

21 January 2021

[REDACTED]

[REDACTED]

[REDACTED]

Dear [REDACTED]

Response to your request for official information

Thank you for your request under the Official Information Act 1982 (the Act) to the Ministry of Health (the Ministry) on 16 November 2020 for:

"Can I have copies of all documents used by the MOH to support the decision to mandate the wearing of masks on public transport and aircraft, including documents provided to the Minister and documents provided to the Cabinet for them to make the decision?"

On 9 December 2020, you refined your request to:

"Include Cabinet papers and any briefings provided to Hon Chris Hipkins and Cabinet which were used to make the declaration of the mandatory requirement to wear face coverings on public transport services (including aircraft) to and from Auckland and on Auckland routes in November 2020."

Five documents have been identified within the scope of your request (copies enclosed). These documents are outlined in Appendix A, including my decision on the release of each document.

The Ministry is maintaining a watching brief on new evidence into the use of face coverings and other measures. Officials continuously review the effectiveness of public health measures within the Alert Level Framework and under our COVID-19 Elimination Strategy. This is in line with any new international findings, scientific learnings, behavioural analysis and any other relevant factors to help prevent the spread of COVID-19.

I trust this information fulfils your request. Under section 28(3) of the Act you have the right to ask the Ombudsman to review any decisions made under this request. The Ombudsman may be contacted by email at: info@ombudsman.parliament.nz or by calling 0800 802 602.

Please note that this response, with your personal details removed, may be published on the Ministry website at: www.health.govt.nz/about-ministry/information-releases/responses-official-information-act-requests.

Yours sincerely



Caroline Flora
Acting Deputy Director-General
System Strategy and Policy

Appendix A: List of documents for release

#	Date	Title	Decision on release
1	N/A	Cabinet Paper: COVID-19 Resurgence: Improving Public Health Measures at Alert Level 1	Released with information out of scope excluded.
2	N/A	Cabinet Paper Minute of Decision: COVID-19 Resurgence: Improving Public Health Measures at Alert Level 1	Released with some information withheld under section 9(2)(f)(iv) of the Act, to maintain the constitutional conventions for the time being which protect, the confidentiality of advice tendered by Ministers of the Crown and officials.
3	13 November 2020	Health Report (20202003) – Briefing: Review of COVID-19 Alert Level Restrictions to respond to a potential outbreak in Auckland	Released with some information withheld under section 9(2)(a) of the Act, to protect the privacy of natural persons. Information out of scope has been excluded.
4	15 November 2020	Health Report (20202020) – Briefing: Update of Advice to Respond to the risk of potential resurgence of COVID-19 in Auckland	Released with some information withheld under section 9(2)(a) of the Act, to protect the privacy of natural persons. Information out of scope has been excluded.
5	16 November 2020	Health Report (20202012) – Briefing: Alert Level Requirements Order Amendment to mandate face coverings on public transport at Alert Level 1	Released with some information withheld under the following sections of the Act: <ul style="list-style-type: none"> • 9(2)(a), to protect the privacy of natural persons; and • 9(2)(h), to maintain legal professional privilege.

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Pages 3 and 4 have been excluded as out of scope

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Office of the Minister for COVID-19 Response

Cabinet

COVID-19 RESURGENCE: IMPROVING PUBLIC HEALTH MEASURES AT ALERT LEVEL 1**Proposal**

- 1 In light of recent community cases arising from the border, this paper seeks to strengthen public health measures at Alert Level 1. It seeks agreement to make face coverings mandatory on public transport in Auckland and on all domestic flights and outlines future decisions on public transport in other parts of the country and mandatory contact tracing in high risk situations.

Summary

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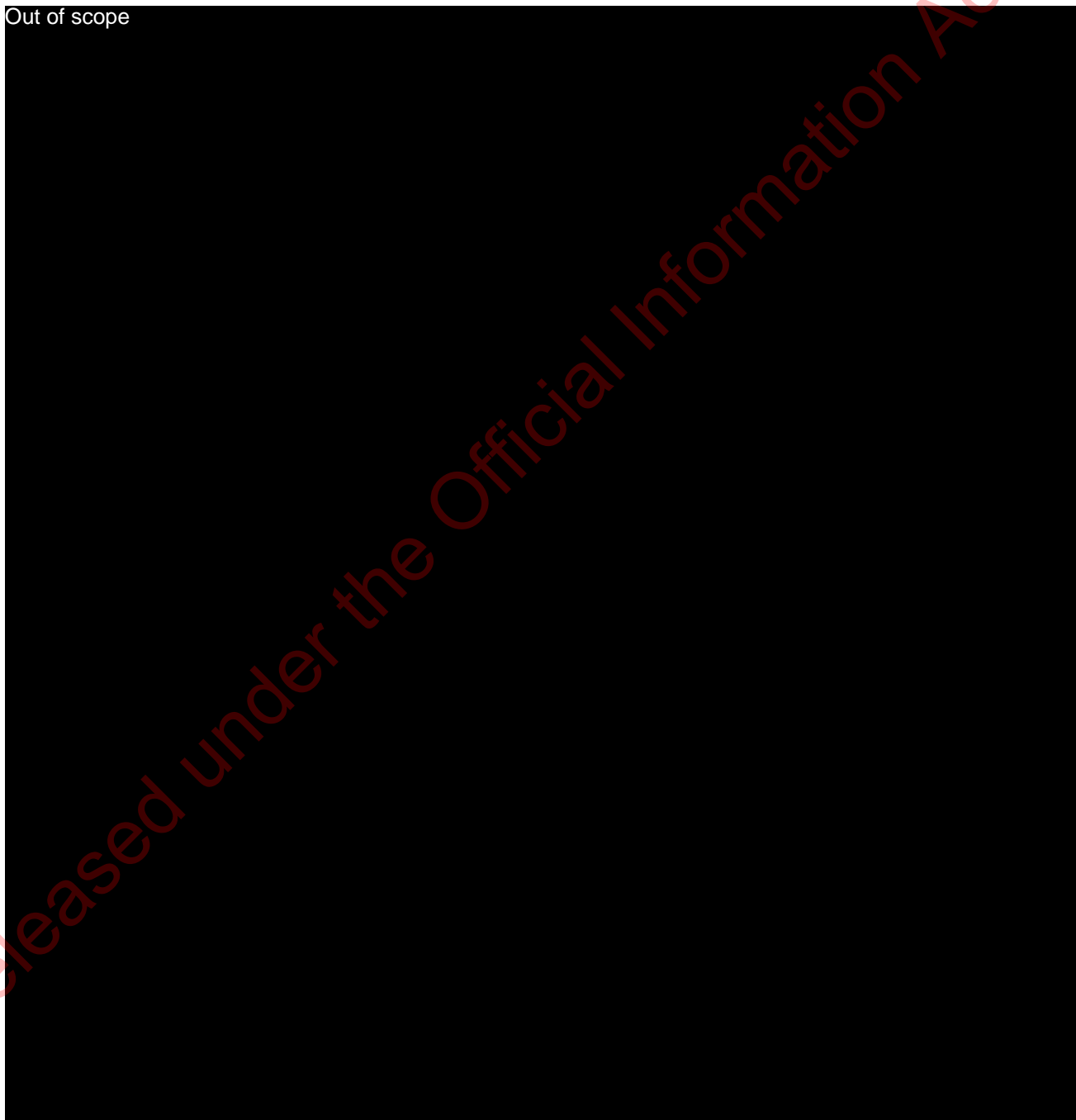
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To provide additional assurance, I recommend the compulsory use of face coverings on all public transport services that originate, end, or pass through the Auckland region. Face coverings, when used and disposed of correctly, work to both reduce the risk of infected wearers infecting others and they can protect uninfected wearers from catching the virus. I also propose that this requirement apply to the drivers of small passenger service vehicles (taxis, Ubers, etc).

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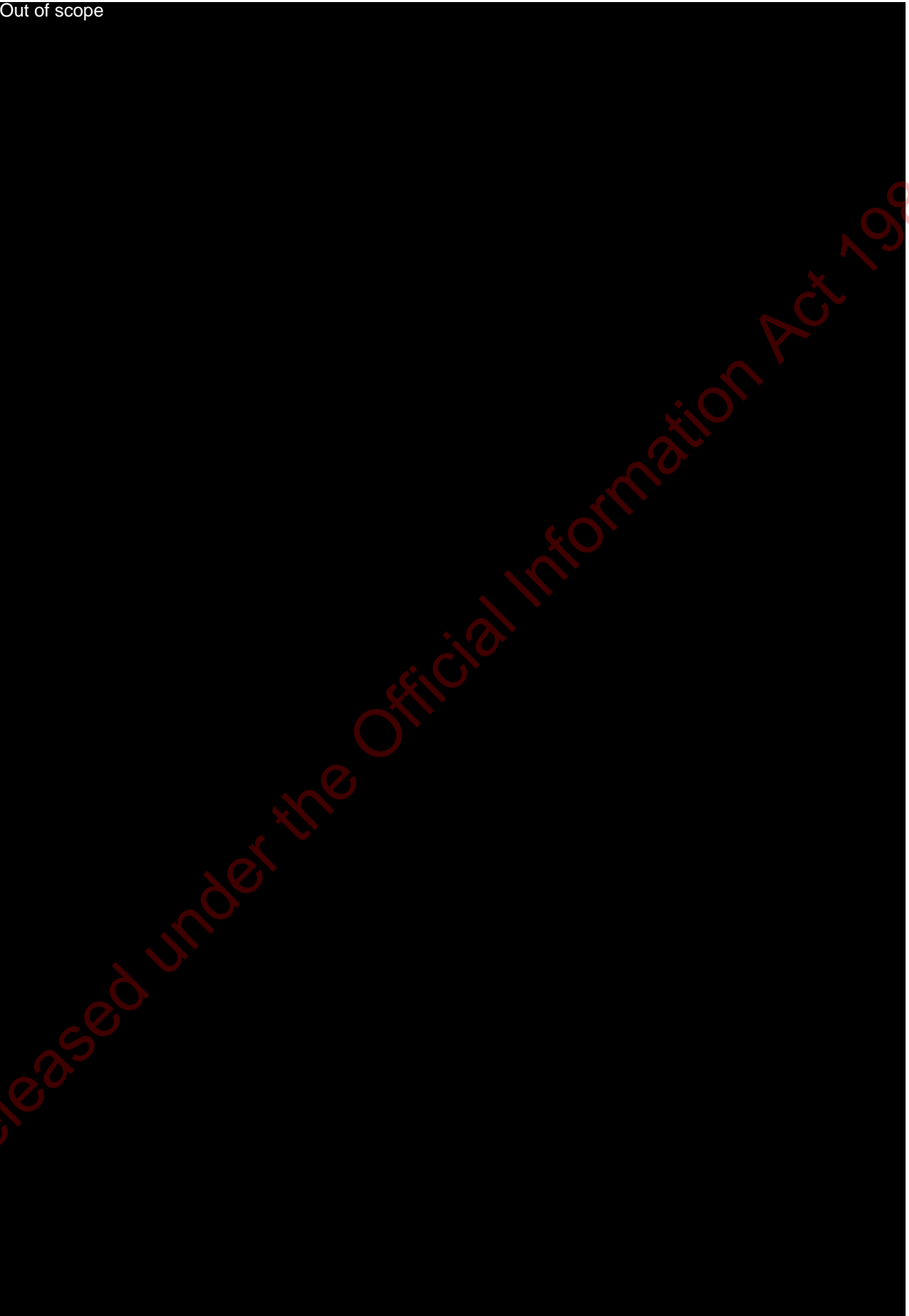
- 6 I also propose making face coverings mandatory on all domestic flights throughout New Zealand. Domestic flights are the most significant route on which the virus could spread rapidly from one region to another, which has already happened with this cluster. This measure therefore provides some protection across New Zealand.
- 7 I expect to report back shortly to Cabinet with further options on making face coverings compulsory on public transport in other cities with managed isolation and quarantine facilities (MIQ), or across the whole country. I will also be reporting back on making contact tracing record keeping compulsory in some higher risk situations.

