

19 March 2019

Travis Clayton
Fyi-request-9627-cf0360c2@requests.fyi.org.nz

By email

Dear Mr Clayton

**RESPONSE – REQUEST FOR INFORMATION ABOUT FLUORIDE HEALTH CLAIMS AND
LEGAL AUTHORITY FOR FLUORIDATED WATER**

Background

1. I refer to your request dated 19 February 2019, which was transferred to Watercare from Auckland Council on the same day under section 12 of the Local Government Official Information and Meetings Act ("**LGOIMA**").
2. Watercare responded to your request on 25 February 2019, detailing the composition of Hydrofluorosilicic Acid supplied to Watercare, as well as its physical properties and trace elements.
3. On 28 February 2019, you advised in an email to Watercare that our response was inadequate to satisfy the second part of your request and that you wished to be provided with the following information:

...documents that include specific claims [by Watercare] and documented support for these claims, for its own actions, over time, with respect of adding the acid to public water. Or, alternatively, please supply and reference the legal documents that specifically provide the basis on which Watercares apparent, claim and support free, acid dosing actions, are provided for in LAW.

4. We have decided to grant your request and provide the following information in response.

Documents provided to the public containing claims about fluoride addition or its medicinal benefits

5. Watercare adds fluoride to Auckland's metropolitan water supply in accordance with the guidelines set by the Ministry of Health.
6. The only public information shared by Watercare regarding fluoridation is what is reported in the monthly Metropolitan WTP Fluoride report (latest report enclosed as **Appendix 1**), in the annual Water Quality Report (latest report enclosed as **Appendix 2**) and on the Watercare website.¹
7. More broadly, sharing information about the benefits of fluoridation relates to the functions of the Ministry of Health. If you have further questions in this regard, we encourage you to contact the Ministry for further information about the health effects of fluoridated water. The relevant contacts can be found at the following link: <https://www.health.govt.nz/about-ministry/contact-us>.

¹ <https://www.watercare.co.nz/Water-and-wastewater/Water-treatment-and-supply/Drinking-water-quality>

Legal documents that provide the basis on which Watercare's claims an ability to fluoridate water

8. Fluoride has been added to Auckland's metropolitan water supply for dental hygiene purposes since 1965. At that time, the Auckland Regional Authority was responsible for the region's water supply. It passed a resolution to introduce fluoridation in accordance with its powers under the Municipal Corporations Act 1954. The Privy Council confirmed that this section empowered local authorities to fluoridate bulk water supplies in *Attorney-General v Lower Hutt City* [1965] NZLR 116 (PC).
9. In 1990, pursuant to the Local Government Act 1974, the Auckland Regional Council resolved that fluoridation should remain in place.
10. More recently, the Supreme Court considered the power of local authorities to fluoridate water in the case of *New Health New Zealand Incorporated v South Taranaki District Council* [2018] NZSC 59. Of relevance to your query, the Court concluded at para [56] that:

...the Council (in common with other local authorities) has power to fluoridate drinking water. The LGA 2002 was enacted against a background that fluoridation was, and has been for decades, lawful...the express continuation power in s 130, includes the power to fluoridate.
11. As the local government organisation that provides water services in Auckland, Watercare may exercise the power to fluoridate water in accordance with section 130 of the Local Government Act 2002, although it must comply with the Health Act 2002 in doing so. The Health Act requires Watercare to take all practicable steps to ensure that the water its supplies meets the Drinking Water Standards produced by the Minister of Health, including the fluoridation limit of 1.5mg/L. In accordance with this duty, Watercare actively monitors the fluoridation levels in Auckland's water supply to ensure they stay within the Minister's recommended range.
12. You may also be aware that Parliament is currently in the process of considering the Health (Fluoridation of Drinking Water) Amendment Bill. The Bill passed its first reading on 6 December 2016 and the Health Select Committee delivered its report on 29 May 2017, after considering over 1,000 submissions. The Bill proposes to provide District Health Boards with the discretionary ability to direct drinking water suppliers to fluoridate water or stop fluoridating water. If you have more questions about the proposed Bill and its progress through Parliament you may like to contact the Ministry of Health or your local MP.
13. If you wish to discuss this response with Watercare, please feel free to contact me.

Yours sincerely,



Priyan Perera
Head of Operations Excellence
Watercare Services Limited