



NEW ZEALAND
CUSTOMS SERVICE
TE MANA ĀRAI O AOTEAROA



Briefing

Settings to implement tranche one of the traveller health declaration system

Date due to MO:	21/10/2021	Action required by:	22/10/2021
Security level:	IN CONFIDENCE	Customs:	RPT 21/173
		Health:	HR#20212287
		MBIE:	2122-1462
To:	Hon Chris Hipkins, Minister for COVID-19 Response		

Contact for telephone discussion

Name	Position	Telephone
Christine Stevenson	Comptroller of Customs	s 9(2)(a)
Kathryn Maclver	GM Policy and Strategy (Customs)	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 Withdrawn | |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:

Settings to implement tranche one of the traveller health declaration system

Security level: IN CONFIDENCE **Date:** 21/10/2021

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

Purpose of report

1. This report seeks your agreement to the settings necessary to implement the first tranche of the traveller health declaration system so that final decisions can be sought from Cabinet.

Summary

2. On 8 September 2021, the Cabinet Business Committee agreed to fund a traveller health declaration system (the system) [CBC-21-MIN-0090] which will assist in operationalising the risk-based approach for entry to New Zealand that is being defined by Reconnecting New Zealanders [CAB-21-MIN-0305]. It is intended that the system is rolled out in three tranches from early 2022.
3. The focus of this report is tranche one which will provide an electronic platform for the collection of COVID-19 related information which at this stage is likely to include vaccination status, 14-day travel history and COVID-19 pre-departure test results (PDTs), provided by individual travellers through a health declaration.
4. The system will deliver a risk assessment that determines a traveller's eligibility to travel to New Zealand by air and the appropriate public health requirements they will need to adhere to on arrival such as possible quarantine or self-isolation, and COVID-19 testing.
5. Tranche one of the health declaration process will employ a degree of automated functionality such as some document verification and the risk assessment for travellers entering through the air border. It is intended that subsequent tranches will increase this automated functionality, eventually combining the health declaration with other border declarations already required by travellers arriving at the border, i.e. the Passenger Arrival Card, to form a single digital arrival card.
6. This report sets out advice for the introduction of:
 - a. a mandatory health declaration requiring travellers to digitally upload their COVID-19 related information and travel history
 - b. a proportionate approach to its enforcement
 - c. automated assessments of individual travellers' COVID-19 risks that will also involve some manual verification processes.

7. The Department of Prime Minister and Cabinet (DPMC) is preparing a paper for Cabinet on the next steps for reconnecting New Zealanders to the world. This will set out the high-level framework for easing border restrictions and provide the health settings that will inform the criteria for the health declaration.
8. A health declaration is a key component of re-opening the border. Decisions are required now on components of the system to progress the work so that we are ready to operationalise the Reconnecting New Zealanders' settings after they are agreed by Cabinet. Officials propose that you take a paper to Cabinet seeking agreement to the tranche one system settings.

Recommendations

We recommend you:

- a) **Note** that on 8 September 2021, the Cabinet Business Committee agreed to fund a traveller health declaration system [CBC-21-MIN-0090] **Noted**
- b) **Agree** that in order to operationalise the traveller health declaration system you will need to seek Cabinet's decisions on:
 - i) making completion of a health declaration for travel to New Zealand by air mandatory
 - ii) introducing an enforcement approach that responds to non-compliance or fraud related to the provision of a health declaration
 - iii) enabling automated assessments of individual travellers' COVID-19 health risks

Yes, **No**
- c) **Note** that as the Minister for COVID-19 Response, you may amend the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 to enable the settings outlined in recommendation b to support implementation of tranche one of the traveller health declaration system **Noted**
- d) **Agree** that officials will work with your office and the Parliamentary Counsel Office to draft the necessary amendments to the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 pending final policy decisions **Yes**, **No**
- e) **Note** that officials will prepare separate advice on the appropriate policy and legislative settings to support the development and implementation of tranches two and three of the system **Noted**

- f) **Agree** to share a copy of this report with the offices of the Prime Minister and Ministers of Health, Foreign Affairs, Immigration, Justice, Transport and Customs.

