



21<sup>st</sup> December 2011

Councillor Manu Caddie  
21 Cambridge Terrace  
**GISBORNE 4010**

**TAG OIL/APACHE CORPORATION RESOURCE CONSENTS**

Please find enclosed copies of the recent resource consents granted to TAG Oil/Apache Corporation for water take and Discharge to Land.

These consents are associated with the Seismic Survey proposed for the Waitangi Hill area near Whatatutu.

In addition to the consents I have also enclosed my officers reports for each of the consent applications.

Application for exploratory wells are expected in the new year. I will let you know when these have been received as you may wish to view the application details.

Yours Faithfully,

Dennis Crone

Team Leader Water Conservation

- printed 7 days prior to commencement of operations.
- c) The minimum distance between a shot hole and any dwelling shall be 100m unless the written approval of the owner and occupier has been obtained.
  - d) Restoration and rehabilitation of disturbed areas including access tracks, shot holes, drainage areas, vegetation and gates and fences shall be carried out.
  - e) All activities must comply with the General Rules specified in Chapter 8 – Infrastructure, Works and Services and Chapter 11-Noise and Vibration and Chapter 15-Parking.
3. Water takes are restricted to when surface water flows are above a sustainable level for ecological flows. This restriction is applied to this consent on an equal basis to other surface water take permit holders. Information on river flow is available on the Council website's environmental monitoring page <http://www.gdc.govt.nz/site-report/#river> which is updated daily, and/or contact the Water Conservation section of the Gisborne District Council for up to date flow information.
  4. For further information about the Gisborne District Council charging policy refer to the current Manual of Fees and Charges-Environment and Planning.

#### **Reasons for Recommendations**

#### **Reasons for the Decision:**

1. This is a water permit application for water abstraction from tributaries of the Waipooa River, farm dams and reticulated farm water supplies. Water quantities are very small.
2. There are minimum flow cut-off levels in place to protect in-stream values and current water permit holders.
3. The potential economic benefits to the District.

#### **Principle Issues:**

1. *Instream values of the Waipooa River and affected tributaries.*
2. *Ability to protect the water resource should potentially adverse conditions be identified in the river system.*
3. *Water requirements of the applicant.*

#### **Summary of Evidence Considered and Main Findings of Fact:**

1. *Planning maps r55, r56, r64, and r65 a & b (PoCRLDP)*
2. *Potential in stream effects of the abstraction.*
3. *Provisions have been developed to limit or halt the take when the Waipooa River flow drops below a certain level.*



# GISBORNE DISTRICT COUNCIL RESOURCE CONSENT



## WATER PERMIT - TAKE SURFACE WATER

Pursuant to, section 104 & 104B of the Resource Management Act 1991 the  
GISBORNE DISTRICT COUNCIL hereby grants the following:

**CONSENT NUMBER:** WS-2011-105161-00      **FILE NUMBER:** P/8140/467

**CONSENT HOLDER:** TAG OIL (NZ) LTD and APACHE Corporation

**OF:** C/o TAG Oil (NZ) Ltd  
P O Box 402  
New Plymouth 4340

**LEGAL DESCRIPTION:** Crown owned river bed Waipaoa and tributaries within Blks  
V,VI,VIII,IX,X,XII,XIII,XIV Waingaromia SD

**SITE LOCATION:** Waitangi Hill, Whatatutu and Kanakanaia area  
at or about Map and Grid Ref: NZMG 2940001 6300001

**CONSENT TO:** Water take of up to 25 cu m per day associated with seismic  
survey near Waitangi Hill area

**APPROVAL DATE:** 19 December 2011

**EXPIRY DATE:** 19 December 2016

This consent is subject to the conditions specified in the attached resource consent  
decision.

Signed at Gisborne this Monday 19 December 2011 for and on behalf of the Gisborne  
District Council

T G Freeman  
Environmental Services Manager (Issued pursuant to delegated authority)

Any enquiries concerning this consent may be directed to:- Dennis Crone

**TEAM LEADER WATER CONSERVATION**

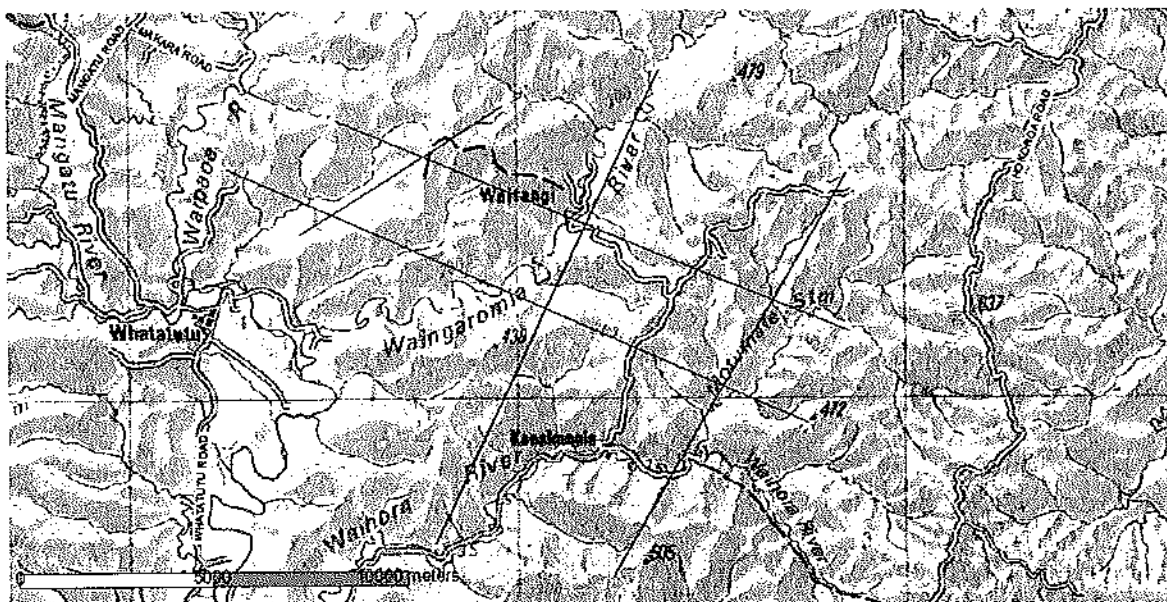
## 1.0 INTRODUCTION

TAG Oil and Apache Corporation have applied for a water permit to take up to 25 cubic metres of water per day at a maximum rate of 25 litres per second from various sites in the Waitangi Terrace, Kanakanaia area for seismic survey work. Eighteen parcels of land may be surveyed and a total of up to 800 seismic shots may be completed. Each shot hole requires approximately 0.8 cu m of water and the survey is likely to be completed over a period of 4-6 weeks.

## 2.0 BACKGROUND

### 2.1 Location

The take applied for will be abstracted from various sites along the upper Waipaoa River and tributaries near Waitangi Hill Whatatutu, at the area shown in the following .



