



Proactive Release

The following document has been proactively released by the Department of the Prime Minister and Cabinet (DPMC), on behalf of Hon Chris Hipkins, Minister for COVID-19 Response:

Advice on Requiring Non-New Zealand Citizens Entering Managed Isolation Facilities to be Vaccinated

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant section of the Act that would apply has been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to redaction codes:

6(a) to prejudice the security or defence of New Zealand or the international relations of the Government of New Zealand;

9(2)(a) to protect the privacy of natural persons;

9(2)(b)(ii) to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information; and

9(2)(h) to maintain legal professional privilege.

Background information:

Since 1 November 2021, vaccination requirements have been in place for non-New Zealand citizens entering New Zealand by air. Vaccination continues to play an important role in our response to the COVID-19 pandemic and helps to protect travelers against severe illness (or death). Vaccination requirements also help to reduce the pressure on the health system.

In keeping with the Government's longstanding approach to our COVID-19 response, border settings, including vaccination requirements for non-New Zealand citizens, are kept under constant review, informed by public health advice.

On 3 May 2022, the Minister for COVID-19 Response announced a broadening of the ability for residence class visa holders to re-enter New Zealand by allowing these visa holders who are not vaccinated against COVID-19 entry to New Zealand from 6 May 2022.

This broadened criteria for return was initially enabled by the Director-General of Health signing a class exemption which allows unvaccinated travelers holding either a Permanent Resident Visa or a Resident Visa, and Australian citizens ordinarily resident in New Zealand, to enter the country.

This class exemption will not prevent people in other groups from continuing to apply for exemptions based on their individual circumstances.



Briefing

ADVICE ON REQUIRING NON-NEW ZEALAND CITIZENS ENTERING MANAGED ISOLATION FACILITIES TO BE VACCINATED

To: Hon Chris Hipkins (Minister for COVID-19 Response)

CC: Rt Hon Jacinda Ardern (Prime Minister)

Date	10/09/2021	Priority	High
Deadline	17/09/2021	Briefing Number	DPMC-2021/22-251

Purpose

You requested advice on requiring non-New Zealand citizens travelling to New Zealand to be vaccinated against COVID-19 to reduce the risk of transmission within and from managed isolation facilities. This paper provides initial advice on the proposal and how this requirement could be operationalised.

Recommendations

- Note** that Ministers have requested advice on requiring non-New Zealand citizens travelling to New Zealand to be vaccinated, to reduce the risk of transmission in MIQ, and the feasibility of implementing the policy by 1 November 2021, for several months only;
- Note** that ensuring non-New Zealand citizens arriving into New Zealand are vaccinated could reduce risk, but there is significant uncertainty as to the likely effect;
- Note** that we expect the policy can be operationalised by 1 November using a very high trust model, and a lighter touch and time-bound approach is likely to be appropriate and proportionate in the circumstances, given the potential for equity and other concerns s6(a)
- Note** that more robust checking and verification mechanisms will begin to become available in 2022 (e.g. through the Traveller Health Declaration System);

5. **Indicate** whether you wish to proceed with a policy to require non-New Zealand citizens (i.e. New Zealand residence-class and temporary visa entry-class visa holders) to be vaccinated in order to enter managed isolation facilities in New Zealand from 1 November 2021; YES / NO
6. Subject to recommendation 5, **agree** to the proposed mechanism to require airlines to sight a form of vaccination certification, or a relevant exemption from the New Zealand Government, before causing a person who is not a New Zealand citizen to arrive in New Zealand; YES / NO
7. Subject to your agreement to recommendations 5 and 6, **note** that implementation would be through changes to the COVID-19 Public Health Response (Air Border) Order (No 2) 2020;
8. **Note** that officials investigated the viability of seeking self-declaration of vaccine status in the Managed Isolation and Allocation System (MIAS) when travellers register for MIQ but consider that this would delay system improvements that could prolong and worsen known challenges, and will not capture the majority of bookings for November 2021 – January 2022;
9. Subject to recommendation 5, **agree** that exemptions to the requirement would include those who cannot be vaccinated for medical reasons, foreign diplomats, Realm travellers ~~and ordinarily resident Australian citizens~~, children, and those who are arriving for humanitarian reasons and may not have the opportunity to be vaccinated or may not have suitable proof; YES / NO
10. **Note** that further work is required about how to treat people who do not meet the pre-defined exemptions and the operationalisation of the framework utilised;
11. **Note** that further work will also be required on vaccine standards, engagement with airlines, options for onshore checking and enforcement, and communications, and we propose to discuss the timing of further advice with you on Monday 13 September;
12. **Note** that the requirement would cease to have effect after 31 January 2022, but this can be reviewed in the new year if you wish;
13. **Agree** to forward this paper to the Reconnecting New Zealanders Ministerial group for awareness; YES / NO
14. **Indicate** whether you would prefer to seek decisions on the proposed policy via:
- a. A paper to Cabinet (**recommended**); or YES / NO
- b. An oral item to Cabinet and a paper to Ministers with Power to Act; and YES / NO

15. Agree that this briefing is proactively released, with any appropriate redaction where information would have been withheld under the Official Information Act 1982, following any announcements of a change in policy.

