

Extraordinary Whangarei District Council Meeting

Agenda

Date: Wednesday, 12 February, 2025

Time: 9:00 am

Location: Civic Centre, Te Iwitahi, 9 Rust Avenue

Elected Members: His Worship the Mayor Vince Cocurullo
Cr Gavin Benney
Cr Nicholas Connop
Cr Ken Couper
Cr Jayne Golightly
Cr Phil Halse
Cr Deborah Harding
Cr Patrick Holmes
Cr Scott McKenzie
Cr Marie Olsen
Cr Carol Peters
Cr Simon Reid
Cr Phoenix Ruka
Cr Paul Yovich

For any queries regarding this meeting please contact the Whangarei District Council on (09) 430-4200.

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1. **Karakia/Prayer**
 2. **Declarations of Interest / Take Whaipānga**
 3. **Apologies / Kore Tae Mai**
 4. **Decision Reports / Whakatau Rīpoata**
 - 4.1 Fluoridation Update – February 2025

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5. **Closure of Meeting / Te katinga o te Hui**

Recommendations contained in the Council agenda may not be the final decision of Council.

Please refer to Council minutes for final resolution.

4.1 Fluoridation Update – February 2025

Meeting: Extraordinary Council Meeting
Date of meeting: 12 February 2025
Reporting officer: Simon Weston, Chief Executive

1 Purpose / Te Kaupapa

The purpose of this paper is to provide an update on recent communication received from the Director-General of Health, update on the status of the New Health New Zealand judicial review proceedings and to seek direction from Elected Members on how to proceed.

2 Recommendation/s / Whakataunga

That the Council

1. Notes the advice it has received previously in relation to the injunction, including the different types of substantive cases and the risks and potential costs of each option.
2. Notes the letter from the Director-General of Health dated 30 January 2025.

AND

3. Revokes the resolutions of 28 November 2024 and 18 December 2024 and accepts the Direction of the Director-General of Health in relation to fluoridation.

OR

4. Revokes the resolution of 28 November 2024 not to add fluoride to the Whangarei District's water supplies as required and complies with the Direction of the Director-General of Health unless or until the Council is granted an injunction by the Court that lawfully allows the Council not to comply with the Direction.

AND

5. Instructs the Chief Executive to provide a written response to the Director-General of Health on whether Council intends to comply with the Direction by 5pm Friday 14 February 2025.

3 Background / Horopaki

Whangarei District Council has been directed to fluoridate its water supply by the Director-General of Health. On 28 November 2024 Council resolved to not add fluoride to the Whangarei District's water supplies as required by the direction from the Director-General of Health. On 18 December 2024, Council further resolved to seek an extension for the fluoridation deadline until the New Health NZ judicial review against the Director-General of Health is finally decided and to apply for an injunction if the extension was not granted.

All the equipment necessary to commence fluoridation in accordance with the direction has been installed. Detailed information on the steps taken to undertake these works, including funding agreements and other matters can be found in previous agenda items:

- 26 October 2023 Council Meeting Agenda – Water Treatment Plants Contract Award
- 23 November 2023 Council Meeting Agenda – Fluoridation Motion to Consult – Consultation Options
- 21 December 2023 Council Meeting Agenda – Water Treatment Plant Fluoridation – Legal and Contractual Considerations of Pausing Work
- 24 April 2024 Council Meeting Agenda – Water Supply Fluoridation Progress Update and Results of Resident Survey
- 27 June 2024 Council Meeting Agenda – Water Supply Fluoridation Progress Update
- 28 November 2024 Council Meeting Agenda – Notice of Motion Background Information
- 18 December 2024 Extraordinary Council Meeting Agenda – Fluoridation Update and Addendum

4 Discussion / Whakawhiti kōrero

Response from Director-General of Health

Council received a response to its request for an extension from Director-General of Health Dr Sarfati on 30 January 2025 (Attachment 1). In this letter, the Director-General of Health:

- Declines Council's request for an extension.
- Rejects the view that there are serious conflicting views of the safety and effectiveness of community water fluoridation.
- Points out that Council has no discretion to refuse to comply with a direction and that Council is under a mandatory statutory duty to comply.
- Reiterates that it is an offence under the Health Act to contravene a direction and readvising of legal requirements.
- Clarifies the extent of the Court of Appeal hearing and ongoing litigation in that the Court of Appeal matter is only on a point of principle, namely whether there is a general obligation on public decision-makers to take into account the Bill of Rights when making decisions. It does not concern or affect the legal validity of the direction or a substantive evaluation of the science underpinning the direction.
- Outlines further actions available to the Ministry for a breach of the Health Act including prosecution and an application for a writ of mandamus. Successful prosecution could result in a fine of up to \$200,000 with a further \$10,000 per day of non-compliance. The writ of mandamus is a way of seeking the enforcement of public duties through the court. It is a command issued in the name of the Crown requiring an authority to perform a public duty that has been imposed upon it.

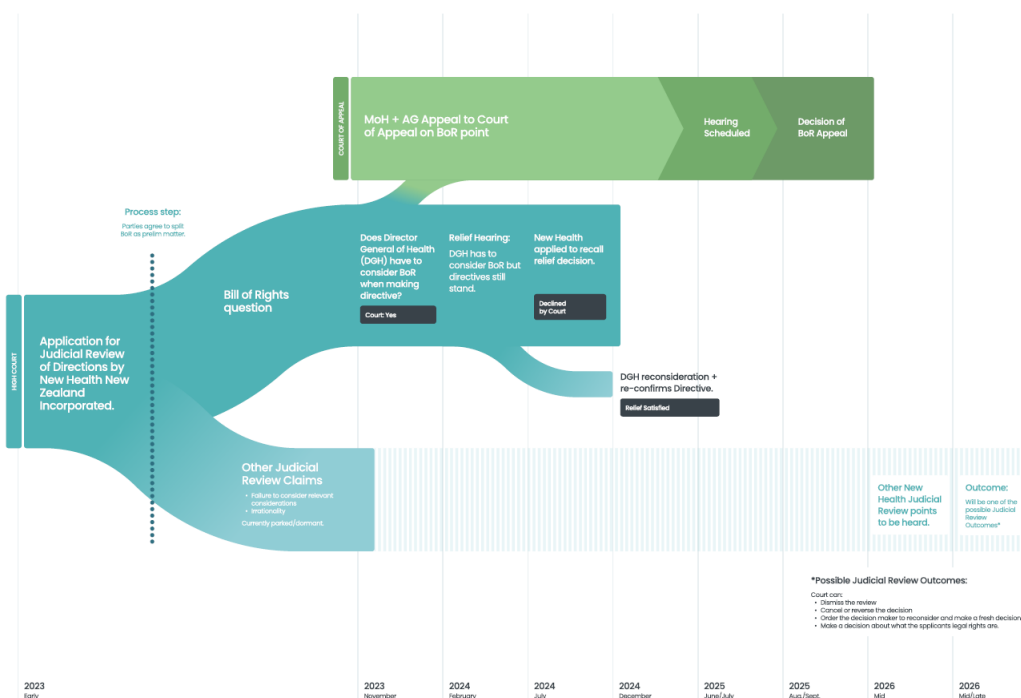
- Asks for a written response as to whether Council intends to comply with the Direction by 5pm Friday 14 February 2025.

Status of New Health New Zealand Incorporated Legal proceedings

The 28 November 2024 Council resolution and the Director-General of Health refers to the status of the New Health New Zealand Incorporated legal proceedings. These proceedings are separate from any action being considered by Council. The diagram below (replicated in Attachment 2) provides a visual map of the progress of those proceedings. The status of the New Health New Zealand proceedings are that:

- The Court of Appeal hearing is only about whether the Director-General of Health needs to consider the Bill of Rights when making a direction. Whatever the outcome of that appeal, it will not affect the status of the existing directions to Councils. That appeal does not involve a substantive evaluation of the science underpinning the direction.
- Other components of New Health’s application for judicial review are currently “dormant”. There have been no further steps in that part of the proceedings before the Court since 2023 and any further action is unlikely to occur until 2026.
- It is also worth noting the limits of what a Court can decide on in a Judicial Review (i.e. the outcome of the case) process. The particular relief available is set out by the Judicial Review Procedure Act 2016 and includes:
 - Dismissing the review
 - Cancelling or reversing the decision
 - Ordering the decision maker to reconsider and make a fresh decision
 - Making a decision about what the applicant’s legal rights are.

