

**BEFORE THE INDEPENDENT HEARING COMISSIONERS ON BEHALF
OF THE NORTHLAND REGIONAL COUNCIL (COUNCIL)**

IN THE MATTER

of the Resource Management Act 1991 (RMA)

AND

IN THE MATTER

of applications by members of the Motutangi-
Waiharara Water Users Group for new
groundwater takes from the Aupouri aquifer
subzones: Houhora, Motutangi and Waihara

**SUPPLEMENTARY EVIDENCE OF M LETICA
27 MARCH 2018**

1. INTRODUCTION

- 1.1. I entered two items of discussion in my evidence at the first day of hearing the matter at hand in response to items raised by Northland Regional Council (Council) in their Supplementary Staff Report ('26-03-2018'). These were transfer of water and permitted baseline. In general terms, I have been asked by Chairperson Hill to prepare supplementary evidence on the matters raised and I address these here.
- 1.2. For completeness, I also include responses to all matters which were raised in Council's supplementary evidence. These were matters of scope and fair process, daily limits v weekly limits, changes to water allocation limits, and advice notes.

2. SUPPLEMENTARY EVIDENCE OF COUNCIL: RESPONSES

Transferability of use of water

- 2.1. In my evidence, I have proposed wording to enable flexibility of use of any water allocated. The wording, "*and other parcels to be approved by Council upon receipt of Computer Freehold Register title or landowner written evidence confirming interest in the land*" has been used to enable this to occur.
- 2.2. The commissioners had many questions as to what this proposed change would introduce into the consents. Due to the line of questioning, I felt it was necessary to amend the wording and discuss in further detail. I do still believe that this is an opportunity to give effect to the NPSFM, RPS and PRP through a mechanism of this nature and as I note, I have placed conditions of this nature on consents in Otago and Hawke's Bay previously.
- 2.3. I propose to amend my original offered condition as follows:

<i>Legal Descriptions where water is to be used:</i>	<i>Lot # DP ##### and other <u>additional</u> land as advised in writing and to be approved by Council upon receipt of Computer Freehold Register title or landowner written evidence confirming interest in the land.</i>
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- 2.4. 'Additional' is the term used to identify something that is added, extra, or supplementary to what is already present or available. Due to the nature of questioning and Council's supplementary evidence, I felt that this was needed to demonstrate that this would only be enacted if additional land was involved, not a reduction in land area.
- 2.5. This condition does not also create a pathway for transfer of ownership of a permit, the Council must receive legal title or other written evidence confirming interest in the land, such as a long-term lease, by the consent holder. A transfer of ownership of the consent is needed for such an act to take place and this condition clearly distinguishes that it relates to water use areas that are within the control of the consent holder. Consent holders will have to undertake the separate process that is available to them to transfer ownership of the permit if they so choose to do so.
- 2.6. Where property or land area is added to the irrigable area, the use of the resource is more highly utilised and often more efficient because water is having to be spread over a larger area of crop. In my opinion, the efficient utilisation of water is key and this should be enabled through dynamism in the consents. I agree that the transfer of water under s136(2)(b)(ii) RMA is usually expressed as a discretionary activity pursuant to s87B RMA, however, this is in the absence that the transfer is not expressly provided for in a Regional Plan. In respect of this, I draw the commissioners' attention to

the language which is used in s14(3)(a) RMA where a person may take or use water if it is expressly allowed by a rule in a regional plan or proposed plan whereas s136(2)(b)(i) RMA only requires express allowance. The point I make is that s136(2)(b)(i) RMA is not intended to be applied as rigidly as s14(3) RMA is.

