

Whakatāne District Plan

Plan Change 6 – Audible Bird Scaring Devices

Compilation of Submissions

Contents: all 9 submissions made on Plan Change 6 and the submitter contact details for service of a further submission.

Prepared under Clause 7 of Schedule 1 of the Resource Management Act 1991.

25 October 2022

Submission Number	Name & Organisation	Postal address for service	Email address for service
1	Sarah Van der Boom	109 Mimiha Ridge Road Matatā	sarah@cheekyrooster.co.nz
2	Robert Humphries	515A Grieve Road RD2 Whakatāne	rj.humphries22@gmail.com
3	Elisabeth Sides	521 Western Drain Road, RD2 Whakatāne	sidesnz@gmail.com
4	Attn: Beverley Hughes Te Runanga o Ngati Awa	PO Box 76 Whakatāne 2165	kaitiaki@ngatiawa.iwi.nz
5	Keryn Mullins	RD3 Whakatane	calf@xtra.co.nz
6	Sandra and Henry Pryde On behalf of: Poroporo residents signatory to 2021 petition	282 Rewatu Road RD1 Whakatāne	prydeworms@xtra.co.nz
7	Rob and Helen Morris	25 Rimu Street Edgecumbe 3120	Raykar.mor@gmail.com
8	Sarah Cameron On behalf of: Horticulture New Zealand & New Zealand Kiwifruit Growers Incorporated	PO Box 10-232, Wellington	sarah.cameron@hortnz.co.nz
9	Ross Gardiner		rossg.submission@gmail.com

Full name of person making further submission

Sarah Van der Boom

Address for service

109 Mimiha Ridge Road, Matatā, New Zealand Whakatane



Submitter: 1
Submission: 1

Email

Sarah@cheekyrooster.co.nz

Would you like to speak to your submission?

I do not wish to be heard in support of my submission

If others make a similar submission, will you consider presenting a joint case with them at a hearing?

I will consider presenting a joint case with them at a hearing

I could gain advantage in trade competition through this submission

No

I am directly affected by an effect of the subject matter of the submission that adversely affects the environment; and does not relate to trade competition or the effects of trade competition.

No

Signature

Sarah van der Boom

The specific provisions of the proposal that my submission relates to are [give details]:

Lowering DB rating for audible bird scarers.

My submission is [include whether you support or oppose the specific provisions or wish to have them amended; and reasons for your views]:

Very supportive of lowering the DB rating for existing audible bird scarers.
New horticulture developments within 2kms of any rural home or community should not be allowed to install audible bird scarers.

Peace and quiet in rural areas is an important value that should be protected.

Audible bird scarers should not be permitted within 5kms of residential areas.

I seek the following decision from the local authority [give precise details]:

Reduce allowed dB rating for existing audible bird scarers.

Apply reverse sensitivity rules to existing rural dwellings and communities so they are protected from noise of audible bird scarers at new horticultural developments.

Create allowable distance from dwellings rules for audible bird scarers, e.g greater than 2kms.

Full name of person making further submission

Robert Humphries

Address for service

515A Grieve Road, RD 2



Submitter: 2
Submission: 2

Email

rj.humphries22@gmail.com

Would you like to speak to your submission?

I do not wish to be heard in support of my submission

If others make a similar submission, will you consider presenting a joint case with them at a hearing?

I will not consider presenting a joint case with them at a hearing

I could gain advantage in trade competition through this submission

No

I am directly affected by an effect of the subject matter of the submission that adversely affects the environment; and does not relate to trade competition or the effects of trade competition.

Yes

Signature

R Humphries

The specific provisions of the proposal that my submission relates to are [give details]:

I support the Horticulture New Zealand (HortNZ) submission.

My submission is [include whether you support or oppose the specific provisions or wish to have them amended; and reasons for your views]:

I oppose the proposed changes as they are not allowing growers the right to protect their crops in an fair and effective manner.

I support controls to protect all residents, neighbours and give a balance of rights, but the controls sought are not substantiated on solid evidence. This being tested and factual evidence is used to set distances, dB levels, impacts of trees/shelter and when use is allowed, not someone in an office reading 1-2 documents and creating an opinion. That complainants have due rights to raise issues, but ultimately defendant's get fair process to show what they are doing, where, how and when and what costs come to their business.

The council's BOPRC and Whakatane DC also take some responsibility for the bird problems that exist in some areas - such as the birds in the forestry block beside the racecourse and Hallett's road.

I also don't believe the WDC has given due process to stakeholder engagement, it is only due to my industry roles that I know of this. I don't believe that the WDC has done everything in its ability to consult with users of ABSD units, or those that may want to in the future.

I seek the following decision from the local authority [give precise details]:

That the current plan change be withdrawn. That the process be started again and done with equality and collaborative approach.

WHAKATĀNE DISTRICT PLAN
MAHERE Ā-ROHE O WHAKATĀNE

Received by WDC 15/9/2022
Submitter #3, Submission #3



Form 5 Submission on notified proposal for
policy statement or plan, change or variation

CLAUSE 6 OF SCHEDULE 1, RESOURCE MANAGEMENT ACT 1991

THIS IS A SUBMISSION ON THE FOLLOWING CHANGE PROPOSED TO THE PLAN:

Whakatāne District Plan 2017 - Proposed Plan Change 6: Audible Bird Scaring Devices
Te Tūtohunga Panonitanga 6: He taputapu whakamataku manu

SUBMISSIONS MUST BE
RECEIVED NO LATER THAN
5PM FRIDAY, 16 SEPTEMBER 2022

Post to: Chief Executive
Whakatāne District Council
Private Bag 1002
Whakatāne 3158

OR;

Deliver to: Whakatāne Civic Centre
Commerce St, Whakatāne

MURUPARA Service Centre
Pine St, Murupara

OR download this submission from our website
whakatane.govt.nz/absd
and return by email to:
planning@whakatane.govt.nz

SUBMITTER DETAILS:

CONTACT NAME; OR	ELISABETH S. DES
ORGANISATION	If submitting on behalf of an organisation
ADDRESS FOR SERVICE	521 WESTERN DRAIN ROAD WHAKATANE RD2
POST CODE	3192
TELEPHONE (DAYTIME)	[REDACTED]
MOBILE	[REDACTED]
EMAIL	sides@gmail.com

TRADE COMPETITION

I could gain advantage in trade competition through this submission; and Yes No

I am directly affected by an effect of the subject matter of the submission that: Yes No

a. adversely affects the environment; and

b. does not relate to trade competition or the effects of trade competition.

If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.

