



# **DRAFT SHIRE OF DENMARK NOISE**

## **MANAGEMENT PLAN**

For the use of **Automatic & Manually Fired Gas Guns**  
within the Shire of Denmark

### **1. Introduction**

The purpose of this Noise Management Plan is to set out acceptable procedures for scaring black cockatoos and other birds which minimises disruption to nearby residents by acoustic bird scaring devices.

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 Noise Management Plan applies to areas such as Town Sites, Special Residential, Special Rural and specifically tourist zoned land and smaller rural zoned lots within the Shire where property owners have strong residential amenity expectations and there is a greater likelihood of the interface of commercial agricultural pursuits leading land use conflict.

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

### **2. Protected Bird Species**

Current and prospective orchardists should note that nothing in this policy should be taken as giving orchardists and their staff or guests licence or authority to deal with protected birds in ways that are contrary to **Department of Parks and Wildlife** guidelines. It is recommended that orchardists contact that Department directly as to the current status of bird species that are entering their property.

1 October 2013 - Attachment 8.2.1 a)

### **3. 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;

**“Nearby house”** means a house or holiday unit on a nearby property (“another property”) used to permanently or temporarily accommodate persons that includes a dwelling, residential hotel, motel, boarding house, holiday home or a bed & breakfast establishment that has an occupancy rate of at least 33%.

**“Council”** means the Denmark Shire Council;

**“Rural”** is land where “*rural pursuit*” is undertaken as per the definition within the Shire of Denmark Town Planning Scheme No 3 and is zoned for that purpose;

**“Special Rural”** is land where “*special rural pursuit*” is undertaken as per the definition within the Shire of Denmark Town Planning Scheme No 3 and is zoned for that purpose;

**“Special Residential”** is land where “*special residential pursuit*” is undertaken as per the definition within the Shire of Denmark Town Planning Scheme No 3;

**“Specifically tourist zoned land”** is land where a specifically zoned “*tourist related pursuit*” is undertaken as per the definition within the Shire of Denmark Town Planning Scheme No 3;

**“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;

**“Automatically fired gas gun”** means a gas gun or similar gun designed to scare birds from attacking crops, that is automatically fired using a timer, light sensor or similar controlling device.

**“Mobile manually fired gas gun”** means a gas gun or similar gun designed to scare birds from attacking crops that is mobile and fired manually by an attendant operator in a similar way that shot gun is. It may fire singularly or in a volley of up to three shots. In terms of this plan manually fired gas guns are considered to be in the same category as manually fired shot guns.

**“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.

### **4. 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.
- Existing orchards will be considered to be exempt from the 500m & 1000m separation distances in this policy but bound by a 300m distance where it can be substantiated to the satisfaction of the CEO that they have been worked and picked commercially for the past 10 years and have used a gas gun for at least one week per season for 3 out of the last 5 years. This exemption however will be extinguished if special rural or special residential or specifically tourist zoned land is developed within 500 metres of that gas gun where in the opinion of the CEO reasonable noise attenuation measures have been implemented

and 1000m where they have not.

- Perception of “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.

## **5. Council’s Preferred Methods of Bird Control**

Council’s preferred methods of bird control in order of preference area as follows:

### 1) Total netting of orchards

The total netting of orchards is Council’s preferred solution on rural properties that have several nearby houses within a distance of 1000m of their potential gas gun location(s). This is because over the life of a set of nets there is a high likelihood that complaints will be received if gas guns or the manual firing of shot guns are used as the primary means of deterrent. It is Council’s opinion that the full netting of orchards is the most sustainable deterrent option in the long term

### 2) The usage of top netting with sacrificial boundary trees on orchards that are within a 1000m to nearby rural houses is also strongly endorsed by Council providing orchardists are prepared to accept the loses on the sacrificial boundary trees as most birds do not like venturing under nets meaning that extensive usage of acoustic controls are normally not required.

### 3) The usage of sacrificial crops as diversion

While the usage of sacrificial crops as diversion is preferable when compared to the usage gas guns or the manual firing of shot guns as a means of diverting rather than deterring birds the commercial reality is that it will fail in some years due to bird species losing their primary food source due to wild fires in state forests. This temporary loss of a source can lead to a seasonal desperate bird risk meaning that orchardists who adopt sacrificial crops as a primary loss control strategy also need to have a contingency plan in place so that they are not forced to consider the use of acoustic measures at short notice.

It should be noted that one of the risks of the usage of sacrificial crops is that they can lead to long term bird population increases as they represent a reliable food source.

### 4) Timely manual firing of shot guns **and mobile manually fired gas guns**

While there is a risk that the manual firing of shot guns **and mobile manually fired gas guns** to scare birds heading into orchards will give rise to sporadic neighbourhood complaints this method represents an active and strategic method of bird control and only uses as many shots as are needed to deter the birds on that occasion. This type of noise

is also significantly less disturbing than that of an **automatically fired** gas gun as it is not relentless and occurs in response to an over flight by birds.

Council considers the usage of shot guns **and mobile manually fired gas guns** to scare birds heading into orchards to be part of normal farming operations and while it reserves the right for the CEO to have dialogue with orchardists regarding the number and frequency of the shots it considers that farmers and orchardist have an “as of right” to use fire arms at their properties as part of their normal rural operations.

#### 5) Electronic Bird Scarers

Electronic bird scarers use predator and distressed bird sounds, bells and sirens to interrupt and deter bird feeding by making the orchard a stressful place for birds.

While they are not as intrusive as gas guns, electronic bird scarers are still relentless in their operation and their design intention is to induce stress and confusion and for this reason it is recommended that they only be used where a distance of at least 500m to the nearest dwelling (nearby house) can be achieved. Notwithstanding the above recommended buffer distance Council, where complaints are received reserves the right to apply the assigned noise levels found in the Environmental Protection (Noise) Regulations 1997 and to stipulate greater buffer distances where the terrain and or measured noise levels warrant.

#### 6) **Automatically Fired** Gas Guns

The usage of **automatically fired** gas guns is discouraged in areas where neighbouring houses either already exist within 1000m of a gas gun or are likely to be built within 500m of a gas gun. Council's reasons for this are as follows:

- a) There is a high likelihood that at closer distances an **automatically fired** gas gun's noise emissions may unreasonably interfere with the lifestyle, health and amenity of those residents.
- b) Council is of the opinion that rural pest control measures should be active and strategic and the automatic nature of gas guns encourages farmers to develop crops on the basis that they will be able to set the device going and be absent from the property. To this end one of the primary goals of this policy is to prevent absentee land holders developing intensive agriculture enterprises in rural areas that have significant residential occupancies on the basis of automated acoustic scaring devices.

## **6. 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 that **are not protected**.

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 (property owners should check with DEC for latest status) and cannot be shot or killed as a means of reducing damage to crops. Alternative methods of bird control such as Bird Frite type cartridges and movement in orchards therefore need to be applied and the use of acoustic bird scaring devices such as gas guns (**both manual and automatically fired**) have become the primary cost effective means of controlling birds when they are 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 suggest that some may still remain in an orchard during the day and may increase in numbers towards the evening. Birds tend to leave orchards after dark.

The two periods for potential bird damage are 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 usage of gas guns in isolation to other bird scaring measures will not achieve the above objectives and may actually attract birds from orchards in other districts that have finished harvesting.

## **7. 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.

## 8. Use of Gas Guns

Where the 1000m separation can be achieved or the CEO has recognised either an agreement between the orchardist and affected neighbours regarding a reduced distance or an existing usage right 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 and habituating the orchard. It is a false premise that by using gas guns prior to this time it will keep birds away.
- Otherwise bird scaring is to be limited to a person operating a motorbike, quad bike or the like vehicle or manual shooting to scare etc, outside these “habituating” times.
- The gas gun is to be positioned on the farmer’s land.
- A gas gun must not be used during a total fire ban.
- The “as of right” distance in a straight line between the gas gun and a residential building on another property is 1000 metres or greater.
- Reductions of the above buffer distances to 300 metres may be granted by specific arrangements between an orchardist and the occupier of the affected dwelling. Any such arrangements will be taken as being for a maximum three seasons only and once entered into will be taken by Council as being for the entire season.
- 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.
- Clause “F” of TOWN PLANNING SCHEME POLICY NO. 6 titled “GUIDELINES FOR THE MANAGEMENT OF VINEYARDS WITHIN SPECIAL RURAL ZONES” has the objective of ensuring that the management of the vineyards “Special Rural Zones” does not have a detrimental affect on the amenity of adjoining land owners reads as follows:

*“NO ARTIFICIAL BIRD CONTROL such as electronic noise emitters, discharge of firearms or chemical control shall be permitted”.*

- 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/southern-coastal/denmark>

- In addition to the point above relating to the times of use, gas guns are required to be turned off in the middle part of the day (nominally 11.00am to 3.00pm). This time bracket is outside known feeding times.