Diagram of New Health’s judicial review case progress through the Courts



- As noted in Dr Sarfati's letter, the Court of Appeal has previously unanimously dismissed a substantive challenge to community water fluoridation and that was upheld by the Supreme Court in 2018.
- The 2018 Supreme Court decision¹ followed six years of proceedings through the Courts after various challenges by New Health New Zealand Incorporated to the decision of Taranaki District Council to commence fluoridation in Patea and Waverly (other areas of Taranaki already had fluoride in the water supply). The ambit of the Supreme Court case was wide, including discussion of whether or not fluoridation was considered medical treatment (yes), whether the addition of fluoridation to a water supply was a regulatory function (no) and whether the introduction of fluoridation could be considered a coercive power (also no).
- In that decision the Supreme Court stated that:

*It is obvious that the scientific evidence relating to fluoridation is contentious, in the sense that even apparently authoritative studies as to the benefits and detriments of fluoridation are called into question in other studies, in many cases on the grounds that the writers are biased. **The Court is not in a position to unpick these disputes nor is it able to determine whether particular scientific reports are scientifically robust.** It can, however, note that the benefits of fluoridation are considered to be significant and the detriments insignificant by the World Health Organization and the Ministry of Health.*

- The Supreme Court undertook a broad assessment of the medical evidence provided to determine whether the evidence provided a proper basis for concluding that the addition of fluoride to drinking water was a justified limit on the right to refuse medical treatment under section 11 of the Bill of Rights.
- A decision of a higher court is binding on lower courts and decisions of the Supreme Court, the final court of appeal, are binding on all other courts. **Cases that are legally similar will generally be decided in the same way, conforming with the decisions of a higher court. This is called the rule of precedent. It ensures consistency and certainty in how the law is applied.**

4.1 Injunction Proceedings

As per the Council's resolution on 18 December 2024, the working party established by that resolution has now engaged Jeremy Browne, Henderson Reeves to seek an application for an injunction. Instructions are being issued by Graeme Mathias, Thomson Wilson on Council's behalf. Mr Mathias' advice on possible grounds for injunctive relief and likely chance of success were also sought. Elected Members have been provided with a copy of that advice.

To seek injunctive relief, Council will need to make a substantive application or join as an intervener in the New Health New Zealand Incorporated case.² In other words, Council will need to make an application for judicial review or join the New Health proceedings and apply for an injunction.

¹ *New Health New Zealand Incorporated v South Taranaki District Council* [2018] NZSC 59

² A comprehensive explanation of why this is the case is contained in the Legal advice of Graeme Mathias dated 29 January 2025 and the advice from Simpson Grierson dated 9 October 2023 and provided as part of the agenda item on 26 October 2023.

This is because an injunction is only granted where the Court considers that a state of affairs or status quo of a party needs to be preserved pending the outcome of a claim/legal proceedings. The Council cannot rely on a claim or legal proceedings to which it is not party to (or part of) for injunctive relief.

Options for substantive Council claim

1. Bill of Rights

An application for judicial review simply on the basis of the adequacy of the Bill of Rights assessment would be essentially a legal argument.

This would have the potential benefit of being solely focused on the adequacy of the assessment in relation to Whangārei with evidence likely to be available from local public health sources.

This would be a lower cost approach albeit approximately \$100,000. However, the High Court in the New Health decision has already stated that a defect in a Bill of Rights assessment is not a good enough reason to set aside a direction, and an injunction is highly unlikely to be granted. It was not granted in that case where a breach was established.

2. Medical Grounds

A judicial review on the basis of medical grounds, or that the direction or Bill of Rights assessment is deficient because of the medical evidence relied upon by the Director-General of Health, would need to be based on medical evidence.

