



Ref: [REDACTED]

Civic House, 110 Trafalgar Street
PO Box 645, Nelson 7040, New Zealand

5 January 2024

P (03) 546 0200
E LGOIMA@ncc.govt.nz
nelson.govt.nz



Dear [REDACTED]

OFFICIAL INFORMATION REQUEST UNDER URGENCY FOR FLUORIDATION DECISION MAKER

I refer to your official information request dated 21 December 2023, and on the 22 December 2023 advised as being requested under urgency as required for an upcoming meeting:

Request for name and official position of the person(s) who made the decision at the NCC to continue investing financial and staff resources into water fluoridation infrastructure despite the recent high court ruling that the mandate from the former Director General of Health was unlawful as it did not take the Bill of Rights into consideration.

The information you requested is enclosed.

I refer you to the **attached** letter of 17 November 2023 from the Director General of Health. In line with this letter Nelson City Council is continuing with the construction of the fluoridation infrastructure and will await further advice from the Director General of Health prior to commencing fluoridation of the Nelson City Water Supply.

You have the right to seek an investigation and review by the Ombudsman of this response. Information about how to make a complaint is available at www.ombudsman.parliament.nz or Freephone 0800 802 602.

If you wish to discuss this decision with us, please feel free to contact LGOIMA@ncc.govt.nz.

Yours sincerely

Devorah Nícuarta-Smith
Manager Governance and Support Services

Internal Document ID:

Encl: Letter from Ministry of Health November 2023



133 Molesworth Street
PO Box 5013
Wellington 6140
New Zealand
T+64 4 496 2000

17 November 2023

Nigel Philpott
Chief Executive
Nelson City Council
nigel.philpott@ncc.govt.nz

Tēnā koe Nigel

Update on directions for community water fluoridation

As you may be aware, in June 2023, New Health New Zealand Incorporated filed an application for judicial review of the directions issued by the Director-General of Health in July 2022, that required 14 local authorities to fluoridate one or more of their drinking water supplies. Your local authority was one of those issued with a direction.

On 10 November 2023, the High Court issued its judgment on the preliminary issue, finding that 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 in making a decision on each direction.

The implications of the judgment are being considered by Manatū Hauora (Ministry of Health). It's important to note that the Court has not quashed the directions, and at this time the directions remain in force. Manatū Hauora will continue to support you to implement your direction, including by providing funding for the capital works.

Should you wish to read the judgment, you can find it on the Courts of New Zealand website, at [2023-NZHC-3183.pdf \(courtsofnz.govt.nz\)](https://www.courtsofnz.govt.nz/2023-NZHC-3183.pdf).

The decision pertains to the process required to be used in deciding to issue a direction. The judgment is not about the public health merits of fluoridation, or whether fluoridation can be justified under the New Zealand Bill of Rights Act 1990.

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

If you have any questions or would like to contact the team, please continue to use the email address: fluoride@health.govt.nz. The team is more than happy to respond to any inquiries.

Nāku noa, nā



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