## 9. Use of Manually Fired Gas Guns

- Manually fired gas guns are only to be used for the bona fide purpose of scaring birds from crops during a recognised crop growing period.
- Prior to using a manually fired gas gun there must be evidence that birds are threatening and habituating the orchard. It is a false premise that by using gas guns prior to this time it will keep birds away.
- Otherwise bird scaring is to be limited to a person operating a motorbike, quad bike or the like vehicle or manual shooting to scare etc, outside these “habituating” times.
- Manually fired gas guns are to be mobile and fired by an attendant operator in a similar way that shot gun is. They may fire singularly or in a volley of up to three shots.
- A gas gun must not be used during a total fire ban.
- A manually fired 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 manually fired gas gun must be pointed away from known concentrated residential areas.
- Clause “F” of TOWN PLANNING SCHEME POLICY NO. 6 titled “GUIDELINES FOR THE MANAGEMENT OF VINEYARDS WITHIN SPECIAL RURAL ZONES” has the objective of ensuring that the management of the vineyards “Special Rural Zones” does not have a detrimental affect on the amenity of adjoining land owners reads as follows: “NO ARTIFICIAL BIRD CONTROL such as electronic noise emitters, discharge of firearms or chemical control shall be permitted”.
- The times of use for gas guns shall be:  
  
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Manually fired gas guns can commence operation at official sunrise but not earlier than 6.00am and t not later than sunset or 7.00pm;  
  
Sundays  
  
Manually fired gas guns can commence no earlier than 7.00am and must be turned off at sunset but not earlier than 6.00am and t not later than sunset or 7.00pm;  
The official sunrise and sunset times can be confirmed at the following link:  
  
<http://www.eldersweather.com.au/wa/southern-coastal/denmark>
- In addition to the point above relating to the times of use, gas guns are required to be turned off in the middle part of the day (nominally 11.00am to 3.00pm). This time bracket is outside known feeding times.

## **10. Calibration of Automatically Fired Gas Guns**

An **automatically fired** gas gun must be set to not emit more than the number of blasts set out below:

- When a **automatically fired** 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 **automatically fired** 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.

## **11. Number of Gas Guns**

The number of gas guns (**both manually or automatically fired**) 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.



## **12. 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 shall be displayed at the entrance to the premises. The Council remains the Authority where a formal complaint can be lodged if an issue cannot be satisfactorily resolved between a resident and orchardist.

## **13. 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.

## **14. 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.

## **15. 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 the above, the Act refers to the *Environmental Protection Act 1986*, of which the *Environmental Protection (Noise) Regulations 1997* is subsidiary legislation to.

Useful Website links:

[http://www.agric.wa.gov.au/objtwr/imported\\_assets/content/pw/vp/bird/best\\_practice\\_guidel\\_1\\_6684b.pdf](http://www.agric.wa.gov.au/objtwr/imported_assets/content/pw/vp/bird/best_practice_guidel_1_6684b.pdf)

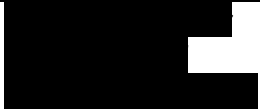

[http://www.agric.wa.gov.au/objtwr/imported\\_assets/content/pw/vp/bird/noise\\_bird\\_brochure.pdf](http://www.agric.wa.gov.au/objtwr/imported_assets/content/pw/vp/bird/noise_bird_brochure.pdf)

**Draft Noise Management Policy – Gas Guns**

**SUMMARY OF SUBMISSIONS**

SEPTEMBER 2013

NO.	NAME & ADDRESS	SUMMARY OF SUBMISSION
1.	[REDACTED]	<p><i>Re: the use of the Gas Guns in the Scotsdale Valley are and the submission by the shire of Denmark. I am in favour of the proposal put forward by the council.</i></p> <p><i>We found the noise from the Gas guns very disturbing. We suffered an increased level of anxiety and had become hyper alert and tense in our home due to the noise and shock created by the Gas guns. The peaceful tranquillity of our home was absolutely shattered. This impact must be so much greater for our neighbours who reside much closer to the gas guns location.</i></p> <p><i>We have experienced the use of Gas guns in broad acre cropping to deter huge flocks of cockatoo. This is done on very large acre holdings and therefore doesn't impact on neighbouring homes.</i></p> <p><i>We are amazed that anyone would consider using such objectionable deterrent's in a closely settled horticultural area.</i></p> <p><i>Any use at all of Gas guns here is totally unacceptable. It is our opinion is that it needs to be prohibited totally i.e.no use at all, to the protect the sanity and health of the neighbouring residents</i></p> <p><i>The sound of gun shots on me (Julie) was emotionally distressing and I would not be able to live in the area as the impact on my health for the very short time this occurred was significant</i></p> <p><i>It must be understood that the noise of gas gun shots and in rapid succession is emotionally disturbing and has huge impacts on health.</i></p>
2.	[REDACTED]	<p><i>I would like to commend the council for drafting a fair and comprehensive noise mgt policy. I further urge the council to adopt this policy with associated enforcement measures.</i></p> <p><i>I would like to briefly raise a couple of points. Firstly, there is the issue of clarity and setting precedents. The pressure for this policy has arisen due to significant local opposition to the use of a gas canon in the Scotsdale Shadforth area. The canon was operated illegally in clear breach of the existing 1997 Environmental Protection Act Noise Regulations. I believe a noise management policy would have provided clarity to the orchardist, prevented this and the next canon in a similar situation.</i></p> <p><i>Also we've heard over the last few months arguments as to how using gas canons is a farming practice and this is a rural area. Well it's true that Scotsdale Shadforth is largely a rural area, but farming practices depend on the context - aerial crop dusting is a farming practice, so is mustering cattle with rifles from helicopters, but neither of these would be sensible, practical or acceptable here. The use of gas canon impose substantial costs onto surrounding properties; direct financial loses to those for example with holiday chalets (like Tinglewood winery) or other incompatible businesses like (Southern Star Equestrian Centre). Everyone also suffers a serious loss of peace and amenity and property values. This is not a farming practice suitable for this area . Accepting the unregulated use of such a device is prejudicial to the pre-existing legitimate land uses.</i></p> <p><i>The orchardist in this instance has made several claims against netting (widely acknowledged as the most effective bird control method) as being unreliable, too expensive and not viable as his orchard is "too big". This is nonsense. If one is to accept that this particular orchard is a true commercial entity then it is only reasonable to compare it others. As for being too big to net...</i></p> <p><i>Australia's biggest orchardists are Montagues, and their preferred method of bird control is overhead netting. At just one of their apple orchards in Victoria, Harcourts Orchard, they have over 95,000 trees under nets!!</i></p>

		<p><i>I urge the council to adopt the Draft Noise Management Policy. In particular I wish to see the council impose what I consider to be the crucial recommendations;</i></p> <ul style="list-style-type: none"> <li><i>i) Impose minimum of 1000 m distance between the cannon and neighbouring properties.</i></li> <li><i>ii) Ensure that absentee landholders are not allowed to use acoustic scaring devices.</i></li> <li><i>iii) Ensure that alternative bird control methods (i.e. netting, etc..)are given preference and not allowing birds to become habituated in the first place.</i> <ul style="list-style-type: none"> <li><i>▪ iv) The enforcement measures and sanctions for non-compliance outlined in section 14 of the draft should be adequately resourced to ensure compliance, such that the policy once adopted achieves it's purpose of ensuring that bird scaring in the shire uses acceptable procedures and minimises disruption.</i></li> </ul> </li> </ul>
3.		<p><i>This management policy has been made necessary by the recent excessive use of two gas cannons by Mr Stewart Douglass on his property adjacent to our own. The noise from these guns was intolerable, and we wish to add our support to the ratification of this policy.</i></p> <p><i>You will no doubt be receiving submissions from Mr Douglass that he should be allowed unhindered use of his cannons. I have already submitted my technical objections, but now I'd like to put our case against Mr Douglass's claim to a 'moral' right to continue this audio pollution.</i></p> <p><i>We object most strongly to Mr Douglass's suggestion that his need to make money overrides our right to the natural peace and quite of the countryside. His other claim that gas cannons are acceptable farming practice is also ludicrous; spraying toxic chemicals such as DDT and Deildrin were once 'acceptable farming practice' but we've sensibly moved on from there.</i></p> <p><i>Mr Douglass's problems are of his own making. Firstly he has elected to plant his orchard in the midst of an already populated area, and then acts surprised when the close neighbours object to being subjected to a war-zone soundscape!</i></p> <p><i>Secondly he has chosen a long thin property which give maximum exposure to native forrest and ensures that the plantings must also be of a shape and size to optimise access for the birds. A more sensible design is to have the orchard as one big square block with sacrificial plantings on the perimeter.</i></p> <p><i>Thirdly he has left the trees to grow unattended for six years without understanding that this will encourage the local bird population to become habituated to the abundant food source.</i></p> <p><i>Then, finally realising his mistakes, he tries to remedy it by the cheapest, crudest and most offensive method. <b>Such incompetence should not be rewarded.</b> As the proposed regulations makes abundantly clear, the only viable long term solution to the bird problem is exclusion netting.</i></p> <ul style="list-style-type: none"> <li><i>▪ My wife and I strongly support the proposed regulations and thank the Shire for its diligence in bringing forth this policy.</i></li> </ul>
4.		<p><i>I wish to commend the council and officers for the hard work and detail that has gone into developing the Noise Mangagement Plan for the use of gas cannons within the Shire of Denmark. As the council is aware, there has been significant local opposition in the Scotsdale valley to the use of a gas cannon at a local orchard. It was unprecedented for a cannon to be used in Denmark so close to neighbouring properties, as distinct from large and isolated farms. It has been made clear to the council in many emails, letters and at various meetings that many local residents are unwilling and unable to tolerate such significant and unbearable noise in such close proximity to their homes and businesses.</i></p> <p><i>I strongly support a policy which prevents the use of such bird control systems when neighbours are less than 1 kilometre away from the device. This is for the following reasons:</i></p>

