



Report

Date : 26 October 2023
To : Chairperson and Committee Members
Strategy, Growth and Planning Committee
From : Malcolm Thomas
Strategy and Policy Adviser
Subject : **S17A Reviews**
Item No : **10.3**

1. Recommendation

- 1.1 *That the report from the Strategy and Policy Adviser dated 24 October 2023 concerning the S17A Reviews be received.*
- 1.2 *That the Strategy, Growth and Planning Committee notes that the majority of activities do not require a s17A review as set out in the summary table in 7.4 below and agrees that the only activities that require a full s17A review are Swimming Pools and Camping Grounds.*
- 1.3 **That the Strategy, Growth and Planning Committee approves that these two reviews will be deferred to the 2024/25 year due to staff time pressures and the 2023-34 Long-Term Plan process.**

2. Reason for the Report

- 2.1 For Council to adopt the outcomes of the s17A service review process reflecting an internal review plus a Council workshop during 2022/23. This report is part of the Service Review process under section 17A of the Local Government Act 2002 and allows Council to progress towards meeting its legal obligations.

3. Background

- 3.1 Service reviews for all Council activities are required at least every six years by legislation (LGA 2002 s17A). A review of services process is also a mandatory requirement prior when:
 - Significant changes to levels of service are proposed, or

- Council wishes to enter into a significant contract for service (new or renewal). (Council has set the trigger point for a significant contract at \$200,000 a year operating cost.)
- 3.2 The first cycle of s17A reviews were completed in 2017. The six-year cycle of mandatory reviews has required the process to be repeated in 2023.
- 3.3 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”*.
- 3.4 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 CCO, shared service and contracting out is mandatory.
- 3.5 The full reviews are time consuming and can be expensive if external advice and resource is required. Fortunately, s17A of the LGA also has four exclusions and discretionary steps that mean not many services will require a ‘full’ review looking at costing and analysing the current service delivery against mandatory and any other options. At Council 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 practicable workable alternatives.
- 3.6 For those services that are 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).

- iv. responsibility for governance and funding is delegated to a joint committee or other shared governance arrangement.

3.7 The LGA does not define the services or what is significant. Council's Significance and Engagement Policy gives guidance on this. There are a few services such as Civil Defence that are 'significant' but have a relatively low cost.

4. Description

4.1 Council staff have assessed all Council activities against the s17A process and gave an update on the process at a Council LTP workshop earlier this year. Council staff have listed each activity as:

- proceed to a full s17A service review process, or
- are exempt from the review process at this time due to:
 - the costs of a review outweigh the benefits.
 - 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 as part of a contract process that considered the mandatory options.

4.2 A substantial number of Council activities are currently in the process of mandatory changes driven by new legislation. These include 3 Waters and Planning. It is clearly a waste of time and resources to undergo a s17A process with mandatory changes underway.

4.3 Council carried out a s17A process as part of the contract renewal process for Parks and Reserves in 2019. This also was done for Solid Waste in 2020/21 and as part of contract processes this year. A full review of the IT support services was carried out as part of the IT support contract process in 2017/18, and again more recently when this service was brought in-house.

4.4 A number of Council contracts for utilities such as electricity are also assessed as exempt as Council has no practicable alternatives currently. Other large, contracted services such as audit services are mandatory, and Council has no ability currently to seek alternative options.

4.5 The largest Council activity is roading. The contract with Downer NZ has more than two years to run so this is exempt from a s17A review. Note that before the contract is considered for review a major s17A process will be required as part of the Council decision to continuing contracting out this service.

4.6 The table below summarises the outcome of all the service review considerations. The only activities recommended for a full review (including ownership, management, and operational options) are Swimming Pools and Camping Grounds.

4.7 Council needs to formally resolve the outcomes of the s17A review process. 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.

5. Significance Assessment

5.1 This report itself is not significant. The review of Swimming Pools and Camping Grounds could be significant if Council resolves to change the way the service is managed or delivered.

