

Notice of Meeting:

I hereby give notice that an ordinary Meeting of the Council will be held on:

Date: Thursday 17 March 2022
Time: 9.30am
Meeting Room: Council Chamber and Audio Visual Link
Venue: Municipal Building, Garden Place, Hamilton

Lance Vervoort
Chief Executive

Council *Kaunihera* **OPEN LATE AGENDA**

(Item 17: Council Facilities - Vaccination Certificate Policy - Covid 19
Protection Framework – Review)

Membership

Chairperson Mayor P Southgate
Heamana

Deputy Chairperson Deputy Mayor G Taylor
Heamana Tuarua

Members	Cr M Bunting	Cr A O’Leary
	Cr M Gallagher	Cr R Pascoe
	Cr R Hamilton	Cr S Thomson
	Cr D Macpherson	Cr M van Oosten
	Cr K Naidoo-Rauf	Cr E Wilson
	Cr M Donovan	

Quorum: A majority of members (including vacancies)

Meeting Frequency: Monthly – or as required

Amy Viggers
Mana Whakahaere
Governance

30 March 2022

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Council Report

Committee: Council

Date: 17 March 2022

Author: Michelle Hawthorne

Authoriser: David Bryant

Position: Governance and Assurance
Manager

Position: General Manager People and
Organisational Performance

Report Name: Council Facilities - Vaccination Certificate Policy - Covid 19 Protection
Framework - Review

Report Status	<i>Open</i>
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Purpose - *Take*

1. To inform the Council of the current landscape against which decisions regarding restricting public access to Council facilities to vaccinated persons will be made.
2. To seek a decision from the Council on the current requirement for My Vaccination Passes for entry into Council owned and operated facilities and Council and committee meetings.

Staff Recommendation - *Tuutohu-aa-kaimahi*

3. That the Council:
 - a) receives the report;
 - b) notes that the Chief Executive is undertaking a review of the policy concerning Covid 19 vaccinations for staff;

Either

Option 1

- c) effective from 5 April 2022, Council revokes the requirement for the production of a valid My Vaccine Pass for entry by the public to all Council owned and operated facilities passed in its resolution of 30 November 2021; and
- d) effective from 5 April 2022, revokes the policy for all 'in-person' participants at formal Council meetings and Committee meetings, Hearings and official Council Workshops as adopted in its resolution of 30 November 2021.

OR

Option 2:

- c) resolves to retain the requirement for the production of a valid My Vaccine Pass for entry by the public to all Council facilities identified in the 30 November resolution.
- d) resolves to retain the policy for all 'in-person' participants at formal Council meetings and Committee meetings, Hearings and official Council Workshops; and
- e) this decision is formally review by the Council at its 12 May meeting [*or another date to be decided by Council*]; and

OR

Option 3:

- c) effective from 5 April 2022 [*or another date to be decided by Council*], revokes the requirement for the production of a valid My Vaccine Pass for entry by the public to all Council owned and operated facilities passed in its previous resolution of 30 November 2021 with the exception of H3 and Council owned and operated facilities, where a hirer has exclusive use of the entire facility and specifies use of the My Vaccine Pass for individual events;
- d) effective from 5 April 2022 [*or another date to be decided by Council*] revokes the policy for all 'in-person' participants at formal Council meetings and Committee meetings, Hearings and official Council Workshops as adopted in its previous resolution of 30 November 2021; and
- e) this resolution is formally review by Council at its 12 May meeting [*or another date to be decided by Council*].