Council would need to engage medical expertise to present such an argument. It is likely that the Ministry of Health would also present expert evidence in response. This would substantially increase the costs for Council for not only their own experts but also the cost of other experts if the claim is unsuccessful. It would appear that such medical evidence as is advanced as being supportive of Council's position is not New Zealand based.

The Courts have previously considered medical grounds as a basis for judicial review, and as can be seen in the Decision of the Supreme Court outlined above, the Court declared that it was not in a position to unpick arguments based on scientific evidence. Therefore, an injunction on medical grounds may also be unlikely to be granted.

Other considerations

In initiating injunction proceedings any relief that might be granted is discretionary. Factors which weigh against an exercise of discretion in Council's favour are its delay in issuing proceedings, (it has had a directive from the Director-General since July 2022, and its application for, receipt of and use of public funding to install water treatment plant. A Court is likely to treat an application for an interim injunction with some scepticism given the receipt and use of public funding. If Council is intent on seeking relief it may need to consider an offer to repay or commit to repaying upon an injunction being granted.

4.2 Financial/budget considerations

Costs to Council of initiating its own legal proceedings and continued refusal to comply with Direction include:

- The initial costs of making the application for an injunction is estimated to be \$100,000. If experts are engaged, costs of proceedings would significantly increase. If the injunction is unsuccessful, or if Council withdraws its proceedings at a later date, Council would almost certainly be liable for the Director-General's legal costs, including the costs of other parties' witnesses.

- In addition, under 116J of the Health Act the costs of a fine for contravention of a direction to fluoridate is up to \$200,000 upon conviction and a further fine of up to \$10,000 per day.

Each of these costs are unbudgeted. Insurance will not cover any legal proceedings. The risk of personal liability to Councillors of these costs is discussed further below.

In addition to the costs from legal proceedings, the capital costs of fluoride equipment have been funded by the Ministry. This cost comes to \$4,557,856.88 (excl GST). Half of this, \$2,278,928.44, has already been paid to Council. The remaining \$2,278,928.44 is due for payment on completion of the commissioning of the sites. Staff have budgeted to receive this payment within this financial year. This funding is subject to contractual terms that Council undertakes the fluoridation. If Council does not, the Ministry may demand the return of the money already paid and refuse to pay the outstanding amount.

Given the potentially large adverse and unbudgeted financial impact to Council if it decides not to comply with the directions from the Director-General of Health, staff will advise our auditors of the resolutions passed at this meeting.

4.3 Risks

The risks of not following the direction of the Director-General of Health have been outlined in more detail in previous agenda items. For brevity sake those risks are summarised below rather than replicating previous Agenda items in full.

The following risks remain (and in some instances will continue to increase for as long as Council refuses to comply with the Director-General's direction):

A. Risks of personal liability to Elected Members

By initiating proceedings, in addition to refusing to comply with the direction, the potential costs that Councillors supporting these actions may be liable for, are going to increase.

The estimated cost of an injunction application alone is estimated at \$100,000. Use of expert evidence will add to these costs. If Council is unsuccessful or withdraws from the proceedings, it is likely to have to pay for the costs of other involved parties, including the costs of their experts.

In addition, under 116J of the Health Act the costs of a fine for contravention of a direction to fluoridate is up to \$200,000 upon conviction and a further fine of up to \$10,000 per day.

The Auditor General may make a report that money from the local authority has been unlawfully expended or a liability has been unlawfully incurred by the local authority (section 44 Local Government Act 2002). Such a debt is owed jointly and severally by the parties (section 46 Local Government Act 2002). What each person would be liable for would be dependent on the total amount being considered.

Under the current joint and several liability scheme, if two or more people are responsible for a loss, each person then also potentially liable for the full amount of the loss. If one person is not able to pay (including when their assets are protected), the other defendants have to cover their costs.

B. Risks of liability to Staff

There is potential liability for staff of failing to carry out the direction. Under section 116N of the Health Act 1956, any person acting as an employee can be liable under that section in the same manner and to the extent as if they personally committed the offence.

However, it is a defence to such a charge if the staff member took all practicable steps to prevent the commission of the offence.

The costs of the fines and possible legal costs have been outlined above under Financial/Budget considerations

C. Risks of intervention/action by Ministry of Health

There are legal options available to the Ministry under the Health Act 1956 instead of or in addition to prosecution.

