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## Submission on Proposed South Taranaki District Plan

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### Introduction

This document constitutes the Petroleum Exploration and Production Association of New Zealand's (PEPANZ) submission in respect of the Proposed South Taranaki District Plan ("the Plan"), which was publicly notified on 15 August 2015. PEPANZ's members include private sector companies holding petroleum exploration and mining permits, service companies and individuals working in the industry.

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

We do wish to be heard in support of our submission.

PEPANZ considers the Plan developed by the South Taranaki District Council outlines a comprehensive approach to managing relevant effects under the Resource Management Act for the district. In the following section of this submission we submit on specific objectives, policies and rules contained in the Plan.

## Submission on specific objectives, policies and rules in the Plan

Provisions	Support/ Oppose	Reasons for submission	Relief Sought
1.11 Definitions			
“HAZARDOUS FACILITY”	Support with amendments	The relationship of this definition to that of “Major Hazardous Facility” could be made clearer. The definitions are currently crafted quite differently and interconnections between them are not certain. Is for example a type of facility specifically exempted from the definition of “Major Hazardous Facility” still a “Hazardous Facility” on the basis of meeting one of its limbs?	Consider redrafting to make the application of “Hazardous Facility”, and its linkages to “Major Hazardous Facility”, more certain.
“INDUSTRIAL ACTIVITY”	Support with Amendment	It is unclear whether the new definition of Industrial Activity, as currently drafted, covers activities such as petroleum exploration or production as “manufacturing” or “processing”.	Consider redrafting to make the application of “Industrial Activity” clearer.
“MAJOR HAZARDOUS FACILITY”	Support with Amendment	We support the exclusion of petroleum exploration and petroleum production from the definition of Major Hazardous Facility where the <i>HSE (Petroleum Exploration and Extraction) Regulations 2013</i> apply in interests of avoiding regulatory duplication and overlap. We note that such facilities are also subject where relevant to controls under the <i>HSE (Pressure Equipment, Cranes, and Passenger Ropeways) Regulations 1999</i> in terms of for example the inspection and certification of pressure vessels at production sites and so are strongly regulated.  However, we consider this exclusion from the scope of	Provide that all facilities covered by the <i>Health and Safety in Employment (Petroleum Exploration and Extraction) Regulations 2013</i> , even where they meet the items (c) and (e) of the current definition are exempted from the definition of Major Hazardous Facility.  Provide that facilities subject to the <i>Health and Safety at Work (Major Hazard Facilities) Regulations</i> , to be in force from April 2016, should also be exempted from the definition of Major Hazardous Facility.

		<p>Major Hazardous Facility should clearly also apply to petroleum facilities subject to the <i>HSE (Petroleum Exploration and Extraction) Regulations 2013</i> where a facility also meets one or more of items (c) and (e) as follows:</p> <p>“(c) The storage/use of more than 100,000L of petrol  (d) The storage/use of more than 50,000L of diesel.  (e) The storage/use of more than 6 tonnes of LPG.”</p> <p>Otherwise the policy intent of excluding such facilities in clause (a) on the basis they are subject to the <i>HSE (Petroleum Exploration and Extraction) Regulations 2013</i> would not be achieved if they are subject by way of any of clauses (c) – (e).</p> <p>We note the coming introduction of the <i>Health and Safety at Work (Major Hazard Facilities) Regulations</i> in April 2016. The same logic would suggest these facilities should also be exempted from the definition of Major Hazardous Facility.</p> <p>We also note the upcoming “<i>Health and Safety at Work (Petroleum Exploration and Extraction) Regulations 2015</i>”, may not be made until <u>2016</u> and so this date <u>may</u> need to be updated. This will become clearer in coming months.</p>	
“NETWORK UTILITY”	Support with amendments	The application of this definition to pipelines containing various types of liquid petroleum, not just gas, should be made more certain by adding “or liquid” or by inserting a comma between “gas” and	Request insertion of the words “or liquid” or the insertion of a comma between “gas” and “petroleum” in clause (a) of the definition, to make it clear that Network Utility includes pipelines conveying liquid

