



**Far North
District Council**



TŪHONOTANGA MINITI ATTACHMENTS MINUTES

Ordinary Council Meeting

11 April 2024

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HIERARCHY OF COMPETING OBLIGATIONS RE FLUORIDE IN DRINKING WATER FOR FNDC

REASONS FOR ADDING FLUORIDE TO COMMUNITY DRINKING WATER	REASONS FOR NOT ADDING FLUORIDE TO COMMUNITY DRINKING WATER
<p>1. Directive from the Director-General of Health instructing names councils to add fluoride based on claims it has medicinal benefits for teeth NB: High Court ruled the directive was unlawful in November 2023 due to the DG's failure to consider how it reconciled with NZ Bill of Rights</p> <p>2. Coercion/Threat/fear of prosecution of Councils by Director General of Health.</p> <p>3. Hope that fluoride might benefit some toddlers teeth- but research is unclear and ongoing.</p> <p>IMPORTANT</p> <p>The stated reason for adding fluoride to public drinking water is as a medicine/treatment for toddlers' teeth.</p> <p>If the FNDC is really serious about reducing tooth decay for our most disadvantaged tamariki, we should implement here the very successful and cost effective CHILDSMILE program where every day after lunch, children practice brushing their teeth to teach the best techniques and learn early about the role of sugar and processed foods in oral health.</p> <p>Treating with a medication without informed consent triggers numerous Bill of Rights and other obligations, including duties in relation to consultation, medical treatment, human rights and obligations in relation to environmental protection and discharges.</p>	<ol style="list-style-type: none"> 1. The directive was unlawful <i>Refer New Health v Min Health</i> [2023] NZHC 2. Any benefit is minimal- much better alternatives include brushing teeth/good hygiene, fluoridated toothpaste/fluoride tablets 3. In 2010 Far North residents were against fluoridation and FNDC Councillors voted unanimously to refrain from adding fluoride chemicals to the water. There has not been any consultation since then. 4. Public health risks - fluoride is a neurotoxin, overdosing of bottle-fed babies, tea drinkers, and harm to those with autoimmune disorders 5. Fluoride is an experiment on our communities- without informed consent. Research is ongoing but to date indicates any benefit to toddlers teeth, is minimal but it has a neurotoxic effect 6. There are many more effective ways of protecting teeth eg tooth brushing/hygiene, early access to good dentists and dental hygienists, healthy diet, less sugar etc - the ChildSmile program. 7. Only healthcare providers can lawfully provide medical treatment AND must comply with fiduciary and professional obligations. 8. Health & Disabilities Code of Patient Care - requires informed consent and discussion of risks, uncertainties and alternatives as well as benefits 9. Treatment without informed consent is criminal and creates ACC treatment injury claims 10. Health and Safety at Work - obligations to identify and avoid risks 11. Lack of consultation with affected communities - in breach of Local Government Act expectations and social licence required for councils 12. Additional cost to fluoridate - Fluoridating the Kerikeri and Kaitiāia plants would add another \$42,000 annual council operating cost on top of the initial capital outlay. (According to FNDC manager infrastructure operations Glenn Rainham said in an RNZ article dated 29 January 2023) 13. The source of the fluoride is from industrial waste and it contains other toxic contaminants ad well as fluoride 14. Contamination of the receiving environment with toxic fluoride and other contaminants, creating RMA breaches. 15. Fiduciary obligations and duty of care owed by council to community and as provider of medical treatment 16. Fair Trading Act prohibits misleading & deceptive claims 17. Public interest defences to criminal charges - Crimes Act s20 protects common law justifications and excuses, also s48 (self defence and defence of others) 18. NZ Bill of Rights and International Covenant on Civil and Political Rights (ICCPR) - Some rights are absolute even in an emergency. The key human right being: <ol style="list-style-type: none"> a. Right to decline medical & scientific experimentation medical treatment

Item 8: Mayor's Report: Attachment 1



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 we 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.



Nelson City Council Te Kaunihera o Whakatū
+64 3 546 0200 | mayornick@ncc.govt.nz | nelson.govt.nz
Civic House, 110 Trafalgar Street, PO Box 645 Nelson 7040, New Zealand
1118544611-7597 Letter Hon Dr Shane Reti fluoridation clarification 15Feb2024

Item 8: Mayor's Report: Attachment 1

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,



Hon Dr Nick Smith
Mayor of Nelson

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

1118544611-7597 Letter Hon Dr Shane Reti fluoridation clarification 15Feb2024

The Honourable Dr Shane Reti
Minister of Health
NZ Government

4 April 2024

Dear Dr Reti

I am writing to you in regards to the previous DG Bloomfield's **unlawful directive** to the Far North District Council to Fluoridate the town water's supply by 30 June 2024.

