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22 February 2024

Hon Dr Nick Smith
Mayor of Nelson
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Tēnā koe Nick

Extension for direction to fluoridate the Nelson water supply

Thank you for your letter to the Minister of Health, Hon Dr Shane Reti, outlining your concerns regarding the uncertainty around the Director-General of Health's direction to fluoridate the Nelson water supply.

As you are aware, this uncertainty is due to the ongoing judicial review proceedings filed by New Health New Zealand regarding the process and the science supporting the Director-General of Health's decision making on directions to fluoridate in 2022.

On 10 November 2023, the High Court issued its judgment on the preliminary issue, finding that in making a decision on each direction, the Director-General of Health made an error of law by not explicitly considering the rights under the New Zealand Bill of Rights Act 1990. There was a second hearing on 2 February 2024 to consider any relief from this initial judgment.

The Judge decided that the directions remain in place. However, the Judge also directed the Director-General of Health to assess whether each the 14 directions made in 2022 was a justified limit on the right to refuse medical treatment that is provided for in section 11 of the New Zealand Bill of Rights Act.

I understand that the ongoing nature of the judicial review process has caused uncertainty, so I have decided to agree to your request for an extension.

In accordance with section 116I of the Health Act 1956, you are required to ensure that you are fluoridating at the optimal levels (between 0.7mg/L and 1.0mg/L) at the Nelson supply by 31 December 2024. Contravening these requirements, or permitting these requirements to be contravened, constitutes an offence under section 116J of the Act.

Thank you for your ongoing collaboration as we work together to improve the oral health of the communities we serve.

Nāku noa, nā



Dr Diana Sarfati
Director-General of Health
Te Tumu Whakarae mō te Hauora

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