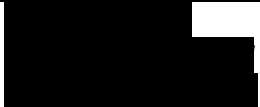
- *The Environmental Protection (Noise) Regulations (1997) clearly outline the permitted noise levels at various times of day/days of the week, and how the level is further limited when the noise is impulsive. The noise produced by the cannon at Long Orchard Farm was significantly higher than these maximum assigned noise levels and is therefore illegal.*
- *The Best Practice Guidelines for Bird Scaring in Orchards states that gas cannons might "comply with noise regulations if noise-sensitive receivers are at least one kilometre away from the device".*
- *Rural properties in the shire of Denmark vary greatly in size and proximity to neighbours. In many areas, previous councils have approved sub-division to create often small blocks with significantly higher density of inhabitants. This means that bird control methods that may have been appropriate on larger 100 acre + farms are clearly not appropriate or functional in these smaller 'fringe-rural' zones. This issue is well addressed in the Draft Noise Management Policy.*
- *Residents of the Shire of Denmark have a legitimate right to peace and amenity and protection from the dangerous and intolerable effects of noise exposure. This is particularly true for children, who are known to be vulnerable to noise exposure. The evidence on noise pollution and health is strong. **The World Health Organisation Guidelines for Community Noise (1999)** describe in detail the detrimental effects of loud noise on health, including:-*
  - *Hearing impairment. Shooting noise with levels up to 80dB induces hearing impairment. Children are more vulnerable in acquiring noise-induced hearing impairment than adults and our children are living 300m away from a gas cannon where the noise was recorded at similar dB levels.*
  - *Problems with concentration, fatigue, uncertainty, irritation and decreased working capacity. Children in the process of language and reading acquisition are considered particularly vulnerable to these type of effects. We have been home schooling our children for 5 years but would be unable to continue to do this if a cannon is allowed to fire 300m away from where our children are learning.*
  - *Sleep disturbance, increased fatigue, depressed mood, decreased performance and long-term negative effects on psychosocial well-being. These effects have been observed at 45dB or less, well below the dB level produced by a close gas cannon.*
  - *Physiological effects, particularly if noise has sufficient intensity and unpredictability. These include increased blood pressure, changes in blood viscosity, shifts in electrolyte balance, increased heart rate and vasoconstriction. Prolonged exposure can result in hypertension and ischaemic heart disease. Sounds also evoke reflex responses, particularly when they have a sudden onset. There is an increase in ischaemic heart disease when noise levels exceed 65 dB, particularly if the exposure is long-term.*
  - *Mental health effects. Large scale population studies have suggested associations between noise exposure and a variety of mental health indicators such as ratings of well-being, psychological symptoms profiles, the intake of psychotropic drugs and consumption of tranquilizers and sleeping pills. Community noise has adverse effects on mental health and the WHO recognises that this needs to be taken into account for vulnerable groups, particularly children.*

		<ul style="list-style-type: none"> <li>- <i>Effects of noise on performance. Noise adversely affects cognitive task performance and in children, it impairs a number of cognitive and motivational parameters. Impulsive noise is particularly disruptive because of the resulting startle response. Among the cognitive effects, reading, attention, problem solving and memory are most strongly affected by noise.</i></li> <li>- <i>Effects on Residential behaviour and annoyance. People exposed to loud noise have been shown to experience a variety of negative emotions including anger, disappointment, dissatisfaction, withdrawal, helplessness, depression, anxiety, agitation and exhaustion. This often results in changes to social behaviour such as aggression, unfriendliness, disengagement and non-participation. Particularly there is concern that high-level noise exposure contributes to the susceptibility of children to feelings of helplessness.</i></li> <li>• <i>The use of gas cannons in close proximity to neighbours has an unacceptable negative financial impact. There are many businesses in close proximity to Long Orchard Farm that are entirely incompatible with the use of a bird scaring cannon that produces loud noise e.g. a holiday accommodation operation, a horse riding school and many hobby farms. Unrestricted use of gas cannons would significantly decrease the value of neighbouring properties and this would set a precedent for similar financial impacts on residents in other areas of the shire.</i></li> <li>• <i>Gas cannons are largely discredited as a means of Orchard management and are not widely used at other orchards in the Shire of Denmark. The Best Practice Guidelines sets out clearly other methods for controlling birds that are well accepted as being significantly more effective with a considerably less offensive effect on close neighbours, such as netting. If the Shire of Denmark draft policy is implemented, then it will be clear to current and future Orchardists what costs need to be incorporated into their business plans.</i></li> <li>▪ <i>I therefore strongly encourage the Shire to adopt a policy that prevents gas cannons from being used where neighbours are less than 1 kilometre away to ensure that all residents and businesses in the shire are protected from illegal and unacceptable noise.</i></li> </ul>
<p>5.</p>	<p>██████████</p>	<p><i>I am writing in support of the draft noise management plan for use of Gas Guns in the shire of Denmark.</i></p> <p><i>I live on Roberts Road backing onto Barry Road, I have a 25 acre small holding where we are close to quite a few of our neighbours. I believe the plan has been written with some consideration to previous councils subdivision of our and similar areas within the shire, where there are numerous small blocks and widely varying land uses including tourism.</i></p> <p><i>I am especially keen to see the following recommendations from the plan be implemented</i></p> <ul style="list-style-type: none"> <li>· <i>The 1000m distance from neighbouring properties being implemented</i></li> <li>· <i>The discouragement or preferably banning of absentee owners use of gas cannons.</i></li> <li>· <i>Owners implementing the bird scaring methods in order of preference as you have laid them out.</i></li> <li>· <i>Ensuring owners are proactive in not allowing birds to habituate their orchard early in the season</i></li> </ul> <p><i>I have also attached a letter I wrote to council on May 27<sup>th</sup> 2013 regarding my view and concerns around this issue.</i></p>
<p>6.</p>	<p>██████████</p>	<p><i>My husband and I had both planned to attend the council meeting tomorrow (May 28<sup>th</sup>) to voice our view point regarding the proposed policy regarding the use of Gas guns in the shire. Unfortunately we have urgent business to attend to tomorrow, please accept our apologies, and this email as our input.</i></p>

		<p><i>Whilst I of course support primary production as the prime activity in our neighbourhood, I am concerned that the proposed policy is a blanket policy for the entire shire, where traditionally blocks were consistently 100+ acres each.</i></p> <p><i>However, in our pocket of the Scottsdale valley, land has been heavily sub divided (and this of course was endorsed by councils of the time) to create a relatively dense population, where some blocks are now as small as 10 acres.</i></p> <p><i>These blocks are mostly small horticultural ventures mixed with hobby farms, wineries and various tourism ventures, and accommodation (most of which rely on the peaceful nature of the valley). Therefore any noise management (including gas gun) policy would need to reflect the relative nature of each neighbourhood on its own unique makeup.</i></p> <p><i>We are very much in favour of there being a policy to manage and regulate all noise disturbances in our neighbourhood (explicitly gas Guns in this case). And believe that the relative distance to any neighbouring home should be at least 1km as recommended</i></p> <p><i>I understand that there are existing council imposed restrictions in place, for activities such as trucks driving in the area to pick up produce for market (ie. No earlier than 6am). If this is the case, then it seems only logical that restrictions are placed, on what I would consider a much more invasive and ongoing noise.</i></p> <p><i>Please be mindful of the historic decisions that council has endorsed, in mixing rural production with tourism, hobby farms and boutique horticultural ventures. The increasing diversity of land use and subdivision of blocks in the Scottsdale valley means more people more impact, hence so many concerns over this Gas Gun.</i></p>
7.		<p><i>I am writing in strong support of the proposed Noise Management Plan for Use of Gas Guns within the Shire of Denmark. It is essential that this plan be implemented and enforced as soon as possible to ensure the unique amenity of the area is preserved for future generations.</i></p> <p><i>The primary reason that people chose to live and/or visit the area is because of its beautiful scenery and the peace and quiet of its rural setting. Until now, the agricultural pursuits that have flourished in the area have recognised the importance of these attributes and have purposely utilised farming methods designed to have minimum impact on their surroundings. This, in turn, ensures the success of their business and the quality of their chosen life-style.</i></p> <p><i>I have read a number of articles pertaining to the adverse effects of noise pollution on human health and consider that the proposed use of gas cannons by Mr Douglas is not only illegal (Environmental Protection (Noise) Regulation 1997) but falls within the category of substantial noise pollution for a number of his neighbours. In addition, Mr Douglas has ignored his duty of care by proposing to use a bird scaring method, which is not only one of the least favoured and least effective methods available, but one that will inflict “unreasonable interference with the amenity of an area”. The fact that the proposed use of these cannons is during the peak tourist season and summer school holidays, makes his proposal even more unacceptable. Mr Douglas’ proposed use of these cannons does not meet regulatory requirements nor has he obtained permission from his neighbours who will be adversely affected by the relentless noise pollution on a daily basis for months on end. Mr Douglas has owned the property for six years and until now has made no effort to control the losses caused by birds feeding in his orchard. Now that he is in a position to make a profit from his agricultural pursuits, provided he can minimise losses caused by the birds, he considers it his right to utilise gas cannons as the cheapest bird scaring method available irrespective of their adverse effects on the amenity of the area and the health and well-being of his neighbours. This cannot be allowed. Human health and the viability of many small businesses in the area, which rely on tourism, have to take precedence over one man’s desire to make a profit cheaply and with the least amount of effort.</i></p> <p><i>Other preferred, albeit more expensive, methods of bird control are available and have been used effectively on orchards, both smaller and larger than Mr Douglas’ property, throughout Australia. Proper management and proper consideration of the amenity of</i></p>

