

Briefing

Strategic review of aircrew settings

Date due to MO: 26 November 2021 **Action required by:** 3 December 2021

Security level: IN CONFIDENCE **Health Report number:** 20212383

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

Copy to: Rt Hon Jacinda Ardern, Prime Minister
 Hon Andrew Little, Minister of Health
 Hon Nanaia Mahuta, Minister of Foreign Affairs
 Hon Kris Faafoi, Minister for Justice and Immigration
 Hon Michael Wood, Minister of Transport
 Hon Meka Whaitiri, Minister of Customs

Contact for telephone discussion

Name	Position	Telephone
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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 Withdrawn | |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:

Strategic review of aircrew settings

Security level: IN CONFIDENCE **Date:** 26 November 2021

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

Purpose of report

1. The purpose of this report is to:
 - a. provide you with a proposed end-to-end approach to managing the risk of aircrew in a changing COVID-19 environment
 - b. seek your decisions on proposals to change certain elements of the aircrew settings to give effect to the end-to-end approach.

Summary

2. A proposed end-to-end approach to managing the risk of aircrew has been developed to respond to the changing COVID-19 environment and to support work towards Reconnecting New Zealanders. A diagram setting out our proposed approach is at Appendix One. If agreed, the settings will give effect to some of the decisions you have already made about aircrew. They will also change other decisions and settings in response to the changing nature of risk across the international and domestic environment, and our response to COVID-19.
3. Since November 2020, the Ministry of Health (the Ministry) is aware of only three International aircrew who have tested positive with COVID-19 in New Zealand, and only three New Zealand-domiciled aircrew have returned a positive COVID-19 test related to their work as crew. This reflects the effort made by carriers and aircrew to mitigate the risk of aircrew contracting and transmitting COVID-19 into the community.
4. The government's shift to the COVID-19 Protection Framework (CPF) signals an evolution from a strategy of 'elimination' to one of 'minimise and protect'. The CPF is intended to support gradual re-opening both domestically, and internationally, while minimising the impact of COVID-19 on the health system, in the community and on the most vulnerable.
5. Our strategic direction towards re-opening must be balanced against the knowledge that even with COVID-19 in the community, there remains a risk that those crossing our borders carry new variants. There also remains a need to prevent new outbreaks and clusters to protect the New Zealand community and our health system. The proposals in this paper seek to balance both the government's strategic direction with the need for caution in the context of a virus that continues to evolve.
6. On balance our assessment is that the treatment of aircrew in the COVID-19 Public Health Response (Air Border) Order 2020 (the Air Border Order) and various exemption notices is complex and no longer aligns with the relative risk they represent. There is the

opportunity to simplify the public health requirements for aircrew, to better align those requirements to the strategic intent behind the introduction of the CPF given the actual risk aircrew represent, and to support the Reconnecting New Zealanders work.

7. Our proposals for the aircrew settings include to:
- a) **revise the Key Safety Standards consistent with public health advice, to provide aircrew with the opportunity to leave their accommodation in a greater range of circumstances**, including allowing them to socialise with other vaccinated aircrew and with vaccinated friends. Our proposals will see the Key Safety Standards aligned closely with the “orange” setting in the CPF.
 - b) **revise definition of aircrew to better capture the situation in which their work supports New Zealand’s connections with the world**. This would close a loop-hole that is enabling some people who work for airlines overseas, to return to New Zealand without a confirmed allocation for managed isolation and quarantine (MIQ). In effect, these people are jumping the MIQ queue ahead of other workers.
 - c) **update the vaccination and testing requirements so that all aircrew must be vaccinated and have had a COVID-19 test in the past seven days**. There are gaps in our current vaccination and testing requirements that we consider should be closed. Vaccination and testing will be the key public health requirements to mitigate the risk of aircrew contracting and transmitting COVID-19.
 - d) **ensure the risk presented by International aircrew can be assessed at the border in the same way New Zealand-domiciled aircrew are assessed**, so they can be diverted into MIQ or self-isolation if there is a risk that they might have or transmit COVID-19 into the community. If agreed, this will support **a changed approach to International aircrew and will support our proposal to enable them to enter the community as long as they meet other public health requirements**; either complying with the “red” or “orange” settings of the COVID-19 Protection Framework or the Key Safety Standards in New Zealand where they enter a place at the “green” setting.
 - e) **confirm the use of the one-way Pacific quarantine-free travel requirements for aircrew who remain airside or travel to low-risk destinations** meaning International aircrew can enter the community as long as they have a negative 72 hour pre-departure test. There would be no additional controls outside the vaccination and surveillance testing regime for New Zealand-domiciled aircrew.
 - f) **introduce carrier safety plans to replace the ‘higher-risk routes’ approach** enabling us to review a safety plan and approve it, or to require aircrew comply with the Key Safety Standards, to give New Zealand-domiciled aircrew relief from self-isolation and testing requirements when they return from a long haul route.
8. This paper has been informed by public health advice from the Office of the Director of Public Health and consulted across key government agencies including the Department of the Prime Minister and Cabinet, Treasury, the Ministries of Justice, Business, Innovation and Employment, Transport and for Primary Industries, the New Zealand Customs Service and the Civil Aviation Authority.
9. The Ministry of Business, Innovation and Employment – Managed Isolation and Quarantine (MBIE MIQ) has noted that the proposals would create challenges in managing MIQ facilities and contingency for aircrew. Contingency will need to be held

for where aircrew are identified as being at risk of having or transmitting COVID-19 at the border. If the proposals in this paper are agreed, consideration would also need to be given to how to treat the MIQ facility at the M Social Hotel in Auckland which is currently, almost exclusively, used by International aircrew.

