

Proposed South Taranaki District Plan

Further Submission by Climate Justice Taranaki Incorporated, 28 Jan 2016

Scope of Further Submission

1. Due to time constraint, Climate Justice Taranaki Incorporated (CJT) has not been able to review and comment on all submissions. This submission has been prepared in support of, or opposition to, specific points concerning various aspects of the proposed plan, as raised by the following submitters:

Te Kaahui o Rauru (submitter 004) – Support in large part

NZ Oil and Gas / NZOG (006) – Oppose in large part

Department of Conservation / DOC (020) – Support in large part

Meridian Energy (026) – Support in part

Abbie and Mark Jury (029) – Support in large part

Taranaki Regional Council (047) – Support in part

Philip and Ainsley Luscombe (053) – Support in large part

Darryl and Alison Smith (080) – Support in large part

Petroleum Exploration and Production Association of NZ / PEPANZ (083) – Oppose in large part

Shell Todd Oil Serves (084) – Oppose in large part

Taranaki Energy Watch (087) – Support in large part

Fiona Clark (088) – Support in large part

Taranaki Federated Farmers (090) – Oppose in part

Taranaki District Health Board (093) – Support in large part

2. CJT have made every attempt to review and understand the proposed plan and the original submissions by other submitters. CJT have made this further submission in good faith, and is not liable to any damages stemming from potential misunderstanding or misinterpretation.

Statutory Requirements of the Plan

Health Act 1956 and Drinking Water

3. The Taranaki District Health Board stated clearly that *“It is the duty of every local authority to improve, promote, and protect public health within its district under section 23 of the Health Act 1956. Local authorities are empowered and directed to carry out a number of activities... Many activities covered by the Proposed South Taranaki District Plan have the potential to be offensive or injurious to health. At times these environmental activities can be an offence under the Health Act 1956 without necessarily being an offence under other legislation such as the Resource Management Act 1991 or the Hazardous Substances and New Organisms Act 1996. In these situations it is the duty of the STDC to cause all proper steps are taken to secure the abatement of the nuisance or removal of the condition.”*

4. CJT therefore strongly support the District Health Board's recommendation that a section be added to provision 1.2.2 "*which describes the environmental health section and the obligations of the STDC under the Health Act 1956*", and that "*There is greater mention of public health in the various sections throughout the Proposed South Taranaki District Plan when talking about Adverse Effects of certain environmental activities.*"
5. The District Health Board also pointed out that with the Health (Drinking Water) Amendment Act 2007, "*Water suppliers have a number of duties required by the Health Act 1956 including; being required to take reasonable steps to contribute to the protection of source of drinking-water (section 69U).*"
6. We therefore support the District Health Board's recommendation that Schedule 5 be amended "*to specifically ensure the provision and protection of 'Sources of Human Drinking Water' as required by the 'National Environmental Standard for Sources of Human Drinking Water', AND conditions relating to potable water as required by the Health Act 1956.*"
7. We also support the District Health Board's recommendation that the District Plan includes "*Avoids adverse effects on water bodies (sources) where the water is used for potable human drinking water*" as a specific requirement through Section 20 where applicable.

Resource Management Act, Sustainable Management and Climate Change

8. Section 5(2)(a) of the Resource Management Act 1991 specifically excludes minerals (e.g. fuel minerals like oil, gas and coal) because of the 'unsustainable' nature of fossil fuel exploration and production. This is contrary to STOS' argument that the Maui and Kapuni gas fields are '*subject to the principle of sustainable management*'. The remaining relevant points in this Section are 5(2)(b) '*safeguarding the life-supporting capacity of air, water, soil, and ecosystems*'; and (c) '*avoiding, remedying, or mitigating any adverse effects of activities on the environment*'.
9. Although Section 70A of the RMA precludes a regional council to consider the effects of greenhouse gas emissions on climate change, Section 7 requires '*all persons exercising functions and powers under it*' [the RMA] to have particular regard to (i) '***the effects of climate change***' and (j) '*the benefits to be derived from the use and development of renewable energy*'. Clearly the effects of climate change threaten the life-supporting capacity of air, water, soil, and ecosystems, which councils must consider, as well as the far-reaching benefits of renewable energy (instead of fossil fuels).
10. In the context of Section 5 of the RMA, Shell Todd Oil Services' (STOS) wrote:
 - "*There can be no sustainable management of natural and physical resources without energy, of which gas is a major component*",
 - "*The Maui and Kapuni Gas Fields and their associated infrastructure are nationally significant longstanding "physical resources" that have been part of the existing environment since ... 1969, and they are subject to the principle of sustainable management.*"
11. CJT object to STOS's statements above. In 2014, renewable energy made up 39.5% of New Zealand's total primary energy supply (TPES) – the highest on record (MBIE, 2015)¹. Among the