Please note that your submission (or part of your submission) may be struck out if the authority is satisfied that at least one of the following applies to the submission (or part of the submission):

- it is frivolous or vexatious;
- it discloses no reasonable or relevant case;
- it would be an abuse of the hearing process to allow the submission (or the part) to be taken further;
- it contains offensive language;
- it is supported only by material that purports to be independent expert evidence, but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.

Signature: Elisabeth Sides Date: 12th Sept 2022

Person making the submission, or authorised to sign on behalf of an organisation making the submission. Note: A signature is not required if you make your submission by electronic means.

HEARING SUBMISSIONS

~~I wish~~/do not wish* to be heard in support of my submission.
[*Select one]

If others make a similar submission, ~~I will~~/will not* consider presenting a joint case with them at a hearing.
[*Select one]

COUNCIL OFFICE USE ONLY

Proposed Plan Change 6: Audible Bird Scaring Devices

My submission relates to:

- the noise limits of the ABSD devices,
- the distance of the device from a dwelling place,
- the hours that the devices can operate and
- the frequency of the events during those hours.

Noise limits. I am happy that the Whakatane District Council has lowered the decibel rate from 100db to 85db.

The distance of the device from a dwelling place. I have lived at 521 Western Drain Road for over 40 years. We have seen the recent changes in the use of the land that surrounds us. The use of the ABSD devices will increase as the new orchards come into production. In past years we have experienced ABSD devices which were very much further away than 20 metres, (probably about 400 metres away) They were intrusive and unpleasant. I had two dogs that were very affected, one indeed, dying of a heart attack during this time. It seems that the new rules are discretionary and open to expert interpretation. This makes it difficult for the non expert to interpret, leaving one confused and uncertain of one's rights. I just ask that the devices are not near my boundary and that the orchardist uses other methods for deterring birds.

The hours that the devices can be used. 7am until 6pm seems to me to be a reasonable length of time. The earlier ending of the use of the device enables parents to prepare their children for dinner and bed in a quiet atmosphere. Dogs should be able to consume their dinner without the terrible anxiety that will beset them the rest of the 11 hours.

Frequency of events. There should definitely be a restriction on the frequency of the events. I suggest a limit of 9 events an hour during the 11 hour period and certainly not three in a minute.



Elisabeth Sides.
12.9.22.

Copy sent via email to the Planning officer.

Received: Tuesday, 13 September 2022 3:36pm **Via:** emailed
New Submission on Proposed Plan Change 6 - Audible bird scaring devices

Full name of person making further submission
Beverley Hughes

Organisation (If submitting on behalf of an organisation)
Te Runanga o Ngati Awa

Address for service
4 - 8 Louvain Street, Whakatane
PO Box 76, Whakatane 2165

Submitter: 4
Submission: 4



Email
kaitiaki@ngatiawa.iwi.nz

Would you like to speak to your submission?
I do not wish to be heard in support of my submission

If others make a similar submission, will you consider presenting a joint case with them at a hearing?
I will not consider presenting a joint case with them at a hearing

I could gain advantage in trade competition through this submission
No

I am directly affected by an effect of the subject matter of the submission that adversely affects the environment; and does not relate to trade competition or the effects of trade competition.
No

Signature
Bev Hughes

The specific provisions of the proposal that my submission relates to are [give details]:

11.2.7.1.h add 'marae, papakainga, marae urupa' to the noise controls column so they are identified as 'noise sensitive activities' that are already existing and should be recognised and provided for in the proposed plan change.

My submission is [include whether you support or oppose the specific provisions or wish to have them amended; and reasons for your views]:
as above

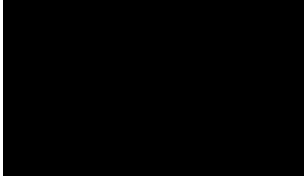
I seek the following decision from the local authority [give precise details]:
The inclusion of the wording proposed above into 11.2.7.1.h above.

Full name of person making further submission

Keryn Mullins

Address for service

RD3, Whakatane



Submitter: 5
Submission: 5

Email

calf@xtra.co.nz

Would you like to speak to your submission?

I do not wish to be heard in support of my submission

If others make a similar submission, will you consider presenting a joint case with them at a hearing?

I will consider presenting a joint case with them at a hearing

I could gain advantage in trade competition through this submission

No

I am directly affected by an effect of the subject matter of the submission that adversely affects the environment; and does not relate to trade competition or the effects of trade competition.

Yes

Signature

Keryn Mullins

The specific provisions of the proposal that my submission relates to are [give details]:

Loud and annoying bird scarers

My submission is [include whether you support or oppose the specific provisions or wish to have them amended; and reasons for your views]:

I oppose 5e bird scarers in otakiri and any other area. They are too loud and are continuous throughout the day. My elderly mother is so scared of the noise. My stock on the corner of omeheu road get very scared and in around the paddock in panic, last year one of my jersey yearlings running so hard around the paddock tripped and broke her neck and died. I really can't see why they are allowed And the advantage of them? The birds just fly back a few minutes later. How much damage do birds do? Will there be more of them around as orchards take over the area? They sound like big shot guns going off all the time and should not be allowed.

I seek the following decision from the local authority [give precise details]:

Disallow them or turn them down, which won't happen. I believe orchardists should have to at least notify the public in the beacon that they are about to start using them, start them at low decibels to get people and stock used to the noise before turning up.

Received: Thursday, 15 September 2022 8:01am
New Submission on Proposed Plan Change 6 - Audible bird scaring devices

Via: email

Full name of person making further submission

Sandra Elaine Pryde, Bruce Henry Pryde & the residents of Poroporo that signed the petition in 2021

Address for service

282 Rewatu Road, RD1, Whakatāne, New Zealand

Submitter: 6
Submission: 6

Email

pryde worms@xtra.co.nz

Would you like to speak to your submission?

I do not wish to be heard in support of my submission

If others make a similar submission, will you consider presenting a joint case with them at a hearing?

I will consider presenting a joint case with them at a hearing

I could gain advantage in trade competition through this submission

No

I am directly affected by an effect of the subject matter of the submission that adversely affects the environment; and does not relate to trade competition or the effects of trade competition.

Yes

Signature

Sandra Elaine Pryde

The specific provisions of the proposal that my submission relates to are [give details]:

Audible Bird Scaring Devices (ABSD)

My submission is [include whether you support or oppose the specific provisions or wish to have them amended; and reasons for your views]:

Myself, Bruce H. Pryde & the residents of Poroporo (please refer to original petition 2021) oppose the the Proposed Plan Change 6, which seeks to reduce the permitted noise for impulsive bird scarers from 100db to 85db.

The reason being is that ABSD causes extreme distress to humans and animals when they are totally unnecessary. There are many alternatives that can be used.

