



Response to the Human Rights Impact Assessment of Auckland Transport's Road Corridor Vegetation Control – Nov 2014

**By Dr Meriel Watts & Hana Blackmore
On behalf of Weed Management Advisory
December 2014**

It is with frustration and not a little anger, that the Weed Management Advisory was forced to commission the Human Rights Impact Assessment (HRIA) into Auckland Transport's vegetation control programme. It should not be necessary for ordinary citizens to have to go to this length to be heard and for their concerns to be addressed and answered.

For over fifteen years one million people in our city have been able to live and enjoy their homes, their neighbourhoods and workplaces. They have been able to walk to school, the parks and beach, the shops and cafes, without fear that the very ground they pass has been contaminated with chemical pesticides.

This is no small thing, and the thousands of people who fought long and hard in the 1990s to achieve this non-chemical roadside treatment recognise this. They have not forgotten what it took to make this change, and the time and energy to build a comprehensive weed and vegetation management policy that has served our two largest urban areas, so well, for so long.

But what has been forgotten by too many are the tens of thousands of people scattered throughout our rural towns and communities that make up our new supercity who still endure chemical pesticides on a continuing basis. They have never given up trying to achieve the same privileged treatment as their city cousins, but they lacked the lobbying power and the strength in numbers needed to change policy in their area.

We commissioned this HRIA because we have become deeply disturbed by the inability of Auckland Transport (AT) to acknowledge, let alone respond to, the needs of people to be safe and secure from the adverse health effects of exposure to toxic chemicals being sprayed on their roadsides. We are disturbed that AT either does not understand, or does not care about, the impact of toxic chemicals on people and the environment. We are disturbed that AT appears to be excluding itself, by default if not by intention, from compliance with Council policy, in particular the hugely important 2013 Weed Management Policy that establishes a non-chemical priority in roadside treatment. We are disturbed that in taking this path AT is deliberately ignoring the history of non-chemical choice in this city and negating the decades of democratic decision making that went into it. We are disturbed that AT seems to be using its arms-length CCO status as justification for its actions and inactions.

When seven cities and the regional council were amalgamated into one supercity as Auckland Council in 2010, the hope, and the new Council's intention and desire, was that here at last was the opportunity to harmonise weed policy across the region and build on the best of the legacy city's good practices to become the world's most liveable city. That hope was dashed when roadside vegetation control was handed to Auckland Transport, and to our huge regret, nothing has happened in the intervening four years to change that view.

We commissioned this HRIA because although we have gone to extraordinary lengths over the last four years to work positively within the confines of plans and policies - reporting, submitting and petitioning, and engagement with everyone from officers and councillors to AT engineers and contractors - every opportunity and avenue and every road taken has been a dead end with AT. Our final attempt to engage three months ago ended when we were refused permission to speak to the AT Board on the adverse effects of glyphosate, their preferred herbicide, but nevertheless provided the Board members with a substantial amount of scientific information on the effects of glyphosate on human health and the environment. There has been no response or even acknowledgement from AT to this information nor our request that they fully implement Council's Weed Management Policy as they are required to do. We commissioned this HRIA because people in need cannot wait any longer to be recognised and their situation ameliorated.

We sought an opinion from the Environment and Human Rights Advisory (EHRA) on whether some people's human rights were being violated by AT continuing to expose them to the adverse human health and environmental impacts of chemical sprays. This HRIA confirms that there are a significant number of international human rights norms of concern that are relevant and applicable, and notes that "most of these rights are grounded in legal authority both domestic and international, and all carry the weight of moral authority". It also confirms that human rights standards apply to individuals "not just communities or majorities" and that "this means that if even one or two persons' rights are violated, then human rights violations have occurred."¹

Human rights articulated in this impact assessment as being under threat from AT's chemical sprays include:

- the right to a healthy environment that is conducive to health and wellbeing
- the right to freedom from discrimination due to disability
- the right to equal protection of the law
- the family's right to protection
- the rights to special care for motherhood and a duty to protect the child, its health and their right to education
- the right to effective remedy, and to compensation.

As the impact assessment details, and we can confirm from our own documented and verified reports, the concerns being addressed are real and not insignificant and minor matters. The HRIA notes:

"Of particular concern are reports of adverse physical health impacts from exposure to the chemical sprays being used, of citizen's movements being restricted due to their need to avoid chemical applications, of people being unable to work and of children being unable to attend school. In addition, the potential for discrimination where one or more persons are treated less favourably than others in the same or similar circumstances is of note."

Auckland Transport, and indeed Auckland Council who is legally the policy maker and ultimately the funding body, cannot continue to ignore the injustice of people being discriminated against based solely on where they live. People are not being treated equally – and it is not without note that it is the poorer and more deprived areas that continue to be sprayed with toxic chemicals. It is also of note that the more seriously impacted and

¹ "With the exception of the right to self-determination, all the rights in the *Universal Declaration* and the Covenants are the rights of individuals. Enumerations of rights thus typically begin 'Every human being...', 'Every one has the right...', 'No one shall be...', 'Everyone is entitled...'" Jack Donnelly, Andrew Mellon Professor in the Graduate School of International Studies at the University of Denver, *Universal Human Rights in Theory and Practice*, Cornell University Press, 2002, p23.

vulnerable individuals are also at the lower end of the income scale. They are less likely to be able to avoid the chemical spraying or to have the ability and means to move away and find work and safer schools in another area. They are literally trapped in their homes and in a situation that cannot be avoided.

Auckland Transport and Auckland Council have a fundamental duty to keep people safe and protect their health and wellbeing, and it is necessary that they take this HRIA and their responsibilities seriously and finally listen and act.

And it bears repeating, that the solution is available and viable, and has been for decades. As recommended in this report AT can take immediate steps to significantly reduce its human rights liabilities by implementing non-chemical vegetation control across all its contracts and areas, now. It is not good enough for AT to continue to drag its feet when their inaction is causing harm.

We commend this report and response to Dr Lester Levy the Chairman of the Board of Auckland Transport, and to Mayor Len Brown of Auckland Council, and call on them to action its recommendations with no further delay.

Dr Meriel Watts
Hana Blackmore
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