consultation with the Ministry of Social Development and the Treasury, to prepare a paper for consideration by Cabinet on or before 22 April 2020 that provides advice on the extension of the Essential Workers Leave Scheme;
- 14 **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;
- 15 **Agree** to increase the levels of health surveillance of Māori and Pacific people in the more deprived areas of the country.

Authorised for lodgement

Rt Hon Jacinda Ardern

Prime Minister

Annex One – Decision process for Essential Services



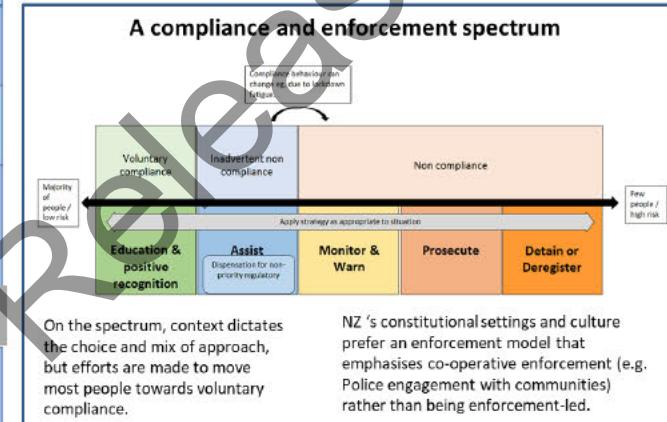
Annex Two: Compliance and enforcement operating model approach

Covid-19: legitimacy, compliance, and enforcement as we step down to levels 3 and 2

As we step down to levels 3 and 2, the economic and regulatory environment will become more complex

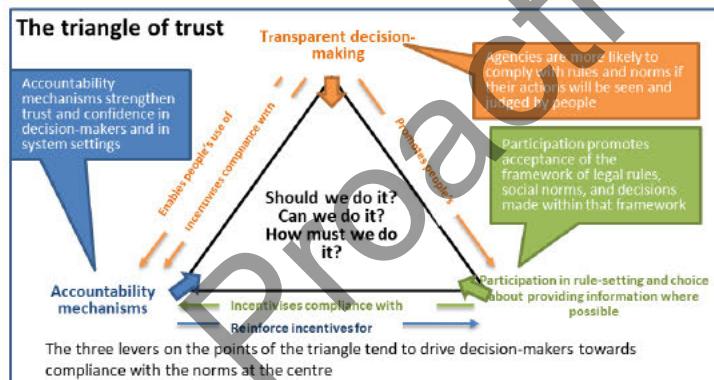
Changes	Level 3	Level 2
Fatigue rises	Fatigue with restrictions, the need to "stretch our legs" means people will likely push boundaries around geographical and regulatory limits. Likely to worsen the longer restrictions are in place, or if differential restrictions or a step up are needed.	
Complacency sets in	People will associate a step down with a lower level of risk and may relax their personal precautions. A step up is likely to jolt complacency, but it may also see a loss of confidence in government.	
Incentives for non-compliance grow	As restrictions are relaxed, people will be incentivised to breach restrictions (e.g. by re-opening work premises despite not meeting health requirements).	Further relaxation of restrictions will weaken some incentives (e.g. ECE centres open) and strengthen others (e.g. shared parenting across different areas if differential restrictions are in place).
s9(2)(c)		
Crisis points are reached	Financial pressures on business and workers as economy comes out of lockdown stasis and subsidies end.	Pressures will continue to be felt as the economy moves into a new "normal" for an unknown period of time.

- We can manage this by consciously designing for legitimacy in our regulatory, compliance and enforcement strategies, and in their implementation.
- Central to this is that there should a consistent, joined-up all-of-Government approach to compliance and enforcement



Designing a legitimacy-maximising compliance strategy that guides all-of-Government enforcement

The starting point is social legitimacy. People will be more accepting of a proportionate and fair approach consistent with constitutional norms and values. They expect decentralised and co-operative approaches applied with sufficient flexibility that the rules make sense in different contexts (our old normal).



Preparing to step between levels needs:

Concise, consistent information well ahead of any transition to encourage everyone to be prepared for the new requirements.

