

# Bird Scaring Devices

## Purpose

To ensure the operation of any audible bird scaring device or combination of devices does not result in an unreasonable impact on the amenity of neighbouring residents.

## Scope

This policy applies to all land within the Yass Valley Local Government Area.

## Definitions

| Term                               | Meaning                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Audible Bird Scaring Device</b> | Any one of a number devices designed to scare birds. These devices are usually employed by farmers to dissuade birds from eating crops, particularly but not limited to grapes. Types of audible bird scaring devices include: Propane Cannons (propane gas guns); Electronic Repellers (digitally recorded distress sounds); Ultrasonic Scarers and Cartridge Scarers.                                                                                        |
| <b>Background Noise Level</b>      | The ambient noise that is exceeded 90% of the time when noise from a particular noise source is excluded.                                                                                                                                                                                                                                                                                                                                                      |
| <b>dB(A)</b>                       | A logarithmic scale for measuring noise. Noise levels are generally measured as sound pressure levels and reported as a decibel level. Note: Weather conditions will affect the propagation of noise. In particular, temperature inversions, which often occur in the early mornings after a clear night, will increase noise propagation. Wind also has an impact, causing noise levels to be the loudest when the wind blows from the source to the receiver |
| <b>Neighbour</b>                   | A person who lives on a property which is adjoining or adjacent to a property which uses audible bird scaring devices as part of an integrated bird scaring strategy.                                                                                                                                                                                                                                                                                          |
| <b>Offensive Noise</b>             | Noise that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances: (i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or (ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted,                                     |
| <b>Unreasonable Impact</b>         | An exceedance in the maximum noise level of 55 dB(A) or the background noise level by 5 dB(A) (whichever is the greater) generated by the use of an audible bird scaring device or combination of devices.                                                                                                                                                                                                                                                     |

## Policy Principles

The establishment of wineries in close proximity to rural residential and lifestyle lots can result in conflicts between the land uses. A policy will assist in providing guidance to managing these conflicts.

The use of bird scaring devices throughout the Yass Valley are to comply with the following requirements:

### 1. Noise Levels

- 1.1 The maximum noise level generated from audible bird scaring devices must not exceed 55 dB(A) or the background noise level by more than 5dB(A) (whichever is the greater).
- 1.2 All noise levels are to be measured at the dwelling of a complainant.

### 2 Operation & Timing

The firing rate of audible bird scaring devices must be as low as possible to maintain the 'startle' effect.

- 2.1 Audible bird scaring devices must be aimed at the crop that they are intended to protect, except where the audible bird scaring device is of a self-propelled rotating design.

Note: Audible bird scaring devices should be regularly moved around the property.

- 2.2 Wherever possible, the use of audible bird scaring devices must be minimised and operators must be considerate to neighbours.
- 2.3 Audible bird scaring devices must not be operated before sunrise or after sunset.
- 2.4 Where an audible bird scaring device is proposed to be used before sunrise or after sunset due to exceptional seasonal circumstances (e.g. fruit bats), all neighbours must be notified and the written approval of Council must be obtained.

### 3 Location

- 3.1 Audible bird scaring devices must not be used if the distance between the device and any complainants' house is less than 300m.

Note: Audible bird scaring devices should be located as far away as possible from any complainants' house.

- 3.2 Wherever possible, the shielding effects of natural features, buildings and so on must be used to reduce the level of the blasts at complainants' houses.

### 4 Unreasonable Noise Impact

- 4.1 Where a neighbour is experiencing an unreasonable impact from the use of audible bird scaring devices they must in the first instance contact the device operator to discuss the matter.

Note: The operator may not have realised that their device is bothering their neighbour, and in many cases, will be happy to assist in solving the problem.