**Figure 1:** Map showing general location of survey. Yellow stars show extremity of survey lines joined by black lines showing the approximate track of the survey

### 2.2 Legal Description

Water abstraction will occur from the Legal Crown Riverbeds that are tributaries of the Waipaoa River. The applicant states that farm dams, farm reticulated supplies and surface water may all be used as water sources.

## 3.0 THE PROPOSAL

Tag Oil propose to complete a survey that involves the drilling of seismic shot holes every 80m along transect lines, shown in figure 1, in the Kanakanaia area. The lines have a total linear length of more than 50km and this requires up to 800 shot holes to be drilled. This application is for the supply of clean water to provide cooling and lubrication fluid for the mobile drilling rig. Each shot hole will be 10-20m deep and will be 100mm in diameter. Up to 800 litres of water will be required for each hole drilled.

**Conditions of Resource Consent**  
**TAG Oil NZ Ltd/Apache Corporation.**



**WATER PERMIT (Surface take)**

**WS-2011-105161-00**

The following conditions shall be attached to Water Permit **WS-2011-105161-00**

1. All activities shall be in accordance with the application dated 9<sup>th</sup> November 2011, except to the extent that this is required to be modified to comply with the conditions of this permit.
2. When the flow in the Waipaoa River as measured by Gisborne District Council at Kanakanaia bridge drops below 1300 litres per second then the taking of water pursuant to this permit from the Waipaoa River or any of its tributaries shall only occur as specifically authorised by the Environmental Services Manager of the Gisborne District Council (see footnote 2).
3. The permit holder shall undertake at its own cost any remedial work on any access track, stopbank, river protection works, land or property necessary due to the exercising of this permit.
4. The permit holder shall pay to the Gisborne District Council any administration, inspection or monitoring charges payable in respect of this permit. Any such charges shall be either fixed or additional charges set in accordance with S36 of the Resource Management Act 1991 and S150 of the Local Government Act 2002.
5. This permit is granted by the Gisborne District Council, subject to its servants or agents being permitted access to the relevant water- source sites at all reasonable times for the purpose of carrying out inspections, surveys, investigations, tests, measurements or the taking of samples.

**Footnotes:**

1. The consent holder is advised that this permit does not in itself give any legal authority or otherwise to enter onto or carry out any work on private land, road reserve or Council land. It does not imply any exclusive rights to operate over land which is the subject of this permit. It does not excuse the consent holder from obtaining all other legal and statutory authorities and consents nor meeting all other statutory requirements for instance the Health & Safety in Employment Act.
2. This water permit is for an activity that is associated with geological prospecting. This activity is permitted under chapter 19 of the PoCRLDP. Subject to the following:
  - a) Notice shall be given to landowners within 100 metres of any prospecting activities, to the District Council and to tangata whenua at least 30 days prior to commencement of operations. The notice is to include information on the nature, location, timing and effects of the activity.
  - b) Public notice in a newspaper circulating in the prospecting area shall be

(1) No person may take, use, dam, or divert any open coastal water, or take or use any heat or energy from any open coastal water, in a manner that contravenes a national environmental standard or a regional rule unless the activity—

(a) is expressly allowed by a resource consent; or

(b) is an activity allowed by section 20A.

(2) No person may take, use, dam, or divert any of the following, unless the taking, using, damming, or diverting is allowed by subsection (3):

(a) water other than open coastal water; or

(b) heat or energy from water other than open coastal water; or

(c) heat or energy from the material surrounding geothermal water.

(3) A person is not prohibited by subsection (2) from taking, using, damming, or diverting any water, heat, or energy if—

(a) The taking, using, damming, or diverting is expressly allowed by a national environmental standard, a rule in a regional plan as well as a rule in a proposed regional plan for the same region (if there is one), or a resource consent; or

(b) In the case of fresh water, the water, heat, or energy is required to be taken or used for—

(i) An individual's reasonable domestic needs; or

(ii) The reasonable needs of an individual's animals for drinking water,—

and the taking or use does not, or is not likely to, have an adverse effect on the environment; or

(c) In the case of geothermal water, the water, heat, or energy is taken or used in accordance with tikanga Maori for the communal benefit of the tangata whenua of the area and does not have an adverse effect on the environment; or

(d) In the case of coastal water (other than open coastal water), the water, heat, or energy is required for an individual's reasonable domestic or recreational needs and the taking, use, or diversion does not, or is not likely to, have an adverse effect on the environment; or

(e) The water is required to be taken or used for fire-fighting purposes.

**Comment:** This application is for a take of water and requires a resource consent subject to S14 (1) and (3) RMA 1991 and General Authorisation Part A 1 of the TRP.

#### **4.2 Regional Policy Statement for the Gisborne District (RPS)**

Chapter 3 of the RPS outlines Water Management. Section 3.4 deals with:

*Demand for the use and protection of surface and groundwater resources often occurs at times when the supply of those same resources is low. The equitable supply of those resources can at times be difficult. Relevant objectives and policies include:*

**Objective 3.4.2.1:** *Management of the quantity of water in streams and rivers so that it is available, on an equitable basis, for a range of beneficial consumptive uses and for the protection of instream uses and values.*

**Policy 3.4.3.1:** *To allocate surface water for consumptive uses subject to:*

# GISBORNE DISTRICT COUNCIL



**Consent No.** WS-2011-105161-00  
**Subject** Surface Water Take  
**Applicant** TAG Oil NZ Ltd and Apache Corporation  
**Address** PO Box 402 New Plymouth, 4340  
**Site Location** various locations Kanakanaia  
**Prepared By** Dennis Crone  
**Date** 13th December 2011

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## REPORT TO ENVIRONMENTAL SERVICES MANAGER for decision

### SUMMARY

TAG Oil and Apache Corporation have applied for a water permit to take up to 25 cubic metres of water per day at a maximum rate of 25 litres per second from various sites in the Waitangi Terrace, Kanakanaia area associated with a seismic survey to determine potential petrochemical deposits.

Relevant legislation relating to the proposed activity includes the following, S14 Restrictions relating to water of the Resource Management Act 1991 (RMA 1991), Chapter 3 Water Management of the Gisborne District Council Regional Policy Statement (RPS), and Part A 1 of the Transitional Regional Plan (TRP).

The proposed take is a discretionary activity under the RMA as it does not meet the permitted activity criteria in the TRP.

The application was publicly non-notified due to the effects being no more than minor

Officers recommended conditions are attached to this consent to mitigate, avoid or remedy any potential adverse effects in relation to the proposed activity.

### RECOMMENDATIONS

That the Environmental Services Manager:

- 1 receives the report
- 2 approves the officers recommended conditions
- 3 grants the consent and recommended conditions.

**Dennis Crone**  
Team Leader Water Conservation

**Trevor Freeman**  
Environmental Services Manager

5.1.2 Every application for a permit shall be in writing in the form set out in the Third Schedule to this bylaw.

5.1.3 The Authority may issue a permit subject to such conditions or restrictions relating to the location, dimension, depth and lining of the bore as the Authority thinks fit or decline to issue a permit.

