

# Proposed South Taranaki District Plan

## Statement presented by Climate Justice Taranaki Incorporated

### Hearings session 27 June 2016

Rural Zone, Rural Industrial Zone, Coastal Environment, Natural Features / Landscapes

## Scope of Statement

1. This statement by Climate Justice Taranaki Incorporated (CJT) primarily concerns permitted activities in the rural-industrial zone, landfarming and the Coastal Protection Area.
2. Through this statement, we reiterate some of the key points of our original and further submissions, and responds to the relevant S42A Officers' reports and some of the evidence tabled during the course of the hearings.
3. We highlight the issues of consent creep and shifting baseline, and what sustainable management truly means in the face of climate change.

## Permitted Activities in the Rural-Industrial Zone

4. As stated in last week's hearings, we emphasize that no petroleum associated activities or other hazardous facilities should be Permitted without the consenting process involving quantitative risk assessment, and subsequent monitoring.
5. We therefore object to **Rule 8.1.1(g) which permits energy generation activities** (including petroleum exploration and production) associated with the manufacturing, processing and/or treatment processes (S42A Rural-Industrial Zone report, para 96).
6. This rule is especially dangerous given that the **separation distance** (of 300m) between sensitive landuse and rural-industrial zones has been **deleted** (S42A Rural Zone report Table 43). It is also a serious cause of concern that Significant Hazardous Facility and any increase in hazardous substances are now also Permitted activity (S42A Hazardous Substances report).

## Concept Plans – Consent Creep without Consent

7. The S42A report on Rural-Industrial Zone (Table 13) acknowledged that several of the Concept Plans have been amended in the proposed district plan, including those for Fonterra's Whareroa and Kapuni sites, Ballance Agri-nutrients Ammonia Urea Plant, and STOS Kapuni Production Station.
8. Te Korowai O Ngaruahine Trust, in their submission, requested an amendment to the proposed district plan *"to trigger a reassessment of effects, which will mitigate the potential for 'creep' in permitted activities"*. We fully support this request.
9. Notably, Shell Todd Oil Services (STOS) requested amendment to the Site Specific Performance Standards for the Kapuni Production Station *"to identify areas which contain existing structures which do not meet the bulk and location performance standards in 8.2.2."*

... The main difference with the revised Concept Plan in terms of spatial extent are two development areas for the **flare compound** on the eastern side of the site ... the revised Concept Plan clarifies via the legend text that **vent stacks**, communication towers and process equipment are permitted up to 55m in height. The current Concept Plan and plan provisions are silent on the height of these facilities" (S42A Rural Industrial report, Table 27, para 169).

10. The Officer "consider the revised Concept Plan is clearer and more certain in terms of the location, extent and scale of development and activities permitted on the site. I consider the **effects of development and activities under the revised Concept Plan to be similar to those provided for by the current Concept Plan** and are generally accepted as part of the existing environment in this locality" (S42A Rural Industrial report, para 170).
11. Such conclusions raise a number of questions:
  - (a) On what ground did the Officer conclude that the effects of the changes, notably associated with new flaring, to be similar to those provided for the current Concept Plan?
  - (b) Is council expected to 'bend over backwards' and accept what STOS did over and beyond the original Concept Plan and accompanied standards?
  - (c) What is the point of having such standards if every time a company strays, the standards get changed to accommodate the company?
  - (d) How credible was STOS' statement at the hearings on the 21<sup>st</sup> June when being asked by the hearings councillor, they appeared to know nothing about venting, yet the revised concept plan refers to "vent stacks"? What are vent stacks for if not for venting?
12. Expert witness Ms Louise Wickham for Taranaki Energy Watch, in her evidence, pointed out that, "*Venting is the release of natural gas directly into the atmosphere without flaring or incineration... Despite not being discussed in any assessment documents I have seen, it is reasonable to assume that process venting routinely occurs in Taranaki*" (See photos 1 and 2).

