

Report

Date : 26 July 2017

To : Mayor and Councillors
Tararua District Council

From : Malcolm Thomas
Strategy and Policy Adviser

Subject : **Outcomes of the Local Government Act 2002 Section 17A Service Review Process**

Item No : **11.6**

1. Reason for the Report

1.1 For Council to formally adopt the outcomes of the Section 17A service review process reflecting the discussions from a series of workshops over the last two years. This report is part of the Service Review process under Section 17A of the Local Government Act 2002 (LGA 2002), and allows Council to progress towards meeting its legal obligations.

2. Background

2.1 Service reviews are required by legislation (LGA 2002 s17A as amended in 2014). A review of services is a mandatory requirement when there is:

- Significant change to levels of service, or
- Council signing a significant contract for service (new or renewal, Council determines significance). Council has set the trigger point for a significant contract at \$200,000 a year operating cost.

2.2 Regardless of the above the LGA (*Clause 2, schedule 1AA*) requires that all services are reviewed by 8 August 2017. After this first review there is a six-year cycle of mandatory reviews, or whenever a review is required by the two triggers above.

2.3 The legislation requires that a service delivery review should periodically assess *“the cost-effectiveness of current arrangements for meeting the needs of communities within its district or region for good quality local infrastructure, local public services, and performance of regulatory functions”*.

- 2.4 A full s17A review determines the cost-effectiveness of different funding, governance and service delivery options for meeting the needs of communities. For each service being reviewed each combination of the above needs to be considered. Considering a Council Controlled Organisation (CCO), shared service and contracting out are options that are mandatory.
- 2.5 Not all services will require a 'full' review looking at costing and analysing the current service delivery against mandatory and any other options. At Council's discretion service reviews are not required where:
- Council is legally obliged to deliver the service,
 - Council has a binding contract that has more than 2 years to run,
 - Council has recently carried out a review that considers the mandatory options,
 - Council considers that the costs of a review outweigh the benefits, such as:
 - Small service area operating costs,
 - Contract value below a determined threshold,
 - No workable alternatives
- 2.6 For those services not exempt for any of the above reasons Council is required to carry out a detailed review. The review must consider the mandatory options (but other options should be considered if sensible):
- a) in-house governance, funding and delivery
 - b) in-house governance and funding, but
 - i. delivery by a CCO, whether wholly owned by the local authority, or a CCO where the local authority is a part owner
 - ii. another local authority
 - iii. another person or agency (for example central government, a private sector organisation or a community group)
 - c) responsibility for governance and funding is delegated to a joint committee or other shared governance arrangement, with delivery options as set out in b).
- 2.7 The Society of Local Government Managers (SOLGM) good practice template has been used as the basis for each review process and content.
- 2.8 The LGA does not define the services or what is significant. The Significance and Engagement Policy gives Council guidance on this. There are a few services such as Civil Defence that are 'significant' but have a relatively low cost.

3. Options and Discussion

3.1 Council considered a number of s17A compliant reviews during the period 2014/15 and 2015/16. These were triggered by the expiry of major contracts, the decision to exit housing and solid waste kerbside refuse, and as part of other service reviews that occurred.

- Housing – s17A options were considered as part of the assessment of options that resulted in the decision to sell these assets. Subsequent reports have resulted in Council deciding to re-consider this decision as part of the 2018 Long Term Plan (LTP) process.
- Solid waste contracts – A series of external contracts for the operation of transfer stations were considered significant. Council resolved that the services delivered through the contracts should continue.

3.2 Council considered the process for s17A reviews in a workshop in August 2015. Council approved a report in April 2016 in which:

- Councillors agreed that the threshold for significant contracts should be \$200,000,
- Services were grouped together to match the Long Term Plan structure in order to minimise staff work.

3.3 A series of Council workshop sessions have taken place to consider s17A review material prepared by Council staff. Councillors gave directions as to which services should:

- proceed to full s17A service reviews,
- maintain the current delivery model, or
- are exempt from the review process at this time.