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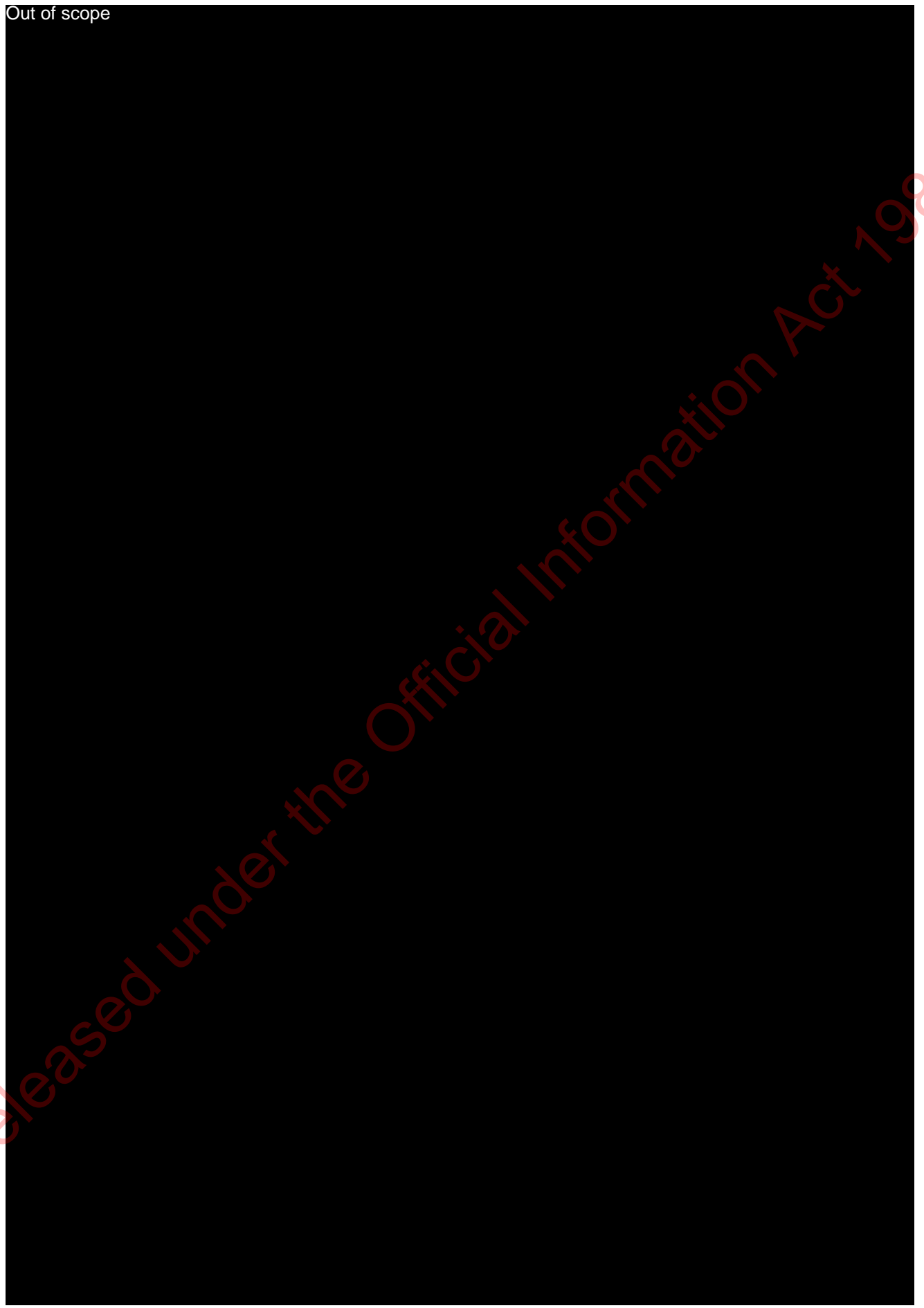
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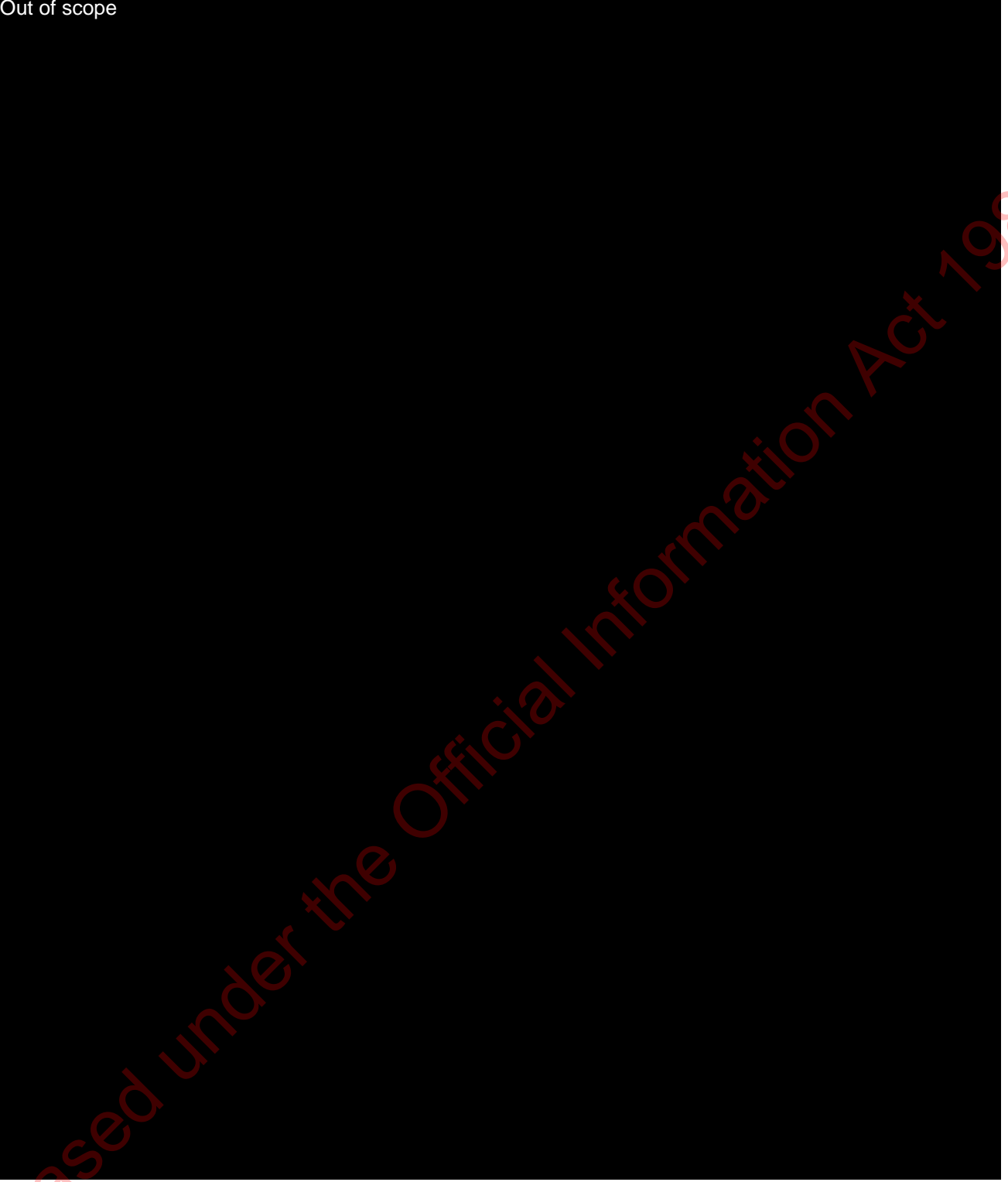
Released under the Official Information Act 1982

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Released under the Official Information Act 1982

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Making face coverings mandatory on public transport

- 32 Given the current situation and other cases in the community since the Americold outbreak in August, I am considering additional low-cost measures that further reduce transmission risk. Face coverings are one such measure.
- 33 There are broadly two public health objectives of wearing face coverings: reducing transmission of the disease by infected people and reducing the risk of people becoming infected. Compared to other risk reduction measures such

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as Alert Level changes, face covering usage is low cost. It also serves as a useful visual reminder of ongoing COVID-19 risk.

- 34 The use of face coverings alone is insufficient to adequately mitigate the risk of infection. Other personal and community-level measures such as physical distancing where possible, good hygiene, and use of QR codes and other record keeping for contact tracing purposes must also be in place to limit COVID-19 transmission.
- 35 Unfortunately, there is a gap between behavioural responses to recommended or mandated behaviour changes. Aucklanders were surveyed between 14 and 17 August about their awareness of public health advice and their behaviours. This was at the beginning of the Auckland outbreak, with total community case numbers between 33 and 58 in that period. At the time, face coverings were not mandatory, but their usage was strongly recommended. More than 80% of respondents were aware of the recommendation to wear face coverings and use the NZ COVID Tracer app but only 65% reported wearing face coverings outside and 50% reported using the NZ COVID Tracer app. These results are set out in the chart below.

Awareness of and compliance with behaviours by Aucklanders



Q. Which of the following are you supposed to do under the alert level in your region?
Q. Which of the following are you doing at the moment?

Source: "New Zealanders [sic] Information Needs and Personal and Socials Norms Towards Covid-19" report by TRA to DPMC August 2020

- 36 When mandatory face coverings were introduced on public transport, there were high levels of compliance with the requirements. When these requirements were removed, adherence very quickly dropped to well below 5%. Adherence to public health measures is very strongly correlated with perceptions of risk. We have seen very similar trends in usage of the NZ COVID Tracer app
- 37 The US Center for Disease Control (CDC) have recently updated their scientific brief which recommends the use of face coverings to control the spread of

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COVID-19. They cite multiple studies on the data regarding the real-world effectiveness of community use of face coverings, though these are limited to observational and epidemiological studies. The CDC advice also cites a study suggesting that increases in face covering usage in the US could remove the need for future lockdowns.

- 38 I note however that it is unlikely that evidence on face coverings will reach the gold standard of a randomised controlled trial (RCT), partly because an RCT would also pose severe ethical issues. Further, most of the evidence on face covering usage comes from jurisdictions with community transmission. There is very little evidence specifically in the context of an elimination strategy. However, Taiwan has very few restrictions, but they do require face coverings on public transport, and they have not had any cases in the community for more than 200 days. Face coverings sit alongside other measures including hand hygiene, staying home if sick and a highly effective testing and tracing regime. Most Chinese cities also require face coverings on public transport.
- 39 Taiwan and China both have elimination strategies but have chosen slightly different sets of layers of defence to achieve this and other factors may explain their overall performance.
- 40 Overall, the evidence for face covering usage is positive (albeit with limitations).

Face coverings on public transport in Auckland

- 41 Public transport is a situation where there is prolonged and close proximity between strangers in enclosed spaces, making it relatively high risk for transmission. We have seen relatively extensive transmission occurring on flights into New Zealand (though these are generally longer duration than domestic flights) and we have also had cases that were infected on buses in Auckland in the August outbreak. While public transport operators have measures in place to support contact tracing (and must at a minimum display a QR code if they are not collecting passenger contact details), public transport can sometimes be more difficult to contact trace (compared to other situations), which suggests that it is important to try and reduce transmission in this situation.
- 42 The downsides of mandatory face coverings on public transport exist but are manageable. These include public transport workers needing to wear face coverings for long periods of time and impacts for longer rail journeys such as the KiwiRail Northern explorer service. There could also be impacts for other bus operators of inter-regional passenger services into or out of Auckland. My advice however is that overall, the downsides, risks or costs to the wearing of face coverings on public transport are low.
- 43 For these reasons, I am proposing to make it mandatory to wear face coverings on all public transport services that originate, end, or pass through the Auckland region. This would include the drivers of small passenger vehicles e.g. taxi and Uber drivers, but not their passengers. I also propose making face coverings mandatory on all domestic passenger flights. This is defined as 'air transport services, operated for the carriage of passengers for hire or reward, and

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available to the public generally” and is intended to exclude charter services and tours, and private flights.

- 44 Consistent with previous decisions on face covering requirements (at Alert Level 2), the following services would be exempt:
- 44.1 School bus services contracted or funded by the Ministry of Education, local authorities, or Auckland Transport for the purpose of transporting school children to and from school;
 - 44.2 charter services and tours (which are excluded from the definition of public transport)
 - 44.3 private transport (including private flights).
- 45 Consistent with previous decisions on face covering requirements (at Alert Level 2), the following persons would be exempt:
- 45.1 children under the age of 12,
 - 45.2 passengers of small passenger services (although the drivers of these services will be required to wear a face covering),
 - 45.3 persons who have a physical or mental health illness or condition or disability that makes wearing a face covering unsuitable,
 - 45.4 drivers, pilots, staff, or crew of the public transport service or air transport service, if they are in a space completely separated from passengers (e.g. pilots in a cockpit, or train drivers in a train cab);
- 46 Additionally, consistent with decisions on face covering requirements (at Alert Level 2), face coverings would not need to be worn in the following situations:
- 46.1 if it is unsafe to wear a face covering (e.g. if the person’s only face covering is wet, or wearing a face covering means a driver cannot safely operate the vehicle),
 - 46.2 if there is an emergency that requires the face covering to be removed (e.g. to perform CPR),
 - 46.3 if removal of the face covering is required to prove identity,
 - 46.4 if visibility of the mouth is required for communication (e.g. when communicating with someone who is deaf),
 - 46.5 if there is a legal requirement to remove, or not to wear, the face covering,
 - 46.6 if there is a reasonable excuse not to wear a face covering.
- 47 I also recommend adding an additional measure enabling removal of face coverings for the purposes of eating, drinking or taking medicines by those on public transport journeys, where these activities are ordinarily allowed. The

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ability to remain hydrated is important for health, and it is particularly important that passengers have access to food and drink over longer journeys. An inability to do so may affect the ability of long-haul services such as the Northern Explorer service to operate successfully.

- 48 The Ministry of Health however advise that this exemption significantly undermines the effectiveness of using face coverings. If people touch, remove and replace face coverings, their effectiveness as an infection prevention tool is likely to be seriously undermined.
- 49 The penalties for non-compliance are stipulated under the COVID-19 Act. Consistent with previous settings I propose that failure to wear a face covering when required be an infringement offence. I understand that Police have generally taken a graduated approach to enforcement in cases where a person refuses to wear a face covering on relevant public transport, beginning with education efforts and warnings, then graduating through to infringement notices as necessary. As previously, there would be no obligation or expectation of transport operators to deny entry to those not wearing a mask.
- 50 DPMC Officials will work with other relevant agencies on enforcement implementation with input and advice from the Ministry of Health.

Extending the requirement to wear face coverings on public transport beyond the Auckland region

- 51 While we currently have cases in Auckland, it may be prudent to extend the requirement for face coverings on public transport to other cities with managed isolation or quarantine facilities: Wellington, Rotorua, Hamilton, Christchurch. I have asked officials for further advice on this question. From a communications perspective, it may be simpler to extend the requirements to the whole country. This would affect public transport networks in other regional centres such as Dunedin, Tauranga, Napier, New Plymouth and Invercargill.

Face coverings on all domestic flights across New Zealand

- 52 In addition to the measures for Auckland, there is a requirement to limit the potential spread of the virus across New Zealand. New Zealanders have high levels of mobility between regions and domestic flights are the most rapid way that spread of the virus could happen. This has already been seen in the current cluster where Case B was infected in Auckland and then travelled by air to Wellington. Additionally, people frequently catch inter-connecting flights in travelling around New Zealand, so the originating city of the flight is not necessarily an indicator of risk. Having outbreaks spanning regions raises particular challenges for the contact tracing process and also increases the potential need for nationwide Alert Level changes.
- 53 In addition, it makes more practical sense to require face coverings on all domestic flights rather than only those to or from Auckland, because other domestic flights may have passengers who have transited from Auckland. As an example, a flight from Christchurch to Dunedin may include passengers who have first flown from Auckland.

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- 54 For these reasons, I am recommending a requirement to wear face coverings on all domestic flights New Zealand at this time. I recommend that this requirement be put in place due to the complexity of the management of the current cluster and the fact that it has already required contact tracing in two regions. I recommend this requirement be kept under review.

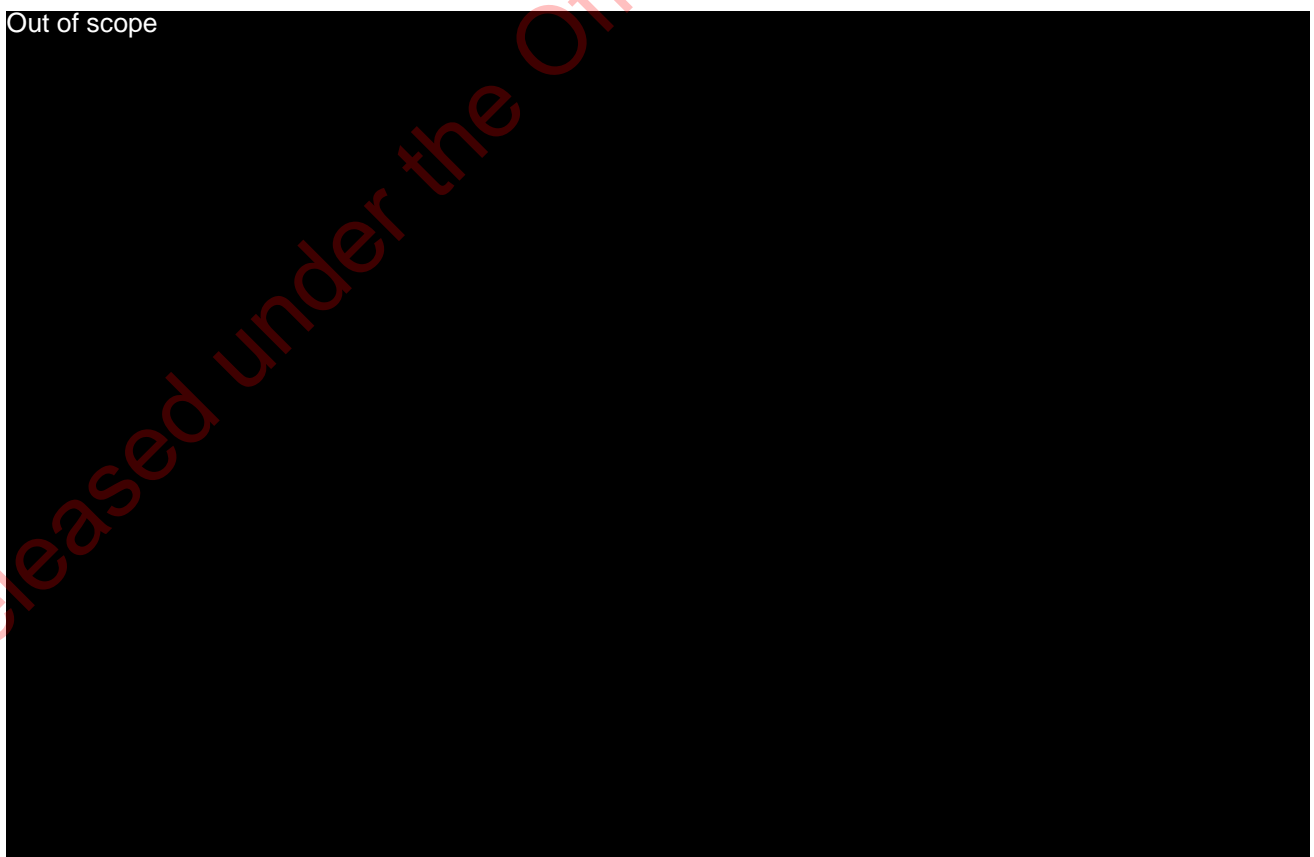
Public attitudes and compliance

- 55 Adherence to compulsory requirements under previous Orders has generally been high. There has also been good adherence when public health officials have given advice to close and casual contacts to self-isolate. On the other hand, adherence to voluntary requirements at Alert Level 1 such as wearing of face coverings on public transport and scanning QR codes has been low. This is despite high knowledge and understanding of the advice. This suggests that if high rates of adherence are required to address the public health risk, then compulsion is likely to be required.