YES / NO



Ruth Fairhall
**Head of Strategy and Policy
 COVID-19 Response**

10/9/2021



Hon Chris Hipkins
Minister for COVID-19 Response

11/9/2021

Contact for telephone discussion if required:

Name	Position	Telephone	1st contact
Ruth Fairhall	Head of Strategy and Policy, COVID-19 Response	N/A	✓
Nita Sullivan	Senior Policy Advisor	N/A	

Minister's office comments:

- Noted
- Seen
- Approved
- Needs change
- Withdrawn
- Not seen by Minister
- Overtaken by events
- Referred to

ADVICE ON REQUIRING NON-NEW ZEALAND CITIZENS ENTERING MANAGED ISOLATION FACILITIES TO BE VACCINATED

Executive Summary

- I don't necessarily see it as only temporary*
1. Ministers have asked for advice on how and when a requirement for COVID-19 vaccination for travellers arriving by air to New Zealand could be implemented. The aim of this proposal is to reduce the risk of COVID-19 entering the border and to reduce the risk of COVID-19 transmission within and from managed isolation facilities (MIQ). Ministers have signalled that this policy would only apply to non-citizens and would need to be in place by 1 November 2021, as a temporary mechanism for the final months of 2021 until New Zealand domestic COVID-19 vaccination rates are higher. Requiring all non-New Zealand citizen travellers to New Zealand, who then enter MIQ, to be vaccinated prior to arrival could further reduce the risk of COVID-19 entering the New Zealand community from offshore.
 2. It is anticipated that implementing a policy shift of this kind may be possible by 1 November, assuming a 'high trust' model. More robust verification systems will become available in 2022 (for example, with the Traveller Health Declaration System (THDS)).
 3. The actual risk reduction provided for by the policy is modest, with recent data showing that about 85% of MIQ arrivals are fully vaccinated and another 11% have had one dose. Requiring all 2,000 visitors to MIQ each week to be vaccinated would therefore increase the number of fully vaccinated travellers by up to about 300 people per week; however, this is the maximum possible benefit as the policy would not capture certain arrivals e.g. citizens and anyone with an exemption.
 4. There are risks with this policy (e.g. impacts on our workforces, inequity given different levels of access to vaccination, s6(a) [redacted]). However, they would be limited by the time-bound nature of the intervention, which would only apply from 1 November 2021, and by putting in place appropriate exemptions (e.g. on humanitarian grounds).
 5. If Ministers wish to proceed with the policy shift from 1 November, we have considered a number of options for operationalising the policy (detailed in Attachment A). We recommend:
 - a) Imposing an obligation on non-New Zealand citizens travelling to New Zealand to be vaccinated, through changes to the COVID-19 Public Health Response (Air Border) Order (No 2) 2020; and ✓
 - b) Requiring airlines to check that a passenger has evidence of vaccination. Under this approach, airlines would only be required to sight a document that appears to be some form of vaccination certification, or a relevant exemption from the New Zealand Government. (We note operationalising this proposal will require further discussion with Air New Zealand and BARNZ; however, initial indications are that it would be feasible). ✓

6. We discounted a number of other options, including seeking self-declaration of vaccine status in the Managed Isolation and Allocation System (MIAS) when travellers register for MIQ. MBIE's advice is that this option would delay other system improvements, and so could aggravate challenges during the system's busiest period, and would not capture the majority of bookings for November 2021 – January 2022.
7. If you agree to the policy approach:
 - a) We recommend that the penalties on individuals available for non-compliance under section 26 of the COVID-19 Public Health Response Act 2020, would apply. However, we expect they may be practically challenging to enforce relating to verification, evidence and legal limitations. Further work will be required on enforcement and penalties (including any questions of deportation);
 - b) Further advice would also be needed on a number of issues, including drafting of an amendment to the Air Border Order, vaccine standards, and exemptions. We propose to discuss timing with you at the meeting on Monday 13 September. A communications process and engagement with airlines will be required;
 - c) We can prepare further advice as required for Cabinet or Ministers with Power to Act. We recommend you forward this paper to Reconnecting New Zealanders Ministers for their awareness; and
 - d) We have proposed this specific policy would cease in 31 January 2022, recognising the appropriateness of a time-bound intervention in the circumstances, work underway on longer-term interventions (e.g. Reconnecting New Zealanders, the Traveller Health Declaration System), and that domestic vaccination rates will be higher by then. However, if you wish, this policy could be reviewed in the new year.