Our group, Northland Watch, is representing much of the Northland Population who are **vehemently opposed** to this for the following reasons:

- The directive was unlawful;
- Fluoride is a known Neurotoxin and does not prevent tooth decay;
- There is no Informed Consent able to be obtained in order to carry this out so it breaches Human Rights. **Treatment without informed consent is criminal** and creates ACC treatment injury claims;
- There are more effective ways of managing tooth decay such as the Child Smile Programme and alternatives to fluoride e.g. Prodentim;
- Public Health Risks and PCBU responsibilities under the HSWA 2015;
- Lack of consultation with affected communities. **In 2010 Far North residents were against fluoridation** and FNDC Councillors **voted unanimously** to refrain from adding fluoride chemicals to the water. **There has not been any consultation since then;**
- Cost benefit analysis – there are no benefits to warrant the additional costs to the FNDC budget of \$42,000 annually, as well as initial set up costs, which are going to be passed onto ratepayers who don't want it in the first place; the FNDC is proposing an extremely unpopular rates rise of **16.5%**!
- Breaches to the RMA with contamination of waterways through wastewater disposal;
- **Fiduciary obligations and duty of care owed by council to community** and as provider of medical treatment;
- The source of the fluoride is from industrial waste and it contains other toxic contaminants as well as fluoride;
- Fair Trading Act prohibits misleading & deceptive claims;
- Public interest defences to criminal charges - Crimes Act s20 protects Common Law justifications and excuses, also s48 (self-defence and defence of others);
- Only healthcare providers can lawfully provide medical treatment AND must comply with fiduciary and professional obligations;
- **NZ Bill of Rights and International Covenant on Civil and Political Rights**

(ICCPR) - Some rights are absolute even in an emergency. The key Human Right being: a. **Right to decline medical & scientific experimentation medical treatment.**

Given that the High Court ruled on 10 November 2023 that DG Bloomfield made an unlawful directive to Councils **we are asking that this Directive to Fluoridate New Zealand's water supply be withdrawn.**

As you are no doubt aware this is an extremely contentious issue around the Motu and People are not going to back down over this. I quote this from Nick Smith, the Mayor of Nelson, in his letter dated 15 February 2024, to you asking for a delay in the date to implement fluoridation:

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.

Our Group is aware that Nelson City Council has now been granted an extension of time in which to implement Fluoridation – should you continue to insist on this despite Public opposition – till the end of this year. As well, we now are informed that Whangarei District Council has been given a time extension until June 30, 2026.

Why has the FNDC not been given an extension? **We are now asking that the deadline for this to be implemented in the Far North is extended until the same as Whangarei DC, i.e. June 30, 2026?** Since there now exists a precedent to extend implementation there is no reason to decline this request. Since the directive has been ruled unlawful by the High Court to implement Fluoridation, without addressing BORA, you cannot expect any Council to seriously go ahead with this.

Our group is working to support our Council, who are our representatives and are here to represent us, not LGNZ. I am attaching a letter that we have written to our Council which goes into more detail regarding to this.

Yours Faithfully
Tracey Schubert



On behalf of Northland Watch

Financial Costs of Fluoridation**April 8, 2024**

"Local authorities who are directed to fluoridate their water supplies will be invited to apply for funding from a \$11.3 million fund for capital projects associated with these works." This was announced by the Ministry of Health on July 27, 2022.

1. How much of this is still available to Councils once inflation costs of 10 -15 % have been taken into account? Last year, on September 27, the Whangarei City Council said:

"The cost of compulsory fluoridation for Whangārei's drinking water has increased by more than 50 per cent to \$4.65 million – and ratepayers could end up paying."

These costs have climbed due to additional unexpected costs to Fluoridate and significant increases of up to 80 per cent in the cost of materials to be used in building the Fluoridation Infrastructure - in line with cost increases happening across the infrastructure sector.

Similarly the West Coast Council Buller Mayor Jamie Cleine says the projected costs of adding Fluoride to tap water have soared by 23 percent in the past 12 months because of inflation. In a letter to the ministry, his Council warns it has NO budget for Fluoridation because there's been no community consultation on the subject.