At risk populations


- 56 We do not yet know the extent of this outbreak and which communities will be most affected.
- 57 Meeting the legal requirement for a face covering is manageable even for the most materially deprived person in New Zealand. A bandana, scarf or T-shirt is sufficient. However, masks with multiple layers of fabric are more effective than an improvised face covering. I have asked officials for further advice on potential government provision of high quality re-useable masks for distribution to those who may face financial trade-offs in purchasing quality masks.


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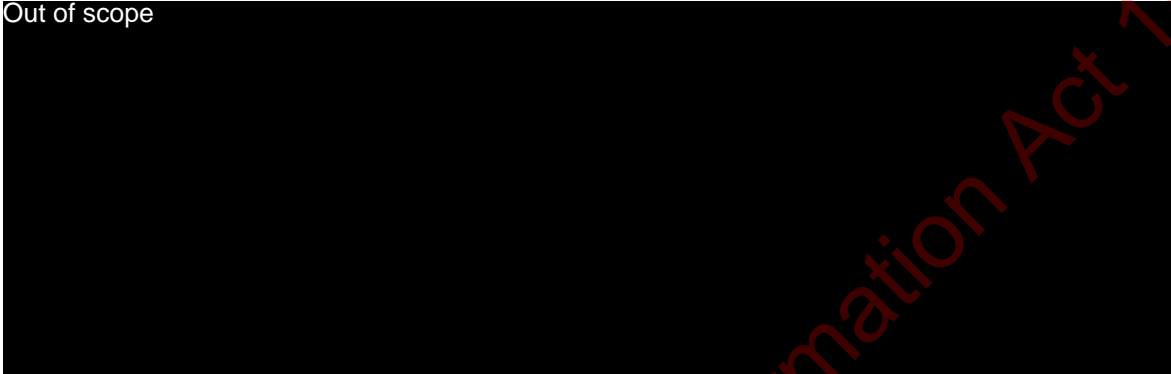
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- 61 Face coverings and contact tracing are only some of our layers of defence. There is work underway across the system to improve all our layers. Through continuous improvement we are constantly learning from our experiences and adapting our system of defences. Out of scope
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Interim view of the Director-General

- 62 The Director-General recommends mandatory face coverings on public transport in Auckland. His interim advice is as follows:
- 62.1 Although my advice is that Auckland remains at Alert Level 1 (for which mask wearing would ordinarily be strongly encouraged), I have in the past advised mandatory mask wearing in Alert Level 1 where circumstances have indicated this would be a proportionate response to mitigate risk. I consider in this instance, while we continue the case investigation there is merit in mandating face covering on public transport in Auckland and on all domestic flights.
- 62.2 Although the recent community cases in Auckland linked to the Maritime Company cluster have reminded New Zealanders of the dangers of complacency, anecdotally levels of mask wearing remain low. This is not necessarily a problem unless there is confirmed community transmission of COVID-19. However, the heightened awareness of the risk of COVID-19 in our community as a result of these events provides an opportunity to reinforce the use of face coverings on public transport in Auckland and on planes around New Zealand.
- 62.3 There are broadly two public health objectives of wearing masks and face coverings: for source control (i.e. reducing the spread of the disease by infected people) and for protection (i.e. reducing the risk of people becoming infected). Which of these objectives is paramount depends on the nature of the public health risk of community transmission. Where this is low, and there is less risk of people becoming infected, the primary public health benefit of mask wearing is source control. If the risk of community transmission is higher, the optimal approach may be to balance both source control and protection for vulnerable groups.

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- 62.4 The use of a face coverings alone is insufficient to adequately mitigate the risk of infection, and other personal and community-level measures such as physical distancing, good hygiene and restricting social gatherings must also be in place to limit COVID-19 transmission.
- 62.5 While masks can be beneficial in specific circumstances, there are also some potential downsides and risks associated with mask usage too. For example, there is a danger that people over-rely on masks as their means of preventing infection by COVID-19. This could lead people to neglect other equally, often more important measures, such as washing their hands, staying home when sick and physically distancing from others.
- 62.6 Our previous approach to face covering at different Alert Levels is outlined below.
- 62.6.1 At Alert Level 1, people are strongly encouraged to prepare their pandemic kits by obtaining a set of four reusable face coverings or masks.
- 62.6.2 At Alert Level 2, face coverings are mandatory on public transport. This is the only mandatory mask wearing requirement we have under current settings. As with Level 1, people are encouraged to prepare their pandemic kits by sourcing masks and are also encouraged to wear face coverings in enclosed spaces or where it is not possible to physically distance.
- 62.6.3 At Alert Levels 3 and 4, in addition to mandatory use on public transport face coverings are strongly recommended in enclosed spaces where physical distancing is not always possible and contact with other people outside your bubble may occur.
- 62.7 I consider in this instance, while we continue the case investigation there is merit in mandating face coverings on public transport in Auckland and on all domestic flights. This requirement should be reviewed as we learn more about whether there is wider community transmission from case D.
- 62.8 I consider that the behaviour change rationale for wearing masks when on public transport in Auckland is stronger than the public health rationale at this time.
- 62.9 As face coverings were previously a nationwide requirement on public transport at Alert Level 2, many New Zealanders will already have access to face coverings and will be increasing familiarity with their use. The Ministry is confident that public retailers have sufficient stock of face coverings to provide for people who may not already have acquired face coverings.
- 62.10 I do not recommend any other mandatory measures are required at this time. We should, however, continue with strong public health messaging,

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particularly basic hygiene measures and the use of QR codes by everyone.

62.11 I advise that, when considering the matter of mandating masks going forward, it is important, for both social license and Bill of Rights reasons, to retain a clear line of sight between the evidence of the public health risk of COVID-19 spreading and the measures in each Alert Level.

63 The Director-General will provide his final assessment and advice to the Minister for COVID-19 response on Monday 16 November.

Recommendation

64 This paper presents a recommendation to make it mandatory to wear face coverings on all public transport services within the Auckland region and/or that originate, end, or pass through the Auckland region. It also recommends making face coverings mandatory for all drivers of small passenger transport services (Uber, taxis etc) in Auckland, but not their passengers. I also propose making face coverings mandatory on all air transport services, operated for the carriage of passengers for hire or reward, and available to the public generally. Exemptions that were previously agreed for the face covering settings at Alert Level 2, will still apply.

Financial Implications

65 Imposing a requirement for mandatory face coverings has relatively low fiscal costs for the Crown, (although I note the indications from KiwiRail about the possible review of the Northern Explorer rail service). The costs are largely related to the potential supply of face coverings.

Legislative Implications

66 I will consider whether to make an Order under s11 of the COVID-19 Public Health Response Act 2020 that makes face coverings mandatory on public transport services within, and that originate, end, or pass through the Auckland region, and on all air transport services, operated for the carriage of passengers for hire or reward, and available to the public generally at Alert Level 1. Exemptions that were previously agreed for the face covering settings at Alert Level 2, will still apply.


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- 69 If Cabinet considers that face coverings should be mandatory, I will consider and then sign an Order. I will publish it online and in the *Gazette*. This Order will then come into effect at 11:59pm on Wednesday 18 November 2020.

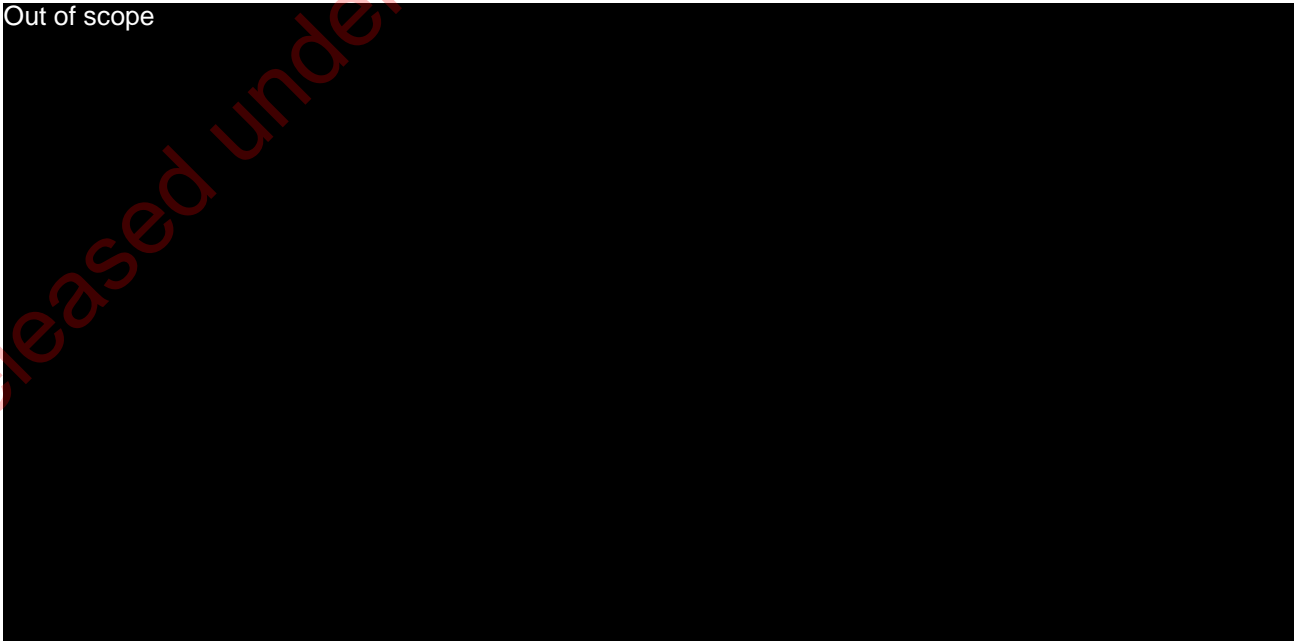
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Human Rights

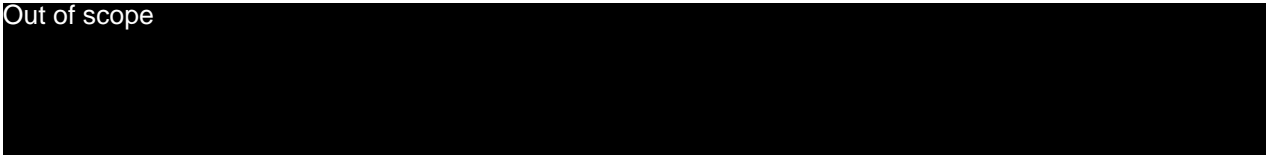
- 71 The human rights implications of the controls in place to slow the spread of COVID-19 are significant and have been set out in detail in previous papers on Alert Level decisions [CAB-20-MIN-0161, CAB-20-MIN-0176]. Limitations on freedom of expression (s 14 of the Bill of Rights Act) caused by mandatory face coverings on public transport are likely to be minor and fleeting. I consider they can be demonstrably justified on the basis that a precautionary approach to COVID-19 transmission plays a part in the important goal of preventing a resurgence in community transmission, and that face coverings on public transport is a rational method of reducing that risk.
- 72 The face covering requirements are targeted, in that they would apply only to public transport starting or terminating in Auckland, and to nationwide air travel (given that air travel evidently facilitates rapid mobility of Aucklanders to other parts of New Zealand). The requirements apply only during periods of unavoidable prolonged close contact, rather than at other times when people are out of their homes. And, on the basis that a range of exceptions continue to be permitted as under previous Alert Level orders, essential communication can still occur despite the face covering requirements.
- 73 Relevant departments and the Solicitor-General will continue to keep any remaining restrictive measures under review to ensure that they remain necessary and are implemented in a way that is consistent with the New Zealand Bill of Rights Act.

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Recommendations

The Minister for COVID-19 Response recommends that Cabinet:

- 1 **note** that the November Quarantine cluster contains 5 cases, as at 14 November;
- 2 **note** that the Director-General of Health recommends that face coverings be made mandatory on public transport in Auckland, on public transport originating, ending, or passing through the Auckland region and on all domestic flights while the case investigation is underway;
- 3 **agree** that the use of face coverings should be mandatory on all public transportation services in the Auckland region, including those that start, end or pass through the region;
- 4 **agree** that the use of face coverings should be mandatory on all domestic air transport services generally available to the public;
- 5 **agree** that that small passenger services (taxis, Uber etc) are included within the definition of 'public transport' and that the use of face coverings should be mandatory for drivers of small passenger services, and agree the passengers of small passenger services should be excluded from this requirement
- 6 **agree** to exclude from the face covering requirement, a service for the carriage of passengers for hire or reward that is contracted or funded by the Ministry of Education, local authorities, or Auckland Transport for the sole or primary purpose of transporting school children to and from school should be excluded from the face covering requirement;
- 7 **note** the requirement will not apply to the following services, given the definition of 'public transport' and the definition for 'air transport':
 - 7.1 charter services and tours (which are excluded from the definition of public transport)
 - 7.2 private transport (including private flights).
- 8 **agree** the following persons should be excluded from a face covering requirement:
 - 8.1 persons under the age of 12
 - 8.2 persons who have a medical condition or disability that makes it unsuitable for them to wear a face covering

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- 8.3 drivers, pilots, staff, or crew of the public transport service or air transport service, if they are in a space completely separated from passengers (e.g. pilots in a cockpit, or train drivers in a train cab).
- 9 **agree** face coverings would not need to be worn in the following situations:
- 9.1 if it is unsafe to wear a face covering (e.g. if the person's only face covering is wet, or wearing a face covering means a driver cannot safely operate the vehicle),
 - 9.2 if there is an emergency that requires the face covering to be removed (e.g. to perform CPR),
 - 9.3 if removal of the face covering is required to prove identity,
 - 9.4 if visibility of the mouth is required for communication (e.g. when communicating with someone who is deaf),
 - 9.5 if there is a legal requirement to remove, or not to wear, the face covering,
 - 9.6 if temporary removal of the face covering is required for the purposes of eating, drinking, or the taking of medicines by those on public transport journeys where these activities are ordinarily allowed (not supported by the Ministry of Health),
 - 9.7 if there is a reasonable excuse not to wear a face covering.
- 10 **note** that the Minister for COVID-19 Response will act on behalf of the Minister of Health in issuing the Order under the COVID Public Health Response Act 2020;
- 11 **invite** the Minister for COVID-19 Response to report back to Cabinet by 23 November 2020 with further advice on whether face coverings should be compulsory on public transport services in Hamilton, Rotorua, Wellington and Christchurch;
- 12 **invite** the Minister for COVID-19 Response to report back to Cabinet by 23 November 2020 with further advice on increasing the usage of QR codes and mandating contact tracing at higher risk venues such as bars and events;
- 13 **note** that we will continue to monitor our situation closely and adjust quickly if necessary;
- 14 **agree** that Cabinet's decision today will be communicated by the Prime Minister.