It should be noted that the Director-General of Health specifically mentions an application for writ of mandamus in her 30 January 2025 letter.

- Apply for a writ of mandamus to compel a local authority to perform any duty that the local authority has failed to perform under the act (section 123A Health Act 1956).
- Intervene directly to implement the direction: Where the local authority ... fails to exercise any power or perform any duty under this Act, the Director General may himself or herself exercise the power or perform the duty (section 123(2)) or get employees or contractors to do so (section 123(3)).

Each of these would involve the legal costs of Council responding to claims and potentially responsibility for the costs of the Ministry in bringing the proceedings.

D. Risks of intervention by Minister for Local Government

Further refusal to comply with the direction increases the potential for intervention by the Minister of Local Government. The broad powers of intervention of the Minister in a local authority outlined in the Local Government Act 2002 are based on the occurrence of a "problem".

"Problem" is defined under section 256(a)(ii) of the LGA as a significant or persistent failure by the local authority to perform 1 or more of its functions or duties under any enactment.

A continued refusal or resolution not to comply with the direction meets the above definition and the threshold for intervention by the Minister.

The continued refusal to comply with the resolution is also not in accordance with building strong relationships with the government or the Ministry of Health.

In addition, not complying with the Director-General of Health's direction and arguing the merits of fluoridation is not core Council business, complying with the legislation, and in particular the Health Act is core business.

E. Contractual breach

The Ministry of Health could apply to the Courts to recover the funding granted to Council to install the fluoridation equipment. Whether or not there is a strong basis for such a claim, the costs of defending it in the Courts are a potential expense.

When assessing a party's obligations under an Agreement, the Agreement must be read as a whole. While it has been suggested that Clause 2.2 may be considered ambiguous as to whether the works need to be turned on for Council to comply with the conditions, when reading the Agreement as a whole there are other clauses in the Funding Agreement which set out obligations which Council will be in breach of by not turning the works on:

- The severability clause (10.5) states that any unenforceable clause of the Agreement will not affect the validity or enforceability of the Agreement. The

- Completion of works is a defined term in the funding agreement and includes one month's continuous operation of the works in accordance with the operational specifications (Clause 1.1).
- The Council is responsible for the Works complying with all relevant law (Clause 2.6) which would include the Health Act 1956 and compliance with a direction.
- There are obligations in the contract relating to the completion of works (as a defined term) including Clause 7.4 Confirmation required on completion of works, clause 7.5 issue of confirmation letter, Clause 7.6 Details of the letter to be provided by the engineer. Council will not be able to satisfy those conditions until fluoridation is started.

There are remedies available to the Ministry for a "Material breach" of the Agreement. A Material breach is a serious breach of the contract which has negative consequences. It is a breach that goes to the core of the contract. Council's actions could be considered to be a repudiation which is a material breach of a contract. A repudiation is implicit where the reasonable inference from the other party's conduct is that they no longer intend to perform their side of the contract. The remedies available to the Ministry for breach of contract include:

- repayment of the funding amounts and any costs reasonably incurred in doing so (Clauses 9.1 and 9.3) for a material breach of the Agreement.
- There are also remedies available to the Ministry under the Contract and Commercial Law Act 2017 which include variation the contract or awards of compensation.

In any event having accepted this funding such is a serious impediment to now seeking injunctive relief. A court may consider such acceptance, without a commitment to immediately repay, as a barrier to any grant of relief.

5 Significance and engagement / Te Hira me te Arawhiti

The decisions or matters of this Agenda do not trigger the significance criteria outlined in Council's Significance and Engagement Policy, and the public will be informed via agenda publication on the website.

6 Attachments / Ngā Tāpiritanga

Attachment 1: 30 January 2025 Letter from Director-General of Health

Attachment 2: Progress of New Health New Zealand Incorporated judicial review case

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30 January 2025

Ref. H2024059024

Vince Cocurullo
Mayor of Whangārei

Simon Weston
Chief Executive
Whangarei District Council

c/o tanja.sullivan@wdc.govt.nz

Tēnā kōrua

I am writing in response to your letter dated 20 December 2024 further to my previous correspondence to you regarding the fluoridation directive for Whangarei District Council.

