

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

6 June 2024

Simon Weston  
Chief Executive  
Whangārei District Council  
Simon.weston@wdc.govt.nz

Vince Cocurullo  
Mayor of Whangārei  
mayor@wdc.govt.nz

Tēnā koe Simon and Vince

### **Community water fluoridation extension request**

Thank you for your letter of 3 May 2024 seeking amendments to the compliance dates for the Director-General of Health direction to the Whangārei District Council to fluoridate the Whangārei and Bream Bay water supplies.

Your letter requests that the compliance date for Ahuroa, Ruakaka, Whau Valley and Ruddells water be changed to 28 March 2025. It follows that you seek:

- a. An extension to the compliance dates for the Ahuroa and Ruakaka water treatment plants which supply the Bream Bay water supply. The extension request is from 31 August 2024 to 28 March 2025.
- b. A bringing forward of the compliance dates for the Whau Valley and Ruddells water treatment plants which supply the Whangārei water supply. This request is to bring the date forward from 30 June 2026 to 28 March 2025.

Your letter notes that there is uncertainty about the direction while my assessment against the New Zealand Bill of Rights Act 1990 is being carried out. As was confirmed by the High Court in the 16 February relief decision, the directions remain valid. This was again confirmed in a recent decision of the High Court on 24 May 2024<sup>1</sup>. That being so, I will not be granting extensions because of legal uncertainty raised by litigation processes.

However, my team informs me that the Council has been working actively with the Ministry to progress this work, and that you have recently signed a contract with the Ministry for the funding of capital works. I understand that the Council would not be able to meet a 31 August 2024 compliance date for the Bream Bay water supply, and an extension to 28 March 2025 would allow for completion of capital works and commissioning of the plants.

I also understand that the Council seeks to align the compliance date for the Whau Valley and Ruddells water treatment plants in the Whangārei water supply with the compliance date for the Bream Bay water supply. I'm advised that aligning the dates for the four treatment plants would enable the Council to commission the treatment plants at the same time, and to communicate with the public about commencement of fluoridation.

---

<sup>1</sup> Fluoride Action Network (NZ) Inc v Hastings District Council [2024] NZHC 1313, available at [https://www.justice.govt.nz/jdo\\_documents/workspace\\_SpacesStore\\_e63abcf0\\_b2d7\\_4e9c\\_bfbd\\_8907f82dca16.pdf](https://www.justice.govt.nz/jdo_documents/workspace_SpacesStore_e63abcf0_b2d7_4e9c_bfbd_8907f82dca16.pdf)

Based on this information, I have decided to amend your compliance dates.

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 Bream Bay water supply, and the Whau Valley and Ruddells water treatment plants of the Whangārei water supply by 28 March 2025.

**Whangarei District Council's role in community water fluoridation**

I would like to take this opportunity to remind you that by amendments passed in 2021 Parliament added Part 5A to the Health Act 1956. That Part empowers the Director-General of Health to direct councils to fluoridate water supplies, and provides that councils must comply with the Director-General's directions. The recent decision of the High Court on 24 May 2024 confirmed that the current directions are valid, and that councils subject to a direction are under a statutory duty of mandatory compliance. Under Part 5A contravening a direction is an offence, and the statute provides for potentially significant penalties.

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

Nāku noa, nā



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