		<p><i>the surroundings are key to any successful farming activity.</i></p> <p><i>In terms of my interest in this matter, we have owned Lot 5, Barry Road (#109) for almost 20 years. We visit as often as possible to relax and enjoy the peace and quiet of the area. During school holidays a number of our friends with children stay at our block to unwind from city life. The rural setting and friendly neighbours makes it a safe environment for the kids (and their parents) to “unplug” and enjoy nature.</i></p> <p><i>We were actually staying at our Shed on one of the week-ends in January when the gas cannons were in use. It was extremely unsettling and unpleasant I can only imagine what it must have been like for the neighbours who live there on a full-time basis. We willingly signed the petition which was being circulated at the time to have the use of the cannons banned, and are committed to ensuring this form of pollution does not become established in the beautiful Shire of Denmark.</i></p> <ul style="list-style-type: none"> <li>▪ <i>In summary, I strongly support the implementation of the draft Noise Management Plan for Use of Gas Guns within the Shire of Denmark including the proposed penalties for breaches of any aspect of the plan.</i></li> </ul>
8.	[REDACTED]	<p><i>I am writing to provide a public comment on the Shire of Denmark Draft Noise Management Policy. I think that gas cannons need to be limited because of the unbearable physical, psychological and financial impact on those living close by. Unrestricted use of gas cannons in the shire would also have an extremely negative effect on tourism - Denmark has a reputation as being a peaceful and relaxing tourist destination but if any orchardist is allowed to produce this kind of excessive noise, it will quickly get a reputation for being a noisy stressful place to take a holiday.</i></p> <ul style="list-style-type: none"> <li>▪ <i>I believe it is particularly important to specify that cannons need to be at least 1000 meters away from neighbours in order to keep the noise pollution to levels that neighbours can accept.</i></li> </ul>
9.	[REDACTED]	<p><i>As farmers and immediate next door neighbours to an orchard we do not support the proposed Gas Gun Policy.</i></p> <p><i>We feel that Council should either support farming and all that farming entails by upholding Council Policy <b>P070702 NOISE MANAGEMENT</b> or, change the zoning of the whole area. Farmer’s rights are gradually being eroded one way and another all the time and this is just the thin edge of the wedge of restrictions that can and will impact on a farmer’s ability to farm and make a living on appropriately zoned land.</i></p> <p><i>The Shire of Denmark Council needs to make up its mind whether to have a Prime Agricultural zoning in the Scotsdale Valley or change it to Tourist, Residential or Rural Small Holdings. The current zoning allows for rural activities (which are often noisy) and should be upheld despite complaints from those who want a quiet life. (maybe they should buy some ear plugs, I would be happy to provide them for free.) The zoning should be the over-arching decider of what happens, not complaints from residents. Persons that can’t live with rural activities should move to an area that has a zoning that better suits their lifestyle aspirations. The use of gas guns to help protect crops in a rural or Prime Agricultural area should be permitted. If noise for a short period of the year is a problem maybe the complaints could plan their annual holidays to coincide with that time or put some extra sound proofing on their homes, a cost that could be borne by them to assist in achieving the desired quiet lifestyle instead of having all costs borne by the genuine farmer in an appropriately zoned area. My other suggestion is that they should toughen up as city of Perth is very noisy with sirens, squealing tyres, helicopters and aeroplanes at all times, and no recourse through complaints, you just have to live with the noise. Living in rural areas should be no different.</i></p> <p><i>As Australians with about 0.5 per cent of the population in our regions of the world, and as farmers we are constantly being told that food security is paramount to your survival in future years and we need to produce more to feed the world’s exploding population.</i></p>



		<p><i>The world and Australia need farmers and seekers of lifestyle and tree changers need to appreciate and accept that, including the inconvenience and controlled noise it takes to be sustainable and grow food and crops. This is not just about the proposed issues surrounding the use of gas guns, but the constant and gradual erosion of farmers rights in every area of production, and that does affect our food security and sustainability. The particular operation that has bought this issue to this point is trying to create a business that will employ local people, some on a permanent basis and others as seasonal workers, so the use of gas guns or any other measure to ensure its success should be encouraged and supported for the good of Denmark. Let the Shire of Denmark be welcoming of all new residents and not just those that think they should have a quiet life.</i></p> <p><i>The Shire of Denmark Council should reject the <b>Draft Shire of Denmark Noise Management Plan for use of Gas Guns</b> and refer all complaints to the current Noise Management Policy which would then enable Council officers and staff to concentrate more of their valuable time and ratepayer funds to other matters that aren't covered by State Policies and Laws.</i></p> <p><i><b>The current Noise Management Policy of the Shire of Denmark P070402 NOISE MANAGEMENT</b> Council acknowledges that enforcement of Noise Abatement Legislation is the responsibility of the Department of Environment and Conservation; therefore Council through its Environment Health Officer will only advise ratepayers and residents of their responsibilities under the relevant legislation and refer the disputing parties to the Department of Environment and Conservation.</i></p> <p><i>The procedure for taking a noise complaint can be found in the Principal Environmental Health Officers Position Procedure Manual.</i></p> <p><i>AMENED by Res:341/07 / 25 SEPT 07</i></p>
10.		<p><i>Find attached to this letter comments and questions related to the Draft Noise Management Plan (DNMP).</i></p> <p><i>In additions to, and in support of the comments in the attached, could the following position and comments be considered.</i></p> <ol style="list-style-type: none"> <li><i>1. Council is respectfully requested to considered that Existing legislation in the Environmental Protection Noise Regulations (1997) is more than adequate to cover the use of gas guns, or any acoustic bird scaring devices that might be used at any location.</i> <ol style="list-style-type: none"> <li><i>a) Council is urged to focus valuable time on other more pressing Council matters, and abandon a specific DNMP in favour of a much simpler position.</i></li> <li><i>b) The DNMP in itself refers to the Environmental Protection Noise Regulations (1997) for enforcement, and as such has limited value.</i></li> <li><i>c) It was by reference to the Environmental Protection Noise Regulations (1997) that the use of gas guns at Long Orchard Farm was suspended, and a such there is a clear precedent for the effectiveness of this legislation.</i></li> </ol> </li> <li><i>2. Council is respectfully requested to entirely abandon their stated opinions for preferential methods of bird scaring and limit any document to specific guidelines relating to noise management.</i> <ol style="list-style-type: none"> <li><i>a) Specifically the notion that netting is a cost effective solution over the lifetime of netting is in contradiction with other components of the DNMP.</i></li> <li><i>b) The cost of netting is published elsewhere at around K\$100/ha. A 15ha orchard would therefore require an investment of MM\$1.5.</i></li> <li><i>c) Over a 25 year (optimistic) net life, this is K\$60/year, which is not economically sustainable. It should be noted that an orchard will not reach full production for up to 10 years, limiting any offset in costs against fruit sales. Following council's opinion, and assuming profitability around year 8, the costs become K\$187/year, offset against fruit sales of perhaps \$300,000. This is clearly not viable unless extremely intensive production methods are used.</i></li> <li><i>d) It is noted in literature (supplied by Council as attachments to the DNMP) that Black Cockatoos destroy netting and that it is</i></li> </ol> </li> </ol>

*ineffective.*

*e) The effective, and traditional method of shooting 28's and scaring Black Cockatoos with shotgun fire reduces operating cost to K\$5 per year, and is much more effective and economically sustainable.*

**3.** *Council is respectfully requested to differentiate between fixed unmanned gas guns and mobile manually fired gas guns.*

*a) Council is urged to consider that a mobile, manually fired gas gun is no different to a shotgun.*

*b) This type of gas gun, when used in conjunction with initial shotgun fire, is very effective at preventing Cockatoos from settling within larger orchards. In such a case the shotgun encourages the birds to take wing and additional manned gun(s) are used to prevent further settlement in other parts of the orchard.*

*c) This method is equivalent to having multiple shotguns.*

*d) Bursts of fire are limited to the time taken to prevent the birds from settling – with no automation, and no set schedule. It is pest presence dependent.*

**4.** *Councils attention is respectfully drawn to consider and note the following.*

*a) The owner of Long Orchard Farm, fully consulted Shire Officers concerning the use of gas guns prior to any purchase. On the basis of the advice given, an investment in equipment and labour, in excess of \$8000 was made.*

*b) Pressure for local guidelines has been brought to bear following the unfortunately misjudged commissioning process at Long Orchard Farm, Glenrowan Road.*

*c) Gas gun usage voluntarily temporarily suspended by the orchard owner.*

*d) A public apology for the misjudgments made during the commissioning process was made at the council offices on 28 Feb 2013, and all parties agreed that any movement forward would be constructive and nor reference these misjudgments in any future dealings.*

*e) Subsequent to this meeting, the use of gas guns as completely suspended for 2013 season by the owner. The loss of \$8000 in equipment and labour costs, has been borne entirely by the owner of Long Orchard Farm.*

*f) Following the public apology and assurances given that a collective solution would be obtained without reference to commissioning misjudgments, a number of those present at the meeting have sought media attention, and made reference in that media to the commissioning misjudgments.*

