
FINALISATION OF CAPACITY INFRASTRUCTURE SERVICES DOCUMENTATION

1. Purpose of report

The purpose of this report is to meet the reporting requirements of previous Council decisions on this matter and to provide the Chief Executive with delegated authority to sign the final documentation for the Capacity Infrastructure Services Ltd (Capacity or the Company) transition to an outcomes-based business model, with Upper Hutt City Council and Porirua City Council joining as shareholders.

2. Executive summary

Both Upper Hutt City Council and Porirua City Council have now agreed to join Capacity Infrastructure Services Ltd as shareholders and the relevant documentation to achieve this, and support the Company moving to an outcomes-based business model (OBBM), is close to finalisation. This report is to meet reporting requirements of previous Council decisions on this matter and to provide the Chief Executive with delegated authority to agree and sign the final documentation.

3. Recommendations

Officers recommend that the Strategy and Policy Committee recommend to Council to agree to:

1. *Receive the information.*
2. *Note that this report fulfils previous requirements to report back to Council on various matters ahead of the completion of the relevant documentation.*
3. *Delegate to the Chief Executive responsibility for negotiating and approving the updated Capacity Infrastructure Services Limited Constitution, Shareholders Agreement, Service Level Agreement and any other consequential documentation on behalf of Wellington City Council.*
4. *Note that the three-waters services are to remain publicly owned, funded and managed, and with an emphasis on service efficiency for the benefit of the community and not for profit.*

4. Background

At the meeting of the Strategy and Policy Committee on 5 April 2012, and the Council meeting on 26 April 2012, Wellington City Council considered a report on proposed governance changes to Capacity and agreed in principle to support Capacity moving to an outcomes-based business model and for Upper Hutt City Council and Porirua City Council to join as shareholders.

In March 2013, the Council agreed the details and implementation outline of the outcomes-based business model for Capacity, subject to the agreed transition plan and capability review being reported back to the Council.

Since then, officers have been working with Capacity personnel, the Capacity Board and the other councils to finalise the documentation and implementation plan for this transition. In addition, Porirua City Council considered this issue at its Committee meeting on 1 August and at its Council meeting on 21 August and has agreed to join Capacity as a customer and shareholder from 1 November 2013.

As a result of the above work, the documentation reflecting Capacity Infrastructure Services Ltd's shift to an outcomes-based business model, and Upper Hutt City Council and Porirua City Council joining as shareholders, is now close to finalisation. The current planned implementation date is 1 November 2013; this will align with Porirua City Council also joining as a customer and shareholder.

Officers also note that the current Chief Executive of the Company, David Hill, has announced his retirement after ten years in the role. His significant contribution to the Company, and his work in advancing the idea of improved regional co-operation in the management of water services, is recognised and appreciated. The Board has commenced a recruitment process for his successor.

5. Discussion

In March 2013, the Council agreed the implementation of the outcomes-based business model for Capacity, subject to the agreed transition plan and capability review being reported back to the Council. The Council also asked the Chief Executive of the Council to report back on how community representation can be included in the Board's governance duties.

Officers now report that the updated Constitution, Shareholders Agreement (previously referred to as the Shareholders Memorandum of Understanding) and Service Level Agreement are close to final agreement with the Company and the other councils.

Transition Plan

Council officers and Capacity personnel have been working with the other councils and the Capacity Board to develop a transition plan to the outcomes based business model.

The key transition steps and timing will be as follows:

Transition Step	Timing
Agree details of the outcomes based business model with the other councils	Completed
Agree main details of the Shareholders Agreement with the other councils	Completed
Draft Shareholders Agreement, Service Level Agreement and updated Constitution	Completed
Initial legal review of documentation	Completed
Capacity to review the Company's internal financial and contract systems and practices for the shift to the outcomes based business model	Completed
PCC consultation and decision	Completed
WCC / Capacity steering group to review the implementation of Infonet as an interface to council's in-house asset management systems	Completed
Infonet available as an interface to all customer councils' in-house asset management systems	Completed – now available
Final WCC delegation to Chief Executive post reporting back to Council on the capability review etc	This report
Capacity and WCC to agree process updates (accounts payable etc) to incorporate OBBM	In process – Sep 2013
Agree final draft Constitution with Capacity and the other councils	In process – Sep 2013
Agree final draft Shareholders Agreement with the other councils	In process – Sep 2013
Capacity and Councils to review appropriate delegations are reflected in the Service Level Agreement	In process – Sep 2013
Agree final draft Service Level Agreement with Capacity and the other councils	In process – Sep 2013
Capacity reviewing internal resource consent management system and updating as necessary	In process – Sep 2013
Final agreement on any updated OBBM processes with all councils	Sep/Oct 2013
Final legal review of documentation	Sep/Oct 2013
Signing of all documentation	Oct 2013
Upper Hutt and Porirua join as shareholders	Oct 2013
Porirua joins as customer	1 Nov 2013
Outcomes-based business model effective	1 Nov 2013
Board changes as a result of the new shareholders	Nov 2013
Board to review Capacity's branding strategy as a regional provider to shareholder Councils	In process – Dec 2013
Updated 2013/14 Statement of Intent to reflect any relevant changes	Dec 2013
Develop a proposal with respect to the role Capacity may play in the provision of WCC public drainage and CCTV work	To be considered by the Council when a proposal is developed

Capability Review

In response to the Council's previous decisions, the Capacity Board has undertaken a review of Capacity's capability to deliver on the objectives of the outcomes-based business model. As a result of this work, the Board has confirmed that it is comfortable that the Company has the capability to deliver on these objectives. The Board also understands that its governance mandate will be broader than under the previous arrangements.