Background

8. The Delta variant is placing greater pressure on New Zealand's COVID-19 response and managed isolation systems as evidenced by the current outbreak, which began with a COVID-19 positive returnee from New South Wales.
9. Our border settings, volume restrictions, Pre Departure Testing (PDT) requirements and 14 day managed isolation and quarantine requirements are currently our key defence (in line with the Keep it Out pillar of the Elimination Strategy). However, as we have seen on several occasions, and despite considerable precautions, there remains a small residual risk that COVID-19 can be transmitted from acute border arrivals cases into the community.
10. In light of this, Ministers have asked for advice on how and when a vaccination requirement for travel to New Zealand by non-New Zealand citizens could be implemented. Requiring all non-New Zealand citizen travellers who then enter MIQ to be vaccinated prior to arrival could further reduce the risk of COVID-19 entering the New Zealand community from offshore. Officials note that subsequent to the commissioning of this briefing, COVID-19 Ministerial Group Ministers have requested advice on measures to reduce the risk of another outbreak before the end of the year, i.e. before the vaccination rollout is complete. This briefing should be considered in the context of the wider piece of work on system-wide measures which is now underway.

11. Vaccination is one of the key tools in our toolkit and provides a degree of domestic protection for the New Zealand resident population. While it cannot provide 100 percent protection, vaccinated travellers arriving in New Zealand also reduce the risk of COVID-19 entering our border and reduce the likelihood that they will pass the virus onto others while in MIQ.
12. As vaccination programmes roll out internationally, it is becoming increasingly common to attach vaccination standards to information gathering requirements or certain conditions of entry (e.g. managed isolation requirements), although not necessarily to prevent entry outright. This thinking is also reflected in the agreement of risk-based pathways under the Reconnecting New Zealanders (RNZ), where vaccination will be a key factor in assessing traveller risk.
13. At the Reconnecting New Zealanders Ministers meeting on Thursday 2 September, Ministers discussed this proposal. They noted their preference for:
 - a) vaccination entry requirements would only apply to those entering New Zealand via the air border;¹
 - b) these requirements to not apply to New Zealand citizens, irrespective of vaccination status, as section 18(2) of the New Zealand Bill of Rights Act (BORA) protects the rights of citizens to return to New Zealand; and
 - c) this requirement to be in place from 1 November 2021.

Public health benefits

14. There are public health benefits to **only vaccinated** people arriving in New Zealand via the air border and entering MIQ facilities. Given the decreased transmission risk associated with vaccinated individuals (as compared to non-vaccinated ones), this approach would be expected to reduce the risk of onward transmission of the virus in New Zealand.
15. As this policy would not apply to New Zealand citizens it is important to understand the proportion of travellers it would apply to, in order to understand how much risk is being mitigated. Since the beginning of 2021, and excluding all quarantine-free travel, the split between New Zealand citizen and non-New Zealand citizen (resident class and temporary entry class visa holder) air border arrivals is 55% New Zealand citizens (43,400) and 45% non-New Zealand citizens (35,800).² This proportion is consistent over time. However, it is noted that about two thirds (63.8%) of travellers are arriving in groups that include at least one New Zealand citizens, with the impact that some of these travellers may be exempted from the policy.
16. Over the last six months, there have been 568 positive cases picked up in MIQ, with a 7-day rolling average between 2 and 9 cases. However, we do not have data to confirm a correlation between lack of vaccination and positive cases arising in MIQ during the same period, or the breakdown of citizenship of the positive cases.
17. Requiring non-New Zealand citizens to be vaccinated before arrival would not remove the risk completely but may reduce the risk. There are, however, a range of existing

¹ Separate work is being undertaken in relation to controlling maritime risk at the border.

² Data provided by MBIE Intelligence, Data and Insights branch.

protections in place, including pre-departure testing, PPE, MIQ rules and procedures, and testing once in MIQ, that help prevent leakage of COVID-19 into the community.

18. Initial data from our MIQs, which the Ministry of Health (MoH) started recording from 24 August, shows that the vast majority of guests in MIQ self-report being vaccinated. Between 24 August and 2 September more than 85% (1324 of 1540) of arrivals into MIQ stated they were fully vaccinated, with 171 partially vaccinated and just 9 having not been vaccinated at all (with 36 not answering). Officials note that this data was self-reported by returnees during their MIQ stay and is unable to be verified.
19. As vaccination programmes roll out globally, we assume that the likelihood of arrivals already being vaccinated would continue to increase over time. Increasing requirements linked to vaccination status will encourage international travellers to get vaccinated.³
20. However, while initial data indicated a significant reduction of transmission of COVID-19 due to vaccines, the highly transmissible Delta variant is a major source of uncertainty. Observations of case numbers in largely vaccinated populations (e.g. the European Union, the USA and the UK) demonstrates that while severe health impacts are greatly reduced through vaccination, transmission can nevertheless continue, albeit at a reduced level. The current outbreak in French Polynesia is believed to have started from a vaccinated arrival.

Potential impacts and limitations of the policy

21. Given the public health benefits noted above, if a policy change successfully prevents unvaccinated non-citizen travellers from entering MIQ over the later months of 2021, we anticipate this would reduce the overall risk of importing and/or transmitting the virus, having arrivals suffer severe illness, and/or burdening our health care system. Therefore, if the desire is to reduce the risk, this policy goes some way to achieving the desired outcome. However, key limitations and potential impacts are discussed below.
22. It is open to the Government to impose a vaccination requirement on those travellers to New Zealand who do not have a right of entry. The potential legal mechanisms are discussed further from paragraph 42.