"The costs are all very high – we'd be looking at a significant rate rise if the ratepayers had to fund it. We wanted to highlight some key issues like the increased overall cost of implementation, monitoring and management and the fact that fluoridation is not included in our long-term plan, which raises the question how it will be funded?" Jamie Cleine, February 10, 2023

2. How much does the FNDC qualify for from the Ministry's funding? How much has the FNDC budgeted for Fluoridation across its Motu?

The FNDC Ex-Mayor John Carter, was against Fluoridation:

"The problem is there's been no consultation at all. Ratepayers potentially having to step up and fund the Fluoridation."

He wanted more analysis of the benefits of Fluoridation - something he said the Council couldn't currently advise his community on.

"We can't go out to the community and say, 'We need to do this because this is going to be the advantage to you.'"

John Carter did not believe that the issue is to do with Central Government, but lay with Local Government:

"It's just typical again of the Government... all the changes and not consulting with our local people, it's really frustrating."

3. The FNDC is proposing to increase rates by 16.5%. How much of this is to pay for Fluoridation?

"Two Northland territorial authorities fear ratepayers may have to stump up part of the \$3.6 million needed to add fluoride to most of the region's water supplies following a government directive." July 29, 2022 NZ Herald

According to Councillor Ann Court who told the Northern Advocate on June 12, 2017 *"that while the district may be well placed to receive a "larger than others" share of the \$12m, it still relied on its communities to fund the shortfall."*

Northland Watch requires a breakdown of the budget for Fluoridation.

4. Apart from the initial set up costs, what are the ongoing management and monitoring costs per annum? The Western Bay of Plenty Council estimated \$100,000 for their treatment plants in Athenree and KatiKati however have no long-term plan for having to Fluoridate Te Puke as well.

"To include Fluoridation across the District would require substantial investment and would be a long-term project to complete." Western Bay of Plenty District Council, July 2022

5. Costs to promote and defend Fluoridation have to be taken into account. What consultation has the FNDC done with its ratepayers over Fluoridation? Currently None. To hold a referendum on the topic would incur at least \$50,000 per District Health Board, based upon Hamilton and Hasting's referenda costs.

6. What are the costs of the mounting list of adverse health effects of consuming fluoridated water in relation to benefits? In research carried out by the International Journal of Occupational and Environmental Health, doing a cost-benefit analysis, the researchers Ko and Thiessen concluded that:

"The primary cost-benefit analysis used to support CWF in the U.S. assumes negligible adverse effects from CWF and omits the costs of treating dental fluorosis, of accidents and overfeeds, of occupational exposures to fluoride, of promoting CWF, and of avoiding fluoridated water.

In assessing the benefits, it ignores important large data sets and assumes benefits to adults that are unsupported by data. Thus this analysis, as well as other economic analyses of CWF (Appendix 2), falls short of reasonable expectations for a cost-benefit analysis from a societal perspective. Minimal correction of methodological problems in this primary analysis of CWF gives results showing substantially lower benefits than typically claimed. Accounting for the expense of treating dental fluorosis eliminates any remaining benefit."

<https://fluoridealert.org/wp-content/uploads/ko-thiessen.2015.pdf>



Tracey Schubert

On Behalf of Northland Watch



27 March 2024

Far North District Councillors
 Far North District Council
 Private Bag 752
 Kaikohe, 0440

Re : Avoiding fluoridation in Far North water

We act for a group of local Far North citizens who are very concerned about fluoride chemicals being added to their water.

Legal background

As you likely know, fluoridation of water has been found to be a forced medical treatment (*New Health NZ Inc v South Taranaki DC* [2018] 1 NZLR 948) and is therefore only permissible if “demonstrably justifiable in a free and democratic society” (s5 New Zealand Bill of Rights Act 1990 (“NZBORA”). As Glazebrook J recognised in that case, local conditions are relevant to this NZBORA consideration.

The directive you received from Ashley Bloomfield has now been ruled to have been unlawful as he failed to even consider the NZBORA (*New Health NZ Inc v D-G of Health* [2023] NZHC 3183). Diana Sarfati, the current Director-General of Health, has now been ordered by the High Court to reconsider the directives in accordance with the NZBORA (*New Health NZ Inc v D-G of Health* [2024] NZHC 196).