Yes No



Christine Stevenson
Comptroller of Customs
New Zealand Customs Service
Date: 21 October 2021



Hon Chris Hipkins
Minister for COVID-19 Response
Date: 28/10/2021



Dr Ashley Bloomfield
Director-General of Health
Te Tumu Whakarae mō te Hauora
Date: 21 October 2021



Carolyn Tremain
Chief Executive
Ministry of Business, Innovation and Employment
Date: 21 October 2021

Settings to implement tranche one of the traveller health declaration system

Background

1. COVID-19 has necessitated a new approach to how the New Zealand border is managed so that appropriate responses are in place to manage COVID-19 public health risks and support the phased re-opening of the border. Funding for the traveller health declaration system (the system) was approved by Cabinet to help operationalise the new approach under Reconnecting New Zealanders [CBC-21-MIN-0090] that introduces the assessment of the COVID-19 health risks of individual travellers.
2. Phased in over time, the system will start with tranche one, which will facilitate travellers to complete an electronic health declaration prior to travel. The system will incrementally deliver additional functionality, such as increased verification capability, and the potential to send integrated (health and immigration) boarding directives to carriers at check-in. It is intended to eventually combine the health declaration with the arrival card for a single electronic declaration to enter New Zealand (refer appendices two and three for the passenger journey).
3. The system is a critical tool for a phased border re-opening, as it is designed to collect specified COVID-19 related health information (as described in paragraph seven) provided by travellers, enabling an assessment of their COVID-19-related risks through a combination of digital and manual verification. Travellers who meet the requirements (and the relevant immigration requirements) will be eligible to travel to New Zealand and enter under the conditions appropriate to their risk status.
4. The assessment will determine their public health requirements, including testing and possible time in self-isolation or managed isolation. Assessments will be based on key health criteria and it is expected that this criteria will be considered by Cabinet in November 2021 as part of Reconnecting New Zealanders reporting.

As outlined in the business case already approved by Cabinet, the system is intended to be rolled out through three key tranches starting from the first quarter of 2022

5. The initial focus of the system is enabling declarations to be made for entry through the air border. In time, the system will be extended to support entry to New Zealand through the maritime border. Officials will provide advice on this as considerations are progressed.

6. The tranches for rolling out the system, and the expected policy and legislative decisions are detailed below.

	Tranche one from Q1 2022	Tranche Two June 2022 - March 2023 (indicative)	Tranche Three November 2022 – June 2023 (indicative)
Functionality	<p>Electronic process for completing a health declaration.</p> <p>Automated verification of NZ/AUS vaccine certificates with others added as recognised.</p> <p>Manual checking of other vaccine certificates and PDTs.</p> <p>Automated risk assessment of a traveller's information against health criteria.</p> <p>Automated assigning of traveller to appropriate public health controls for their arrival.</p> <p>Eligible travellers receive a notification to present at check-in and the border.</p>	<p>More country certificates automatically verified.</p> <p>Further integration with airport systems (eGate, primary lines).</p> <p>APP¹ integration to enable health and immigration boarding directives for all travellers.</p> <p>Incremental improvements to accessibility.</p>	<p>Integration of health declaration and Passenger Arrival Card.</p> <p>Ability to support pre-COVID-19 traveller volumes.</p>
Policy decisions	<p>That a health declaration is a mandatory requirement.</p> <p>That an enforcement response will be enabled.</p> <p>That automated decision-making is enabled.</p>	<p>Confirmation of the agencies and organisations that will make the different decisions at check-in and boarding.</p>	<p>Ensure all additional privacy requirements are met for the expansion to the Passenger Arrival Card.</p>
Legislative mechanism	<p>Amendments to the Air Border Order.</p>	<p>Primary legislative amendments, e.g. to enable airline check-in integration with the system.</p>	<p>Primary legislative amendments may be required.</p>

7. Tranche one implementation is planned for the first quarter of 2022. This will require air travellers to complete a health declaration prior to travel by providing their biographic information, flight details, travel in the previous 14 days, contact tracing information, with a view to requiring uploads of their:

- COVID-19 vaccination certificate (where applicable in the health criteria) or evidence of a New Zealand Government exemption. Initially the system will electronically verify all New Zealand and Australian Government issued digital vaccination certificates² and certificates from countries that New Zealand has agreed it will recognise. Certificates issued by other jurisdictions will be manually checked, prior to boarding, by a New Zealand-based assessment team

¹ Airlines must provide Advance Passenger Processing (APP) information about every passenger and crew member on their flights coming to or leaving New Zealand. This gives border agencies advance notice about who is coming to New Zealand and allows agencies to interact with airlines before boarding travellers.