Potential limitations of the policy

23. The primary concern with the policy is about its level of effectiveness. We note the actual risk reduction provided for by the policy is modest. Assuming the self-reporting rates are accurate, requiring all 2,000 visitors to MIQ each week to be vaccinated would therefore increase the number of fully vaccinated travellers by up to about 300 people per week; however, this is the maximum possible benefit as the policy would not capture certain arrivals e.g. citizens and anyone with an exemption.
24. Additionally, as discussed later in this paper, the model is challenging to operationalise by 1 November, except under very high trust models, which could not provide confidence that it is effectively preventing the relevant travellers from arriving. There are currently no options that enable robust checking of the traveller's vaccination status within the desired timeframe, and any short term solutions would need to rely on a traveller presenting a document showing proof of vaccination. We note, however, that:

³ Noting that Qantas chief executive Alan Joyce has already stated that the airline will ban unvaccinated passengers from international flights when borders reopen (article dated 9 September 2021).

- a) Given the limited potential risk reduction that is possible, 'lighter touch' models of this kind are likely to be more proportionate; and
- b) More effective mechanisms for implementation will become available in 2022. In particular, Customs is leading development of future border systems and the Traveller Health Declaration System (THDS). Over time, the THDS will provide the ability to digitally verify the vaccination status of travellers to New Zealand, with the ultimate aim to verify credentials offshore. It will be ready in phases, with the first pilot stage (using information from Australia and New Zealand only) estimated to be operational in the first quarter of 2022. Other countries will then be added incrementally to the functionality.

Potential impacts of the policy

25. There are other concerns about the potential consequences of the policy, and its equity and proportionality, given the limited potential risk reduction. For example:

- a) The broader impacts for our workforces are uncertain – for example, excluding critical and essential worker arrivals based on the type of vaccination they have received could have implications for particular workforces.⁴

b) s6(a)

- c) It would still be an unusual approach internationally – at this stage, very few countries have introduced proof of vaccination as a mandatory requirement of entry,⁵ and the World Health Organization (WHO) is currently advising against it; and

- d) There are proportionality and equity concerns to be considered – for example, where certain populations are less likely to have an opportunity to be vaccinated or obtain valid certification, or cannot be vaccinated due to geographical, financial or disability barriers. This could exacerbate existing health inequities, including in the Pacific. Additionally, s9(2)(h)

it may add to perceptions of discrimination against non-citizens. On the other hand, we also note that in a domestic context, avoiding community outbreaks and the associated increase in Alert Level restrictions is critical to minimising and addressing existing inequities in New Zealand.

26. We consider these concerns are mitigated by the time-bound nature of the policy between 1 November 2021 and 31 January 2022, when vaccination rates in New Zealand will be higher. Additionally, appropriate exemptions are available to mitigate some equity concerns – for example, for individuals who are unable due to be vaccinated due to underlying health issues, children for whom vaccine approval has not yet been extended, travellers from countries that have not yet obtained access to vaccines, or groups like refugees, where there are humanitarian grounds.

⁴ Our current arrivals data suggests workers currently in New Zealand have accessed a range of COVID-19 vaccines including Sinovac (CoroVac), Sputnik, Sinopharm, CoVaxin and Novovax.

⁵ Countries currently include Samoa, Papua New Guinea, Fiji, Indonesia, Grenada, New Caledonia, Azerbaijan and Palau; some of which apply to all arrivals, including citizens.

How would the vaccination requirement be operationalised?

27. A decision to require non-citizens entering New Zealand to be vaccinated (unless they have an appropriate exemption) will have operational implications.

Vaccine standards

28. The Ministry of Health is currently working with the COVID-19 Vaccine Technical Advisory Group to develop advice on which vaccines, doses and timing of doses are acceptable for various purposes and expects to have advice ready for Ministers at the end of September. For the purposes of this paper, it is assumed that a relatively enabling approach will be taken in the short term.
29. We note there may be questions as to whether proof of a relatively recent previous infection is substitution for proof of vaccination. A view on this may also be required. We understand this is being considered as part of the advice being progressed by the Ministry of Health.