- 2.7. Dropping down to the regional planning documentation, the RPS and PRP contain policies and methods that suggest that Council should be taking a more pragmatic approach to transference of water (both abstraction and use). I quote Policy 4.3.3 and 4.3.5 of the RPS in my statement of evidence. In the explanation text to Policy 4.3.3, it states, "*The efficiency of the "first in first served" approach to allocating water can be improved by setting clear allocation limits in plans, by providing for low cost transfer of water permits, and by encouraging efficient water use so that water is available for further allocation. Making the use of water more efficient will help prevent disruptions to supply during dry periods.*" Further, Method 4.3.5 of the RPS explains that with regard to transfers, "*Section 134[sic] of the Resource Management Act provides for the limited transfer of water permits. This can be enabled by providing clear guidance in the RWSP so that administrative costs are minimised.*"
- 2.8. The PRP now takes on this mantle handed down from the RPS. It does so via Policy D.4.24 which states, "*An application to transfer a water permit, permanently or temporarily, pursuant to Section 136 of the RMA will generally be granted if: 1) both sites are in the same catchment (either upstream or downstream) or aquifer, and 2) other authorised takes are not adversely affected, and 3) there is no increase in the level of adverse effects on the health of aquatic ecosystems.*" The obscure event of enabling existing allocation to be applied to additional land would be expressly allowed by the PRP subject to compliance with these standards and terms.
- 2.9. I want to make it clear that the addition of the proposed condition does not in any way shape or form give express permission to consent holders to consequently increase their allocated amounts, or to drill more bores, or to spread the site of taking. The advice note promoted has been proposed to ensure that it is clear to consent holders that any of these other forms of 'transfer' remain outside of the scope that the proposed condition allows.

Permitted Baseline

- 2.10. When forming an opinion as to any actual and potential effects on the environment of allowing the activity, the consenting authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect pursuant to s104(2) RMA. This is a matter for discretion for the decision maker.
- 2.11. The other aspect to this is that as a discretionary activity, there is no limitation to the effects on the environment of an activity that the commissioners may turn its attention to in s104(1)(a) RMA.
- 2.12. In my evidence, I have concluded that permitted baseline applies to ancillary activities such as the use of agrichemicals. I do agree with Council's consultants that the land use change would not occur without water and that ancillary activity to the primary activity would therefore occur where it has not in the past. However, this should not take away the integrity of associated activity rules, objectives, policies and methods in the RAQPN, RWSP and PRP by devolving assessment through applications seeking to take and use groundwater. In this respect, I was asked by the commissioners to identify the exact rules which I rely upon and consequently attach Annexure 1 for this purpose.
- 2.13. Certainly, if any of the activities were to exceed permitted activity rules, then those activities would be subject to the rigour of those rules and policies and would have prepared an assessment of environmental effects in accordance with any assessment criteria or method for that activity as prescribed by Council. This is the intention of the separation of these activities to achieve the

resource management objectives for the management of the resources actually or potentially affected by the use of agrichemicals.

Scope

- 2.14. Mr Williamson has presented evidence on the scale and nature of the actual or potential effects with regard to changes of the application volumes as entered through both of our evidence. I can identify that there is a need to ensure that the amendments are entered into the hearing in a fair manner that did not exclude someone who would have participated in this hearing had they been aware of the amendments when notified of the applications.
- 2.15. In order to avoid speculation as to what could or would have happened, I refer to Mr Williamson's evidence to demonstrate the changes in allocation from the amendments per sub-aquifer. Aside from these changes in allocation, I rely on Mr Williamsons evidence which states that other actual or potential effects as raised in the AEE notified to a raft of people would not differ resultant of the amendments being sought by a limited number of applicants. It is speculative to determine that people served with notice of the applications would have been compelled to submit had the individual figures been different when the cumulative effects were the main crux of the application information received by potential submitters.

Daily, weekly and annual allocation limits

- 2.16. We are currently working through water requirement methodology and Mr Williamson will provide a table of title areas (Swedish rounding used) as requested by the commissioners.

Cost of implementing monitoring programme

- 2.17. I accept Council's supplementary evidence on this matter and appreciate that their position is made clear on the matter.
- 2.18. I was not asked to provide supplementary evidence to this point and do not seek to enter any new evidence and rely on my full statement of evidence on this matter.