*g) Council is invited to identify who are behaving like gentlemen in the process of “gentrification” of Rural Land, and who will best serve the interest of Zoned Rural land moving forward.*

## **DRAFT SHIRE OF DENMARK NOISE MANAGEMENT PLAN**

**For use of Gas Guns within the Shire of Denmark**

**1. Introduction**

*The purpose of this Noise Management Plan is to set out acceptable procedures for scaring black cockatoos and other birds which minimises disruption to nearby residents by acoustic bird scaring devices.*

*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 Noise Management Plan applies to areas such as Town Sites, Special Residential, Special Rural and specifically tourist zoned, land and smaller rural zoned lots within the Shire where property owners have strong residential amenity expectations and there is a greater likelihood of the interface of commercial and agricultural pursuits leading to land use conflict.*

*Objections to red highlight above:*

- 1. Inconsistency in use of capital letters to describe specific categories of Zoned Land.*
- 2. Lack of a commitment to specify what constitutes a "smaller Zoned Rural Lot".*
- 3. Lack of commitment to specify what constitutes "strong residential amenity expectations"*
- 4. A clear conflict between the accepted definition of Rural Zoned land and the stated aim of this plan to impose certain new limits.*
- 5. The Council is respectfully requested to clarify on what grounds it can redefine and impose limits on Rural Zoned Land.*
- 6. The attention of Council is respectfully drawn to provisions within The WA planning and Development Act, and the requirements therein.*
- 7. The attention of Council is respectfully drawn to the principles of zoning as defined: "Theoretically, the primary purpose of zoning is to segregate uses that are thought to be incompatible. In practice, zoning is used to prevent new development from interfering with existing residents or businesses and to preserve the "character" of a community."*
- 8. The process of "gentrification" described in documents relating to this draft proposal are of interest to the principles of planned Zone management and transition to alternative Zones, and Council are respectfully invited to clarify how this process (if in process) was or has been pre planned by them.*
- 9. Council are respectfully requested to explain how commercial agricultural pursuits in zoned agricultural land are in conflict by use of Audible Bird Scaring devices. (No complaints were or have been received from other independent agricultural enterprises bordering the property.)*
- 10. Council is requested to define the nature of what is meant by "property owners" who "have strong residential amenity expectations." Specifically which / what amenity is referred to?*
- 11. Council is respectfully asked to clarify what is meant by "land use conflict". To the knowledge of this respondent the land use in question is predominantly agistement and broadacre ruminants.*
- 12. Council is respectfully requested to clarify why land use in Rural Zones is NOT defined by the way of the income derived from the agricultural pursuits carried out on such land.*

*Council has discretion in the enforcement of the Environmental Protection (Noise) Regulation 1997 (the Regulations) and is*

*prepared to accommodate "exceedences" of the Regulations i orchardists are committed to minimising the noise impact to nearby residents by complying wit his Noise Management Plan.*

*Agreement With above red highlighted Paragraph and Note:*

- 1. Council is respectfully requested to note that the legislation cited above adequately covers the use of audible bird scaring devices.*
- 2. Council is respectfully requested to withdraw the Draft Shire of Denmark Noise Management Plan, and to rely on enforcement of the legislation cited above.*
- 3. Council is respectfully requested to state why supplemental legislation is required when all provisions of the Draft Shire of Denmark Noise Management Plan are already implicit within the above cited legislation?.*

## **2. Protected Bird Species**

*Current and prospective orchardists should note that nothing in this policy should be taken as giving orchardists and their staff or guests licence or authority to deal with protected birds in ways that are contrary to Department of Environment! & Conservation Guidelines. It is recommended that orchardists contact that Department directly as to the current status of Bird species that are entering their property.*

## **3. 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;

**"Nearby house"** means a house or holiday unit on a nearby property ("another property") used to permanently or temporarily accommodate persons that includes a dwelling, residential hotel, motel, boarding house, holiday home or a bed & breakfast establishment that has an occupancy rate of at least 33%.

**"Council"** means the Denmark Shire Council;

**"Rural"** is land where "rural pursuit" is undertaken as per the definition within the Shire of Denmark Town Planning Scheme No 3 and is zoned for that purpose;

**"Special Rural"** is land where "special rural pursuit" is undertaken as per the definition within the Shire of Denmark Town Planning Scheme No 3 and is zoned for that purpose;

**"Special Residential"** is land where "special residential pursuit" is undertaken as per the definition within the Shire of Denmark Town Planning Scheme No 3;

**"Specifically tourist zoned land"** is land where a specifically zoned "tourist related pursuit" is undertaken as per the

definition within the Shire of Denmark Town Planning Scheme No 3;

**"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.

#### 4. 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.*

1. Council are respectfully requested to clarify how this Noise Management Plan provides a "conduit" by way of specific reference to content herein.

Existing orchards will be considered to be exempt from the 500m & 1000m separation distances in this policy but bound by a 300m distance where it can be substantiated to the satisfaction of the CEO that they have been worked and picked commercially for the past 10 years and have used a gas gun for at least one week per season for 3 out of the last 5 ears. *This exemption however will be extinguished if special rural or special residential or specifically tourist zoned land is developed within 500 metres of that gas gun where in the opinion of the CEO reasonable noise attenuation measures have been implemented and 1000m where they have not.*

1. Council are respectfully requested to clarify any agenda for re-Zoning
2. Council are respectfully requested to state periods (years) over which agricultural businesses can expect to operate without threat of re-zoning and the associated economic implications for farm business planning.
3. Council respectfully are requested to consider and comment if it reasonable for re-zoning of Zoned Rural land to occur within any business planning period of a valid agricultural pursuit without suitable compensation to said agricultural business.

*Perception of "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 o 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 he Environmental Protection (Noise) Regulations 1997.*

1. Council's attention is respectfully drawn to the closing comment of the above paragraph, which may indicate that Council intends to as final judgment refer to the noise levels contained within the cited Legislation.
2. It is respectfully requested that Council state if they will apply such legislation
3. It is respectfully requested that if council intend to use these objective measurements, that the Draft Noise Management Plan is Withdrawn and that the Shire and all Zoned properties of whatever nature rely on this legislation for noise management matters.
4. Council is respectfully requested to redraft the above paragraph to clearly state that any subjective judgment will be resolved by reference to objective legislation.

***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.***

1. Councils attention is respectfully drawn to questions above that should help to provide some clarity.
2. Council is respectfully requested to demonstrate how this Noise Management Plan offers any additional clarity and certainty above or below that provided by existing legislation.
3. Council is respectfully requested to specify the nature of amenity.
4. Council is respectfully requested to detail the specific nature of the agricultural practice of all and any objections anticipated within a Zoned Rural area.

***It is acknowledged that the use of gas guns is onl effective when used in con'unction ith other bird scaring measures.***

1. Council is respectfully requested to remove this paragraph as it is irrelevant to the stated aims of the Noise Management Plan.

## **5. Council's Preferred Methods of Bird Control**

*Council's preferred methods of bird control in order of preference area as follows:*

- 1) Total netting of orchards

*The total netting of orchards is Council's preferred solution on rural properties that have several nearby houses within a distance of 1000m of their potential gas gun location(s) This is because over the life of a set of nets there is a high likelihood that complaints will be received if gas guns or the manual firing of shot guns are used as the primary mean-of deterrent. It is Council's opinion that the full netting of orchards is the most sustainable*

1. Council is respectfully requested to cite specific references by which they make this statement.
2. Council is respectfully requested to seek and cite expert advice and demonstrate that their opinion reflects the considerations of all those stakeholders practicing agricultural enterprises within a Zoned Rural area.
3. Council is respectfully requested to explicitly state if this opinion is based on consideration, and acting on complaints (real or imagined) of those residents practicing non agricultural activities within a Zoned Rural area.
4. Council is respectfully requested to explain the nature of netting that can effectively be used to control Black Cockatoos
5. Council is respectfully requested to demonstrate that an Environmental Impact

*Assessment has been made regarding the use of nets, with specific reference to feeding habits of airborne mammals, non pest bird species, and the natural progression of useful and native pest predator species and pollinators across and under large netted areas*

6 Council is respectfully requested to describe and disclose any economic modeling that has been done to confirm the economic viability of their preferred opinion, and to thereby explicitly confirm that this opinion is not an implicit economic prohibition of orchard activities in Zoned Rural areas.

2) *The usage of top netting with sacrificial boundary trees on orchards that are within a 1000m to nearby rural houses is also strongly endorsed by Council providing orchardist-are prepared to accept the loses on the sacrificial boundary trees as most birds do not like venturing under nets meaning that extensive usage of acoustic controls are normal*

1. Council is respectfully requested to remove the word "strongly" from the paragraph as this adds nothing to the context or content The ranking at number 2 is adequate to confirm preference
2. It is respectfully invited to review the use of English within this paragraph and redraft.
3. Council is respectfully requested to seek and cite expert advice and demonstrate that their opinion reflects the considerations of all those stakeholders practicing agricultural enterprises within a Zoned Rural area.

4. Council is respectfully requested to explicitly state if this opinion is based on consideration, and acting on complaints (real or imagined) of those residents practicing non agricultural activities within a Zoned

**Rural area.**

5. Council is respectfully requested to explain the nature of top netting that can effectively be used to control Black Cockatoos
6. Council is respectfully requested to demonstrate that an Environmental Impact Assessment has been made regarding the use of nets, with specific reference to feeding habits of airborne mammals, non pest bird species, and the natural progression of useful and native pest predator species and pollinators across and under large netted areas
7. Council is respectfully requested to describe and disclose any economic modeling that has been done to confirm the economic viability of this opinion, and to thereby explicitly confirm that this opinion is not an implicit economic prohibition of orchard activities in Zoned Rural areas.