10. The air sector has also been consulted on the proposals in this paper, including the Board of Airline Representatives New Zealand, Aviation New Zealand, Air New Zealand, Qantas Group, Air Chathams, the Airline Pilots Association and E tū Union. The sector is broadly supportive of the proposals and would like to see them implemented as soon as possible. They have noted the impact of the current Key Safety Standards on aircrew wellbeing.
11. If you agree to these proposals, drafting instructions will be issued to the Parliamentary Counsel Office for the changes to be incorporated into the new Air Border Order. The new order is in development to support the Reconnecting New Zealanders work.

Recommendations

We recommend you:

- a) **Note** that the Ministry has reviewed the aircrew settings, to ensure they are proportionate to the current risks presented by aircrew, in the context of the government's move towards re-opening both domestically and internationally. **Note**
- b) **Agree** to amend the Key Safety Standards enabling the following range of activities to be undertaken with other aircrew members and other fully vaccinated people that they know personally, maintaining social distancing from others as far as is reasonably practicable:
- i. outdoors exercise and socialising, including alfresco dining Yes/No
 - ii. retail and food shopping, including picking up pre-ordered food Yes/No
 - iii. dining and socialising indoors
 - with no limitation in venues that require vaccination certificates Yes/No
 - in venues of 50 persons or less if no certificates are used Yes/No
 - iv. travelling to and from places using private transport. Yes/No
- c) **Agree** that, under the Key Safety Standards, aircrew can exercise indoors with other aircrew in venues where vaccine certificates are required. Yes/No
- d) **Agree** to a revised definition of New Zealand-domiciled aircrew, being persons who are ordinarily resident in New Zealand, and who travel to and from New Zealand, returning as soon as is reasonably practicable: Yes/No
- on the general declaration or manifest of a craft; or
 - for the purpose of positioning to join a craft on the general declaration or manifest; or

- at the direction of their employer to complete training required by the Civil Aviation Authority (CAA) or an international equivalent.
- e) **Agree** that all International aircrew who *enter into managed isolation and quarantine* (MIQ) must be vaccinated with one of the COVID-19 vaccines specified by the Director General as approved by at least one government or authority consistent with Government policy for non-citizens. Yes/No
- f) **Agree** that International and New Zealand-domiciled aircrew who *enter into the community* must be vaccinated with one of the COVID-19 vaccines recognised to be eligible for New Zealand's domestic vaccine passport.¹ Yes/No
- g) **Agree** that all aircrew who travel to New Zealand must have had a COVID-19 test that meets the standard set out for surveillance testing under the COVID-19 Public Health Response (Required Testing) Order 2020 within the past seven days. Yes/No
- h) **Agree** that for New Zealand-domiciled aircrew, they: Yes/No
- have their first COVID-19 test (where they are new crew) within the first 48-72 hours of their return to New Zealand; and
 - may end their testing regime (where they cease to be crew) two tests after their last return to New Zealand as an aircrew member.
- i) **Agree** that the risk status of International aircrew is assessed on entry at the border, and to enter the community outside of MIQ they must be a low risk of having or transmitting COVID-19. Yes/No
- j) **Agree** that International aircrew who have remained airside, or travel from a low risk place, can enter New Zealand without MIQ or any other requirements, with a negative 72 hour pre-departure test, where they are not a risk of having or transmitting COVID-19. Yes/No
- k) **Agree** that International aircrew from other than low risk places be able to layover without entering MIQ where they are not a risk of having or transmitting COVID-19, and where they comply with either the: Yes/No
- COVID-19 Protection Framework (CPF) red or orange settings where they are in place in a port where they layover
 - (revised) Key Safety Standards where their layover is in a port under CPF green settings.
- l) **Agree** that New Zealand-domiciled aircrew can return to New Zealand and enter the community without any additional self-isolation and testing requirements where: Yes/No
- the Ministry has assessed a carrier's route safety plan and it has been approved by the Director General of Health, or

¹ Pfizer/BioNTech, Janssen (Johnson and Johnson), AstraZeneca (Oxford), AstraZeneca/Covishield (Serum Institute of India), Moderna, Sinopharm, Sinovac (CoronaVac), Covaxin (Bharat Biotech)

- they have otherwise complied with the (revised) Key Safety Standards while overseas.

m) **Agree** that the following risk triggers are removed for New Zealand-domiciled aircrew travelling overseas:

i. travelling on a higher risk route

Yes/No

ii. travelling domestically on a passenger route

Yes/No

iii. travelling to undertake flight simulator training

Yes/No

iv. travelling as crew for greater than seven days.

