

22 November 2019

Submission on the New Plymouth Proposed District Plan
New Plymouth District Plan
Submitted via email to enquiries@npdc.govt.nz

PEPANZ Submission: New Plymouth Proposed District Plan

Introduction

This document constitutes the Petroleum Exploration and Production Association of New Zealand's (**PEPANZ**) submission on the New Plymouth District Council's Proposed District Plan (**PDP**).

PEPANZ represents private sector companies holding petroleum exploration and mining permits, service companies and individuals working in the industry.

PEPANZ welcomes the opportunity to provide a submission on the Proposed District Plan. We appreciate the iterative process taken by the District Council leading up to this formal notification.

This submission generally supports the plan, but recommends some changes to sections relating to Energy, Hazardous Substances, Major Facility Zones, Noise and Definitions. This submission generally quotes the relevant section of the plan and then makes remarks on each cited point.

PEPANZ supports all other petroleum-related provisions in the Proposed Plan that we do not specifically comment on in this submission.

PART 1: STRATEGIC OBJECTIVES

1. How petroleum activities fit into the hierarchy of objectives and policies

The PDP introduces a hierarchy, under which the "strategic objectives" effectively take precedence over all other chapter objectives and policies (which are to be read and achieved in a manner consistent with these overarching strategic objectives). The strategic objectives are set out under the following subheadings:

- HC - Historic and Cultural
- NE - Natural Environment
- TW - Tangata Whenua
- UFD - Urban Form and Development.

Some of the Urban Form and Development objectives provide a level of support for general growth and development including primary production and rural industry, but there is no express support for energy activities or oil and gas activities. This appears to be because specific objective and policy support for oil and gas activities is focused in the energy chapter. This is also an issue because the terms rural industry and primary production have been defined to exclude petroleum activities.

Under the Operative District Plan a defining element of rural character is rural-based industry, which specifically includes petroleum exploration and production activities. However, in the PDP, rural industry means an industry or business undertaken in a rural environment that directly supports, services, or is dependent on **primary production**. Under the PDP **primary production** includes **any mining** and initial processing of commodities that result.

However, petroleum prospecting, petroleum exploration and petroleum mining are excluded from the **mining** definition. This seems to contradict Objective RPROZ-04 which refers to oil and gas activities as rural industry facilities. We consider that oil and gas activities should be recognised as rural industry as the rural production zone is where the resources and facilities typically exist.

PART 2: HAZARDOUS SUBSTANCES

2. Avoiding identified features

HAZS-P6 Avoid locating significant hazardous facilities on or within any identified feature or identified natural hazard areas and ensure that significant hazardous facilities are sufficiently set back from significant waterbodies, scheduled archaeological sites and sites and areas of significance to Māori, so as to avoid adverse effects on identified features or identified natural hazard areas.

PEPANZ Comment: Unless these so-called “identified features” are already identified we cannot judge what this means for our operations, and this is very uncertain. Given the weight an “avoid” policy carries, we consider these areas should be identified now or otherwise be required to go through a very robust identification process before being set.

We are unclear on how this policy will apply in relation to existing sites, as many are already close to such features. We assume that existing sites must be “grandfathered” in so they can continue operating.

3. Use of the words Minimise and Internalise

HAZS-O1 The benefits associated with activities involving the use, storage, disposal and transportation of hazardous substances are recognised while ensuring that unacceptable risks to the environment and human health are avoided and that any residual risks are **minimised** as low as reasonably practicable.

HS-P4 Manage significant hazardous facilities to ensure they are located, designed, constructed and managed to **internalise** adverse effects on the environment and human health within the facility’s site and by:

avoiding unacceptable risk; and

minimising residual risk to as low as reasonably practicable.

HAZS-P8 Ensure that new or expanded significant hazardous facilities are located appropriately, having regard to:

1. the type, scale, intensity, duration and frequency of the effects of the activity on the environment and human health and safety;
2. the extent to which adverse effects can be avoided, or where avoidance is not possible, remedied or mitigated;
3. the design and site layout of the activity and its ability to **internalise** effects within the activity's site;
4. adverse traffic generation, light overspill, and noise effects;
5. whether the activity has the potential to compromise tangata whenua's relationship with their ancestral lands, water, sites, wāhi tapu, and other taonga and if so, the outcomes of any consultation with tangata whenua, including with respect to mitigation measures; minimisation of long-term visual and landscape effects through site selection, screening and landscaping;
6. adequate separation from identified features and sensitive activities to ensure conflict between activities, adverse effects and reverse sensitivity effects are minimised;
7. avoidance or management of risks associated with natural hazards.
8. any potential adverse cumulative or synergistic effects; and
9. whether effective rehabilitation of the site will occur, either by a staged process or at the end of the life of the facility, having regard to the expected life of the facility.

