

**BEFORE THE HEARINGS PANEL
AT TIMARU**

IN THE MATTER of the Resource Management Act
1991 ("**the Act**")

AND

IN THE MATTER of the Resource Management Act 1991
AND

IN THE MATTER of the hearing of submissions on The
Proposed Timaru District Plan

Hearing Stream F: Noise

STATEMENT OF EVIDENCE BY VANCE ANDREW HODGSON

FOR HORTICULTURE NEW ZEALAND

8 APRIL 2025

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SUMMARY STATEMENT

1. This planning evidence addresses the Horticulture New Zealand ("**HortNZ**") submission on the Timaru District Council's ("**TDC**") Section 42A Report response to the submissions on the Proposed Timaru District Plan ("**PDP**"), Hearing Stream F: Noise.
2. The submissions cover a number of provisions, but I have been asked to provide planning evidence on the topics of bird scaring devices and frost fans.
3. My suggested amendments to the provisions of the PDP as they relate to those topics are included by provision, in Appendix 1.
4. I support the recognition in the proposed plan of the need to protect primary production from reverse-sensitivity effects in the GRUZ and enable the provision of audible bird scaring devices and frost fans, with controls as they relate to sensitive activities and zone interfaces.
5. In particular I support the PDP approach of a permitted activity pathway for audible bird scaring devices and the restricted discretionary activity status where key performance standards are not met.
6. As I understand it, bird management in horticulture requires adaptable, integrated and changeable techniques that respond to matters like crop type, seasonality, bird type and behaviour, including the ability of birds to acclimatise to any one measure. Regulations must enable the flexibility required by the horticulturalists to ensure the devices are effective while addressing any adverse effects on existing sensitive activities.
7. Having considered the evidence of Hort NZ, I recommend changes to NOISE-R5 including the removal of PER-3 relating to the orientation of devices from noise sensitive activities, and changes to PER-4 relating to the period in which bird scaring devices can be used such that these relate to half an hour before sunrise to half an hour after sunset.
8. I also support the s42A report writers' recommendation to include specific provisions for frost fans.
9. The statements of HortNZ and growers, highlights the essential need for frost fans in this district and the s42A report writers'

analysis also identifies this as an active activity. However, because of the typical orchardist's management approach to frost events, I question the practicality of the 2⁰ or less at canopy height control as a standard. In my opinion this standard could be removed to support a rule that is practical for orchardists and still provides the necessary controls on noise effects on noise sensitive activities or zone boundaries.

QUALIFICATIONS AND EXPERIENCE

10. I have previously set out my evidence and qualifications in evidence previously provided to the Hearings Panel at Hearing Streams A and B and do not repeat that here.
11. I reconfirm that while these are not proceedings in the Environment Court, I consider the Environment Court's Code of Conduct for Expert Witnesses relevant, and I agree to comply with it. My qualifications as an expert are set out in evidence provided earlier. I confirm that the issues addressed in this brief of evidence are within my area of expertise, except where I state I am relying on what I have been told by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

SCOPE OF EVIDENCE

12. This evidence provides a planning assessment of those provisions on which HortNZ submitted and addresses the s42A Report, prepared by Timaru District Council for Hearing Stream F: Noise.
13. The submissions focused on the provisions for the rural zones and seek to ensure the provisions enable and support the ongoing primary production activities of horticulture and supporting activities in the district, recognising existing activities and making provision for growth and land use change.
14. I did not prepare the submissions for HortNZ but have been asked to present planning evidence on the following matters:
 - Audible Bird Scaring Devices, and
 - Frost Fans

15. My evidence includes recommended amendments to the plan change provisions where appropriate. Appendix 1 includes a list of my suggested amendments to the plan change by provision order for ease of reference.
16. For the submissions of HortNZ, I rely on the statement provided by Charlotte Wright, the Senior Policy Advisor South Island for HortNZ and that of William Reeve a Senior Associate Acoustic Engineer with Acoustic Engineering Services. I also rely on the grower statement prepared by Morten Tondor of MA Orchards.