5.1.4 Every holder of a permit or of a written dispensation under this bylaw shall produce the same for inspection when required to do so by the Authority.

**Comment:** The proposed bores (or shot holes) associated with the seismic survey may not access significant sources of underground water and therefore the provisions of section 5.0 of the TRP need not apply. Previous exploratory drilling for hydrocarbons in the Gisborne District have had bore permits issued. The processing of a bore permit in this instance can be seen to cover any potential discovery of a suitable source of water for supply and the provisions of a bore permit allow information from the bore log (a requirement of the bore permit) to become publicly held information.

The seismic shot holes that are proposed are shallow and in hilly locations. The bore logs are unlikely to provide useful information in regard to water sources. Consent conditions recommended for the Discharge to land associated with the seismic survey does provide for the depth to bedrock to be recorded and made available to the Gisborne District Council.

#### **4.4 Part-operative Combined Regional Land & District Plan (PoCRLDP)**

The PoCRLDP does not include any rules pertaining to this water take. The surrounding land is zoned Rural General.

The PoCRLDP contains rules relating to Petrochemical exploration and production and mining

**Rule 19.18** defines permitted activities that includes the following:

##### **19.18.1.1 Geological and geophysical prospecting activities in the Rural G, Rural P and Industrial Zones**

The following activities shall be permitted activities:

*Provided that:*

- a) Notice shall be given to landowners within 100 metres of any prospecting activities, to the District Council and to tangata whenua at least 30 days prior to commencement of operations. The notice is to include information on the nature, location, timing and effects of the activity.
- b) Public notice in a newspaper circulating in the prospecting area shall be printed 7 days prior to commencement of operations.
- c) The minimum distance between a shot hole and any dwelling shall be 100m unless the written approval of the owner and occupier has been obtained.
- d) Restoration and rehabilitation of disturbed areas including access tracks, shot holes, drainage areas, vegetation and gates and fences shall be carried out.
- e) All activities must comply with the General Rules specified in Chapter 8 – Infrastructure, Works and Services and Chapter 11-Noise and Vibration and Chapter 15-Parking.

#### 4.0 STATUTORY REQUIREMENTS

The proposal has been assessed with regard to the following statutory documents:

- Resource Management Act 1991 (RMA), section 4.1
- Regional Policy Statement for the Gisborne District (RPS), section 4.2
- Transitional Regional Plan for the Gisborne District (TRP), section 4.3
- Part-operative Combined Regional Land & District Plan (PoCRLDP), section 4.4

#### 4.1 Resource Management Act 1991 (RMA)

The following sub-clauses of the RMA have been considered in assessing this application:

- S5 Purpose, section 6.1
- S6 Matters of National Importance, section 6.2
- S7 Other matters, section 6.3
- S8 Treaty of Waitangi, section 6.4
- S14 Restrictions relating to water, section 4.1
- S88 Making an application, section 4.1
- S95A Public notification of consent application at consent authority's discretion 7.0
- S95D Consent authority decides if adverse affects likely to be more than minor 7.0
- S95E Consent authority decides if person is affected person 7.0
- S104 Consideration of applications, section 5.3
- S104B Determination of applications for discretionary or non-complying activities, section 5.4.

##### *RMA Section 88 Making an application*

*(2) An application must—*

*(a) be made in the prescribed form and manner; and*

*(b) include, in accordance with Schedule 4, an assessment of environmental effects in such detail as corresponds with the scale and significance of the effects that the activity may have on the environment.*

*(3) If an application does not include an adequate assessment of environmental effects or the information required by regulations, a consent authority may, within 5 working days after the application was first lodged, determine that the application is incomplete and return the application, with written reasons for the determination, to the applicant.*

**Comment:** The application is for a new water permit. Council has adequate information to assess the actual and potential effects of this take for a 5 year period. The application was accepted on the 18<sup>th</sup> November 2011.

##### *RMA Section 14 Restrictions Relating to Water*

It is my opinion that a level of communication is required by tangata whenua and that the level completed to date is sufficient to allow tangata whenua to gain an understanding of the issues.

Cultural issues have also been considered in regard to consent application for discharge to land associated with the seismic survey. Further comments on the cultural values and the response toward these is recorded in the officers report for DL-2011-105167-00.

At a residents meeting at Whatatutu on November 28<sup>th</sup> 2011 the Group Manager Environment and Policy suggested that a written request for notification of these consents could be made following the meeting. No such request has been received, and this in some way confirms that cultural values have been sufficiently considered for the seismic survey work. Later exploratory well drilling that may include practices, such as 'fracking' these activities may require more in depth consideration of cultural values.

The activity of drilling the shot holes as part of the seismic survey is a permitted activity in rules within District and Regional plans for Gisborne District Council. The above comments therefore relate to the effects of the small volumes of water required at each of the proposed shot holes.

### **5.3 Section 104 Assessment**

#### *Section 104 Consideration of Applications*

*(1) When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to—*

- (a) any actual and potential effects on the environment of allowing the activity; and*
- (b) any relevant provisions of—*
  - (i) a national environmental standard;*
  - (ii) other regulations;*
  - (iii) a national policy statement;*
  - (iv) a New Zealand coastal policy statement;*
  - (v) a regional policy statement or proposed regional policy statement;*
  - (vi) a plan or proposed plan; and*
- (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

*(2) When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.*

*[(2A) When considering an application affected by section 124, the consent authority must have regard to the value of the investment of the existing consent holder.]*

*(3) A consent authority must not—*

- (a) when considering an application, have regard to—*
  - (i) trade competition or the effects of trade competition; or*
  - (ii) any effect on a person who has given written approval to the application*
- (c) grant a resource consent contrary to—*
  - (i) section 107, 107A, 107E or 217:*

- *Safeguarding of life-supporting capacity.*
- *Protection of instream uses and values.*

*Policy 3.4.3.3: To make provision for seasonal shortages of water by adopting water management methods which reduce the incidence or magnitude of such shortages.*

Section 3.5 deals with:

*The inefficient use of sometimes limited freshwater resources can impose unnecessary hardship on all users of the resource and can also lead to unnecessary adverse affects on instream values. Relevant objectives and policies include:*

*Objective 3.5.2.1: The efficient use of surface and groundwater resources.*

*Policy 3.5.3.1: To promote the conservation and efficient use of the available surface and groundwater resources.*

**Comment:** The above policies and objectives have been considered with trigger limits being imposed for this resource. Refer to conditions and footnotes.

#### **4.3 Transitional Regional Plan for the Gisborne District (TRP)**

The TRP for the Gisborne District was prepared pursuant to S370 RMA 1991. The TRP did have provisions relating to a range of activities in watercourses, a number of which were deleted in 2002.

