

8.5 IMPLICATIONS OF THE WATER SERVICES ACT 2021

Decision Required

Report To:	Full Council
Meeting Date:	24 February 2022
Report Author:	Mike Schruer, Waters and Wastes Manager; Helen Lane, Infrastructure Planning Advisor
Report Number:	RCN22-02-6

1 Summary

- 1.1 The purpose of this report is to:
- highlight key aspects of the Water Services Act 2021 (the Act) and its implications for the Council; and
 - seeks approval for an additional \$160,000 of operational expenditure in the 2021/2022 (current financial year).
- 1.2 This report follows two previous reports considered by the Council on the wider Three Waters Reform (the Reform). The Reform is a government infrastructure restructuring programme initiated to improve the management of water supply, wastewater, and stormwater in New Zealand/Aotearoa. **Attachment 1: Reform Background information** provides more contextual information about the Reform and how it relates to the Act.
- 1.3 Legislative change is a key pillar of the Reform. The most recent piece of legislation to be enacted is the Water Services Act 2021. The Act establishes new national drinking water standards and regulates all persons and entities that supply drinking water. The Act commenced on 15 November 2021 and is now in force. The Act places new duties and obligations on the Council to ensure the safe and sufficient supply of drinking water.
- 1.4 The key implications of the Act and supporting regulatory documents are that the Council must:
- develop new water safety plans;
 - implement new source water protection requirements;
 - implement more stringent sampling and monitoring requirements; and
 - increase focus on the management of risks and hazards.
- 1.5 In addition, a key objective and requirement of the Act is for water suppliers to give effect to 'Te Mana o te Wai' to the extent it applies to their functions and duties.
- 1.6 Failure to comply with the requirements of the Act and supporting regulatory documents may result in Taumata Arowai taking enforcement action. The Act provides Taumata Arowai with several regulatory enforcement tools. These range from issuing infringement notices to criminal prosecution. There are significant penalties for breaching the Act that can be given

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to individuals and/or body corporates. Any breach could compromise the Council's reputation.

- 1.7 To comply with the requirements of the Act and supporting regulatory documents, the Council needs to invest additional resources including full-time equivalents (FTEs), and operational and capital expenditure. These estimates in Table 1 represent the minimum additional funding required over the next three years to enable the Council to comply.

Table 1: Summary of minimum costs to comply with the Act and supporting regulatory documents.

Cost (GST exclusive)	2021/2022 current financial year	2022/2023	2023/2024
Opex			
Opex (ex FTEs)	\$160,000	\$865,855	\$340,855
FTEs	\$0	\$95,000	\$190,000
Total opex	\$160,000	\$960,855	\$530,855
Capex			
Total capex	\$0	\$292,000	\$228,500

- 1.8 Taumata Arowai is currently consulting on the Act's supporting regulatory documents including drinking water standards, quality assurance rules, acceptable solutions, and performance measures. There is a risk that after the consultation process there may be further changes to compliance requirements, and this could further impact future funding requirements.

2 Draft Resolution

That the Full Council:

- 2.1 receives the report Implications of the Water Services Act 2021 report RCN22-02-6; and
- 2.2 approves \$160,000 of additional operational expenditure for the development and implementation of Drinking Water Safety Plans and Source Water Risk Management Plans in the 2021/2022 financial year; and
- 2.3 notes that insufficient funds are provided in the 2021-2031 Long term plan for Council to meet its emerging obligations under the Water Services Act 2021; and
- 2.4 notes that staff are including an additional \$960,855 of operational expenditure for consideration in the draft Annual Plan 2022/2023 for:
- a water quality specialist resource; and

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- **development and implementation of water safety plans, including source water risks management plans; and**
 - **development and implementation of storage management plans; and**
 - **additional monitoring and sampling; and**
- 2.5 notes that staff intend to include an additional \$530,855 of operational expenditure for consideration in the draft Annual Plan 2023/2024 for:**
- **a second water quality specialist resource; and**
 - **additional monitoring and sampling; and**
- 2.6 notes that staff are including an additional \$292,000 of capital expenditure for funding consideration in the draft Annual Plan 2022/2023 for:**
- **monitoring equipment; and**
 - **plant shutdown mechanisms; and**
 - **backflow prevention devices; and**
- 2.7 notes that staff intend to include an additional \$228,500 of capital expenditure for funding consideration in the draft Annual Plan 2023/2024 for:**
- **monitoring equipment and scour valves; and**
 - **online monitoring equipment; and**
 - **backflow prevention devices.**

IMPLICATIONS OF THE WATER SERVICES ACT 2021**3 Purpose of the Report**

3.1 The purpose of this report is to:

- highlight key aspects of the Water Services Act 2021 (the Act) and its implications for the Council; and
- seek approval for \$160,000 of additional operational expenditure in the 2021/2022 (current financial year).

