

Referendum on the fluoridation of the Thames water supply

TO	Thames-Coromandel District Council
FROM	Graham McDermott - Senior Policy Analyst
DATE	16 July 2015
SUBJECT	Referendum on the fluoridation of the Thames water supply

1 Purpose of Report

To provide Council with a proposed approach to undertake a binding referendum of the electors within the Thames water supply area of benefit to determine if fluoridation of the Thames water supply continues. The report provides Council with proposed content for the voting document, a proposed timeline for the referendum, and a proposed communication plan for the referendum.

2 Background

The Thames community has previously been consulted on this issue in a process run by the Thames Community Board using a feedback form over December and January 2012/2013. The decision was made to retain the status quo of the continued fluoridation of the Thames water supply. In the 2013/14 Annual Plan deliberations in response to submissions received, Council undertook to consult on the issue again.

At their meeting on 17 December 2014, on the Thames Community Board's recommendation, Council resolved to not undertake consultation on the matter of fluoridation in the Thames water supply through the 2015-2025 Long Term Plan consultation. Instead, Council decided to undertake a binding referendum of the electors of the Thames water supply area of benefit in the second half of the 2015 year to determine if fluoridation of the Thames water supply would continue. The referendum will be undertaken by postal vote.

Council resolution - 17 December 2014:

1. Receives the 'Fluoride consultation' report, dated 1 December 2014.
2. Endorses the Thames Community Board's recommendation that consultation is not undertaken on the matter of fluoridation in the 2015-25 LTP.
3. Instructs staff to arrange for a binding referendum to be undertaken in the second half of 2015 of the electors within the Thames water supply area of benefits to determine if fluoridation of the Thames water supply continues.

3 Issue

Legislative context

The referendum (or poll) must be conducted under relevant provisions in the Local Electoral Act 2001 (the Act) and its regulations. The process outlined in the discussion of this report is compliant with these provisions. A binding referendum within the context of the Act means that the result must be acted upon or implemented.

Process

The Council committed through its deliberations in December 2014 to run an independent referendum and it is proposed that Council's Electoral Officer (Dale Ofoske from Election

Services) undertakes this.

Timeline

The Council committed to carry out the referendum in the second part of 2015. The proposed timetable in the discussion section of this report takes into account legislative timeframes as per the Local Electoral Act 2001 (the LEA). If the proposed timetable and any decisions on the content of this report are deferred to Council's September meeting then while it is technically feasible that the referendum can be concluded in the 2015 calendar year, it will be held very close to the Christmas holiday period, and within the school holiday period.

Additional material

Council may decide whether or not to include additional material in the voting pack to assist voters to exercise an informed vote. This is not a compulsory requirement - under the Act, the Electoral Officer *may* provide additional material. Any information provided must be neutral.

Awareness-raising

Staff recommend that communication promoting awareness of the referendum and voting in the referendum be developed. Low voter turnout has the potential to undermine the validity of the decision, particularly if the referendum is perceived not to have been well promoted. If Council makes a decision to not provide additional material, awareness-raising is an appropriate alternative to ensure that Council maintains an unbiased position and is seen to be promoting the electoral process.

Area of Benefit/Service

The direction from Council to date, through the December 2014 resolution, is that the referendum should be restricted to the water supply area of benefit (includes all properties that are charged the "available" or "connected" Thames urban targeted water rate). People may ask why just those residents/ratepayers, why not the greater Thames area or the district? After all plenty of people who do not live in the area of benefit work in Thames, go to school in Thames, shop in Thames, play sport in Thames, visit Thames and may drink or shower in fluoridated water.

Properties within the area of benefit are supplied with fluoridated water for all their water related needs. To avoid drinking or cleaning with fluoridated water these residents need to install filters or buy in water. Many of the people shopping, attending school, playing sport, working or visiting Thames live outside of the Thames Ward and outside of the Thames-Coromandel district. It is not possible to determine where all these people live for a postal vote referendum. Across the country there are people visiting towns and cities with fluoride in those water supplies - people who are keen to avoid the fluoride when visiting have the option of drinking bottled water. This same option applies to residents outside of the area of benefit.

Should a wider area be considered by the Council for the referendum then a line on a map needs to be drawn. The area of benefit is a subset of the Thames Ward and Thames Community Board boundaries which are the same. The next recognised subset is the settlement areas of Thames (which includes the Kauaeranga valley), Thames Coast, and Thames South. No properties in the Thames Coast or South settlements are connected to the fluoridated water supply. The level of impact on these individuals is no greater than people who commute in for work, education or other public and commercial services from other parts of the Coromandel peninsula and neighbouring territorial authority areas across the Waikato and Auckland. There are properties within the Thames settlement area that supply their own water or receive untreated water from the feeder supply. Sending a postal vote to these electors may raise expectations that they are to be supplied from the Council treated water supply in the future.