**3) The usage of sacrificial crops as diversion**

While the usage of sacrificial crops as diversion is preferable when compared to the usage gas guns or the manual firing of shot guns as a means of diverting rather than deterring birds the commercial reality is that it will fail in some years due to bird species losing their primary food source due to wild fires in state forests. This temporary loss of a source can lead to a seasonal desperate bird risk meaning that orchardists who adopt sacrificial crops as a primary loss control strategy also need to have a contingency plan in place so that they are not forced to consider the use of acoustic measures at short notice

It should be noted that one of the risks of the usage of sacrificial crops is that they can lead to long term bird population increases as they represent a reliable food source.

1. Council is respectfully requested to consider the establishment challenges associated with sacrificial crops.
2. Council is respectfully requested to consider the entirely related simultaneous processes of "gentrification" and the unchecked spread of the weed Kikuyu due to lack of land management under the "gentrification" land use agistement solution.
3. Council is requested to acknowledge that it is familiar with that WA recognises Kikuyu as a weed, and that it is familiar with the guidelines for control of spread of Kikuyu.
4. Council is respectfully requested to confirm that it has considered the impact of Kikuyu invasion associated with the "gentrification" of Rural Zoned land.



5. Council is respectfully requested to take note that establishment of effective sacrificial crops is entirely cost prohibitive in a Kikuyu infested area such as Shire of Denmark.

#### 4) Timely manual firing of shot guns

While there is a risk that the manual firing of shot guns to scare birds heading into orchards will give rise to sporadic neighbourhood complaints this method represents an active and strategic method of bird control and only uses as many shots as are needed to deter the birds on that occasion. This type of noise is also significantly less disturbing than that of a gas gun as it is not relentless and occurs in response to an over flight by birds.

Council considers the usage of shot guns to scare birds heading into orchards to be part of normal farming operations and while it reserves the right for the CEO to have dialogue with orchardists regarding the number and frequency of the shots it considers that farmers and orchardists have an "as of right" to use fire arms at their properties as part of their normal rural operations.

Agree with statements above:

1 Council is respectfully asked to consider this as being their preferred option of Black Cockatoo management. It has maximum benefit & effect is of minimum cost, and is only of minimal disturbance. Council is invited to consider that this solution is entirely in keeping with Rural Zoned agricultural practices.

2 Council is requested to explain why a manually fired and operated gas-gun, of similar noise level to a shot-gun, cannot be used in conjunction with a shotgun.

3 Council is respectfully requested to consider that manned mobile gas gun(s), of similar noise levels and fired manually with a frequency to that of simultaneously used shot-guns are a suitable and appropriate supplementary deterrent.

4 Council is respectfully requested to consider that simultaneous use of gas guns and shotguns does not present any increased noise over and above an equal number of shotguns operating in the same area.

#### 5) Electronic Bird Scarers

Electronic bird scarers use predator and distressed bird sounds, bells and sirens to interrupt and deter bird feeding making the orchard a stressful place for birds.

While they are not as intrusive as gas guns, electronic bird scarers are still relentless in their operation and their design intention is to induce stress and confusion and for this reason it is recommended that they only be used where a distance of at least 500m to the nearest dwelling (nearby house) can be achieved. Notwithstanding the above recommended buffer distance Council, where complaints are received reserves the right to apply the assigned noise levels found in the Environmental Protection (Noise) Regulations 1997 and to stipulate

reater buffer distances where the terrain and or measured noise levels warrant.

1. Council is respectfully asked to consider that predator bird calls were broadcast from the identical locations to gas guns at a property where significant complaints had previously been received about the use of gas guns.
2. Council is respectfully asked to consider that the broadcast of these calls was audible at 2 km distant and was broadcast between 06:30 and 08:30 for 7 days. No complaints were received.
3. Council is respectfully asked to consider that the experiment with predator bird calls was entirely unsuccessful, with deterrent action being limited to less than 5 minutes, with pest species returning to feed without further flight.

## 6) Gas Guns

The usage of gas guns is discouraged in areas where neighbouring houses either already exist within 1000m of a gas gun or are likely to be built within 500m of a gas gun. Council's reasons for this are as follows:

1. Council is respectfully asked to qualify how the prospective planned operation of any gas gun can predict where houses are likely to be built?
2. Council is respectfully asked to consider the dimensions of an orchard property where such a criteria should apply. (Minimum = circle lot of 530 m radius = 90 hectare block). (Mid case = square lot of 1060 m = 112 hectare block)
3. Council is invited to comment that based on the two imaginary scenarios described, which are BEST CASE, how an orchard venture could exist in any Zoned Rural area — and that effectively this discouragement is a prohibition.

a) There is a high likelihood that at closer distances a gas gun's noise emissions may unreasonably interfere with the lifestyle, health and amenity of those residents.

1. Council is respectfully asked to define how the use of gas guns will interfere (by reference to historical recorded complaints from people involved in independent agriculture) with their lifestyle, health, or amenity?
2. Council is respectfully asked to define the lifestyle of those people (by reference to historical [non anecdotal] complaints) from persons not involved in independent agricultural enterprises.

Council is of the opinion that rural pest control measures should be active and strategic and the automatic nature of gas guns encourages farmers to develop crops on the basis that they will be able to set the device going and be absent from the property. To this end one of the primary goals of this policy is to prevent absentee land holders developing intensive agriculture enterprises in rural areas that have significant residential occupancies on the basis of automated acoustic scaring devices.

1. Council is respectfully asked to explain how this statement is not contradictory to that made earlier in the document? it is

*acknowledged that the use of gas guns is only effective when used in conjunction with other bird scaring measures"*

- 2. Council is also respectfully asked to explain how this statement can reasonably be included in the document when considering the content of Section 6 below?*
- 3. Council is respectfully asked to consider their definition of "significant residential occupancies" and how this relates to the specific governance and administration of Zoned Rural areas.*
- 4. Council is respectfully invited to define "absentee land-holder", with specific reference and regard to provision for any landowner who has farm management services in place.*
- 5. Council is respectfully invited to withdraw this paragraph in its entirety as it is entirely political, and adds no value to the aims or guidelines of the document.*

#### **6. 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 (property owners should check with DEC for latest status) and cannot be shot or killed as a means of reducing damage to crops. Alternative methods of bird control such as Bird Frite type cartridges and movement in orchards therefore need to be applied and the use of acoustic bird scaring devices such as gas guns have become the primary cost effective means of controlling birds when they are used in an appropriate manner.*

*Bird attacks on orchards generally occur at dawn and dusk. Typically times are between 5.00 am to 9.00 am and 4.00 pm to 7.00 pm. Although the birds do not like to feed in the heat of the day, anecdotal evidence suggest that some may still remain in an orchard during the day and may increase in numbers towards the evening. Birds tend to leave orchards after dark.*

*The two periods for potential bird damage are 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 objectives and may actually attract birds from orchards in other districts that have finished harvesting.*

- 1) *Council is invited to consider that Section 6 is generic, and while not incorrect, it does not account for site specific conditions, or the seasonal variation in pest species.*
- 2) *Council is invited to consider that species such as 28's can be effectively controlled by culling and that this is a cost effective (and low disturbance) strategy outwith their stated preference for netting. The use of .22 low noise shells is the preferred method in combination with local broadcast of '28' distress calls.*
- 3) *Council is invited to consider that netting is destroyed by Black Cockatoos — as stated in attached documents.*
- 4) *Council is invited to consider that site specific concerns may be in operation. Specifically that Black Cockatoos roosting areas adjacent to orchards need to be targeted to "keep them moving"*
- 5) *Council is invited to consider that Black Cockatoos do not appear in Orchards in the Denmark area until late in the season — Mid / Late February at the earliest*

#### **7. 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.*

- 1) ***Council is invited to consider that communication is unlikely to be productive if opponents to gas guns do not acknowledge the sacrifices that are made by the orchardist.***
- 2) ***Council is invited to consider, that opponents to the use of gas guns at Glenrowan Road stated publicly (in presence of council officers) that they would "forget" the publicly admitted start-up misjudgments that were made. However subsequently these same persons, have actively sought publicity and media attention to place quotes relating to start up misjudgments.***
- 3) ***Council is invited to consider how acts of the nature in (2) above, by certain opponents of gas guns is expected to foster a spirit of trust and co-operation.***
- 4) ***Council is invited to consider that by good will, gas gun use was discontinued after protest.***

#### **8. Use of Gas Guns**

*Where the 1000m separation can be achieved or the CEO has recognised either an agreement between the orchardist and affected neighbours regarding a reduced distance or an existing usage right 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 and habituating the orchard. It is a false premise that by using gas guns prior to this time it will keep birds away.*
- *Otherwise bird scaring is to be limited to a person operating a motorbike, quad bike or the like vehicle or manual shooting to scare etc, outside these "habituating" times.*
- *The gas gun is to be positioned on the farmer's land.*
- *A gas gun must not be used during a total fire ban.*
- *The "as of right" distance in a straight line between the gas gun and a residential building on another property is 1000 metres or greater.*
- *Reductions of the above buffer distances to 300 metres may be granted by specific arrangements between an orchardist and the occupier of the affected dwelling. Any such arrangements will be taken as being for a maximum three seasons only and once entered into will be taken by Council as being for the entire season.*
- *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.*

**Clause "F" of TOWN PLANNING SCHEME POLICY NO. 6 titled "GUIDELINES FOR THE MANAGEMENT OF VINEYARDS WITHIN SPECIAL RURAL ZONES" has the objective of ensuring that the management of the vineyards "Special Rural Zones" does not have a detrimental affect on the amenity of adjoining land owners reads as follows:**

- **"NO ARTIFICIAL BIRD CONTROL such as electronic noise emitters, discharge of firearms or chemical control shall be**

- 1) Council is invited to consider if it is appropriate in this plan, to refer to guidelines relating to an alternative Zoning.
- 2) Council is invited to consider if it is perhaps appropriate in any event to include guidelines from other Zones — Where would this stop? Metropolitan Zone guidelines in Zoned Rural areas?
- 3) Council is invited to consider withdrawing this statement in entirety as by inclusion it constitutes a "back-door" precedent for additional restrictions, for other practices, to be introduced at a future time.