Transparent decision-making criteria ensure everyone understands the rules of the game. Enhance decision-makers' accountability and promote public understanding of why decisions are being made in a particular way.

Creating buy-in by giving the public some skin in the game. When people can choose whether or not they want to adopt a contact tracing app in return for greater freedom of movement, they are more likely to accept the consequences of their choices (e.g. greater freedom of movement versus more time at level 3).

Identifying the right resources and leaders – initiatives won't just come from the public sector. People, communities, iwi, regulated parties, and regulators all have a role to play. Drive and innovation in communities and iwi should be leveraged and amplified where possible.

Feasible enforcement strategies – no single agency can or should be responsible for enforcing restrictions. Every regulator will have a role, whether enforcing new restrictions, or adapting BAU regulations to meet changing circumstances.

Allowing space for innovation - The economy is already innovating to cope with restrictions. We want to give the economy space to keep innovating. That means not being prescriptive when we don't need to be, and being open to new solutions that meet our objectives.



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.

Alert Level Framework: Details and Implementation

Portfolio Prime Minister

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

- 1 **noted** that the government declared border restrictions and an Alert Level 4 lockdown until 22 April 2020, supported by a State of National Emergency, in an attempt to eliminate the COVID-19 virus in New Zealand (CAB-20-MIN-0142, CAB-20-MIN-0133, COVID Ministers 25 March 2020 decision);
- 2 **noted** that the existing Alert Level framework can be modified to take account of what has been learnt during the lockdown, and to reflect emerging international evidence about the effectiveness of various measures;
- 3 **noted** that the COVID-19 Ministerial Group directed All-of-Government officials to report back to the Cabinet Business Committee on 15 April 2020 on the detailed measures required at Alert Levels 3 and 2, and operational preparation underway to implement these measures following a government decision;
- 4 **noted** that measures at each Alert Level can be calibrated to achieve the desired level of public health controls, particularly in terms of aggregate people movement and contact, and will have corresponding impacts on social and economic activity;
- 5 **noted** that moving to a particular Alert Level could look different depending on whether New Zealand is on an escalation pathway or a de-escalation pathway, and how long it is expected to remain at that Alert Level;
- 6 **agreed** to the measures at Alert Levels 1 to 4 as set out in Table 1, at page 7 of the paper under CBC-20-SUB-0041, subject to any minor edits agreed to the table and the paper by the Prime Minister for consistency and clarity;
- 7 **agreed** that the decision in paragraph 6 above will be communicated by the Prime Minister;
- 8 **noted** that when a decision is made to move to Alert Level 3, a graduated implementation is likely;
- 9 **directed** all government agencies to continue preparing for a change in alert level, particularly by ensuring implementation requirements are met, and preparing to issue guidance, communications and support for sectors and the public;

- 10 **noted** that further work is being undertaken on developing appropriate guidance in respect of seniors under Alert Levels 3 and 2 [CAB-20-MIN-0161];
- 11 **noted** that officials have been engaging with business, local government and union leaders to develop guidance, identify risks and issues ahead of any move down alert levels, and ensure settings can be operationalised;
- 12 **agreed** that any future changes to the restrictions at each Alert level as set out in Table 1, at page 7 of the paper under CBC-20-SUB-0041, be made by Cabinet on advice of the Director-General of Health and the Ministry of Business, Innovation and Employment (MBIE), and that decisions are implemented through changes to s70 notices under the Health Act if required;
- 13 **agreed** that changes to the Essential Services List continue to be made in accordance with Annex 2, attached to the paper under CBC-20-SUB-0041, as needed and that decisions are reflected on the COVID-19 website which provides the link to the s70 notice exemptions from restrictions for essential services;
- 14 **directed** MBIE, in consultation with the Ministry of Social Development and the Treasury, to submit a paper to Cabinet on or before 22 April 2020 that provides advice on the extension of the Essential Workers Leave Scheme;
- 15 **noted** 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;
- 16 **agreed** to increase the levels of health surveillance of Māori and Pacific people in the more deprived areas of the country.

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 (part item)
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