4 Discussion

Process

The referendum will be run independently by Council's Electoral Officer who will be responsible for a referendum including:

- Postage
- Voting packs (ordinary and special)
- Labour/administration/electoral rolls
- Insurance
- Three public notices

Costs for this work were estimated to be between \$20,000 - \$23,000 in the report to the December 2014 Council meeting. The budget for this work is \$23,000 from the Strategic Planning activity (consultation budget). The Electoral Officer has advised the cost of running the referendum is \$19,272 + GST (7,500 electors @ \$2.57 + GST per elector). The remaining \$3,728 in the budget is available for awareness-raising through communications.

Voting document

The voting document must adhere to a prescribed general format and include the following:

- Title
- A full question or statement that voters respond to, including whether or not the referendum is binding or non-binding
- A section for voters to indicate their preference

Of these, Council has the ability to decide on the title and question/statement on the voting document, and whether or not to provide additional statements for context. Based on other Council's approaches to the structure of voting documents for fluoride referenda, the following wording is recommended for the voting document:

Title

REFERENDUM ON CONTINUING FLUORIDATION OF THE THAMES WATER SUPPLY

Statement of binding/non-binding

The result of this referendum is binding on the Thames-Coromandel District Council.

Context information

The Council currently adds a *liquid fluoride*, hydrofluosillic acid (HFA), to the Thames water supply at a rate of 0.7 mg/L (0.7 parts per million [ppm]). The maximum level under the New Zealand Drinking Water Standards is 1.5mg/L (1.5ppm). The HFA used is made in New Zealand to meet the Drinking Water Standards.

Response question

I vote FOR continuing the fluoridation of the Thames water supply

I vote AGAINST continuing the fluoridation of the Thames water supply

Timeline

The proposed timetable below takes into account legislative timeframes as per the Local Electoral Act 2001 (LEA). Relevant sections of the Act are noted for further information.

Event	Date
Council meeting	Wednesday 5 August 2015
Public notice of referendum [sections 42 and 52 of the LEA]	Friday 7 August 2015

Event	Date
Roll open for inspection [section 42 of the LEA]	Wednesday 12 August 2015
Roll closes [section 42 of the LEA]	Wednesday 9 September 2015
Public notice of day of referendum [section 65 of the LEA]	Friday 18 September 2015
Delivery of voting documents	Wednesday 14 October 2015
Referendum day [section 10 of the LEA]	Thursday 5 November 2015
Declaration/public notice of results [section 86 of the LEA]	Friday 13 November 2015

Eligibility to vote

The eligibility criteria for voting is the same as for any other local body election (i.e. resident electors and non-resident ratepayer electors), but the restriction from the resolution from the December 2014 Council meeting is that the referendum would be of electors within the Thames water supply area of benefit (the area of benefit includes all properties that are charged the "available" or "connected" Thames urban targeted water rate). A map of the area of benefit, sometimes referred to as the area of service, is included in **Attachment A**. The Council's Rates Team will provide a list of all addresses which are subject to the targeted rate for water supply for the Electoral Officer to assist with preparing the electoral roll.

Additional material

Neutral and balanced additional material which assists voters to exercise an informed vote *may* be included in the voting pack. The options available to Council are:

- Include information in the voting pack
- Create opportunities for voters to access information
- Provide no information

Staff have investigated approaches taken by other councils and this is incorporated into the options analysis summarised below.

Include information in the voting pack

The three councils who held referendums in 2013 (Hamilton City Council, Whakatane District Council and Hastings District Council) all provided additional material for and against the proposal with the voting document. All three adopted a similar approach in that they created the opportunity for interested parties to present cases for and against fluoridation of the water supply.

While lessons can be learned from these experiences each referenda had its own unique circumstances ranging through whether the referenda was binding or not. Had the water supply been previously fluoridated? This covered options of continuing an existing practice, extending to other areas, and for one it was a proposal to reintroduce fluoridation.

The additional material *for* the proposal was provided by the local District Health Board. The additional material *against* the proposal was credited to a combination of Fluoride Action Network, Fluoride Alert and Fluoride Free. The scale of the additional material provided for both *for* and *against* was restricted to a single page of A4 with equal space available to both sides of the debate.

There is no discernible difference in the content of the additional material provided across the three councils. Hastings District Council included a statement on their voting document which stated that the Council had agreed that both sides of the debate could put forward their views.

During the debates both sides argued that the other was misrepresenting scientific evidence

in their lobbying. Six fluoride related formal complaints have been made to the Advertising Standards Agency since 2013 one of these was directly related to the additional information provided along with the voting documents for the Whakatane referendum. No formal complaints were made in the Hamilton or Hastings referenda.

For the Whakatane case, after the complaint was lodged with the Advertising Standards Agency, the debate on the scientific evidence continued through the referendum process. There was an acknowledgement that there was an error in the version that was provided to Council, and consequently the ruling on the matter was that it was settled. The ruling happened after the referendum. As the referendum was non-binding this provided an opportunity for Council to consider the impact of the misinformation provided with the voting document.

