



## Public Health (Jervis Bay Territory) Emergency (Temporary Restrictions) Direction 2021

I, Sarah Vandebroek Acting Deputy Secretary, Regional, Cities and Territories Group, Department of Infrastructure, Transport, Regional Development and Communications, exercising powers vested in me under the direction, dated 16 April 2020, made by the Governor-General under subsection 4B(2) of the *Jervis Bay Territory Acceptance Act 1915* (Cwlth), make the following Direction.

Dated 30 June 2021 at 2:50 am/pm

Sarah Vandebroek  
Acting Deputy Secretary  
Regional, Cities and Territories Group  
Department of Infrastructure, Transport, Regional Development and Communications

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## Part 1—Preliminary

### 1 Name

This Direction is the *Public Health (Jervis Bay Territory) Emergency (Temporary Restrictions) Direction 2021*.

### 2 Commencement

This Direction takes effect immediately after it is made.

### 3 Authority

- (1) This Direction is made under section 120 of the Act.
- (2) This Direction is considered necessary or desirable to alleviate the emergency declared under the *Public Health (Jervis Bay Territory) Emergency Declaration 2020*.

### 4 Duration

This Direction is in force for the period ending on the day the declared emergency (as extended or further extended) ends, unless it is earlier revoked.

### 5 Relationship with other orders

If there is an inconsistency between this Direction and the JBT emergency direction, this Direction prevails to the extent of the inconsistency.

### 6 Booderee National Park

For the avoidance of doubt, nothing in this Direction authorises the entry of a person into the Booderee National Park (the *Park*), including an area of the Park, or the engagement of an activity in the Park, including in an area of the Park, that is otherwise in contravention of a prohibition or restriction imposed by the Director of National Parks under subregulations 12.23(3) and 12.23A(3) of the *Environment Protection and Biodiversity Conservation Regulations 2000* (Cwlth).

### 7 Definitions

Note: A number of expressions used in this Direction are defined in the Act and the *Legislation Act 2001* (ACT) as in force in the Territory under section 4A of the *Jervis Bay Territory Acceptance Act 1915* (Cwlth).

In this Direction:

*Act* means the *Public Health Act 1997* (ACT), as in force in the Jervis Bay Territory under section 4A of the *Jervis Bay Territory Acceptance Act 1915* (Cwlth).

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**ACT liquor legislation** means the *Liquor Act 2010* (ACT), and any regulations made under or for the purposes of this Act, as in force in the Territory under section 4A of the *Jervis Bay Territory Acceptance Act 1915* (Cwlth).

**authorised person** means an authorised person under section 121 of the Act.

**camping ground** means an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park.

**caravan park** means land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed.

**cellar door premises** means a building or place that is used to sell wine by retail and that is situated on land on which there is a commercial vineyard, and where most of the wine offered for sale is produced in a winery situated on that land or is produced predominantly from grapes grown in the surrounding area.

**cinema** means a cinema that is open to members of the public.

**controlled outdoor public gathering** means an outdoor public gathering in an area:

- (a) that is enclosed or bounded by fencing or another form of barrier; and
- (b) access to which is controlled by way of a ticket; and
- (c) in relation to which all persons, other than persons engaged in work, are assigned to specific seats or to a seating area.

**COVID-19 safe outdoor public gathering:** has the same meaning as in the JBT emergency direction.

**declared emergency** means the emergency declared under the *Public Health (Jervis Bay Territory) Emergency Declaration 2020* (as extended or further extended).

**Director of National Parks** has the same meaning as in the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth).

**early education and care facility** means a building or place used for the education and care of children, and includes a centre-based child care facility, home-based child care and school-based child care.

**emergency services officer** has the same meaning as in the *Jervis Bay Territory Emergency Management Ordinance 2015* (Cwlth).

**entertainment facility** means a theatre, cinema, music hall, concert hall, dance hall and the like, but does not include a pub or registered club.

**event** includes a function.

**fitted face covering** means a mask or other covering that:

- (a) fits securely around the face; and

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- (b) is designed or made to be worn over the nose and mouth to provide the wearer with protection against infection.