Executive Summary - *Whakaraapopototanga matua*

- 4. This report is to the best of staff knowledge consistent with the changes released by central government on changes to the Covid protection framework. It is noted that the COVID-19 landscape, and risks associated with transmission of the COVID-19 virus will need to be monitored and reviewed on a regular basis
- 5. On 23 March central government announced the most significant changes to the Covid Protection Framework since its introduction four months prior.
- 6. The environment and understanding of the Covid pandemic in late November 2021, including the prevalence of the Delta variant and emergence of the Omicron Variant has changed significantly in the four months since the report to Council on the use of the My Vaccine Pass for entry to Council facilities.
- 7. The wider legislative context, including tensions between legislation to enact the COVID-19 Protection framework, the rights of individuals (for example under the New Zealand Bill of Rights Act 1990), health and safety and employment law, and the nature of Council's role in providing services to the community under the Local Government Act 2002 and other legislation remain.
- 8. Staff have assessed that there are three options for the Council to consider in relation to each of its facilities.
 - i. No vaccine mandate for any Council facilities
 - ii. Vaccine mandate all Council facilities not prohibited under the COVID-19 Protection Framework
 - iii. Vaccine mandate some Council facilities as determined by the Council
- 9. Staff note pursuant to clause 24.7 of Standing Orders, that the Council may on a recommendation in a report by the Chairperson, Chief Executive, or any committee or subcommittee, revoke or alter all or part of a resolution passed by a previous meeting. The Chief Executive must give at least two clear working days' notice of any meeting that will consider a revocation or alteration recommendation, such notice was given to the Council on 28 March 2022.
- 10. Staff consider the matters in this report have a high significance and that the recommendations comply with the Council's legal requirements.

Background - *Koorero whaimaarama*

November/December 2021

- 11. On 30 November 2021 Council resolved to require production of a valid My Vaccine Pass for entry by the public to the:
 - i. Hamilton Pools sites (Waterworld and the Gallagher Aquatic centre); and
 - ii. H3 Sites (Claudelands, FMG Stadium and Seddon Park).
 - iii. Hamilton Park Cemetery crematorium, chapel and other buildings accessed by the public;

- iv. Waikato Museum;
 - v. ArtsPost and i-site;
 - vi. Hamilton Gardens (pavilion, information centre/shop and enclosed gardens);
 - vii. Hamilton Zoo;
 - viii. Customer services in the Council Municipal building;
 - ix. Council's Municipal building;
 - x. Council Chambers;
 - xi. Hamilton City Libraries;
 - xii. Other owned and operated Council facilities – e.g., Te Rapa Sportsdrome and Enderley Community Centre.
12. In addition, Council put in place a specific policy regarding entry to Council and Committee meetings, requiring the use of the My Vaccine Pass.

Governance Covid-19 Vaccination Policy

The Governance Covid-19 Vaccination Policy shall apply from 14 December 2021;

All 'in-person' participants at formal Council meetings and Committee meetings, Hearings and official Council Workshops shall be vaccinated' and otherwise comply with Council Vaccination Policy for entering Council facilities.

This includes but is not limited to:

- *Maangai;*
- *Elected members;*
- *Staff;*
- *Presenters;*
- *Visitors attending the meetings, hearings and Workshops described above;*
- *Media.*

To prove that a person is vaccinated they must show their My Vaccine Pass, or relevant exemption documents, together with appropriate photo ID, on request.

Attendance at those meetings that would otherwise be open to the public will be enabled by Council broadcasting live the audio and/or video of the meeting.

Elected Members and Maangai may attend any meeting that they would otherwise be entitled to attend by means of an audio link or audio-visual link to the proceedings as provided for in clause 25B of Schedule 7 of the Local Government Act 2002.

This policy will be reviewed prior to the expiry or repeal of the Epidemic Preparedness (COVID-19) Notice 2020.

"Vaccinated" means:

- *Being fully vaccinated against Covid-19 as evidenced by a current, verifiable My Vaccine Pass (in electronic or print format).*
- *Having obtained an exemption from Covid-19 vaccination on medical grounds approved by the Director-General of Health.*

- 13. The report to Council was to the best of staff knowledge at that time and consistent with the suite of guidance released by central government on Friday 26 November 2021.
- 14. Omicron had just been identified as a 'variant of concern' by the World Health Organisation. Delta was at that time, the main variant and considered more likely to result in serious illness than previous variants or subsequently Omicron.
- 15. New Zealand's vaccination drive was underway, with 90% of the eligible population receiving two doses of the vaccine by mid-December.

16. In addition, the country was shifting from the 'lockdown' framework to the Covid Protection Framework – also referred to as the traffic light system, with legislation passing through parliament late in November 2021.