4 Water Services Act 2021**Context**

4.1 This report follows two reports previously considered by the Council:

- (RCN21-08-03) *Three Waters Report Update – Revised Version with Correct Boundaries* considered on 12 August 2021.
- (RCN21-09-10) *Three Waters Reform Programme* considered on 29 September 2021.

4.2 This report specifically focuses on the drinking water compliance requirements set out in the Act and its supporting regulatory documents. It provides details on the required resources and additional costs for the Council.

4.3 The Act commenced in November 2021 and is now in effect.

4.4 Refer to **Attachment 1: Background information** for detailed information on how the Water Service Act 2021 fits into the wider Three Waters Reform Programme.

Water Services Act 2021**Purpose of the Act**

4.5 The main purpose of the Act is to ensure that drinking water suppliers provide safe and sufficient drinking water to consumers by way of a drinking water regulatory framework. The Act provides the drinking water regulator Taumata Arowai the legal authority to carry out its duties.

4.6 The Act also provides Taumata Arowai an oversight role in relation to wastewater and stormwater. This includes establishing national standards, performance measures and targets to lift the performance of wastewater and stormwater networks and improve associated environmental outcomes. This oversight role will not commence until late 2023 as Taumata Arowai's immediate focus is on drinking water.

Supporting Regulatory Documentation

4.7 Taumata Arowai has published seven supporting documents related to their regulatory role under the Act. These are summarised below. These documents are targeted at drinking water suppliers and contain technical information that will guide the way drinking water is safely supplied to consumers. These documents are intended to complement existing legislation and the proposed amendments to the National Environmental Standards for Sources of Human Drinking Water.

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- 4.8 The proposed **Drinking Water Standards** (the Standards) will replace the existing Drinking-Water Standards for New Zealand (revised 2018). The Standards set limits for contaminants and other characteristics of drinking water. They have been established to ensure drinking water suppliers provide safe drinking water to consumers. The Standards apply to all drinking water supplies regardless of the nature of the source water and the number of people served by the supply.
- 4.9 The proposed **Drinking Water Quality Assurance Rules** (the Rules) set out the requirements that a drinking water supplier must comply with to help ensure the drinking water they provide is safe. The Rules are 'compliance rules' for the purposes of the Act. To address the large variations across different kinds of drinking water supplies, the Rules are categorised into different drinking water supply types. These have different modules and complexities assigned to them. **Attachment 3: Compliance with Standards and Rules** provides more information on the various modules and requirements for large and small water suppliers.
- 4.10 The proposed **Drinking Water Aesthetic Values** relate to acceptable taste, smell, and feel properties of drinking water. Taumata Arowai is consulting on a list of determinands that can adversely affect the aesthetic properties of drinking water and the requirement to test to ensure the determinands are within an approximate range.
- 4.11 Taumata Arowai acknowledges that there are different types of water supply and situations where the above Standards and Rules are not practical. In these cases, Taumata Arowai propose using '**Acceptable Solutions**' as an alternative to meeting the Standards and Rules. Acceptable Solutions provide drinking water suppliers (including sole suppliers) with a ready-made option to meet their compliance obligations under the Act. Water suppliers require approval from Taumata Arowai to implement Acceptable Solutions and they must be implemented in their entirety.
- 4.12 Currently there are three proposed Acceptable Solutions. For each acceptable solution, a set of criteria must be met in full to use the solution:
- **Drinking Water Acceptable Solution for Roof Water Supplies** defines what is required to operate a drinking water supply using roof water to comply.
 - **Drinking Water Solution for Spring and Bore Drinking Water Suppliers** provides owners and operators of spring and bore drinking water supplies serving less than 500 people with a method to achieve compliance. It's not known exactly how many of these supplies exist in New Zealand.
 - **Drinking Water Acceptable Solution for Rural Agricultural Water Supplies** provides a way to ensure households and buildings supplied from a rural agricultural supply receive water that complies with the drinking water standards. These supplies primarily provide stock or irrigation water; at least 65% of the total supply must be for this purpose. These supplies can also provide drinking water to houses connected to the stock water or irrigation supply, generally to a storage tank on the consumer's property.
- 4.13 The proposed **Drinking Water Network Environmental Performance Measures** – support new requirements to monitor and report on the environmental performance of certain

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drinking water, wastewater, and stormwater networks. These requirements are designed to provide greater transparency about the performance of networks and their impact on the environment and public health, and to contribute to the continuous and progressive improvement of the quality of water services.