**food and drink premises** means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- (a) a restaurant or café;
- (b) take away food and drink premises;
- (c) a pub;
- (d) a small bar.

**gymnasium** means a gymnasium that is a recreation facility (indoor) and that is open to members of the public, but does not include a dance, yoga, pilates, gymnastics or martial arts studio.

**hospitality venue** means the following:

- (a) a casino;
- (b) food and drink premises;
- (c) micro-breweries, small distilleries holding a drink on-premises authorisation under the ACT liquor legislation and cellar door premises;
- (d) pubs;
- (e) registered clubs;
- (f) small bars.

**household** means persons living together in the same place of residence.

**indoor area** includes an area in a building or other structure, whether or not temporary, which has a roof, ceiling or other top covering, but does not include an area with at least 2 sides open to the weather.

**JBT emergency direction** means the *Public Health (Jervis Bay Territory) Emergency Direction (No. 3) 2021* and includes any direction that revokes and replaces that Direction or a replacement direction.

**nightclub** has the same meaning as in the ACT liquor legislation.

**non-residential premises** means premises other than a place of residence.

**occupier** of premises or a part of premises (including premises that are vacant) means:

- (a) the owner of the premises or part; or
- (b) if any other person is entitled to occupy the premises or part to the exclusion of the owner, the person so entitled; and

includes the operator of a vehicle or vessel.

**parent**, in relation to a child, includes a person who has parental responsibility for, or care of, the child.

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**place of residence** includes the premises where a person lives and a garden, yard, passage, stairs, garage, outhouse or other area or thing attached to, or used in connection with, the premises.

**pub** means licensed premises under the ACT liquor legislation the principal purpose of which is the retail sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold or entertainment is provided on the premises.

**public gathering** means a meeting or assembly of persons for a common purpose, including an organised or planned event, in a public place (whether ticketed or not).

**public place** means:

- (a) a place (whether or not covered by water); or
- (b) a part of premises;

that is open to the public, or is used by the public whether or not on payment of money or other consideration, whether or not the place or part is ordinarily so open or used and whether or not the public to whom it is open consists only of a limited class of persons, but does not include a school.

**recreation facility (indoor)** means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

**recreation facility (major)** means a building or place used for large-scale sporting or recreation activities that are attended by large numbers of people whether regularly or periodically, and includes theme parks, sports stadiums, showgrounds, racecourses and motor racing tracks.

**registered club** means a club that holds a club licence under the ACT liquor legislation.

**short-term rental** means premises to which a short-term rental accommodation arrangement applies.

**short-term rental accommodation arrangement** means a commercial arrangement for giving a person the right to occupy residential premises for a period of not more than 3 months at any one time.

**significant event** means:

- (a) a funeral or memorial service; or
- (b) a wedding service; or
- (c) a gathering following a funeral or memorial service or wedding service.

**small bar** means a licensed premises under the ACT liquor legislation the principal purpose of which is the retail sale of liquor for consumption on the premises and which is licensed for no more than 120 patrons on the premises.



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*take away food and drink premises* means premises that are predominantly used for the preparation and retail sale of food or drink (or both) for immediate consumption away from the premises.

*Territory* has the same meaning as in the *Jervis Bay Territory Acceptance Act 1915* (Cwlth).

*work* includes work done as a volunteer or for a charitable organisation.

## **8 Calculation of space available for persons**

- (1) In calculating both the space available for each person on any premises and the number of persons on the premises, the following persons are not to be included in any calculations:
  - (a) any person engaged in work on the premises for the occupier of the premises;
  - (b) any person on the premises because of an emergency;
  - (c) if the premises are food and drink premises—any person ordering or collecting food or drink to consume off the premises.
- (2) In calculating the space available for each person on any premises, only the areas that are open to the public are to be included in the calculations.

## **Part 2—Restrictions on work, gathering and premises**

### **9 Direction about places of work**

An employer must allow an employee to work at the employee's place of residence if it is reasonably practicable to do so.