PEPANZ Comment: We prefer “minimising residual risk” is changed to “managing residual risk”. This is because once unacceptable risk is avoided, any residual risk is by definition acceptable and it should not have to be minimised further. If anything, risk should be managed in line with the concept of ALARP – As Low As Reasonably Practicable.

We do not support retaining policy to ‘internalise risk’ as this is a higher test than generally required in the RMA. If NPDC does not agree, then at least “Avoiding unacceptable risk” should be made in relation to existing sensitive features, and requirements to internalise effects should be only “as far as practicable”

PART 3: ENERGY

4. Gas as a feedstock

PEPANZ Comment: The overview should acknowledge that a large amount of natural gas is used as a feedstock for petroleum-based products such as methanol and fertilizers.

5. Use of the word minimise

ENGY-O2 Energy activities are designed and located to minimise adverse effects on communities and the environment while recognising their technical, locational and operational constraints.

PEPANZ Comment: The word “minimise” should be replaced with the more standard wording “avoid, remedy or mitigate”.

6. Logical sense of the list

E-P9 When the location of oil and gas activities is constrained by the location and/or accessibility of the natural resource, require those activities to appropriately avoid, remedy or mitigate adverse effects and to demonstrate that:

1. there are no practicable alternatives to access the resource from a different location which would enable the avoidance, remediation and/or mitigation of adverse effects to a greater degree;
2. risks to people, property and the environment are avoided or mitigated;
3. industry best practice and best practicable options will be adopted;
4. appropriate remediation and environmental offsets are provided; and
5. the positive effects likely to be derived from the oil and gas activity.

PEPANZ Comment: The fifth point (“the positive effects...”) does not flow on from what precedes the colon and needs to be reworded.

7. Submission topic

MFZ-O2 Adverse effects generated by the operation, maintenance and repair, upgrading and/or development of major facilities are avoided, remedied or mitigated as far as practical.

PEPANZ Comment: ‘Practical’ should be amended to read ‘practicable’.

8. Public access through facility sites

MFZ-P6

Require concept plans to be prepared for each major facility site, and that these plans contain a level of detail necessary to ensure that the facility is operated, maintained and repaired, upgraded and developed in a comprehensive, coordinated and efficient way, including:

....

1. the provision of public access to the coast and/or any waterbodies, including connectivity to, from and within the site.

PEPANZ comment: If this policy intends to require that public access is provided within major facilities this is unlikely to be practicable, safe, or desirable. We recommend this be deleted.

PART 5: DEFINITIONS

9. Reference to minerals

PETROLEUM EXPLORATION means any activity undertaken for the purpose of identifying petroleum deposits or occurrences and evaluating the feasibility of mining particular deposits or occurrences of one or more petroleum substances, and includes any drilling, dredging, use of explosives, excavations (whether surface or sub-surface), hydrocarbon testing, initial production and associated site development activities that are reasonably necessary to determine the nature and size of a **mineral** deposit or occurrence.

PEPANZ Comment: Change 'mineral' to 'petroleum'.

10. Definition of seismic surveys

SEISMIC SURVEY means any survey undertaken for the purpose of petroleum exploration or production that uses explosives as the seismic energy source.

PEPANZ Comment: There are seismic surveys (onshore) which don't use explosives, i.e. using vibroseis trucks. Should these also be included in the definition, to provide clarity that such an activity is also allowed under E-P1 since it's not using explosives?