AUDIBLE BIRD SCARING DEVICES

17. The submission of HortNZ [249.93] and statement by Ms Wright for HortNZ, describes the critical need for bird scaring devices. It is in my experience common for district plans to include specific regulations for these activities in recognition of the need to support primary production activities in rural zones and appropriately manage effects on sensitive activities.
18. Primary production activities (including horticulture) can only locate and operate in the General Rural Zone, which has a purpose prescribed in GRUZ-O1:

GRUZ-O1 Purpose of the General Rural

The General Rural Zone predominantly provides for primary production, including intensive primary production, as well as a limited range of activities that support primary production, including associated rural industry, and other activities that require a rural location.

19. The submission of HortNZ [245.93] supported the inclusion in the PDP of a permitted activity pathway for audible bird scaring devices and the restricted discretionary activity status where key performance standards are not met.
20. While expressing this support, HortNZ noted that the rule is largely a carryover from the operative district plan and that the standards should be reviewed.
21. In my discussions with HortNZ, I understand the key areas of concern that I address in evidence are:
 - PER-3 relating to the orientation of devices from noise sensitive activities, and

- PER-4 relating to the period in which bird scaring devices can be used.
22. As I understand it, bird management in horticulture requires adaptable, integrated and changeable techniques that respond to matters like crop type, seasonality, bird type and behaviour, including the ability of birds to acclimatise to any one measure. Regulations must enable the flexibility required by the horticulturalists to ensure the devices are effective while addressing any adverse effects on existing sensitive activities.

NOISE-R5 PER-3

23. NOISE-R5 PER-3 of the PDP requires that bird scaring devices are oriented with the direction of fire facing away from noise sensitive activities on any adjoining site under different ownership.
24. The submission of HortNZ sought the deletion of PER-3 on the basis that PER-3 is not effects based. The submission stating that if a device is located over 500m from a noise sensitive activity on another site the noise orientation should not be a requirement. The test is that the noise levels are met and there are a range of methods that can be used to achieve the limit – including orientation.
25. The s42A recommendation¹ is to adopt a 500m threshold based on the advice from Mr Hunt that orientation is not a concern where devices are located at distances exceeding 500m from any noise sensitive activity. In my opinion that does not assist further with ensuring an appropriate resource management response for these activities.
26. HortNZ has sought additional advice on this from William Reeve (Acoustic Engineering Services) who outlines in his statement that meeting the noise limits outlined in NOISE-R5 PER-2 will require distance setbacks, controls on the type of device used, or screening – perhaps in combination.
27. Mr Reeve advises that all of these reduce the 'sharpness' of the sound from ABSD and that he is of the opinion that a stand-alone distance setback and limitation on the direction of fire is not necessary to control the 'sharpness' from this

¹ Proposed Timaru District Plan. s42A Report: Noise: Paragraph 8.11.3-8.11.6

source, as the control on noise level will inherently achieve this goal.

28. As described earlier in my statement, I am aware of many district plans that include the provision for audible bird scaring devices. While there is variation, there is some consistency developing, noting that some growers operate across many regions/districts such that consistency assists with their interpretation and compliance with regulations. I include examples for the Hearing Panel's interest in Appendix 2.

NOISE-R5 PER-4

29. NOISE-R5 PER-4 prescribes limits on the times bird scaring devices can be used.
30. As is the case with bird scaring device orientation, the key to the success of bird management is the need to be adaptable, integrated and changeable.
31. I also understand that there are many variables to bird activity and growers must respond as necessary to the activity in a responsive manner. Bird activity obviously does not correspond with hours of the clock but rather natural patterns and influences.
32. Being able to use bird scaring devices within half an hour of sunrise and with half an hour after sunset assists growers with bird management and the risk of damage to crops with corresponding financial and food supply impacts. The HortNZ submission and statement highlights that growers are unlikely to continuously use bird scaring devices at those half hour marks but it enables flexibility to do so such that it might disrupt or change bird behaviour in an orchard.
33. The 42A recommendation² is to permit the use of bird scaring devices up to 30mins after sunset as this is considered not a sensitive nighttime period but not to permit use 30mins before sunrise given this could potential adverse sleep impacts.
34. Again, as described earlier in my statement, I am aware of many district plans including provision for bird scaring devices and the examples I include in Appendix 2 also use the half an hour before sunrise and half an hour after sunset control.