Yes/No

n) **Note** that any proposals you agree will be included in drafting instructions to Parliamentary Counsel Office for inclusion in the proposed new Air Border Order to support Reconnecting New Zealanders.

Note



Dr Ashley Bloomfield

Te Tumu Whakarae mō te Hauora

Director General of Health

Date:



Hon Chris Hipkins

Minister for COVID-19 response

Date:

4/12/21

PROACTIVELY RELEASED

Strategic review of aircrew settings

Background

12. The Ministry is currently undertaking a review of the Air Border Order to ensure it can provide a framework to support the CPF and facilitate the planned Reconnecting New Zealanders work. This has included a review of aircrew settings.
13. Over the past nine months, we have sought your decisions on various aspects of the aircrew settings (HRs 20210235, 20211320, 20211331, 20211418, 20211080, 20211904, 20212319, 20212362 refer). Recently, this has included decisions for aircrew related to expanding one-way quarantine-free travel (QFT) with the Pacific and to provide them with a training pathway. Other decisions have included:
 - a) granting the Director General of Health the power to make exemptions for aircrew and air sector safety-critical operations staff
 - b) revising the 'higher-risk routes' provisions so a carriers' safety plan must be assessed before their crew can return from long haul travel without self-isolation.
14. A proposed end-to-end approach to managing the risk of aircrew has been developed. A diagram setting out our proposed approach is at Appendix One. The proposals we are making seek to mitigate the public health risk of COVID-19 being contracted and transmitted by aircrew, but in a risk-proportionate manner. If agreed, our proposals will give effect to some of the decisions you have already made. They will also change other decisions and settings. The need for change is as a result of the ongoing, changing nature of risk in the international and domestic environment (including the shift to the CPF and Reconnecting New Zealanders).
15. The government's shift to the CPF is intended to support gradual re-opening both domestically, and internationally, while minimising the impact of COVID-19 on the health system, in the community and while protecting the most vulnerable. This strategic direction towards re-opening must be balanced against the knowledge that even with COVID-19 in the community, there remains a risk that those crossing our borders carry new variants. There also remains a need to prevent new outbreaks and clusters to protect the New Zealand community and our health system.

The problem and opportunity

16. The treatment of aircrew in the Air Border Order and various exemption notices is complex and no longer aligns with the risk they represent. It can be challenging to navigate between the Air Border Order, other orders and exemption notices to understand the requirements on aircrew. There is the opportunity to simplify the public health requirements for aircrew, to better align those requirements to the relative risk they represent.
17. Since November 2020, the Ministry is aware of only three International aircrew who have tested positive with COVID-19 in New Zealand and only three New Zealand-domiciled aircrew have returned a positive COVID-19 related to their work as crew. The low numbers of aircrew testing positive to COVID-19 in New Zealand, and the fact these cases have been identified early and appropriately managed, is a testament to the

aircrew setting used to date. It is also a testament to the commitment of carriers and aircrew to mitigating the risk of aircrew contracting and transmitting COVID-19 into the New Zealand community. That commitment has not changed, and it does not make good business sense for carriers to put their crew or passengers at risk of contracting and transmitting COVID-19.

18. Now, all non-citizen International aircrew must be vaccinated with a government approved vaccine, and most New Zealand-domiciled aircrew must be vaccinated with one of the four vaccines approved under the COVID-19 Public Health Response (Vaccination) Order 2020. Most aircrew travelling to New Zealand also undergo regular COVID-19 surveillance testing. The proposals in this paper seek to embed vaccination and testing as the foundational requirements that can mitigate the risk of aircrew transmitting the virus.

Our proposals

19. Our proposed aircrew settings are outlined below, with the numbering aligning with the diagram in Appendix A. The settings that we are seeking your decision on, or to draw to your attention are:
 - a) our proposals to revise the Key Safety Standards in light of a changed COVID-19 risk environment internationally and in New Zealand (paragraphs 20 – 26 below)
 - b) a definition of aircrew that better captures the situation in which their work supports New Zealand's connections with the world (number 1)
 - c) changes to the vaccination and testing requirements for aircrew that are New Zealand or internationally domiciled (numbers 2 and 3)
 - d) ensure the risk presented by aircrew can be assessed at the border, so they can be diverted into MIQ or self-isolation if needed (number 4)
 - e) confirming the use of the one-way Pacific QFT requirements for aircrew who remain airside or travel to low-risk destinations (numbers 5)
 - f) the use of carrier safety plans to replace the 'higher-risk routes' approach and to simplify the requirements on aircrew (number 6).