PART 6: NOISE

11. Table of comments on Noise rules

Plan reference	Support/ Oppose	Issue	Suggested solution
Definition	Oppose	Notional boundary definition	Amend provision to provide for issues raised. Use the precise wording as contained within the National Planning Standards (NPS): <i>means a line 20 metres from any side of a building that contains an activity sensitive to noise, or the legal boundary, if it is closer to that building</i>
Noise-S1	Oppose	Site boundary noise limit (55dB L _{Aeq}) with boundary of any Rural Production Zone site	Amend provision to provide for issues raised. Delete and rely on notional boundary noise rule.
Noise-S1	Oppose	Use of day/evening/night. Not based on complaints that require this change.	Amend provision to provide for issues raised. Retain Operative Plan day night split 7am to 10pm and 10pm to 7am respectively.
Noise-S1	Oppose	Night-time noise limit of 40dB L _{Aeq} . No evidence justifying why noise limit should be reduced by 5dB from Operative Plan	Amend provision to provide for issues raised. Night-time noise limit of 45dB L _{Aeq(15 min)} at notional boundary
Noise-S1	Oppose items 1 and 2	Matters of discretion. Item 1 is not clear how the ambient noise levels are to be used in determining whether non-compliance with Permitted Activity noise rules is acceptable.	Amend provision to provide for issues raised. Delete or replace with specific and accurate requirement to quantify whether non-compliance with noise standard is acceptable.

Plan reference	Support/ Oppose	Issue	Suggested solution
		Item 2 relates to matters set out in Noise-P2 which relates to sound attenuation along state highways/railways with regard to outdoor amenity. This is not a consideration for all activities and should be made activity specific.	Amend provision to provide for issues raised. Delete consideration of policy Noise-P2 as a matter of discretion and/or consider rewriting with precision and clear outcome and make activity specific.
Noise-S2	Oppose	(1) Construction noise – matters of discretion not applicable to construction noise. NZS6803:1999 sets noise limits for a range of construction periods and receiver types and also addresses potential non-compliance with NZS6803 noise limits. The proposed matters of discretion are not required with respect to construction noise.	Amend provision to provide for issues raised. Item 1 – delete or replace with specific and accurate requirement to quantify whether non-compliance with noise standard is acceptable. Item 2 – delete consideration of policy Noise-P2 as a matter of discretion or consider rewriting with precision and clear outcome.
Noise-S2	Oppose	(4)(1) Site boundary noise limit (60dB L _{Aeq}) with boundary of any Rural Production Zone site. The basis of the 60dB L _{Aeq} short term relaxation appears arbitrary and not supported by fact.	Amend provision to provide for issues raised. Delete and rely on notional boundary noise rule.
	Oppose	(4)(2) Use of day/evening/night.	Amend provision to provide for issues raised. Retain Operative Plan day night split 7am to 10pm and 10pm to 7am respectively.
	Support	(4)(2) 45dB L _{Aeq} at night.	Amend provision to provide for issues raised. Include night-time noise limit of 45dB L _{Aeq} throughout Rural Zone noise rules.
		(4)(2) Matters of discretion comments a per Noise-S1	Amend provision to provide for issues raised. Item 1 – delete or replace with specific and accurate requirement to quantify whether non-compliance with noise standard is acceptable. Item 2 – delete consideration of policy Noise-P2 as a matter of discretion or consider rewriting with precision and clear outcome.
Major Facility Zone	Support	(8)(1) Major facilities zone precincts intra zone noise 1(a) 70dB L _{Aeq}	Amend provision to provide for issues raised. MFZ to MFZ noise limit should be high as activities in MFZ are considered insensitive to noise.

Plan reference	Support/ Oppose	Issue	Suggested solution
	Oppose	(8)(2) Site boundary noise limit too constraining	Amend provision to provide for issues raised. Revert to notional boundary noise position of measurement and assessment of environmental sound.
	Oppose	Use of day/evening/night. Not based on complaints that require this change.	Amend provision to provide for issues raised. Retain Operative Plan day night split 7am to 10pm and 10pm to 7am respectively.
	Support	Day-time noise limit of 55dB L _{Aeq} .	Amend provision to provide for issues raised. Considered best practice nationally.
	Support	Night-time noise limit of 45dB L _{Aeq} .	Amend provision to provide for issues raised. Considered best practice nationally.
	Oppose	Noise contours for specific sites are only visible when a site is selected electronically.	Amend provision to provide for issues raised. Indicate under the MFZ Precinct sites which have noise contours and where these are.
Section 32 report	Oppose	Acousafe report not attached to S.32 report. No cost benefit analysis of noise related mitigation, unnecessary consenting, opportunity cost of delay in obtaining resource consent.	Amend provision to provide for issues raised. Provision of Acousafe report on which Council has based their proposed Plan provisions regarding noise. Provision of cost benefit analysis of proposed changes to Plan provisions regarding noise.
	Oppose	Acousafe advice recommended combining Pohokura Production Station and Methanex Motonui cumulative noise management strategy	Amend provision to provide for issues raised. Ensure no such proposal is considered without all parties being involved.