- 4.14 Taumata Arowai is currently consulting on the proposed supporting documents described above. Submissions close on 28 March 2022. Staff are in the process of formulating feedback on some of these documents and intend to make a submission.
- 4.15 There may be further changes to the supporting documents following consultation, which creates further risk and uncertainty. Taumata Arowai has signalled the supporting documents will likely come into force on 1 July 2022. Staff have been working with Taumata Arowai to clarify what the requirements mean for Tasman water supplies and are preparing to implement the requirements as proposed in the consultation drafts.

Key Features of the Water Service Act 2021

- 4.16 The Act, its companion legislation, and supporting documents and standards represent a significant change and strengthening of the drinking water regulatory framework compared to the previous regulations administered by the Ministry of Health. The Act repeals section 2A (drinking water) of the Health Act 1956 and replaces it with a standalone Act to regulate drinking water.
- 4.17 The Act commenced on 15 November 2021, the current [DWSNZ](#) applies until 1 July 2022 when it is anticipated the draft standards, rules and acceptable solutions will come into effect.
- 4.18 The new drinking water regulatory framework encourages a broader approach to risk management by placing responsibility and accountability firmly on water suppliers. The view being that water suppliers are best placed to understand specific risks with each water supply and employ the appropriate level of risk management to ensure water is safe to drink.
- 4.19 This risk management approach represents a significant culture shift away from submitting a **Drinking Water Safety Plan (DWSP)** and getting it approved by the regulator – towards a continuous process of risk management planning and implementation. In practice this means a DWSP will become a living document that is to be constantly updated. When significant or material changes occur to a particular water supply, a DWSP must be revised and submitted again to Taumata Arowai.
- 4.20 The Act places clear emphasis on protecting source water. A water supplier must prepare and implement a '**Source Water Risk Management Plan**' (SWRMP) for each water supply based on scale, complexity, and risk. A SWRMP must identify, assess, manage, and monitor risks and hazards specific to source water.
- 4.21 The Act places an obligation on territorial authorities to inform themselves about the access that each community in its district has to drinking water services by undertaking an assessment of drinking water services in accordance with the Act. These assessments must be carried out at least every three years and an initial assessment must be completed by 1 July 2026.

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- 4.22 Regional councils are required to contribute information to SWRMPs, annually publish information about source water quality and quantity and report to Taumata Arowai. Regional councils also have specific obligations to assess the effectiveness of regulatory and non-regulatory interventions relating to source water every three years.
- 4.23 The Act has also amended the Resource Management Act 1991. A new section (104G), requires consenting authorities to consider risks and effects on source water for registered water supplies.
- 4.24 The Act requires all operators (including water sampling personnel) to be appropriately authorised with prescribed skills, qualifications or experience and be supervised when operating or sampling from a drinking water supply or wastewater network.
- 4.25 It is expected that new authorisation and occupational regulation will be established to help improve the three waters workforce capability in the future. This expectation is reinforced by the Government's recent announcement to establish a National Transition Unit (NTU) to support the new water services entities. The Government has previously identified the new water service entities will require a significantly strengthened workforce.
- 4.26 The key features of the Act highlighted above are consistent with internationally accepted best regulatory practice. There are other aspects of the Act that are unique to a New Zealand/Aotearoa-only approach, in particular the application of a concept 'Te Mana o te Wai.'

Te Mana o te Wai

- 4.27 A key objective and requirement of the Act is for water suppliers to give effect to 'Te Mana o te Wai' to the extent it applies to their functions and duties. The literal translation of the phrase 'Te Mana o te Wai' means 'the mana of the water', where mana has several meanings including prestige, authority, status, and spiritual power.
- 4.28 This concept is focused on restoring and preserving the health and balance between water (wai), the wider environment (taiao), and people (tāngata), both now and in the future.
- 4.29 Te Mana o te Wai draws on the Māori world view (te ao Māori) perspective that recognises a holistic and interconnected approach to water (wai). This approach also consists of the fundamentals of tīkanga (custom) mātauranga (traditional Māori knowledge) and kaitiakitanga (guardianship), which is a unique approach for New Zealand/Aotearoa.
- 4.30 The concept of Te Mana o te Wai is also embedded in the National Policy Statement for Freshwater Management. This emphasises that, when managing freshwater, the health and well-being of the water body is protected first and foremost. Human health needs (i.e. drinking water) is a secondary priority, followed by the need for water for other uses such as economic activity or recreation.
- 4.31 Te Mana o te Wai links different regulatory regimes through a common vision and set of principles. Its application will vary from place to place and community to community, in accordance with local responses to the principles it embodies.