## From Landfarming to Contaminated Wasteland

13. Landfarming should not be Permitted in the Rural Zone or anywhere else. Furthermore, we argue that it should be Prohibited on all food producing land, within the Coastal Protection Area, catchments of Significant Waterbodies and Regionally Significant Wetlands.
14. As the submitter from Frack Free Manawatu Action Group, Ms Jean Kahui, aptly said: "*a sheep farm produces sheep and wool, a dairy farm produces milk and cream,*" it is only logical that land receiving **contaminated wastes** from the oil/gas industry is likely to become **contaminated wasteland**, like the 8,000 contaminated sites that the Ministry for the Environment has acknowledged. Worryingly, the costly clean-up is of no priority to the government, as Minister Nick Smith said<sup>1</sup>, "*...not stalled ... just not being hurried.*" The only way to prevent farmlands from becoming contaminated wasteland is NOT to put contaminated waste on farms in the first place.
15. Some might say we are scaremongering and surely there are strict regulations to ensure that this does not happen. Unfortunately, the fact is that **our regulations here are far more lax than international standards**. E.g. In terms of landfarming, the acceptable soil endpoints for **benzene** (1.1-6.7mg/kg) recommended by Landcare, MPI and the Ministry for the Environment (MfE, 1999)<sup>2</sup> are orders of magnitude higher than those required in Alberta (0.045-0.073mg/kg). These are the acceptable concentrations of contaminants before

landfarms can be returned for agriculture (ERCB, 2012)<sup>3</sup>. The Canadian soil quality guidelines (CCME, 2007)<sup>4</sup> for agricultural land include many more contaminants, notably heavy metals and organic compounds such as ethylene glycol which are not considered by Landcare, MPI or MfE. For more detailed analyses on landfarming, please refer to our submissions to the Parliamentary Commissioner for the Environment (CJT, 2013<sup>5</sup> and 2016<sup>6</sup>).

16. Although contaminant discharge is mainly managed by the regional council, all territorial authorities (district and city councils) are required to give effect to and enforce the requirements of the NESCS – **National Environmental Standard for Contaminated Soils** (MFE, 2011)<sup>7</sup>. In fact, the Resource Management (NESCS) Regulations 2011<sup>8</sup> directly affect oil and gas activities including landfarming. The regulations are triggered when there is a **change of land use** such as when a landfarm is used to graze stock on or produce food from. Yet the NESCS was barely touched upon in the S42A report or the proposed plan itself.
17. We argue that for council to perform its duty properly under the NESCS Regulations and Section 31 of the RMA, landfarming and wormfarming of petroleum wastes must be strictly regulated through the **consent process, involving quantitative risk assessment and monitoring of landuse and environmental effects**. The issuance of a consent should trigger the NESCS with a change of landuse from agriculture (food production) to waste disposal or treatment. **Stock and other food production must halt** from this point onwards, until the land is proven safe again for stock and food production, and a reversal of landuse may be granted. We believe this is the only way that district council can stay ahead of the game, otherwise it will be left to clean up the mess at the bottom of the cliff.

## Coastal Protection Area – ‘Shifting Baseline’

18. As submitter Lyndon DeVantier pointed out, in the S42A Coastal Environment Report (para 58, page 10), it is noted: *“... as identified in the Operative District Plan, which covers **10,401 hectares** and applies to 961 land parcels. In the Proposed District Plan, the Coastal Protection Area occupies **5,042 hectares** and applies to 473 land parcels. ... We are strongly opposed to such halving of the CPA.*
19. As part of the explanation of the substantial reduction of the CPA, the S32 Evaluation Report on Coastal Environment noted, *“Some of the land within the Coastal Protection Area has been highly modified due to land farming and use as farmland in general.”*
20. Although this may well be true, it is crucial to note that **three such euphemistically-named ‘land farms’ (in reality toxic waste disposal sites) were given resource consents inside the Coastal Protection Area** (as defined in 2004) in the period since 2009 (S32 and S42A reports on Coastal Environment, Figure 1). Additionally, seismic survey and four subdivisions have also been consented in the area since 2009. It appears that council had **ignored the NZ Coastal Policy Statement Policy 13 for the preservation of natural character**.
21. One such example is provided in the S42A Coastal Environment Report (Memo from Boffa Miskell, page 7, para 4.7): *“On Andrew Symes property, I acknowledge that the outer edge of the coastal environment identified has been more **extensively modified by consented land farming and no longer reflects significant coastal process, influences and qualities** apparent in adjoining dune areas. Given such modification, I consider such areas should be **removed from the Coastal Protection Area ...**”* Based on this, the Officer recommended that this area be remapped (S42A Coastal Environment Report, para 210).