3.4 The material presented at workshops set out the current state of each service and the options available to the governance, funding and service delivery of each. In addition to the reviews previously undertaken during 2014-16, full reviews were indicated as necessary for:

- Regulatory Services (workshop in May 2016)
- IT support

3.5 Council reconsidered the need for a full review of Regulatory Services at a workshop on 27 June 2017. A range of factors, including the direction of neighbouring councils during the s17A service reviews, government legislative changes and other shared service initiatives (GoShift), has resulted in considerable uncertainty and few options. Council supported the view that a full review is no longer an efficient option.

- 3.6 The table below summarises the outcomes of the workshops held for all service reviews. Council has confirmed the current models of service delivery in all service areas, or has agreed to defer a full service review under the two exemptions allowed by the LGA 2002.
- 3.7 There has been a full review of the IT support services as this is a significant contract that expires 30 June 2018. Council will consider this again as part of the IT support contract process in 2017/18.
- 3.8 The 3 waters services will need a full review; however this would most effectively be done as part of the Alliance contract renewal process in 2018/19. This reflects the integrated professional management of Stormwater, Roading, Footpaths, Wastewater and Water (reticulation and treatment).
- 3.9 The table below summarises the outcome of all the service review workshops. The suggested good practice for the s17A process is for Council to formally resolve the outcomes of these workshops. While this concludes the initial s17A process, service reviews will continue as triggered by the LGA 2002 s17A provisions, or as part of a regular six-year review process.
- 3.10 Council s17A service reviews are required by legislation (LGA 2002 s17A as amended in 2014). All reviews in this first round must be completed by 8 August 2017. Council has the ability to decide that a service is exempt from a full review due to two factors:

1. because of Legislation or Committed contracts - s17A(3)a, or
2. the cost of undertaking a review outweighs the benefits - s17A(3)b

Service Area	Recommendation for review	Legislation
Parks and Reserves (includes Domain Boards and Camping Grounds), Community Buildings, Public Conveniences, Pools and Cemeteries	Not Required	s17A(3)b
Pensioner Housing		
Economic Development		
3 Waters - Water and Wastewater Treatment	Not Required	s17A(3)b
3 Waters - Water and Wastewater Reticulation, Stormwater	Not Required	s17A(3)a
Roading and Footpaths	Not Required	s17A(3)a
Community Support	Not Required	s17A(3)b
Representation	Not Required	s17A(3)a
IT	Full review carried out	
Emergency Management	Not Required	s17A(3)b

Service Area	Workshop date	Current Model			Full Review	Outcome of Workshop / Recommendation
		Governance	Funding	Delivery		
Pensioner Housing	2015	Council	Fees	Council Maintenance on contract	Yes	Sell Council housing, carried out as part of 2015 LTP. Issue revisited at Council workshop and meeting March 2017. Council supported that the issue be revisited as part of the 2018 LTP. Another s17A review may be required as part of that work.
Economic Development	13 December 2016	Council	Council	Council	No s17A(3)b	Council supported no review This is a modest sized activity. Reviews by Palmerston North / Manawatu in the last few years have cost over \$100,000. This is a specialist area of expertise and a review could be expected to cost \$50,000. Given the limited options at this time, and the high performance of the existing service, the costs would be excessive.
Commercial Property	13 December 2016	Council	Council, Property rentals	Council Maintenance on contract	No s17A(3)b	Council supported no review <ul style="list-style-type: none"> • lack of practicable alternatives • previous Council decisions to exit where sensible (forestry and commercial buildings) • small scale of remaining properties
Libraries / Service Centres	May 2016	Council	Council, fees	Council	No s17A(3)b	Council supported no review <ul style="list-style-type: none"> • No current practicable alternatives
Regulatory (Animal Control, Health & Safety, District Planning)	May 2016	Council	Council, fees	Council	Initial Yes Now NO s17A(3)b	Council supported full review <ul style="list-style-type: none"> • Clear practicable alternatives • variable satisfaction and performance levels • No strategic reviews in many years • Shortage of experienced and qualified staff for the future operations (ACO, BCA, Planners) • Increasing compliance and accreditation costs • shared service arrangements are increasing around NZ • Regional cluster groups exist and are developing joint IT consenting platforms • Government pressure to form regional delivery structures

