



SHIRE OF DONNYBROOK-BALINGUP

NOISE MANAGEMENT PLAN

For use of Gas Guns in areas surrounding Town Sites within the Shire of Donnybrook-Balingup

*Adopted by Council Resolution 27 October 2010
Amended by Council Resolution 25 January 2012
Amended by Council Resolution 27 February 2013
Amended by Council Resolution 25 September 2013*

1. Introduction

The purpose of this Noise Management Plan is to set out an effective procedure for scaring black cockatoos which minimises disruption to nearby residents when acoustic bird scaring devices are used.

This Noise Management Plan has been prepared based on best practice principles derived from known guidelines and/or local laws in place in Western Australia and other parts of Australia where orchards and residential areas are in close proximity.

This document has been prepared in consultation with representatives of orchardists, residents and the Shire of Donnybrook-Balingup.

The basis on why specified orchardists were invited to participate in this process is because it is known that they use gas guns in the control of bird damage to their orchards.

This Noise Management Plan applies to areas surrounding Town Sites within the Donnybrook-Balingup district where the likelihood of complaints being received on the interface of agricultural pursuits and lands either used or zoned for residential and/or lifestyle purposes where there is a greater likelihood of land use conflict.

Council has discretion in the enforcement of the *Environmental Protection (Noise) Regulations 1997* (the Regulations) and is prepared to accommodate potential "exceedences" of the Regulations if orchardists are committed to minimising the noise impact to nearby residents by complying with this Noise Management Plan.

2. Definitions

“**Another property**” means a property other than the property on which the gas gun is located and which is occupied by a person or persons other than the person who is using or who is allowing or authorising the use of a gas gun;

“**Council**” means the Donnybrook-Balingup Shire Council;

“**Farm land**” is land where “*rural pursuit*” is undertaken as per the definition within the Shire of Donnybrook-Balingup Town Planning Scheme No 4;

“**Gas gun**” means a gas gun or similar gun designed to scare birds from attacking crops, but does not include a firearm or any other bird scaring device;

“**Habituating**” means to accustom or get used to;

“**Residential building**” means a building used to permanently or temporarily accommodate persons and includes a dwelling, residential hotel, motel, boarding home, and bed & breakfast establishment.

3. General Issues

- This Noise Management Plan not only defines how gas guns can be used but provides a conduit for open communication between residents and orchardists.
- Variations to Clause 6 dot point 4 relating to buffer distances of 300 metres between gas guns and residential buildings may be granted by specific arrangements between an orchardist and the occupier of a dwelling.
- Perception to “noise” is subjective and consequently people react to noise in different ways. Noise in the environment can create nuisance to some persons but does not create nuisance to other persons. This Noise Management Plan recognises this fact. The level of “sound” can be objectively measured and quantified by a sound level meter and can be assessed against the *Environmental Protection (Noise) Regulations 1997*.
- This Noise Management Plan aims to provide clarity and certainty to residents on the extent of the noise impact of gas guns to their amenity with the general objective of ensuring that the impacts of noise from gas guns is limited and minimised to residents.
- It is acknowledged that the use of gas guns is only effective when used in conjunction with other bird scaring measures.

4. Reasons for use of Acoustic Bird Scaring Devices

Cockatoos, crows and 28 parrots are the main species of birds that cause damage to fruit in orchards in this region. Shooting to kill is the most effective method of reducing damage by birds and may be used for bird species such as 28's.

However shooting to kill is not a management option for protected species including black cockatoos. All species of black cockatoos that are found in Western Australia are listed as threatened and cannot be shot or killed as a means of reducing damage to crops. Alternative methods of bird control therefore need to be applied.

The use of acoustic bird scaring devices such as gas guns have become the primary cost effective means of controlling birds when used in an appropriate manner.

Bird attacks on orchards generally occur at dawn and dusk. Typically times are between 5.00am to 9.00am and 4.00pm to 7.00pm. Although the birds do not like to feed in the heat of the day, anecdotal evidence suggests that they may still remain present in the orchard during this period at certain times of the year and may increase in numbers in the evening. The birds tend not to remain in the area after dark.

The two periods for potential bird damage is therefore dawn and dusk and this coincides with the periods where residents generally expect a higher level of amenity.

It is critical that orchardists do not allow cockatoos to become habituated to the orchard in the early stages of the season. This can be achieved by managing the crop with a variety of scaring techniques, where birds attribute pain, fear or other adverse stimulus to the varying methods of managing this issue.

Inappropriate use of gas guns in isolation to other bird scaring measures will not achieve the above objective.

5. Open Lines of Communication

Previous experience on this issue has shown that open communication between orchardists and residents is an important tool to improve the level of good will and co-operation and therefore minimise complaints.

There is an expectation that orchardists inform residents of operational matters with gas guns prior to the season when fruit damage by birds is likely to occur.

6. Use of Gas Guns

A person must not use or allow or authorise others to use a gas gun unless all of the following are satisfied:

- The gas gun is only used for the bona fide purpose of scaring birds from crops during a recognised crop growing period;
- Prior to using a gas gun there must be evidence that birds are threatening orchards and habituating the orchard. It is a false premise that by using gas guns prior to this time it will keep birds away;
- The gas gun is positioned on farm land;
- The “as of right” distance in a straight line between the gas gun and a residential building on another property is 300 metres or greater;
- In addition to the point above relating to the “as of right” distance, the Shire can determine (on a case by case basis) for the benefit of the public interest, that an “as of right distance” in a straight line between a gas gun and a nominated residential building be a minimum of 400 metres for an Exide Gas Gun (or other gas gun with comparable sound outputs) where the following facts are evident:
 - The alleged health impacts to a complainant from exposure to gas gun use is verified from an accredited medical professional; and
 - Technical advice is received from the Noise Regulation Branch of the Department of Environment and Regulation following analysis of captured sound data from the area of the complainant with recommendation(s).