Giving effect to Te Mana o te Wai

- 4.32 Taumata Arowai aspires to be a Crown leader in giving effect to Te Mana o te Wai. It has indicated that it will be guided by the principles embodied within Te Mana o te Wai when

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regulating and influencing the water services sector to improve outcomes. This reflects the importance of, and connection between, the health of the tāngata (people) and wai (water).

- 4.33 The key step to giving effect to Te Mana o te Wai is meaningful engagement with iwi to determine how it is applied locally. The Council has started this conversation with iwi through supporting the Te Taihu case study. Findings from the case study can be applied across the Council's wider water responsibilities where applicable.
- 4.34 Taumata Arowai has signalled that it will be providing further guidance on what 'giving effect' to Te Mana o te Wai means in relation to the supply of drinking water and our processes, procedures, and policies.

Duties and Obligations for Water Suppliers

- 4.35 The Act sets out obligations and duties that are more onerous than the Health Act 1956. These responsibilities are applied to the Council both as a water supplier (under its territorial authority functions) and as a regional council.
- 4.36 The most important obligations on the Council as a water supplier are to ensure safe and sufficient drinking water for consumers that are connected to the Council's water supplies, comply with the Drinking Water Standards New Zealand (DWSNZ), and meet the requirements of compliance rules (as described in section 4.8 and 4.9).

Registration and Notification Obligations

- 4.37 There are new obligations on water suppliers to register all water supplies with Taumata Arowai, and to renew those registrations annually. Tasman's water supplies, and details of those supplies, were previously registered with the Ministry of Health. This information has been transferred to the systems being used by Taumata Arowai, and staff are in the process of verifying the transferred information.
- 4.38 Part of ensuring safe water means preparing for and taking all necessary steps to protect the health of consumers. There are clear obligations for water suppliers to take immediate action when water is not safe (or fails to meet the DWSNZ) to resolve the issue.
- 4.39 There are also obligations on water suppliers to immediately inform consumers and notify Taumata Arowai. The Council must advise people who may be (or potentially be) affected by unsafe water and notify Taumata Arowai of any hazard or risks to public health including when:
- drinking water does not comply with the drinking water standards;
 - drinking water is, or may be unsafe;
 - there is a notifiable risk or hazard;
 - the Council's ability to maintain sufficient water is at imminent risk;
 - planned restriction or supply interruption longer than eight (8) hours; and
 - an unplanned restriction or supply interruption longer than eight (8) hours.

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- 4.40 The Act provides details about enforcement action when a drinking water supplier fails to meet its duties, particularly where drinking water poses a serious risk to public health.
- 4.41 Taumata Arowai has signalled it will be taking a proactive and continuous improvement approach to compliance, monitoring and enforcement. It will do this by providing support and guidance, and by taking action to address non-compliance with the Act and its supporting documents.
- 4.42 The Act provides a comprehensive set of regulatory tools for Taumata Arowai's officers to address noncompliance. Specific powers include but are not limited to:
- taking and testing samples;
 - obtaining information;
 - issuing compliance orders; and
 - taking remedial action.
- 4.43 The Act specifies enforcement action on a water supplier relating to the supply of unsafe drinking water or failure to take immediate action. The Act provides for Taumata Arowai to take enforcement action to specific offences relating to:
- failure to take immediate action;
 - specific duties relating to notification of risk;
 - provision of sufficient water; and
 - registration of a drinking water supply.
- 4.44 There is a range of enforcement action that Taumata Arowai can take when a water supplier fails to comply with the Act and supporting regulatory documents including issuing:
- an infringement notice;
 - a direction;
 - enforceable undertaking; and
 - prosecution.
- 4.45 Taumata Arowai has signalled that prosecution is the last step in the enforcement action process and would likely only be taken when a water supplier is considered to be reckless or negligent.
- 4.46 There are significant penalties for breaching the Act in comparison to previous legislation (the Health Act 1956). Taumata Arowai will be able to prosecute for breaches of the Act and supporting documents. Some penalty offences are at the high end of the scale.
- 4.47 For example, negligence in the supply of unsafe drinking water can result in a fine of up to \$300,000 in the case of an individual and up to \$1.5 million in the case of a body corporate. For example, a failure to register a drinking water supply can result in a maximum fine of \$50,000 for the individual and \$200,000 for a body corporate.