- **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**

12 Council is respectfully invited to specify the difference at all times between fixed automatic gas guns, and manually operated and fired gas guns that are used in conjunction with shotguns. (Applies throughout time restriction notes).

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/southern-coastal/denmark>

In addition to the point above relating to the times of use, gas guns are required to be turned off in the middle part of the day (nominally 11.00am to 3.00pm). This time bracket is outside known feeding times.

### **9. 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.

- 1) Council is respectfully invited to specify the difference at all times between fixed automatic gas guns, and manually operated and fired gas guns that are used in conjunction with shotguns.

**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.*

**10. 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. 1) Council is respectfully invited to specify the difference at all times between fixed automatic gas guns, and manually operated and fired gas guns that are used in conjunction with shotguns.*

**11. 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 shall be displayed at the entrance to the premises. The Council remains the Authority where a formal complaint can be lodged if an issue cannot be satisfactorily resolved between a resident and orchardist.*

**12. 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.*

**13. 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.*

- 1) Council is respectfully invited to note that certain cultivars are appropriate for trellis systems, others are not.*
- 2) Council are respectfully asked to consider that Cider apple varieties are not suitable for trellis systems and nobody anywhere does so.....*
- 3) Councils attention is drawn to the visual impact of netting and factory farming, versus a swathe of orchards in blossom?*

#### **14. Failure to comply with the Noise Management Plan**

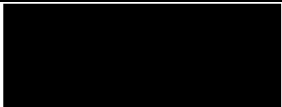
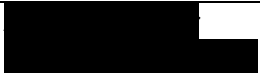
*The procedure outlined in this Noise Management Plan is to be considered as best practice for bird scaring. If the Noise Management Plan is not adhered to the Noise Management Plan will lapse and the orchardists will be expected to comply with the provisions of the Environmental Protection (Noise) Regulations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



		<p><b>Note:</b></p> <p><i>In relation to the above, the Act refers to the Environmental Protection Act 1986, of which the Environmental Protection (Noise) Regulations 1997 is subsidiary legislation to.</i></p> <p><b>Useful Website links:</b></p> <p><a href="http://vmw.agric.wa.gov.au/objtwr/imported_assets/content/pw/vp/bird/best_practice_guide!_1_6684b.pdf">http://vmw.agric.wa.gov.au/objtwr/imported_assets/content/pw/vp/bird/best_practice_guide!_1_6684b.pdf</a></p> <p><a href="http://www.agric.wa.gov.au/objtwr/imported_assets/contewnt/p0w/vp/bird/noise_bird_brochure.pdf">http://www.agric.wa.gov.au/objtwr/imported_assets/contewnt/p0w/vp/bird/noise_bird_brochure.pdf</a></p>
11.		<p><i>I am writing in strong support the implementation of the proposed Noise Management Plan for Use of Gas Guns for bird control within the Shire of Denmark. It is essential that this plan be implemented and enforced to ensure the unique amenity of the area is preserved for future generations.</i></p> <p><i>People chose to live and/or visit the area is because of it beautiful scenery and the peace and quiet of it rural setting. Until now, the agricultural pursuits that have flourished in the area have recognized the importance of these attributes and have purposely utilized farming methods designed to have minimum impact on their surroundings. This, in turn, ensures the success of their business and the quality of their chosen life-style.</i></p> <p><i>We have owned 109 Barry Road for 20 years. We visit as often as possible to relax and enjoy the peace and quiet of the area. We are considering retirement in Denmark as we always enjoy our visits and have made friends with numerous residents. We enjoy the town and the community, and all it has to offer. We do not want to lose this.</i></p> <p><i>I would prefer that the gas cannon to scare away birds be totally banned in the shire. If one property owner is allowed such a device, why not more. Image if gas cannon use on many vineyards and orchards were a common occurrence. What a racket! The shire would lose its peaceful amenity and no longer be a place where residents and visitors could enjoy the lifestyle they have chosen. The Scottsdale Valley is a designated Tourist Route. Tourists do not want the sound of repetitive gas cannon fire during their gourmet afternoon tea, wine or cheese tasting, or even patting the alpacas. Residents do not want to hear it every day for 4 months of the year. There would be a flow on effect resulting in fewer rural residents meaning fewer businesses in the area, lower real estate values and certainly fewer visitors.</i></p> <p><i>I willingly signed the petition to have the use on the cannons banned and am committed to ensuring this form of pollution does not become established in the beautiful Shire of Denmark.</i></p> <p><i>I strongly support the implementation of the draft Noise Management Plan for Use of Gas Guns within the Shire of Denmark including the proposed penalties for breaches of any aspect of the plan. This Plan is a good first step in controlling the use of gas cannons.</i></p>
12.		<p><i>I am writing in order to provide a submission to support the Shire of Denmark’s draft noise management plan for use of gas guns. I have lived in Denmark for five years and the peace and tranquillity of this Shire is one of the reasons I continue to choose living here. It is therefore important to me that the use of gas guns is restricted to locations that are a considerable distance to neighbouring</i></p>

		<p><i>properties and thereby preserve the peace and serenity enjoyed by all.</i></p> <p><i>I believe that the noise management policy should restrict gas gun usage to a minimum of 1km from neighbouring properties. It must be noted that there are many other more successful methods of bird control that are considerably less offensive to other residents of the Shire!</i></p>
13.		<p><i>I would like to congratulate the Shire of Denmark on the preparation of the Draft Noise Management Plan for use of Gas Guns. I support the Plan but would also like to point out the following for the Shire to consider in the finalisation of it.</i></p> <ol style="list-style-type: none"> <li><i>1. The exemption of existing orchards (Section 4, General issues) from 500m and 1000m separation distances is not supported. The Plan should apply equally to existing and new orchards as offsite impacts are no different.</i></li> <li><i>2. Reduction of the buffer to 300m by agreement with affect landowners is will need to be defined more clearly. How far from the source will resident agreements be required? Some large distances will be required given site specific effects (see below).</i></li> <li><i>3. The use of a uniform buffer distance of 1000m does not protect residences from unreasonable noise that may result from site specific factors that propagate noise, including winds/breezes, atmospheric inversions and topography. Greater buffer distances will need to be considered depending on site conditions.</i></li> <li><i>4. The use of gas guns is not in accordance with best practice as birds will eventually habituate to the noise, they create unreasonable noise and may have impacts on fauna in adjoining natural areas such as State Forest conservation reserves and private bushland. Bird netting is best practice and should be encouraged as its environmental and nuisance effects are negligible.</i></li> <li><i>5. Gas guns may seem to benefit the orchardist (there are doubts about the long term efficacy of this measure) but definitely come at cost to surrounding residences without any compensation from the orchardist.</i></li> </ol>
14.		<p><i>I am writing to voice my concern at the use of gas guns in the vicinity of residences in the Shire of Denmark.</i></p> <p><i>I strongly support the Draft Shire of Denmark Noise Management Plan for use of Gas Guns.</i></p> <p><i>The use of gas guns is of limited value in scaring birds and comes at a great cost to the amenity of nearby residents.</i></p> <p><i>I am concerned at the exemption from 500m and 1000m separation distances for existing orchardists and would encourage the Shire to reconsider this exemption.</i></p> <p><i>I further note that there is no consideration of the effects of attenuating factors such as prevailing wind direction and terrain.</i></p> <p><i>I look forward to your consideration of my submission and the ability to continue living in a such a beautiful and tranquil place such as Denmark.</i></p>
15.		<p><i>I am writing today to respond to the Shire of Denmark's process of developing a noise management policy to control the use of gas cannons on orchards.</i></p> <p><i>Because there is such diversity in land uses and populations in areas of the Shire, such as tourist accommodation, equestrian businesses and farms, it is my view that gas cannons do not fit within the reasonable expectations of Shire residents. Noise pollution impinges negatively on the amenity of the area. People come to Denmark because it is a peaceful place and to escape the rush and noise and to find themselves bombarded by blasts from a cannon at regular intervals will destroy Denmark's reputation as a nurturing destination to holiday or live.</i></p>