Authorised for lodgement

Hon Chris Hipkins
Minister for COVID-19 Response



Cabinet

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.

COVID-19 Resurgence: Improving Public Health Measures at Alert Level 1

Portfolio COVID-19 Response

On 16 November 2020, Cabinet:

- 1 **noted** that the November Quarantine cluster contains 5 cases, as at 14 November 2020;
- 2 **noted** that the Director-General of Health recommends that, while the case investigation is underway, face coverings be made mandatory on:
 - 2.1 public transport in Auckland;
 - 2.2 public transport originating, ending, or passing through the Auckland region; and
 - 2.3 all domestic flights;
- 3 **agreed** that the use of face coverings should be mandatory on all public transportation services in the Auckland region, including those that start, end or pass through the region;
- 4 **agreed** that the use of face coverings should be mandatory on all domestic air transport services generally available to the public;
- 5 **agreed** that:
 - 5.1 small passenger services (taxis, Uber etc) are included within the definition of 'public transport' and that the use of face coverings should be mandatory for drivers of small passenger services,
 - 5.2 the passengers of small passenger services should be excluded from this requirement;
- 6 **agreed** that a service for the carriage of passengers for hire or reward that is contracted or funded by the Ministry of Education, local authorities, or Auckland Transport for the sole or primary purpose of transporting school children to and from school be excluded from the face covering requirements above;
- 7 **noted** that the face covering requirement above will not apply to the following services, given the definition of 'public transport' and the definition for 'air transport':
 - 7.1 charter services and tours (which are excluded from the definition of public transport);

- 7.2 private transport (including private flights);
- 8 **agreed** that the following persons should be excluded from a face covering requirement:
- 8.1 persons under the age of 12;
- 8.2 persons who have a medical condition or disability that makes it unsuitable for them to wear a face covering;
- 8.3 drivers, pilots, staff, or crew of the public transport service or air transport service, if they are in a space completely separated from passengers (e.g. pilots in a cockpit, or train drivers in a train cab);
- 9 **agreed** that face coverings would not need to be worn in the following situations:
- 9.1 if it is unsafe to wear a face covering (e.g. if the person's only face covering is wet, or wearing a face covering means a driver cannot safely operate the vehicle);
- 9.2 if there is an emergency that requires the face covering to be removed (e.g. to perform CPR), ;
- 9.3 if removal of the face covering is required to prove identity;
- 9.4 if visibility of the mouth is required for communication (e.g. when communicating with someone who is deaf);
- 9.5 if there is a legal requirement to remove, or not to wear, the face covering;
- 9.6 if temporary removal of the face covering is required for the purposes of eating, drinking, or the taking of medicines by those on public transport journeys where these activities are ordinarily allowed (not supported by the Ministry of Health);
- 9.7 if there is a reasonable excuse not to wear a face covering;
- 10 **noted** that the Minister for COVID-19 Response will act on behalf of the Minister of Health in issuing the Order under the COVID-19 Public Health Response Act 2020;
- 11 s 9(2)(f)(iv) [REDACTED]
- 12 s 9(2)(f)(iv) [REDACTED]
- 13 **noted** that the situation will continue to be monitored closely and adjusted quickly if necessary;
- 14 **agreed** that the above decisions will be communicated by the Prime Minister.

Michael Webster
Secretary of the Cabinet

Briefing

Review of COVID-19 Alert Level Restrictions to respond to a potential outbreak in Auckland

Date due to MO: 13 November 2020 **Action required by:** 13 November 2020

Security level: IN CONFIDENCE **HR number:** 20202003

To: Hon Chris Hipkins, Minister for COVID-19 Response

Contact for telephone discussion

Name	Position	Telephone
Maree Roberts	Acting Director-General of Health	s 9(2)(a)

Minister's office to complete:

- | | | |
|---|------------------------------------|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Decline | <input type="checkbox"/> Noted |
| <input type="checkbox"/> Needs change | <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn | |

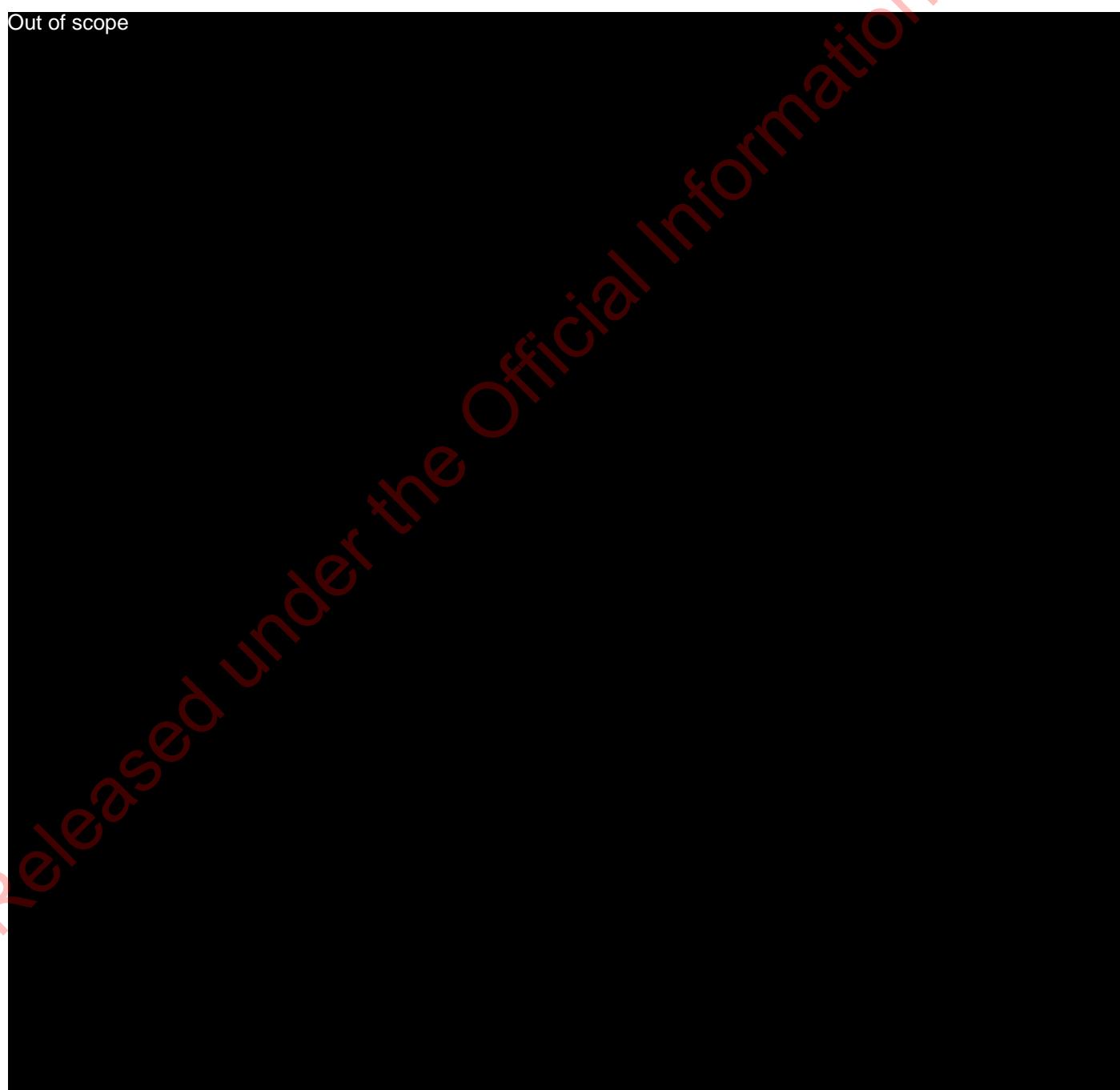
Comment:

Review of COVID-19 Alert Level Restrictions to respond to a potential outbreak in Auckland

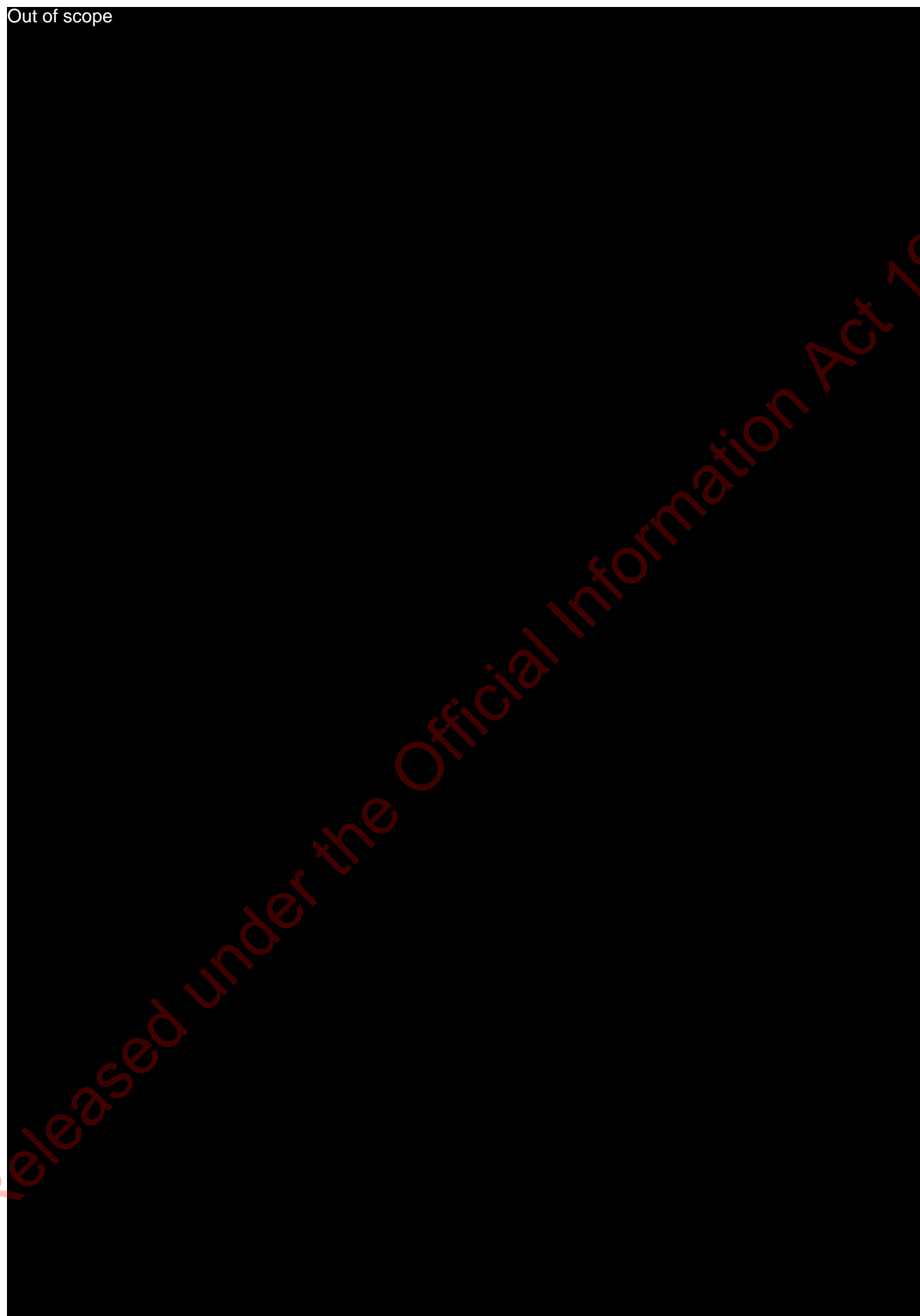
Security level:	IN CONFIDENCE	Date:	13 November 2020
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To:	Hon Chris Hipkins, Minister for COVID-19 Response
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Out of scope



Out of scope



Released under the Official Information Act 1982

E) Sufficient health and disability system capacity to manage COVID-19 cases, including PPE (masks, gloves, gowns etc)

Out of scope

- Although my advice is that Auckland remains at Alert Level 1 (for which mask wearing would ordinarily be strongly encouraged), I have in the past advised mandatory mask wearing in Alert Level 1 where circumstances have indicated this would be appropriate to mitigate risk. **I consider in this instance, while we continue the case investigation there is merit in mandating face covering on public transport in Auckland and all domestic flights.** This requirement should be regularly reviewed alongside the regular review of Alert Level status.

Out of scope

- If there is sufficiently heightened concern about the risk level to warrant the mandatory use of face coverings and record keeping for contact tracing we would advise considering the full suite of measures available under Alert Level 2.

Out of scope

Recommendations

The Ministry recommends that you:

Out of scope

Out of scope

- d) **Note** I consider in this instance, while we continue the case investigation there is merit in mandating face covering on public transport in Auckland and all domestic flights. This requirement should be regularly reviewed alongside the regular review of Alert Level status.

Out of scope



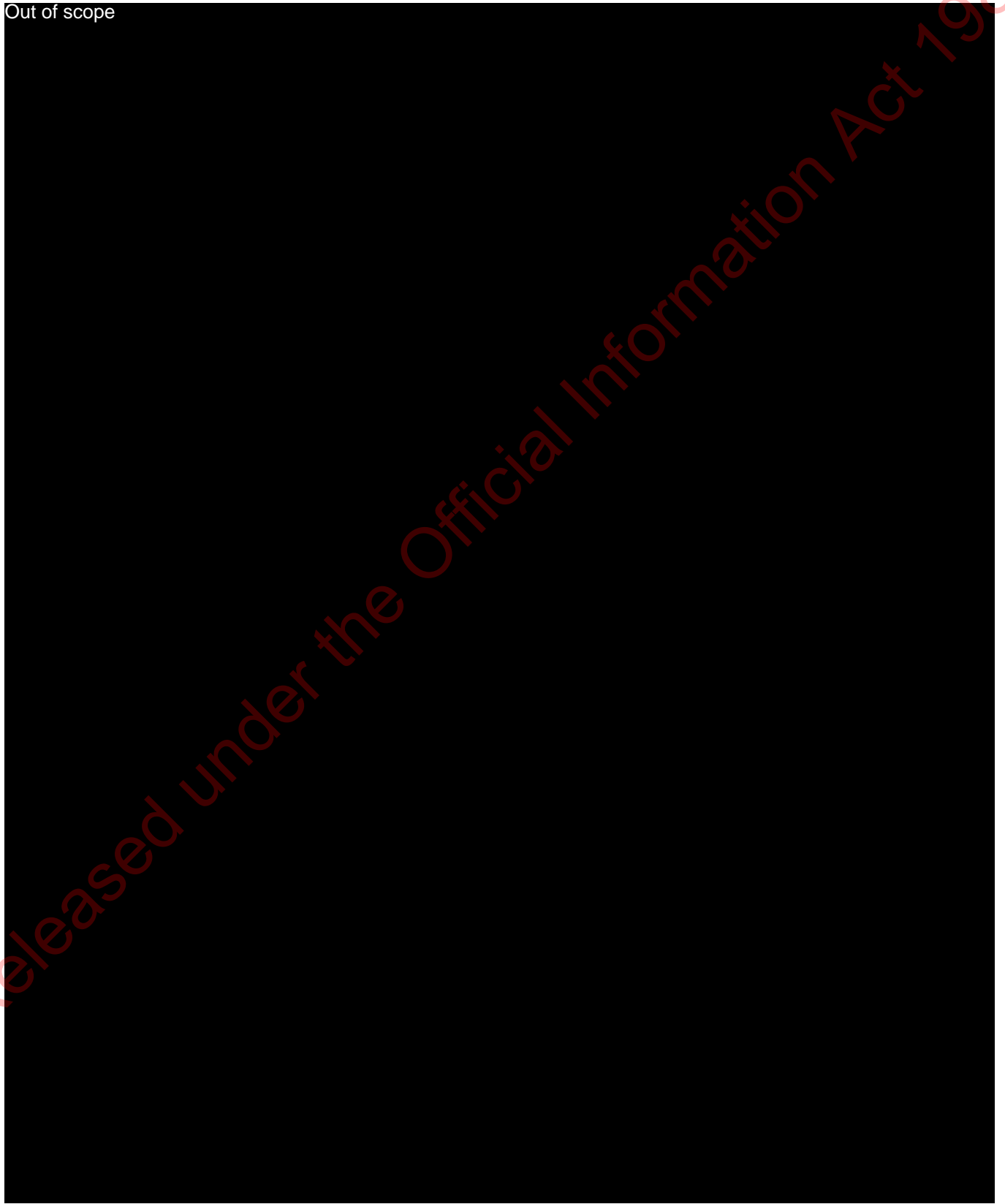
Maree Roberts
Acting Director-General of Health