Part A of the TRP outlines: The General Authorisation in accordance with S22 of the Water and Soil Conservation Act 1967 passed by the Poverty Bay Catchment Board on 13 March 1969 states:

##### *1. Existing Taking of Agricultural Water as at 1 March 1969 (except for irrigation).*

*Pursuant to S22 of the Water and Soil Conservation Act 1967, the taking of natural water for agricultural purposes including the use of water for cooling purposes, or washing down milking sheds, the use of natural water for insecticide, fungicide, weedicide or silvicide spraying; but excluding the use of water for the spray or flood irrigation of pasture, crops, commercial or market gardens and orchards, that was taking place throughout the Board's district before the 1<sup>st</sup> day of March 1969 be authorised, such authorisation to remain in force at the pleasure of the Poverty Bay Regional Water Board.*

**Comment:** This proposal falls outside the General Authorisation given under section 22 of the Water and Soil Conservation Act 1967 and therefore requires resource consent subject to the provisions of the TRP, as per Section 14 (3)(a) of the RMA 1991.

Part B of the TRP has rules regarding the taking of water. Section 5 of the TRP states:

#### **5.0 UNDERGROUND WATER**

##### **5.1 Making, Altering or Installing Bores**

*5.1.1 No person shall make or alter or cause or allow to be made or altered any bore without first obtaining a permit to do so from the Authority.*

- (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.

**Comment:** This application is for a water permit for the volume of 25 cubic metres of water per day. It is considered that under the current management and monitoring regimes this take is a sustainable use of the surface water resource (S5 (1) and (2) (a)) providing it is prioritised.

Any odverse effects caused by this take will be addressed as stated in the consent conditions to be consistent with S5 (2) (c) of the RMA.

### **6.2 Section 6 Matters of National Importance**

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:*

- (a) *The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development;*
- (b) *The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development;*
- (c) *The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna;*
- (d) *The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers;*
- (e) *The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.*
- (f) *The protection of historic heritage from inappropriate subdivision, use and development.*
- (g) *The protection of recognised customary activities.*

**Comment:** With regard to S6 the application does not contravene the relevant sub-clauses, namely: (a) and (e). S6 (b), (c), (d) (f) and (g) are not relevant to this application. S6 (a) is taken regard of by having a minimum flow in the Waipaoa river when takes must stop. With regard to tangata whenua issues which must be considered pursuant to S6 (e) the application has been discussed at public meetings held by the applicant and at a meeting attended by Council staff and concerned citizens from the Whatatutu area. Concerns about cultural effects related to the method of extracting hydrocarbons through 'Fracking' and this application was assessed as having effects on the environment that are no more than minor.

### **6.3 Section 7 Other Matters**

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—*

- (a) *Kaitiakitanga:*  
  - {(aa) *The ethic of stewardship;*}

**Officer Comment:**

The activity of seismic surveying is considered to be a permitted activity under chapter 19 of the PoCRLDP. The specific activity of taking water associated with the survey is however bound by the RMA and requires consent. A recommended footnote alerts the applicant to the above criteria that the permitted activity status is required to comply with.

**5.0 ASSESSMENT OF ENVIRONMENTAL EFFECTS (104(1)(a))****5.1 Positive Effects**

The approval of this application will enable the applicant to complete a seismic survey over 58km of linear seismic lines. Geological information will provide an assessment for the potential for hydrocarbon mining within the survey area, This promotes positive financial effects for the applicant and flow-on effects to the region.

**5.2 Actual and Potential Effects**

The instream values of the potential water sources can be defined in terms of ecological, aesthetic, recreational, cultural and traditional values. Water abstraction can have impacts on the instream values and therefore these values need to be considered in the assessment of environmental effects.

**Instream Flow**

The streams and rivers from which this permit may allow takes often experience low flow periods over the summer months. The consent conditions recommended provide for restrictions on the water take should flow rates in the Waipaoa River drop to a level of 1300l/sec or less. This restriction aligns the take with other irrigation takes from this river and catchment system

**Instream Values**

The small volumes of water proposed on a daily basis and the variety of source over a wide geographic area means that it is considered to be unlikely to have any effect on in stream values.

**Volume of Take**

The proposed take of 25 m<sup>3</sup>/day at a maximum rate of 25 l/sec is unlikely to significantly alter the flow regime, and trigger levels imposed under the consent conditions should help sustain low flow values.

**Cultural values**

A meeting of concerned residents of Whatatutu met with Council officers to consider these consent applications and the effects of mining on the area in general. Cultural values were discussed and the need for close communication between the applicant, Council and with Tangata Whenua was stressed. The drilling of numerous shot holes was considered by some residents as affecting cultural values. The applicant has met with Aitanga a Mahaki trust and they held a consultation meeting at Mangatu Marae on December 6<sup>th</sup> 2011. Information packs have been circulated by the applicant.

(a) a rule or national environmental standard precludes public notification of the application; and

(b) subsection (2)(b) does not apply.

(4) Despite subsection (3), a consent authority may publicly notify an application if it decides that special circumstances exist in relation to the application.]

*Section 95D Consent authority decides if adverse effects likely to be more than minor*

*A consent authority that is deciding, for the purpose of section 95A(2)(a), whether an activity will have or is likely to have adverse effects on the environment that are more than minor—*

*(a) must disregard any effects on persons who own or occupy—*

*(i) the land in, on, or over which the activity will occur; or*

*(ii) any land adjacent to that land; and*

*(b) may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect; and*

*(c) in the case of a controlled or restricted discretionary activity, must disregard an adverse effect of the activity that does not relate to a matter for which a rule or national environmental standard reserves control or restricts discretion; and*

*(d) must disregard trade competition and the effects of trade competition; and*

*(e) must disregard any effect on a person who has given written approval to the relevant application.]*

*Section 95E Consent authority decides if person is affected person*

*(1) A consent authority must decide that a person is an affected person, in relation to an activity, if the activity's adverse effects on the person are minor or more than minor (but are not less than minor).*

*(2) The consent authority, in making its decision,—*

*(a) may disregard an adverse effect of the activity on the person if a rule or national environmental standard permits an activity with that effect; and*

*(b) in the case of a controlled or restricted discretionary activity, must disregard an adverse effect of the activity on the person that does not relate to a matter for which a rule or national environmental standard reserves control or restricts discretion; and*

*(c) must have regard to every relevant statutory acknowledgement made in accordance with an Act specified in Schedule 11.*

*(3) Despite anything else in this section, the consent authority must decide that a person is not an affected person if—*

(ii) an Order in Council in force under section 152:

(iii) any regulations:

(iv) a Gazette notice referred to in section 26(1), (2), and (5) of the Foreshore and Seabed Act 2004:

(d) grant a resource consent if the application should have been notified and was not.

(4) A consent authority considering an application must ignore subsection (3)(a)(ii) if a person withdraws the approval in a written notice received by the consent authority before the date of the hearing, if there is one, or, if there is not, before the application is determined.

(5) A consent authority may grant a resource consent on the basis that the activity is a controlled activity, a restricted discretionary activity, a discretionary activity, or a non-complying activity, regardless of what type of activity the application was expressed to be for.]

S104 [1][a] has been considered in Sections 4.1 and 4.2 of this report.

S104[1][b] has previously been noted in Section 3.0.

S104[1][c] is not relevant to this application.