² The Ministry of Foreign Affairs and Trade (MFAT) is working through a process to engage with other jurisdictions on the mutual technical recognition of COVID-19 health credentials (testing and vaccination certificates). Discussions with the EU are progressing well. The EU Digital COVID Certificates and third country certificates to the EU DCC will also be automatically verified in the system and this may occur from tranche one (see paragraph 29).

- PDTs, which will be manually checked by a New Zealand based team, or evidence of a New Zealand Government exemption
 - MIQ voucher details or evidence of a New Zealand Government exemption from MIQ (if required).
8. Officials will provide further advice on tranches two and three as the work develops.
 9. Consideration is being given to any opportunities for early and controlled activation of the system immediately prior to tranche one roll-out. This would be a limited “opt-in” process to check operational readiness.

Cabinet decisions are required on the key settings for implementation

10. This report is seeking your agreement to take to Cabinet in November, the policy and administrative settings required to implement tranche one of the system. These settings are:
 - 10.1. Making completion of the health declaration a mandatory requirement for all travellers wishing to enter New Zealand by air, including New Zealand citizens and residents
 - 10.2. Implementing an approach to enforcement that supports compliance with completion of the health declaration
 - 10.3. Enabling automated risk assessments (with some manual verification) of travellers’ COVID-19 health related information to verify they have met the health requirements for travel to New Zealand, and to assign the appropriate public health response for their arrival.
11. Officials recommend that you use your powers under the COVID-19 Public Health Response Act 2020 to give effect to these settings, by amending the COVID-19 Public Health Response (Air Border) Order (No 2) 2020 (Air Border Order).
12. As part of tranche two, officials will explore the extent to which the system can be integrated with the immigration system. Public health obligations can be imposed on temporary entry class visa holders through immigration mechanisms, but this is not possible for either resident class visa holders or New Zealand citizens. Changes to primary legislation would be required, if Cabinet wishes to make it possible to refuse boarding to residents or citizens on public health grounds through the automated Advanced Passenger Processing (APP) system.

A mandatory health declaration underpins the intent of the system

13. The integrity and intent of Reconnecting New Zealanders is underpinned by requiring all travellers, including New Zealand citizens and residents, to complete a health declaration prior to their travel – managing risk offshore. The declarations are required to assign the traveller to the appropriate risk mitigation pathway (such as testing, isolation and quarantine requirements).
14. As a health declaration is a public health response, this can be implemented through amendments to orders under the Air Border Order. However, primary legislation may be required for a more enduring mandate, particularly for tranche three, which officials will progress in 2022.

Very few exemptions are proposed to maintain the system's integrity

15. Officials are currently considering a very high bar of exceptional circumstances for whether a traveller should be exempt from providing a health declaration. It is likely officials will propose exemptions are limited to humanitarian emergencies where it is not feasible to engage with either the electronic process or an assisted channel.
16. The system is being designed to be readily accessible, and in accordance with the applicable Government Web Accessibility Standards. Work is underway to include customer assisted channels to support travellers to make the declaration where they do not have internet capability, where disabilities or language capability prevent them from easily using the online process, or where they experience technical difficulties with the system or process³. It is intended that third parties, such as family members and travel agents, will also be able to help travellers complete their declaration.

Enforcement will support compliance to help reduce public health risk

17. The intent of the system is to manage COVID-19 risks offshore to mitigate potential transmission through the border by assigning the appropriate entry pathway and public health requirements for individual travellers.
18. For travellers who may arrive in New Zealand without an approved health declaration, officials propose that offences are specified. This would be enabled under the COVID-19 Public Health Response Act 2020 (the Act). Although it is expected these circumstances would be rare, enforcement is intended to encourage compliance with the requirement to provide a health declaration so that public health risks can be proactively managed. It is also important as the declaration will combine existing requirements (PDT and MIQ vouchers).
19. Any pecuniary penalties issued would be consistent with the wider regime for non-compliance with COVID-19 Orders, as provided for in the Act. The COVID-19 Public Health Response Amendment Bill (the Bill) currently proposes to increase the individual penalties to a maximum of \$4,000 for an infringement offence (currently a fixed \$300) or to \$12,000 for a court issued fine (currently a maximum \$4,000).
20. It is proposed that an acceptable enforcement response would use the graduated categories being considered in the Bill. Customs is consulting with the Ministry of Justice on appropriate levels regarding penalties.
21. Where a traveller has provided information in or about a health declaration, which is found to be false or misleading, a response stronger than an infringement may be appropriate. Officials are exploring existing regulatory regimes, including within the Act, as well as in the Crimes Act 1961 and Immigration Act 2009 that may be applicable where false or misleading information is detected at the border or after a person has entered the country. A public health response may also be required, for example, time required in MIQ.

