



## ATTORNEY GENERAL

Our Ref: 67- 04200  
Your Ref: A654113

Hon Matthew Swinbourne MLC  
Chair, Standing Committee on Environment and Public Affairs  
Legislative Council Committee Office  
Parliament House  
4 Harvest Terrace  
WEST PERTH WA 6005

Dear Mr Swinbourne

### PETITIONS OPPOSING FLUORIDATION OF PUBLIC WATER SUPPLIES

Thank you for your letter dated 30 November 2017 requesting additional feedback on the legal issues raised by Mr Lusk in his submission opposing the fluoridation of public water supplies.

You have asked for feedback on why fluoridated drinking water is not considered therapeutic goods within the meaning of the *Therapeutic Goods Act 1989* (Cth). You note that the statement published by the Commonwealth Department of Health, Therapeutic Goods Administration does not state why that is its view.

Consideration of whether or not fluoridated drinking water is a therapeutic good involves questions of contextual statutory interpretation, upon which reasonable minds may differ, in the absence of binding authority on the interpretation of the relevant provisions. While I am not apprised of the Therapeutic Goods Administration's particular reasons for its view, it appears reasonable to conclude that packaged fluoridated drinking water is excluded under paragraph (e) of the definition of "therapeutic goods" and that unpackaged fluoridated drinking water is excluded by paragraph (f) of the definition. The Therapeutic Goods Administration may be able to provide you with further information on this issue.

There is nothing in the *Therapeutic Goods Act 1989* (Cth), or relevant extrinsic materials, that evinces an intention by the Commonwealth Parliament to regulate the quality of the State's public drinking water supplies.

Thank you for raising this matter.

Yours sincerely

Hon. John Quigley MLA  
ATTORNEY GENERAL

19 DEC 2017