The capability review noted some areas where the Company should continue to focus in order to improve its overall effectiveness and maximise the opportunities from shifting to the outcomes-based business model. Many of these work streams have already commenced as part of Capacity's business as usual mandate or as part of the transition plan.

Work Area	Status
In partnership with WCC, an asset management plan improvement programme will ensure best practice asset management planning.	Already instituted by the Company and flagged in the 2013/14 Statement of Intent. The draft WCC stormwater AMP is due in October 2013.
Review of internal company procedures around financial systems, controls and reporting	Company internal review complete; Conclusions being peer reviewed by Audit NZ and formalised through Service Level Agreement. Other relevant process updates to be agreed with WCC and other councils to ensure efficient processing (see transition plan).
Insurance review (if relevant)	The Company's insurance broker has been consulted on changes. Current shareholder insurance expectations are reflected in Service Level Agreement.
Capacity and Councils to review and ensure appropriate delegations are in place as reflected in the Service Level Agreement.	Review in progress.
The MoBiE investigation into the Devon Street fatality found that Capacity was fully compliant with the HSE Act. The Company has thoroughly reviewed its procedures and identified further improvements in this area.	Implementation in progress.
Review of needs and any further potential improvements in public relations and branding areas. Board is to review Capacity's branding strategy as a regional provider to shareholder Councils.	Review in progress. Any recommended changes can be implemented over time.
Increasing focus on consistent regional policy development for 3-waters	Will be an area of increased focus going forward.
Development of a common interface to client councils' existing AMS systems.	Completed (see transition plan).
Capacity reviewing internal resource consent management system and updating as necessary	Review in progress.

As a result of the work undertaken by the Board and the existing continuous improvement plans already in place, officers confirm that they have reviewed the capability review work undertaken and are comfortable that the Company has taken a number of steps to ready itself for the outcomes-based business model and has the capability to deliver on the objectives of this model.

Officers note that the Board is currently recruiting for a successor as Chief Executive of Capacity. This process should not impact the conclusions referred to above.

It is also important to note that the Council's relationship with the Company (and with the other councils) remains one of partnership and Council officers will continue to be available to assist, provide advice, or work with the Company on an as-needed basis to ensure the objectives of the outcomes-based business model are achieved.

Wellington City Council Review

It is noted that Wellington City Council, as part of its annual audit programme, undertook a review of some Capacity procedures during 2013. Recommendations from that review, and any relevant Company improvements identified, have been taken into account by the Board and officers in formulating the views in this report.

Community Representation

All councils have agreed to the Shareholders Agreement including a Board Skills Matrix, as a framework for providing guidance on director appointments (individual and joint). Community representation will be included as an attribute in this matrix.

5.1 Consultation and Engagement

As Capacity is an existing CCTO of which the Council is a shareholder, there is no requirement for specific community consultation on the matters outlined in this report.

5.2 Financial considerations

The implementation of the new capital structure will involve a capital investment of approximately \$24k. This has been budgeted for in the LTP.

5.3 Climate change impacts and considerations

Capacity's work programme considers issues such as sea level rise, higher rainfall intensity and increased temperatures. Capacity's role in this area will be significant, regardless of the move to the outcomes-based business model outlined in this report.

5.4 Long-term plan considerations

Going forward, annual budgets for Capacity will continue to be considered as part of the Annual Plan and Long Term Plan processes.

6. Conclusion

Both Upper Hutt City Council and Porirua City Council have now agreed to join Capacity Infrastructure Services Ltd as shareholders and the relevant documentation to achieve this, and support the Company moving to an outcomes-based business model, is close to finalisation. This report is to meet reporting requirements of previous Council decisions on this matter and to provide the Chief Executive with delegated authority to agree and sign the final documentation.

*Contact Officers: Kevin Lavery, Chief Executive
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SUPPORTING INFORMATION

1) Strategic fit / Strategic outcome

This report supports Council's overall vision of Towards 2040: Smart Capital. It supports the Council's regional aspirations to develop shared water services and encourage connectedness and regional asset planning opportunities.

2) LTP/Annual Plan reference and long term financial impact

This report notes there may be some potential long term efficiencies. The magnitude of these efficiencies is still to be determined.

3) Treaty of Waitangi considerations

The Mana Whenua were a party to the decision to set up Capacity.

4) Decision-making

The decision to move to the outcomes-based business model was made by Council in April 2012 (in principle) and confirmed in March 2013. This report completes the unfinished reporting requirements of the March 2013 decision. It is consistent with Council policies and intentions and is in alignment with aspirations of better regional co-operation on water management.

5) Consultation

a) General consultation

The Council is not required under legislation to consult on this matter, but included some commentary in the 2012 Long Term Plan.

b) Consultation with Maori

N/A

6) Legal implications

The Council's lawyers have not been consulted during the development of this report, but will be involved in reviewing the legal documentation referred to.

7) Consistency with existing policy

This report recommends measures that are consistent with Council policy.