6. Options

6.1 Council can choose to fully review activities of Council, including whether to manage and deliver services in-house, through contracts with the private sector or through collaborative arrangements. These reviews can also include considering exiting a service.

6.2 Full reviews take considerable staff time and often include external expert assistance. They are time consuming and costly to complete.

6.3 Any major changes in direction often trigger the Significance and Engagement Policy requirements for consultation with the community. Councils often include any major changes in an Annual Plan or Long-Term Plan process.

6.4 Council has very low risk of challenges to the s17A process if this process is generally followed. There have been a few Council decisions (not TDC) successfully challenged over the years on the basis that the process was not followed correctly.

7. Assessment of Options

7.1 Currently Council is under considerable stress to deliver services within budget. There are insufficient staff resources available to carry out full reviews, and seeking external help will require additional budget.

7.2 Fortunately, only a few smaller activities have been identified as needing a full s17A service review. A number of other activities are more in need of level of service considerations, rather than changing the way services are delivered. In these cases, the 2024 – 34 LTP is the appropriate process to look at these activities. Carrying out a s17A full review would duplicate effort and include considerable time looking at options that have little chance of being selected.

7.3 Council has discretion to not carry out a full review due to:

- Legislation or committed contracts - s17A(3)a, or
- the cost of undertaking a review outweighs the benefits - s17A(3)b.

7.4 Council staff have considered the legally mandated service requirements, current changes in legislation, timing of major service contracts and the costs vs benefits. A summary of the outcome of these considerations is as follows:

Service Area	Recommendation for review	Legislation
Animal Control	Not Required	s17A(3)a and s17A(3)b
Parks and Reserves (includes Domain Boards), Community Buildings, Public Conveniences, and Cemeteries	Not Required	s17A(3)b
Camping Grounds	YES	
Swimming Pools	YES	
Community Development	Not Required	s17A(3)b
Customer Services	Not Required	s17A(3)b and partly s17A(3)a
District Planning	Not Required	s17A(3)b
District Promotion and Economic Development	Not Required	s17A(3)b
Emergency Management	Not Required	s17A(3)b
Building Control Authority	Not Required	s17A(3)b
Alcohol Licensing, Environmental Health, General Inspection	Not Required	s17A(3)b
Libraries	Not Required	s17A(3)b
Pensioner Housing	Not Required	s17A(3)b
Representation	Not Required	s17A(3)a
Solid Waste	Not Required	s17A(3)a and s17A(3)b
3 Waters	Not Required	s17A(3)b and some s17A(3)a
Roading and Footpaths	Not Required	s17A(3)a
IT Support	Full review carried out 2021	s17A(3)b
Communications	review carried out 2021	s17A(3)b
Information Management	Not Required	s17A(3)b

8. Consultation

8.1 No consultation is required for this decision. Consultation will be required if any changes in services are recommended as part of the full review of Swimming Pools and Camping Grounds in 2024-25.

9. Conclusion

9.1 Council is currently facing considerable change and uncertainty around many of the services provided. For many activities of Council, a s17A full review would be pointless at this time.

- 9.2 The final outcomes / regional structures for 3 Waters and Planning will be clearer in a few years. At that time Council will be able to assess the impacts on overheads and support services for the remaining activities.
- 9.3 A number of activities are set by statute and are effectively required to be delivered by Council. A few others have no private sector, particularly for Tararua, that could deliver the service (such as Libraries).
- 9.4 Some key activities are currently contracted out and have more than two years left on the contract. These are exempt from s17A reviews.
- 9.5 Most of the remaining activities have also had reviews or changes in recent years. Level of service issues are best handled as part of the LTP process.
- 9.6 Council staff are currently stretched with delivering business as usual (BAU) and the LTP process. Budgets are under pressure from increased costs. Bringing in external consultants for reviews will require additional budget.
- 9.7 Staff recommend full s17A reviews for Swimming Pools and Camping Grounds. In order to do these reviews properly these should be deferred to 2024-25.

Attachments

Nil.