Note:

In relation to dot point 5 above, any determination regarding an increase in the “as of right” distance ceases upon change of occupancy or ownership of the property. Refer **Appendix A** for properties that have been determined by Council to meet the above criteria.

- A gas gun must not be located within 30 metres from an adjoining property boundary owned by someone other than the grower and/or user of the gas gun;
- A gas gun must be pointed away from known concentrated residential areas;
- Where the foliage of the trees adjacent to the gas gun starts at lower than approximately 0.5 metres above the ground, a non flammable barrier of at least 0.5 metres high should be placed on either side of the gas gun; and

- The times of use for gas guns shall be:

- Mondays to Saturdays

Gas guns can commence operation at official sunrise but not earlier than 6.00am and be turned off at sunset but not later than 7.00pm;

- Sundays

Gas guns can commence no earlier than 7.00am and must be turned off at sunset but not later than 7.00pm;

The official sunrise and sunset times can be confirmed at the following link:

<http://www.eldersweather.com.au/wa/southwest/donnybrook>

- In addition to the point above relating to the times of use, gas guns are not permitted to be used between 11:00am to 3:00pm each day from the 1st of January to the 31st of March inclusive each year.

The exclusion period ends in Autumn given the anecdotal evidence from orchardists which suggests that birds may habituate orchards in the middle of the day with cooler temperatures. A set date is taken from the 1st April each year, or at an alternative date set by Council, as the end of the exclusion period;

- During the periods of the season outside the months stated above, gas guns are required to be turned off in the middle part of the day (nominally 11.00am to 3.00pm), unless it can be demonstrated that birds are “habituating” an orchard in this time. Orchardists may use gas guns with other scaring measures until the birds have been removed from the orchard;
- Outside the specified times for use of gas guns, bird scaring is to be limited to a person operating a motorbike, quad bike or the like vehicle or manual shooting to scare etc.

7. Calibration of Gas Guns

A gas gun must be set to not emit more than the number of blasts set out below:

- When a gas gun is used in isolation in the case of a single blast gas gun, time between blasts to be no less than six (6) minutes;

- When a gas gun is used in conjunction and/or within 500 metres from another gas gun, in the case of a single blast gas gun, time between blasts to be no less than ten (10) minutes for all gas guns;
- In the case of a double blast gas gun, time between blast sequences apply as per above.

Note:

In relation to dot point 1 above, a gas gun that is “used in isolation” means a gas gun used 500 metres or more from another gas gun.

In relation to dot points 1, 2 and 3 above, the intent of “used in isolation’ and the set volley times apply to all gas guns regardless of the ownership and/or location of the gas guns.

8. Number of Gas Guns

The number of gas guns in use at any one time on a property is as follows:

- Where the area under crop is three hectares or less – one gas gun;
- Where the area under crop is more than three hectares and less than eight hectares – two gas guns;
- Where the area under crop is eight hectares or more – a maximum of three gas guns.

9. Management of Noise

Noise complaints or any issues of discussion regarding use of gas guns are to be directed to the orchard manager. Contact details of the orchard manager can be obtained from the Donnybrook-Balingup Shire Office on PH: (08) 9780 4200. The Council remains the Authority where a formal complaint can be lodged if an issue can not be satisfactorily resolved between a resident and orchardist.

10. Review of the Noise Management Plan

The Noise Management Plan may be reviewed by Shire Officers for effectiveness as necessary and a report provided to Council.

11. On-going commitment to reducing the impact of Bird Scaring Devices

There is a commitment by orchardists to continually investigate and implement alternative bird control measures balancing the effectiveness and cost to orchardists.

Therefore consideration by orchardists will be given to netting for high value fruit grown on high-density trellis systems. New high-density trellis systems will be constructed with netting in mind.

12. Failure to comply with the Noise Management Plan

The procedure outlined in this Noise Management Plan is to be considered as best practice for bird scaring. If the Noise Management Plan is not adhered to the Noise Management Plan will lapse and the orchardists will be expected to comply with the provisions of the *Environmental Protection (Noise) Regulations 1997*.

Notwithstanding the above, failure of one orchardist to comply with the Noise Management Plan (where the provisions of the *Environmental Protection (Noise) Regulations 1997* will apply) will not prejudice other orchardists in that the Noise Management Plan does not lapse for all the orchardists.

Failure to comply with the *Environmental Protection (Noise) Regulations 1997* carries for the following penalties:

- Seizure of equipment, or any part of the equipment which is emitting, or contributing to the making of unreasonable noise under Section 81A or 99A of the Act;
- An Infringement Notice may be served under Section 99K of the Act, which carries a penalty of \$250.00 for the first offence and \$500.00 for the second and subsequent offences;
- A Noise Abatement Direction may be served directing members of the premises to cease making or contributing to the making of unreasonable noise (maximum penalty \$25,000);
- An Environmental Protection Notice specifying the action to be taken to abate the nuisance may be served. An Environmental Protection Notice while it exists, binds the occupiers upon whom it is served (maximum penalty \$62,500).

Note:

In relation to dot points 1, 2, 3 and 4 above, the Act refers to the *Environmental Protection Act 1986*, of which the *Environmental Protection (Noise) Regulations 1997* is subsidiary legislation to.

APPENDIX A

List of properties where the “as of right distance” of 400 metres applies for gas guns surrounding the residential building, in accordance with Section 6 dot point 5 of the Noise Management Plan:

| OWNER/OCCUPIER | PROPERTY ADDRESS | DATE APPLICABLE |
|-----------------------|------------------------------|---|
| J. & L. Brown | Lot 924 Hurst Road Argyle | Council Resolution 25 September 2013 |