Checking vaccination status pre-arrival

30. We have considered a number of options for implementing the policy, which are outlined in Attachment A in detail. All the options have significant limitations – noting that any approach that is feasible by 1 November will need to be a 'high trust' model, given the absence of robust mechanisms for checking and verification at this stage, across the world, and the operational constraints involved in putting these in place in a timely manner.
31. In this context, we are proposing to prioritise options that:
- a) While 'high trust', would still send a clear signal that all non-New Zealand citizens wanting to travel to New Zealand in the final months of 2021 must be vaccinated, and allow this to be reinforced while travellers are still offshore;
 - b) Are as practical and simple as possible to implement by 1 November – avoiding:
 - i) creating additional risk during travel (for example, significantly extending check-in or customs timeframes at airports), or creating confusion that cannot be resolved while consistent certification or verification techniques are not yet available; or
 - ii) absorbing undue resource on measures that will become obsolete and detracting from work that will be more valuable in the longer term (for example, avoiding drawing resource away from development of the THDS verification tool); and
 - c) As much as possible, do not conflict with longer-term policy thinking towards Reconnecting New Zealanders.
32. To implement the policy, we propose changes would be made to:
- a) Impose an obligation on non-New Zealand citizens travelling to New Zealand to be vaccinated, through changes to the COVID-19 Public Health Response (Air Border) Order (No 2) 2020;
 - b) Require airlines to ask non-citizen passengers to present evidence of being vaccinated at check-in. Note that:

- i) A core assumption of this proposal is that airlines would only be required to have sight of some form of certification of vaccination, or an exemption provided by the New Zealand Government where required. There is no expectation that airlines or check-in staff will have the ability or time to check and verify the wide variety of vaccination documents, or to prevent falsified documents being presented;
 - ii) Initial engagement with airlines suggest this approach would be possible, but reinforced that airlines cannot be held accountable for authenticity of documents. Airlines have expressed a preference for digital solutions. However, we would not wish to exclude travellers who only have paper documentation at this stage;
 - iii) Further engagement with Air New Zealand and BARNZ will be required. Initial questions have been on issues like vaccine standards; and
 - iv) This approach is consistent with initial thinking on how travellers risk based pathways could be implemented under Reconnecting New Zealanders.
33. We considered a range of other options, including seeking a self-declaration of vaccine status to be supplied through the Managed Isolation and Allocation System (MIAS) as a requirement for securing a place in MIQ. However, we note that:
- a) It is likely that the only additional functionality that can be developed within the timeframes is a 'tick box' indicating vaccination status, without any ability for checking;
 - b) This would also require trade-offs with other important upgrades – MBIE advises that it would delay the "virtual lobby" system from late September beyond 1 November, along with security upgrades and other enhancements. This will prolong and aggravate known difficulties during the system's busiest period and increase the risk of MIAS crashing when new vouchers are released.
 - c) The requirement cannot be applied to existing registrations and bookings. By this time, significant numbers of rooms in the relevant period will have been booked. As at 2 September, there are already 1807 rooms booked in November, and a further 2900 rooms are due to be released imminently.
34. Given the downsides involved in detracting from existing announced upgrades to MIAS, and the likelihood that many of the relevant travellers will have already registered, it would be appropriate to rely on the other mechanisms proposed above. This would be supported by wider communications – i.e., MBIE would contact those who have already registered for MIQ, as well as those offshore who hold a temporary or residence class visa or approved border exception, to inform them that non-New Zealand citizens will not be able to board flights to New Zealand without presenting certification of vaccination from 1 November 2021. These communications could also be directed to sponsors and/or employers of critical workers.

End date and review

35. As above, we have proposed this policy would cease in 31 January 2022 – recognising the appropriateness of a time-bound, temporary intervention in the circumstances, work underway on longer-term interventions (e.g. Reconnecting New Zealanders, the Traveller Health Declaration System), and that domestic vaccination rates in New Zealand at that point are likely to be higher. However, if you wish, this could be reviewed in the new year.

Proof of vaccination considerations

36. At present there are numerous proof of vaccination credentials being issued internationally, many of which are paper based (equivalent to the New Zealand purple card) and do not have security features which are able to be digitally verified (such as QR codes). Until international standards are adopted more widely, this variability will present significant challenges for checking and verifying vaccination status of international travellers into New Zealand.
37. Due to the challenges related to checking and verification of vaccination status processes, coupled with the range of COVID-19 vaccines people overseas have accessed to date, officials recommend taking a broad approach to accepting proof of vaccination status at this time.

Checking proof of vaccination

38. We have proposed manual checking processes to check vaccination status, by airlines at check-in. Given the current range of vaccine certification this check would not be able to ascertain:
- a) the level of confidence in the authenticity of the certificate;
 - b) for paper certificates without a QR code, in particular, that the bearer of the certificate was the person who received the vaccination;
 - c) that recorded details about the vaccination meet agreed New Zealand standards (note – these will be confirmed by the Ministry of Health with advice from the COVID-19 Vaccine Technical Advisory Group such as the type of vaccine and number of doses);
39. We would also need to put in place an agreed process, which is easy for airlines to understand and operationalise, for people who are exempt or unable to be vaccinated. At this stage government will not be able to provide substantive operational support, or guidance on the wide variety of vaccine documentation (in different languages and with limited security features).
40. However, generally travellers arriving in MIQ have a good understanding of all international travel requirements and are incentivised to comply with applicable conditions and other requirements. For these reasons, Customs does not expect to see non-compliance in a similar way to that experienced in pre-departure testing under trans-Tasman quarantine free travel.