M Letica

Annexure 1 – Permitted activity rules for use of agrichemicals

REGIONAL AIR QUALITY PLAN

- 9. The discharge of contaminants to air from agrichemical application by commercial users or contractors is a permitted activity provided that:**
- (a) The person who will apply the agrichemicals has the following valid qualifications:
 - (i) For a commercial user, a qualification that meets the requirements of Appendix 6. Examples of qualifications that meet these requirements include the GROWSAFE[®] Introductory Certificate, or a GROWSAFE[®] Applied Certificate.
 - (ii) For a commercial contractor using ground based application techniques, a qualification that meets the requirements of Appendix 6. An example of a qualification that meets these requirements is the GROWSAFE[®] Registered Chemical Applicators Certificate.
 - (iii) For a commercial contractor using aerial application techniques, a qualification that meets the requirements of Appendix 6. An example of a qualification that meets these requirements is the GROWSAFE[®] Pilot Agrichemical Rating Certificate.
 - (b) The application is undertaken in a manner that does not exceed any rate, or contravene any other requirement, specified in the label instructions and published application recommendations.
 - (c) The application shall be undertaken in accordance with all mandatory³ requirements set out in Sections 5.1, 5.2, 5.5, 5.6, 5.7, 5.8 and 5.9 and with reference to the introduction to the Appendices, and Appendices⁴ N, T, V, Y, DD, HH and JJ of New Zealand Standard 8409:1999, Code of Practice for the Management of Agrichemicals, in order that the Best Practicable Option is implemented to avoid, remedy or mitigate any adverse effects of spraydrift beyond the target property. If there is any conflict between the Regional Air Quality Plan and any provisions of the NZ Standard 8409: 1999, the former shall apply.
 - (d) The property owner or manager shall keep records of agrichemical use with reference to Appendix C of New Zealand Standard 8409:1999, Code of Practice for the Management of Agrichemicals, and shall make such records available to the Northland Regional Council on request. In addition the property owner shall keep relevant records of diluent and chemical rates.
 - (e) Notification is given in accordance with clause 9.1 or 9.2 of this Rule.

³ Note: In general, mandatory requirements are those that include the word “shall”. Non-mandatory requirements are those that include the word “should”.

⁴ Appendices contain descriptive and supporting information designed to help understand and comply with the Code requirements.

- 9.1 Where agricultural chemicals will be applied, in accordance with Rule 9.1.9 above, to more than two hundred metres of public road, rail or public place, continuously or intermittently, notice of intention to spray must be given in local newspapers or by door-to-door advice and appropriate street signage, excluding railway verges, to occupiers of properties or premises within 30 metres of the area to be sprayed at least eighteen hours and not more than 14 days before application and must include the following information:
- (a) The property and area to be sprayed;
 - (b) The date(s) and general time(s) of the spraying, and in case of poor weather conditions, any alternative dates and general times for spraying;
 - (c) The brand name and chemical name to be used;
 - (d) Method of application;
 - (e) Safety precautions to be taken; and
 - (f) The contact name, address and telephone number of the owner/manager of the area to be sprayed.

Vehicles or equipment applying agrichemicals must display a sign stating “agrchemical (herbicide/insecticide/fungicide) application in progress” and name of the contractor. A record of this notification must be kept and made available to the Northland Regional Council on request.

- 9.2 Where agrichemical application is undertaken by either ground based or aerial application, the owner or occupier of the property being sprayed shall notify the owners or occupiers of sensitive areas adjacent to the area that is to be sprayed.

For the purpose of this rule, “adjacent to” means contiguous with or separated only by a stream, transport corridor or similar narrow margin not more than 30m wide.

Notice shall be given either orally or in writing, not less that eighteen hours and not more than two weeks before the proposed commencement of the work. Notice should include information on where the property spray plan is available.

An annual or seasonal property spray plan shall be prepared, and must include but is not limited to the information described in Appendix 4 of this Plan. Additionally, the annual or seasonal property spray plan shall include the procedures for giving notice of intention to spray as required above.

Explanation. *This rule is consistent with the requirement that ground and aerial based operators be registered and trained. GROWSAFE® Certificates have been developed and are readily available in Northland.*

The Code of Practice for the Management of Agrichemicals, which is now a New Zealand Standard, can be an effective means of preventing or minimising the adverse effects of discharges of agrichemicals to air and

therefore implementing the best practicable option. Agrichemical applicators should adopt practices recommended by these codes, including the recording of spray diaries and the preparation of property spray plans. The Code also contains a list of areas or places which are considered to be “sensitive”, as well as a Drift Hazard Rating Chart. This enables users to actively select weather conditions, equipment and types of spray to prevent or minimise off-target effects. The application of best practicable option will increase awareness and understanding of the nature of the effects of the discharge on the receiving environment.