22. Our review of various Taranaki Regional Council (TRC) monitoring reports of landfarms showed that the landfarm on Mr. Symes' property, now operated by Waste Remediation Services, was first issued in 2012. The other two landfarms consented within the CPA post 2009 were BTW Vanner landfarm in Kakaramea (2011) and BTW Oeo landfarm (2012).
23. So to be clear, **three landfarms inside the Coastal Protection Area were consented subsequent to its designation in 2004, and by doing so, directly caused it to become 'highly modified' and no longer worth retaining in the Coastal Protection Area – a justification now the district council uses to reduce the overall CPA.**
24. This demonstrates a fundamentally flawed planning approach, one that ignores or perhaps even promotes the often neglected phenomenon of '**shifting baseline.**' If council continues with this planning approach, then we can expect further reduction of the CPA and indeed other areas of important environmental values, as the integrity of these areas continue to be degraded by incompatible human activities.
25. Crucially this approach is **counter to Policy 14c of the NZ Coastal Policy Statement** which requires councils to recognise that degraded coastal environments require **restoration or rehabilitation.**

## **Sustainable Management and Climate Change**

26. Section 5(2)(a) of the Resource Management Act 1991 specifically excludes minerals (e.g. fuel minerals like oil, gas and coal) in the definition of **sustainable management**, because of the 'unsustainable' nature of fossil fuel exploration, production and the associated waste disposal. 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*'.
27. It is clear that petroleum exploration, production and waste disposal activities threaten the life-supporting capacity of our air, water, soil and ecosystems, by exposing people to toxic pollutants in the air, disposing toxic wastes into our water and land, and encroaching on our natural ecosystems.
28. Furthermore, the continued extraction and burning of fossil fuels for energy, transport and industrial agriculture, has pushed us to dangerous climate change resulting in extreme weather events which are already becoming more frequent and devastating. Section 7 of the RMA requires '*all persons exercising functions and powers under it*' 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*'.
29. We sincerely hope that council would live up to its responsibilities, take sustainable management seriously, to safeguard the life-supporting capacity of our air, water, soil, ecosystems, and climate.

<sup>1</sup> The Toxic Go-Slow: Has the clean-up of New Zealand's most poisoned places stalled? Radio NZ, 19 June 2016. <http://www.radionz.co.nz/national/programmes/insight/audio/201804570/insight-nz-s-most-poisoned-places>

<sup>2</sup> Ministry for the Environment (MfE), 1999. *Guidelines for assessing and managing petroleum hydrocarbon contaminated sites in New Zealand, Module 4 Tier 1 soil acceptance criteria*. <http://www.mfe.govt.nz/publications/environmental-reporting/guidelines-assessing-and-managing-petroleum-hydrocarbon>

<sup>3</sup> Energy Resources Conservation Board (ERCB), 2012. *Directive 050: Drilling Waste Management*. <https://www.aer.ca/documents/directives/Directive050.pdf>

<sup>4</sup> Canadian Council of Ministers of the Environment (CCME), 2007. *Canadian Soil Quality Guidelines for the Protection of Environmental and Human Health*. [http://www.esdat.net/Environmental%20Standards/Canada/SOIL/rev\\_soil\\_summary\\_tbl\\_7.0\\_e.pdf](http://www.esdat.net/Environmental%20Standards/Canada/SOIL/rev_soil_summary_tbl_7.0_e.pdf)

<sup>5</sup> Climate Justice Taranaki, 2013. Submission to the Parliamentary Commissioner for the Environment: Investigation into Hydraulic Fracturing in New Zealand, with special attention to Drilling Waste Management in Taranaki – Landfarming. <https://climatejusticetaranaki.files.wordpress.com/2013/03/cjt-3rd-submission-to-pce-nov2013-v8-final.pdf>

<sup>6</sup> Climate Justice Taranaki, 2015 (Draft). 5th Submission to the Parliamentary Commissioner for the Environment: Disposal of Oil and Gas Waste – a review since June 2014. <https://climatejusticetaranaki.files.wordpress.com/2013/03/cjt-5th-submission-to-pce-v3-full.pdf>

<sup>7</sup> Ministry for Environment, 2011. *The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health*. <http://www.mfe.govt.nz/land/nes-assessing-and-managing-contaminants-soil-protect-human-health/about-nes>

<sup>8</sup> New Zealand Legislation: *Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011*.

[http://www.legislation.govt.nz/regulation/public/2011/0361/latest/DLM4052228.html?search=ts\\_regulation\\_contaminants\\_rese&p=1&sr=1](http://www.legislation.govt.nz/regulation/public/2011/0361/latest/DLM4052228.html?search=ts_regulation_contaminants_rese&p=1&sr=1)



Photo 1. STOS Kapuni Production Station (photo by Rob Tucker)

Photo 2. STOS Maui Production Station (source: Taranaki Regional Council monitoring report 1381218, 2015)