January - March 2022

17. On 30 January 2022 the Ministry of Health ceased separating Omicron case numbers in the daily update on the basis that Omicron had become the dominant variant.
18. On 23 March central government announced the most significant changes to the Covid Protection Framework since its introduction four months prior. In announcing these changes the government has noted that:
 - i. Now is the right time to review the restrictions we have in place, with the Omicron outbreak nearing its peak.
 - ii. A number of the tools that we developed to fight COVID-19 were designed to protect an unvaccinated population from earlier variants of the virus.
19. All of New Zealand is at the 'Red' setting. The next review of the traffic light settings is on 4 April. It will review what colour each area of New Zealand sits in.

Changes to the Covid Protection Framework

20. At the Red setting:
 - i. There are no limits for outdoor activities, such as gatherings and events, and food and drink businesses. My Vaccine Passes must be used until 11:59pm on 4 April 2022.
 - ii. There is a 200-person limit for indoor gatherings and events — My Vaccine Passes must be used until 11:59pm on 4 April 2022. If My Vaccine Passes are not used, the gathering limits remain unchanged.
 - iii. You do not need to wear a face mask outdoors.
 - iv. Other face mask rules remain unchanged — face masks are still required in most indoor settings.
21. At the Orange setting:
 - i. There is no limit for outdoor gatherings.
 - ii. There is no limit for indoor gatherings.
 - iii. You do not need to wear a face mask outdoors.
 - iv. Other face mask rules remain unchanged.
22. At the Green setting there are no restrictions.
23. From 11:59pm on 4 April 2022, there is no requirement to use My Vaccine Pass. Until 4 April, where My Vaccine Passes are not used, the current restrictions remain — but after this time, the new capacity limits will apply to everyone. After 4 April, businesses will still be able to use the system if they would like to.
24. From 11:59pm on 4 April 2022, some government vaccine mandates for workers will be removed. Workers that will still be covered by a government vaccine mandate include:
 - i. health and disability sector workers;
 - ii. prison staff; and
 - iii. border and MIQ workers.
25. Vaccine mandates remain in place for these sectors because workers in these areas have a high level of contact with people at risk of developing serious illness from COVID-19. For border workers, there is a high risk of exposure to new variants. Businesses will be able to voluntarily introduce workforce vaccination requirements if appropriate to the workforce.

26. Under the changes to the COVID-19 Protection Framework, wearing of face masks will no longer be required at any outdoor settings during the 'Red' and 'Orange' settings but they will be required at indoor locations like restaurants, shops and other premises. Face masks will continue to be required by workers at indoor events, hospitality venues and gatherings during Red and this requirement has been extended to include Orange. In the Green setting, face masks will be recommended but not required.