Hon Chris Hipkins
Minister of Health
Date: 14/11/2020

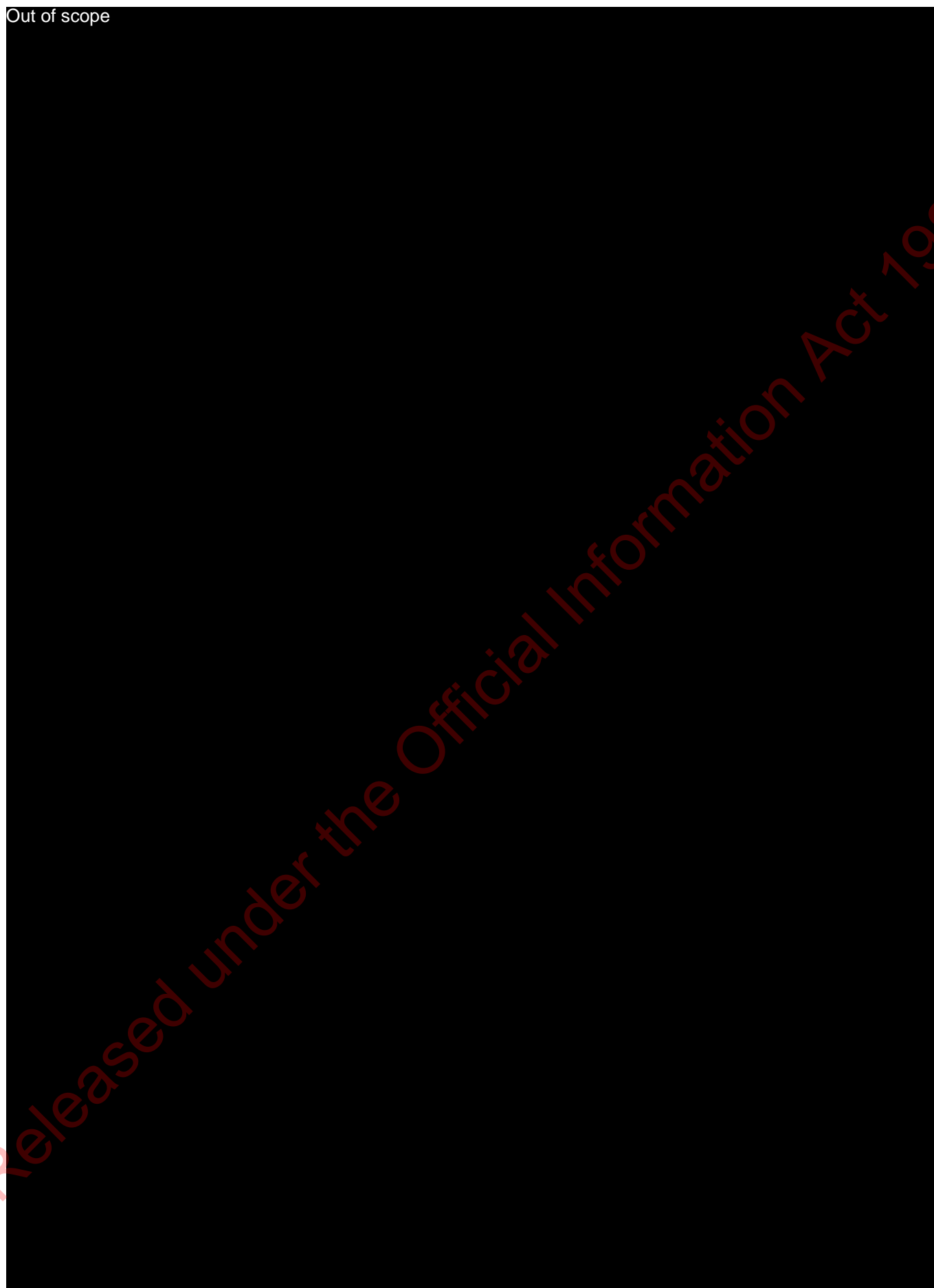
Review of COVID-19 Alert Level Restrictions to respond to a potential outbreak in Auckland

Out of scope



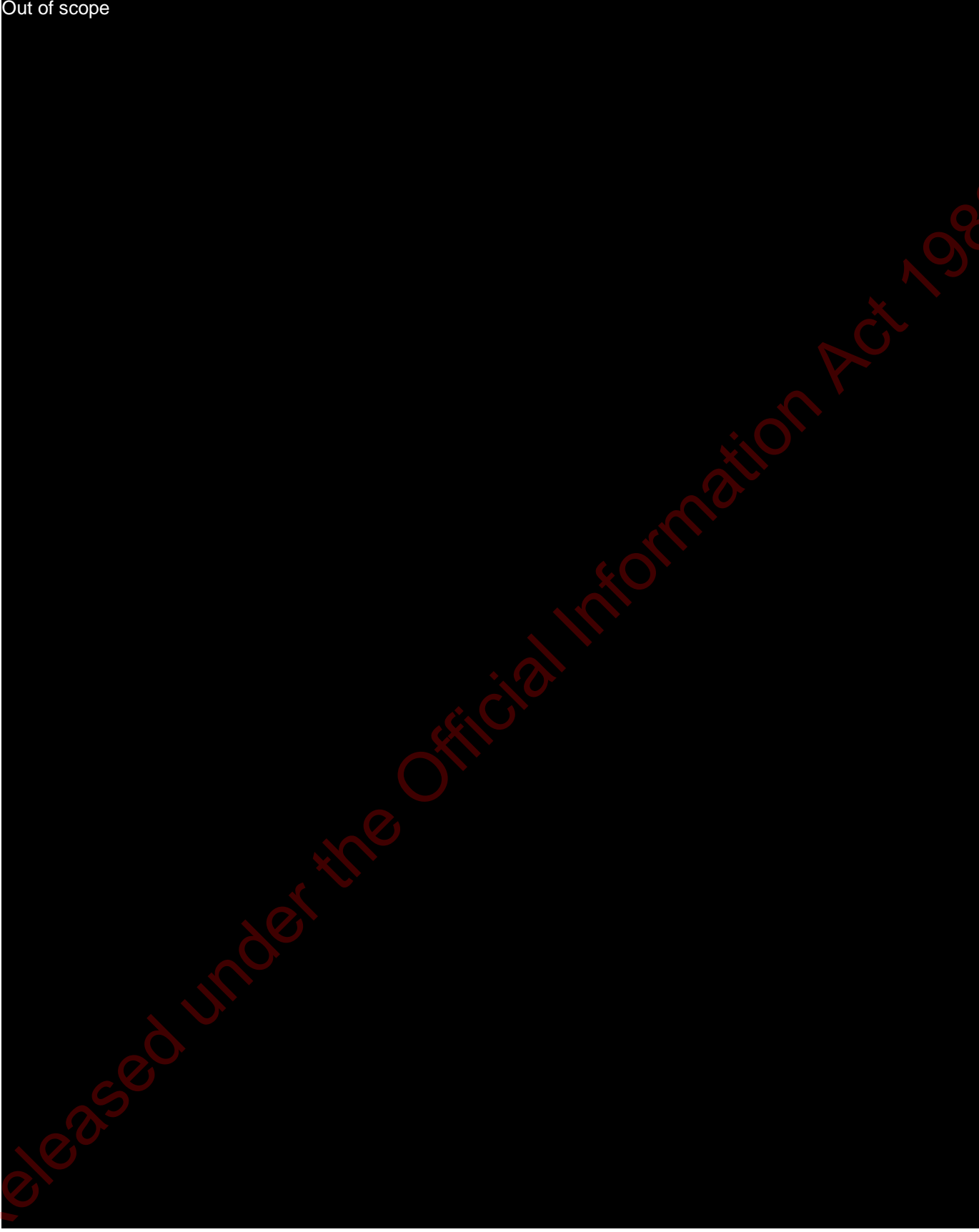
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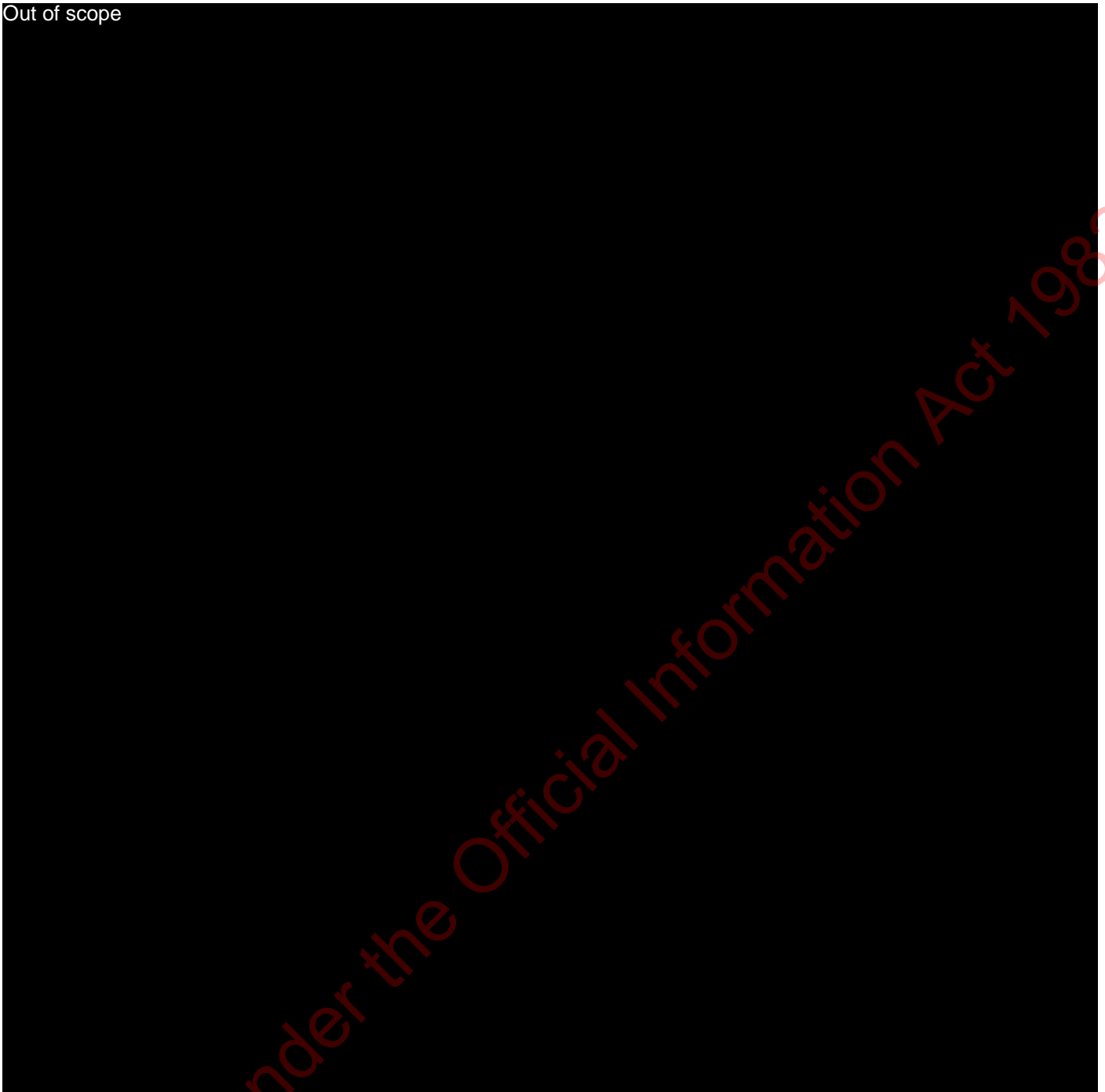


Released under the Official Information Act 1982

Out of scope



Out of scope



Mandatory face coverings on public transport and planes

32. Although my advice is that Auckland remains at Alert Level 1 (for which mask wearing would ordinarily be strongly encouraged), I have in the past advised mandatory mask wearing in Alert Level 1 where circumstances have indicated this would be appropriate to mitigate risk. **I consider in this instance, while we continue the case investigation there is merit in mandating face covering on public transport in Auckland and all domestic flights.**
33. Although the recent community cases in Auckland linked to the Maritime Company cluster have reminded New Zealanders of the dangers of complacency, anecdotally levels of mask wearing remain low. The heightened awareness of the risk of COVID-19 in our community as a result of these events provide a good opportunity to reinforce the use of face coverings on public transport.

34. There are broadly two public health objectives of wearing masks and face coverings: for source control (i.e. reducing the spread of the disease by infected people) and for protection (i.e. reducing the risk of people becoming infected). Which of these objectives is paramount depends on the nature of the public health risk of community transmission. Where this is low, and there is less risk of people becoming infected, the primary public health benefit of mask wearing is source control. If the risk of community transmission is higher, the optimal approach may be to balance both source control and protection for vulnerable groups.
35. The use of a face coverings alone is insufficient to adequately mitigate the risk of infection, and other personal and community-level measures such as physical distancing, good hygiene and restricting social gatherings must also be in place to limit COVID-19 transmission.
36. Our previous approach to face covering at different alert levels is outlined below.
- At Alert Level 1, people are strongly encouraged to prepare their pandemic kits by obtaining a set of four reusable face coverings or masks.
 - At Alert Level 2, face coverings are mandatory on public transport. This is the only mandatory mask wearing requirement we have under current settings. As with Level 1, people are encouraged to prepare their pandemic kits by sourcing masks and are also encouraged to wear face coverings in enclosed spaces or where it is not possible to physically distance.
 - At Alert Levels 3 and 4, in addition to mandatory use on public transport face coverings are strongly recommended in enclosed spaces where physical distancing is not always possible and contact with other people outside your bubble may occur.
37. I consider in this instance, while we continue the case investigation there is merit in mandating face covering on public transport in Auckland and all domestic flights. This requirement should be regularly reviewed alongside the regular review of Alert Level status.
38. As face coverings were previously a nationwide requirement on public transport at Alert Level 2, many New Zealanders will already have access to face coverings and increasing familiarity with their use. The Ministry is confident that public retailers have sufficient stock of face coverings to provide for people who may not already have acquired face coverings.
39. I do not recommend any other mandatory measures are required at this time. However we should continue with strong public health messaging, particularly basic hygiene measures and the use of QR codes by everyone.