OECD countries, NZ has the third highest contribution of renewable energy to its TPES. In 2014, oil accounted for 31% of NZ's TPES, gas for 23% and geothermal energy for 22%. The share of electricity generated from renewable energy sources in 2014 was 79.9%, the highest since 1996. STOS' statement that "*gas is a major component*" of NZ's energy is therefore highly debatable. Moreover, annual production from Maui has declined substantially since its peak in 2001. By 2014, Maui only contributed to 22% of all the gas produced while Kapuni contributed to just 7% (MBIE data, 2015)². As with all fossil fuels, gas cannot be extracted/produced sustainably and therefore cannot contribute to 'sustainable' resource management in the straight literal sense. With the UNFCCC Paris agreement signed, NZ's reliance on gas and all other fossil fuels must be coming to an end.

Definitions

Sensitive Activity

12. CJT support the Taranaki District Health Board's proposal to amend the definition of "Sensitive Activity" to further include Childcare Facility, Home Based Childcare Service(s), Residential Care Facility and Healthcare Services, to "*aid in ensuring that the health of vulnerable persons are identified, and their needs considered with regard to future decisions made under the 'District Plan'*".

Major Hazardous Facility

13. As explained in detail in our original submission sections 2(a, b, c and d), CJT do not agree with the definition of "Major Hazardous Facility" in section 1.11 and the exclusion of petroleum exploration and petroleum production or other activities where the Health and Safety in Employment (Petroleum Exploration and Extraction) Regulations 2013, Health and Safety at Work (Petroleum Exploration and Extraction) Regulations 2015, Health and Safety in Employment (Mining Operations) Regulations 2013, or Health and Safety at Work (Major Hazard Facilities) Regulations 2015 would apply. CJT therefore object to PEPANZ's submission in this respect although CJT agree that the definition of Hazardous Facilities should be made clearer.

Objectives, Policies and Rules

Rural Zone

14. In section 2.1, CJT strongly disagree with PEPANZ's view that petroleum exploration and production activities are "*highly productive uses of land, and generally, of low and largely temporary environmental impact.*" On the contrary, petroleum activities are extractive, exploitative and polluting to the environment, and are a major cause of catastrophic climate change that we and the rest of the world are facing. Farming on the other hand, can be both productive and sustainable, although at present most dairy farming in the Taranaki context, is far from sustainable.
15. CJT object to PEPANZ's suggestion to rewrite issue 2.1.1 by replacing '*other complementary rural based activities*' with '*rural servicing industries*', so that it reads '*Need to provide for productive land use and rural servicing industries while ensuring the adverse effects on the rural environment are not*

excessive and do not result in incompatibility between different land uses.' The word 'complementary' is critical in any planning and in Taranaki's rural setting, farming and other complementary activities such as nature based recreation, environmental restoration and conservation must be given greater regards than the 'twilight' industry of petroleum exploration and production.