As a reminder as to part of the contents of the 2021 petition - we were subjected to 7 days a week from 7am - 7pm approx 144 Boom..... boom..... BOOM's per day, thats 1008 times per week.

I seek the following decision from the local authority [give precise details]:

We seek the total banning of ABSD's in the Whakatane District.

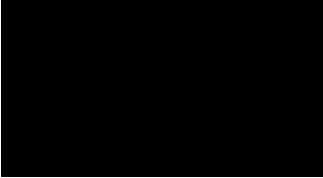
Received: Tuesday, 13 September 2022 **Via:** mailed
New Submission on Proposed Plan Change 6 - Audible bird scaring devices

Full name of person making further submission

Rob and Helen Morris

Address for service

25 Rimu Street, Edgecumbe, 3120, New Zealand Whakatane



Submitter: 7
Submission: 7

Email

Raykar.mor@gmail.com

Would you like to speak to your submission?

I do wish to be heard in support of my submission

If others make a similar submission, will you consider presenting a joint case with them at a hearing?

I will not consider presenting a joint case with them at a hearing

I could gain advantage in trade competition through this submission

No

I am directly affected by an effect of the subject matter of the submission that adversely affects the environment; and does not relate to trade competition or the effects of trade competition.

Yes

Signature

Helen Morris

The specific provisions of the proposal that my submission relates to are [give details]:

To change the commencement time of the ABSD (to be woken in the morning by loud booms is not healthy).

To change the noise from 100db down to 85db.

To change the frequency between the booms heard (currently 6-7 minutes).

My submission is [include whether you support or oppose the specific provisions or wish to have them amended; and reasons for your views]:

I support the changes suggested in the WDC monitor summary of 25/11/2021. These devices impact on our lives with loud booms especially early morning.

Monitoring of the ABSD were done on 8 Oct 2021 on Otakiri Rd within normal working hours from road side. Too late in season as did not give accurate data in survey. Minimal sound/frequency coming from ABSD by this date and time of day. When d/w WDC environmental health staff were told that "due to covid and busy schedule, monitoring was delayed. This is not an acceptable reason to delay monitoring data survey as "bud burst" and "birds" are not also delayed by these excuses.

I seek the following decision from the local authority [give precise details]:

To monitor the proposed new sound limit of 854dB early in the morning at these properties. As mentioned above that normal working hours dose not give accurate data. (7am is an acceptable time to start the ABSDs).

- Monitor the frequency of the ABSD (not every 6-7 minutes that we recorded last year and has started now the same rate).
- Limit the number of ABSD per property.
- These monitoring surveys need to be done regularly, (not just once or twice) to ensure the kiwifruit owners/managers are complying with WDC regulations, and penalties imposed of not complying. A suggested penalty would be having the gas cannon turned off for a period of time (eg a week) as financial penalties are liable to be ineffective and 'messy' to administer and enforce.

Received: Thursday, 15 September 2022 11:40am
New Submission on Proposed Plan Change 6 - Audible bird scaring devices

Via: email

Full name of person making further submission

Sarah Cameron

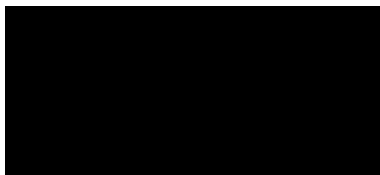
Submitter: 8
Submission: 8

Organisation (if submitting on behalf of organisation)

Horticulture New Zealand (HortNZ) and New Zealand Kiwifruit Growers Incorporated (NZKGI) - joint submission

Address for service

Horticulture New Zealand, PO Box 10-232, Wellington



Email

sarah.cameron@hortnz.co.nz

Would you like to speak to your submission?

I do wish to be heard in support of my submission

If others make a similar submission, will you consider presenting a joint case with them at a hearing?

I will consider presenting a joint case with them at a hearing

I could gain advantage in trade competition through this submission

No

I am directly affected by an effect of the subject matter of the submission that adversely affects the environment; and does not relate to trade competition or the effects of trade competition.

Signature

Sarah Cameron

SUBMISSION ON

Plan Change 6 Audible Bird Scaring Devices

15 September 2022

To: Whakatane District Council

Name of Submitter: Horticulture New Zealand and New Zealand Kiwifruit Growers Incorporated

Contact for Service:

Sarah Cameron

Senior Policy Advisor

Horticulture New Zealand

PO Box 10-232 WELLINGTON

Email: sarah.cameron@hortnz.co.nz



OVERVIEW

Submission structure

- 1 HortNZ's Role
- 2 Submission

Our submission

Horticulture New Zealand (HortNZ) thanks Whakatane District Council for the opportunity to submit on the Plan Change 6 and welcomes any opportunity to continue to work with council and to discuss our submission.

While the submission has been prepared by HortNZ, New Zealand Kiwifruit Growers Inc (NZKGI) supports the submission which can be taken as a joint submission by council.

HortNZ could not gain an advantage in trade competition through this submission.

HortNZ wishes to be heard in support of our submission and would be prepared to consider presenting our submission in a joint case with others making a similar submission at any hearing.

The details of HortNZ's submission and decisions we are seeking are set out in our submission below.

HortNZ's Role

Background to HortNZ

HortNZ represents the interests of approximately 5,500 commercial fruit and vegetable growers in New Zealand who grow around 100 different fruit, and vegetables. The horticultural sector provides over 40,000 jobs.

There is approximately, 80,000 hectares of land in New Zealand producing fruit and vegetables for domestic consumers and supplying our global trading partners with high quality food.

It is not just the direct economic benefits associated with horticultural production that are important. Horticulture production provides a platform for long term prosperity for communities, supports the growth of knowledge-intensive agri-tech and suppliers along the supply chain; and plays a key role in helping to achieve New Zealand's climate change objectives.

The horticulture sector plays an important role in food security for New Zealanders. Over 80% of vegetables grown are for the domestic market and many varieties of fruits are grown to serve the domestic market.

HortNZ's purpose is to create an enduring environment where growers prosper. This is done through enabling, promoting and advocating for growers in New Zealand.



HortNZ's Resource Management Act 1991 Involvement

On behalf of its grower members HortNZ takes a detailed involvement in resource management planning processes around New Zealand. HortNZ works to raise growers' awareness of the Resource Management Act 1991 (RMA) to ensure effective grower involvement under the Act.

Submission

1. Horticulture in the Whakatane region

The predominant horticulture crop grown in the region is kiwifruit with 710 hectares¹. Other crops include avocados (26 orchards), summerfruit (berries, passionfruit) and feijoas.

The growing of productive crops is generally limited to areas of highly productive soils. There is ~ 11.6% (or 53,114 hectares) of LUC - 1-3² soils in the region (generally in the rural zone) which means it is appropriate for horticulture production and primary production activities to take place in this area.