Notification can allow mitigating steps to be taken by adjacent land users to minimise the potential adverse effects of agrichemical applications. In order for notification to be an effective tool, early consultation and discussions between neighbours in the preparation of documents such as annual spray plans or seasonal spray plans is considered to be good practice.

Definitions of the terms domestic user, commercial user, commercial contractor, sensitive areas, ground based application methods and aerial application are detailed in the definitions.

10. Subject to Rules 9.1(1) to 9.1(9) the discharge of contaminants to air from activities contained in Appendix 5 is a **Permitted Activity** provided that:
- (a) The discharge shall not result in any offensive or objectionable odour or dust, or any noxious or dangerous levels of gases, beyond the boundary of the subject property.

Explanation. *The listed activities currently take place with little or no significant adverse effects on the environment. This rule permits the activities to take place without a resource consent, provided general performance standards for discharge of contaminants are met.*

REGIONAL WATER & SOIL PLAN

18. RULES FOR THE DISCHARGE OF AGRICHEMICALS

18.1 PERMITTED ACTIVITIES

The following discharges of agrichemicals are permitted activities:

1. **The discharge of any vertebrate control chemical that has been approved for use by the Environmental Risk Management Authority into or onto land by way of a ground based application method in circumstances which may result in the vertebrate control chemical (or any other contaminant emanating as a result of natural processes from the vertebrate control chemical) entering water is a permitted activity, provided that:**
 - (a) All reasonable steps are taken to ensure that the controlled vertebrate control chemical is applied in a manner which ensures:
 - (i) the vertebrate control chemical does not enter water; and
 - (ii) adverse effects on non target species are minimized.
 - (b) All land owners or occupiers adjoining the property are notified at least one week before the discharge commences.
 - (c) The vertebrate control chemical is applied in accordance with the manufacturer's instructions.

Explanation: Some "vertebrate control chemicals" are listed in Appendix 9. They include sodium fluoroacetate (1080), cyanide and phosphorous. Applicators of vertebrate control chemicals are required to be registered and qualified.

2. **The discharge of any agrichemical, excluding vertebrate control chemicals, that has been approved for use by the Environmental Risk Management Authority into or onto land by way of a ground based application method in circumstances which may result in the agrichemical (or any other contaminant emanating as a result of natural processes from the agrichemical) entering water is a permitted activity, provided that:**
 - (a) All reasonable steps are taken to ensure that the controlled agrichemical is applied in a manner which ensures:
 - (i) the controlled agrichemical does not enter water; and
 - (ii) adverse effects on non target species are minimised.
 - (b) The agrichemical is applied in accordance with the manufacturer's instructions, and application rates do not exceed those stated on the most recent product label for the relevant application equipment or method and target species.
 - (c) All land owners or occupiers adjoining the property are notified at least one week before the discharge commences.

Explanation: This rule allows the use of land based agrichemicals. Compliance with Condition (a) is considered to be met if the operation is undertaken in accordance with the "Growsafe Agrichemical Users' Code of

Practice” or another similar document. Users are encouraged to undertake appropriate training in the use of agrichemicals. Relevant rules for the discharge to air associated with agrichemical application are contained in the Regional Air Quality Plan.

3. The discharge of herbicides into water is a permitted activity, provided that:

- (a) The herbicide used is one approved for aquatic use by the Environmental Risk Management Authority.
- (b) The application is carried out by a suitably qualified person.
- (c) Application rates of the herbicide do not exceed those stated on the most recent product label for the relevant application equipment or method and target plant.
- (d) The discharger shall notify:
 - (i) every person taking water for domestic supply within one kilometre downstream of the proposed discharge; and
 - (ii) every holder of a resource consent for the taking of water for water supply purposes downstream of the proposed discharge, at least one week before commencing the discharge.