² Proposed Timaru District Plan. s42A Report: Noise: Paragraph 8.11.3-8.11.6

35. In regard to effects on sleep impacts, it is my opinion that this effect needs to be considered related to the purpose of the zone, its approach to sensitive activities and how the package of controls manages effects on existing sensitive activities.
36. GRUZ-O2 sets out the objective for the character and qualities of the general rural zone as follows (as per Hearing B s42A recommendation version):

GRUZ-O2 Character and qualities of the General Rural Zone

The character and qualities of the General Rural Zone comprise:

- 1. large allotments with large areas of open space; and*
 - 2. a working environment of mostly utilitarian buildings ~~and~~ structures and machinery where primary production generates noise, odour, light overspill and traffic, often on a cyclic and seasonable basis; and*
 - 3. higher levels of amenity immediately around sensitive activities and zone boundaries; and*
 - 4. vegetation, pasture, crops and forestry and livestock across a range of landscapes.*
37. Primary production generated noise often on a cyclic or seasonal basis comprises that character.
38. In terms of achieving higher levels of amenity immediately around sensitive activities. I note that from a noise perspective NOISE-R5 PER-4 is not nuanced to achieve this, but NOISE-R5 PER-2 does, through limiting the noise received within the notional boundary of noise sensitive activities.
39. Crops form the character and qualities of the area, which as per the HortNZ statement, necessarily require bird management for many crops to grow.
40. GRUZ-O3 provides for protecting primary production from reverse sensitivity.
41. GRUZ-O4 provides protection for sensitive activities and sensitive zones, specifically from the effects of intensive primary production, mining, quarrying and other intensive activities.

42. The policies correspond to the outcomes sought through the objectives for the GRUZ.
43. I agree that controls on bird scaring devices are appropriate to manage effects on sensitive activities. However, my opinion, informed by the statements of HortNZ, and Mr Reeves and other plans around the country is that the 500m control is not necessary and the control on the activity should be half an hour before sunrise and half an hour after sunset.

FROST FANS

44. The submission of HortNZ [245.98] sought the inclusion of a rule for frost fans.
45. The statements of HortNZ and growers, highlights the essential need for frost fans in this district and the s42A report writers' analysis explains that six resource consents and one certificate of compliance have been issued for frost fans within the District.
46. I therefore agree with the recommendation of the s42A report writer³ that it is appropriate to include a rule in the plan for these activities.
47. While supporting the rule, HortNZ have further discussed the practicality of the standards with growers who have installed and operate frost fans. The response has been considered as follows.

NOISE-RX PER-3

48. PER-3 is a control such that frost fans are only operated when air at canopy height is 2° or less.
49. Ms Wright for HortNZ explains that in practice growers will use a number of temperature measuring points across an orchard and that this is necessary to map the temperature range and respond to frost events.
50. Therefore, in practice the trigger point to turn fans on might not be when a single orchard sensor reads at 2° or less. Rather an orchardist will typically assess the data received from sensors from the frost fan units and at various station points in an orchard through the crop to ground level. They will then make an informed decision when to start the fans.