Summary

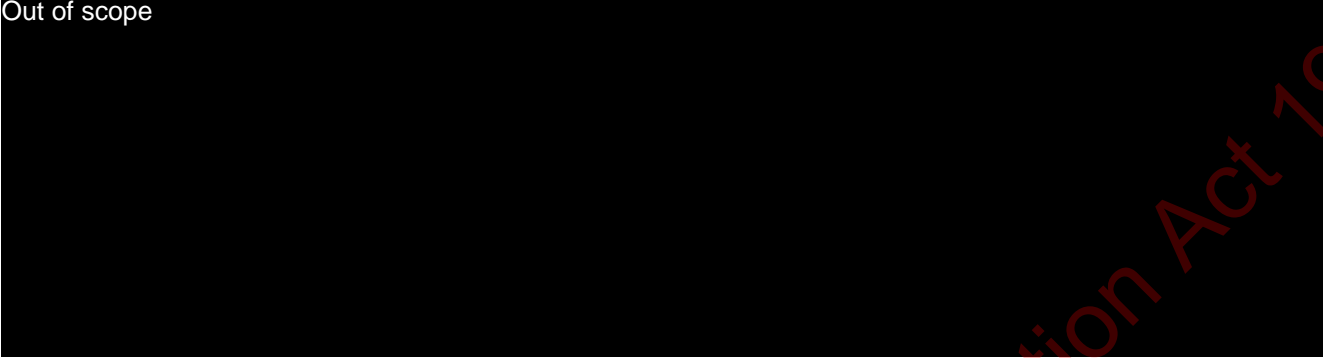
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42. I consider in this instance, **while we continue the case investigation there is merit in mandating face covering on public transport in Auckland and all domestic flights.** This requirement should be regularly reviewed alongside the regular review of Alert Level status.

Equity

43. There are two factors to balance in considering equity implications. We know from historical examples that Māori and Pacific peoples are likely to be disproportionately affected by a widespread epidemic. These communities are also likely to be disproportionately affected by the impact of the controls – they are less likely to be able to work remotely.

Out of scope



ENDS.

Briefing

Update of Advice to Respond to the risk of a potential resurgence of COVID-19 in Auckland

Date due to MO: 15 November 2020 **Action required by:** 15 November 2020

Security level: IN CONFIDENCE **HR number:** 20202020

To: Hon Chris Hipkins, Minister for COVID-19 Response

Contact for telephone discussion

Name	Position	Telephone
Ashley Bloomfield	Director-General of Health	s 9(2)(a)
Maree Roberts	Deputy Director-General	s 9(2)(a)

Minister's office to complete:

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| <input type="checkbox"/> Needs change | <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn | |

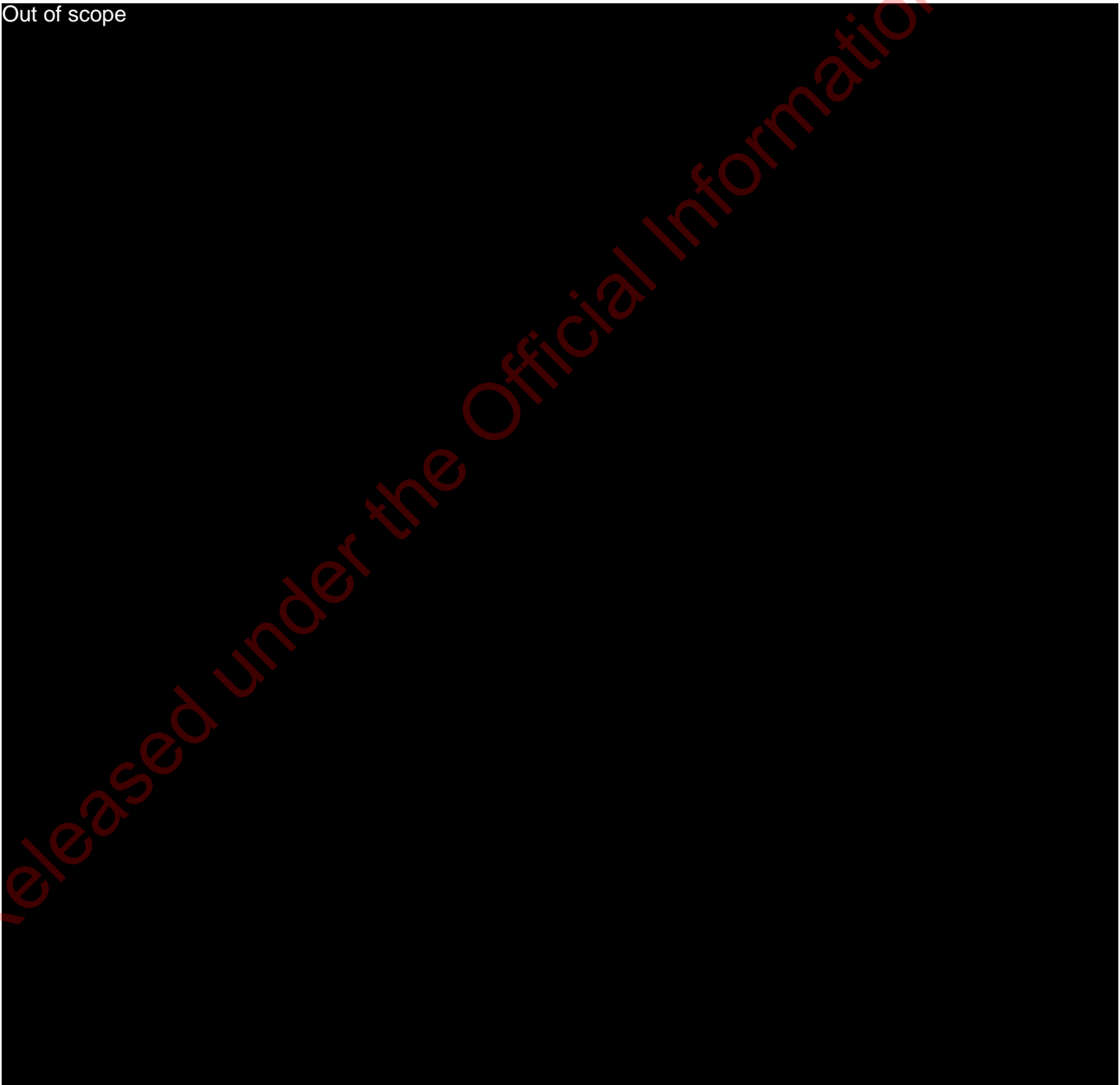
Comment:

Update of Advice to Respond to the risk of a potential resurgence of COVID-19 in Auckland

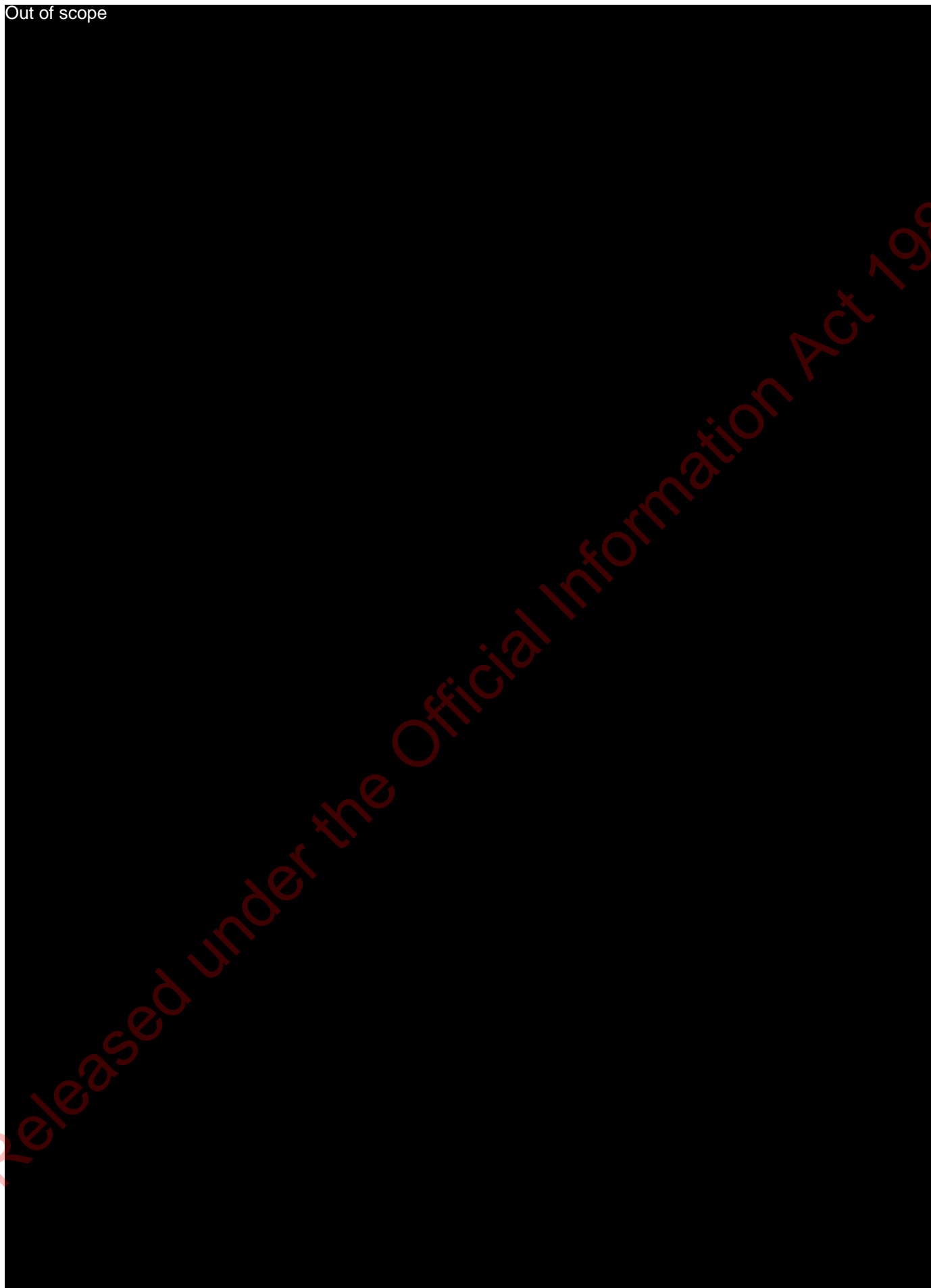
Security level:	IN CONFIDENCE	Date:	15 November 2020
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To:	Hon Chris Hipkins, Minister for COVID-19 Response
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Out of scope



Out of scope



Released under the Official Information Act 1982

Out of scope

E) Sufficient health and disability system capacity to manage COVID-19 cases, including PPE (masks, gloves, gowns etc)

Out of scope

- Although my advice is that Auckland remains at Alert Level 1 (for which mask wearing would ordinarily be strongly encouraged), I have in the past advised mandatory mask wearing in Alert Level 1 where circumstances have indicated this would be appropriate to mitigate risk. **I still consider in this instance, while we continue the case investigation there is merit in mandating face covering on public transport in Auckland and all domestic flights.** This requirement should be regularly reviewed alongside the regular review of Alert Level status.

Out of scope


- If there is sufficiently heightened concern about the risk level to warrant the mandatory use of face coverings and record keeping for contact tracing we would advise considering the full suite of measures available under Alert Level 2.

Out of scope

Recommendations


I recommend that you:

Out of scope



- d) **Note** I consider in this instance, while we continue the case investigation there is merit in mandating face covering on public transport in Auckland and all domestic flights. This requirement should be regularly reviewed alongside the regular review of Alert Level status.

Out of scope



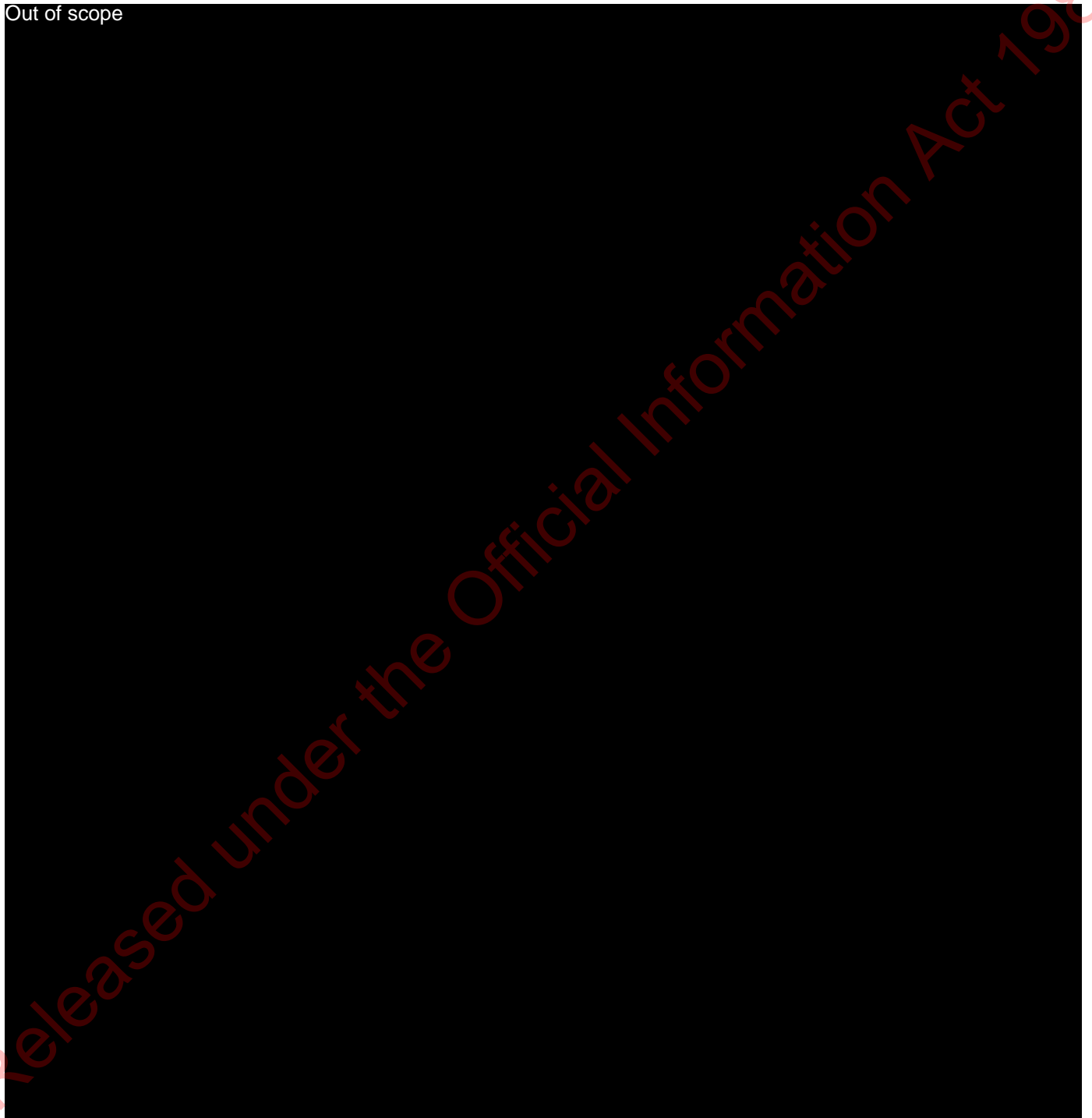
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Ashley Bloomfield
Director-General of Health

