
Extraordinary Council

OPEN MINUTES

Minutes of a meeting of the Council held in Council Chamber, Municipal Building, Garden Place, Hamilton on Wednesday 25 March 2020 at 9.30am.

PRESENT

Chairperson	Mayor P Southgate
Deputy Chairperson	Deputy Mayor G Taylor
Members	Cr M Bunting Cr M Forsyth Cr M Gallagher Cr R Hamilton Cr D Macpherson Cr K Naidoo-Rauf – <i>Via Audio Visual Link</i> Cr A O’Leary – <i>Via Audio Visual Link</i> Cr R Pascoe Cr S Thomson – <i>Via Audio Visual Link</i> Cr M van Oosten Cr E Wilson – <i>Via Audio Visual Link</i>
In Attendance:	Richard Briggs – Chief Executive Mothla Majeed – Legal Services Manager – <i>Via Audio Visual Link</i> Lachlan Muldowney – Legal Advisor to Council– <i>Via Audio Visual Link</i>
Governance Staff:	Becca Brooke – Governance Manager Amy Viggers – Governance Team Leader

1. Apologies

There were no apologies.

It was noted that four Elected Members (Crs Naidoo-Rauf, Thomson, O’Leary and Wilson) were attending the meeting via audio visual link. For the purpose of the this meeting they would not be counted for quorum but are still be able to take part in the meeting and vote on any decisions.

2. Confirmation of Agenda

Resolved: (Cr van Oosten/Cr Pascoe)

That the agenda is confirmed.

3. Declarations of Interest

No members of the Council declared a Conflict of Interest.

4. Public Forum

No members of the public wished to speak.

5. Decision-making during Covid-19

The Mayor introduced the report and outlined the options covered in the report. Staff and Council's legal advisors responded to questions from Elected Members concerning the differences between the options available, legislative constraints/provision and processes that would be put in place to support options.

Resolved: (Cr Macpherson/van Oosten)

That the Council suspend **Standing Order 23.8: Foreshadowed and Further Amendments** for the purpose of enabling foreshadowed amendments to be seconded by those who have spoken in debate.

Decision-making during Covid-19:

Motion: (Cr Pascoe/ Mayor Southgate)

1. That the Council extends the Chief Executive's current delegations (detailed in the Council's *Delegations to Positions Policy*) to include all of Council's responsibilities, duties, and powers currently retained by Council or delegated to Council's standing committees (except the District Licensing Committee) (**Extended CE Delegations**), subject to the following requirements:
 - a) The Extended CE Delegations will have effect only for the period from the date of this meeting until Council next meets at which time the Extended Delegations will automatically be revoked unless Council resolves otherwise at that meeting.
 - b) The Extended CE Delegations do not include a delegation of any Council powers, duties and functions which are prohibited by law from delegation - including, without limitation, those set out in clause 32(1) of the Seventh Schedule to the Local Government Act 2002.
2. That the Council approves, for the avoidance of doubt, that the Extended CE Delegations include the power to cancel Council and committee meetings currently scheduled which, in the reasonable opinion of the Chief Executive, should be cancelled to comply with the current central government Covid-19 alert level.
3. That the Council approves, for the avoidance of doubt, that the Extended CE Delegations may and will be exercised by an acting Chief Executive, appointed from time to time by the Chief Executive, in the event the Chief Executive is unable to act.
4. That the Council notes that the Chief Executive has committed to exercising the Extended CE Delegations in accordance with the following guideline process:
 - a) The Chief Executive will exercise any one or all of the Extended CE Delegations from time to time only after first consulting with the Mayor (or Deputy Mayor) and Chair (or Deputy Chair) of the relevant committee (if any) where reasonably practicable and subject to their availability.
 - b) The Chief Executive will not exercise the Extended CE Delegations unless he has first made all reasonable endeavors to achieve the consultation measures identified in paragraph 4(a) above.
 - c) Where, in the reasonable opinion of the Chief Executive, a decision requiring the exercise of the Extended CE Delegations could be deferred without any material consequences, the Chief Executive may elect to not exercise the Extended CE Delegations, and instead defer the decision until the next full Council meeting.

- d) The Chief Executive will advise Elected Members, Maangai Maaori and any external appointees to the relevant committee of each decision to exercise of the Extended CE Delegations as soon as reasonably possible once it has been made.
 - e) The Chief Executive shall keep a running record of all occasions where the Extended CE Delegations have been exercised and shall remain accountable to elected members for the proper and prudent exercise of the Extended CE Delegations.
 - f) The Chief Executive shall provide an overall report of the exercise of the Extended CE Delegations at the next full meeting of Council as described in paragraph 1(a) above.
5. That the Council agrees that before providing their views to the Chief Executive as described in paragraph 4(a) above, the Mayor (or Deputy Mayor) and Chair (or Deputy Chair) of the relevant committee (if any) will carry out the following steps:
- a) Seek the views of other elected members, Maangai Maaori and any external appointees to the relevant committee (if any) on the proposed decision where reasonably practicable and subject to their availability.
 - b) Whether the step described at paragraph 5(a) above is reasonably practicable is at the discretion of the Mayor Deputy Mayor) and Chair (or Deputy Chair) of the relevant committee (if any) in consultation with the Chief Executive, depending on the urgency and significance of the decision at hand.
6. That the Council approves the suspension until further notice of Standing Order 14.2 (providing attendance by audiovisual link does not count for quorum purposes), in order to allow remote Council meetings to take place in the event the legislative requirement for physical attendance is also suspended.