³ Proposed Timaru District Plan. s42A Report: Noise: Paragraph 8.2.6

51. Because of this management approach I question the practicality of the 2^o or less at canopy height control as a standard. I also understand that canopy heights can vary significant depending on the age of plantings such that interpreting the standard to a single canopy point is impractical.
52. The controlling limit on noise remains PER-1 that requires
- PER-1*
- Noise from the frost fan must not exceed 55dB LAeq (15mins) when measured at a distance of 300m, or within the notional boundary of any existing a building used for a noise sensitive activity on a site in different ownership, or at any zone boundary; and*
53. PER-2 provides additional control on what frost fans can be used for.
54. PER-4 requires that evidence of installation of a frost fan meeting the NOISE-RX standards be provided to council, including certification from an appropriately qualified and experienced engineer that the noise limits in PER-1 are met and providing the location of the frost fan.
55. In my opinion PER-3 could be removed to support a rule that is practical for orchardists and still provides the necessary controls on noise effects on noise sensitive activities or zone boundaries.

CONCLUSION

56. I support the PDP approach of a permitted activity pathway for audible bird scaring devices and the restricted discretionary activity status where key performance standards are not met.
57. Having considered the evidence of Hort NZ, I recommend changes to NOISE-R5 including the removal of PER-3 relating to the orientation of devices from noise sensitive activities, and changes to PER-4 relating to the period in which bird scaring devices can be used such that these relate to half an hour before sunrise to half an hour after sunset. This would enable the flexibility required by the horticulturalists to ensure the devices are effective while addressing any adverse effects on existing sensitive activities.

58. I also support the s42A report writers' recommendation to include specific provisions for frost fans.
59. However, because of the typical orchardist's management approach to frost events, I question the practicality of the 2⁰ or less at canopy height control as a standard. In my opinion this standard could be removed to support a rule that is practical for orchardists and still provides the necessary controls on noise effects on noise sensitive activities or zone boundaries.

APPENDIX 1 – PROPOSED AMENDMENTS TO PLAN CHANGE PROVISIONS

The provisions in the Timaru District Plan are shown in **green text** with amendments as recommended in the s42A Report are shown in **strikeout** and **blue italics**. Amendments recommended in this evidence are shown with deleted text is shown as strikeout and new text as **underlined in black**.


Provision	Proposed Plan including amendments in s42A Report	As Recommended in this Evidence
NOISE-R5 Noise from bird scaring device All Zones	Activity status: Permitted Where: PER-1 NOISE-S1 is complied with <u>excluding the requirement to assess impulsive noise from bird scaring devices using NZS802:2008 Acoustics – Environmental noise; and</u> PER-2 Noise from any bird scaring device either: 1. must not exceed a <u>70dBC peak or un-weighted level-weighted SEL 55dB</u> measured within the notional boundary of any noise sensitive activity on any adjoining site under different ownership, and the device must not be used at a frequency of more than 12 times per hour; or 2. must not exceed <u>an 85dBC peak or un-weighted level-a weighted SEL 65dB</u> within the notional boundary of any adjoining noise sensitive activity on any site under different ownership, and the device must not be used at a frequency of more than 6 times per hour; and PER-3 <u>Unless located at least 500m from any building housing a noise sensitive activity on an adjoining site under different ownership</u> Bird scaring devices must be oriented with the direction of fire facing	Activity status: Permitted Where: PER-1 NOISE-S1 is complied with <u>excluding the requirement to assess impulsive noise from bird scaring devices using NZS802:2008 Acoustics – Environmental noise; and</u> PER-2 Noise from any bird scaring device either: 1. must not exceed a <u>70dBC peak or un-weighted level-weighted SEL 55dB</u> measured within the notional boundary of any noise sensitive activity on any adjoining site under different ownership, and the device must not be used at a frequency of more than 12 times per hour; or 2. must not exceed <u>an 85dBC peak or un-weighted level-a weighted SEL 65dB</u> within the notional boundary of any adjoining noise sensitive activity on any site under different ownership, and the device must not be used at a frequency of more than 6 times per hour; and PER-3 Unless located at least 500m from any building housing a noise sensitive activity on an adjoining site under different ownership Bird scaring devices must be oriented with the direction of fire facing away