Hon Chris Hipkins
Minister of Health
Date:

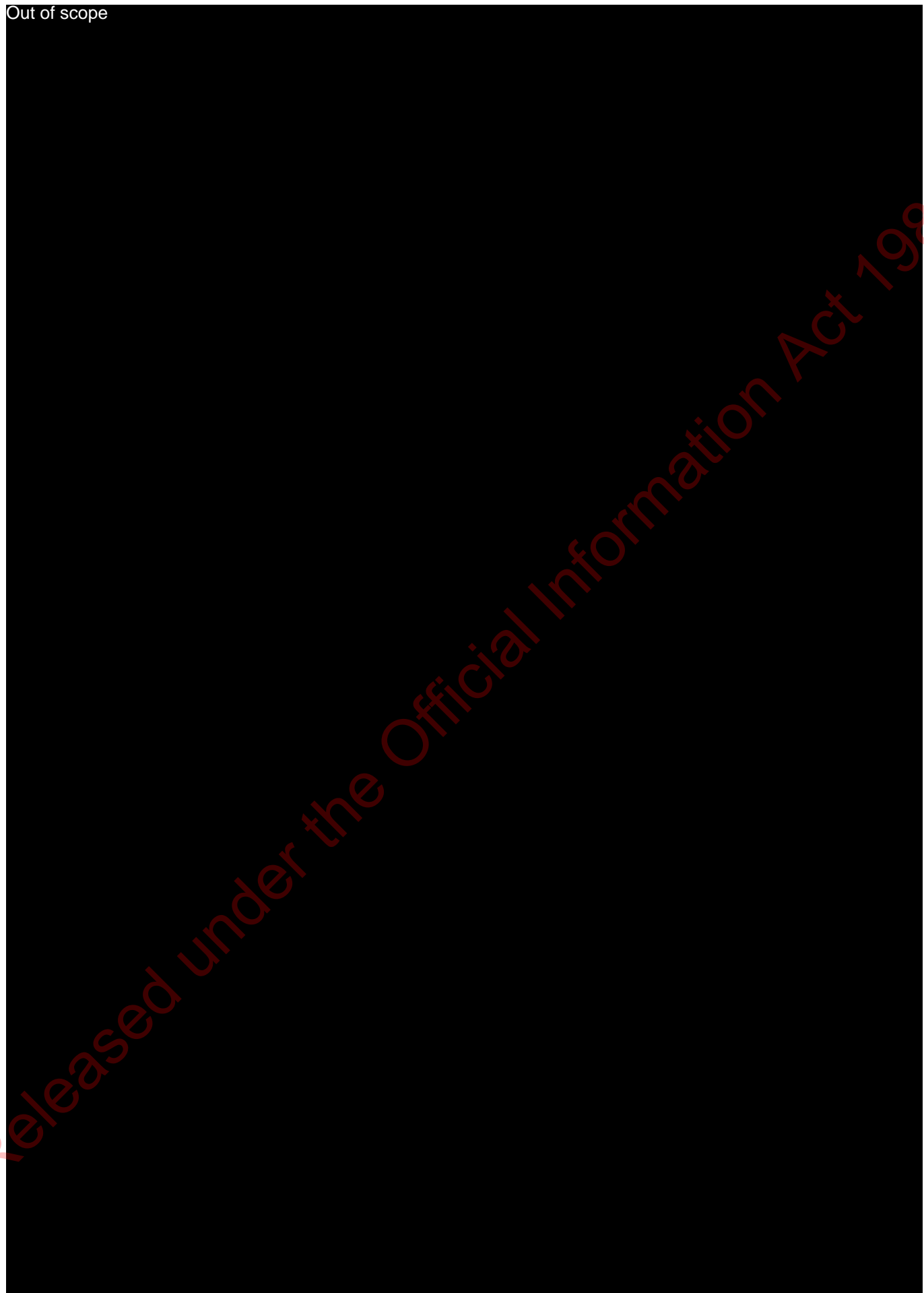
Update of Advice to Respond to the risk of a potential resurgence of COVID-19 in Auckland

Out of scope



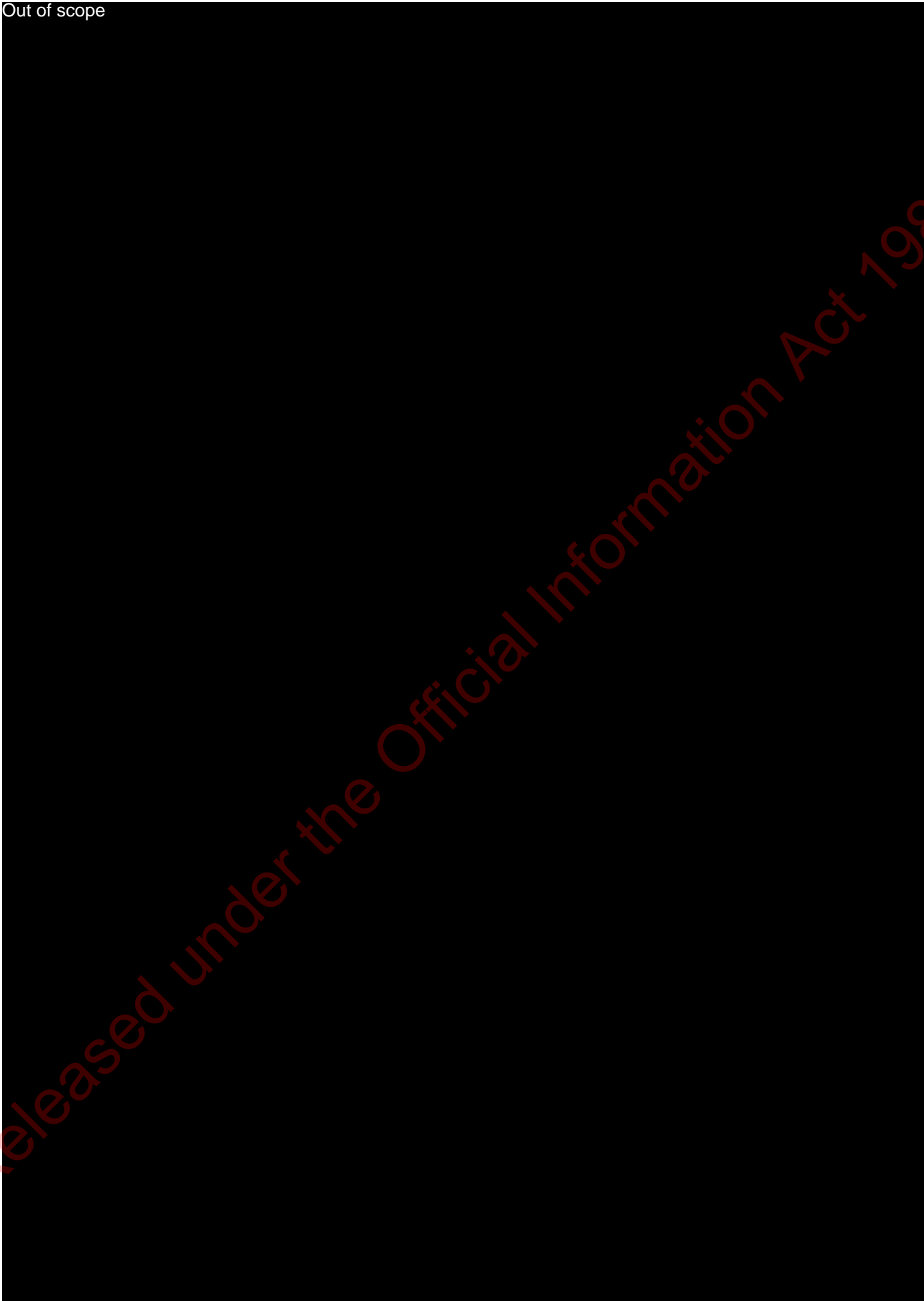
Released under the Official Information Act 1982

Out of scope



Released under the Official Information Act 1982

Out of scope



Out of scope

Out of scope

Out of scope

Mandatory face coverings on public transport and planes

31. Although my advice is that Auckland remains at Alert Level 1 (for which mask wearing would ordinarily be strongly encouraged), I have in the past advised mandatory mask wearing in Alert Level 1 where circumstances have indicated this would be appropriate to mitigate risk. **I confirm that I consider in this instance, while we continue the case investigation there is merit in mandating face covering on public transport in Auckland and all domestic flights.**
32. Although the recent community cases in Auckland linked to the Maritime Company cluster have reminded New Zealanders of the dangers of complacency, anecdotally levels of mask wearing remain low. The heightened awareness of the risk of COVID-19 in our community as a result of these events provide a good opportunity to reinforce the use of face coverings on public transport.
33. There are broadly two public health objectives of wearing masks and face coverings: for source control (i.e. reducing the spread of the disease by infected people) and for

protection (i.e. reducing the risk of people becoming infected). Which of these objectives is paramount depends on the nature of the public health risk of community transmission. Where this is low, and there is less risk of people becoming infected, the primary public health benefit of mask wearing is source control. If the risk of community transmission is higher, the optimal approach may be to balance both source control and protection for vulnerable groups.

34. The use of a face coverings alone is insufficient to adequately mitigate the risk of infection, and other personal and community-level measures such as physical distancing, good hygiene and restricting social gatherings must also be in place to limit COVID-19 transmission.
35. Our previous approach to face covering at different alert levels is outlined below.
 - a. At Alert Level 1, people are strongly encouraged to prepare their pandemic kits by obtaining a set of four reusable face coverings or masks.
 - b. At Alert Level 2, face coverings are mandatory on public transport. This is the only mandatory mask wearing requirement we have under current settings. As with Level 1, people are encouraged to prepare their pandemic kits by sourcing masks and are also encouraged to wear face coverings in enclosed spaces or where it is not possible to physically distance.
 - c. At Alert Levels 3 and 4, in addition to mandatory use on public transport face coverings are strongly recommended in enclosed spaces where physical distancing is not always possible and contact with other people outside your bubble may occur.
36. I have further reviewed the situation on Sunday 15 November and I still consider in this instance, while we continue the case investigation there is merit in mandating face covering on public transport in Auckland and all domestic flights. This requirement should be regularly reviewed alongside the regular review of Alert Level status.
37. As face coverings were previously a nationwide requirement on public transport at Alert Level 2, many New Zealanders will already have access to face coverings and increasing familiarity with their use. The Ministry is confident that public retailers have sufficient stock of face coverings to provide for people who may not already have acquired face coverings.
38. Following a review of the current situation I do not recommend any other mandatory measures are required at this time. However, we should continue with strong public health messaging, particularly basic hygiene measures and the use of QR codes by everyone.

Summary

Out of scope

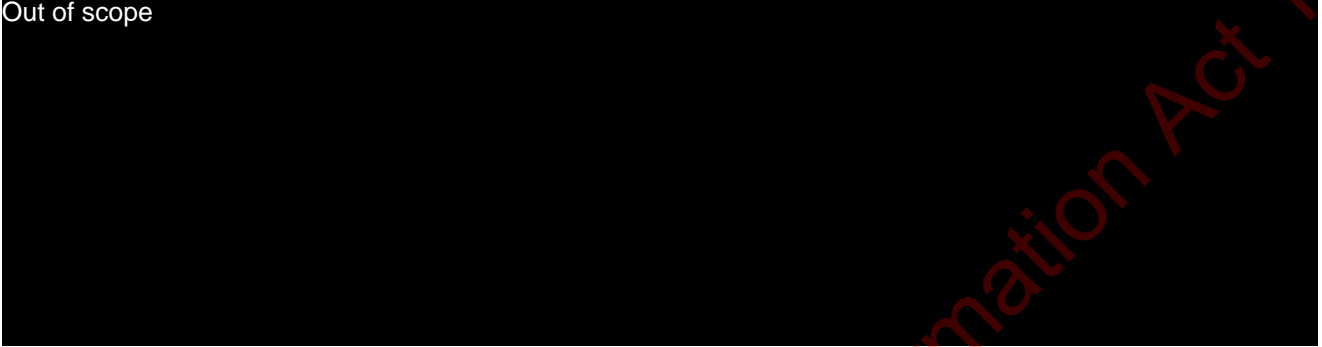
41. Following a review of the information on Sunday 15 November I still consider in this instance, **while we continue the case investigation there is merit in mandating face**

covering on public transport in Auckland and all domestic flights. This requirement should be regularly reviewed alongside the regular review of Alert Level status.

Equity

42. There are two factors to balance in considering equity implications. We know from historical examples that Māori and Pacific peoples are likely to be disproportionately affected by a widespread epidemic. These communities are also likely to be disproportionately affected by the impact of the controls – they are less likely to be able to work remotely.

Out of scope



ENDS.

Briefing

Alert Level Requirements Order Amendment to mandate face coverings on public transport at Alert Level 1

Date due to MO:	16 November 2020	Action required by:	16 November 2020
Security level:	IN CONFIDENCE	Health Report number:	20202012
To:	Hon Chris Hipkins, Minister for COVID-19 Response		

Contact for telephone discussion

Name	Position	Telephone
Dr Ashley Bloomfield	Director-General of Health	s 9(2)(a)

Minister's office to complete:

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| <input type="checkbox"/> Approved | <input type="checkbox"/> Decline | <input type="checkbox"/> Noted |
| <input type="checkbox"/> Needs change | <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn | |

Comment:

Alert Level Requirements Order

Amendment to mandate face coverings on public transport at Alert Level 1

Security level: IN CONFIDENCE **Date:** 16 November 2020

To: Hon Chris Hipkins, Minister for COVID-19 Response

Purpose of report

1. This report recommends you approve and sign the COVID-19 Public Health Response (Alert Level Requirements) Amendment Order (No 4) 2020, which mandates the use of face coverings¹ on public transport in Auckland (including drivers of small passenger vehicles) and all publicly available flights in New Zealand at Alert Level 1.

Summary

2. On Monday 9 November 2020, an individual in Auckland CBD became symptomatic and had a phone consultation. In the late evening of Tuesday 10 November, the person had a COVID-19 test and was advised to self-isolate. They returned a positive COVID-19 result on Thursday 12 November.
3. The individual went to work between Sunday 8 November and Wednesday 11 November (inclusive) while symptomatic. The person works in a customer-facing role at a clothing store in central Auckland and was wearing a mask while working.
4. The individual has been genomically linked to the 'November Quarantine Cluster', which consists of five cases linked to a Defence Force worker who worked at Jet Park. One of the case's close contacts has also tested positive and was already in quarantine at Jet Park.
5. On the information available as at Monday 16 November, I cannot rule out the possibility of wider community transmission.
6. On Sunday 15 November, I provided you with advice to mandate face covering use on public transport in Auckland (including for small passenger vehicle drivers) and on all publicly available flights in New Zealand at Alert Level 1, while we continue the case investigation.

¹ Note that face coverings can include face masks, scarves, bandanas, t-shirts or anything else that covers the lower part of a person's face including their mouth and nose. Information for the public on face coverings is available on the Unite Against COVID-19 website.