		“petroleum” in clause (a) of the definition. This would also align it with the corresponding definition in section 166 of the Resource Management Act 1991, which has a comma between the words “gas” and “petroleum”.	petroleum products such as LPG and oil as well as those conveying gas.
“PETROLEUM PROSPECTING”	Support	We support this but suggest the word “energy” in the second line is replaced with “petroleum”. Using “energy” is unnecessarily wide.	
“RURAL CHARACTER AND AMENITY”	Add new provision	The terms “rural amenity” and “rural character and amenity” are used throughout the Plan. We consider insertion of a definition in line with the RMA’s definition of “amenity values” and reconciled with the definition (of sorts) that appears in second to last paragraph on page 1 of Section 2 would be appropriate and make application of the Plan more certain.	Insert a definition for “Rural Character and Amenity” that is in line with the RMA’s definition of “amenity values”.
Section 2.1 Rural Zone	Support with amendments	This whole section appears to be presented and written with the presumption that farming is the only “productive land use” and that other rural based activities will only be allowed if they fit in with this dominant land use. In the Taranaki context, petroleum exploration and production activities are highly productive uses of land, and generally of low and largely temporary environmental impact.	Adjustments to the text of Section 2.1 to remove the presumption referred to in our comments, and restore some balance to the text. In particular: <ul style="list-style-type: none"> <li>• ‘Issue 2.1.1’ Re-write as: “Need to provide for productive land uses and rural servicing industries while.....”</li> <li>• Consider defining “Productive land use” and “productive working environments” to, amongst other things, include petroleum exploration and production activities.</li> <li>• Insert the words “and other rural-based activities” between words farming and activities to make it clear that it is not just farming activities that suffer from reverse sensitivity.</li> </ul>

Heading above 2.1.15 on page 4.	Drafting comment	We note the “Rural industrial” being referred to here risks being confused with the “Rural industrial Zone”, which is different. Suggest removing the word “Rural” from the heading to signify it is simply referring to Industrial Activity, as defined in definitions section, in relation to the Rural Zone.	
2.6 Rural Industrial Zone	Support	PEPANZ supports the intent to protect and provide for the ongoing operation of large scale processing facilities within the Rural Industrial Zone, such as the Maui and Kapuni Production Stations, which is given effect to by the objectives and policies outlined in Section 2.6. It is important however that the permitted activity performance standards provided enable the ongoing effective and efficient operation of these facilities. We anticipate expect individual operators from the relevant sectors will provide specific comments on those aspects of the Plan.	
2.8 Hazardous Substances and Contaminated Land	Support	PEPANZ supports the approach outlined in this section and the focus on avoiding regulatory duplications. We suggest the inclusion of a third objective along the lines of the following to make this clear “To avoid duplication between the District Plan, the HSNO Act and other regulations relating to the management of hazardous substances”.	Consider inclusion of a third objective at 2.8.5 along the lines of the following: “To avoid duplication between the District Plan, the HSNO Act and other regulations relating to the management of hazardous substances”.

2.9 Energy	Support with amendments	PEPANZ appreciates the recognition given in this section to the socio-economic benefits associated with the oil and gas industry in Taranaki (in particular objective 2.9.5) but we would like to see some minor adjustments to the text.	<p>In the section headed “Local Resources” on page 36:</p> <ul style="list-style-type: none"> <li>• Add reference to other significant petroleum facilities in the region, such as the Kupe Production Station.</li> <li>• Amend first sentence in the third paragraph to 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 <u>and development.</u>”</li> </ul>
2.9.5 & 2.9.10	Drafting comment	We suggest “prospecting” should come before “exploration”. This is how that is commonly drafted in other regulatory documents.	
2.9.11 Energy – Policies, General	Oppose	In PEPANZ’s view this policy is inappropriate because it targets “energy resource activities” (only) and could be read as excluding them within the Coastal Protection Area, Outstanding Natural Features and Landscapes, and urban environments irrespective of their effects, which could be minor. We consider policy 2.9.11 should be deleted and the Plan should rely instead on the effects-based policies in the relevant sections to achieve its objectives for management of the Coastal Protection Area, Outstanding Natural Features and Landscapes, and urban environments.	Delete policy 2.9.11 and rely on the effects-based policies in the relevant sections to achieve its objectives for management of the Coastal Protection Area, Outstanding Natural Features and Landscapes, and urban environments.