Revisited 27 June 2017 – significant amount of uncertainty exists around government legislation. Neighbouring Councils

Service Area	Workshop date	Current Model			Full Review	Outcome of Workshop / Recommendation
		Governance	Funding	Delivery		
Solid Waste	June 2016	Council	Council, fees	Council management, Contracts	No s17A(3)a	<p>have decided to continue with largely in-house services. Council looking to address audit / compliance issues with new quality management system. Current major shared service initiative with GoShift being implemented for Building Consents. Direction agreed no review at this time until more certainty around service delivery levels.</p> <p>Council supported no review</p> <ul style="list-style-type: none"> • lack of practicable alternatives • a new strategic plan for solid waste is due in 2017 • current proposals to reduce service levels in part • new facilities are settling in • new contracts will align expiry dates in 2018 • the sector is seeing considerable pressure on recycling costs as the value of commodities is currently low • there are few affordable options to dispose waste elsewhere <p>Council will be in a better position to consider alternative arrangements in the next review (by 2022).</p>
Parks and Reserves (includes Domain Boards and Camping Grounds), Community Buildings, Public Conveniences, Pools and Cemeteries	27 June 2017	Council	Council, fees	Council management, mostly contracts for service delivery	No s17A(3)b	<ul style="list-style-type: none"> • Options are mainly to provide direct delivery in-house, and the previous review of that option did not proceed. • A CCO would not deliver any additional benefits, there are few governance issues currently, and this would add considerable costs. • Shared services are a future possibility. Manawatu and Horowhenua contract out. Masterton is likely to amalgamate with other Wairarapa Councils in the short term. Palmerston North City and Rangitikei deliver parks services in-house. None of these Councils are looking to shared services for core parks and property maintenance. Opportunities do exist for property management and compliance.
Community Support	27 June 2017	Council	Council grants	Council	No s17A(3)b	<ul style="list-style-type: none"> • No current practicable alternatives - review exempt under s17A(3)b - the cost of undertaking a review outweighs the benefits.

Service Area	Workshop date	Current Model			Full Review	Outcome of Workshop / Recommendation
		Governance	Funding	Delivery		
Representation	27 June 2017	Council	Council	Council	No s17A(3)b	<ul style="list-style-type: none"> Required by legislation
Emergency Management	27 June 2017	Council	Council	Council	No s17A(3)b	<ul style="list-style-type: none"> Rural Fire Services are transferring to FENZ by legislation on 1 July 2017 Civil Defence is a minor part of Council operating costs. Council should consider options for service delivery, including contracting through Horizons or other shared service opportunities, once the current District Resilience Manager retires Rural Fire transferred to FENZ (Fire and Emergency New Zealand) as of 1 July 2017
Water and Wastewater reticulation, Stormwater	27 June 2017	Council / Tararua Alliance	Council	Contract	No s17A(3)a and s17A(3)b	<ul style="list-style-type: none"> Current Alliance contract for 3 waters services to be fully reviewed in 2019. Committed contract - exempt Treatment services only one part of the overall 3 waters service – should not be reviewed in isolation. Government legislative changes for LGA 2002 create uncertainty as to the level of service required. This makes it very difficult to cost alternative delivery methods. Future shared service or Alliance options may be greater in the next 2-3 years
Water and Wastewater treatment	27 June 2017	Council	Council	In-house management and operators / monitoring	No s17A(3)a and s17A(3)b	<ul style="list-style-type: none"> Government legislative changes for LGA 2002 create uncertainty as to the level of service required. This makes it very difficult to cost alternative delivery methods. Future shared service or Alliance options may be greater in the next 2-3 years
Roading and Footpaths	27 June 2017	Council	Council, NZTA grants	Management Alliance partnership Maintenance Contract	No s17A(3)a	<ul style="list-style-type: none"> Current Alliance contract to be fully reviewed in 2019. New ONRC system could result in changes to LoS delivered Committed contract - exempt
IT Support	27 June 2017	Council	Council	Contract	Yes	Decision will be considered by Council as part of the IT support contract renewal process. This review indicates current contract model is most efficient at this time.