Explanation: *A suitably qualified person is likely to be one with an appropriate Growsafe certificate who must therefore comply with the Growsafe Agrichemical User’s Code of Practice. The Growsafe Code of Practice requires adequate public notification when spraying in a public place and strongly recommends that users spraying on their own property prepare a property spray plan which identifies sensitive areas and persons who may be affected.*

4. The discharge of contaminants from an animal dip into or onto land is a permitted activity, provided that:

- (a) The distance from the disposal area to any water body or water supply bore is not less than 50 metres.
- (b) The disposal area is not less than 50 metres from any neighbouring property owned or occupied by another person.
- (c) There is no direct discharge of contaminants into groundwater or surface water.
- (d) The discharge meets the “Agrichemical Users Code of Practice” (New Zealand Agrichemical Education Trust 1995) for the discharge of contaminants from an animal dip.

Explanation: *The “Agrichemical Users Code of Practice” (New Zealand Agrichemical Education Trust, 1995) includes the following guidelines for the disposal of animal dips onto land:*

- (a) *The land needs to be capable of absorbing the volume of the liquid to be discharged without runoff risk to wildlife, ground or surface water.*
- (b) *As a guide, not more than 5,000 litres of spent dip should be applied per hectare.*

- (c) *Land used for disposal should not be producing food crops at the time of disposal. Stock should not be given access to land that has been used as a disposal site for at least 28 days following disposal.*

18.2 CONTROLLED ACTIVITIES

The following discharge of agrichemicals is a controlled activity:

1. **The discharge of any vertebrate control chemical listed as a “controlled pesticide” in the First Schedule of the *Pesticides Act 1979* into or onto land by way of aerial application for the purpose of pest control is a controlled activity, provided that:**
 - (a) Approval has been gained from the Medical Officer of Health in accordance with the *Pesticides Act 1979*.
 - (b) A navigational guidance system is used to ensure application is within the defined areas, and records of flight paths are made available for public viewing.

Matters Subject to Control

- (1) Separation distances from residential areas.
- (2) Separation distances from water bodies.
- (3) Adequacy of public notification of the activity.
- (4) Information and monitoring requirements

An application in respect of this controlled activity will be non-notified, unless the Council considers special circumstances exist in terms of ss.94 of the Act. In considering whether or not special circumstances exist, the Regional Council will include consideration of:

1. The use of the receiving environment.
2. The extent of public and tangata whenua interest in the activity and/or its effects.

Explanation: *This rule covers the application of pesticides such as 1080 by aerial drop. Prior approvals are required from the Medical Officer of Health (MOH) who may impose a number of conditions on the operation, including notification and separation distances. The Regional Council will also control those matters if the conditions imposed by the MOH are not considered adequate to deal with environmental concerns.*

18.3 DISCRETIONARY ACTIVITIES

The following discharges of agrichemicals are discretionary activities:

1. **The discharge of any herbicide over or into water that is not approved for use by the Environmental Risk Management Authority is a discretionary activity.**

PROPOSED REGIONAL PLAN

C.6.5 Agrichemicals

C.6.5.1

Application of agrichemicals – permitted activity

The discharge of agrichemicals into air, onto land or onto land where it may enter water is a permitted activity provided:

- 1) for all methods ([hand-held spraying](#), [ground-based spraying](#) and [aerial application](#)):
 - a) the discharge does not result in:
 - i) offensive or objectionable odour, smoke, spray or dust, or any noxious or dangerous levels of gases or emissions including those that adversely affect traffic or aircraft safety, beyond the boundary of the subject property or in the coastal marine area, and
 - ii) damage to any [spray-sensitive areas](#) beyond the boundary of the subject property or in the coastal marine area, and
 - b) there is no direct discharge into water, and
 - c) neighboring properties receive notification no less than 24 hours and no more than two weeks before the spraying activity is to take place, as set out in Table 6 'Spraying notification requirements', and
 - d) some or all of the notification requirements can be amended or omitted with the agreement of affected neighbours, and
 - e) in addition, for spraying by any method in [public amenity areas](#), prominent signs are placed within the immediate vicinity, prior to the commencement of the spraying and remain in place for any required stand-down period afterwards. Signs must include the contact details of the property owner or applicator, details on the chemical to be sprayed, the time period over when the spraying is likely to take place, any notable adverse effects and the application method. A record of the notification undertaken must be kept and made available to the regional council on request, and
 - f) in addition, for spraying by any method in road and rail corridors:
 - i) prominent signs are placed at the beginning and end points of the area to be sprayed, prior to the commencement of the spraying at least 7 days and not one month before spraying is to take place and remain in place for any required stand-down period afterwards, and
 - ii) a public notice must be placed in a newspaper *or* a letter drop is made to properties within 30 metres (or 200 metres for aerial spraying) from the area to be sprayed at least 7 days and not one month before spraying is to take place, and
 - iii) all of the above must include the contact details of the property owner or applicator, details on the chemical to be sprayed, the time period over when the spraying is likely to take place, any notable adverse effects and the application method, and
 - iv) vehicles used to spray must display prominent signs (front and back) advising that spraying is in progress, and
 - v) a record of the notification undertaken must be kept and made available to the regional council on request, and