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Implications for non-Council water suppliers

- 4.48 The report primarily focuses on the implications of the Act for Council water supplies. However, there are many non-Council water supplies that will also be regulated under the Act and these suppliers also must comply with duties and obligations.
- 4.49 Only domestic self-supplies are exempt from the Act. However, property owners providing water to more than one dwelling are considered a supplier. Rest homes, marae, industrial parks, airports, and ports will also be considered a water supplier if they are not connected to a Council supply.
- 4.50 The Drinking Water Acceptable Solutions will provide ready-made options for certain supply types to comply with the Act. Taumata Arowai has not worked through all the details of secondary suppliers and has signalled more guidance will be available in due course.
- 4.51 The Government has acknowledged the challenges for smaller, unregistered drinking water suppliers to comply with the new regulatory framework. To address this, the Government has indicated it will be taking a staged approach to improvement.
- 4.52 The Government has established an independent **Rural Supplies Technical Working Group** that will develop principles and agree how parties will work together to manage the impacts on rural drinking water suppliers and rural communities and develop recommendations to inform advice to Ministers on proposed legislation.
- 4.53 There is a four-year window for unregistered suppliers to register their supply with Taumata Arowai and submit a Drinking Water Safety Plan, and a seven-year window to meet the full requirements of the Act. These timeframes provide an opportunity for Taumata Arowai to work with unregistered supplies to better understand their needs and circumstances.

5 Financial Implications of the Water Services Act 2021

- 5.1 This section of the report identifies what is required to comply with the Act in the current financial year and for the next two financial years.
- 5.2 Additional resources including operational and capital budgets as well as staff and training budgets are required to comply with the Act and its supporting regulatory documents. The most significant costs relate to the following:
- development and implementation of Water Safety Plans;
 - development and implementation of Source Water Risk Management Plans;
 - development and implementation of a Storage Management Plans;
 - water Quality Specialists (FTEs);
 - more stringent water monitoring and sampling schedules;
 - monitoring equipment
 - automatic water treatment plant shutdown mechanisms;
 - backflow prevention devices; and
 - scour valves.

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5.3 Table 2 below summarises the operational (including FTEs) and capital expenditure required to comply with the Act and supporting regulatory documents. Refer to **Attachment 2: Water Services Act 2021 Cost Implications** for a detailed breakdown of compliance requirements costs.

Table 2: Summary of cost implications to comply with the Act and supporting regulatory documents.

Large Water Supply Schemes (5 with population > 500)						
	Opex			Capex		
	2021/22	2022/23	2023/24	2021/22	2022/23	2023/24
FTEs		\$95,000	\$190,000			
		3	3			
One-off setup costs	\$100,000	\$406,000	\$7,000	\$0	\$85,000	\$149,400
	1	2	3		5	6
Ongoing costs		\$278,285	\$278,285			
		4	4			
Total =	\$100,000	\$684,285	\$285,285	\$0	\$85,000	\$149,400
Major Costs						
1	Source Water Risk Management Plans					
2	Water Safety Plans, Source Water Risk Management Plans, Storage Management Plans					
3	Water Quality Specialist (FTE)					
4	Monitoring and sampling					
5	Monitoring equipment					
6	Monitoring equipment and scour valves					
Small Water Supply Schemes (10 with population < 500)						
	Opex			Capex		
	2021/22	2022/23	2023/24	2021/22	2022/23	2023/24
One-off setup costs	\$60,000	\$126,000	\$0	\$0	\$207,000	\$79,100
	1	2			4	5
Ongoing costs		\$55,570	\$55,570			
		3	3			
Total =	\$60,000	\$181,570	\$55,570	\$0	\$207,000	\$79,100
Major Costs						
1	Water Safety Plans					
2	Water Safety Plans, Water Storage Management Plans					
3	Monitoring and sampling					
4	Monitoring equipment, Plant shut down mechanisms, Backflow Prevention (rural schemes)					
5	On-line monitoring equipment and backflow prevention					
	Opex			Capex		
	2021/22	2022/23	2023/24	2021/22	2022/23	2023/24
Total (Excl FTEs)=	\$160,000	\$865,855	\$340,855	\$0	\$292,000	\$228,500
FTEs		\$95,000	\$190,000			
Grand Total	\$160,000	\$960,855	\$530,855	\$0	\$292,000	\$228,500