	<p>away from any noise sensitive activity on any adjoining site under different ownership; and</p> <p>PER-4 Bird scaring devices must only be used between 7am and 8pm half an hour after sunset on any calendar day.</p>	<p>from any noise sensitive activity on any adjoining site under different ownership; and</p> <p>PER-4 Bird scaring devices must only be used between 7am half an hour before sunrise and 8pm half an hour after sunset on any calendar day.</p>
<p><u>NOISE-RX</u></p> <p><u>Installation and operation of frost fans</u></p> <p><u>General Rural Zone</u></p>	<p><u>Activity status: Permitted</u></p> <p><u>Where:</u></p> <p><u>PER-1</u> Noise from the frost fan must not exceed 55dB LAeq (15mins) when measured at a distance of 300m, or within the notional boundary of any existing a building used or a noise sensitive activity on a site in different ownership, or at any zone boundary; and</p> <p><u>PER-2</u> Frost fans are only used for: 1. the protection of crops from frost from bud break to harvest; or 2. maintenance purposes, undertaken only between 8am and 6pm Monday to Friday.</p> <p><u>PER-3</u> Frost fans are only operated when the air at canopy height is 2°C or less</p> <p><u>PER-4</u> Evidence of installation of a frost fan meeting this standard shall be provided to Council including certification from an appropriately qualified and experienced acoustic engineer that the noise limits in 1 above) are met and providing the location of the frost fan.</p> <p><u>PER-5</u></p>	<p><u>Activity status: Permitted</u></p> <p><u>Where:</u></p> <p><u>PER-1</u> Noise from the frost fan must not exceed 55dB LAeq (15mins) when measured at a distance of 300m, or within the notional boundary of any existing a building used or a noise sensitive activity on a site in different ownership, or at any zone boundary; and</p> <p><u>PER-2</u> Frost fans are only used for: 1. the protection of crops from frost from bud break to harvest; or 2. maintenance purposes, undertaken only between 8am and 6pm Monday to Friday.</p> <p><u>PER-3</u> Frost fans are only operated when the air at canopy height is 2°C or less</p> <p><u>PER-4</u> Evidence of installation of a frost fan meeting this standard shall be provided to Council including certification from an appropriately qualified and experienced acoustic engineer that the noise limits in 1 above) are met and providing the location of the frost fan.</p> <p><u>PER-54</u></p>

	<u>Records shall be kept stating the date, temperature, times and length of use of each frost fan and made available to Council on request. Records may include telemetry records.</u>	<u>Records shall be kept stating the date, temperature, times and length of use of each frost fan and made available to Council on request. Records may include telemetry records.</u>
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APPENDIX 2 DISTRICT PLAN EXAMPLES

Partially Operative Selwyn District Plan (Appeals Version)

NOISE-R11 Audible Bird Scaring Devices		
	<p>Activity status: PER</p> <p>1. Any audible bird scaring device</p> <p>Where:</p> <ul style="list-style-type: none"> a. operation of any audible bird scaring device only occurs between the hours of half an hour before sunrise until half an hour after sunset; and b. noise generated by any audible bird scaring device does not exceed 65 dB_{L_{AE}} when assessed at the notional boundary of any building containing a noise sensitive activity on a separate site under different ownership; and c. operation of any audible bird scaring device does not exceed two seconds for any continuous period; and d. operation of any audible bird scaring device does not exceed 12 times in any one hour, or a cluster of 3 shots no more than 4 times per hour. 	<p>Activity status when compliance not achieved:</p> <p>2. When compliance with any of NOISE-R11.1 is not achieved: RDIS</p> <p>Matters for discretion:</p> <p>3. The exercise of discretion in relation to NOISE-11.2 is restricted to the following matters:</p> <ul style="list-style-type: none"> a. NOISE-MAT1 Health and Wellbeing and Amenity Values

Western Bay of Plenty Operative District Plan

4C.1.3.5 Audible Bird Scaring Devices – Performance Standard for Permitted Activity

Audible bird scaring devices shall be a Permitted Activity subject to compliance with the following performance standards.