If Council wishes to pursue this option there are a number of key decisions required

- Identifying who will provide the information
- Ensuring that information is supplied in sufficient time to meet the proposed timetable
- Level of scrutiny applied to the information supplied

Identifying who will provide the information

It is preferable that Council works with a single entity as even within each side of the debate there is a continuum of views. Two distinct local groups have been active throughout the consultation process though these groups may not be formally constituted groups.

Timescales for providing information

In order to meet the proposed deadlines for the referendum Council would need to receive the final version of the supporting material from both sides by Friday 11 September 2015.

Level of scrutiny applied to material provided

If Council was to decide to include additional material with the voting document, the challenge will be ensuring that Council has maintained its requirement under the Local Electoral Act to remain neutral.

The contested nature of the material makes it difficult for Council to avoid challenges of favouring one position over the other if it insists on changes. By nature of the content which advocates for one position or the other, it becomes difficult to demonstrate neutrality and therefore presents a risk to Council.

Council staff are not qualified to assess the scientific evidence, therefore the check should only be to ensure that Council has received the final version of the case supporting the arguments for and against fluoridation of the water supply from the nominated representatives.

While Council can mitigate some risks by clearly labelling the source of the additional information, consideration needs to be given to the possibility of a challenge on the additional material, and the potential impact this may have on the referendum result.

Create opportunities for voters to access information

At their meeting in May 2015, Council was approached on the use of Council land to display promotional material. This request was declined by staff on the grounds of retaining a neutral position. Since then, the Thames Community Board has considered the matter and also declined the request on the same basis.

Other options that may be considered include using the Council website to signpost voters to further information but it is important that Council clearly states that it is not responsible for the content of this information.

Other options could include allowing dedicated space for both cases to be used to promote their cases. The Council's administration building, and/or the library, and/or an electronic noticeboard eg a facebook page (not the Council's) are possible options.

Provide no information

It is anticipated that the referendum will generate considerable press interest, lobbying and other promotional material for both sides of the debate. Therefore, Council can have an expectation that a lack of information will not be an issue.

As has previously been identified, particularly in the Whakatane case, adopting this approach presents the least risk for Council to demonstrate that it has adopted a neutral position.

Awareness-raising

Awareness raising will help prompt a higher return of votes and therefore generate a more robust democratic process. From other councils' experiences with fluoride referenda, advocates from both sides of the issue are active in the media throughout the voting period which will enhance Council's awareness-raising efforts.

To raise awareness of the referendum it is proposed that answers to some frequently asked questions are circulated through Council's social media and in the Hauraki Herald, along with key dates and stages of the referendum. With this in mind a draft communications plan has been developed, the purpose of which is to raise awareness of the referendum. The proposed communications timetable has been designed to maximise the use of Council's pre-booked space in the Hauraki Herald throughout the referendum process. Proposed key messages and the frequently asked questions are included in the communications plan in **Attachment A**.

If the Council chooses to promote a physical and/or electronic space for sharing information by members of the public then the awareness raising communications could also promote that avenue.

The timetable includes three public notices which will be placed by the Electoral Officer to meet legislative requirements:

- Public notice of the referendum which starts the process
- Public notice of the day of referendum
- Declaration/public notice of results

It is in the interests of all parties to achieve the highest level of voting possible to reduce any criticism of the result from either side.

5 Suggested Resolution(s)

That the Thames-Coromandel District Council:

1. Receives the Referendum on the fluoridation of the Thames water supply report, dated 16 July 2015.
2. Confirms the timetable for the fluoride referendum as:

Event	Date
Council meeting	Wednesday 5 August 2015
Public notice of referendum	Friday 7 August 2015
Roll open for inspection	Wednesday 12 August 2015
Roll closes	Wednesday 9 September 2015
Public notice of day of referendum	Friday 18 September 2015
Delivery of voting documents	Wednesday 14 October 2015

Event	Date
Referendum day	Thursday 5 November 2015
Declaration/public notice of results	Friday 13 November 2015

3. Confirms the content of the voting document for the fluoride referendum as:
- Title
REFERENDUM ON THE CONTINUING FLUORIDATION OF THE THAMES WATER SUPPLY
- Statement of binding/non-binding
The result of this referendum is binding on Thames-Coromandel District Council.
- Context information
The Council currently adds a *liquid fluoride*, hydrofluosillicic acid (HFA), to the Thames water supply at a rate of 0.7 mg/L (0.7 parts per million [ppm]). The maximum level under the New Zealand Drinking Water Standards is 1.5mg/L (1.5ppm). The HFA used is made in New Zealand to meet the Drinking Water Standards.
- Response question
I vote FOR continuing the fluoridation of the Thames water supply
I vote AGAINST continuing the fluoridation of the Thames water supply
4. Considers if supporting information will be provided with the voting document and/or if the Council enables the sharing of information via a public medium.
5. Confirms the communications approach in **Attachment A** for awareness-raising throughout the referendum process.

References-Tabled/Agenda Attachments

- Attachment A** *Communications plan and frequently asked questions for the 2015 Thames water supply fluoride referendum, including indicative map showing the area of service for the Thames water supply*

Appendix A - Fluoride referendum communications plan and FAQs