### **10 Direction about the number of visitors to a place of residence**

- (1) Each adult member of a household must not allow more than 5 visitors to be at the place of residence of the household at any one time.
- (2) A visitor to a place of residence must not participate in a gathering at the residence consisting of more than 5 visitors.
- (3) A person is not a visitor to a place of residence if:
  - (a) the person is a member of the household of the place of residence; or
  - (b) the person is at the place of residence for any of the following purposes:
    - (i) to engage in work;
    - (ii) for childcare;
    - (iii) to fulfil carers' responsibilities;
    - (iv) to provide care of assistance, including personal care, to a vulnerable person;
    - (v) to give effect to new or existing arrangements for spending time with, and providing contact between, parents and children under the age of 18 or between siblings;

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- (vi) to assist a person moving to or from the place of residence;
  - (vii) to avoid an injury or illness or to escape a risk of harm;
  - (viii) because of an emergency or for compassionate reasons;
  - (ix) to view or inspect real property for sale or lease or participate in an auction of real property; or
- (c) the person is at the place of residence to attend a significant event.

### **11 Direction about holiday homes and short-term rentals**

- (1) The occupier of premises must not allow the premises to be used for the purpose of a holiday home or a short-term rental for more than 5 persons unless all of those persons are from the same household.
- (2) A visitor to premises that are being used as a holiday home or short-term rental must not participate in a gathering at the premises consisting of more than 5 visitors.
- (3) Subsection (1) does not apply to a holiday home or short-term rental if:
  - (a) more than 5 persons were staying in the premises immediately before the commencement of this Direction; and
  - (b) no additional person moves into the premises after the commencement of this Direction.

## **Part 3—Non-residential premises**

### **12 Direction about the number of persons allowed on premises**

- (1) The occupier of premises must not allow more persons on the premises than the greater of:
  - (a) the number of persons that is equivalent to one person per 4 square metres of space in the premises; or
  - (b) 25 persons.
- (2) This section does not apply to:
  - (a) a place of residence; or
  - (b) an entertainment facility; or
  - (c) a recreation facility (major); or
  - (d) a vessel used for commercial tours for scuba diving, snorkelling or whale, dolphin or marine animal watching, but only if there are 50 or fewer persons on the vessel; or
  - (e) caravan parks and camping grounds; or
  - (f) holiday homes and short-term rentals; or
  - (g) a gathering referred to in Schedule 2 to the JBT emergency direction.

### **13 Direction about entertainment facilities and recreation facilities (major)**

- (1) The occupier of an entertainment facility must ensure the number of persons on the premises does not exceed the greater of the following:

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- (a) the number of persons equal to 50% of the fixed seating capacity of the facility;
  - (b) the number of persons equivalent to one person per 4 square metres of space in the facility.
- (2) The occupier of a recreation facility (major) must ensure the number of persons on the premises does not exceed the greater of the following:
- (a) the total of:
    - (i) 50% of the fixed seating capacity of facility; and
    - (ii) the number of persons equal to one person per 4 square metres of space of any unfixed seating areas of the facility;
  - (b) the number of persons equivalent to one person per 4 square metres of space in the facility.
- (3) If the occupier of an entertainment facility or recreation facility (major) calculates the maximum number of persons allowed to be on the premises based on the percentage of the fixed seating capacity of the entertainment facility, the occupier must ensure:
- (a) admission to the premises is by way of a ticket; and
  - (b) all persons, other than persons engaged in work, are assigned to specific seats.

#### **14 Direction about gymnasiums and recreation facilities (indoor)**

- (1) The occupier of a gymnasium must ensure the maximum number of persons attending any group class carried out at the gymnasium does not exceed 20 persons.
- (2) The occupier of a recreation facility (indoor) must ensure the maximum number of persons attending any group dance class carried out at the facility does not exceed 20 persons.

#### **15 Direction about singing on non-residential premises**

- (1) The occupier of non-residential premises must ensure that persons in an indoor area of the premises do not sing.
- (2) Subsection (1) does not apply if:
  - (a) the persons singing are performers engaged in a performance or rehearsing for a performance; or
  - (b) the premises are an educational establishment; or
  - (c) the persons are singing for the purpose of instruction in singing.

