



ATTORNEY GENERAL

Our ref: 67-03798; 67-03875
Your ref: Petitions 16 and 23; Petition 33

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

Dear Mr Swinbourn

PETITIONS OPPOSING FLUORIDATION OF PUBLIC WATER SUPPLIES

Thank you for your letters dated 2 and 8 November 2017 to the Hon John Quigley MLA, Attorney General, about legal issues raised by Mr Lusk in his submission opposing the fluoridation of public water supplies.

Mr Lusk submits that fluoridation of a public water supply, as directed by the Minister for Health under the *Fluoridation of Public Water Supplies Act 1966 (WA)*, is an offence under the *Therapeutic Goods Act 1989 (Cth)*.

Mr Lusk also submits that, under section 109 of the *Commonwealth Constitution*, section 8 of the *Fluoridation of Public Water Supplies Act 1966 (WA)* is invalid due to inconsistency with the *Therapeutic Goods Act 1989 (Cth)*. Section 8 protects from personal liability members of the statutory Fluoridation of Public Water Supplies Advisory Committee that makes recommendations to the Minister for Health about fluoridation of public water supplies.

Those legal submissions should be rejected.

It is noted that the Therapeutic Goods Association published a statement on its website advising that fluoridated drinking water is not "therapeutic goods" within the meaning of the *Therapeutic Goods Act 1989 (Cth)*. A copy of that statement is attached for your information.

Thank you for raising this matter.

Yours sincerely

Hon. John Quigley MLA
ATTORNEY GENERAL

Att. 24 NOV 2017



Australian Government
Department of Health
Therapeutic Goods Administration

Fluoride in drinking water

Behind the news

11 April 2014

This TGA behind-the-news article was published on **11 April 2014**. Behind-the-news articles are published in response to issues that are of interest to the community at a point in time, for example, subjects that have been in the media.

Fluoride is the collective term for compounds containing the element fluorine. Fluoride occurs naturally in the soil and dissolves into groundwater in some parts of the world, including in some areas in Australia. As early as 1912, it was observed (<http://onlinelibrary.wiley.com/doi/10.1111/j.1834-7819.2004.tb00051.x/abstract>) that areas with naturally occurring fluoride in drinking water, including Queensland, had better dental health than areas where there was no fluoride in the drinking water.

This link was confirmed in the 1940s (<http://onlinelibrary.wiley.com/doi/10.1111/j.1834-7819.2004.tb00051.x/abstract>) and it is now known that fluoride in drinking water plays a role in both preventing and repairing dental caries by remineralising enamel.

In the 1950s, because of the demonstrated public health benefits of naturally occurring fluoride in drinking water, water authorities in Australia and other parts of the world began adjusting the levels of fluoride.

Regulated by the states and territories

In Australia, the National Health and Medical Research Council (NHMRC) recommended the fluoridation of drinking water supplies in a 2007 statement (<https://www.nhmrc.gov.au/guidelines-publications/eh52>) that concluded 'fluoridation of drinking water remains the most effective and socially equitable means of achieving community-wide exposure to the caries prevention effects of fluoride'.

The NHMRC has established a Fluoride Reference Group to, in particular, 'guide the evaluation of the evidence on the health effects of water fluoridation, focusing on studies published since 2006'. Details on the reference group can be found on the NHMRC website (<http://www.nhmrc.gov.au/health-topics/health-effects-water-fluoridation/fluoride-reference-group>).

Water fluoridation is regulated by the states and territories.

Fluoridated drinking water is not therapeutic goods within the definition of that term in the *Therapeutic Goods Act 1989*. The Therapeutic Goods Administration thus has no role in regulating fluoridated drinking water.

For more information about fluoridation of drinking water in your area, contact your state or territory health department.

URL: <https://www.tga.gov.au/node/1061> (<https://www.tga.gov.au/behind-news/fluoride-drinking-water>)

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The Therapeutic Goods Administration is part of the Health Products Regulation Group