Discussion - *Matapaki*

Risk

27. Decisions on requiring a vaccination certificate for entry to Council facilities have followed a risk-based approach in-line with the approach to the staff vaccination policy. Risk assessments were used to help determine the effectiveness of control mechanisms, including vaccination, to reduce the potential risk to a level deemed acceptable, or as low as reasonably practicable. The environment has changed considerably since the first risk assessment was undertaken in November 2021.
28. It was and is reasonably foreseeable that if a person was exposed to Covid-19 without any controls in place then there was a high probability of infection and therefore risk of transference to others. We were not able to control the level of consequence. Council concluded that any level of 'higher risk' was not acceptable and the best way to reduce the risk of Covid-19 was to apply all controls available at the time, including vaccination, to reduce the likelihood of infection, severe illness, and transmission
29. As of 17 March 2022, 95.4% of those aged 12 and over were considered fully vaccinated and 72.9% of those eligible for a booster have received it. In contrast, on the date that HCC's policy was introduced, 87% of those eligible had received their second dose.
30. Vaccination became available for children aged five to 11 from 17 January 2022 meaning that there is now a portion of the previously ineligible population who are now at least partially vaccinated (53.5% of five – 11-year-olds as of 17 March 2022).
31. Emerging research suggests that people who have received two doses of Pfizer have around 65 – 70% protection from symptomatic disease, dropping down to just 10% protection by 25 weeks after the second dose. Protection is restored to around 60 – 75% after a booster, which reduces to between 25 – 40% after 15 weeks. This is compared to 40 – 60% and 90 – 95% protection from two and three doses respectively against symptomatic disease from Delta. (Source: After you have had COVID-19 | Unite against COVID-19 (covid19.govt.nz))
32. There is also emerging evidence that Omicron infection provides some level of natural immunity for a period after infection. (Source: COVID-19 vaccine surveillance reporting (publishing.service.gov.uk)) This theory is reflected in the changes to isolation requirements made 16 March 2022.
33. The 'Omicron wave' has had an impact on the Waikato. Advice from the DHB indicates that Waikato case numbers may have peaked, with potentially peak cases at the hospital as well. Health care services remain under pressure and may continue to be under pressure for some time depending on how long the 'tail' of the Omicron wave is. Pressure on health care services will also continue as we come in to winter, with seasonal viruses such as Flu, Whooping Cough, and RSV increasing during this time. Exposure to Omicron continues to be a source of concern for those in the community who are vulnerable (those who are elderly or immunocompromised for example).
34. The table below provides data total cases by location (as at 29 March 2022) for the Waikato, neighbouring regions for context and the national totals. Source: <https://www.health.govt.nz/covid-19-novel-coronavirus/covid-19-data-and-statistics/covid-19-current-cases>

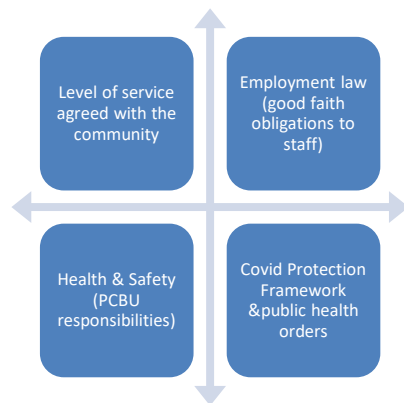
Location	Active	Recovered	Deceased*	Total	Change in last 24 hours*
Auckland	5,695	63,400	40	69,135	2,109

Bay of Plenty	6,424	30,718	18	37,160	996
Waikato	9,815	46,716	38	56,569	1,590
National total	109,227	518,405	266	627,898	17,211
			* Reporting is cases who have died with Covid.		*The change in total case numbers may not be equal to the number of new cases reported today due to data updating and reconciliation.

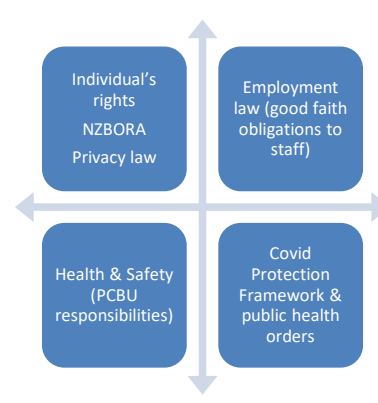
Wider legislative context

35. The decisions made within the COVID-19 and health and safety legislative frameworks do not sit in a vacuum. There are tensions between legislation to enact the COVID-19 Protection framework, the rights of individuals (for example under the New Zealand Bill of Rights Act 1990), health and safety and employment law, and the nature of Council's role in providing services to the community under the Local Government Act 2002 and other legislation. The fundamentals of this context have not changed.

Community Facilities legislative context



Council workforce legislative context



Health and Safety at Work Act 2015

36. Similarly, Council's fundamental obligations the Health and Safety at Work Act 2015 ("the Act") have not changed. That is:
- the health and safety of workers while they are carrying out their work for or as directed by the Person Conducting a Business or Undertaking (PCBU);
 - that the health and safety of other persons is not put at risk from work carried out as part of the conduct of the business or undertaking;
 - the provision of a work environment that is without risks to health and safety; and
 - the provision and maintenance of safe systems of work; and
 - the provision of any information, training, instruction, or supervision that is necessary to protect all persons from risks to their health and safety arising from work carried out as part of the conduct of the business or undertaking.
37. A PCBU who manages or controls a workplace, has a duty under the Act to ensure, so far as is reasonably practicable, that the workplace, the means of entering and exiting the workplace and anything arising from the workplace are without risks to the health and safety of any person (public and workers included).
38. A duty imposed on a person under the Act requires that person to eliminate risks to health and safety so far as is reasonably practicable, and when it is not reasonably practicable to eliminate the risk, to minimise the risk so far as is reasonably practicable.