Our proposals for revising the Key Safety Standards

20. The Key Safety Standards set out the public health risk management requirements that apply to New Zealand-domiciled aircrew while overseas. Currently, they tightly control aircrew members' use of personal protective equipment (PPE), travel, accommodation and personal engagements while overseas. They require aircrew members to maintain a crew bubble. They do not allow aircrew to exercise or undertake activities with any other people or outside their accommodation.
21. In consulting with the air sector, the Ministry received consistent feedback about the rigidity of the Key Safety Standards considering the changing international and domestic environment and response to mitigating the risk of COVID-19 (particularly through the use of vaccination and vaccination certificates). The feedback also highlighted the effectiveness of aircrew members' obligations to be vaccinated and regularly tested. It was also noted that on some routes:

- a) aircrew permissions and activities are controlled by the country in which they are laying over. For example, aircrew must remain in their rooms in China
- b) there was less risk of contracting COVID-19 than in Auckland under the current Alert Level settings. For example, there is no community COVID-19 in Western Australia.
22. We also note that the nature of the COVID-19 risk domestically will alter significantly shortly, given Cabinet's recent decision to move to the CPF for the whole country on 3 December 2021. We expect that, as part of the decision to remove the boundary around Auckland there will be more COVID-19 in circulation around the country.
23. The public health risks associated with the move to the CPF are intended to be mitigated by the very high rates of vaccination, as well as the public health measures at each CPF colour to both ensure sufficient health system capacity to respond, and to protect the most vulnerable. In addition, we note that the government has a plan for re-opening to the rest of the world over 2022.
24. Recognising the changing environment above, the Office of the Director of Public Health (ODPH) has advised on a number of proposed adjustments to the Key Safety Standards. If agreed, this will broadly align them with the "orange" settings of the CPF. We propose:
- a) maintaining the requirement for the use of PPE to the greatest extent practicable when outside of crew accommodation, with the use of face masks outside aircrews' active work environment
- b) enabling the following range of activities to be undertaken with other aircrew members and other fully vaccinated people that they know personally, maintaining social distancing from others as far as is reasonably practicable:
- outdoors exercise and socialising, including alfresco dining
 - retail and food shopping, including picking up pre-ordered food
 - dining and socialising indoors:
 - (i) with no limitation in venues that require vaccination certificates
 - (ii) in venues of 50 persons or less if no certificates are used
 - travelling to and from places using private transport.
25. It is also proposed that aircrew can exercise indoors with other aircrew in venues where vaccine certificates are required.
26. These proposals for the Key Safety Standards recognise the different risk of exposure to COVID-19 associated with aircrews' frequent trips overseas when compared to the risk present by a traveller arriving in New Zealand on a single journey. They also recognise that the risk associated with aircrew can be managed with less rigid standards than are currently in place, considering aircrew are fully vaccinated and undergo seven-day surveillance testing. Finally, they recognise that a significant source of COVID-19 transmission soon will most likely be domestic, rather than international.

Aircrew definition – number 1 on the diagram

27. This table sets out our proposals for the aircrew definition at number 1 on the diagram:

Proposal	Rationale
<p><u>International aircrew (status quo)</u></p> <p>We propose the definition of “International aircrew” capture that they are persons who travel to New Zealand:</p> <p>a) on the general declaration or manifest of a craft or for the purpose of joining a craft on the general declaration or manifest; and</p> <p>b) depart New Zealand as soon as reasonably practicable after their arrival as aircrew.</p> <p><u>New Zealand-domiciled aircrew</u></p> <p>We propose the definition of “New Zealand-domiciled aircrew” capture that they are persons who are ordinarily resident in New Zealand, and who travel to and from New Zealand, returning as soon as is reasonably practicable:</p> <p>a) on the general declaration or manifest of a craft; or</p> <p>b) for the purpose of positioning to join a craft on the general declaration or manifest; or</p> <p>c) at the direction of their employer to complete training required by the Civil Aviation Authority (CAA) or an international equivalent.</p> <p>For the purposes of the definition, as soon as reasonably practicable would mean:</p> <ul style="list-style-type: none"> without undertaking any further travel as an aircrew on the general declaration of a route that is not connected to New Zealand; and after completing any stand down time required by the CAA or equivalent international regulator (for safety and wellbeing purposes). 	<p>Our proposals for the aircrew definition maintain the status quo for International aircrew.</p> <p>The proposals seek to clarify that New Zealand-domiciled aircrew must be working as crew on connecting flights to and from New Zealand; supporting New Zealanders to return home and maintaining our supply chains. This was the intent behind the special treatment of aircrew, including the relief granted from holding a confirmed allocation.</p> <p>We have seen an increase in people working for a range of airlines overseas and using the current definition of aircrew, in a way that was not intended. These people are not aircrew who are supporting the maintenance of New Zealand’s connection to the world. They are leveraging the current definition of aircrew to work overseas and, in effect, jump the confirmed allocation queue. These people should be treated in the same way as other workers who travel overseas and then seek to return to New Zealand.</p>

Vaccination requirements – number 2 on the diagram

28. This table sets out our proposals for aircrew vaccination at number 2 on the diagram:

Proposal	Rationale
<p>We propose that all International aircrew who <i>enter into managed isolation and quarantine</i> must be vaccinated with one of the COVID-19 vaccines specified by the Director General as approved by at least one government or authority.</p>	<p>The current vaccination requirements for aircrew can depend on their citizenship status, and whether they are New Zealand-domiciled. In addition, the COVID-19 Public Health Response (Vaccination) Order 2020 allows for New Zealand citizen pilots who operate a flight where they do</p>

Proposal	Rationale
<p>We propose that International and New Zealand-domiciled aircrew who <i>enter into the community</i> must be vaccinated with one of the COVID-19 vaccines recognised to be eligible for New Zealand’s domestic vaccine passport.²</p>	<p>not layover to be unvaccinated. Currently, we know that all New Zealand-domiciled aircrew are vaccinated, but the layover gap should be closed to ensure there are no loop-holes as air travel increases in the future.</p> <p>The proposed vaccine requirements for aircrew who enter into:</p> <ul style="list-style-type: none"> • managed isolation and quarantine facilities (MIQF) are the same as for non-citizens entering these facilities. There is a long list of approved vaccines • the community are the same as those vaccines recognised for our domestic vaccine passport. There is a shorter list of vaccines recognised for this purpose.