16. Following the same rationale, CJT also object to STOS' proposal to include new policies in Section 2.1 *"which explicitly recognise petroleum exploration and production activities as an anticipated landuse in the rural environment alongside (and not in a manner subservient to) pastoral farming."*

Rural Industrial Zone

17. Re policy 2.6.7, CJT object to STOS' proposal to delete the reference to *"within the parameters of their concept plans"* so it reads *"Allow flexibility to enable the existing large-scale manufacturing and processing activities and sites to implement improved operational methods and plant efficiency."* It is critical that the parameters of the concept plans are respected.
18. CJT support Taranaki Regional Council's request that the district council list Kupe Production Station as a Rural Industrial Zone. It would appear that both Kupe and Rimu Production Stations, located in the "rural environment", are *"well-established and large-scale industrial activities"* (Plan Section 2.6). Listing them as Rural Industrial Zone could potentially help *"Protect the amenity values of the rural areas ... by managing the nature, scale and level of environmental effects originating from"* these sites (Policies 2.6.6).
19. Moreover, thorough assessment would be essential to review or develop site-specific concept plans to clearly define the "overall development envelope" (Policy 2.6.5). CJT argue that adequate buffer zones or separation distances must be defined within the concept plans, to protect the safety and amenity values of the neighbourhood. Our views on Rule 12.2.4 re the increase in the use, storage or handling of hazardous substances are presented in our original submission. Any other planned or potential increase and expansion of activities, not limited to hazardous substances, must be also strictly regulated.

Buffer Zones / Setback / Separation Distances

20. Submitters Philip and Ainsley Luscombe, Darryl and Alison Smith, Fiona Clark and others all raised concerns re imposing setback in properties beyond the boundary of (and not owned by) oil and gas wellsites, hazardous facilities or rural industrial sites.
21. Luscombe cited the *Winstone Aggregates v Matamata Piako District Council (2004)* as support for the argument that *"An industry cannot seek to impose a buffer zone on surrounding land unless it can demonstrate that it has taken all reasonable steps to internalise the effects that give rise to the reverse sensitivity issue."*
22. Smith, while agreeing with the buffer zone concept on new facilities, argued that setback should not be put in place retrospectively in neighbouring farm properties which compromise the property value and operations of the farms. This is an important point which warrants consideration, especially in the Smith's case where the family had appealed multiple times (1968, 1980 and 1998)

and requested buffer zones be put in place prior to the establishment of the now Kapuni Rural Industrial Zone.

23. Abbie and Mark Jury argued strongly that the 150m setback is far from enough for safety or preserving rural amenity. Jury argued that council *“planning and regulation must be based on the assumption that this [the maximum permitted] level of activity will take place”*. Jury also requested that *“setback distances be contained within the land owned by the consenting landowner ... Where special circumstances apply and the setback distance affects neighbouring landowners, give those owners affected party status as of right”*.
24. Fiona Clark also stressed that *“the setback distances (150-300m) are far too limiting to offer adequate protection to people’s health and safety”*. She also elaborated on the problems of using neighbouring boundaries and road reserves as site boundaries, neighbours’ lack of affected party status, impacts from site expansion, and succession issues following change of ownership, tenancy or consent conditions.
25. Taranaki Energy Watch also gave detailed analyses on the inadequate separation distances and other issues concerning many aspects of the plan.
26. CJT ask that council consider the above submitters’ points in depth.
27. The current situation in Taranaki is that all too often, companies expand their oil/gas operations over time or introduced new and more intrusive technologies, exacerbating their impacts on landowners who have consented for the original operations on their properties, and/or on neighbours who often don’t have a say from the start. Surely the onus for providing buffer zones should be on the oil companies; that the company must provide a safe working distance from any existing or possible (future-proof) dwellings or other sensitive landuse. This would also mean that companies must choose their drilling, production and waste disposal sites with more care and concern for landowners and occupiers (tenants, farm workers), neighbours and other landusers. In cases where set back distances already adversely affect landowners and occupiers, adequate and fair compensation should be provided to those who are affected.