39. What has changed since the decision was taken in November 2021, is outlined above in this report: the rapid emergence of Omicron as the dominant variant; rates of immunisation and immunity in the population; access to rapid antigen testing (RATs); and recently the government's shift to relax restrictions around isolation for infected people, contacts and people entering the country from overseas.

New Zealand Bill of Rights Act 1990 and Human Rights Act 1993

40. Businesses that wish to continue to use My Vaccine Passes as a condition of entry for customers can - but they will need to be able to justify doing so, taking into account updated public health advice.
41. Generally, businesses can restrict entry based on vaccination status, unless:
- i. the traffic light system prohibits My Vaccine Passes from being requested at these locations e.g. supermarkets or pharmacies.
 - ii. asking for My Vaccine Passes is prevented by contractual provisions, for example, requirements of a landlord or under a franchise agreement.
 - iii. asking for My Vaccine Passes is contrary to legislative provisions, for example, prohibitions on discrimination under the Human Rights Act 1993.
42. Tompkins Wake have advised the following:

Requiring production of My Vaccine Pass at a Council premises/facility requires the holder to be vaccinated with two doses of a medically approved Covid-19 vaccine. We have considered whether refusing entry for not being fully vaccinated could be a breach of the New Zealand Bill of Rights Act 1991 (BORA) or the Human Rights Act 1993 (HRA).

Religious grounds

43. *This argument is no longer in play. Police and Defence Force employees did recently succeed on this ground (in large part because the Crown failed to provide sufficient evidence that service continuity would be affected by the presence of unvaccinated employees, so that the Judge was unable to find that the limitation of the right was justifiable). The employees' evidence in relation to religious belief was that, for some Christians, Pfizer was unacceptable as foetal-derived tissue was used in its development. Novovax, which was developed without the use of foetal-derived cell lines or tissue, has since become available in New Zealand, so an argument on religious grounds is now highly unlikely to succeed.*

Refusal of medical treatment

44. *A requirement for a vaccine pass does not compel a person to receive the vaccine but it does limit their right to refuse medical treatment in that there are consequences that flow from a decision not to be vaccinated. For Council to continue to refuse access to those who cannot produce a vaccine pass on the grounds of religious belief or their right to refuse medical treatment, Council needs to be able to demonstrate that the limitation on these fundamental rights is reasonable, and demonstrably justified in a free and democratic society. The burden is on Council to establish this. Presumably, Council's justification will be ensuring the health and safety of both the public and Council employees.*
45. *It is clear that the vaccines do not completely prevent transmission of omicron (whereas there is growing evidence that transmission can be significantly reduced by ventilation and air filtration). The vaccines do provide some protection against transmission of symptomatic disease and they have a significant impact on hospitalisation and death. Vaccination rates are now even higher than when Council first brought in its policy (including with the vaccine now being available to children from the age of 5 years), and a significant number of New Zealanders (vaccinated and unvaccinated) will have a limited period of natural immunity having recently recovered from covid. Further, the government has recently announced dropping mandates for a number of sectors, increased in gathering sizes, and allowing businesses to dispense with My Vaccine Passes if they choose.*

46. *Taking all of these factors into account, we consider that the risk of Council being found to have breached the right to refuse medical treatment is now higher than when the policy was first adopted. We would characterise the risk as moderate rather than high. In addition to the fact that a challenge is now more likely to succeed, the fact that the government has removed the requirement for vaccine passes in certain sectors means that if Council retained a vaccine pass requirement for cafés at Council venues (for example), there is also a greater likelihood of a challenge being brought in the first place.*