S104[2], [3] and [4] are not relevant to this application.

S104[5] This application was processed as a discretionary activity.

Section 104B Determination of Applications for Discretionary or Non-complying Activities

After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority—

(a) may grant or refuse the application; and

(b) if it grants the application, may impose conditions under section 108.]

**Comment:** In my opinion this water permit should be granted pursuant to Section 104B for a 5 year duration period only and subject to those conditions recommended in Section 9.0 of this report.

## 6.0 PART II ASSESSMENT

### 6.1 Section 5 Purpose

(1) The purpose of this Act is to promote the sustainable management of natural and physical resources.

(2) In this Act, "sustainable management" means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while—

(a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

3. The permit holder shall undertake at its own cost any remedial work on any access track, stopbank, river protection works, land or property necessary due to the exercising of this permit.
4. The permit holder shall pay to the Gisborne District Council any administration, inspection or monitoring charges payable in respect of this permit. Any such charges shall be either fixed or additional charges set in accordance with S36 of the Resource Management Act 1991 and S150 of the Local Government Act 2002.
5. This permit is granted by the Gisborne District Council, subject to its servants or agents being permitted access to the relevant water- source sites at all reasonable times for the purpose of carrying out inspections, surveys, investigations, tests, measurements or the taking of samples.

**Footnotes:**

- 1 The consent holder is advised that this permit does not in itself give any legal authority or otherwise to enter onto or carry out any work on private land, road reserve or Council land. It does not imply any exclusive rights to operate over land which is the subject of this permit. It does not excuse the consent holder from obtaining all other legal and statutory authorities and consents nor meeting all other statutory requirements for instance the Health & Safety in Employment Act.
2. This water permit is for an activity that is associated with geological prospecting. This activity is permitted under chapter 19 of the PoCRLDP. Subject to the following:
  - a) Notice shall be given to landowners within 100 metres of any prospecting activities, to the District Council and to tangata whenua at least 30 days prior to commencement of operations. The notice is to include information on the nature, location, timing and effects of the activity.
  - b) Public notice in a newspaper circulating in the prospecting area shall be printed 7 days prior to commencement of operations.
  - c) The minimum distance between a shot hole and any dwelling shall be 100m unless the written approval of the owner and occupier has been obtained.
  - d) Restoration and rehabilitation of disturbed areas including access tracks, shot holes, drainage areas, vegetation and gates and fences shall be carried out.
  - e) All activities must comply with the General Rules specified in Chapter 8 – Infrastructure, Works and Services and Chapter 11-Noise and Vibration and Chapter 15-Parking.
3. Water takes are restricted to when surface water flows are above a sustainable level for ecological flows. This restriction is applied to this consent on an equal basis to other surface water take permit holders. Information on river flow is available on the Council website's environmental monitoring page <http://www.gdc.govt.nz/site-report/#river> which is updated daily, and/or contact the Water Conservation section of the Gisborne District Council for up to date flow information.
4. For further information about the Gisborne District Council charging policy refer to the current Manual of Fees and Charges-Environment and Planning.

**Reasons for Recommendations**

- b) *The efficient use and development of natural and physical resources:*
  - (ba) *the efficiency of the end use of energy*
- (c) *The maintenance and enhancement of amenity values:*
- (d) *Intrinsic values of ecosystems:*
- (e) *(Repealed);*
- (f) *Maintenance and enhancement of the quality of the environment:*
- (g) *Any finite characteristics of natural and physical resources:*
- (h) *The protection of the habitat of trout and salmon.*
- (i) *The effects of climate change.*
- (j) *The benefits to be derived from the use and development of renewable energy.*

**Comment:** In considering S7 RMA sub-clauses (b), (c), (d), (f), (g) and (i) are relevant. The resource is thought to be used efficiently and in a sustainable way (sub-clause (b) and (g)). When effects which may affect amenity values (c), ecosystem values (d), environmental quality (f) and any finite characteristics of the resource (g) are likely to occur, the consent authority has included safeguards which can halt abstraction until favourable river flows occur.

See section 5.2 Cultural values (of this report) for further comments on Kaitiakitanga.

#### **6.4 Section 8 Treaty of Waitangi**

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).*

**Comment:** As noted with regard to S6(e) RMA the application has been discussed at meetings that included tangata whenua and local residents.

See section 5.2, cultural values (of this report) for further comments on meeting the requirements of the Treaty of Waitangi.

## **7.0 NOTIFICATION**

*Section 95A Public notification of consent application at consent authority's discretion*

*(1) A consent authority may, in its discretion, decide whether to publicly notify an application for a resource consent for an activity.*

*(2) Despite subsection (1), a consent authority must publicly notify the application if—*

*(a) it decides (under section 95D) that the activity will have or is likely to have adverse effects on the environment that are more than minor; or*

*(b) the applicant requests public notification of the application; or*

*(c) a rule or national environmental standard requires public notification of the application.*

*(3) Despite subsections (1) and (2)(a), a consent authority must not publicly notify the application if—*



*(a) the person has given written approval to the activity and has not withdrawn the approval in a written notice received by the authority before the authority has decided whether there are any affected persons; or*

*(b) it is unreasonable in the circumstances to seek the person's written approval.]*

**Comment:** This application for water take is associated with a seismic survey which in itself is a permitted activity under Rule 19.18 of The Gisborne District Council Part Operative Combined Regional Land and District Plan. The activity of taking the water from a range of sources and at the proposed scale is most unlikely to have any adverse effect that is more than minor. Assessment of effects shows that effects from this take are likely to be less than minor and sustainable within the terms of the consent conditions specified.

No affected parties were identified as no party is likely to be adversely affected at a level that is minor or more than minor.

A more complete assessment under s95 of the RMA has been completed on December 12<sup>th</sup> 2011

On the basis of the s95 assessment the consent is recommended to be processed as non-notified.

## **8.0 CONSULTATION**

The applicant has met with te Aitanga a Mahaki Trust as kaitiaki of the area. The Iwi will continue to be consulted as the project progresses. No written approvals from any party was included with the application. All land owners/occupiers of property through which the seismic survey will traverse will have civil agreements to cover access requirements. Notices to property owner/occupiers shall meet the permitted activity requirements under rule 19.18 of the PoCRLDP.

## **9.0 RECOMMENDATIONS**

THAT pursuant to Sections 104 and 104B of the Resource Management Act 1991, consent be granted under delegated authority to Tag Oil NZ Ltd / Apache Corporation to take up to 25 cubic metres of water per day, at a maximum rate of 25 litres per second for a term of 5 years subject to the following specific conditions:

### **9.1 Recommended Conditions**

1. All activities shall be in accordance with the application dated 9<sup>th</sup> November 2011, except to the extent that this is required to be modified to comply with the conditions of this permit.
2. When the flow in the Waipaoa River as measured by Gisborne District Council at Kanakanaia bridge drops below 1300 litres per second then the taking of water pursuant to this permit from the Waipaoa River or any of its tributaries shall only occur as specifically authorised by the Environmental Services Manager of the Gisborne District Council (see footnote 2).



