

# Rules Relating to Bird Scaring Device

The following rules apply to the use of audible bird scaring devices in the area covered by the Marlborough Environment Plan

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## 1. Definitions

Audible Bird Scaring Device means any device that generates audible sound waves used for the scaring of birds. Devices shall fall into one of two categories:

### Category A

Percussive or explosive devices (but excluding firearms as defined by the Arms Act 1983, or any Act amending or replacing that Act).

For the purpose of this Plan, 'percussive or explosive device' shall mean any device that is used to scare or disturb birds by generating a shock wave from percussion or an explosion thereby emitting noise.

*This includes gas guns.*

### Category B

Other devices (but excluding firearms as defined by the Arms Act 1983 or any Act amending or replacing that Act)

For the purpose of this Plan, 'other devices' shall mean any other device (not in Category A) which generates noise that is used to scare or disturb birds.

*This includes vehicles or quad bikes tooting, and air horns.*

## 2. Single Land Holding

Single Land Holding means an area of land held in either

- a) one Record or Title; or
- b) more than one Record of Title where
  - the land in the various Record of Titles are held in common ownership or leased under the same lease; and
  - the land in the Record of Titles or lease are contiguous to each other; or
  - the Record of Titles are held together by a covenant under Section 220 RMA.

## 3. Noise Sensitive Activity

Noise Sensitive Activity means any use of land and/or buildings that is likely to be susceptible to the effects of noise emitted from nearby land uses in the course of their legitimate operation and functioning. Examples include dwellings, visitor accommodation, hospitals, health care and medical centres, residential care housing, educational institutions, structures for the purpose of, or activities involving public assembly.

## 4. Use of Drones

The use of drones is governed by the Civil Aviation Authority (CAA). There are restrictions regarding their use on Marlborough District Council Property, all of the relevant details can be found at <https://www.marlborough.govt.nz/recreation/drones>, this includes links to the relevant pages through the CAA as well.

## 5. Use of Lasers

The use of lasers is currently governed by multiple areas of Legislation.

### Summary Offences Act 1981

It is an offence against the Summary Offences Act 1981 to have a high-power laser pointer in a public place without excuse. It is also important to note that it is illegal to possess a laser pointer greater than 1mw without permit.

### Resource Management Act 1991

Under Section 17 *Duty to avoid, remedy, or mitigate adverse effects* of the Resource Management Act 1991 (RMA) is a breach to create an adverse effect on the environments arising from an activity carried on by or on behalf of the person.

### District Council Nuisance Bylaw 2017 Part 2

There is also the Marlborough District Council Nuisance Bylaw 2017 Part 2, point 6 states that *Every person undertaking an activity on any road or any private property or public place must ensure that they do not cause a nuisance when undertaking the activity.*

### Civil Aviation Authority (CAA)

The CAA also has policies in place in regards to the use of lasers, particularly around areas where aircraft are operated, the relevant information can be found at <https://www.aviation.govt.nz/safety/laser/>.

## 6. Rules Relating to a Bird Scaring Device

### 3.3.5 Audible Bird Scaring Device

#### 3.3.5.1. A Category A or Category B device must not be operated:

- a) between sunset and sunrise if the device is within 2km of a noise sensitive activity;
- b) within 800m of any rest home, public or private hospital;
- c) such that a sound is emitted at a level greater than 65dB SEL, measured at or within the boundary (Urban Residential 1, Urban Residential 2 (including Greenfields) or Urban Residential 3 Zones, and Coastal Living and Rural Living Zones) or notional boundary (Rural Environmental or Coastal Environmental Zones) of the nearest dwelling, visitor accommodation or other habitable building (except a dwelling, visitor accommodation or other habitable building on the same property as the audible bird-scaring device);
- d) closer than 250m to any other audible bird scaring device.

#### 3.3.5.2 A Category A device must not be operated

- a) within 100m of a public road;
- b) at any greater frequency than 4 events in any period of one hour. An event is defined as 3 discharges within a 30second period;
- c) at a greater density than one device per five hectares of land in any single land holding, except where the land is less than five hectares in area, one device shall be permitted.

#### 3.3.5.3 A Category B device must not be operated for any continuous period exceeding two seconds, or at a frequency greater than 10 times in any hour for each 5ha block that the device is being operated over.

#### 3.3.5.4 The device must only be operated where a crop is at risk from bird damage.

#### 3.3.5.5 Noise must be measured in accordance with the provisions of NZS 6801:2008 - Acoustics - Measurement of Environmental Sound and assessed in accordance with NZS 6802:2008 Acoustics - Environmental Noise.