COVID-19 surveillance testing requirements – number 3 on the diagram

29. This table sets out our proposals for aircrew testing at number 3 on the diagram:

Proposal	Rationale
<p>We propose that all aircrew who travel to New Zealand must have had a COVID-19 test within the past seven days.</p> <p>We propose that the test must meet the standard set out for surveillance testing under the COVID-19 Public Health Response (Required Testing) Order 2020 (the Required Testing Order).</p> <p>For New Zealand domiciled aircrew, we propose that they:</p> <ol style="list-style-type: none"> have their first test (where they are new crew) within the first 48-72 hours of their return to New Zealand; and may end their testing regime (where they cease to be crew) two tests after their last return to New Zealand as an aircrew member. 	<p>This proposal is similar to the status quo but proposes:</p> <ul style="list-style-type: none"> • to close a gap in the Required Testing Order that allows for New Zealand citizen pilots who operate flights where they do not layover to be un-tested • International aircrew from the Pacific must have had a test in the last seven days (where currently they are exempt from testing) • to introduce a testing end-point for New Zealand-domiciled aircrew who may cease to operate as crew, or who may take extended leave. <p>Changing the testing regime for International aircrew from the Pacific is essential to supporting the range of other proposals that adjust how we manage the risk of aircrew coming to New Zealand. It will enable risk to be managed in a more effective and streamlined way, without complicated rules and stand-down periods associated with the places they travel.</p>

² Pfizer/BioNTech, Janssen (Johnson and Johnson), AstraZeneca (Oxford), AstraZeneca/Covishield (Serum Institute of India), Moderna, Sinopharm, Sinovac (CoronaVac), Covaxin (Bharat Biotech)

Proposal	Rationale
	The testing end-point is proposed to ensure that the residual risk of a New Zealand-domiciled aircrew member having COVID-19 is mitigated.

Aircrew risk assessment at the border – number 4 on the diagram

30. This table sets out our proposals for aircrew at the border at number 4 on the diagram:

Proposal	Rationale
<p>We propose that the risk status of both International and New Zealand-domiciled aircrew is assessed on entry at the border.</p> <p>We propose that where there is a risk of having or transmitting COVID-19, aircrew are dealt with under COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 (the Isolation and Quarantine Order) meaning:</p> <ul style="list-style-type: none"> • International aircrew would enter an MIQ facility until they departed New Zealand • New Zealand-domiciled aircrew would, in most cases, self-isolate and be tested (status quo). 	<p>If you agree, our proposals for aircrew would generally allow both International and New Zealand-domiciled aircrew to enter New Zealand outside MIQ and without self-isolation. The one exception to this should be where they present a risk of having or transmitting COVID-19 on arrival in New Zealand. This would be identified through their completion of the aircrew arrival card and screening (where required) at the airport.</p> <p>If agreed, our proposals will change the approach to International aircrew who currently enter MIQ unless they meet the aircrew QFT requirements. Under this proposal International aircrew would only enter a MIQ facility if there was a concern about their risk of having or transmitting COVID-19.</p> <p>The proposal is status quo for New Zealand-domiciled aircrew. If they are a risk, they required to self-isolate and undergo additional testing. If they are a high risk, they will be referred into an MIQ facility.</p>

Aircrew who remain airside or travel from a low-risk place – number 5 on the diagram

31. This table sets out our proposals for airside at number 5 on the diagram:

Proposal	Rationale
<p><u>International aircrew</u></p> <p>We propose that International aircrew who have remained airside, or travel from a low risk place, can enter New Zealand without MIQ with a negative 72 hour pre-departure test.</p> <p><u>New Zealand-domiciled aircrew (status quo)</u></p> <p>We propose New Zealand-domiciled aircrew who have remained airside while overseas or travel from a low risk place can enter New Zealand without MIQ.</p>	<p>Airside has always been treated as a lower risk environment as it is inaccessible to the general public, and our Pacific quarantine-free travel (QFT) places are our current low risk places.</p> <p>These proposals will support connections with the Pacific. They will enable international aircrew to operate to New Zealand and to low risk places in a flexible way. This may, for example facilitate transit flights from Australia, through New Zealand to a Pacific destination. Having flexibility across these routes may also improve competition in the region.</p>

Proposal	Rationale
	The proposals maintain the status quo for New Zealand-domiciled aircrew.