2. Audible Bird Scarers and Horticulture

Horticulture is of economic value to the region and profitability can be affected by bird damage. Effective and acceptable bird control measures, including audible bird scaring devices, are required to avoid personal and community losses. Loss of kiwifruit flower buds to birds can occur very quickly and can be devastating to orchards, causing reduced yield and loss of revenue.

Bird management requires constantly adapted, integrated management techniques. Birds acclimatise easily to any one measure therefore a holistic approach is best.

Bird scarers are a necessary part of horticulture to protect the crop ready for harvest as birds can destroy an entire crop if not managed. It is important to understand that audible bird scarers are used for a limited period of the year and are not used year-round.

HortNZ has been involved in several district plans that have considered provisions for audible bird scaring devices. These plans include Gisborne, Hastings, Whakatane, Whangarei, Western Bay of Plenty and Marlborough where audible bird scaring devices are used for both horticulture and viticulture purposes. Over time there have been a number of principles that have emerged as being important in terms of how such devices are managed. These principles are:

- Permitted activity subject to conditions
- Based on best practice
- Recognise seasonal/intermittent use
- Recognise as important part of primary production
- Recognise as appropriate in rural areas
- Differentiate between bangers and sirens as the effects are different
- Link conditions to location of dwellings - not amenity for open rural space
- Require compliance with noise standard rather than mandatory distance as distance can vary depending on mitigating factors such as contour
- Standards should not apply to sites in the same ownership

¹ <https://www.zespri.com/content/dam/zespri/nz/annual-reports/Zespri-Annual-Report-2021-22.pdf>

² [Land Use Capability » Maps » Our Environment \(scinfo.org.nz\)](#)

- Default activity status RDA with clear matters of discretion
- Any setback distance should be based on meeting the noise standard and can vary according to a range of circumstances such as location of the device, orientation, nature of the device, crop canopy, shelterbelts and land contour.

2.1. Bird Scaring Options

2.1.1. AUDIBLE BIRD SCARERS

Audible Bird Scarer Devices (ABSD) are predominantly used in the region to scare birds from kiwifruit orchards during bud break (generally September to October) and from berry farms. These are generally gas propelled propane canons which create a loud explosion that scares the birds away. If not moved around the orchard, birds soon get used to them and they become less of a threat.

Other ABSD that are less commonly used include:

- **Sonic (audible) sound** equipment broadcasts a variety of naturally recorded bird distress signals, predator calls and harassment sounds that frighten, confuse and disorient pest birds, within the effective range)

2.1.2. ALTERNATIVE BIRD SCARERS

There are a range of non-audible bird scarer devices and/or mitigations growers can deploy:

- **Reflective tape, kites, balloons** rely on the wind and sun to be effective. Birds find them scary and unsettling so keep away in the short term, but they do get used to this relatively quickly, therefore should be applied in conjunction with other measures
- **Intensive sward planting** allows the grass sward to grow longer to retain the poa annua grass seed heads to provide a food source for birds on the orchard floor. This reduces the incidence of birds in the canopy looking for food as they are more likely to remain on the ground to feed - however this process may attract birds to the orchard
- **Ultrasonic high frequencies** (which the human ear cannot hear) to deter birds and other pests. When the birds or pests hear the sound being produced, they can become disoriented or irritated by the noise. These frequencies can also have an effect of dogs and cats
- **Laser bird scarers** are used by some growers to prevent bird strike as they unsettle and annoy birds. There are several safety rules that may prevent lasers from being effective (inadvertently causing laser strike to aircraft and vehicles)
- **Bird repellents** (agrichemicals) are not required to be included in the Agricultural Compounds and Veterinary Medicines register. One product currently listed as a bird repellent for kiwifruit growers is Flock Off. Flock Off works as a repellent by stimulating the 'trigeminal nerves' in the bird's beak, eyes and throat. Although most animals have these nerves, only birds react to Flock Off. Flock Off irritates a bird's sense of taste and smell.

Flock Off is applied just prior to budbreak and reapplied every 7-10 days through the risk period. It is required to be reapplied after rain. Zespri allows for a maximum of three sprays per budburst period (generally natural budburst takes 10-35 days to complete) therefore being dependent on weather, Flock Off is not as effective as other measures. In addition, growers report that birds do become familiar with Flock Off.

In the 2021 season, due to significant shipping delays, UPL (the suppliers of Flock Off) reported that the bird repellent product sold out early and growers (that use the product) were advised to consider alternative methods to reduce bird pressure this spring. The Safety Data Sheet³ for Flock Off shows that it is harmful to aquatic life.

3. Budbreak

The older variety of gold kiwifruit (Hort 16A) was susceptible to early budbreak which required bird scaring measures in early spring. Hayward (green) and G3 (Gold) tend to experience later budbreak.

The timing of budbreak is affected by temperatures up to the start of budbreak. The colder the winter, the earlier budbreak will begin. New Zealand recorded its warmest winter on record in 2021⁴ which has been surpassed in 2022⁵. Growers will see later budbreak as a result.

Birds eat many things, from seeds and grain to insects, fruit and nectar, but in early spring all these food sources are scarce. Early spring is when birds are more prevalent on orchards and with budburst now occurring later in spring, birds are scarcer and the requirement for bird scaring measures less intensive than early spring.

According to the New Zealand Bird Atlas⁶, the following birds were observed in the Whakatane region from September to November:

Sparrow	Pigeon	Geese	Blackbirds
22	19	5	1

These observations show that bird activity in the region is not significant and therefore audible bird scaring devices are not a significant threat to noise levels. Pigeons and geese are not a threat to orchards.

4. Reverse sensitivity

Reverse sensitivity issues are becoming an increasing problem for the horticulture sector as more people move into productive areas who do not have realistic expectations with regards to the noise that can occur because of primary production activities. Horticulture tends to be particularly susceptible to reserve sensitivity effects due to highly productive

³ <https://horticentre.co.nz/wp-content/uploads/Safety%20Datasheets/Flock%20Off%20SDS.pdf>

⁴ <https://niwa.co.nz/news/its-the-warmest-winter-on-record-again>

⁵ <https://niwa.co.nz/climate/summaries/seasonal/winter-2022>

⁶

land often being located near urban centres and/or the land they operate on being subject to demand for urban development.

For horticulture, reverse sensitivity effects are a very real issue, which impacts on the ability of growers to productively use their land. Agrichemical spraying in terms of chemical use and noise, odour, time of operation and machinery noise, frost protection including by helicopter and frost fans, bird scaring devices and hours of operation can all be cause for complaint despite the effects of these activities being managed to meet regional plan requirements.