I note your request to meet with me. I record that since your letter was sent the Deputy Director-General, Dr Andrew Old has met with the Chief Executive, Simon Weston on Tuesday 14 January. Further, on Friday 17 January 2025, Dr Andrew Old, Ministry of Health officials and Crown Counsel met with you both, along with councillor Gavin Benney, and Council policy and legal officials. Both meetings concerned the matters raised in your letter. I recall also that the Council has been formally consulted on the directions on two occasions, first when the directions were initially put in place in 2022, and secondly as part of my New Zealand Bill of Rights Act 1990 analysis. The Ministry of Health has maintained regular contact with Whangarei District Council, and other local authorities that have been directed to fluoridate.

Your letter refers to a motion passed by a majority of the Council on 18 December 2024 to seek an extension to the date by which Whangarei District Council must fluoridate the Bream Bay and Whangārei water supplies until the outcome of the *New Health* litigation is finally determined. The reason given for seeking more time is due to ongoing litigation and the Council's perception that there are "serious conflicting views of the safety and effectiveness of community water fluoridation". You have not advised of, and I am not aware of, any logistical or technical impediment to commencement of fluoridation of the Bream Bay and Whangārei water supplies by the existing date for compliance of 28 March 2025.

The motion of 18 December 2024 follows on from the prior Council motion of 28 November 2024, passed by majority, by which the Council resolved not to add fluoride to the Council's water supplies. You advised me of the 28 November 2024

resolution by letter of 4 December 2024. In my reply of 6 December 2024, I reminded the Council of its legal obligations under the Health Act 1956 and referred to my thorough review of the science around community water fluoridation that accompanied my Bill of Rights Act analysis.

I decline the Council's request for an extension.

For the reasons detailed in the evidence review conducted to inform my Bill of Rights Act analysis, I reject the view that there are serious conflicting views of the safety and effectiveness of community water fluoridation. At the levels of fluoride required to be used for community fluoridation in New Zealand, I am satisfied that a strong and long-standing body of evidence demonstrates that community water fluoridation is safe and effective.

My Bill of Rights Act analysis, published in December 2024, is based on detailed consideration of the scientific evidence, including recent developments that are cited in the memorandum of Councillor Benney that was placed before the Council for its meeting of 18 December 2024. It includes the latest version of the Cochrane report and the recent decision of the US District Court (which has now been appealed by the US Federal Government). In regard to those materials, I direct you in particular to the "Community water fluoridation: Additional information on recent publications" document that accompanied my Bill of Rights Act analysis (and which was part of the Agenda material before the Council for its meeting of 18 December 2024, along with all of the other documents that form part of my Bill of Rights Act assessment).

By amendments in 2021 to the Health Act 1956, Parliament put in place a dedicated statutory scheme to govern community water fluoridation. The Director-General was conferred with the legal power to direct local authorities to fluoridate their water supplies. A key reason why Parliament conferred this legal authority on the Director-General is because water fluoridation is a public health measure, that should be determined on the basis of public health expertise. In addition, Parliament was concerned that local authorities were coming under considerable pressure from groups that oppose fluoridation, which in turn could undermine the significant public interest in community water fluoridation.

Under the new statutory scheme, the role of local authorities is to implement directions made by the Director-General, and local authorities are under a mandatory statutory duty to comply. As such, the Council has no discretion to refuse to comply with a direction. The High Court has said, "the Council's role under s 116I [of the Health Act] is limited to mandatory compliance with any direction once made".

It is an offence under the Health Act 1956 for a local authority to contravene or permit the contravention of a direction. The penalty for such a contravention upon conviction is a fine of up to \$200,000 and a further fine not exceeding \$10,000 for every day or part of a day during which the offence continues.

I have advised you of these legal requirements via previous correspondence, and I understand that you have also been advised of these legal requirements, and legal requirements more generally, by your own officials, ahead of both the Council meeting of 28 November 2024 and the Council meeting of 18 December 2024.