An audible bird scaring device:

- a. Shall only be operated from half an hour before sunrise to half an hour after sunset.
- b. Shall be set to operate at no greater frequency than 12 times in any period of one hour, that is 12 single discharges or four groups of three discharges.
- c. Shall not be operated for any continuous period exceeding two seconds.
- d. Shall only be operated when the horticultural crop is at risk from bird damage.
- e. Shall not exceed 65dB ASEL at the *notional boundary* of any Rural, Rural Residential, Future Urban or Lifestyle *dwelling* or at the boundary of any Residential or Medium Density Residential Zone (excluding any *dwelling/s* located on the same *site* as the device is being operated).
- f. Where those persons who experience noise levels over 65dB ASEL as described in e. above, have provided written approval to *Council* then the activity shall be permitted.

Use of any audible bird scaring device not in compliance with the above performance standards shall fall to be considered as a Restricted Discretionary Activity.

Opotiki District Plan

4. An *audible bird scaring device* shall:
 - a. Be operated only from half an hour before sunrise to half an hour after sunset.
 - b. Not exceed 65dB at any point within the *notional boundary* of any *dwelling* on another site in the Rural Zone or at any point within a Residential Zone (excluding any *dwelling/s* located on the same *site* as the device is being operated), unless the adjacent landowner has provided written approval to the activity and a copy has been provided to the *Council*.
 - c. Only be operated when the horticultural crop is at risk from bird damage.
 - d. Non-compliance shall be assessed as a Restricted Discretionary Activity

Whakatane District Plan

NOISE-R18 <i>ODP 3.5.4, 3.5.4.1, 11.2.6.2 (Table 11.2), 11.2.7.1.h, 11.4.5, 11.4.5.1</i>	Audible bird scaring devices		
All Zones	Activity status: PER <ol style="list-style-type: none"> 1. Audible bird scaring devices shall only be operated from half an hour before sunrise to half an hour after sunset. 2. A legible notice is to be fixed to the road frontage of the property on which the device is being used, giving the name, address, contact telephone number of the person responsible for the operation of any such device(s). 3. Devices that generate discrete variable sound events: Discrete sound events from an audible bird scaring device, including shots or audible sound shall: <ol style="list-style-type: none"> i. not exceed 100 dB L_{zpeak}; ii. not exceed 3 events within a 1 minute period and shall be limited to a total of 12 individual events per hour. 4. Devices that generate short or variable sound events: Where audible sound is used over a short or variable time duration, no event may result in a sound level greater than 50 dBA SEL. 5. Assessment positions vary according to the assessment methods cited. At any point within the notional boundary of any Rural General, Rural Production, Rural Coastal and Rural Ōhiwa zoned sites, or within the site boundary of any other site used for a noise sensitive activity excluding any dwelling/s located on the same site as that on which the device is being operated. 6. In addition to the General Information Requirements Frost Fans or Audible Bird Scaring Devices, applications involving the installation and use of bird scaring devices shall 	Activity status where compliance not achieved: RDIS <i>see RDIS assessment criteria NOISE-AC2</i> Activity status where compliance not achieved for CPZ: NC <i>see NC assessment criteria NOISE-AC12</i>	<div></div> <div></div> <div>include:</div> <ol style="list-style-type: none"> a. a producer statement from the manufacturer or, where the site has special characteristics to that the producer statement does not apply, a report prepared by a suitably qualified person that specifies the noise level and noise characteristics that the proposed device generates at specified distances. b. information about other potential methods that could be utilised for crop protection and why they are not proposed or are not considered to be suitable in the specific circumstances of the application. In the case of bird scaring devices, alternatives may include other types or brands of noise generating devices or deterrents, physical barriers or management practices. c. information regarding the proposed operating conditions of the device and proposed management practices that will or may help manage the effects on the environment.

Central Otago District Plan

b. Audible Bird Deterrent Devices

Any audible bird deterrence device shall be so sited and operated that the following noise limits shall not be exceeded at any point within the notional boundary (as defined in a) of any dwelling, resthome or hospital other than a dwelling on the same site as the device:

Note: 1. The term “ASEL” means the A-weighted sound exposure level which is sometimes described by the abbreviations LAE, or SEL.