		<p><i>It is also my understanding that gas cannons are not the most effective management tools in orchards and that there are many other strategies which would not impinge so negatively on people sharing the environment. It is important that these strategies are encouraged as a first response.</i></p> <p><i>The current draft policy stipulation of 1000m minimum distance from a dwelling seems necessary and fair in the event of a gas cannon being needed. It also seems reasonable to me that if a landowner wants to use gas cannons they ought to be present on the property, so that they are not polluting their neighbours soundscape while not having to endure it themselves. I applaud the Shire’s goal to prevent absentee landholders developing intensive enterprises in areas where there is a significant residential population.</i></p> <p><i>The consequences outlined in item 14 addressing failure to comply with the noise management plan sound reasonable and it is my hope that orchardists will be held accountable if they fail to comply.</i></p>
16.		<p><i>I am a frequent visitor to Denmark and understand that the Sire of Denmark is considering a policy to control the use of gas cannons in the shire. I understand that a gas cannon was in use in the Scotsdale valley. I am concerned about the stressful and disruptive effect of cannon noise on residents and visitors who are exposed to it. It would be detrimental to the peaceful appeal of Denmark as a holiday destination and place to live if gas cannons are allowed to be commonly used in the shire.</i></p> <p><i>I approve of the shire’s policy having a minimum set back of 1000 metres from neighbouring properties. It is particularly unreasonable for those who own properties in the shire but do not live there to be able to use gas cannons as a crude and offensive bird control method.</i></p>
17.		<p><i>Regarding the recent public damning of the use of gas powered ‘scare guns’ I would like to put forward the view of the common farmer. Denmark as a town has always prided itself on its fresh air natural surroundings of forest and ocean and of course the freshest produce from our farmers. It is a rare thing to be able to source fresh meat, milk, wine, cheese, vegetables and more importantly fruit. In one small area and Denmark provides that for tourists and local residence old and new. Realistically the banning of the gas guns in areas that grow fruit is detrimental to the farmer’s wellbeing, the fresh produce and the consumer. I have yet to go into a supermarket and watch people search through apples and pick the ones with the tiniest peck through the skin. Unfortunately we are spoilt for choice and it is not an acceptable product. Hence the use of ‘scare Guns’ these gas powered guns fire off a couple of shots every hour or so (depending on its settings) only in fruit season. They also must comply with noise standards. It is imperative that a farmer protect his produce whether it is the sheep from a fox or fruit from a parrot. With a gas gun everybody wins, fewer birds are killed by conventional methods and more fruit is saved for the consumer at their high standard. The removal of the guns would come at a huge economic loss for the farmers involved and inevitably, unfortunately Denmark. With less money going back into the local community and more overseas or out of town produce needed to cover the losses.</i></p> <p><i>If it does come to the banning of these guns the council whom decides this, should deal with the alternative and provide an install bird-proof netting and frames on all those farms that are affected by the loss of their rights, these should cover all fruit bearing trees. It is only fair after you take away what has being the norm in the town since the invention of a gas gun to leave farmers with no protection from the loss of their produce. You should be the ones replacing it with a technology that works as well.</i></p> <p><i>In areas zoned as rural, there should be no way to change the laws acceptable to all of WA. These are special areas reserved for farmers to produce foodstuffs. As Denmark expands it is essential that those who buy in semi-rural, rural zoned locks of land or any other adjacent to a working farm know that the farmer next door cannot help his cows mooing, sheep bleating, pigs snorting, horses neighing, gun shots being somewhat loud, machinery noises, occasional late night vet visits and of course the smells the</i></p>

		<i>aforementioned emit. This is inevitable and unavoidable. If someone cannot handle the country noise then they should be warned not to live there. The farmers are almost always there first and are entitled to use their land as it is zoned and intended. It is time that farmers stopped being silent and stood up for their rights to do what they love, that is to feed the nation. Don't bite the hand that feeds you.</i>
18.		<i>Wish to make a submission to the council to support a policy that regulates the use of gas cannons in the shire of Denmark. I believe that the use of gas cannons needs to be restricted to protect the rights of people living in the shire to peace and amenity. The council's Noise Management Policy must stipulate that gas cannons must be at least 1000 metres away from neighbours in order to protect residents of the shire from unreasonable and intolerable noise.</i>
19.		<i>Wish to make a submission to the council to support a policy that regulates the use of gas cannons in the shire of Denmark. I believe that the use of gas cannons needs to be restricted to protect the rights of people living in the shire to peace and amenity. The council's Noise Management Policy must stipulate that gas cannons must be at least 1000 metres away from neighbours in order to protect residents of the shire from unreasonable and intolerable noise.</i>
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26.		<i>Wish to make a submission to the council to support a policy that regulates the use of gas cannons in the shire of Denmark. I believe</i>

		<i>that the use of gas cannons needs to be restricted to protect the rights of people living in the shire to peace and amenity. The council's Noise Management Policy must stipulate that gas cannons must be at least 1000 metres away from neighbours in order to protect residents of the shire from unreasonable and intolerable noise.</i>
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29.		<i>Wish to make a submission to the council to support a policy that regulates the use of gas cannons in the shire of Denmark. I believe that the use of gas cannons needs to be restricted to protect the rights of people living in the shire to peace and amenity. The council's Noise Management Policy must stipulate that gas cannons must be at least 1000 metres away from neighbours in order to protect residents of the shire from unreasonable and intolerable noise.</i>
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38.	[REDACTED]	<p><i>We are writing this submission in regards to the Denmark Shire Draft Noise Management Plan. We fully support the plan and would like to congratulate the Denmark Shire Officers; efforts in researching and developing this balanced plan.</i></p> <p><i>In late January my partner and I wrote to the council listing a number of issues/concerns that are directly related to the use of the gas guns;</i></p> <ol style="list-style-type: none"> <li><i>1) My partner and I have an equestrian centre (approval before Denmark Shire) on Barry Road. The centre trains horses, riders and also breeds performance horses. Horses by nature are flight animals and the random eruption of the gas gun is well outside of the normal environmental sounds and can make the agitated and nervous. There is a concern for rider and handler safety during the operating times of these guns. Another scenario is if a horse get away from its rider/handler after spooking from a gas gun and ends up on the road potentially causing an accident who is liable?</i></li> <li><i>2) The constant repetition and on-going nature of the shots has a detrimental effect to the physical and mental health of neighbours. Ask yourself how you would feel listening to a repetitive loud noise for 8 hours a day, every day for approx. 90 days every year??</i></li> <li><i>3) We own two dogs which become stressed, cower and whine every time they hear the shots. Since Monday the dogs have broken 2 hand crafted wood side tables, a large day lounge cushion and a dive bag. One of the dog's find it particularly stressful and has already lost weight. If this continues are we expected to keep paying for the costs of the damage the dogs are causing to get away from the noise, pay for sedatives to keep the dogs calm or get rid of the dogs?</i></li> <li><i>4) There are numerous cottage industries located within the perimeter of the gas gun noise and while it is acknowledged that the cider apple orchard owner has a right to try and make a profit, why is this allowed at the detriment to all of those businesses already functioning without negative impact on their neighbours? January to April is the peak tourist season and a lot of the businesses rely on this period to pay for the quieter months of the year. In discussion with the manager and a long time friend of the owner it was stated that "it would cost \$200,000 to net the trees" and that there was money issues regarding this. I asked "why was this not in the planning costings to start with?" to which was replied, "point taken". Should other businesses have to suffer financially due to poor business planning on the orchard owners' part?</i></li> <li><i>5) On the first day of the gas guns, we had clients here for a lesson on their own horse which at the time was agisted at the centre, on Thursday they took their horse back into town.</i></li> </ol> <p><i>If the draft Noise Management Plan is accepted then the second point under "4 General Issues" would mean that there is no longer</i></p>

		<p><i>any probability that these issues will ever arise again.</i></p> <p><i>The Noise Management Plan provides clarity and direction to both orchardist's' and neighbouring property owners. Thus in turn will reduce situations like the Long Orchard Farm from happening again; wasting Denmark Shire Officers and Councilors time and rate payers money. It is certainly a cheaper and more sustainable option then having the noise emitted from the gas guns tested and retested to make sure they (if possible) can stay within EPA noise regulations.</i></p> <p><i>Once again our thanks to the efforts of the Denmark Shire.</i></p>
39.		<p><i>I am writing to provide a submission in support of the draft noise management plan for use of Gas Guns in the shire of Denmark. I believe that the policy is well researched and necessary to protect all residents and visitors to Denmark from intolerable noise from gas cannons. I particularly encourage the council to implement the following recommendations: · The 1000m distance from neighbouring properties · Orchardists being encouraged to use alternative methods of bird scaring, as described in the policy. · Absentee landlords should not be allowed to use gas cannons on their properties.</i></p>
40.		<p><i>I wish to provide a submission in support of the draft noise management plan for use of Gas Guns in the shire of Denmark. I believe that gas cannons need to be restricted because, if not, anyone living in any rural area of the Shire risks having their peace and amenity disturbed intolerably. I congratulate the council on the development of this policy and believe that it is well researched and necessary to protect all residents and visitors to Denmark from intolerable noise from gas cannons. I particularly encourage the council to implement the following recommendations: • The 1000m distance from neighbouring properties</i></p> <ul style="list-style-type: none"> <li><i>• Orchardists being encouraged to use alternative methods of bird scaring</i></li> <li><i>• Absentee landlords should not be allowed to use gas cannons on their properties.</i></li> <li><i>• Any orchardist who fails to comply with the policy will face seizure of equipment, Infringement Notices, Noise Abatement Directions and if necessary Environmental Protection Notices.</i></li> </ul>