Hazardous Substances and Contaminated Land

28. CJT object to PEPANZ’s proposal to add a third objective at 2.8.4 along the lines of *“To avoid duplication between the District Plan, the HSNO Act and other regulations...”* CJT believe in section 2.8, council provided an outline of the relevance of different legislation and authorities, including council itself, in respect to managing hazardous substances and contaminated land. The important point is not about avoiding duplication, but to effectively deliver council’s responsibilities in close coordination/cooperation with other authorities to achieve the best outcomes.
29. In relation to coordination, CJT support Ngaa Rauru’s proposal to include guidance in the Plan to encourage STDC and Taranaki Regional Council to process resource consents for landfarming, oil and gas exploration and other activities concurrently. As Ngaa Rauru pointed out, joint council hearings *“enhance the ability to coordinate decisions and conditions, and provides a more efficient process for the applicant and all affected parties”*. CJT believe such joint processes also foster transparency, enable the consideration and assessment of cumulative effects, and offer affected parties more protection (PCE,2014)³.

30. CJT object to STOS' proposed amendment to Section 12 notably Rule 12.2.4 re the increase in hazardous substances by more than 20%. Our original submission paragraphs u and v explained our rationale in this regard.
31. We support DOC's proposed amendment to Rule 12.1 re agrichemicals (See DOC submission point 21).

Energy and Climate Change

32. CJT support Meridian Energy's proposal to add definitions for "Energy Resource Activities" and "Industrial Activity", amend the definition for "Large Scale Renewable Electricity Generation Activities", and add an introductory statement to Section 2 along the lines of no single objective or policy should be read in isolation (See Meridian submission p.7 and 8).
33. In section 2.9, CJT strongly object to PEPANZ and STOS' proposals to add 'and development' to the third paragraph under the sub-heading 'Local Resources' which then read, "*A significant issue for the district is a need to recognise the presence of existing oil and gas operations and provide for their ongoing efficient and effective functioning, as well as to provide opportunities for further exploration and development.*" In fact, CJT would urge council to delete the clause on opportunities for further exploration in this paragraph.
34. We further propose that sections 2.9.5, 2.9.9, 2.9.10 and all other references in the Plan be amended to exclude any provision or support for fossil fuel prospecting or exploration at new sites or further development or expansion of existing sites. CJT therefore also object to PEPANZ's proposal to permit petroleum prospecting (except seismic surveys) in Residential, Township, Commercial and Industrial Zones (section 13.1.5b). The following two points provide the basis of our reasoning.
35. In the UN Climate Change conference in Paris last year, New Zealand, along with 194 other nations, agreed to "*Holding the increase in the global average temperature to "well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change"* (UNFCCC Paris Agreement Article 2 point 1(a)⁴ and "*Developed country Parties should continue taking the lead by undertaking economy-wide absolute emission reduction targets...*" (Article 4 point 4). The Conference of Party also "*Notes with concern that the estimated aggregate greenhouse gas emission levels in 2025 and 2030 resulting from the intended nationally determined contributions do not fall within least-cost 2°C scenarios but rather lead to a projected level of 55 gigatonnes in 2030, and also notes that much greater emission reduction efforts will be required than those associated with the intended nationally determined contributions in order to hold the increase in the global average temperature to below 2°C above pre-industrial levels by reducing emissions to 40 gigatonnes...*" (Decision II.17)
36. Bill McKibben (2015)⁵ explained, "*Translated into carbon terms: you don't get to go drilling or mining in new areas, even if you think it might make you lots of money... You've got to stop fracking right away (in fact, that may be the greatest imperative of all, since methane gas does its climate damage so fast). You have to start installing solar panels and windmills at a breakneck pace – and all over the world. The huge subsidies doled out to fossil fuel have to end yesterday, and the huge subsidies to*

renewable energy had better begin tomorrow. You have to raise the price of carbon steeply and quickly, so everyone gets a clear signal to get off of it...