The High Court in the *New Health* litigation held in November 2023 that the directions were affected by legal error because the Director-General did not explicitly consider the Bill of Rights Act in deciding to put the directions in place.

That judgment has been appealed to the Court of Appeal. In any case, any error has now been rectified by my Bill of Rights Act analysis. In addition, the High Court on several occasions during 2024 confirmed that notwithstanding any legal error, the directions are valid and remain effective. The High Court has specifically confirmed that councils therefore remain under a mandatory duty of compliance.

The appeal to the Court of Appeal solely concerns a point of principle (whether there is a general obligation on public decision-makers to take into account the Bill of Rights Act when making decisions) and does not concern or affect the legal validity of the directions. Nor does it involve substantive evaluation of the science underpinning the directions.

As such, there is no legal uncertainty as to the status of the directions: they are legally valid and must be complied with, pursuant to the terms of the Health Act 1956. And I note that the Council has acted on this basis by continuing to receive significant public funds from the Ministry of Health to complete capital works necessary for fluoridation, and by carrying out those works.

New Health has other ongoing litigation in the High Court which involves a substantive challenge to the directions. I understand from Crown Law that this case is unlikely to be heard until 2026. The fact of ongoing proceedings does not affect the validity of the directions, and the Court of Appeal has previously unanimously dismissed a substantive Bill of Rights Act challenge to community water fluoridation - that conclusion was not disturbed on appeal to the Supreme Court.

Therefore, the direction issued under section 116E of the Health Act 1956 continues to create a mandatory legal obligation on the Council to fluoridate its water supplies to the required level.

I reiterate that I expect the Council to comply with its direction by the required date, which is 28 March 2025, and I do not consider there is a basis for an extension.

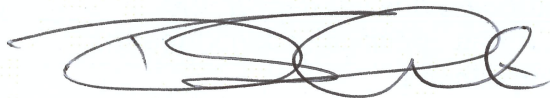
As noted, it is an offence under the Health Act 1956 for a local authority to contravene a direction, and the Act provides for potentially heavy penalties upon any conviction by a court. The Ministry will consider whether prosecutions should be commenced on a case-by-case basis in accordance with the Solicitor-General's Prosecution Guidelines.

The Health Act 1956 provides legal mechanisms which may apply in cases where local authorities fail to perform with their duties. These include that "The Minister may apply to the High Court for a writ of mandamus to compel a local authority to perform any duty that the local authority has failed to perform under this Act". The writ of mandamus is a coercive court order mandating compliance with a legal duty. The Act also provides that in circumstances where a local authority is in default of its legal obligations, the Director-General of Health may perform those obligations.