**Reasons for the Decision:**

1. This is a water permit application for water abstraction from tributaries of the Waipaoa River, farm dams and reticulated farm water supplies. Water quantities are very small.
2. There are minimum flow cut-off levels in place to protect in-stream values and current water permit holders.
3. The potential economic benefits to the District.

**Principle Issues:**

1. *Instream values of the Waipaoa River and affected tributaries.*
2. *Ability to protect the water resource should potentially adverse conditions be identified in the river system.*
3. *Water requirements of the applicant.*

**Summary of Evidence Considered and Main Findings of Fact:**

1. *Planning maps r55, r56, r64, and r65 a & b (PoCRLDP)*
2. *Potential in stream effects of the abstraction.*
3. *Provisions have been developed to limit or halt the take when the Waipaoa River flow drops below a certain level.*

Subject to the following:

- a) Notice shall be given to landowners within 100 metres of any prospecting activities, to the District Council and to tangata whenua at least 30 days prior to commencement of operations. The notice is to include information on the nature, location, timing and effects of the activity.
  - b) Public notice in a newspaper circulating in the prospecting area shall be printed 7 days prior to commencement of operations.
  - c) The minimum distance between a shot hole and any dwelling shall be 100m unless the written approval of the owner and occupier has been obtained.
  - d) Restoration and rehabilitation of disturbed areas including access tracks, shot holes, drainage areas, vegetation and gates and fences shall be carried out.
  - e) All activities must comply with the General Rules specified in Chapter 8 – Infrastructure, Works and Services and Chapter 11-Noise and Vibration and Chapter 15-Parking.
3. This consent is granted by the consent authority subject to its servants and agents being permitted access to the relevant parts of the site at all times for the purpose of carrying out inspections, surveys, investigations, tests, measurements or taking samples.
  4. Reasonable costs incurred by the consent authority in monitoring, supervision and enforcement of any or all of the conditions of these consents shall be fully met by the consent holder pursuant to Section 36 of the Resource Management Act 1991.

**Reasons for the Decision:**

1. There is low risk of contamination to surface or groundwater resources.
2. The proposal is a means of safely discharging material from this and other sites.
3. The site is suitably located in a reasonably isolated site away from other dwellings.

**Relevant Resource Management Act Sections:**

RMA Section 9 Restrictions on use of land

RMA Section 15 Discharge of contaminants into environment

**Planning Documents Considered:**

Regional Policy Statement for the Gisborne District (RPS)

Regional Plan for Discharges to Land and Water (RPDLW)

Part-operative Combined Regional Land & District Plan (PaCRLDP)

The Waste Management Plan for the Gisborne District (2005)

**Principle Issues:**



# GISBORNE DISTRICT COUNCIL RESOURCE CONSENT



## DISCHARGE TO LAND

Pursuant to, section 104 & 104B of the Resource Management Act 1991 the  
GISBORNE DISTRICT COUNCIL hereby grants the following:

- CONSENT NUMBER:** DL-2011-105167-00      **FILE NUMBER:** P/8140/467D
- CONSENT HOLDER:** TAG OIL (NZ) LTD and APACHE Corporation
- OF:** C/o TAG Oil (NZ) Ltd  
P O Box 402  
New Plymouth 4340
- LEGAL DESCRIPTION:** Various properties within Blks V,VI,VIII, IX, X,XII,XIII,XIV of  
Waingaromia SD
- SITE LOCATION:** Waitangi Hill, Whataatutu and Kanakanaia area  
at or about Map and Grid Ref: NZMG 2940010 6300010
- CONSENT TO:** to discharge drilling cuttings to land associated with seismic survey
- APPROVAL DATE:** 19 December 2011      **EXPIRY DATE:** 19 December 2016

This consent is subject to the conditions specified in the attached resource consent  
decision.

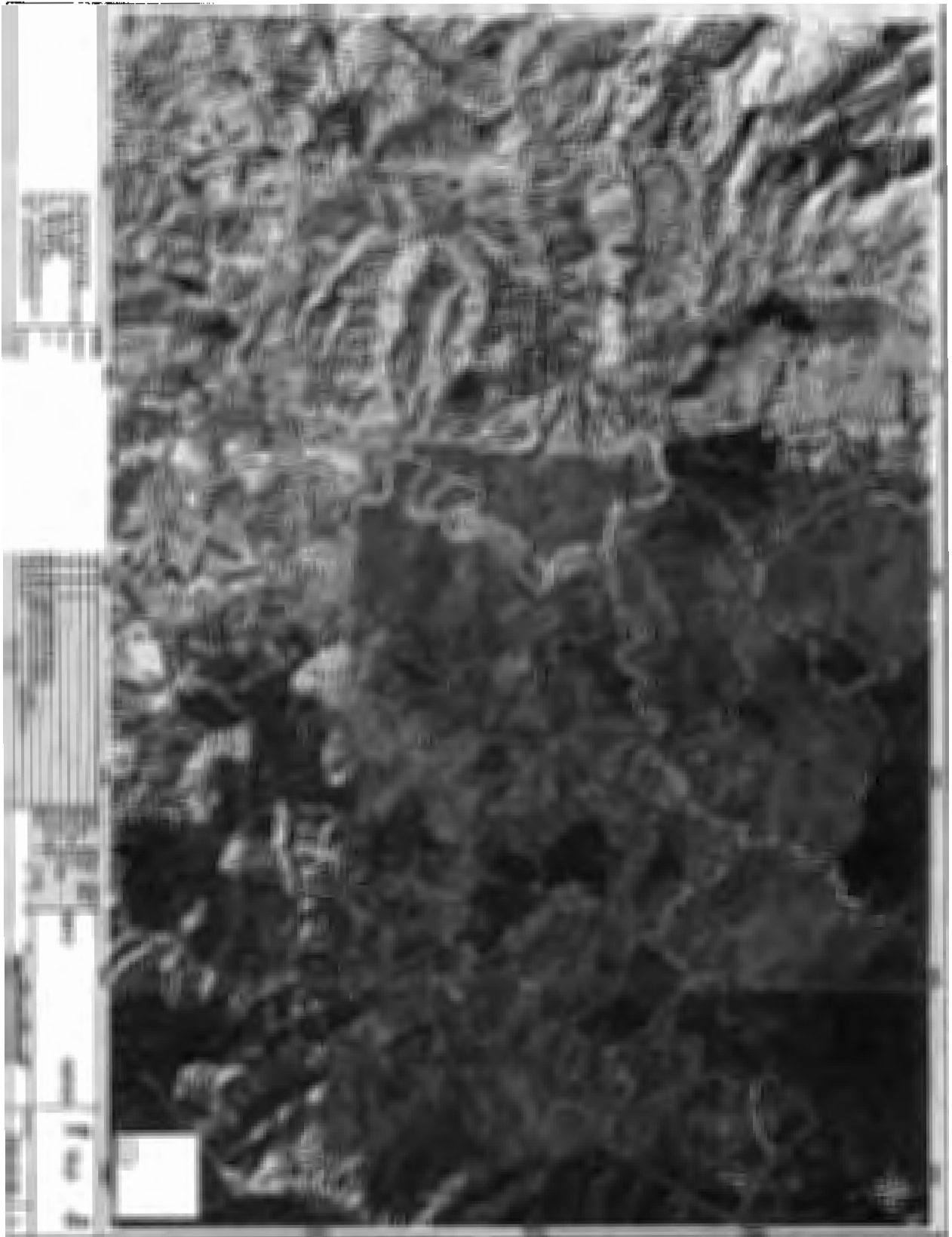
Signed at Gisborne this Monday 19 December 2011 for and on behalf of the Gisborne  
District Council

