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Office of the Mayor

File Number: 404611

Hon Dr Shane Reti
Minister of Health

26 April 2024

Dear Minister,

Request for Community Water Fluoridation Extension

I seek your assistance to get clarification of Kawerau District Council's obligations regarding a directive to fluoridate its water supply. In July 2022, the Director General of Health made a direction under the Health Act (section 116E) for Council to add fluoride to Kawerau's water supply - initially by 30 June 2023 then by 30 June 2024.

However, given the High Court's judicial review finding that the Director-General of Health made an error of law in exercising his powers, and the subsequent decision to grant of an extension on the direction to fluoridate to Nelson City Council, we seek your assistance on behalf of the Kawerau District Council. We note that the Nelson City Council was granted an extension on its deadline to 30 December 2024.

The Director General of Health wrote to Kawerau District Council in November 2023 and February 2024 advising, first in November, of the Judge's decision from the High Court proceedings regarding the error of law, and second in February, confirming that the directions to fluoridate the Kawerau water supply remained in force.

Our interest is that our community, who have closely followed and continue to follow the judicial review process, has approached us. Members of the community request a similar extension to Nelson City be granted to Kawerau given the uncertain, ongoing nature of the judicial review process. Kawerau District Council have been engaged in this judicial review conversation since December 2023 with a petition received from 723 members of our community. This petition was forwarded on to the Director General of Health and our local East Coast MP Dana Kirkpatrick.

Our challenge is that, while we continue to advise our community of the engineering work currently underway to enable fluoridation under the existing directive, strong opponents of fluoridation have signalled their intent to begin proceedings against Kawerau District Council given the recent ruling of the High Court and the uncertain nature of the ongoing assessment process against the New Zealand Bill of Rights Act. In order to avoid Court action and potential non-compliance fines of \$200,000 and additional \$10,000 per day we seek an extension to Kawerau District Council's deadline to fluoridate.

In the last six months, Elected Members and staff of Council have been the recipients of targeted moral and physical threats. This has been notified to the New Zealand Police. Unfortunately, the lack of consistency with regards to the extension consideration granted to Nelson City has created considerable confusion in the community and added to the sense of lack of trust in government – be it local, regional, or central government.

We therefore seek an extension to the community water fluoridation programme pending the outcome of assessments currently underway by the Director General of Health to consider the validity of the current directions, and if applicable, any relief. The granting of community water fluoridation extensions to individual councils (such as Nelson City) without broader consideration of the underlying reason for granting the extension (such as the consideration of section 11 of the New Zealand Bill of Rights Act) is confusing and has raised uncertainty and angst in the Kawerau community. Furthermore, we welcome any assurance you are able to give Council of any Government support in respect to costs or Crown law assistance in the event that there is a legal challenge to us proceeding with the introduction of fluoride.

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, however, ask that considerations are afforded to Council's on the front line – responsible for implementation and on-going delivery. It is in everyone's interests that the legal issues regarding the direction to fluoridate water supply across all communities is well managed and appreciate your consideration of this request for extension as soon as possible.

Yours Sincerely



Faylene Tunui
Mayor of Kawerau

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