



*Office of the Mayor*

Hon Dr Shane Reti  
Minister of Health

15 February 2024

Dear Minister,

**Urgent Need for Fluoridation Directive Clarification**

I seek your assistance to get clarification of Nelson City Council's obligations regarding a directive to fluoridate its water supply, given the High Court judicial review finding the Director-General of Health made an error of law.

In August 2022, the Director-General of Health made a direction under the Health Act (section 116E) for Council to add fluoride to Nelson's water supply by 30 April 2024. However, on 10 November 2023 the High Court issued a judgment, finding the Director-General made an error of law with the decision-making process over the Bill of Rights considerations.

Our interest is that we are the largest Council facing this new requirement on 30 April and will be one of the first since the High Court's decision. Time is rapidly closing in on when we need to meet the directive deadline with it being only 10 weeks until it is required to be implemented in Nelson. Council staff have sought clarification on the status from the Ministry of Health (most recently on 2 February) and while were advised on 17 November 2023 that the directive still stands, we were also advised that the Ministry of Health was still considering the implications of the High Court ruling. We are proceeding with the engineering work to enable fluoridation but cannot be expected to proceed when the latest advice from the Ministry is "the implications of the judgment are being considered".

Our Council is nervous of being caught between the Government telling us we must fluoridate, with potential fines of \$200,000 and potentially \$10,000 per day if we do not comply, and strong opponents of fluoridation who may challenge us with proceedings given the recent ruling of the High Court.



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This issue is very contentious with some people in our community. Staff and Elected Members have been targeted with very negative and personal criticism through emails, in-person and social media comments. People feel so strongly that there is some risk of this opposition boiling over. We need to manage both the careful physical introduction of the fluoride to the water supply and the public communications.

We seek urgent clarification on whether the Ministry still expects us to introduce fluoride by 30 April and, if so, when it will be able to respond to the issues raised about the error of law over the Bill of Rights in the High Court decision. We would welcome any assurance you are able to give Council of any Government support in respect of costs or Crown law assistance in the event there is a legal challenge to us proceeding with the introduction of fluoride. We would also be open to a deferral of the Director-General's directive if more time is needed to resolve these legal issues.

Council is aware that this issue is as contentious and difficult for Government as it is for us. We respect the public health reasons why the Ministry of Health wishes to advance this measure but also note we are on the front line for its implementation. It is in everyone's interests that the implementation is well managed, time is tight and that this clarification is provided as soon as possible.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Nick Smith', is positioned above the printed name.

**Hon Dr Nick Smith**  
Mayor of Nelson

CC: Dr Diana Sarfati  
Director-General of Health and Chief Executive