Renewable Energy

37. CJT support Meridian Energy's statement that the effects of climate change and benefits of renewable energy (RMA Sections 7(i) and (j)) be taken into account *"to ensure there is an enabling policy framework for the on-going operation and development of existing renewable generation assets as well as the construction of new renewable generation when reviewing District Plans."* (Meridian submission point 2.15)

Coastal Protection Area and Coastal Environment

38. CJT share Ngaa Rauru's concern about the substantial reduction of the Coastal Protection Area and request for full protection of these areas, including setback distance from land farming and other earthworks.
39. We support the Department of Conservation's call to amend policy 2.15.7 to, *"Protect [rather than identify] Coastal Protection Areas to recognise the extent and characteristics of the coastal environment..."*
40. We share the same concern as DOC re Rule 17.1.1(a)(x) the installation of underground pipelines using directional drilling techniques within the Coastal Protection Area (See DOC submission point 27), and ask that any new drilling through the Coastal Protection Area such as for petroleum, or to link up offshore fields, be classified Prohibited.
41. We object to Meridian Energy's proposal to amend policy 2.9.11, so it reads *"Manage significant adverse effects associated with ~~restrict~~ the investigation/exploration/prospecting, development, use and production/generation of energy resource activities in the Coastal Protection Area, outstanding Natural Features and Landscapes, and urban environments"* (Meridian submission p.11). CJT believe there is a need to restrict renewable energy resource activities in these areas, to avoid, remediate and mitigate their adverse effects, and in view of sea level rise, extreme weather events and escalating coastal erosion (PCE, 2015)⁶.
42. Following the same rationale, CJT also object to Meridian's proposed amendment to Rule 13.1.4(a)(iii) and 13.1.5(a)(iii) to make large-scale renewable electricity generation activities that is located in the Coastal Protection Area but not in an area of Outstanding National Features and Landscapes Discretionary [rather than Non-complying] (Meridian submission point 45).
43. CJT's original submission has given reasons to excluding petroleum activities in the Coastal Protection Area or an area of Outstanding Natural Feature/Landscape (ONFL). CJT therefore strongly object to PEPANZ and STOS' proposals to delete policy 2.9.11 and STOS' proposal to include an additional discretionary activity rule under Section 13.1 for new petroleum pipelines and pipeline marker beacons in the Coastal Protection Area or an area of ONFL.
44. We wish to clarify however that existing petroleum installations such as pipelines have a functional requirement to exist, and be maintained professionally while in production, and properly decommissioned at the end of production life. CJT agree with PEPANZ's proposal that 20.5.20(i) be

amended to include existing petroleum pipelines in the coastal environment, and STOS' proposal to include under permitted activity Rule 13.1 the continued operation and maintenance of existing pipelines and pipeline marker beacons in all areas.

45. Following similar rationale, CJT object to NZOG's proposal to exclude the shoreline crossing to Kupe and Rimu production stations from 2.9.11. Notably the Coastal Protection Area near to the Kupe production station also include an area of Outstanding Natural Feature/Landscape (ONFL5) which warrants protection, including from any form of new drilling. However CJT would accept amendments that allow for maintenance of existing pipelines such as that linking the Kupe production station and Kupe wells offshore, and those linking the Rimu station with existing onshore wells, but not any new pipeline to the Kaheru⁷ 'prospect' 8km offshore. Kaheru has not been drilled yet and should not be explored, for reasons stated above (See points 8, 9, 35 and 36 on climate change).
46. In regards to Section 17.1.1, CJT object to Federated Farmers' proposal to include agriculture as a Permitted activity in the Coastal Protection Area. Agriculture, if not well managed, will compromise or degrade the characteristics and conservation values listed in policy 2.15.7, and exacerbate problems notably coastal erosion associated with climate change. Discretionary or Restricted Discretionary status would be more appropriate.