Management of unvaccinated people entering MIQ

41. Additional to the advice presented in this paper, you have asked for advice on MIQ levers that could be used for unvaccinated people, including how they are managed when they enter isolation and quarantine facilities. MBIE are preparing advice with input from the Ministry of Health and will report to you separately on this, with advice due to your office on Monday 13 September.

Legal mechanisms

The COVID-19 Public Health Response (Air Border) Order (No 2) 2020 can provide the legal mechanisms required

42. It is open to the Government to impose a vaccination requirement on those travellers to New Zealand who do not have a right of entry.
43. Health conditions of visa status are common and are currently expressed in New Zealand's immigration instructions s9(2)(h) per s 392(2) Immigration Act. In this way a vaccination requirement could be placed on New Zealand residence-class and temporary visa entry-class visa holders. While this option has been considered (Attachment A refers), it was discounted as it cannot be delivered within the timeframes, would detract from development of the THDS, and would not in practice capture a significant number of the relevant travellers (i.e. current residence class visa holders or applicants and anyone who already holds or has applied for a temporary visa through the border exceptions regime).
44. As an alternative, if a similar approach were taken to include the requirement for vaccination status to the requirement to have a pre-departure test, an amendment could be made to the Air Border Order (ABO) under the COVID-19 Public Health Response Act 2020. This would impose an additional obligation on persons arriving in New Zealand by air to have the relevant certification to demonstrate that they have been vaccinated. A concurrent obligation could be imposed on airlines to ensure that everyone on board an aircraft arriving in New Zealand holds such certification, to ensure as far as possible that breaches of the requirement are detected prior to boarding an aircraft.
45. s9(2)(h)
46. While we propose accepting a wide range of proof of vaccination documents, we would need to give airlines some guidance on what to accept. Variability in certification methods will present significant challenges for some time.

Exemptions

47. In order to comply with the right to return to New Zealand, New Zealand citizens (and their dependants) would need to be exempted from this requirement, in the same way that they are exempted from the requirement not to have travelled from a very high risk country. Officials note that Realm travellers would also be exempt, as this would include the populations of Niue, Tokelau and the Cook Islands who are NZ citizens.
48. For Australian citizens, officials advise that the consistent approach through the pandemic has been to treat each other's citizens normally resident in the other country, in the same way as our own citizens. Therefore, we would propose that Australian citizens normally resident in New Zealand should be exempted, on the same basis as New Zealand citizens.

No

49. Exemptions would include those who cannot be vaccinated for medical reasons, foreign diplomats, children under a certain age, and those who are arriving for humanitarian reasons (including time-critical medical transfers from the Pacific that would ordinarily require MIQ, or refugees) and may not have the opportunity to be vaccinated or may not have suitable proof.
50. Further, the proposed vaccination requirement should not be applied for one-way quarantine-free travel arrangements for Recognised Seasonal Employers workers from Vanuatu, Tonga and Samoa, given the separate Cabinet decisions.
51. Officials consider that the classes of exempt groups set out above are sufficiently broad to cover the range of situations that residents and temporary visa holders may find themselves in as a consequence of restrictions related to requiring arrivals to be vaccinated. However, should there be people who do not meet pre-defined exemptions, officials recommend utilising either a framework similar to exemptions processes under the very high risk countries frameworks or that this is that this is addressed by a Ministerial exemption, where individuals would have to:
 - a) request a compassionate exemption to the travel restrictions on non-vaccinated non-New Zealanders to allow travel back to New Zealand based on meeting the criteria above which may be granted by the Director General; or
 - b) request an exemption from the Minister for COVID-19 Response to enable their return to New Zealand.
52. More work will be required on the exemptions framework and process (including identifying the lead agency).

Compliance and enforcement

53. Enforcement powers and offences would need to be created to ensure that compliance could be monitored and any breaches appropriately addressed (including on arrival in New Zealand). In the current situation where these arrivals would go into MIQ anyway, consideration needs to be given to proportionate consequences for non-compliance, such as infringements.
54. We note any approach to infringements would need to be consistent with the wider penalty regime for non-compliance with COVID-19 Orders, as provided for in section 26 of the COVID-19 Public Health Response Act 2020 (the Act). Under this regime, there are two categories of offence (infringement or criminal), each with corresponding maximum penalties. The COVID-19 Public Health Response Amendment Bill currently proposes to increase the maximum penalties for individuals relating to both categories of offence, and you have recently requested to increase the maximum amendments further. Current draft amendments are proposed to increase the infringement fee for an individual to a maximum of \$4,000 (currently \$300 in the Act).
55. We are considering options for seeking information about vaccination status in MIQ or at the border (as per Attachment A). Both options have operational and legal challenges; specifically we would need to work through the legal mechanism for creating offences. s9(2)(h)

Given these issues, we can provide further advice on enforcement and penalties (including questions such as deportation).