4. Statutory Requirements

- 4.1 Section 17A of the LGA 2002 requires that councils periodically undertake a formal review of how they deliver their services. This was enacted as part of the August 2014 amendments to the LGA 2002.
- 4.2 Council is required in the LGA 2002 s17A (1) to review the cost-effectiveness of current arrangements for meeting the needs of communities within its district or region for good-quality local infrastructure, local public services, and performance of regulatory functions.
- 4.3 The LGA 2002 s17A (4) states that each service review must consider options for the governance, funding, and delivery of infrastructure, services, and regulatory functions, including, but not limited to, the following options:
- (a) responsibility for governance, funding, and delivery is exercised by the local authority:*
 - (b) responsibility for governance and funding is exercised by the local authority, and responsibility for delivery is exercised by —*
 - i. a council-controlled organisation of the local authority; or*
 - ii. a council-controlled organisation in which the local authority is one of several shareholders; or*
 - iii. another local authority; or*
 - iv. another person or agency:*
 - (c) responsibility for governance and funding is delegated to a joint committee or other shared governance arrangement, and responsibility for delivery is exercised by an entity or a person listed in paragraph (b)(i) to (iv).*
- 4.4 Under Schedule 1AA of the LGA 2002, Council must complete a review of all services by 8 August 2017. After this date, further reviews must be carried out for individual services within six years. A review is also triggered where a major change is planned to levels of service in an activity, or where a significant contract is due for re-tendering. Changing the way an activity is governed, funded or delivered also requires a review of options as set out in s17A.
- 4.5 There is no audit process for this process.
- 4.6 There is currently no case-law on this process. Good practice guidelines by SOLGM state that Council should formally resolve the outcome of each service review. These decisions give direction for Council management as to the model for how Council services are delivered until the next s17A service review.

5. Consultation and Significance Assessment

- 5.1 The decisions being made by Council as part of this process are governance decisions based on an internal process set by legislation. The process is about how Council governs, funds and delivers each service, not about the levels of service.
- 5.2 If Council decided to implement a significant change to the governance or funding of an activity of Council then consultation would likely be required. Decisions that change the type of service delivery model would be unlikely to require consultation, but Council could choose to do so.
- 5.3 Residents can make submissions on any of these matters as part of the Long Term Plan process.

6. Conclusion

- 6.1 This report summarises the outcome of Council workshops in meeting its legislative requirements under s17A of the LGA 2002. The reviews and background material discussed by Council at workshops in 2016/17 support the current arrangements for governance, funding and service delivery across Council activities.
- 6.2 Council previously resolved in 2015/16 to exit the housing activity. This decision is now on hold.
- 6.3 Council has indicated that a major review of 3 Waters and Roding services will be undertaken as part of the renewal process for the Alliance contract. The five year contract has a renewal point in September 2019.

7. Recommendation

7.1 *That the report from the Strategy and Policy Adviser dated 26 July 2017 concerning the Outcomes of the Local Government Act 2002 Section 17A Service Review Process (as circulated) be received, and*

7.2 *That the Council confirm the directions indicated during workshop sessions for the following services as part of meeting the requirements under Section 17A of the Local Government Act 2002.*

a. Services considered exempt by Council under Section 17A(3)a (existing committed contract or required by legislation):

- *Solid Waste*
- *Water and Wastewater Reticulation, Stormwater*
- *Roading and Footpaths*

b. Services considered exempt by Council under Section 17A(3)b (the cost of undertaking a review outweighs the benefits):

- *Economic Development*
- *Commercial Property*
- *Libraries/Service Centres*
- *Regulatory (Animal Control, Health and Safety, District Planning)*
- *Emergency Management*
- *Parks and Reserves (includes Domain Boards and Camping Grounds), Community Buildings, Public Conveniences, Pools and Cemeteries*
- *Community Support*
- *Representation*
- *Water and Wastewater Treatment*

c. Confirmation of results of full reviews:

- i. IT service contract - seek new contract (from July 2018) with MBS to provide IT support services*
- ii. Pensioner Housing - exit activity (now on hold)*

Attachments

Nil.