Not all effects can be internalised and the introduction of sensitive activities and urban development by rural production environments erodes the accessibility and utility of highly productive land. It is our experience that reverse sensitivity is a key planning consideration that is often overlooked in terms of the reverse sensitivity effects on horticulture from urban encroachment.

5. Submission

HortNZ and NZKGI opposes proposed Plan Change 6 (PC6) in its entirety and seek withdrawal of proposed PC6.

HortNZ and NZKGI accepts the need for provisions in the district plan regarding noise levels to ensure that levels of noise are appropriate for the rural operating environment and that compliance with such noise limits can be enforced. It is also recognised that there needs to be a balance between providing for horticulture activities and amenity of residents. It is HortNZ and NZKGI's contention that PC6 is inappropriately balanced towards residents and will have a negative impact on horticulture production in Whakatane.

Of specific concern to HortNZ and NZKGI is from the monitoring undertaken by council detailed in the s32 Report, there appears to be a degree of non-compliance with the operative district plan which may well be exacerbating the effects of ABSD in the district. It has not been robustly confirmed that the issue in Whakatane relates to ABSD's that comply with the operative limits or whether the issue relates to non-compliance.

It is HortNZ and NZKGI's position that education with growers and compliance monitoring and enforcement action of the operative rules should be undertaken before contemplating a plan change that will have significant impact on horticulture in Whakatane District.

HortNZ has obtained independent advice, both of which has identified significant issues with the approach in PC6.

Acoustic advice identifies that the proposed rule for new users would be one of the most restrictive audible bird scarer rules in a district plan, while not necessarily achieving the outcome of reducing noise from ABSD as existing uses apply to currently operational devices, thereby retaining current noise levels.

Further advice identifies significant issues with the process undertaken in responding to complaints and developing PC6 in considering higher order documents.

For the reasons set out below HortNZ and NZKGI seeks withdrawal of PC 6.

2.1 Effect of Plan Change 6 on use of audible bird scaring devices

Currently the district plan provides for a limit of 100dB LZpeak which is proposed to be reduced to 85dB LCpeak for new users and current users who are unable to prove existing use rights.

Compared to an SEL measure, the 100dB LZpeak would equate to approximately 65dB SEL while 85dB LCpeak would equate to approximately 48dB SEL. 65dB SEL is a measure used in several plans in neighbouring districts.

Figure 1 of council's Assessment of Noise Effects⁷ (Hegley report) indicates that for generally flat ground, a grower would need a setback distance of 610 metres to meet the 100dB LZpeak at the notional boundary of a rural dwelling or residential zone boundary. A setback distance of approximately 1820 metres would be required to meet the 85dB LCpeak. This is a threefold increase in the setback currently required.

The s32 Report⁸ indicates that PC6 would affect new users of audible bird scaring devices but does not clearly set out the impact of the setback distances and noise levels that will be required. In addition, PC6 has been developed with a clear presumption that audible bird scaring devices should require a restricted discretionary consent -that the permitted level is set so that it will be unlikely to be achieved, thereby necessitating all new devices to be subject to a resource consent process.

This is an inefficient approach to an activity that can be adequately managed through permitted activity standards and education of users as to methods to achieve those standards.

2.2 The basis for 85dB LCpeak is unclear

The Hegley report recommends an 85dB LCpeak limit for the ABSD rule but does not provide an assessment of why that limit is appropriate. The limit is then supported in the s32 Report based on the Hegley recommendation. A number of Australian EPA documents are referenced in the Hegley report, but none uses a sole limit of 85dB LCpeak.

Given the clear preference in the Hegley report for all uses of ABSD's to be a restricted discretionary activity, the limit has been set at a restrictive level which is unlikely to be met, thereby requiring new users to apply for a restricted discretionary activity consent.

It is noted that the Hegley report (Pg 6) discusses the advantages of a LCpeak measure with SEL.

The use of LCpeak only sets a level so it is important to include a limit on the number of events to control the potential noise effects for neighbours. As the SEL is a combination of the level plus duration there are advantages to using SEL to control the noise. The SEL can be measured for any number of shots for any selected time period. The difference is that if the noise level is lower more events may occur for the same SEL value. Adopting LCpeak and the number of events for a given time does not encourage the noise maker to reduce the level of noise but the LCpeak can be easily measured. The only disadvantage is that the number of shots in an hour or day also needs to be monitored. Overall, the outcome will be similar regardless of the measurement technique adopted so Council may prefer to retain the current method using a peak measurement and number of shots permitted. The only change proposed is to move from Z-weighting to C-weighting to allow the level to be measured with the sound level meter already owned by the Council.

⁷ [20220707 -pc6 audible bird scaring devices - hegley acoustic consultants report.pdf](https://www.whakatane.govt.nz/sites/www.whakatane.govt.nz/files/documents/20220707_-_pc6_audible_bird_scaring_devices_-_hegley_acoustic_consultants_report.pdf)
([whakatane.govt.nz](https://www.whakatane.govt.nz))

⁸ [https://www.whakatane.govt.nz/sites/www.whakatane.govt.nz/files/documents/20220713 -
pc6 audible bird scaring devices - section 32 report.pdf](https://www.whakatane.govt.nz/sites/www.whakatane.govt.nz/files/documents/20220713-_pc6_audible_bird_scaring_devices_-_section_32_report.pdf)

From this assessment using an SEL value would incentivise noise reduction, and thereby achieve greater benefits. However, the review of sound measurements in the s32 Report (6.1) does not even mention an SEL measure – referring only to L_{peak}, L_{MAX}, L₁₀ and L₉₀. Given the use of SEL in other adjoining district plans and the advice in the Hegley report of SEL consideration, this measure should have been included.

The use of the existing council sound meter may be a major factor in this consideration, rather than what would achieve the most optimum outcome for all the community.

2.3 Plan Change 6 does not give effect to the Regional Policy Statement

A district plan is required to give effect to a Regional Policy Statement (RPS) (RMA S75 (3) c)⁹. The s32 Report does not consider the Bay of Plenty RPS or identify relevant objectives and policies from the Bay of Plenty RPS.

The RPS provides clear direction about use of rural land and reverse sensitivity.

Objective/Policy	Description
Objective 26	The productive potential of the region’s rural land resource is sustained and the growth and efficient operation of rural production activities are provided for
Policy UG 18B	Managing rural development and protecting versatile land.
Policy UG 20B	Managing reverse sensitivity effects on rural production activities and infrastructure in rural areas.
Policy UG 23B	Providing for the operation and growth of rural production activities
Policy 24B	Managing reverse sensitivity effects on existing rural production activities in urban areas

11.6 percent of the land in the Whakatane region is highly productive land (versatile) which must be protected for rural production activities. Limiting use of ABSD has the potential to limit the use of versatile land for its optimum use.