Advice from the Crown Law Office

s9(2)(h)



Next Steps

61. You will have an opportunity to discuss this paper and next steps with officials on Monday 13 September at the COVID-19 Response regular agencies meeting.
62. Subject to your direction, officials will develop further advice on drafting for the Air Border Order, the exemptions framework, enforcement, public communications, and how a traveller's vaccination status will be declared and checked prior to departure.
63. There are some outstanding policy issues outlined in the paper; if you wish to proceed with the policy, we can pick these up in the preparation of the Cabinet paper, or alternatively as further advice required for Ministers with Power to Act. We recommend you forward this paper to Reconnecting New Zealanders Ministers for awareness.
64. Further engagement will be needed with Air New Zealand and BARNZ.

Financial Implications

65. We expect the financial implications of this decision for the Crown can be absorbed within baselines. There may be cost impacts for airlines. We have recommended further engagement with the industry to understand more.

Consultation

66. The following agencies contributed to the advice in this paper: Ministry of Health, Ministry of Transport, the New Zealand Customs Service, the Ministry of Foreign Affairs and Trade, the Ministry of Justice, the Ministry of Business, Innovation and Employment (Managed Isolation and Quarantine, Immigration Policy), Ministry for Ethnic Communities, Crown Law Office, and The Treasury.

Communications

67. Decisions taken on this briefing would need to be supported by clear communications with travellers to support their compliance with the requirement.
68. Lead in time will be required to support engagement with key stakeholders both national and international, to confirm operational viability. Further time will be required to enable travellers to prepare to meet the requirements, once decisions are made. For example, travellers with existing bookings would need to have an opportunity to get vaccinated. For this reason, early signalling of a future requirement is the preferred approach.
69. Clear messaging will also be important to manage the public and partner country expectations around any future policy amendments New Zealand may make around border entry requirements. For example, policy decisions may be taken in the future around which vaccines New Zealand recognises that may differ from the approach taken here. It is also likely that the standard of proof required for confirming an individual's vaccination status will be different when operationalised in the context of the Reconnecting New Zealanders strategy and the Traveller Health Declaration System.
70. It will be important to publicly signal that the current policy is expected to be temporary and has been implemented against a specific risk profile (i.e. all travellers entering MIQ) and that this risk profile may change in the future which will warrant a review of policy settings.

Attachments:	
Attachment A:	Summary of delivery options

Attachment A: Options to implement a policy requiring non-citizens to be vaccinated in order to enter New Zealand into managed isolation facilities from 1 Nov 2021

Options	Timing	Other limitations and costs	Lead agency
<p>1. Implement through requiring airlines to sight proof of vaccination at check-in</p>	<p>TBC subject to consultation with airlines – likely possible by 1 November if very ‘light touch’ (e.g. the airline sights one of a wide range of proof of vaccination documents but with no ability to verify it)</p>	<ul style="list-style-type: none"> • Ability to check is limited – relies on airlines around the world to implement, with the risk that certificates that are fraudulent, or do not meet NZ standards for being fully vaccinated, meaning management of risk is not actually improved <i>(noting, for example, that in many overseas airports, check-in staff are contractors employed by the port, not the carrier, or work for ground handling agents; work to very tight timeframes; and would have no ability to verify the authenticity of the dozens of different digital and paper vaccination certificates in use globally)</i> • Imposed on airlines across the world, adding staff time and therefore cost at check-in – noting, however, that initial indications from Air New Zealand and BARNZ are that this model would be possible, assuming airlines are not held accountable for authenticity of documents. More engagement will be required on implementation. • High trust approach proposed, to ensure that airlines can implement without undue cost/resourcing or time implications, given that government cannot currently provide substantive support/guidance on verification. • Could lead to airlines refusing to board people who have done everything right, if they are unsure about certification, and will also have issues for airlines if travellers need to be turned around partway through the journey 	<p>Ministry of Transport</p>
<p>2. Implement through onshore checking by Customs Officers</p>	<p>Possible by 1 November if required – subject to training staff, and available processing space / slot-planning issues at the airport – but requires further work (paragraphs 53-56 refer)</p>	<ul style="list-style-type: none"> • Would not prevent non-compliant travellers from entering NZ – travellers would have arrived, and would not be immediately turned around due to reduced number of flights; therefore, would need to enter MIQ irrespective of vaccination status • If Customs officers are expected to check and/or verify vaccine documentation, then any recruitment and training would not be completed by 1 November – additional Customs officers may be required to check vaccination status, and the development of training material and delivery of this would be reliant on decisions about acceptable vaccination evidence. Decisions on appropriate enforcement actions for non-compliance would also be required. • There may be limited space at the airport – due to space constraints in the red pathway at Auckland and Christchurch airports there may be insufficient room for additional Customs officers • Flow-on effects and risks for airport operating environment – estimated to double screening time (although this would depend on the extent to which Customs officers are expected to perform a robust check). This would have flow-on effects for scheduled arrival slots, and create increased risk of transmission • Customs does not recommend this option due to operational feasibility and it would not achieve the goal of reducing risk as non-compliant passengers would still be required to enter MIQ. However, we note this will be considered further as a potential enforcement tool 	<p>New Zealand Customs Service</p>
<p>3. Implement through onshore checking during MIQ stay</p>	<p>Possible as a part solution by 1 November – but requires further work (paragraphs 53-56 refer) and not currently recommended</p>	<ul style="list-style-type: none"> • There is an existing process where Health workers already ask returnees their vaccination status during the Health check of all travellers which takes place on day 1 of their MIQ stay • Additional checks to this process would have significant resourcing implications – given that not all travellers will need to present vaccination documentation • Would be ineffective in preventing non-compliant travellers from entering MIQ – although this could be mitigated by combining it with other measures offshore. We note this will be considered further as a potential enforcement tool, although there are likely to be significant legal and operational barriers 	<p>Ministry of Health</p>
<p>4. Implement through the Managed Isolation and Allocation System (MIAS) as a requirement for securing a place in MIQ</p>	<p>Only possible by 1 November if very ‘light touch’ (i.e. tick box, with no checking) and other priority work is delayed</p>	<ul style="list-style-type: none"> • MIAS portal does not currently provide functionality for this – there is no ‘check box’ or way to upload supporting docs. MBIE advises that making any changes to MIAS is very resource- and time-intensive. This would therefore involve significant trade-offs with other important upgrades already in train. In particular, the “virtual lobby” function, and enhancements including identity validation to prevent bad actors, would need to be pushed out from late September to beyond 1 November, and could not be supported by surge capacity.¹ The impacts would include: <ul style="list-style-type: none"> ○ Prolonging and worsening known difficulties during the system’s busiest period; and ○ Limited possibility for voucher releases without causing MIAS to crash. • A tick box would rely on a high trust model - there would be no way to check if the registered traveller had a valid or acceptable vaccination through MIAS • Does not capture many of the relevant travellers, as it would only be applicable to registrations made after policy announced – would not apply to existing registered users. As at 2 September, 1807 rooms (with 2879 people) are already booked in November, with further voucher releases imminent to release 2900 more rooms. MBIE considers the release, scheduled for 20 September, needs to take place as soon as possible, noting that new bookings have been suspended since 23 August due to the current community outbreak and the need to provide capacity to support the arrival of travellers from Afghanistan, and there has not been a substantial release of MIAS vouchers since 7 July. It is likely, therefore, that the policy could not be announced until a significant proportion of MIQ rooms for November 2021-January 2022 are already booked. 	<p>MBIE (MIQ)</p>