Carrier route safety plans and the Key Safety Standards – numbers 6 and 7 on the diagram

32. This table sets out our proposals for carrier route safety plans and the Key Safety Standards at numbers 6 and 7 on the diagram:

Proposal	Rationale
<p>We propose that New Zealand-domiciled aircrew can return, without any additional self-isolation and testing requirement if:</p> <ol style="list-style-type: none"> we have assessed a carrier’s route safety plan and it has been approved by the Director General, or they have otherwise complied with the (revised) Key Safety Standards while overseas. <p>We propose that a range of the risk-triggers for aircrew are removed. These triggers currently include travelling overseas:</p> <ul style="list-style-type: none"> domestically on a passenger route to undertake flight simulator training as crew for greater than seven days. <p>We propose that carriers must support their crew to comply with approved route safety plans or the Key Safety Standards, and must notify the Ministry as soon as practical where:</p> <ol style="list-style-type: none"> any component of a route that has been assessed changes there is any change in the safety plan or their aircrew’s ability to comply with it. 	<p>Under this proposal, carriers can choose between compliance with a route safety plan, or compliance with the Key Safety Standards, to provide their crew with relief from self-isolation and testing upon return from New Zealand. There will no longer be a concept of higher-risk routes for aircrew as vaccination and testing will provide the foundation for managing the risk of aircrew. The higher-risk routes for aircrew are different to the Very High Risk Countries used for passenger.</p> <p>As route safety plans will be individually assessed for their adequacy and the Key Safety Standards will otherwise mitigate residual risk, it is proposed that the other risk triggers such as length of time overseas no longer be included in the Air Border Order.</p> <p>Where a safety plan was not considered adequate, aircrew would be required to comply with the Key Safety Standards overseas. Where they could not comply with the standards, they would be required to self-isolate and be tested upon return from overseas.</p> <p>You have previously agreed to oblige carriers to support their crew to comply with any public health requirements while overseas, and to report changes in their routes that might impact on those requirements. These obligations on carriers will be necessary to support the proposed carrier safety plans.</p>

Enabling International crew to layover without MIQ – number 8 on the diagram

33. This table sets out our proposals for International aircrew layovers at number 8 on the diagram:

Proposal	Rationale
We propose that International aircrew be able to layover without entering MIQ where they are not a	The COVID-19 risk environment for aircrew is changing as:

Proposal	Rationale
<p>risk of having or transmitting COVID-19, and where they comply with either the:</p> <p>a) CPF red or orange settings where they are in place in a port where they layover</p> <p>b) (revised) Key Safety Standards where their layover is in a port under CPF green settings.</p>	<ul style="list-style-type: none"> • global vaccination against COVID-19 has been undertaken and countries are looking to adjust their border settings • we have reached high levels of community vaccination and there is now community transmission of COVID-19 in New Zealand • we refine definition of aircrew, and establish a standardised vaccination and testing regime for them through the proposals in this paper. <p>The changing environment means that there is no longer a public health need to manage the residual risk of International aircrew in MIQ. Their risk can be managed in the community through compliance with the CPF red or orange settings if they are in place, otherwise, the revised Key Safety Standards.</p>

Engagement and consultation on these proposals

34. The Ministry has considered the range of proposals currently under development for returning travellers generally, for Reconnecting New Zealanders and for the CPF. The changing risk environment and our changing response to COVID-19 necessitates changes to the aircrew settings so that they remain fair and proportionate.
35. This paper has been consulted across key government agencies including the Department of the Prime Minister and Cabinet, Treasury, the Ministries of Justice, Business, Innovation and Employment, Transport and for Primary Industries, the New Zealand Customs Service and the Civil Aviation Authority.

Ministry of Business, Innovation and Employment has noted impacts on MIQ facilities

36. MBIE MIQ has noted that the proposals would create challenges and require changes in managing MIQ facilities and contingency for aircrew. Currently, the arrival of international aircrew is planned for through flight schedules. They are not required to have a confirmed MIQ allocation, but they are all required to enter MIQ facilities until they leave New Zealand.
37. Shifting to a regime where the risk presented by International aircrew is assessed on arrival at the border, on a case-by-case basis like New Zealand-domiciled, will mean there is a reduced ability for MBIE MIQ to plan in advance for these arrivals. While allowing most International air crew to enter the community will free up MIQ facility capacity, a small contingency will need to be held for where aircrew are identified as being at risk of having or transmitting COVID-19 at the border.
38. If the proposals in this paper are agreed, consideration would also need to be given to how to treat the MIQ facility at the M Social Hotel which is currently, almost exclusively, used by International aircrew. Appropriate lead in time would be required to determine

next steps for that facility and its place in the MIQ network. Based on experience to date, the Ministry expects very few aircrew will be diverted to an MIQ facility.

39. The challenges for the MIQ facilities identified will be exacerbated by the uncertainty over the future of international travel to New Zealand as Reconnecting New Zealanders' is implemented. It will likely result in fewer travellers holding confirmed allocations but will require MBIE to continue to hold rooms in reserve, in case they are required.