The RPS clearly directs that subdivision use and development of rural areas does not compromise or result in reverse sensitivity effects on rural production activities.

⁹ <https://www.legislation.govt.nz/act/public/1991/0069/latest/DLM233681.html>

Complaints about ABSD from residents (nor rural production activities) are resulting in reverse sensitivity effects on horticultural operations. This can lead to inefficient use of resources and a loss of rural production activities.

The RPS acknowledges the importance of rural production to the Bay of Plenty economy. Rural production can only be located in rural zones, so the locational and functional requirements need to be recognised and protected from reverse sensitivity effects.

Method 3 of the RPS requires that Policies UG 18B, UG 20B, UG 23B and UG 24B be given effect to when changing a district plan. These objectives and policies and direction of the RPS have not been assessed and given effect to in PC6.

2.4 The Plan Change does not implement the objectives and policies in the Whakatane District Plan

The Operative Whakatane District Plan sets out a range of strategic objectives and policies in Chapter 2 and general provisions in Chapter 11. The strategic objectives and policies are important as they provide an overall approach to the district plan. The s32 Report has not considered these objectives and policies.

In particular, strategic objective 4 seeks to provide for a strong rural base: the rural character of the district is retained, and rural productive capacity is provided for. There are six policies that implement this objective including Policy 6: to ensure that subdivision, use and development of rural areas does not compromise the efficient operation of rural production activities or result in reverse sensitivity effects on lawfully established activities.

Consideration needs to be given to the strategic objectives and policies when assessing and implementing Chapter 11 and 2 objectives and policies. Chapter 11 (gen 1, policy 1) needs to be assessed in the context of impacts on rural production activities and reverse sensitivity. The s32 Report does not consider this relationship.

2.5 Plan Change 6 will not necessarily achieve the outcome sought - to reduce nuisance sound effects in rural zones

Plan Change 6 is targeted at requiring resource consent for new users of ABSD's which do not have existing use rights or do not comply with the operative plan rules.

The s32 Report (9.5.6) states: PC6 reduces the permitted noise limit of ABSDs to mitigate the adverse effects of 'intrusive noise'.

Existing use rights will apply to many of the current users and as such, the PC6 may do little to reduce the existing noise environment from use of ABSD's.

The s32 Report (9.4.8) states: The permitted noise level is considered too permissive to be effective to manage the wider environment noise impacts from ABSD use in orchards.

There is no clear justification to support this statement given that there has been non-compliance with the operative permitted noise levels and only when compliance has been achieved could the level of effectiveness of the current rules be determined.

It is HortNZ and NZKGI's position that developing an education programme for growers with council alongside a compliance monitoring and enforcement programme would provide a much more targeted approach to addressing the existing issue.

2.6 The s32 Report is inadequate

Process

The s32 report and attached documents sets out the process undertaken as part of developing PC6. An analysis of council meetings and agendas is included below which identifies concerns with the nature of the process, including pre-determination of the outcome prior to monitoring being undertaken. There appears to have been very little direct engagement with growers to better understand the issues and constraints in the use of ABSD's. Given the nature of the issues such engagement would have assisted council in determining the most appropriate approach.

Complaints

PC6 has been triggered by complaints and a petition to council. The s32 Report does not contain information about complaints received, quantify the nature of the complaints or whether such complaints have been substantiated. For instance, it would be useful to determine if there is a pattern in complaints by location, time of day or frequency of shots, or the type of device being used or whether complaints involve multiple orchards. The level of complaint may be exacerbated by a level of non-compliance with the operative rules.

Quantifying and understanding the nature of the complaints is important to determining an appropriate response. The existence of complaints is insufficient justification for a plan change of this nature.

Consideration of alternatives

Section 32 of the RMA requires any changes to the district plan to be evaluated for their appropriateness in achieving the purpose of the RMA, and for the policies and methods to be evaluated for their efficiency, effectiveness and risk

The S32 report details no assessment of other alternatives such as education, monitoring and compliance to achieve the outcomes sought. Education could include working in collaboration with NZKGI and HortNZ to develop material for growers on best practice or best practicable options, mitigation methods, alternative methods and how best to achieve the rules in the operative plan.

Such alternatives appear to have been discounted due to the initial presumption that a plan change was needed, due to community pressure.

2.7 Analysis of council meeting agendas and minutes

The Council Strategy and Policy Committee considered the matter of audible bird scaring devices over a number of meetings including:

- 1 April 2021
- 25 November 2021
- 7 July 2022

The 1 April 2021 meeting included a paper setting out concerns raised by members of the community regarding ABSD's and was supported by attendance at a public forum by S & B Pryde.

The paper set out five options for consideration:

- **Option 1** Community Advocacy
- **Option 2** District Plan Monitoring
- **Option 3** Plan Change
- **Option 4** National Planning Standards Implementation
- **Option 5** District Plan Review 2027.

Options 1 and 2 were the joint preferred options with subsequent options to be considered after 2021. Attendees were advised that any change to the district plan needed to be evidence based and monitoring and data being collected prior to any change being mooted. However, the committee approved a motion that Options 1, 2 and 3 proceed which included work toward a district plan change.

It is considered that this decision predetermined the outcomes of the monitoring and data collection that was to be undertaken, rather than assessing the information and then determining the most appropriate pathway forward.

When the results of the monitoring were presented to the committee on 25 November 2021, the option of a plan change was presented as the preferred option and set parameters for a potential plan change in line with the committee resolution on 1 April 2021.

The meeting of 7 July 2022 considered the proposed plan change and included a verbal presentation with discussion occurring. The minutes state:

It was queried if the impact of the plan change would have a significant impact on the productive activity in the rural area. Members were advised it would impact the horticulture industry as the noise limits were being reduced significantly for what could be carried out at a permitted level, however the reduced levels did align with other Council plans.

As further demonstrated in this submission, the noise levels in PC6 do not align with other council plans.

2.8 Plan Change 6 is inconsistent with other district plans

The s32 report compares the proposed rule with other district plans and states that PC6 is consistent with adjoining territorial authorities' approach to managing ABSD's permitted noise levels. HortNZ has undertaken analysis that demonstrates that this is not an accurate statement.