¹ Other work that would need to be deprioritised includes looking at implementing “buckets”, implementing visa validation, and a number of other backlogged enhancements including security upgrades.

Options	Timing	Other limitations and costs	Lead agency
<p>5. Implement through requirement on airlines as per Option 1, but also position Airline Liaison Officers (ALOs) at offshore ports to provide information to airlines</p> <p><i>(Under this option there would be choices on which ports to cover in extending the current 30 person ALO deployment beyond Australia)</i></p>	<p>Not possible by 1 November</p>	<ul style="list-style-type: none"> • This approach may support more robust checking of vaccination documents. However, for a temporary policy, heavy resourcing requirements (planning, training and deploying ALOs to ports), and potentially significant costs would be out of scale to the limited potential benefit gained. <ul style="list-style-type: none"> ○ Before deployment, training would preferably be provided to ALOs on which vaccines and certification are acceptable and which are not – skills which existing ALOs are not trained in. ○ s9(2)(b)(ii) ○ Our deployment of ALOs to Australia has been simplified by existing relationships with the Australian Border Force, conditions which would not be in place in a wider deployment. ○ MBIE advises this option (including recruitment and training) could not be implemented by 1 Nov • Still relies on airlines to implement – ALOs only provide information to an airline upon reviewing a traveller's immigration status and vaccination documentation. If a traveller needs to be turned around partway through the journey, this would have attendant issues for the airlines. 	<p>MBIE (Immigration)</p>
<p>6. Implement through immigration system (border exceptions or visa approvals)</p>	<p>Not possible by 1 November</p>	<ul style="list-style-type: none"> • Does not capture many of the relevant travellers: <ul style="list-style-type: none"> ○ Only applicable to holders of residence class visas who applied for their visa after policy implemented and could not be applied to the holders of some types of residence class visas (such as permanent resident visas). Existing visas cannot be revoked ○ Only applicable to holders of temporary visas who have not applied through the border exceptions regime (of which there are few) or the holders of temporary visas applied for through the border exception regime after policy implemented. • MBIE advises this could not be implemented by 1 Nov as it would require three months to deliver (from the point at which the policy decision is made, which includes changes to IT systems with additional functionality, along with preparation of new immigration instructions and prescribing new requirements.) • Additionally, it would take resourcing away from and delay development of the Traveller Health Declaration System (alongside other significant immigration policy decisions), which will provide the ability to digitally check the vaccination and testing status of travellers from 2022 • Until the implementation of the Traveller Health Declaration System there would be no way to check if the traveller had a valid or acceptable vaccination 	<p>MBIE (Immigration)</p>

Proactively