

Submission by**Hamilton City Council Staff****INQUIRY INTO SUPPLEMENTARY ORDER PAPER NO. 38 ON THE HEALTH (FLUORIDATION OF DRINKING WATER) AMENDMENT BILL****18 June 2021**

It should be noted that the following submission is from staff at Hamilton City Council and does not necessarily represent the views of the Council itself.

1.0 EXECUTIVE SUMMARY AND RECOMMENDATIONS

- 1.1 Hamilton City Council staff thank Parliament's Health Committee for the opportunity to make a submission to the Inquiry into Supplementary Order Paper No. 38 on the Health (Fluoridation of Drinking Water) Amendment Bill.
- 1.2 As the addition of fluoride is a public health initiative, Hamilton City Council staff support that this Bill now gives decision-making power to the Director General of Health on fluoridation of water supplies.
- 1.3 Hamilton City Council provides two points of supply of low or fluoride free water to accommodate the choice or preference of some members of its community. Staff support the provision that allows a Local Authority to supply low or fluoride free water at specific points and recommend an amendment to provide for the situation where fluoride is 'removed' at the point of supply.
- 1.4 Hamilton City Council staff seek clarity on why the Bill has been amended to refer to Local Authority rather than Drinking Water Suppliers. This seems out of the current three waters reform context and staff recommend that an explanation note be provided.
- 1.5 Hamilton City Council values ongoing research into community health and drinking water parameters. Staff recommend that the Director General of Health publish an assessment of the existing science of fluoridation at regular intervals to ensure that New Zealanders have an opportunity to be informed.
- 1.6 Hamilton City Council staff note that the Bill does not provide for the Director General of Health to meet capital and operating costs of fluoridation. Local Authorities will have decisions imposed on them and fluoridation is not a water treatment matter. Staff recommend that costs are met by the Director General of Health.
- 1.7 Hamilton City Council staff support that Local Authorities are invited to provide financial and implementation information prior to the Director General giving a direction. Staff do not support the number of working days for this information and recommend that this be extended to 60 days, and that costs of an assessment are met by the Director General of Health.
- 1.8 Hamilton City Council staff do not support the Bill's requirement that a specified level of fluoride is present in the water immediately before it is available for consumption. Staff

recommend that the Bill provide flexibility for where fluoride is monitored.

- 1.9 Hamilton City Council staff consider that the fines noted in Sub-Part 2 Offences are disproportionate to the context of a public health initiative. Staff recommend that the intent of this is clarified and reviewed and recommend that the Bill includes exception criteria for when dosing levels can not be met.
- 1.10 Hamilton City Council staff recommend that the delineation between Taumata Arowai responsibility for overseeing water safety, and the Ministry of Health responsibility for overseeing population health is more clearly defined by amending the Bill to require the Director General of Health to notify Taumata Arowai of any direction given to the water supplier on the matter of fluoride.

2.0 INTRODUCTION

- 2.1 Hamilton City Council staff would like to thank Parliament's Health Committee for the opportunity to make a submission to the Inquiry into Supplementary Order Paper No. 38 on the Health (Fluoridation of Drinking Water) Amendment Bill.
- 2.2 Hamilton City Council has previously made submissions to:
 - Health (Fluoridation of Drinking Water) Amendment Bill 2016 (refer [here](#)).
 - Taumata Arowai Bill (2020).
 - Water Services Bill (2020).
- 2.3 In its 9 February 2017 *submission on the Health (Fluoridation of Drinking Water) Amendment Bill 2016*, Hamilton City Council supported Local Government New Zealand's (LGNZ) view that decision-making should rest with the Director General of Health. As the addition of fluoride is a public health initiative, public health experts should make the decision as to whether a district or city or should fluoridate its drinking water supplies. We are pleased to see that the Bill has been amended to give that power to the Director General of Health.
- 2.4 Hamilton City Council's 9 February 2017 submission also sought that community views be considered.
- 2.5 Hamilton City Council submitted to the Water Services Bill (2020) that clarity on roles and responsibilities of authorities and drinking water suppliers was required.
- 2.6 While Hamilton City Council fluoridates its drinking water supply, Council sought that legislation provides for allowing fluoride-free supply to a part of the community.
- 2.7 Further commentary on these matters and the Supplementary Order Paper is provided below.

3.0 SPECIFIC COMMENTS

Community Engagement and Fluoride Research

- 3.1 In addition to supporting that decision-making should rest with the Director General of Health, Hamilton City Council also recommended that consideration be given to meaningful ways for the community to provide input into decision-making about fluoridating drinking water supplies or not fluoridating drinking water supplies.
- 3.2 Hamilton City Council staff note that in the Bill, the Director General of Health is not required to consult with the community when making a decision on fluoridation. Hamilton City Council staff recommend that the Ministry of Health and Ministerial Health Committees utilise their existing systems, such as the 'Health Consultation Hub' to seek views from the community.
- 3.3 As outlined, Hamilton City Council has previously submitted on the Bill (2016), noting that it supports central government's ongoing research into water fluoridation (particularly research

from reputable national and international agencies), which can be used to refine national guidelines provided to Local Authorities who are directed to add fluoride to their community drinking water supplies.