7. This requirement will be reviewed as we learn more about whether there is wider community transmission from this case. The Ministry will also keep the Order under review to ensure that the measures it imposes continue to be justified limitations on the relevant rights under the New Zealand Bill of Rights Act 1990.
8. As per the above recommendations, on 16 November, Cabinet agreed to mandate the use of face coverings.
9. I did not recommend any other mandatory measures, although I advised that we should continue with strong public health messaging, particularly basic hygiene measures and the use of record keeping for contact tracing purposes.
10. The COVID-19 Public Health Response (Alert Level Requirements) Amendment Order (No 4) 2020 has been attached for your review. This report sets out the substantive changes of the Amendment.
11. As the Minister for COVID-19 Response, you may make orders under section 9 and section 11 of the COVID-19 Act. You must have regard to advice from the Director-General of Health. You must also consult with the Prime Minister, Minister of Justice and other relevant Ministers, and I understand that you have done so.
12. Under the COVID-19 Act an Order must be published on the Gazette at least 48 hours before it comes into force unless you determine that the Order should come into force urgently to prevent or contain the outbreak or spread of COVID-19.

Recommendations

We recommend you:

- a) **Note** advice from the Director-General of Health on the prerequisites for making an Order under the COVID-19 Public Health Response Act 2020, including:
 - the risks of the outbreak or spread of COVID-19; and
 - the nature and extent of measures that are appropriate to address those risks.
- c) **Sign** the attached COVID-19 Public Health Response (Alert Level Requirements) Amendment Order (No 4) 2020.
- d) **Note** that if you make an Amendment Order on 16 November 2020, it will come into force on 18 November 2020 after the required 48-hour publication period.

Yes/No

Yes/No

Yes/No



Dr Ashley Bloomfield

Director-General of Health

Date: 16/11/2020



Hon Chris Hipkins

Minister for COVID-19 Response

Date: 16/11/2020

Alert Level Requirements Order

Amendment to mandate face coverings on public transport at Alert Level 1

Background

1. The COVID-19 Public Health Response Act 2020 (COVID-19 Act) came into force on 13 May 2020. Under the COVID-19 Act you are permitted to make a range of orders to prevent the outbreak or spread of COVID-19.
2. On Monday 9 November 2020, an individual in Auckland CBD became symptomatic and had a phone consultation. In the late evening of Tuesday 10 November, the person had a COVID-19 test and was advised to self-isolate. The person returned a positive COVID-19 result on Thursday 12 November.
3. The individual has been genomically linked to the 'November Quarantine Cluster', which consists of five cases linked to a Defence Force worker who worked at Jet Park. It is most likely that the individual was infected through person to person transmission within the local area. It is unlikely to be transmitted through casual contact. However, this epidemiological link has not yet been established.
4. The individual went to work between Sunday 8 November and Wednesday 11 November (inclusive) while symptomatic. They work in a customer-facing role at a clothing store in central Auckland and were wearing a mask while working.
5. One of the case's close contacts has also tested positive, and was already in quarantine at Jet Park.
6. On the information available as at Monday 16 November, I cannot rule out the possibility of wider community transmission.
7. On Sunday 15 November, I advised that the Alert Level in Auckland should not be increased (HR 20202003). That is, that Auckland, and the rest of New Zealand, will remain at Alert Level 1, for now.
8. I also advised that, while we continue the case investigation, there is merit in mandating face covering on public transport in Auckland, including for drivers of small passenger vehicles (such as taxis and Ubers) and all domestic flights in New Zealand. This requirement will be reviewed as we learn more about whether there is wider community transmission from this case.

Process for amending an Order

9. Under the COVID-19 Act, an Order may be made if either:
 - a. a state of emergency has been declared (under the Civil Defence Emergency Management Act 2002);
 - b. an Epidemic Notice is in force (under the Epidemic Preparedness Act 2006); or
 - c. it has been authorised by the Prime Minister.

10. There is currently an Epidemic Notice in place, which allows Orders to be made under section 11 of the COVID-19 Act.
11. As the Minister for COVID-19 Response, you may make Orders under section 11 of the COVID-19 Act.
12. To make an order under section 11 you must have:
 - a. received advice from the Director-General about –
 - i. the risks of the outbreak or spread of COVID-19; and
 - ii. the nature and extent of measures that are appropriate to address those risks; and
 - b. you must have regard to any decision by the Government on how to respond to those risks and avoid, mitigate or remedy the effects of the outbreak or spread of COVID-19 (including taking into account any social, economic or other factors) and
 - c. you are required to consult with the Prime Minister and Minister of Justice and any other relevant Minister on any proposed Orders; and
 - d. you must be satisfied that this Order is appropriate to achieve the purpose of that Act and that the Order does not limit or is a justified limit on the rights and freedoms in the New Zealand Bill of Rights Act 1990 (NZBORA).
13. I understand that you have consulted with the Prime Minister and Minister of Justice, and other relevant Ministers on the Amendment Order.
14. Under the COVID-19 Act an Order must be published on the Gazette at least 48 hours before it comes into force unless you determine that the Order should come into force urgently to prevent or contain the outbreak or spread of COVID-19.

Amendment for mandating face coverings

Mandating face coverings on public transport and planes

15. The attached COVID-19 Public Health (Alert Level Requirements) Amendment Order (No 4) 2020 (Amendment Order) mandates the use of face coverings on:
 - a. public transport, including for drivers of small passenger transport (taxis, Uber etc.) in Auckland;
 - b. public transport journeys which cross the Auckland boundary; and
 - c. all publicly available flights in New Zealand.
16. The public health rationale for mandatory face coverings on public transport and planes is outlined below. Use of face coverings in this context will also support New Zealand's effort to build a mask-wearing culture, particularly as New Zealand moves into the busy Christmas and summer holiday season where more travel is likely.

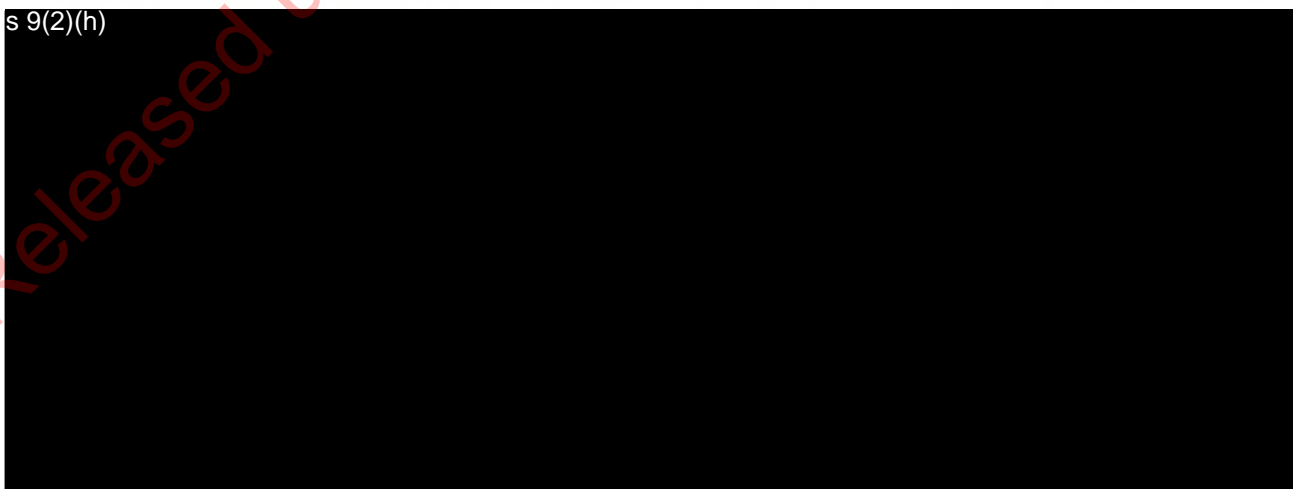
Public health rationale

17. There are broadly two public health objectives of wearing face coverings:
 - a. for source control (i.e. reducing the spread of the disease by infected people); and
 - b. for protection (i.e. reducing the risk of people becoming infected).


18. The primary objective depends on the nature of the public health risk of community transmission. Where the risk of community transmission is low, and there is less risk of people becoming infected, the primary public health benefit of face coverings is source control. Where the risk of community transmission is higher, the optimal approach may be to balance both source control and protection for vulnerable groups.
19. The use of face coverings alone is insufficient to adequately mitigate the risk of infection. Other personal and community-level measures such as physical distancing where possible, good hygiene, and use of QR codes and other record keeping for contact tracing purposes must also be in place to limit COVID-19 transmission. Along with mandating use of face coverings, officials will work with relevant agencies to enforce and strengthen the messaging around other personal and community-led measures.
20. Previous advice has been that there is not a strong public health case to compel the use of face coverings in public settings at Alert Level 1 (HR 20201558 refers). However, I believe there is sufficient justification while the current outbreak is being investigated and contained, as there is both uncertainty around the source and the extent of the contacts.
21. However, it is important to note that while face coverings can be beneficial in specific circumstances, there are also some potential downsides and risks associated with face covering use too. For example, there is a danger that people over-rely on face coverings as their means of preventing infection by COVID-19. Other important health measures such as washing their hands, staying home when sick and physically distancing from others could also be neglected.
22. It is also important to note that a change in the policy on the use of face coverings at Alert Level 1 may create confusion amongst the public. This can be mitigated by strong messaging around the need for wearing of face coverings in the context of the current outbreak as we work to investigate the case. Strong messaging from airlines during interactions with customers will also be important.
23. As face coverings were previously a nationwide requirement on public transport at Alert Level 2, many New Zealanders will already have access to face coverings and increasing familiarity with their use. The Ministry of Health is confident that public retailers have sufficient stock of face coverings to provide for people who may not already have acquired face coverings.

Other considerations

s 9(2)(h)



s 9(2)(h)



Enforcement

29. Consistent with previous settings under the Alert Levels Requirements Order, non-compliance will be an infringement offence.
30. The penalties for non-compliance are stipulated under the COVID-19 Act. As with other offences under the COVID-19 Act, I understand that Police have previously implemented a graduated approach to enforcement in cases where a person refuses to wear a face covering on relevant public transport, for example beginning with education efforts and warnings, then graduating through to fees.
31. It is important to note that there may be issues with enforcement. Officials understand that as previously, there will not be Police or enforcement officers on public transport and airplanes, and no obligation or expectation on transport operators to deny entry to those not wearing a face covering.
32. Therefore, the graduated approach to enforcement, as outlined above, may not ultimately be backed up by a penalty, as enforcement officers will not be actively monitoring compliance and issuing infringement notices. This is complicated by the fact that there will necessarily be a range of exceptions to the requirement to wear face coverings.
33. There is a risk that if there are no consequences attached to non-compliance, over time people may become more relaxed about compliance.

Equity

34. There are two factors to balance in considering equity implications:
 - a. we know from historical examples that Māori and Pacific peoples are likely to be disproportionately affected by a widespread epidemic;
 - b. we also know these communities are also likely to be disproportionately affected by the impact of any controls, for example, they are less likely to be able to work remotely.
35. The moves that have been taken to strongly and quickly control the outbreak have struck the correct balance between these factors.
36. As the risk of community transmission abates, the relaxation of the temporary controls and restrictions on gathering size will reduce the impact of controls and therefore the impact on equity should be expected to reduce.

Next steps

37. If you agree to sign the COVID-19 Public Health Response (Alert Level Requirements) Amendment Order (No 4) 2020, it will come into force at 11:59pm on 18 November 2020.

ENDS.

Released under the Official Information Act 1982

COVID-19 Public Health Response (Alert Level Requirements) Amendment Order (No 4) 2020

This order is made by the Minister for COVID-19 Response—

- (a) under section 11 of the COVID-19 Public Health Response Act 2020 and section 7 of the Constitution Act 1986; and
- (b) in accordance with section 9 of the COVID-19 Public Health Response Act 2020.

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Order

1 Title

This order is the COVID-19 Public Health Response (Alert Level Requirements) Amendment Order (No 4) 2020.

2 Commencement

This order comes into force at 11.59 pm on 18 November 2020.

3 Principal order

This order amends the COVID-19 Public Health Response (Alert Level Requirements) Order 2020 (the **principal order**).

cl 4

**COVID-19 Public Health Response (Alert Level
Requirements) Amendment Order (No 4) 2020**

4 Clause 4 amended (Interpretation)

In clause 4, insert in their appropriate alphabetical order:

face covering means a covering of any type that covers the nose and mouth of a person

small passenger service vehicle has the same meaning as in section 2(1) of the Land Transport Act 1998

5 New clauses 9A to 9C inserted

After clause 9, insert:

9A Face covering requirements on public transport services travelling on Auckland routes

- (1) This clause applies in respect of the entire Auckland route taken by a vehicle that is used as part of a public transport service.
- (2) Every person must wear a face covering while—
 - (a) driving or operating the vehicle on that route; or
 - (b) using the vehicle on that route (unless it is a small passenger service vehicle).
- (3) However, this clause does not apply—
 - (a) in the circumstances set out in clause 9C; or
 - (b) to air transport that is available to the public generally.
- (4) In this clause,—

Auckland area means the area within the boundaries of Auckland as determined by the Local Government (Auckland Boundaries) Determination 2010

Auckland route means a route that involves a vehicle travelling—

- (a) within the Auckland area; or
 - (b) from a place in the Auckland area to a place in any non-Auckland area; or
 - (c) between places in 2 non-Auckland areas, if the vehicle passes through the Auckland area; or
 - (d) from a place in a non-Auckland area to a place in the Auckland area
- non-Auckland area** means an area of New Zealand other than the Auckland area.
- (5) A breach of subclause (2), without reasonable excuse, is an infringement offence for the purposes of section 26(3) of the Act.

9B Face covering requirements on domestic air transport service

- (1) Every person must wear a face covering while using a domestic air transport service.

COVID-19 Public Health Response (Alert Level Requirements) Amendment Order (No 4) 2020

Explanatory note

- (2) However, this clause does not apply in the circumstances set out in clause 9C.
- (3) In this clause, **domestic air transport service** means a public transport service that is transporting persons by air transport between places that are both in New Zealand.
- (4) A breach of subclause (1), without reasonable excuse, is an infringement offence for the purposes of section 26(3) of the Act.

9C Exemptions from face covering requirements

Clauses 9A(2) and 9B(1) do not apply if—

- (a) there is an emergency; or
- (b) wearing a face covering is not safe in all of the circumstances; or
- (c) the person is driving or operating the vehicle from an enclosed space that is separate from the passenger area; or
- (d) the person is communicating with a person who is deaf or hard of hearing and visibility of the mouth is essential for communication; or
- (e) the person is asked to remove the face covering to ascertain identity; or
- (f) removal of, or not wearing, the face covering is otherwise required or authorised by law; or
- (g) the person is under the age of 12 years; or
- (h) the person has a physical or mental illness or condition or disability that makes wearing a face covering unsuitable; or
- (i) the person needs to remove the face covering to take medicine; or
- (j) the person needs to remove the face covering to eat or drink (if eating or drinking is permitted by the conditions of carriage on the relevant service).

Dated at Wellington this 16th day of November 2020.


Minister for COVID-19 Response.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order, which comes into force at 11.59 pm on 18 November 2020, amends the COVID-19 Public Health Response (Alert Level Requirements) Order 2020 (the **principal order**).

Explanatory note

COVID-19 Public Health Response (Alert Level Requirements) Amendment Order (No 4) 2020

The principal order is amended by adding a requirement that face coverings be worn on public transport services in the Auckland area (other than by passengers in a small passenger service vehicle). The requirement extends to public transport services coming into, out of, or through the Auckland area (for the entire route).

The principal order is also amended by adding a requirement that face coverings be worn on aircraft available to the public generally on domestic routes within New Zealand. This requirement is not intended to apply on private or charter flights.

This order must be approved by a resolution of the House of Representatives before the expiry of the period described in section 16(2) of the COVID-19 Public Health Response Act 2020. If this does not happen, the order is revoked on the expiry of that period.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*:

This order is administered by the Ministry of Health.