Options

Council decision on facilities

47. Staff have assessed that there are three options for the Council to consider in relation to each of its facilities.
- No vaccine mandate for any Council facilities; or
 - Vaccine mandate all Council facilities not prohibited under the COVID-19 Protection Framework retained; or
 - Vaccine mandate retained at some Council facilities or for events as determined by the Council.
48. It will be for the Council to decide on access requirements and any restrictions to be imposed to Council owned and operated facilities/services.
49. Council will also need to consider when any decisions will take effect and the way that they will be implemented and enforced.
50. A table outlining the impact of the 4 April changes to the Covid Protection Framework on the operation of facilities is below:

Traffic lights – there is no difference with or without MVP	Notes
Cemeteries/Funerals	
No limits	This is a small team of essential workers providing an essential service.
No limits, face masks required in doors.	
200-person limit for indoor gatherings and events. Face masks required in doors. Physical distancing capacity to be observed.	
Hamilton Pools, gym, and café	
No limits	The proportion of users who would be impacted through the removal of a mandate is smaller than the number impacted if the mandate is applied and the logistics of managing vaccine passes in one part of the facility would be very challenging for a number of reasons including that users typically changing facilities in the general areas of WW due to the small number in the hydro pool area. Whilst the hydro pool has a higher proportion of customers with health needs, these customers also use other pools and services within the complex such as the gym. Also, as well as the hydro pool’s primary use for rehabilitation needs, it is increasingly programmed for specialist activities such as Waahine in Water and a new sensory program (weekend operating hours were recently increased to maximise opportunities for this inclusive, flexible use).
No limits, face masks required in doors.	
200-person limit for indoor gatherings and events. Face masks required in doors. Physical distancing capacity to be observed.	

Traffic lights – there is no difference with or without MVP		Notes
H3 Sites (FMG, Seddon, Claudelands) and other Council venues - covers stadiums, professional or semi-professional sporting events, private or public events of all sizes, auctions, private galleries, concert venues, conference venues		
No limits	H3 has a commercial imperative under the current framework to maximise the number of people who can attend events. There are some clients who have indicated a preference for use of My Vaccine Passes at events, regardless of government requirements. H3 have identified a need for discretion to implement vaccine passes for events at H3 venues where a client wishes to stipulate the vaccine pass requirement as a condition of entry' for attending the event. Staff expect it would be fairly rare for a client to do this but is a possibility. The impact of not having the discretion for vaccine passes to be implemented for events may lead to loss of potential business	
No limits, face masks required in doors.		
200-person limit for indoor gatherings and events. Face masks required in doors. Physical distancing capacity to be observed.		
Hamilton Gardens (Pavilion, Information Centre, Shop, and Enclosed Gardens)		
No limits	Clarity on use of face masks and communication of expectations to the public needed due to indoor – outdoor flow of the facility.	
No limits, face masks required in doors.		
No limit for outdoor gatherings, you do not need to wear a face mask outdoors. 200-person limit for indoor gatherings and events. Face masks required in doors. Physical distancing capacity to be observed.		
Hamilton Zoo		
No limits	Risk to essential workers and animals i.e. business continuity and animal welfare considerations need to be understood. Clarity on use of face masks and communication of expectations to the public needed due to indoor – outdoor flow of the facility.	
No limits, face masks required in doors.		
No limit for outdoor gatherings, you do not need to wear a face mask outdoors. 200-person limit for indoor gatherings and events. Face masks required in doors. Physical distancing capacity to be observed.		
Customer Services and municipal building, Council Chambers, ArtsPost and i-site, City Libraries, Waikato Museum		
No limits	No further comments	
No limits, face masks required in doors.		
200-person limit for indoor gatherings and events. Face masks required in doors. Physical distancing capacity to be observed.		
Community Facilities - Council-run and leased		
No limits	Council could potentially implement a user-based approach – if an exclusive use hirer wishes to apply a vaccine pass, similar to H3.	
No limits, face masks required in doors.		
No limit for outdoor gatherings, you do not need to wear a face mask outdoors. 200-person limit for indoor gatherings and events. Face masks required in doors. Physical distancing capacity to be observed.		
Outdoor community events		
No limits	Council could potentially implement a user-based approach – if an exclusive use hirer wishes to apply a vaccine pass, similar to H3.	
No limits, face masks required in doors.		
There is no limit for outdoor gatherings. You do not need to wear a face mask outdoors.		