#### **16 Direction about consuming alcohol on non-residential premises**

The occupier of non-residential premises must ensure that persons in an indoor area of the premises do not consume alcohol unless seated.

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## **17 Direction about dancing in indoor hospitality venue or nightclub**

- (1) The occupier of an indoor hospitality venue or a nightclub must ensure that persons on the premises do not dance.
- (2) Subsection (1) does not apply to dancing at a wedding by members of the wedding party if there are no more than 20 dancers at the one time.

## **Part 4—Face coverings**

### **18 Direction to wear fitted face coverings**

- (1) A person must wear a fitted face covering over both the person's nose and mouth at all times while the person is:
  - (a) in any indoor area of non-residential premises; and
  - (b) at a public transport waiting area or in a vehicle or vessel being used to provide a public transport service; and
  - (c) in a recreation facility (major); and
  - (d) attending a COVID-19 safe outdoor gathering or a controlled outdoor public gathering; and
  - (e) working at a hospitality venue and dealing directly with members of the public.
- (2) Subsection (1) does not apply to the following persons:
  - (a) a person aged 12 years or under;
  - (b) a person with a physical or mental health illness or condition, or disability, that makes wearing a fitted face covering unsuitable including, for example, a skin condition, an intellectual disability, autism or trauma.
- (3) Despite subsection (1), a person may remove a fitted face covering the person is otherwise required to wear in the following circumstances:
  - (a) the person is eating or drinking;
  - (b) the person is engaging in strenuous physical exercise except in an indoor gym class or dance class;
  - (c) the person is communicating with another person who is deaf or hard of hearing;
  - (d) the person is at work and the nature of the person's work:
    - (i) makes the wearing of a fitted face covering a risk to the person's, or another person's health and safety; or
    - (ii) means clear enunciation or visibility of the person's mouth is essential;
  - (e) the person is asked to remove the fitted face covering to ascertain the person's identity;
  - (f) because of an emergency;
  - (g) the removal of the fitted face covering is necessary for the proper provision of goods or services;
  - (h) the person is in a correctional centre or other place of custody;

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- (i) the person is a patient in a public hospital or private health facility;
  - (j) the person is a resident of a residential aged care facility;
  - (k) the person is in a school or an early education and care facility;
  - (l) the person is a guest in a hotel, motel or other accommodation facility and is in the person's own room;
  - (m) the person is on a construction site;
  - (n) the person is in the process of getting married;
  - (o) the person is working alone in an indoor area like an office until another person enters the area;
  - (p) the person is in a vehicle alone or with another person of the same household.
- (4) A person who removes the person's fitted face covering under subsection (3) must resume wearing the fitted face covering as soon as practicable after the circumstance ends.
- (5) In this section:

**public transport service** includes a taxi service, rideshare service, passenger and community transport service.

**public transport waiting area** means the following:

- (a) a station, including the platform, of a passenger railway or light rail;
- (b) a ferry wharf;
- (c) a bus stop or light rail stop, including any area where persons queue or gather when waiting at the stop;
- (d) a taxi rank, including any area where persons queue or gather when waiting at a taxi rank.

**residential aged care facility** means a facility at which any of the following services are provided to a person in relation to whom a residential care subsidy or flexible care subsidy is payable under the *Aged Care Act 1997* (Cwlth):

- (a) accommodation;
- (b) personal care or nursing care.

## Part 5—Exemptions and enforcement

### 19 Exemptions

- (1) Subject to subsection (2), an emergency services officer may, in writing and subject to the conditions that the officer considers appropriate, grant an exemption to this Direction or specified provisions of this Direction.
- (2) A person who is granted an exemption under subsection (1) must comply with any conditions imposed.

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## **20 Enforcement**

- (1) If a person fails to comply with this Direction or with a condition imposed under section 19, an authorised person may direct the person to do such things as are reasonably necessary to comply with the Direction or with the condition including, upon request, to produce proof of identification to the authorised person.
- (2) If a person fails to comply with any direction given under subsection (1), then the authorised person may take all reasonable steps to enforce compliance with the direction or any other provision in this Direction.