The air sector is broadly supportive

40. The proposals in this paper have also been consulted with the air sector, including the Board of Airline Representatives New Zealand, Aviation New Zealand, Air New Zealand, Qantas Group, Air Chathams, the Airline Pilots Association and E tū Union. The sector is broadly supportive of the proposals and would like to see them implemented as soon as possible. They have noted the impact of the current Key Safety Standards on wellbeing.
41. The proposed change to the definition of aircrew will mean that pilots and cabin crew who work overseas on flights, or for carriers, that are not connected to New Zealand, will no longer be aircrew for the purposes of the Air Border Order. The Ministry considers this consistent with the original intent of the aircrew definition. It will mean that some of these people who have been working overseas will now require a confirmed allocation to return to New Zealand. This is fair and consistent with the approach to other workers who travel overseas for work.
42. The impact of the proposed aircrew definition has been raised as a concern by Qantas Group. It had plans for a number of its New Zealand-domiciled workers to work on routes across the wider Qantas network overseas which are not connected to New Zealand. Qantas has raised its concern directly with the Minister for Transport.

43. s 9(2)(g)(i)
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Equity considerations

44. The proposals in this paper acknowledge that there remains a difference in the risk of exposure to, and transmission of, COVID-19 associated with aircrews' frequent trips overseas when compared to a traveller arriving on a single journey. This is because the risks in places outside of New Zealand constantly change and aircrew are working in a constantly changing international environment. The virus and its variants continue to evolve, and the different places aircrew travel to and live in continue to evolve their responses.
45. There remains a public health rationale for risk mitigation measures for aircrew that are different to those for travellers generally. However, there is now the need to refine those mitigations, in particular, to provide more equitable pathways for International and New Zealand-domiciled aircrew based on the:

- a) proposals in this paper that all aircrew be vaccinated and tested at least every seven days for COVID-19
 - b) high vaccination rates in New Zealand, especially in key ports where International aircrew layover (Auckland, Wellington, Christchurch and Queenstown)
 - c) fact that COVID-19 is now in the New Zealand community and we are transitioning to the CPF.
46. The proposals in this paper will relieve aircrew from MIQ in almost all cases, creating a more equitable approach to International aircrew that is more aligned with that of New Zealand-domiciled aircrew. International aircrew will be required to use the Key Safety Standards in ports on CPF green setting to manage their residual risk in New Zealand. The proposals for revising the Key Safety Standards have a focus on aircrew engaging with vaccinated people, and entering places that have vaccination requirements in place.

Mechanism for making the proposed amendments

47. If you agree, the proposed amendments will be made as part of drafting the new Air Border Order which will be issued under the COVID-19 Public Health Response Act 2020 (the Act). Under section 15(4) of the Act, to make an order, you must be satisfied that the amendment is appropriate to achieve the purpose of the Act and:
- a) have had regard to advice from the Director-General of Health about the risks of the outbreak or spread of COVID-19, and the nature and extent of measures that are appropriate to address those risks
 - b) have had regard to any decision by the Government on the level of public health measures appropriate to respond to those risks and avoid, mitigate or remedy the effect of the outbreak or spread of COVID-19
 - c) be satisfied that the amendment does not limit, or is a justified limit on, the rights and freedoms in the New Zealand Bill of Rights Act 1990 (NZBORA)
 - d) have consulted on the draft amendments with the Prime Minister, the Minister of Justice and the Minister of Health, and may consult any other Minister thought fit.

Justification for making the proposed amendments

Director-General's advice and public health justifications

48. COVID-19 is a highly infectious and evolving virus which may be rapidly spread by people who are not showing symptoms. Even with COVID-19 in the community, there remains a risk that those crossing our borders carry new variants. There also remains a need to prevent new outbreaks and clusters to protect the New Zealand community and our health system.
49. It is sensible to gradually adjust our border settings, including for aircrew, so we can gather information about the effect of changes on the transmission of COVID-19 into the community. This is consistent with balancing our obligations under NZBORA and ensuring that any restrictions on rights are proportionate and justifiable, and our obligation to protect the New Zealand community from the risk of new COVID-19 strains, outbreaks and clusters.

50. You are receiving ongoing advice about the risks associated with COVID-19 in our border environment and in New Zealand. In accordance with section 9(2) of the Act, you may have regard to that advice without it being repeated in this briefing. However, any specific and relevant public health justification(s) for the proposed amendments have been set out in the discussion above.

Consistency with Government decisions to respond to COVID-19

51. The proposals in this paper are consistent with the Government's COVID-19 response. They have the purpose of preventing new variants of COVID-19 reaching, and being transmitted in, our community. They also have the purpose of preventing new outbreaks and clusters. The proposals will improve our tools for managing the public health risk of COVID-19 in a way that is proportionate to our current environment. They will enable us to better tailor our approach to emerging trends in the global COVID-19 landscape and support the Government's efforts to reconnect New Zealand to the world in a way that effectively manages risk.