Adjoining territorial authorities to Whakatane are Opotiki, Western Bay of Plenty, Rotorua, Wairoa, Gisborne and Taupo. The ABSD limits are as follows:

District	ABSD limit	Approx equivalent
Whakatane Operative	100dB LZpeak	65dB SEL
Opotiki	65dB SEL	100dB LZpeak
Western BOP	65dB SEL	100dB LZpeak
Gisborne	65dB SEL	100dB LZpeak
Rotorua	100dBLzpeak	65dB SEL
Wairoa	122 dB C peak	83dB SEL
Taupo	No specific rules	
Whakatane Proposed	85dB LCpeak	48dB SEL

Two of the five adjoining councils use a 'peak' measure and three use an SEL measure. The acoustic advice HortNZ has received is that 100dB LZpeak is equivalent to a limit of 65dB SEL and an 85dB LCpeak would be approximately equivalent to 48dB SEL. No other council has a permitted activity of 48dB LCpeak and the proposed rules are not consistent with adjoining territorial authorities.

The analysis of provisions in other district plans in the 25 November 2021 meeting report was based on councils that use a 'peak' measure (Whakatane, Auckland, Waipa and Hastings). Rotorua and Wairoa also use a peak measure ranging from 85dBcpeak to 122dBC peak. The s32 report (5.8.3) states that assessment of other council controls was limited to those using peak measure 'due to the accuracy for measuring pulse sounds'.

District	ABSD peak limit
Auckland	85 LZ peak
Waipa	85dBA peak
Hastings	85dB LCpeak - 115dB LCpeak

Rotorua	100 dB Lzpeak
Wairoa	122 dB Cpeak
Whakatane Operative	100dB LZpeak

The s32a Report (5.8.4) states that 85dB is predominantly used as the permitted peak level however the table shows that only two out of the six councils use 85dB as a sole peak measure.

The Hastings level allows for use over 85dB Cpeak - up to 115dB Cpeak as a permitted activity in the rural zone so 85dB is not a sole measure, hence does not contribute to 'predominant use'. Hastings is particularly relevant as a fruit growing area - compared to Whakatane

Hastings	Whakatane
There are no restrictions on events or shots for sound levels less than 85dB Cpeak as a PA.	The 85dB LCpeak as a PA does not include limitations on number of events and shots:
The activity is permitted where greater than 85dB LCpeak but not exceeding: - 100dB LCpeak at any point within residential zone OR - 115dB LCpeak at any point within the notional boundary of any noise sensitive activity in the Rural Zone AND No more than 4 events of 3 shots or total of 12 shots in any 1 hour	Any event over 85dB LCpeak means the activity is an RDA. It does not have a tiered PA rule as in Hastings.

What is proposed for Whakatane is significantly more restrictive than Hastings.

2.9 The Plan Change seeks to limit the ability of horticulture to operate

The s32 report (9.5.20) states: 'Reliance on ABSD use is not considered to be effective for sustained long periods of time. As such council shouldn't permit ABSD use as the lowest cost deterrent for horticultural use, when other options exist which do not have the same noise impact well beyond the site of operation.'

There has been no analysis included as to the efficacy and cost of ABSD compared to other options of bird deterrent. That is an operational matter for an orchardist to determine. Through the plan change, council is seeking to impose limitations on choice of methods for operational matters with no horticultural evidence provided to substantiate the position.

It is also unclear whether a resource consent for a ABSD will be able to be obtained when over the 85dB noise limit. There is considerable uncertainty for growers in that respect.

Use of ABSD's only occurs for a limited period during the year and residents moving to a rural area should be aware that horticultural activities can sometimes be noisy.

During the development of the 2017 Operative District Plan, HortNZ consistently sought to ensure that growers could continue to operate and that reverse sensitivity effects were adequately addressed in the plan so that situations such as the current did not arise, given the awareness that many urban dwellers have unreasonable expectations in terms of the amenity and nature of the rural environment.

3 Decision sought:

For the reasons set out above HortNZ and NZKGI seeks that PC 6 be withdrawn, the operative plan rules be retained and a joint approach to develop an information and education programme for both growers and residents be introduced while undertaking compliance monitoring and enforcement to ensure that the operative plan is being met.

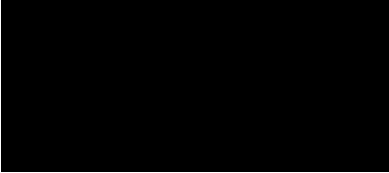
A review of the effectiveness of the operative plan should be undertaken for the 2027 Plan Review to determine if changes to the rule regime for audible bird scaring devices is required.

Full name of person making further submission

Ross Gardiner

Address for service

rossg.submission@gmail.com



Submitter: 9
Submission: 9

Email

rossg.submission@gmail.com

Would you like to speak to your submission?

I do wish to be heard in support of my submission

If others make a similar submission, will you consider presenting a joint case with them at a hearing?

I will consider presenting a joint case with them at a hearing

I could gain advantage in trade competition through this submission

No

I am directly affected by an effect of the subject matter of the submission that adversely affects the environment; and does not relate to trade competition or the effects of trade competition.

[No answer required]

Signature

Ross Gardiner

The specific provisions of the proposal that my submission relates to are [give details]:

The specific provisions of the proposal that my submission is in relation to are: Items 1, 2 and 3.

My submission is [include whether you support or oppose the specific provisions or wish to have them amended; and reasons for your views]:

Item 1: Oppose

Seek: I seek that *Item 1* be amended to state:

11.2 RULES GENERAL PROVISIONS

11.2.6 Noise Limits

11.2.6.2

Activity

Audible bird scaring devices.

Noise Controls

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

General Requirements for both impulsive and non-impulsive audible bird scaring devices:

- a. *Shall only be operated from half an hour before sunrise to half an hour after sunset.*
- b. *A legible notice is to be fixed to the road frontage of the property on which the device is being used, giving the name, address, and contact phone number of the person responsible for the operation of any such device/s.*

A non-impulsive audible bird scaring device shall:

- c. *Shall not exceed 50 dB L_{Aeq} at the notional boundary of any dwelling or noise sensitive activity, or at the boundary of any Residential Zone, Urban Living Zone, Deferred Residential Zone, or Education Zone, but excludes any dwelling/s located on the same site as the device is being operated.*
- d. *Where those persons who experience noise levels over 50 dB L_{Aeq} as described in c. above, and have provided written approval to Council, then the activity shall be permitted.*

An impulsive audible bird scaring device that generates discrete sound events shall:

- e. *Shall be set to operate at no greater frequency than 12 times in any period of one hour, that is 12 single discharges or four groups of three discharges.*
- f. *Shall not be operated for any continuous period exceeding two seconds.*
- g. *Shall only be operated when the horticultural crop is at risk from bird damage.*
- h. *Shall not exceed 85 dB L_{Aeq} at the notional boundary of any dwelling or noise sensitive activity, or at the boundary of any Residential Zone, Urban Living Zone, Deferred Residential Zone, or Education Zone, but excludes any dwelling/s located on the same site as the device is being operated.*
- i. *Where those persons who experience noise levels over 85 dB L_{Aeq} as described in g. above, and have provided written approval to Council, then the activity shall be permitted.*

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

Advice Note: Existing use rights may apply where an audible bird scaring device has been lawfully established prior to notification of Plan Change 6 on 8 August 2022, in accordance with [Section 10](#) of the Resource Management Act 1991.