- 4.2 If the problem persists, the neighbour is to contact a Community Justice Centre (CJC). These are government-funded but independent centres that specialise in settling differences between neighbours without entering into complicated legal processes. They will suggest mediation, where you meet with the audible bird scaring device operator and a CJC representative to try and solve the problem. This process will not cost you any money, and has a high success rate.
- 4.3 If the above steps are unsuccessful and the unreasonable impact persists you can contact Council to address the issue.

Note: Council have statutory powers to deal with offensive noise under the *Protection of the Environment Operations Act 1997* and associated regulation.

## 5 Enforcement

If Council is required to address an unreasonable impact from the use of audible bird scaring device(s) the following steps will be taken:

- 5.1 The operator of the audible bird scaring device(s) will be notified in writing regarding the breach in policy and will be directed to comply with the provisions of this policy within seven days, or make representations as to why they cannot comply with the policy.
- 5.2 Where the operator of an audible bird scaring device(s) does not comply with a written direction to comply with the provisions of this policy a Prevention Notice will be issued under the Protection of the Environment Operations Act 1997 unless the breach can be reasonably justified.
- 5.3 Where the operator of the audible bird scaring device(s) does not comply with the provisions of the Prevention Notice, Penalty Infringement Notices will be issued to the operator of the audible bird scaring device(s).
- 5.4 Following the issue of any Penalty Infringement Notice, the operator of the audible bird scaring device(s) must prepare and submit to Council for approval a bird management plan that outlines proposed integrated bird scaring and management strategies.

Note: A bird management plan must outline a farmer's or grower's integrated bird scaring and management strategies that vary from season to season, from one crop to another or one part of the property to another and must address each of the issues outlined in Appendix 1.

- 5.5 Where a suitable solution to alleviate unreasonable impact from the use of audible bird scaring device(s) is not able to be achieved following the submission of a bird management plan the use of the device(s) must be restricted to:
  - 8.30 am to 5.30 pm Monday to Saturday; and
  - 9.30 am to 4.00 pm on Sundays and Public Holidays

Outside of these times other forms of deterrent are to be used to dissuade birds from eating the crop prior to harvest.

- 5.6 In the event that unreasonable impact from the use of audible bird scaring device(s) continues Council will proceed with legal action.

## **Responsibilities & Review**

The Environmental Services Coordinator will:

- Provide all necessary administrative support for the operation of this policy
- Develop and document any procedures for the effective implementation of this policy
- Keep sufficient records to enable monitoring of compliance with this policy and provide information required for Integrated Planning and Reporting purposes and internal organisational performance measurement.
- The Environmental Services Coordinator will ensure the provisions of this policy are taken into consideration in any investigations or compliance actions associated with impacts from bird scaring devices.
- Development assessment staff are required to take into account the provisions of this policy in relation to any Development Applications.
- This policy will be reviewed every four years. The next review date will be in 2023.

## References

This policy is to be read in conjunction with the following:

|                                |                                                                                        |
|--------------------------------|----------------------------------------------------------------------------------------|
| <b>Legislation</b>             | Protection of the Environment Operations Act 1997                                      |
|                                | Protection of the Environment Operations (Noise Control) Regulation 2008               |
|                                | Environmental Noise Guidelines for Audible Bird Scaring Devices – EPA, South Australia |
| <b>Policies and procedures</b> |                                                                                        |

## Approval History

| Stage    | Date            | Comment            | MagiQ Reference |
|----------|-----------------|--------------------|-----------------|
| Original | 11 May 2011     | Adopted by Council | Min 151         |
| Review   | 1 February 2012 | Adopted by Council | Min 8           |
| Review   | 8 August 2012   | Adopted by Council | Min 361 & 536   |
| Review   | 23 October 2019 | Adopted by Council | Min 245         |
| Review   | 12 October 2021 | New Template       |                 |

## Ownership and Approval

| Responsibility | Role                                |
|----------------|-------------------------------------|
| Author         | Senior Environmental Health Officer |
| Owner          | Manager Environmental Services      |
| Endorser       | EMT                                 |
| Approver       | Council                             |
|                |                                     |