2.9.13 Oil and Gas Energy Activities	Support	We support this policy as it recognises the fact that petroleum resources are located where they are located and require certain activities to be employed to be identified and extracted. In this respect they are similar to many renewable energy resources.	
2.18.9(d) Waterbodies – Policies	Support	We support the recognition in this policy of the functional necessity for some infrastructure to be located in or near waterbodies. We note pipelines can in some circumstances be routed under waterbodies with no effect on the waterbody.	
3.2.2 Performance Standards - Permitted Activities, Bulk and Location	Support with amendment	<p>We support formal setbacks from industrial activities, such as petroleum exploration and production, for permitted activities in the Rural Zone. We consider however that a larger than 150m setback for <u>permitted</u> activities would be appropriate and would align better with other relevant regional provisions.</p> <p>The 150m setback distance proposed for petroleum exploration and production activities is the same as that proposed for some other industrial type activities but smaller than that applying to the Rural Industrial Zone (300m), some of which are petroleum production facilities, or from a hazardous facility (200m), which may include petroleum facilities (see above comments), or from intensive farming buildings (300m). Based on these comparisons a larger distance would seem appropriate.</p> <p>In relation to other regional provisions we note for instance that Rules 9 and 11 of the Regional Air Quality Plan for Taranaki (hydrocarbon exploration</p>	Consider a larger setback distance for petroleum exploration and production activities of 200m or 300m.

		well sites and gas treatment or production plants) are controlled activities where the flare or incinerator point is at least 300m from any dwelling house. If closer than this then becomes restricted discretionary. Yet under the provisions proposed in the Plan someone could build within 150m of such a site on a permitted basis.	
Rule 8.1.3 Restricted Discretionary Activities	Oppose in part	<p>Making any activity which does not meet discrete performance standard a full discretionary activity is not the most appropriate way of achieving the objectives of the Plan.</p> <p>Where only one discrete aspect of an activity does not meet a performance standard the Plan should focus the consent process on the effects of that non-compliance. This should be done by including a new restricted discretionary activity rule to this effect</p>	<p>Amend Rule 8.1.3 as follows:</p> <p><b>8.1.3 RESTRICTED DISCRETIONARY ACTIVITIES</b></p> <p>The following activities are restricted discretionary activities in the Rural Industrial Zone:</p> <p>...</p> <p>(c) Any permitted activity listed in Section 8.1.1 which does not meet one or more of the performance standards for permitted activities in Section 8.2.</p> <p>Matters to which the Council restricts its discretion:</p> <p>(i) The effects on the environment of the part(s) of the activity which do not meet the performance standards for permitted activities in Section 8.2.</p>



Rule 8.1.4 Discretionary Activities	Oppose in part	<p>Making any activity which does not meet discrete performance standard a full discretionary activity is not the most appropriate way of achieving the objectives of the Plan.</p> <p>Where only one discrete aspect of an activity does not meet a performance standard the Plan should focus the consent process on the effects of that non-compliance. This should be done by including a new restricted discretionary activity rule to this effect</p>	<p>Amend Rule 8.1.4 as follows:</p> <p><b>8.1.4 DISCRETIONARY ACTIVITIES</b></p> <p>(a) Any activity that is not listed as a permitted, controlled, restricted discretionary, non-complying or prohibited activity.</p> <p><del>(b) Unless listed elsewhere in the District Plan, any permitted activity listed in Section 8.1.1 which does not meet one or more of the performance standards for permitted activities in Section 8.2.</del></p> <p>(c) Any buildings, works, structures or activities that is not in accordance with the relevant Concept Plan in the Appendix of this section.</p>
9.1.2 Subdivision and Development Rules – Controlled Activities	Support with amendment	<p>While the consideration of reverse sensitivity effects is welcomed and a step in the right direction, the subdivision activity is still classified as a controlled activity meaning consent must be granted regardless. This risks making these fairly ineffective provisions. Subdivision and development in the vicinity of petroleum exploration (e.g. well sites) and/or production activities or other similar activities would need to be assessed as a type of discretionary activity for the provisions to have weight. There would also need to be an agreed buffer zone so the rule was transparent, able to be applied consistently and able to be enforced.</p>	<p>Consideration be given to amending the Plan to make the subdivision of land containing or adjoining a wellsite or petroleum production station a Restricted Discretionary Activity.</p>
11.2.10 Noise – Permitted Activity Performance Standards		<p>The adoption of the 2008 versions of NZS6801 and 6802, and with that the use of the Leq parameter in place of the previous L10, is a positive step. These versions of the standards are being used more and more commonly throughout New Zealand, either</p>	<p>We request that the guidance given in NZS6802:2008 is implemented and hence that it is stipulated in the Plan that the permitted activity noise limits are to be achieved “within the notional boundary of any Rural Zoned site”.</p>