T G Freeman  
Environmental Services Manager (Issued pursuant to delegated authority)

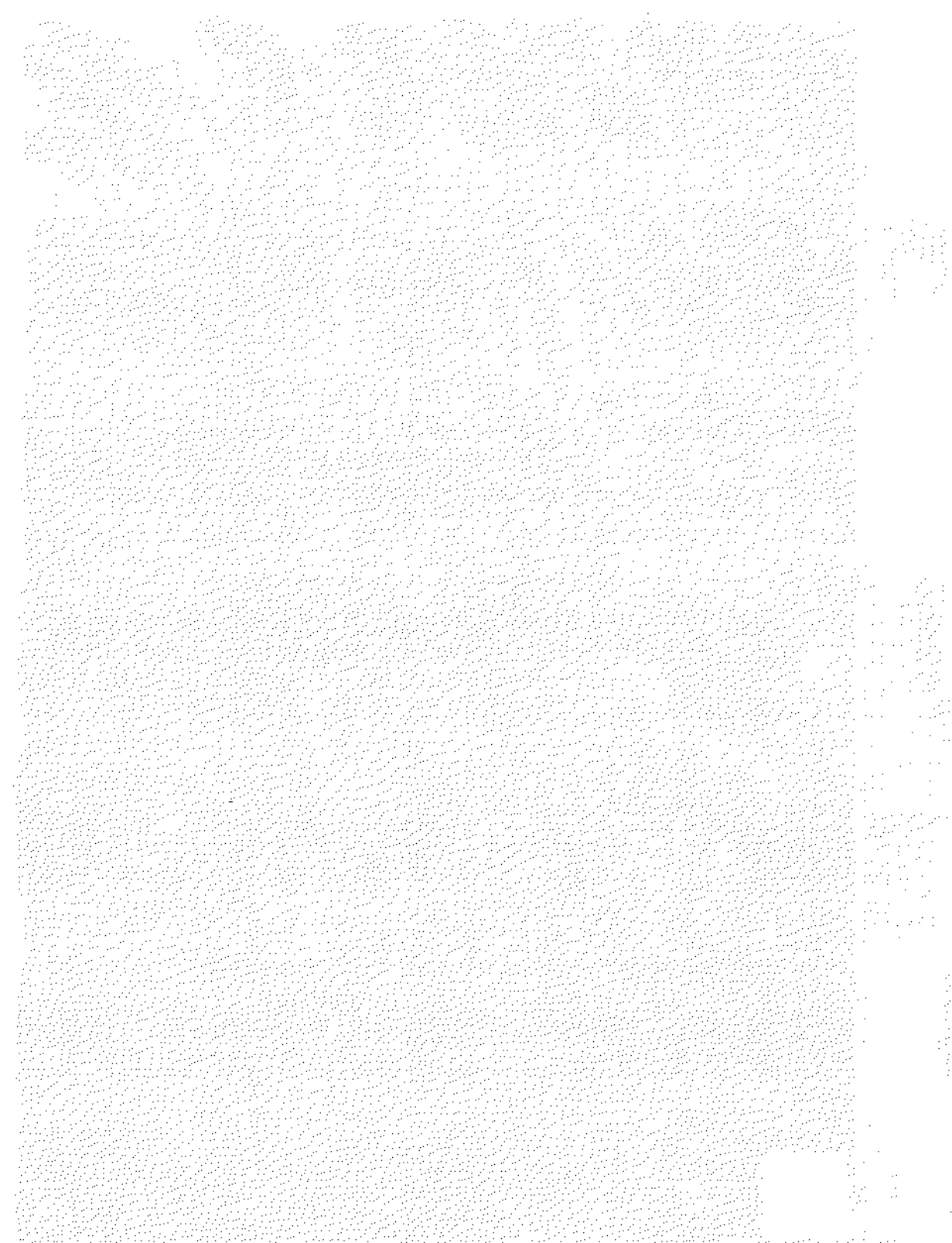
Any enquiries concerning this consent may be directed to:- Dennis Crone  
**TEAM LEADER WATER CONSERVATION**



CONSENT MAP DL-2011-105167-00



Consent Map DL-2011-105167-00  
Showing consent area in blue lines.



# GISBORNE DISTRICT COUNCIL



**Consent No.** DL-2011-105167-00  
**Subject** Discharge to land  
**Applicant** TAG Oil NZ Ltd and Apache Corporation  
**Address** PO Box 402 New Plymouth, 4340  
**Site Location** various locations Kanakanaia  
**Prepared By** Dennis Crone  
**Date** 12 December 2011

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## REPORT TO ENVIRONMENTAL SERVICES MANAGER for decision

### SUMMARY

This application by TAG Oil (NZ) Ltd and Apache Corporation is for resource consent to discharge drilling cuttings to land associated with seismic survey. This activity requires resource consents for a discharge to land.

Relevant legislation relating to the proposed activity includes the following: S9 Restrictions on use of land and S15 Discharge of contaminants into environment of the Resource Management Act 1991 (RMA 1991), Chapter 2 Land Management and Chapter 3 Water Management of the Gisborne District Council Regional Policy Statement (RPS), Section 2.2 Solid Discharges in the Regional Plan for Discharges to Land and Water (RPDLW) and the Waste Management Plan for the Gisborne District (2005).

The proposed drilling activity is a discretionary activity under the RMA as it does not meet the permitted activity criteria in the RPDLW.

The application was processed on a non-notified basis as effects were considered to be no more than minor and no other parties were deemed to be affected.

Officers recommended conditions are attached to this consent to mitigate, avoid or remedy any potential adverse effects in relation to the proposed activity.

### RECOMMENDATIONS

That the District Conservator:

- 1 receives the report
- 2 approves the officers recommended conditions
- 3 authorises the consent and recommended conditions.