Table 6 Spraying notification requirements

Spraying method	Properties to be notified	Notification requirements
Hand-held spraying	Nil (unless a public amenity area or road and rail corridor under the specific requirements above).	Nil (unless a public amenity area or road and rail corridor under the specific requirements above).

Spraying method	Properties to be notified	Notification requirements
Ground-based spraying	Any property with a spray-sensitive area within 30 metres of the spraying, including when spraying is taking place in public amenity areas but excluding when the spraying is taking place in a road or rail corridor.	Notification:
Aerial application	Any property with a spray-sensitive area within 200 metres of the spraying, including when spraying is taking place in public amenity areas but excluding when the spraying is taking place in a road or rail corridor.	<ul style="list-style-type: none"> a) is undertaken by the owner or occupier of the property to be sprayed unless delegated to the applicator, and b) is in writing (which can include email or other electronic means), and c) includes: <ul style="list-style-type: none"> i) the days and times over when the spraying is likely to take place, including alternative days and times if weather is unsuitable, and ii) the contact details of the property owner or applicator, and iii) the details of chemicals being sprayed, and iv) any notable adverse effects, and v) the application method.

2) for [ground-based spraying](#):

- a) an applicator who is a contractor holds a current GROWSAFE Registered Chemical Applicators Certificate (or its equivalent), and
- b) an applicator who is not a contractor holds a current GROWSAFE Introductory Certificate (or its equivalent) *or* is under direct supervision of a person with a GROWSAFE Registered Chemical Applicators Certificate or GROWSAFE Advanced Certificate (or their equivalent), and
- c) the activity is undertaken in accordance with *New Zealand Standard: 8409:2004 Management of Agrichemicals* as it relates to the management of the discharge of agrichemicals, and

3) for [aerial application](#):

- a) an applicator holds a current GROWSAFE Pilot Agrichemical Rating Certificate (or its equivalent), and
- b) the activity is undertaken in accordance with *New Zealand Standard: 8409:2004 Management of Agrichemicals* as it relates to the management of the discharge of agrichemicals, and
- c) there is no [aerial application](#) in [urban areas](#).

Note:

In addition to the above, the substance must be approved for its intended use by the Environmental Protection Authority under the Hazardous Substances and New Organisms Act 1996 and all other conditions set for its use must be complied with.

The RMA activities this rule covers:

- Discharge contaminants to land which may enter water (s15(1)(b)).
- Discharge contaminants into air or onto land from industrial and trade premises (s15(1)(c)(d)).
- Discharge contaminants into the air from any other place or source (s15(2A)).

C.6.5.2

Application of agrichemicals into water – permitted activity

The discharge of agrichemicals into air where it can directly enter water is a permitted activity provided:

- 1) there is no discharge into water in the coastal marine area, and
- 2) the discharge does not cause beyond a 20-metre radius in the receiving waters from the point of discharge:
 - a) the production of conspicuous oil or grease films, scums or foams, of floatable or suspended materials, or
 - b) increase the temperature by more than three degrees Celsius, or
 - c) a [water quality standard](#) to be exceeded, or
 - d) cause the pH to fall outside of the range of 6.5-8.5 or change the pH of the water by more than one pH unit, or
 - e) cause the dissolved oxygen to be less than five milligrams per litre, or
 - f) any conspicuous change in the colour or visual clarity, or
 - g) the rendering of fresh water unsuitable for consumption by farm animals, or
 - h) any significant adverse effects on aquatic life (excluding pest species), and
- 3) an applicator holds a recognised application qualification (GROWSAFE or equivalent) with an aquatic component, and
- 4) the activity is undertaken in accordance with *New Zealand Standard: 8409:2004 Management of Agrichemicals* as it relates to the management of the discharge of agrichemicals, and
- 5) the following notification takes place:
 - a) every person taking water for potable supply within one kilometre downstream of the proposed discharge no less than 24 hours and no more than two weeks prior to the proposed commencement of any spraying, and
 - b) every holder of a resource consent for the taking of water for water supply purposes downstream of the proposed discharge at least seven days before the discharge, and
 - c) notification must be undertaken by the owner or occupier of the property to be sprayed, unless delegated to the applicator, and must be in writing (which can include email or other electronic means), and
 - d) must include:
 - i) the days and times over when the spraying is likely to take place, including alternative days and times if weather is unsuitable, and
 - ii) the contact details of the property owner or applicator, and
 - iii) the details of chemicals being sprayed, and
 - iv) any notable adverse effects, and
 - v) the application method, and
 - e) some or all of the above notification requirements can be amended or omitted with the agreement of affected parties, and
- 6) in addition, for [aerial application](#) into water:
 - a) an applicator holds a current GROWSAFE Pilot Agrichemical Rating Certificate (or its equivalent), and
 - b) there is no [aerial application](#) in [urban areas](#), and
- 7) in addition, for spraying by any method in [public amenity areas](#), prominent signs are placed within the immediate vicinity, prior to the commencement of the spraying and remain in place for any required stand-down period afterwards. Signs must include the contact details of the property owner or applicator, details on the chemical to be sprayed, the time period over when the spraying is likely to take place, any notable adverse effects and the application method. A record of the notification undertaken must be kept and made available to the regional council on request, and
- 8) in addition, for spraying by any method in road and rail corridors:

- a) prominent signs are placed at the beginning and end points of the area to be sprayed, prior to the commencement of the spraying at least 7 days and not one month before spraying is to take place and remain in place for any required stand-down period afterwards, and
- b) a public notice must be placed in a newspaper *or* a letter drop is made to properties within 30 metres (or 200 metres for aerial spraying) from the area to be sprayed at least 7 days and not one month before spraying is to take place, and
- c) all of the above must include the contact details of the property owner or applicator, details on the chemical to be sprayed, the time period over when the spraying is likely to take place, any notable adverse effects and the application method, and
- d) vehicles used to spray must display prominent signs (front and back) advising that spraying is in progress, and
- e) a record of the notification undertaken must be kept and made available to the regional council on request.

Note:

In addition to the above, the substance must be approved for its intended use by the Environmental Protection Authority under the Hazardous Substances and New Organisms Act 1996 and all other conditions set for its use must be complied with.

The RMA activities this rule covers:

- Discharge contaminants into water (s15(1)(a)).
- Discharge contaminants into air or onto land from industrial and trade premises (s15(1)(c)(d)).
- Discharge contaminants into the air from any other place or source (s15(2A)).

C.6.5.3

Vertebrate toxic agents (ground-based application) – permitted activity

The ground-based application of vertebrate toxic agents to land, that are not exempt from Section 15 ⁽⁴⁾ by the *Resource Management (Exemption) Regulations 2017 – Pest Control*, is a permitted activity provided:

- 1) the substance is approved for its intended use by the Environmental Protection Authority under the *Hazardous Substances and New Organisms Act 1996*, and
- 2) the discharge is more than 20 metres from a structure used to collect human or animal drinking water.

Note:

The Environmental Protection Authority assesses all hazardous substances and approves those that are allowed to be imported into or manufactured in New Zealand, and places controls of each phase of the substances life-cycle for all substances that are approved. The controls must be complied with to use the substance legally, including all conditions on the product label.

The RMA activities this rule covers:

- Discharge of contaminants onto or into land where they may enter water (s15(1)(b)).

4 *Resource Management Act*