Amendment: (Cr Thomson/Cr Van Oosten)

1. That the Council approves extending the Chief Executive's current delegations (detailed in the Council's *Delegations to Positions Policy*) to include all of Council's responsibilities, duties, and powers currently retained by Council or delegated to Council's standing committees (except the District Licensing Committee) (**Extended CE Delegations**), subject to the following requirements:
- a) The Extended CE Delegations will have effect only for the period from the date of this meeting until Council next meets at which time the Extended Delegations will automatically be revoked unless Council resolves otherwise at that meeting.
 - b) The Extended CE Delegations do not include a delegation of any Council powers, duties and functions which are prohibited by law from delegation - including, without limitation, those set out in clause 32(1) of the Seventh Schedule to the Local Government Act 2002.
2. That the Council approves, for the avoidance of doubt, that the Extended CE Delegations include the power to cancel Council and committee meetings currently scheduled which, in the reasonable opinion of the Chief Executive, should be cancelled to comply with the current central government Covid-19 alert level.
3. That the Council approves, for the avoidance of doubt, that the Extended CE Delegations may and will be exercised by an acting Chief Executive, appointed from time to time by the Chief Executive, in the event the Chief Executive is unable to act.
4. That the Council notes that the Chief Executive has committed to exercising the Extended CE Delegations in accordance with the following guideline process:
- a) The Chief Executive will exercise any one or all of the Extended CE Delegations from time to time only after first allowing Elected Members, Maangai Maaori and any external appointees to the relevant committee (if any) the opportunity to provide their views on the proposed decision. The opportunity for consultation will be

provided by calling a virtual meeting with at least 24 hours' notice **(where practicable/possible)**. For clarity, the virtual meeting is to have no quorum requirements. These consultation measures will be taken where reasonably practicable. For clarity, the ultimate decision will nevertheless rest with the Chief Executive.

- b) The Chief Executive will not exercise the Extended CE Delegations unless he has first made all reasonable endeavors to achieve the consultation measures identified in paragraph 4(a) above.
 - c) Where, in the reasonable opinion of the Chief Executive, a decision requiring the exercise of the Extended CE Delegations could be deferred without any material consequences, the Chief Executive may elect to not exercise the Extended CE Delegations, and instead defer the decision until the next full Council meeting.
 - d) The Chief Executive will advise Elected Members, Maangai Maaori and any external appointees to the relevant committee of each decision to exercise of the Extended CE Delegations as soon as reasonably possible once it has been made.
 - e) The Delegated Group shall keep a running record of all occasions where the Group Delegations have been exercised and shall remain accountable to elected members for the proper and prudent exercise of the Group Delegations.
 - f) The Chief Executive shall provide an overall report of the exercise of the Extended CE Delegations at the next full meeting of Council as described in paragraph 1(a) above.
5. That the Council approves the suspension until further notice of Standing Order 14.2 (providing attendance by audiovisual link does not count for quorum purposes), in order to allow remote Council meetings to take place in the event the legislative requirement for physical attendance is also suspended.

Foreshadowed Amendment:

(Cr Forsyth/Deputy Mayor Taylor)

1. That the Council delegates all of Council's responsibilities, duties, and powers currently retained by Council or delegated to Council's standing committees (except the District Licensing Committee) to the Mayor, Deputy Mayor, and 6 Chairs of the Finance, Infrastructure Operations, Strategic Growth, Economic Development, Environment and Community Committees, and the Deputy Chairs of the relevant committee **only if the Chair is unavailable**, (together, the **Delegated Group**) to exercise (**Group Delegations**), subject to the following requirements:
- a) The Delegated Group will meet virtually if it is unable to meet in person.
 - b) Decisions will be made by majority where reasonably practicable. Where a member of the Delegated Group is unable to act or, in respect of an urgent decision, is otherwise unavailable, then decisions must be made by a minimum of two members of the Delegated Group where those two members constitute the majority of those members able to meet. Where deemed necessary to achieve efficient and timely decision making, the Delegated Group may by consensus sub – delegate their powers solely to the Chief Executive.
 - c) Where the Deputy Chair of the relevant committee is unable to act, then the Deputy Chair of another committee (as nominated by the Mayor) will act in their place.
 - d) The Group Delegations will have effect only for the period from the date of this meeting until Council next meets at which time the Group Delegations will automatically be revoked unless Council resolves otherwise at that meeting.
 - e) The Group Delegations do not include a delegation of any Council powers, duties and functions which are prohibited by law from delegation - including, without limitation, those set out in clause 32(1) of the Seventh Schedule to the Local Government Act 2002.