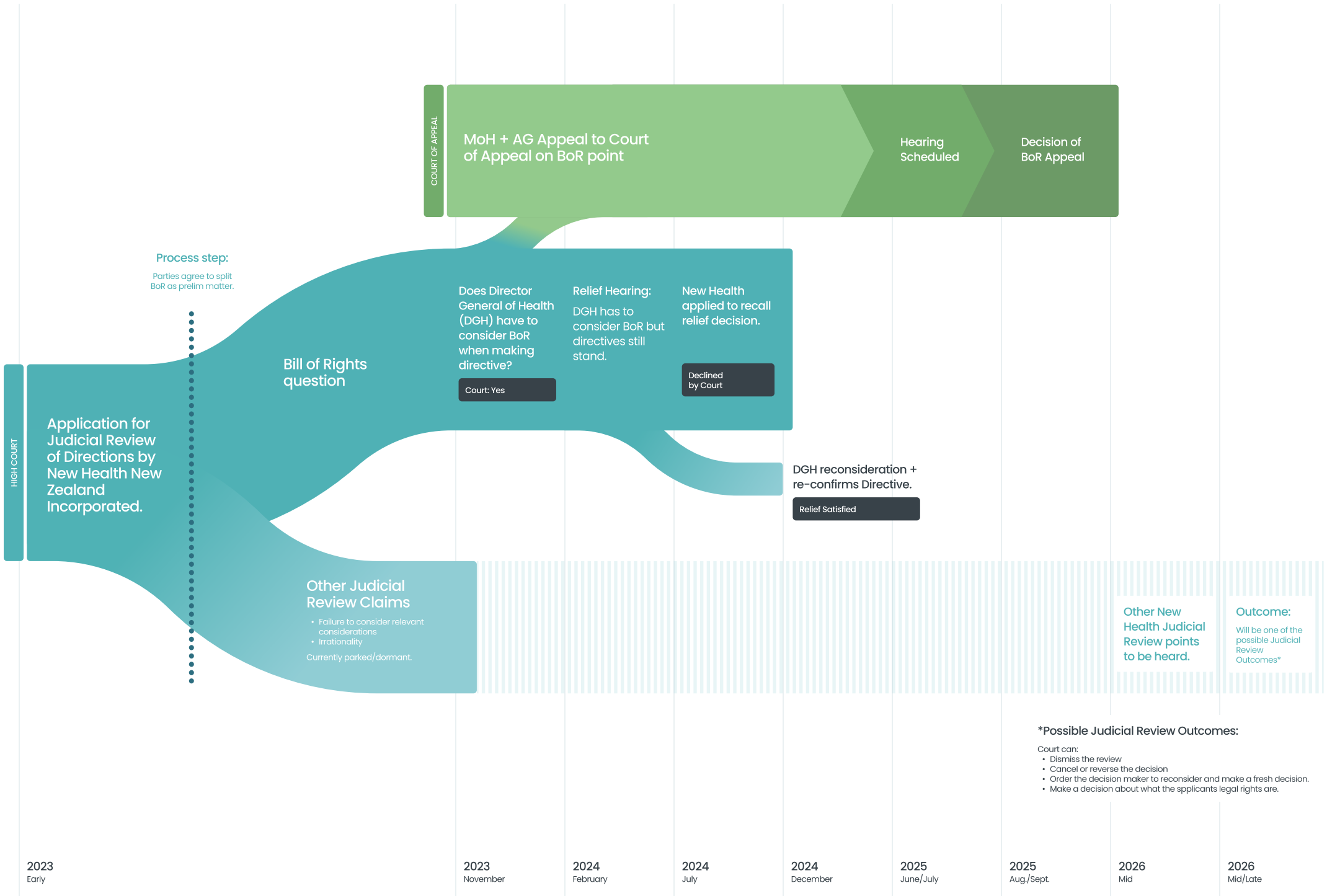
I look forward to the Council complying with its legal duty to fluoridate the Bream Bay and Whangārei supplies by 28 March 2025. I would be grateful if the Council could

please confirm by return correspondence by 5pm Friday 14 February 2025 whether it intends to comply with the direction to fluoridate Bream Bay and Whangārei water supplies by the prescribed date of 28 March 2025.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. Sarfati', with a stylized flourish at the end.

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



RESOLUTION TO EXCLUDE THE PUBLIC

That the public be excluded from the following parts of proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

1.	The making available of information would be likely to unreasonably prejudice the commercial position of persons who are the subject of the information. {Section 7(2)(c)}
2.	To enable the council (the committee) to carry on without prejudice or disadvantage commercial negotiations. {(Section 7(2)(i))}.
3.	To protect the privacy of natural persons. {Section 7(2)(a)}.
4.	Publicity prior to successful prosecution of the individuals named would be contrary to the laws of natural justice and may constitute contempt of court. {Section 48(1)(b)}.
5.	To protect information which is the subject to an obligation of confidence, the publication of such information would be likely to prejudice the supply of information from the same source and it is in the public interest that such information should continue to be supplied. {Section7(2)(c)(i)}.
6.	In order to maintain legal professional privilege. {Section 2(g)}.
7.	To enable the council to carry on without prejudice or disadvantage, negotiations {Section 7(2)(i)}.

Resolution to allow members of the public to remain

If the council/committee wishes members of the public to remain during discussion of confidential items the following additional recommendation will need to be passed:

Move/Second

"That _____ be permitted to remain at this meeting, after the public has been excluded, because of his/her/their knowledge of Item _____.

This knowledge, which will be of assistance in relation to the matter to be discussed, is relevant to that matter because _____.

Note:

Every resolution to exclude the public shall be put at a time when the meeting is open to the public.