51. For completeness the following is also noted:

- i. Transportation centres –the provision of public transport is considered an essential service, for this reason transport centres were not subject to a vaccination certificate mandate.
- ii. Porritt Stadium and other open-air sites with changing rooms were being approached as not requiring a vaccination certificate for use. Those booking parks and sports grounds will be expected to comply with the Covid Protection Framework and guidance from Sport New Zealand on managing their activities.
- iii. Leased premises – lease holders in general have exclusive long-term use of a site/building and will need to make their own decisions on how they operate. Staff also acknowledge that we have a wide range of lease holders, and some community groups may need further assistance to work through this issue.
- iv. Parks/reserves/playgrounds (open air) – there are no requirements for vaccination certificates at these sites.
- v. Transfer, recycling and organic waste centres – these locations are controlled and operated by Envirowaste under contract.

Other considerations

52. Sitting alongside this are other considerations which are outlined below.

- i. Indoor/enclosed facilities vs. open air – ventilation has been shown to be a key factor in the risk of transmission of COVID-19
- ii. Essential workers – staff who are critical to the operation of our services need to be protected from the spread of the virus
- iii. Essential service – whether a service is considered essential will in some cases dictate whether a vaccine certificate can be required for entry to our premises
- iv. Under five/vulnerable members of our community – currently those under five are not eligible for vaccination, and the vulnerable (immune compromised, co-morbidities, elderly) in our community are at greater risk of health problems even if they are vaccinated. These groups of our community make up a proportion of those visiting and using our facilities.
- v. Impact on KPIs, levels of service and ability to operate and provide services to the community - council has set its levels of service under the Long-Term Plan, the decision on whether to require vaccination certificate for our facilities may impact the manner and extent to which our services can operate, as well as impact their ability to achieve revenue targets.
- vi. Stakeholder views – staff have been talking to the major stakeholders (e.g. clubs, lease holders, friendly societies to understand their views on any council decision)
- vii. Other risks specific to the facility – some facilities have specific risks – for example, the pools where close contact, gym use and in ability to use masks when in pools need to be considered, or the Hamilton Zoo – where transmission of COVID-19 to animals and animal welfare are a consideration.
- viii. Any challenges with operationalisation of traffic light framework
- ix. Alternative ways of accessing our services – staff have also considered the ability to offer services in a different way to the community.

Timeframes

53. It is recommended that any change to Council's stance on the use of the My Vaccine Pass comes into effect from 5 April 2022.

31 March	Council meeting – review of decision on use of My Vaccine Passes at facilities
4 April	Government review of the red traffic light setting

11:59pm on 4 April	There is no longer a requirement to use the My Vaccine Pass under government changes to the Covid Protection framework.
15 April	School Holidays start for most schools
TBC	Any changes to the Government review of the red traffic light setting come into force.

Financial Considerations - *Whaiwhakaaro Puutea*

54. There will be financial considerations in relation to the decisions to be made.
55. Where the decision is to restrict entry/services to individuals who present proof of vaccination or an exemption the key financial considerations will be:
 - i. Costs of compliance, such as the additional staffing resource to manage entry and requisite technology.
 - ii. Costs in facilitating alternative ways of delivering the service (where possible and to the extent possible).
 - iii. The impact on revenue from unvaccinated patrons being excluded.
 - iv. Staff-related financial considerations e.g. increased cost of staff physical and mental ill health and absenteeism related to potential exposure and/or exposure to Covid19; plus wellbeing issues for staff related to any public dissatisfaction with Council's decision to require vaccine passes at public facilities.

Legal and Policy Considerations - *Whaiwhakaaro-aa-ture*

56. Staff confirm that the report complies with Council's legal and policy requirements.

Wellbeing Considerations - *Whaiwhakaaro-aa-oranga tonutanga*

57. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
58. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report as outlined below.
59. The recommendations set out in this report are consistent with that purpose.