³ While tranche one will be delivered in English, the system is being designed to add additional languages over time including Te Reo Māori.

The declaration will assist travellers to understand the outcome of their declaration

22. Challenges to decisions are most likely to come from travellers who are advised they cannot travel, those required to spend the maximum period in MIQ, or those who have been vaccinated with a vaccine that is not on the list of recognised vaccines.
23. The system will deliver assessments and decisions against publicly specified health criteria.⁴ They will be rules-based decisions that do not require discretion of judgement to be applied apart from the checking of some documentation such as non-digital vaccine certificates. The criteria will only be amended in response to government policy changes seeking to manage COVID-19 public health risks. This will support the robust management of those risks.
24. It is intended that channels for human intervention to check or review system decisions are available. Officials propose that this review framework is operated within the administrative discretion of the agency or agencies responsible for administering the system.

An automated assessment and decision-making system will facilitate the process

25. Automating the assessment process is necessary to facilitate expected increased traveller volumes through the phased re-opening of the border. It will assist in making faster and more accurate categorisation of risk consistent with the health criteria.
26. Crown Law has provided guidance on an assurance framework for the use of automated processing through the system and officials will ensure that guidance is incorporated in the design of the system.

Officials are working with the Privacy Commissioner to protect individuals' data and information

27. Officials are currently working through requirements for the Privacy Impact Assessment which includes engagement with the Office of the Privacy Commissioner. At this stage, no significant issues have been raised about the collection and retention of data and information of individual travellers, which will be managed in line with requirements in the Privacy Act 2020. However, given the fast moving environment, we are monitoring developments and will report any issues arising through the engagement process in the November Cabinet paper.
28. To support data and information sharing and use, Customs is working with the Ministry of Business, Innovation and Employment (MBIE) and MoH on processes for collecting and using data which are likely to be supported through a memorandum of understanding between agencies.

The EU also has high data protection standards which we aim to comply with

29. New Zealand is in discussions with the European Union (EU) to become a third country to the EU Digital COVID Certificate (EU DCC). A separate paper prepared by the Ministry of Foreign Affairs (MFAT) on the EU DCC, has been provided to the Reconnecting New Zealanders Ministerial Group. The EU has requested assurance that New Zealand will not retain the substance of EU DCC or other third countries' to the EU DCC certificate data that is presented

⁴ Officials are developing a recommended legal framework for publicly specifying that criteria.

in cryptographically-verified digital form, after it is digitally verified by border agencies for the purposes of travel. This includes vaccination and testing certificates and associated data.

30. There is a high level of confidence in the EU DCC which is designed to be tamper-proof. Where a certificate cannot be verified, a copy will be retained for any necessary enforcement purposes as this is unlikely to be a genuine EU DCC as these can all be digitally verified.
31. It is likely the same treatment will be extended to all health certificates that are cryptographically verified and submitted through the system as MFAT progresses mutual recognition negotiations with other countries.

Consideration of Māori data sovereignty is important and requires a broad cross-government response

32. Māori data sovereignty ensures Māori have a role in the governance and treatment of Māori data and is an important consideration for the ongoing development of the system. As engagement gets underway and the system is rolled out, agencies will consider the impacts of the system on Māori data sovereignty.
33. Officials are working with Statistics New Zealand and the Department of Internal affairs and will be informed by the expertise in these agencies and work already underway to improve how government responds to this issue more broadly.

Amendments to the Air Border Order will give effect to the settings needed to begin rolling out the system

43. As the Minister for COVID-19 Response, you can amend the Air Border Order to give effect to the requirements necessary for the implementation of the system. The proposed amendments to enable tranche one of the system are set out in appendix one.
44. In tandem with this work, officials are considering what amendments might need to be made to primary legislation to support more enduring changes for the system beyond tranche one of the project. This includes considering the framework that will enable system integration with air carriers to receive boarding messages in tranche two.
45. It will also include consideration of the necessary framework for tranche three which intends to roll out a fully digital arrival card to replace the existing physical arrival card completed by travellers on arrival in New Zealand.