Indigenous Biodiversity and Waterbodies

47. In terms of Indigenous Biodiversity, CJT support DOC's proposed amendment to Policies 2.17.5 and 2.17.7, giving a greater level of protection to indigenous vegetation, habitats of indigenous fauna, species that are threatened or at risk and ALL wetlands. CJT also support DOC's proposal to add two new policies (See DOC submission points 15 and 17).
48. Ngaa Rauru asked to retain generally enabling provisions for biodiversity enhancement in the District Plan. CJT fully support this.
49. CJT object to Federated Farmers' proposal to delete policies 2.17.7(d) and (e) concerning threats from uncontrolled grazing.
50. NZ has already lost 70% of its indigenous vegetation and this loss is not just historic (Joy, 2014)⁸. In the last sixty years, the loss of native habitat in agricultural land has been extensive. In 1950, 53% of agricultural land was covered in indigenous vegetation and that has shrunk to less than 8% now (Moller, et al. 2008)⁹. Some 2788 species, amounting to a third of all plant and animal species in NZ, are listed as threatened or at-risk, with another one third listed as 'data deficient' (Seabrook-Davison, 2010)¹⁰, many of which are potentially at risk. It is therefore of critical importance that any threats on the remaining indigenous vegetation and habitats are considered and managed, if not avoided, remedied or mitigated.
51. We support DOC's proposed amendment to Policy 2.18.7, giving a greater level of protection to significant waterbodies.

Natural Environment Rules

52. CJT share Taranaki Regional Council's concern over Rules 17.1.4 concerning vegetation clearance, especially in Significant Natural Areas, Coastal Protection Area and Regionally Significant Wetland. As written in our original submission, CJT request that such clearances be Prohibited or Non-complying.
53. We support DOC's proposed amendment to Rule 17.1.1(a) and addition of Rule 17.1.3(a) which classify new or the upgrading of flood control, erosion control, or drainage works carried out by or on behalf of Taranaki Regional Council as Restricted Discretionary, rather than Permitted (See DOC submission point 24).

CJT wish to participate in informal meetings organised by council to clarify our submissions and be heard at the public hearing.

¹ MBIE, 2015. Energy in New Zealand. Ministry of Business, Innovation & Employment. <http://www.mbie.govt.nz/info-services/sectors-industries/energy/energy-data-modelling/publications/energy-in-new-zealand/Energy%20in-New-Zealand-2015.pdf>

² MBIE data, 2015. Data tables for gas. Ministry of Business, Innovation & Employment: <http://www.mbie.govt.nz/info-services/sectors-industries/energy/energy-data-modelling/statistics/gas>

³ PCE, 2014. Drilling for oil and gas in New Zealand: Environmental oversight and regulation. Parliamentary Commissioner for the Environment. <http://www.pce.parliament.nz/publications/drilling-for-oil-and-gas-in-new-zealand-environmental-oversight-and-regulation>

⁴ UNFCCC, 2015. Adoption of the Paris Agreement, Conference of the Parties Twenty-first session, Paris, 30 November to 11 December 2015. FCCC/CP/2015/L.9/Rev.1 <https://unfccc.int/resource/docs/2015/cop21/eng/l09r01.pdf>

⁵ McKibben, B. 2015. Climate deal: the pistol has fired, so why aren't we running? The Guardian, 13 Dec 2015.

⁶ PCE, 2015. Preparing New Zealand for rising seas: Certainty and Uncertainty. Parliamentary Commissioner for the Environment. <http://www.pce.parliament.nz/publications/preparing-new-zealand-for-rising-seas-certainty-and-uncertainty>

⁷ NZOG website, accessed on 27 Jan 2016. Farmin opportunity. <https://www.nzog.com/farmin-opportunity/>

⁸ Joy, Mike, 2014. Paradise Squandered; New Zealand's Environmental Asset Stripping. The 2014 Bruce Jesson Memorial Lecture Mike Joy. <http://www.brucejesson.com/2014-bruce-jesson-lecture-available/>

⁹ Moller, H., C.J. MacLeod, J. Haggerty, C. Rosin, G. Blackwell, C. Perley, S. Meadows, F. Weller, and M. Gradwohl, 2008. Intensification of New Zealand agriculture: implications for biodiversity. NZ Journal of Agricultural Research 51:253-263.

¹⁰ Seabrook-Davison, M.N.H. 2010. An evaluation of the conservation of New Zealand's threatened biodiversity: management, species recovery and legislation: a thesis presented in partial fulfilment of the requirements for the degree of Doctor of Philosophy in Ecology at Massey University, NZ.

<http://mro.massey.ac.nz/bitstream/handle/10179/1246/02whole.pdf?sequence=1&isAllowed=y>