2. Percussive devices shall include any device which emits a shock-wave arising from an explosion generating impulsive sound, and includes gas-guns.

Percussive devices

65 dB ASEL provided that the noise limit is 70 dB ASEL where the device is sited 500 metres or more from any Residential Zone or Rural Settlements Resource Area

Non-percussive devices

55 dB A L10

PROVIDED THAT

No audible bird deterrence device shall be operated:

- i. Within 100 metres of any community facility.
- ii. Between half an hour after sunset and half an hour before sunrise
- iii. Within the Rural Resource Area (5)

Central Hawke's Bay District Plan – Operative in Part

Audible bird scaring devices

24. Exempt from NOISE-S4. Noise from audible explosive bird scaring devices must only be operated between the period 30mins before sunrise and 30mins after sunset, and must not exceed 100dB L_{Zpeak}, when measured within the notional boundary of any other site in the General Rural, Rural Production, or Rural Lifestyle Zones, or within the site boundary of any site in the General Residential or Settlements Zones.
25. Discrete sound events of a bird scaring device including shots or audible sound must not exceed 3 events within a 1-minute period and must be limited to a total of 12 individual events per hour.
26. Where audible sound is used over a short or variable time duration, no event may result in a noise level greater than 50dBA L_{AE} when assessed at the notional boundary of any other site in the General Rural, Rural Production, or Rural Lifestyle Zones, or within the site boundary of any site in the General Residential or Settlement Zones.

Hastings District Plan

25.1.7A AUDIBLE BIRD SCARING DEVICES

1. Gas Guns

- (a) There shall be no device operated between half an hour after sunset and half an hour before sunrise.
- (b) Devices shall not operate unless a legible notice is securely fixed to the road frontage of the site in which the device is to operate stating the name, address and telephone number of the person(s) responsible for the operation of the device.
- (c) There are no restrictions on events or individual shots for sound levels less than 85dBC_{peak} either:
 - i) At any point within the boundary of any Residential Zone.
 - ii) At any point within the notional boundary of any noise sensitive activity in a Rural Zone.
- (d) Where sound levels are greater than 85dBC_{peak} but less than the limits specified in (e) below, measured at any point within the boundary of any Residential Zone, or within the notional boundary of a noise sensitive activity within a Rural Zone, then:
 - i) There shall not be more than 4 events in any 1 hour period, or a total of 12 individual shots in any 1 hour period, received:
 - a) At any point within the boundary of any Residential Zone.
 - b) At any point within the notional boundary of any noise sensitive activity within a Rural Zone.

Note: For the purposes of this rule, 'event' includes no more than 3 individual shots within any one minute period.

- ii) There shall only be one device per every 4ha of the site, provided that:
 - a) In the case of a single site less than four hectares in area, one device shall be permitted.
 - b) In the case where a site is over 4ha, but does not meet the next 4ha an additional device shall be permitted.

Note: As an example, a site of up to 4ha is permitted one device, a site between 4ha and an 8ha is permitted two devices, a site between 8ha and 12ha is permitted three devices and so on.

- (e) Sound levels generated by an audible bird scaring device shall not exceed:
 - i) 100dBC_{peak} at any point within any boundary of a Residential Zone.
 - ii) 115dBC_{peak} at any point within the notional boundary of any noise sensitive activity in a Rural Zone.

Note: As an indicative guide only, a setback distance of approximately 420 metres is required to achieve the limit in Rule 25.1.7A.1(e)(i) and a setback distance of approximately 150 metres is required to achieve the limit in Rule 25.1.7A.1(e)(ii) where a device is directed towards the respective boundary. A device directed away from the respective boundary is likely to comply with a lesser setback distance.

*Outcome
Bird scaring
devices will
be controlled
to avoid
excessive
intrusion on
adjoining
residents.*