Social

60. The decisions to be made with respect to facilities have the capacity to affect social wellbeing of communities. Any restrictions on entry/access to services will have a direct impact on the members of communities who will no longer be able to enter those facilities or access those services.
61. These decisions will have an impact for vulnerable/immunocompromised members of the community as they will be able to access these facilities and use these services with greater confidence as to their safety.
62. Social wellbeing continues to be prioritised through Council's management of the risks and opportunities arising from the risks outlined in this report.

Economic

63. Any economic impact is likely to be minor (except for those high-risk areas in which the decision has already been made by central government).

Environmental

64. These decisions are not anticipated to effect environmental wellbeing.

Cultural

65. These decisions may have an adverse effect on cultural wellbeing if cultural events or gatherings are unable to go ahead because of key people being unvaccinated or if some members of the community are unable to attend those events due to being unvaccinated. At the same time, these decisions may mean that some events can go ahead which otherwise would not have, due to capacity limits or if organisers would have been concerned about holding events which might have put their community at risk.
66. Being able to make reliable plans for artistic, cultural and community events will enhance cultural wellbeing after periods of cancellations.
67. The impact of these decisions on Maaori and Pasifika communities deserves consideration, given the lower rates of vaccination uptake in Maaori communities in Hamilton and across the motu. Restricting access to facilities will therefore have a greater impact on Maaori than on other ethnic groups.
68. Data as at 28 March 2022 for Hamilton City (ages 12+) shows the:
- i. uptake for Maaori of the booster of 52.1%, compared to the national average for Maaori of 58.5%.
 - ii. Uptake for Pasifika of the booster of 58.7%, compared to the national average for Pasifika of 59.4%.
 - iii. uptake for all ethnicities of the booster of 68.1%, compared to the national average for all ethnicities of 72.8%.
- (<https://covid19.govt.nz/news-and-data/covid-19-vaccination-rates-around-new-zealand/>)

Risks – *Tuuraru*

69. Decisions on requiring a vaccination certificate for entry to Council facilities follows a risk-based approach. This is detailed above in this report.

Significance & Engagement Policy - *Kaupapa here whakahira/anganui*

Significance

70. This matter is assessed as having a high degree of significance. This is because it involves the potential for a more than nominal alteration in the provision of a number of Council services, there is a high degree of public interest in vaccine mandate decisions, the decision impacts all users of Council facilities.

Engagement

71. Given the very short timeframes before the changes to the traffic light system commence, it is not possible to carry out public consultation on this matter. Elected members will have considerable knowledge of the views that their communities hold in relation to COVID-19 vaccines and vaccine mandates. This is likely to include the strength of feeling demonstrated by the various court cases brought against workplace mandates and the public protests against mandates and other public health measures, and, on the other hand, the widespread uptake of the vaccine.
72. Staff have recorded as at writing this report under 200 complaints (written/email/via social media), more will have been received in person (verbally) by staff at our facilities. Themes are around access, requests for a rates refund, discrimination, and questioning the risk posed by Covid/unvaccinated individuals and/or efficacy of the vaccine.

73. A petition has also been circulated by a member of the public, requesting the removal of My Vaccine pass requirements at Council facilities. This will be circulated separately and addressed by the petitioner in public forum.
74. Standing Orders provide that: *the Council will consider a petition on any matter relating to either the services it provides or may be provided by it, or any policy or intended policy of the Council at such times as the citizens of Hamilton request, subject to the provisions outlined below. Petitions may be presented to the Council or any of its committees (ensuring it relates to matters within the terms of reference of committee). A valid petition will be considered by the Council or appropriate Committee, together with staff advice, within sixty days of receipt or two meeting cycles.*
75. Staff have not had the opportunity to check if the petition meets the criteria set out under Standing Orders, this will be reviewed by staff.
76. There has also been support from other members of the community – those who are vulnerable feel encouraged to use services. This feedback has not been tracked by staff and is for this reason anecdotal.
77. Input from stakeholders, including health authorities/providers, the disability community, civil liberties groups, and mana whenua, has not been sought due to time constraints.

Attachments - *Ngaa taapirihanga*

There are no attachments for this report.