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- 5.4 These compliance requirements are in addition to budgets set in the Long Term Plan 2021-2031. There is a risk of further changes to compliance requirements as Taumata Arowai are in the process of consulting on the Act's supporting regulatory documents. Further changes to compliance requirements will directly impact compliance costs. Staff will brief the Council once the consultation process is complete in mid-2022.
- 5.5 For the 2022/2023 financial year, staff have proposed reductions in other water operational expenditure to account for the new expenses related to the compliance requirements under the Act. However, the overall net increase is significant.
- 5.6 Taumata Arowai has recently advised that the Council must submit a **Drinking Water Safety Plan (DWSP)** for all supplies that were registered as of 15 November 2021, by 15 November 2022. These plans must also include a **Source Water Risk Management Plan (SWRMP)**.
- 5.7 This is a change from previous advice and escalates the DWSP development programme significantly. The Council currently has insufficient approved budgets to complete this work. The availability of resources to carry out this work is also a significant risk and consequently, meeting prescribed deadlines is a concern.

The Dovedale and Eighty-Eight Valley water supply schemes have available funds but staff have only allowed limited funding for minor tweaks of the remaining small scheme DWSPs.

6 Options

- 6.1 The Council has two options that are summarised in the following table.

Table 3: Summary of options

	Option	Advantage	Disadvantage
1.	Budget for costs to meet legislative requirements set out in the Act, and related regulations.	<p>Improves the Council's ability to ensure safe and sufficient water to consumers connected to Council operated supplies.</p> <p>Complies with legislative and regulatory requirements.</p> <p>Aligns with the Council's Drinking Water Policy.</p>	<p>Additional investment required in drinking water service delivery, as summarised in the financial impacts section. These costs will impact rates in the respective water accounts.</p> <p>To keep rates increases to a minimum, other proposed work within the Council and the water accounts will need to be deferred.</p>
2.	Do not agree to budget for costs to meet legislative requirements set out in the Act.	<p>Short term cost increases will be lower.</p> <p>Rates increases for 2022/2023 will be lower.</p>	<p>Opposes the direction that Government is leading, singling out the Council nationally.</p>

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			<p>Likely to face infringement notice, enforcement action, fines etc.</p> <p>Reputational damage within community and with Taumata Arowai.</p> <p>May impact auditor’s opinion of the Council’s performance for 2023/2024.</p>
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6.2 Staff recommend option 1. Option 2 is not viable and creates risk to the Council.

7 Strategy and Risks

7.1 The Government is progressing with the Reform and announced (27 October 2021) it is mandatory for councils to participate in and progress with the Reform.

7.2 The Council needs to consider the following risks and uncertainties:

- the overall direction, pace and timing of the Government’s Reform Programme;
- not complying with the requirements of the Act and supporting regulatory documents means breaching legislative responsibility and will likely result in enforcement action;
- Taumata Arowai is in the process of consulting on seven key documents that support the Act and changes may occur resulting in additional compliance costs;
- if the Council proceeds too quickly to meet the requirements, resources may be wasted;
- if the Council proceeds too slowly to meet the requirements, timeframes for compliance will be missed;
- timeframes to meet Taumata Arowai deadlines are tight and will be challenging to meet with current resources;
- availability of resources to carry out this compliance work is a significant concern;
- the Council may not have sufficient water revenues to meet the full costs of running services and assets going forward, particularly for the rural schemes; and
- ongoing risk and uncertainty in transitioning service delivery from the status quo (Council currently delivering water services and representing the voices of our communities) to the new water services entities.

7.3 The Act is now in effect and places immediate duties and obligations on the Council regardless of how and when the new service delivery entities form. Staff recommend that the Council’s strategy is to proceed with meeting legislative compliance requirements and continue to invest in water safety and quality in an approach that aligns with the Council’s [Drinking water policy](#).

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- 7.4 The above risks and uncertainties can be mitigated by the following actions:
- ongoing engagement with the Government, National Transition Unit (NTU), community, iwi, staff, Taumata Arowai, Water New Zealand and other groups;
 - provide feedback to Taumata Arowai about the resources required to meet compliance and explain the competing priorities for limited resources;
 - work with Taumata Arowai to gauge progress on meeting compliance within timeframes;
 - keep the Council and the community up to date with Reform progress;
 - continue seeking funding opportunities to assist with resourcing constraints; and
 - continue to fill vacant positions within the water quality compliance team (two) and positions within our operations and maintenance contractor (three).
- 7.5 Any investment measures to comply with the Act (and its supporting documents) are intended to protect and improve public health outcomes.

8 Policy / Legal Requirements / Plan

The Long-Term Plan 2021-2031 identified ongoing reform could impact on the Council's involvement in three waters service delivery. The budgets are based on the three waters remaining with the Council for the next 10 years.