- 3.4 We also support Taituara's recommendation that the Director General of Health publish an assessment of the existing science of fluoridation at regular intervals. This will ensure that New Zealand actively monitors and responds to latest research for the benefit of all New Zealanders as intended by this Bill. This will also ensure that New Zealanders have an opportunity to be informed.

Costs

- 3.5 Hamilton City Council supported LGNZ's submission (2016) that fluoridation costs should be covered by the decision-maker i.e., the Director General of Health. Staff still consider that costs should fall to the Director General of Health. The addition of fluoride will not be a decision made by Local Authorities. Further to this, the addition of fluoride is a public health initiative and is not required for the effective treatment of a water supply.
- 3.6 We support the intent of Section 116G in which the Director General must invite comments from the relevant Local Authority on estimated financial costs (of fluoridation) and the date by which compliance with a direction could be achieved, and that the Director General must have regard to these comments. Councils have a responsibility under the Local Government Act to be effective and consider that the level of investigation required to determine costs (especially if not covered by the Ministry of Health) goes beyond 'comments'. In this regard, it is an 'assessment' that is required.
- 3.7 Hamilton City Council staff consider that Section 116G (2) providing 40 working days for Local Authorities to provide comments on costs of fluoridation may not be long enough for a proper assessment. There may be areas in some Local Authorities where there are multiple unfluoridated water treatment stations serving a population. This may also be true under three water reforms seeking efficiency through management of multiple supplies under one entity.
- 3.8 In this regard, while 40 days may be sufficient to identify costs for one water treatment supply, it may take longer for more than one water treatment supply. Hamilton City Council staff recommend this be extended to 60 days, and that costs of an assessment to provide this information to the Director General of Health for decision-making purposes is met by the Director General of Health.

Compliance

- 3.9 Section 161(2) requires that a Local Authority must take all practicable steps to ensure that a specified level of fluoride is present in water immediately before it is available for consumption. Hamilton City Council monitors for fluoride levels in potable water immediately before it leaves the water treatment plant. Fluoride is not routinely monitored in the network (except at two specific 'fluoride-free taps', where the potable water is tested at those supply points to ensure either fluoride is not present or that the levels are very low).
- 3.10 Fluoride, once added to potable water, remains there at that concentration unless physically removed by a treatment process. Hamilton City Council staff recommend that the clause is amended to provide flexibility for where fluoride is monitored for compliance.
- 3.11 Hamilton City Council staff are pleased to see community supply of low or fluoride free water is provided for in Section 116F (3). Because fluoride is 'removed' from one of Hamilton city's point of supply, staff recommend that the clause is amended to *'A direction to add fluoride to drinking water may allow the local authority to supply, at 1 or more specified sites, water to which fluoride has not been added or has been removed.'*

Offences

- 3.12 Section 116J (1) allows for Local Authorities to be fined either \$200,000 or \$10,000 for every day, or part of a day that water is not fluoridated. Hamilton City Council staff advise that fluoridation dosing can be complex and there are also times where various technical, or supply issues arise. From time to time, it will be necessary to temporarily cease or reduce dosing and so some leeway is needed for such circumstances. Staff recommend that the Bill includes exception criteria.
- 3.13 Staff note that the intent of the offence clause is not very clear and potentially requires rewording to reflect that it is targeted at councils that are choosing not to fluoridate.
- 3.14 Knowing that fluoridation is a health benefit matter and not a water quality matter (unless at higher than the maximum value), the fine also seems disproportionate to the context of a public health initiative.

Three Waters Reform

- 3.15 In its submission to the Water Services Bill, Hamilton City Council recommended a review of the models of service delivery, suppliers and their points of supply, source water management, and a re-evaluation on how these relate to powers and duties, roles, and obligations.
- 3.16 In this Amendment Bill, Hamilton City Council staff note that 'Drinking Water Supplier' has been replaced with 'Local Authority'. The Bill does not take into account future three waters reform where there is likely to be water entities 'controlling' supplies. The term 'Local Authority' also captures Regional Councils who do not abstract, store, treat, transmit or transport drinking water for supply to customers. An explanation for this amendment has not been provided to understand if this Bill will be repealed in due course or if the term Local Authority will be redefined. Hamilton City Council staff seek clarity on this matter.

Relationship to Taumata Arowai

- 3.17 We understand that this Bill is related to 'decision-making' on a 'medical related matter' and support this Bill in this regard. Because Taumata Arowai has an overall but similar water quality and safety related role, Hamilton City Council staff recommend that this delineation is more clearly defined by inserting a clause that requires the Director General of Health to notify Taumata Arowai of any direction given to the water supplier on the matter of fluoride.
- 3.18 This notification will ensure that Taumata is able to ensure that the appropriate risk management processes are in place for the safe addition of fluoride, and compliance with the New Zealand Drinking Water Standards.

4.0 FURTHER INFORMATION AND HEARINGS

- 4.1 Should Parliament's Health Committee require clarification of the above points, or additional information, please contact **Rae Simpson** (Senior Planner - City Waters) on 07 838 6427 or 027 2057 183, email raewyn.simpson@hcc.govt.nz in the first instance.
- 4.2 Hamilton City Council staff **do wish to speak** in support of this submission at the Health Committee hearings.

Yours faithfully



Richard Briggs
CHIEF EXECUTIVE