Risks

46. The Government’s approach to re-opening the border using a risk-based approach, and delivering a traveller health declaration system to enable this, was announced at a public forum on 12 August 2021 as part of Reconnecting New Zealanders.
47. The work outlined in this paper is largely technical and administrative in nature in that it is required to ensure the integrity and intent of the details and system already announced. There are however, some risks to be aware of which are outlined in the table below.

Risk	Mitigation
Overriding other primary legislation	[Legally Privileged]

Risk	Mitigation
<p>via the Air Border Order.</p>	<p>§ 9(2)(h) [Redacted]</p>
<p>Non-compliance with New Zealand Bill of Rights Act 1990.</p>	<p>[Legally Privileged] § 9(2)(h) [Redacted]</p>
<p>Preventing New Zealand citizens from travelling to New Zealand.</p>	<p>[Legally Privileged] § 9(2)(h) [Redacted]</p>
<p>We have not partnered with iwi, hapū and whānau in the design and implementation of the system for tranche one.</p>	<p>Partnering with Māori in the development and implementation of COVID-19 border responses is part of the broader Reconnecting New Zealanders framework. Work is underway in this area and will feed into the continued roll-out of the traveller health declaration system. Agencies will continue engagement on Māori data sovereignty noting this requires much broader all of government response beyond COVID-19 related work.</p>
<p>Perception of insufficient stakeholder group consultation.</p>	<p>A stakeholder engagement plan is in development. It will look more closely at access for disabled people and travellers who may have challenges with using the system. To date, engagement with the airline sector has been conducted as an update and through Q&A session with members of Future Borders with more in depth briefings on request. Further engagement will be conducted through the stakeholder management and engagement plan and assisted by the Ministry of Transport.</p>

Consultation

48. This report has been drafted by the New Zealand Customs Service with input from the Ministry of Health and the Ministry of Business, Innovation and Employment, and in consultation with the Ministries of Foreign Affairs, Justice, Primary Industries, and Transport, the Department of Internal Affairs and the Department of Prime Minister and Cabinet.

Next steps

49. Subject to your approval, officials will prepare a paper for you to take to the Cabinet Social Wellbeing Committee on 10 November, seeking agreement to the policy settings outlined in this report.
50. Following Cabinet's decisions, officials will work with your office and the Parliamentary Counsel Office on the amendments to the Air Border Order to give effect to the changes needed to implement tranche one of the travel health declaration system.
51. We recommend that your office provides a copy of this report to the offices of the Prime Minister and Ministers of Customs, Health, Immigration, Justice, Transport, and Foreign Affairs.