		<p>through resource consent conditions or as plans are being revised.</p> <p>Unfortunately the proposed noise rules still retain the rural zone assessment position as being “at any point within the boundary of any Rural Zoned site”. This assessment position is contrary to the guidance given in NZS6802:2008. In brief, the rationale is that the noise limits set are to protect people around their dwellings and not uninhabited tracts of land. It should be noted that Council has accepted the use of notional boundary concept in the Temporary Military Activity noise rules. Furthermore, the lighting rule in 3.2.4 requires assessment at the notional boundary of an existing dwelling unit in the Rural Zone.</p>	
12 Hazardous Substances Rules	Support	We support the policy intent of not duplicating functions relating to hazardous substances already undertaken by other regulators such as the Environmental Protection Authority and WorkSafe New Zealand.	
13.1.5(b) Non-Complying Activities in the Residential, Township, Commercial and Industrial Zones	Oppose	<p>We oppose the blanket non-complying status of <u>petroleum prospecting</u> in the Residential, Township, Commercial and Industrial Zones. Given “petroleum prospecting” covers all of the following, some of which have almost no effect, it is overly restrictive to make all these activities non-complying to achieve relevant objectives:</p> <p>“(a) Geological, geochemical, and geophysical surveys (i.e. seismic surveys);</p> <p>(b) The taking of samples by hand or hand held methods; and</p>	<p>The Plan is amended so that:</p> <ul style="list-style-type: none"> <li>• “petroleum prospecting”, with the exception of geophysical surveys (seismic surveys), be classified as permitted (subject to conditions if necessary) in the Residential, Township, Commercial and Industrial Zones.</li> <li>• Geophysical surveys (i.e. seismic surveys) are classified as Discretionary in the Residential, Township, Commercial and Industrial Zones.</li> </ul>

		<p>(c) Aerial surveys.”</p> <p>Everything aside from seismic surveying (i.e. geological and geochemical surveys, the taking of samples by hand or hand held methods; and aerial surveys) have negligible impacts at most and so should be permitted activities.</p> <p>The effects of seismic surveying vary depending on various factors and so a discretionary activity classification for the Residential, Township, Commercial and Industrial Zones would allow these to be considered. If for example only receivers were sited in the Industrial Zone the impact of a survey could be minor and so a blanket non-complying status is unnecessarily restrictive.</p>	
14.2.2 Undergrounding of Lines and Gas Pipes	Support with amendment	<p>Whilst the undergrounding requirement already recognises that pipelines may need to be above ground for river crossing it should also recognise the reality that in some cases it is also necessary for pipelines to briefly come above ground for practical reasons (e.g. local gas gates). We note that 14.4.1 allows for “and ancillary aboveground equipment” in relation to underground pipelines.</p>	<p>Provide in this rule for pipelines and ancillary equipment to come above ground for practical infrastructure reasons.</p>

16.7 Heavy Vehicle Traffic Contributions	Support with amendment	All relevant factors should be considered so that only reasonable costs are applied. At the moment no guidance or criteria is provided on how this will occur. An issue that needs to be taken into account is the degree of benefit received by other heavy vehicle road users and the wider public from any road upgrading that takes place.	Revise the rule to provide relevant criteria for outlining how heavy vehicle traffic contributions will be determined.
20.5.20(i)	Support with amendment	Hydrocarbon pipelines from offshore fields to onshore production stations have a functional requirement to cross and therefore be located within the Coastal Protection Area and this should be explicitly recognised.	The “e.g.” in 20.5.20(i) should include petroleum/hydrocarbon pipelines in the list of potential activities recognised as having a functional requirement to be located within the Coastal Protection Area.