As the Nelson City Council has recognised in the attached letter, the risk you face regarding this issue is not simply from the Ministry of Health; you also face significant litigation risk from your own constituents if you implement the current unlawful directive and fail to comply with your broader obligations under the NZBORA and the Local Government Act 2002.

In 2010, the Far North District Council did undertake democratic consultation on this issue. The results in both of these towns were against fluoridation:

Kaitia	56% against	44% for
Kaikohe	67% against	33% for

Following consultation on this result, the FNDC Councillors voted unanimously to refrain from adding fluoride chemicals to the water. There has not been any consultation on this issue since that time.

Increasing evidence fluoridated water does not materially improve dental health

Also, since that time, worldwide evidence has accumulated to severely question the extent to which water fluoridation reduces tooth decay. The CATFISH study¹ showed that children exposed to fluoridated water had a 4% reduction in tooth decay (ie only 96 children needed a filling compared to 100 if the water was fluoridated). The [LOTUS](#) study² used 10 years of dental insurance records of 6.4 million adults in England

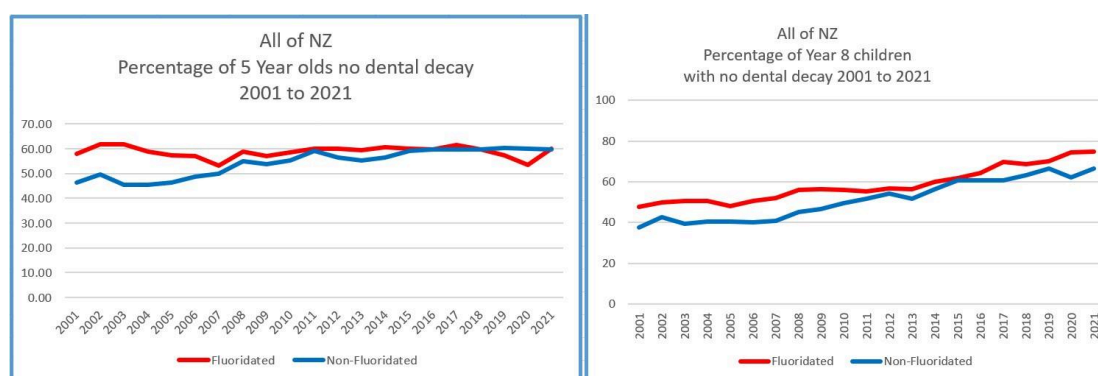
¹ Moore D, Nyakutsikwa B, Allen T, Lam E, Birch S, Tickle M, Pretty IA, Walsh T. How effective and cost-effective is water fluoridation for adults and adolescents? The LOTUS 10-year retrospective cohort study. *Community Dent Oral Epidemiol.* 2024 Jan 8. doi: 10.1111/cdoe.12930. Epub ahead of print. PMID: 38191778.

² Goodwin M, Emsley R, Kelly MP, Sutton M, Tickle M, Walsh T, Whittaker W, Pretty IA. Evaluation of water fluoridation scheme in Cumbria: the CATFISH prospective longitudinal cohort study [Internet]. Southampton (UK): National Institute for Health and Care Research; 2022 Nov. PMID: 36469652.



found essentially no reduction in tooth decay for those living in fluoridated areas, no evidence that fluoridation reduced social inequalities, and no reduction in the number of missing teeth. It is the largest study ever conducted on the effectiveness of fluoridation for the dental health of adults.

These results are vastly at odds with the efficacy claims made in the 2021 Chief Science Advisor’s report relied on by Dr Bloomfield in making his directive. The LOTUS and CATFISH studies also confirm the NZ Ministry of Health School Dental Clinic Records, which show fluoridation has not had a measurable impact on decay rates for NZ children:



Neurotoxic and other risks from fluoridated water

The neurotoxic and other risks from fluoride are also increasingly well documented. The US government’s National Toxicology Program (“USNTP”) conducted a review of the scientific literature on neurotoxic impacts of fluoridated water and reported that 52 of 55 studies, including 18 of the 19 “high quality” studies, found that increased fluoride ingestion causes lower IQ in children. The report found that water fluoridation is causing an average loss of 3 to 5 IQ points which would have significant implications on a community wide scale for how many people are mentally disabled and in need of care. The meta-analysis could not detect any safe level of exposure.³ Among these, [Green 2019](#)⁴ showed IQ damage in the womb from fluoridated water, especially for boys. [Goodman 2022](#)⁵ showed that Iodine deficiency in the mother (common in NZ) made this even worse. [Till 2020](#)⁶ showed IQ damage from bottle-feeding with fluoridated water. [Riddell 2019](#)⁷ showed an increase in ADHD from fluoridated water.