PROACTIVELY RELEASED

Appendix one – draft proposed amendments to the Air Border Order

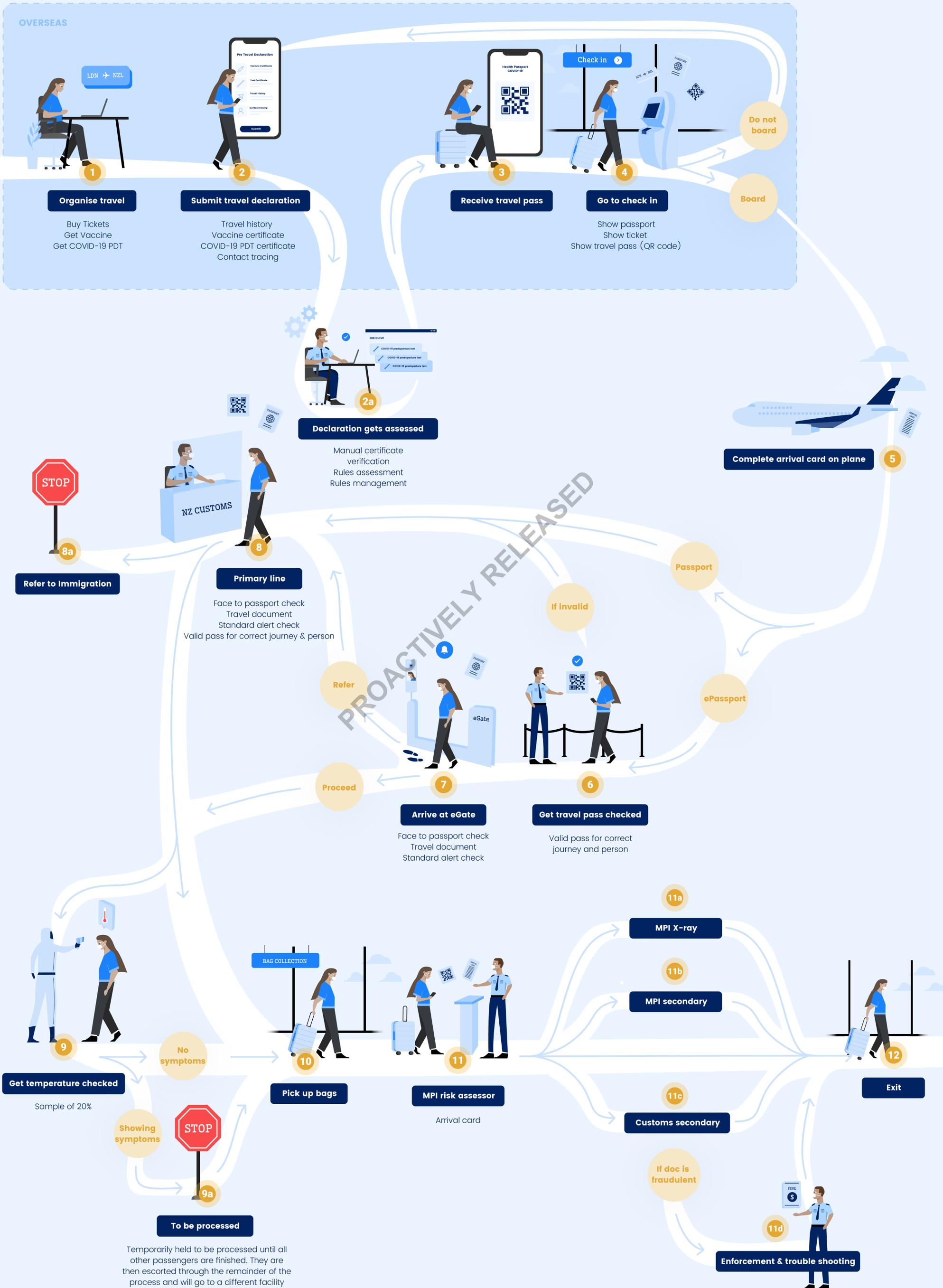
For tranche one of the traveller health declaration system, officials propose that the Air Border Order would be amended as follows, pending decisions through the November Cabinet paper and Reconnecting New Zealanders reporting:

- I. The Air Border Order would require all travellers, including New Zealand citizens, to submit specified COVID-19 public health related information to the travel health declaration system prior to travel by air to New Zealand.
- II. The Air Border Order would require all travellers, including New Zealand citizens, to obtain approval for their health declaration from the traveller health declaration system prior to travel by air to New Zealand.
- III. The Air Border Order would include provision to allow the traveller health declaration system to be an approved system for the purposes of the Order.
 - This provision would affirm that the traveller health declaration system may incorporate automated electronic systems for processing traveller health declarations.
 - Automated systems within the traveller health declaration system would be able to be used to collect traveller health declaration submission information, authenticate and process that information, and output determinations against specified criteria that relate to a person's ability to travel to New Zealand and which infection controls are required to facilitate their entry.
- IV. The Air Border Order would require air carriers to take reasonable steps to ensure that passengers have an approved travel health declaration before causing a craft to arrive in New Zealand.
- V. The Air Border Order would require all persons arriving in New Zealand to have an approved health declaration and to present their approved declaration to an authorised officer (at the New Zealand border) or air carrier representative (overseas prior to boarding) upon request.
- VI. The Air Border Order would specify that arriving in New Zealand by air without an approved health declaration is an infringement offence. Officials are still considering the most appropriate legal mechanism for enforcement against travel health declaration submissions that are erroneous to a material particular or are fraudulent, as well as enforcement options against air carriers.
- VII. The Air Border Order would set out any exemptions from the requirement to obtain a traveller health declaration.

Traveller Health Declaration System - Tranche 1

24/7 Call centre

Green / Amber Flight



Traveller Health Declaration System - Tranche 1

24/7 Call centre

Red Flight