Consistency with the New Zealand Bill of Rights Act 1990

52. The power to make an amendment to an order under sections 9 and 11 of the Act must be exercised consistently with NZBORA. The Ministry has had regard to this obligation and consider that the limitations on rights proposed in this paper are justifiable when considering that COVID-19 is a highly transmissible virus, that may be transmitted by asymptomatic people, and that aircrews' frequent trips overseas mean that they are at a greater risk of being exposed to the virus, including new variants of the virus.
53. Most of the proposals in this paper will materially reduce the impact and limitations on the rights of aircrew, and will change the way NZBORA is engaged for the better. They will establish an approach to aircrew that is more rights consistent than the status quo. Our analysis of this is set out below.
54. The NZBORA rights that are engaged by the proposals in this paper are:
- a) the right to refuse to undergo medical treatment
The proposal that all aircrew must be vaccinated engages this right. The proposal closes the gaps in the aircrew vaccination regime but this is considered justifiable. Vaccination is a core public health requirement to mitigate risk of contracting and transmitting COVID-19.
 - b) freedom of expression, peaceful assembly, association and movement
The proposals for carrier safety plans and the use of the Key Safety Standards, including by International aircrew in New Zealand, engages these rights. Where an aircrew member is subject to self- or managed isolation these rights are engaged. This is because the movements of aircrew are limited. The limitations are necessary and justifiable to reduce the risk that aircrew contract and transmit COVID-19.
 - c) to be protected from unreasonable search and seizure
The proposal that all aircrew must undergo regular COVID-19 surveillance testing engage this right, and closes the gaps in the current testing regime. The requirement that all crew are tested is justifiable as it is necessary to identify if they have COVID-19 as early as possible to reduce transmission of COVID-19.

d) liberty of the person (against arbitrary detention) and respect for dignity in detention

The proposals for the use of carrier safety plans, the Key Safety Standards, self-isolation and managed isolation engage these rights. This is because the movements of aircrew are limited. The limitations are necessary and justifiable to reduce the risk that aircrew contract and transmit COVID-19.

55. The majority of aircrew are currently required to be vaccinated, and closing the gap and requiring all is considered to be justifiable under the NZBORA given the vaccines demonstrated effects in reducing the transmission of COVID-19.
56. Closing the gap in COVID-19 testing is also considered justifiable. This is because the early identification of COVID-19 through testing is essential to limiting its transmission and the seeding of new clusters. As the types of COVID-19 tests become more varied, the imposition on aircrew from being tested will reduce. Closing the gaps in the vaccination and testing requirements will also enable relief for aircrew from other requirements that engage their rights, such as the requirement that International aircrew enter a MIQ facility.
57. The move to use carrier safety plans or the Key Safety Standards for New Zealand-domiciled aircrew while overseas, and the proposed revisions to the Key Safety Standards, will materially improve the status quo and reduce the severity of the current limitations on freedom of expression, peaceful assembly, association and movement. Allowing International aircrew to enter New Zealand without entering managed isolation, instead comply with the Key Safety Standards (in some circumstances) also reduces the severity of the limitations on their rights while in New Zealand.
58. The risks associated with aircrews' frequent travel mean that there remains a public health rationale for the use of carrier safety plans or the Key Safety Standards. There is a need to reduce the risk of aircrew contracting new strains of COVID-19 and transmitting them into the community. There is also the need to reduce the risk of aircrew seeding new outbreaks of COVID-19.
59. The public health risks presented by aircrew are different to those presented by travellers generally, or members of the New Zealand community. The proposals in this paper establish mitigations for the public health risks presented by aircrew that are more rights friendly than the status quo.

Next steps

60. If you agree to these proposals, drafting instructions will be issued to Parliamentary Counsel Office for the changes to be incorporated into the new Air Border Order. The new order is in development to support the Reconnecting New Zealanders work. The Ministry will work with key stakeholders with a view towards implementation planning.
61. It is expected that both Air New Zealand and Qantas Group (Qantas, Jetconnect and Jetstar) will want to use carrier safety plans for existing and new routes. The Ministry has already assessed Air New Zealand's safety plans for Los Angeles, San Francisco, Narita, Seoul, Hong Kong, Guangzhou, Shanghai and Taipei as part of the higher-risk routes assessment process. We are also working to assess a new Jetconnect route. If there have been no material changes to these routes, we do not plan to assess them again.

ENDs.

Appendix one: Diagram

PROACTIVELY RELEASED

1 Aircrew member arrives in NZ

Yes

2

Are they fully vaccinated?

No

Yes

3

Have they been tested in the last 7 days?

No

Yes

4

Are they deemed a low risk on arrival?

Yes

4

Are they deemed a low risk on arrival?

No

No

Are they NZ domiciled?

Yes

5

Have they remained airside or from a low risk place?

No

Yes

5

Have they remained airside or from a low risk place?

Yes

6 & 7

Have they complied with the carrier safety plan or KSS while overseas?

Yes

5

Have they received a negative tes in the last 72 hours?

Yes

No

Self-isolate for 48 hours, then undergo a test and continue to self-isolate until a negative test returned

No MIQ, comply with the C19PF

Comply with current C19PF if in red or orange area, if area in green, comply with KSS in New Zealand.

Managed isolation

Managed isolation

Are they deemed a high risk?

Yes

No

No

Are they deemed a high risk?

Yes

No

Managed isolation

Comply with current C19PF if in red or orange area, if area in green, comply with KSS in New Zealand.