2. That the Council approves, for the avoidance of doubt, that the Group Delegations include the power to cancel Council and committee meetings currently scheduled which, in the reasonable opinion of the Delegated Group, should be cancelled to comply with the current central government Covid-19 alert level.
3. That the Council notes that the Group Delegations will be exercised in accordance with the following guideline process:
 - a) Prior to the Delegated Group exercising any one or all of the Group Delegations from time to time, they will take all reasonable steps to consult with other elected members, Maangai Maaori and any external appointees to the relevant committee (if any) on the proposed decision where reasonably practicable and subject to their availability.
 - b) Whether the step described at paragraph 3(a) above is reasonably practicable is at the sole discretion of each member of the Delegated Group, depending on the urgency and significance of the decision at hand.
 - c) Where, in the reasonable opinion of the Delegated Group, a decision requiring the exercise of the Group Delegations could be deferred without any material consequences, the Delegated Group may elect to not exercise the Group Delegations, and instead defer the decision until the next full Council meeting.
 - d) The Delegated Group will advise Elected Members, Maangai Maaori and any external appointees to the relevant committee of each decision to exercise of the Group Delegations as soon as reasonably possible once it has been made.
 - e) The Delegated Group shall keep a running record of all occasions where the Group Delegations have been exercised and shall remain accountable to elected members for the proper and prudent exercise of the Group Delegations.
 - f) The Delegated Group shall provide an overall report of the exercise of the Group Delegations at the next full meeting of Council as described in paragraph 1(a) above.
4. That the Council approves the suspension until further notice of Standing Order 14.2 (providing attendance by audiovisual link does not count for quorum purposes), in order to allow remote Council meetings to take place in the event the legislative requirement for physical attendance is also suspended.

The Amendment was put.

Those for the Amendment:	Councillors Gallagher, O'Leary, Naidoo-Rauf, van Oosten, Thomson and Wilson.
Those against the Amendment:	Mayor Southgate, Deputy Mayor Taylor, Councillors Pascoe, Macpherson, Bunting, Hamilton and Forsyth.

The Amendment was declared LOST.

The Foreshadowed Amendment was then put.

Those for the Foreshadowed Amendment:	Deputy Mayor Taylor, Councillors Bunting, and Forsyth.
Those against the Foreshadowed Amendment:	Mayor Southgate, Councillors Gallagher, Pascoe, O'Leary, Macpherson, Hamilton, Naidoo-Rauf, van Oosten, Thomson and Wilson

The Foreshadowed Amendment was declared LOST.

The Motion was then put and declared CARRIED unanimously.

Resolved: (Cr Pascoe/ Mayor Southgate)

That the Council extends the Chief Executive's current delegations (detailed in the Council's *Delegations to Positions Policy*) to include all of Council's responsibilities, duties, and powers currently retained by Council or delegated to Council's standing committees (except the District Licensing Committee) (**Extended CE Delegations**), subject to the following requirements:

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 - b) The Extended CE Delegations do not include a delegation of any Council powers, duties and functions which are prohibited by law from delegation - including, without limitation, those set out in clause 32(1) of the Seventh Schedule to the Local Government Act 2002.
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 - b) The Chief Executive will not exercise the Extended CE Delegations unless he has first made all reasonable endeavors to achieve the consultation measures identified in paragraph 4(a) above.
 - c) Where, in the reasonable opinion of the Chief Executive, a decision requiring the exercise of the Extended CE Delegations could be deferred without any material consequences, the Chief Executive may elect to not exercise the Extended CE Delegations, and instead defer the decision until the next full Council meeting.
 - d) The Chief Executive will advise Elected Members, Maangai Maaori and any external appointees to the relevant committee of each decision to exercise of the Extended CE Delegations as soon as reasonably possible once it has been made.
 - e) The Chief Executive shall keep a running record of all occasions where the Extended CE Delegations have been exercised and shall remain accountable to elected members for the proper and prudent exercise of the Extended CE Delegations.
 - f) The Chief Executive shall provide an overall report of the exercise of the Extended CE Delegations at the next full meeting of Council as described in paragraph 1(a) above.
 5. That the Council agrees that before providing their views to the Chief Executive as described in paragraph 4(a) above, the Mayor (or Deputy Mayor) and Chair (or Deputy Chair) of the relevant committee (if any) will carry out the following steps:
 - a) Seek the views of other elected members, Maangai Maaori and any external appointees to the relevant committee (if any) on the proposed decision where reasonably practicable and subject to their availability.
 - b) Whether the step described at paragraph 5(a) above is reasonably practicable is at the discretion of the Mayor Deputy Mayor) and Chair (or Deputy Chair) of the relevant

committee (if any) in consultation with the Chief Executive, depending on the urgency and significance of the decision at hand.

6. That the Council approves the suspension until further notice of Standing Order 14.2 (providing attendance by audiovisual link does not count for quorum purposes), in order to allow remote Council meetings to take place in the event the legislative requirement for physical attendance is also suspended.

The meeting was declared closed at 11.17am.