

Briefing

Recommendation of the Director-General: postponement of the next sitting day of the House of Representatives

Date due to MO: 22 August 2021	Action required by: N/A
Security level: IN CONFIDENCE	Health Report number: 20211916
To: Hon Chris Hipkins, Minister for COVID-19 Response	

Contact for telephone discussion

Name	Position	Telephone
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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 Withdrawn | |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:

Recommendation of the Director-General: postponement of the next sitting day of the House of Representatives

Security level: IN CONFIDENCE **Date:** 22 August 2021

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

Purpose of report

1. You have requested my advice and recommendation, as the Director-General of Health, regarding the postponement of the next sitting day of the House.
2. This report sets out my written recommendation that the postponement of the next sitting day of the House of Representatives is necessary for the effective management of the current COVID-19 outbreak in New Zealand.
3. It is recommended that this report is referred to the Prime Minister for her consideration.

Summary

4. New Zealand is currently facing an outbreak of COVID-19 in the community and is subject to Alert Level 4.
5. The Standing Orders of the House of Representatives allows for the next sitting day of the House to be postponed by the Speaker. That can occur if the House must be adjourned and –
 - an epidemic notice is in force; and
 - it appears to the Prime Minister, on the written recommendation of the Director-General of Health, that the postponement of the next sitting of the House is necessary for the effective management of a serious outbreak of disease affecting people.
6. There is currently an epidemic notice in force until 20 September 2021.
7. Any postponement is limited to a specified date, which must be within one month of the date originally scheduled for the next sitting (24 August 2021).
8. This report sets out my written recommendation, as the Director-General of Health, that the postponement of the next sitting day of the House, for at least one week, is necessary for the effective management of the current outbreak of COVID-19.

Recommendations

It is recommended you:

- a) **Note** that I, as the Director-General of Health, recommend that the postponement of the next sitting day of the House, for at least one week, is necessary for the effective management of the current outbreak of COVID-19. **Noted**
- b) **Note** that I recommend that the postponement of the next sitting day of the House is reconsidered on Monday 30 August. **Noted**
- c) **Forward** this briefing to the Prime Minister for her consideration.



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

Hon Chris Hipkins
Minister for COVID-19 Response
Date:

Recommendation of the Director-General: postponement of the next sitting day of the House of Representatives

Context

1. You have requested my advice and recommendation, as the Director-General of Health, regarding the postponement of the next sitting day of the House.
2. This report sets out an overview of the current outbreak of COVID-19 in New Zealand, the public health risks associated with Parliament sitting in the current situation, and my recommendation to postpone the next sitting day of the House.

New Zealand is currently at Alert Level 4

3. New Zealand is currently facing a significant outbreak of the Delta variant of COVID-19 in the community. The Delta strain of the virus is proving to be highly infectious and, as a result, the number of cases in Auckland and Wellington continue to grow.
4. New Zealand is at Alert Level 4 and people are currently subject to 'stay at home' requirements with limited exceptions for essential personal movement. People must stay in their 'bubble' and are required to maintain physical distancing from those outside of their 'bubble'.
5. New Zealand will stay at Alert Level 4 until at least Tuesday 24 August 2021, and the Auckland region is likely to stay at Alert Level 4 for longer.

COVID-19 orders do not apply to Parliament

6. The requirements and restrictions of Alert Level 4 are given effect to by the COVID-19 Public Health Response (Alert Level Requirements) Order (No 9) 2021 (the ALR Order), made under the COVID-19 Public Health Response Act 2020 (the Act).
7. Section 12(2)(d)(i) of the Act prohibits any orders to be made that require parliamentary premises to close or prohibit entry to parliamentary premises. Therefore, the ALR Order does not impose restrictions on the parliamentary premises and there are similar restrictions under section 70(1A) of the Health Act 1956.
8. In fact, Parliament, including members of Parliament (MPs), parliamentary staff, and any officer of Parliament are exempt from the application of the ALR Order entirely, such as restrictions on essential personal movement. This reflects Parliamentary sovereignty and the constitutional limits on executive power over Parliament.

Alert Level 4 in 2020

9. New Zealand has been at Alert Level 4 once before, between March and April 2020. During this time, the Standing Order which allows for the next sitting day of the House to be suspended was **not** invoked, but Parliament **did not sit** for two of the scheduled sitting weeks.

Public health advice

Public health risk assessment of the current situation

10. The most recent public health risk assessment (completed at 230pm on 22 August 2021) considers that the risk for the whole of New Zealand remains **high**.
11. New Zealand went into an Alert Level 4 lockdown at 11:59pm on Tuesday 17 August. People were given 48 hours from that date to travel home; and an additional 24 hours were given to people stuck in Queenstown and Picton to enable them to return home. That means that we have only been in a full lockdown state since 11:59pm on Friday 20 August.
12. There were a number of potentially high-risk events that occurred in Auckland prior to people dispersing throughout New Zealand. These include a University Ball and large church services. It is possible that people who attended that and other events have travelled to homes in the South Island.
13. There is yet not sufficient information to be confident that there is no transmission elsewhere in New Zealand (apart from known transmission in Auckland and Wellington). In addition, I note that we have only had two days in full lockdown and the usual period of time required to determine if this has been effective is seven days.
14. I have advised, on the basis of the public health risk assessment undertaken at 1pm on Sunday 22 August, that all of New Zealand should remain at alert level 4 until Friday 27 August, with a further review on Thursday 26 August. It is likely that Auckland will remain at Alert Level 4 for some time longer.
15. It is not advisable that MPs participate in a large indoor gathering for an extended period of time, or travel inter-regionally to do so, while the COVID-19 risk for New Zealand remains high.
16. Even at Alert Level 3, the risk of COVID-19 transmission is still high enough to prohibit most indoor gatherings¹, minimise inter-regional travel, and require New Zealanders to 'stay at home'. Therefore, it is advised that the House should not sit, even if Wellington moves to Alert Level 3 before next week.