To dismiss all of this evidence of neurotoxic risk, Dr Bloomfield relied on the Prime Minister’s Office Chief Science Advisor’s (“PMCSA”) report which in turn relied almost exclusively on the [Broadbent Dunedin study](#).⁸ The Broadbent study itself was held to be of “low quality” by the USNTP because it had very few children (990 fluoridated vs 99 unfluoridated) and 138 children were on fluoride tablets but it is not said which of the water supplies they were on. Given the advice being given in the 1970s/1980s, it is extremely likely that a large proportion of the 99 children in unfluoridated Mosgiel were taking the tablets. Maternal exposure was also not accounted for and was found to have such a high risk of bias as to be of nil value.

The PMCSA report also incorrectly stated that a 2012 meta-analysis carried out by Harvard researchers only found less than one standard deviation drop in IQ and that it was of “no functional significance”. The

³ USA government National Toxicology Program draft report (May 2023).

⁴ <https://jamanetwork.com/journals/jamapediatrics/fullarticle/2748634>

⁵ <https://pubmed.ncbi.nlm.nih.gov/35889877/>

⁶ <https://www.sciencedirect.com/science/article/pii/S0160412019326145>

⁷ <https://pubmed.ncbi.nlm.nih.gov/31654913/>

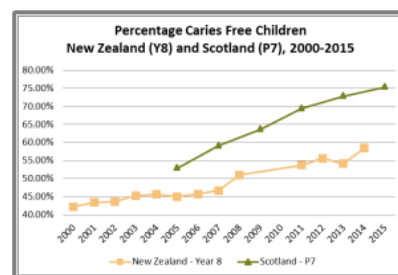
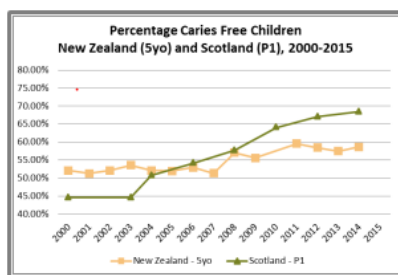
⁸ <https://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2013.301857>



meta-analysis in fact found a 7 IQ point drop which is very concerning and definitely not "of no functional significance."

Our group are aware that there are many other potential risks from water fluoridation that are also in the process of being analysed, including [ADHD](#), [Arthritis](#), [Lowered Thyroid](#), [Chemical Intolerance](#), [Heart Disease](#), [Fluoride and Kidney disease](#), [Increased Lead uptake](#), [Neurotoxicity](#), [Osteosarcoma](#), [Pineal Gland fluoride accumulation](#), [Skeletal Fluorosis](#).

If the FNDC is really serious about reducing tooth decay for our most disadvantaged tamariki, we should implement here the very successful and cost effective CHILDSMILE program. In Scotland, where the program has been in use (without any water fluoridation) decay rates have fallen precipitously. Every day after lunch, children practice brushing their teeth with an expert helper to teach the best techniques and learn early about the role of sugar and processed foods in oral health.



Conclusion and request

As a result of all this, there is no justification for adding fluoride chemicals in the Far North’s water as a forced medical treatment. If the FNDC proceeds to comply with the unlawful directive, our group will have no option but to consider filing a judicial review proceeding against you to challenge the decision. Obviously this would involve costs on every side and we would rather avoid this if possible. However, the protection of this basic human right to clean safe water is paramount.

In order to obtain time for consideration of your options, we formally request that the FNDC also initially, urgently, seek the same extension that has been granted to the Whangarei District Council. The Ministry of Health (MoH) has revised the date by which the Whangarei District Council (WDC) is supposed to introduce toxic fluoridation by 6 months. (Refer: [Community water fluoridation | Ministry of Health NZ](#))

We look forward to your confirmation by 1st May 2024 that this has been done and we trust that this gives Councillors plenty of time to discuss and vote before the deadline date.

We also look forward to a date for a meeting with Mayor Moko Tepania, the Deputy Mayor and the FNDC CEO at your earliest convenience.

Yours faithfully,

The Northland Watch Team

Deb Rock-Evans, Gregory Hugh, Michael Feyen, Tracey Schubert & Robert Eady