- 8.2 It is likely that the Council will need to consult on the upcoming Annual Plan 2022/2023. However, this decision will be considered on 31 March 2022 in a separate report.
- 8.3 The commencement of the Act places new duties and obligations on the Council, both as a water supplier and regional council. Compliance with these obligations will require increased investment in the water supply activity.
- 8.4 Some obligations have specific timeframes for compliance including:
- Submission of five Drinking Water Safety Plans by November 2022, including Source Water Risk Management Plans;
 - Increased sampling and monitoring requirements to meet DWSNZ by 1 July 2022;
 - Bulk filling stations in place by 1 July 2022; and
 - Water Services and Sanitary Assessment complete by 2026.

9 Significance and Engagement

- 9.1 The decisions sought in this report are of low to medium significance.
- 9.2 The decisions sought in this report will enable the Council to comply with new legislative and regulatory obligations. As such, the Council is already legally obliged to comply.

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- 9.3 However, to meet these obligations, additional costs will be incurred, particularly operating costs. The increase in funding needed to meet these costs in the current year is \$160,000. This is not a significant increase in the context of the Council's water activity accounts.
- 9.4 The increase in funding required to meet these costs in 2023/2024 is nearly \$1 million, which may be a material increase. The additional funding required in later years is lower, but still substantial.
- 9.5 The impact of these increases on rates and debt needs to be considered each year through the Annual Plan process. The additional costs for 2022/2023 have been factored into the Annual Plan that is currently being developed. This will be addressed in a separate report to the Council, including any associated consultation obligations.
- 9.6 Table 4 below describes the level of significance and provides and explanation for each issue.

Table 4: Summary and explanation of levels of significance

	Issue	Level of Significance	Explanation of Assessment
1.	Is there a high level of public interest, or is decision likely to be controversial?	Low-Medium	The Council is considering whether to provide additional funding to implement the requirements of the Act. This additional funding will be included in the Annual Plan process, which will consider whether consultation is required.
2.	Are there impacts on the social, economic, environmental or cultural aspects of well-being of the community in the present or future?	Low-medium	The funding considered in this report will have a direct impact on rates and debt increases.
3.	Is there a significant impact arising from duration of the effects from the decision?	Low-medium	This decision to fund the proposal in this report will help the Council meet obligations under the Act and ensure there is safe and sufficient water for people connected to the Council's water supplies.
4.	Does this activity contribute or detract from one of the goals in the Tasman Climate Action Plan 2019 ?	No	
5.	Does the decision relate to a strategic asset? (refer Significance and	Yes	The decision directly relates to the three waters activities and associated infrastructure which

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	Issue	Level of Significance	Explanation of Assessment
	Engagement Policy for list of strategic assets)		are considered strategic assets. However, the proposals do not involve large scale change to these assets. Most of the additional costs are operational in nature.
6.	Does the decision create a substantial change in the level of service provided by Council?	No	The decision to fund the proposal in this report does not change the Council's level of service, which already seeks to ensure the provision of safe and sufficient water and to meet the drinking water standards
7.	Does the proposal, activity or decision substantially affect debt, rates or Council finances in any one year or more of the LTP?	Yes	The level of funding considered in this report will directly increase rates and debt. This overall impact of this, together with all other changes, will be considered through the Annual Plan process.
8.	Does the decision involve the sale of a substantial proportion or controlling interest in a CCO or CCTO?	No	
9.	Does the proposal or decision involve entry into a private sector partnership or contract to carry out the deliver on any Council group of activities?	No	
10.	Does the proposal or decision involve Council exiting from or entering into a group of activities?	No	
11.	Does the proposal require inclusion of Māori in the decision making process (consistent with s81 of the LGA)?	No	The decisions sought in this report primarily ensure that the Council can comply with new legislative and regulatory requirements. The financial impact of these decisions will be incorporated into future Annual Plans and the Council will need to consider if and

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	Issue	Level of Significance	Explanation of Assessment
			how to involve Māori in decision making associated with that process.

10 Conclusion

- 10.1 The Act is a major milestone in the Government's progress with its Reform programme. The Act places more responsibility on water suppliers to ensure they deliver safe and sufficient water to consumers.
- 10.2 The Act is now in force and Taumata Arowai has a clear expectation for all Council water supplies to comply with the legislation. To meet the requirements of the Act and supporting regulatory documents, staff need to make changes to the way drinking water supplies are operated and maintained. These changes include operational and capital investment and additional staffing resources.
- 10.3 To meet the compliance requirements of the Act and its supporting regulatory documents, the Council needs to consider allocating the funding resources summarised in Table 2 of this report. For a detailed cost breakdown refer to **Attachment 2: Water Services Act 2021 Cost Implications**.