Indoor gatherings

17. Parliament is made up of 120 MPs. On a sitting day, the House of Representatives could seat all 120 MPs in the House, alongside the Speaker and other parliamentary support staff. To compare with lower alert level settings, this is a larger than the number of people permitted in an indoor space at Alert Level 2.
18. Continuing with a sitting of the House would be a prolonged indoor gathering, with a large number of people, which may involve aerosol-intense activity.
19. The risk of transmission of COVID-19 increases with the cumulative exposure time, and therefore having 120, or more, people in the House for long periods of time would

¹ Weddings and funerals of up to 10 people are generally allowed at Alert Level 3.

increase the risk of transmission to a large proportion of those gathered if one participant was infectious with COVID-19.

20. The purpose of the House sitting is to debate legislation and other activities that involve expressive talking. Evidence now shows that airborne transmission of COVID-19 can occur through aerosol droplets. Aerosol-intense activities, like expressive talking, increase the risk of transmission of COVID-19.
21. If the House was to sit, the use of masks and/or a reduction in the number of people present in the House, could reduce the risk of airborne transmission of COVID-19. This is unlikely, however, to mitigate the risk to the desired level (while the risk level remains high) and the most appropriate public health measure is to prevent the indoor gathering happening entirely.

Interregional travel

22. At Alert Level 4, the intent is to restrict movement as much as is reasonably possible to mitigate the risk of transmission across the country. The greater the amount of movement, the greater the amount of risk.
23. If MPs are also travelling inter-regionally to attend sitting days in the House, the risk will increase with each MP who travels to (and/or from) Wellington.

Standing orders

24. The Standing Orders of the House of Representatives (at SO 55(3)) allow, if the House is adjourned, for the next sitting day of the House to be postponed. This can only happen if:
 - an epidemic notice is in force; and
 - it appears to the Prime Minister, on the written recommendation of the Director-General, that the postponement of the next sitting day is necessary for the effective management of a serious outbreak of a disease affecting people.
25. The Prime Minister may, after consulting the leaders of all other parties, inform the Speaker that the next sitting day of the House should be postponed to a specified date within a month of the next scheduled sitting day².
26. The Speaker makes the final decision regarding postponement and the new sitting day.
27. The sitting of the House may be postponed more than once, however, it may not be postponed beyond one month of the next scheduled date without agreement of the leaders of all other parties.

² For example, as the next sitting day (as of the date of this advice) is Tuesday 24 August 2021, the Speaker could postpone the next sitting of the House to any date before (and including) 24 September 2021.

Epidemic notice

28. For SO 55(3) to be relied upon, an epidemic notice, made under the Epidemic Preparedness Act 2006, must be in force.
29. An epidemic notice for COVID-19 is currently in force, having been issued on 23 March 2020 and renewed every three months since. The epidemic notice was last renewed on 15 June 2021 and is currently in force until 20 September 2021, with the likelihood of further renewal.

Postponement is necessary for the effective management of a serious outbreak

30. If an epidemic notice is in place, it must also appear to the Prime Minister, based on the written recommendation of the Director-General of Health, that the postponement of the next sitting day of the House is necessary for the effective management of a serious outbreak.
31. I have provided my written recommendation below. For clarity, I have only provided advice related to the public health risk (in the context of the outbreak of COVID-19) associated with the House sitting.

Serious outbreak

32. I am satisfied, based on the public health risk assessment referenced above, that New Zealand is currently facing a serious outbreak of COVID-19.

Necessary for the management of the outbreak

33. New Zealand currently has an outbreak of COVID-19 in the community across Auckland and Wellington. Indoor gatherings are a setting of concern and higher risk and have resulted in the transmission of COVID-19.
34. The public health measures that are currently in place require all persons in New Zealand, with limited exceptions, to stay at home (apart from a small number of permitted essential movements). I have previously given advice to you, as the Minister for COVID-19 Response, that these measures are proportionate to the current public health risk posed by COVID-19.
35. Parliament is made up of 120 MPs. On a sitting day, the House of Representatives could seat all 120 MPs in the House, alongside the Speaker and other support staff. This would amount to a prolonged indoor gathering of a large number of people which may involve aerosol-intense activity. If a person infected with COVID-19 was to be involved in this gathering, it is likely that there would be transmission of the virus.
36. I therefore believe that the postponement of the next sitting day of Parliament is necessary for at least one week for the effective management of the current outbreak of COVID-19 in New Zealand.
37. Thus, I recommend that the next sitting day of the House should be postponed for one week and should be reconsidered on Monday 30 August to reassess the public health risk with up-to-date information.

Next steps

38. It is recommended that you pass on this briefing, as my written recommendation, to the Prime Minister for her consideration.

ENDS.

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