The proposed change to hours of operations will allow for ABSD to operate on a permitted basis multiple hours after bird activity has stopped. The original hours of operation clause should be kept, as it is clear for users, and appropriate to the effect that it is managing.

Requiring effectively every new ABSD that does not lawfully have existing use rights granted by Section 10 of the RMA to seek resource consent to undertake rural activities within the rural environment seem overly onerous, and counter to Rural Plains Zone's description in 3.1.1.1, and Strategic Objective 4 and its Policies.

For reference the Rural Plains Zone's description in 3.1.1.1 is:

The Rural Plains Zone includes land which has the potential for high value production due to the inherent characteristics of the land including high ratings for versatility under the New Zealand Land Resources Inventory

System (i.e. versatile land). The primary purpose of this zone is to retain the characteristics of the finite land resource and protect the rural production potential and economic growth of the District. There is also a need to provide for other activities which have a fundamental need to be located within the zone.

For reference, Strategic Objective 4 (A Strong Rural Base) states:

Strategic Objective 4 The rural character of the District is retained and rural productive capacity is provided for.

Policy 1 To ensure that rural zones continue to be utilised for rural production activities, while giving effect to national policy statements on renewable electricity generation and electricity transmission and national environmental standards for telecommunication facilities and electricity transmission.

Policy 2 To enable primary productive use in the Rural Plains Zone and to protect land in that zone from further subdivision, development and activities that could detract from its primary production focus.

Policy 3 To provide for rural residential subdivision and development in the Rural Foothills Zone while maintaining the rural character and environmental values and not compromising primary productive use.

Policy 4 To enable new technologies that enhances productive capacity while reducing adverse environmental effects.

Policy 5 To recognise industry good practice and industry specific manuals and guidelines.

Policy 6 To ensure that subdivision, use and development of rural areas does not compromise the efficient operation of rural production activities or result in reverse sensitivity effects on lawfully established activities.

Western Bay of Plenty District Council is an adjacent authority with longstanding and workable rules in relation to ABSDs. The proposed text I have written above has been modelled on these rules, as they have a proven track record of their effectiveness, and their ability to be monitored and enforced. This will provide confidence to the horticulture industry that there isn't a juxtaposition between adjoining councils, and that they can support investments within the region.

The changes I seek to the advice note regarding existing use rights simplifies the statement, and makes it clear what is required to have existing use rights with the inclusion of a hyperlink to Section 10 of the RMA.

Further, it may be useful for council to provide an acoustic report representing a number of situations with a small variety of compliant devices for end users to review. This may help alleviate confusion over whether a user may need consent or further investigations of a site before investing in development.

Item 2: Oppose

I seek that *Item 2* be deleted (should my sought changes to *Item 1* be accepted), otherwise for *Item 2* to be amended to state:

11.2.7 Table 11:1 and Table 11:2 Specific Activity Noise Limits

11.2.7.1.h

At the notional boundary of any rural zoned site used for a noise sensitive activity, or at the boundary of any Residential Zone, Urban Living Zone, Deferred Residential Zone, or Education Zone boundary, and excludes any dwelling/s located on the same site as that on which the device is being operated.

Should my proposed changes to *Item 1* which take into account this provision (list item c. and h. above) be accepted, then this provision is superfluous and should be deleted as it relates to ABSD.

Should my proposed changes to *Item 1* not be accepted, then I am generally supportive of the change proposed by WDC, but it should be improved to provide for exclusion of other existing residential zones, and future residential zones. However, it may be more pragmatic for Council to produce mapping to provide for precluded or restricted discretionary areas for new ABSDs around the aforementioned zones.

I note that this provision is applicable to frost fans. Therefore, should any changes be made, that the rule, as it relates to frost fans, is not changed, as consequential changes may not have been clear to the public.

Item 3: Oppose

I seek that *Item 3* be amended to state:

ASSESSMENT CRITERIA FOR RESTRICTED DISCRETIONARY ACTIVITIES Audible Bird Scaring Devices

Council shall restrict its discretion to the following:

- a. *The noise levels experienced by dwellings or noise sensitive activities, and the consequential effect on amenity, and any proposed mitigation measures.*
- b. *consideration of the best practicable option, including alternative types of bird scaring devices, alternative options for crop protection, effectiveness of those alternative options and their affordability.*

Public notification of any application shall be precluded unless the device/s exceed the permitted activity standards at the boundary of any Residential Zone, Urban Living Zone, Deferred Residential Zone, or Education Zone.

See section 3.5.4 of the Whakatāne District Plan for application information requirements.

What I have proposed will provide certainty to applicants when seeking consent as to the expected costs and information requirements, as it is simplified, streamlined, and in plain English.

I oppose the inclusion of rules for ABSDs in relation to Significant Indigenous Biodiversity Sites (SIBS), as there is currently insufficient evidence to accurately quantify the effect on the SIBS. It would be better for the public if Council provided robust information and produced preclusion area mapping, where it is appropriate.

I have retained affordability as part of my sought assessment criteria, as it affects what bird deterrent measures may be deployed, and their resultant environmental effects.

I seek the following decision from the local authority [give precise details]:

- That this submission is received and taken fully into account.
- That the changes sought by this submission are accepted.
- All defined terms that are included in the final Plan text are bolded – consistent with the Plan, such as **notional boundary, noise sensitive activity, dwelling, site**, LAeq, etc.
- All item numbers and listings are made consistent within the Plan document.
- That all changes comply with the requirements of the National Planning Standards 2019 with respects to noise units used, definitions, and mapping (if applicable).
- That Council is to produce an acoustic assessment to support mapping to provide for precluded areas or areas that trigger resource consent as a discretionary activity for new ABSDs around any Residential Zone, Urban Living Zone, Deferred Residential Zone, or Education Zone.

- Should council introduce rules relating to ABSDs and SIBS, that Council produces comprehensive acoustic and wildlife impact assessments (which have been peer reviewed) to determine where detrimental effects on the SIBS will be incurred, and produce mapping to provide for precluded areas or areas that trigger resource consent as a discretionary activity for new ABSDs around any SIBS.

Of note, it may be useful for any future plan changes to include a “clean copy” of changes that Council propose to make. This will make it easier for submitters to seek changes to the text, and it will improve administrative or internal processes to track proposed changes of numerous submitters. This is relatively common practise and not novel or unusual.