11 Next Steps / Timeline

- 11.1 The table below summarises key milestones and dates in the future Reform process.

Table 5: Key milestone and dates for Reform process

Date	Event
February 2022	Public consultation on Taumata Arowai's proposed standards, rules, acceptable solutions, and performance measures close.
February 2022	Guidance and supporting documentation on the Government's 'Better Off' funding is anticipated to be available.
Q1-Q2 2022 TBC	Water Services Entities Bill Parliamentary process including public input through the select committee process.
Early 2022	Chief Executives and Boards appointed for four Local Establishment Units which will support the local transition to new entities.
Early 2022	Councils can apply for their pro-rata share of the \$500 million "better-off" funding allocation.
10 January – 6 March 2022	Ministry for the Environment has commenced a consultation period for proposed amendments to the Resource Management (National Environmental Standards for Sources of Human Drinking Water 2007). New

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	regulations are expected to be published in the NZ Gazette in the second half of 2022.
31 March 2022	The Council to consider consultation on the annual plan.
1 July 2022	Taumata Arowai's proposed standards, rules, acceptable solutions, and performance measures will likely come into force.
2022-2023	Taumata Arowai will embark on a second series of public consultations including aspects related to consumer complaints, authorisations, infringements, fees and charges, and potentially additional rules.
15 November 2022	Water Safety Plans and Source Water Risk Management Plans must be submitted to Taumata Arowai.
July 2022	Up to \$2 billion in remaining 'better off' and 'no worse off' funding released for councils to contest.
1 July 2024	New water services entities will deliver drinking water, wastewater, and stormwater services to people across New Zealand.

- 11.2 The next steps are to implement the requirements set out in the Act and its proposed supporting documents with the intention to comply as soon as reasonably practicable with the resources at hand.
- 11.3 The Act commenced on 15 November 2021, but the Act's supporting documents will likely come into force in July 2022. Taumata Arowai is currently seeking feedback on seven proposed documents.
- 11.4 The consultation period ends on 28 March 2022. Staff are formulating feedback on some of these documents and intend to make a submission. Following consultation and the analysis of submissions, Taumata Arowai will share a summary of the feedback received and any changes because of the consultation process. It is likely they will be implemented from 1 July 2022. The existing Ministry of Health rules will apply until then.
- 11.5 Some aspects of the Act, in particular those parts that apply to unregistered supplies will take between four and the next seven years to reach compliance. It is expected there will be more engagement and guidance for these suppliers.

Transition arrangements

- 11.6 The Government has established a National Transition Unit for implementing and progressing the reform through a consistent and coordinated approach across New Zealand. The intention is to ensure transition is efficient, effective and minimises disruption to communities, consumers, and the three waters workforce. The NTU recently released a [Transition information pack](#) with more detailed information.
- 11.7 The transition from the current system to the new one will take place in a staged approach between now and 1 July 2024, when four new entities will become responsible for service delivery. In early 2022, the NTU will set up four local establishment entities, which will support the local transition in their area. For Tasman this likely means working with Entity C.

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- 11.8 As part of the transition process the Council and staff will be required to develop or continue a collaborative relationship with the following parties:
- Taumata Arowai;
 - National Transition Unit;
 - new water services entity;
 - neighbouring councils;
 - the wider Tasman community; and
 - Department of Internal Affairs.
- 11.9 The transition process will require a meaningful Treaty partnership with iwi/Māori that is intended to be embedded across the new water services entities. There are many levels where engagement and dialogue are already happening, but staff and the Council will need to continue communicating the various aspects of the new arrangements.
- 11.10 Staff will continue to engage with the parties listed above and report back to the Council at regular intervals.
- 11.11 The Government has established a \$2.5 billion package to support local government through the transition and to position the sector for the future. This package ensures local authorities are supported through the transition process, the financial impacts of reform are managed and importantly, all councils and communities will transition to the new system for delivering three waters services in a better position than where they are now.
- 11.12 There are two components to this funding package including:
- \$2 billion to invest in the future of local government and community wellbeing, while also meeting priorities for government investment; and
 - \$500 million to ensure that no local authority is financially worse off as a direct result of the reform.
- 11.13 Staff will brief the Council on any upcoming funding opportunities in due course.

Attachments

1. Attachment 1: Reform Background Information
2. Attachment 2: Water Services Act 2021 Cost Implications
3. Attachment 3: Compliance with Standards and Rules