Dennis Crone  
Team Leader Water Conservation

Trevor Freeman  
Environmental Services Manager

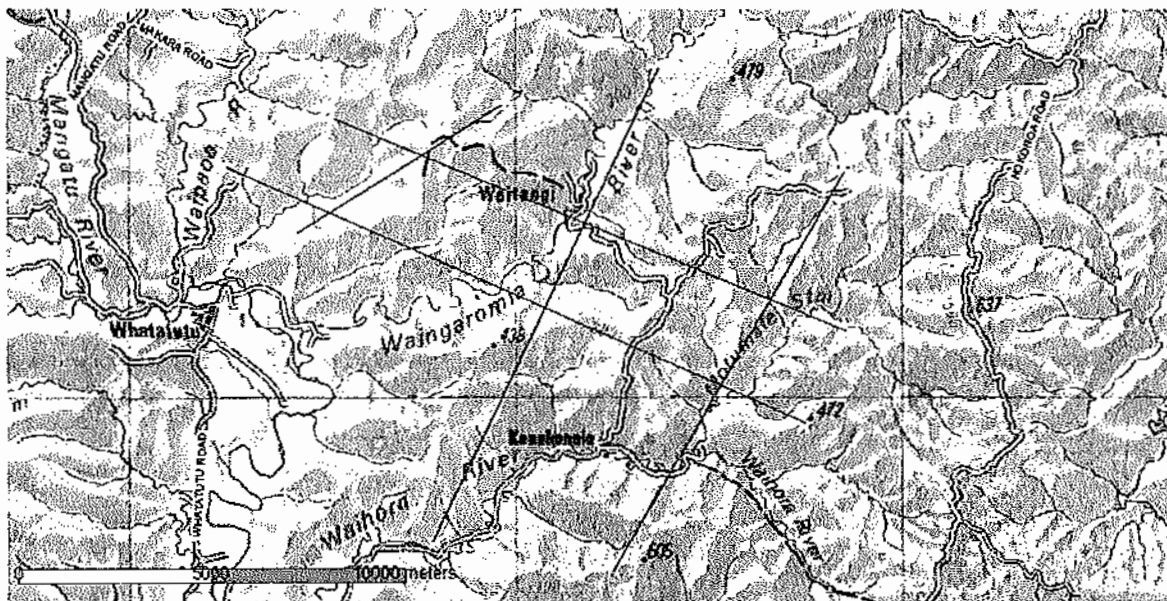
## 1.0 INTRODUCTION

TAG Oil (NZ) Ltd and Apache Corporation has applied for a discharge to land consent to discharge drilling cuttings to land associated with seismic survey. This report assesses the discharge of material from the proposed survey operation. Drilling cuttings includes broken bits of solid material removed from a borehole drilled by rotary, percussion, or auger methods. Bore holes will be drilled every 80m along the transect lines shown in figure 1.

## 2.0 BACKGROUND

### 2.1 Location

The area the drilling cuttings will be abstracted from is various sites near the upper Waipaoa River and tributaries near Waitangi Hill Whatatutu, at the area shown in the following figure .



**Figure 1:** Map showing general location of survey. Yellow stars show extremity of survey lines joined by black lines of the survey

### 2.2 Legal Description

The drilling sites will be located on farm land around the Whatatutu area as shown in figure 1 above.

## 3.0 STATUTORY REQUIREMENTS

The proposal has been assessed with regard to the following statutory documents:

- Resource Management Act 1991 (RMA), section 3.1
- Regional Policy Statement for the Gisborne District (RPS), section 3.2
- Regional Plan for Discharges to Land and Water (RPDLW), section 3.3
- Part-operative Combined Regional Land & District Plan (PoCRLDP), section 3.4.
- The Waste Management Plan for the Gisborne District (2005), section 3.5.

### 3.1 Resource Management Act 1991 (RMA)

The following sub-clauses of the RMA have been considered when assessing this application:

- S5 Purpose, section 5.1
- S6 Matters of National Importance, section 5.2
- S7 Other matters, section 5.3
- S8 Treaty of Waitangi, section 5.4
- S9 Restrictions on use of land, section 3.1
- S15 Discharge of contaminants into environment, section 3.1
- S88 Making an application, section 3.1
- S95 A-F When public notification of consent applications is required, Forming opinion as to whether adverse effects are minor or more than minor, and forming opinion as to who may be adversely affected, section 6.0
- S104 Matters to be considered, section 4.3
- S104B Determination of applications for discretionary or non-complying activities, section 4.4.

**RMA Section 88 Making an application**

*(2) An application must—*

*(a) be made in the prescribed form and manner; and*

*(b) include, in accordance with Schedule 4, an assessment of environmental effects in such detail as corresponds with the scale and significance of the effects that the activity may have on the environment.*

*(3) If an application does not include an adequate assessment of environmental effects or the information required by regulations, a local authority may, within 5 working days after the application was first lodged, determine that the application is incomplete and return the application, with written reasons for the determination, to the applicant.*

The applicant has included an adequate assessment of environmental effects with the application and the application was received and accepted on the 11th November 2011..

**RMA Section 9 Restrictions on use of land**

*(1) No person may use any land in a manner that contravenes a rule in a district plan or proposed district plan unless the activity is—*

*(a) Expressly allowed by a resource consent granted by the territorial authority responsible for the plan; or*

*(b) An existing use allowed by [section 10 or section 10A.*

*(3) No person may use any land in a manner that contravenes a rule in a regional plan or a proposed regional plan unless that activity is—*

*(a) Expressly allowed by a resource consent granted by the regional council responsible for the plan; or*

*(b) Allowed by section [20A] (certain existing lawful uses allowed).*

*(4) In this section, the word **use** in relation to any land means—*

- (a) Any use, erection, reconstruction, placement, alteration, extension, removal, or demolition of any structure or part of any structure in, on, under, or over the land; or  
(d) Any deposit of any substance in, on, or under the land;

(6) Subsection (3) does not apply to the bed of any lake or river.

**RMA Section 15 Discharge of contaminants into environment**

(1) No person may discharge any—

(a) Contaminant or water into water; or

(b) Contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water; or

(c) Contaminant from any industrial or trade premises into air; or

(d) Contaminant from any industrial or trade premises onto or into land—

unless the discharge is expressly allowed by a rule [in a regional plan and in any relevant proposed regional plan], a resource consent, or regulations.

(2) No person may discharge any contaminant into the air, or into or onto land, from—

(a) Any place; or

(b) Any other source, whether moveable or not,—

in a manner that contravenes a rule in a regional plan or proposed regional plan unless the discharge is expressly allowed by a resource consent[, or regulations,] or allowed by section [20A] (certain existing lawful activities allowed).

[(3) This section shall not apply to anything to which section 15A or section 15B applies.]

This application is for a discharge to land and requires a resource consent subject to S9 and S15 RMA 1991 and Rules 3.5.6 (other solid discharges) and 6.5.3 (Other liquid discharges) of the RPDW. These rules determine that the proposed discharge requires discretionary consent.

**3.2 Regional Policy Statement for the Gisborne District (RPS)**

Chapter 2 Land Management and Chapter 3 Water Management have been considered in regard to this application. The general principals in these chapters of protecting the land and water resources from contaminants, leachates etc will be supported by assessing and avoiding, mitigating or remedying effects from the proposed drilling operation.

**3.3 Regional Plan for Discharges to Land and Water Waste Management and Hazardous Substances( RPDW)**

**Section 3.0 Solid Discharges**

Applications of materials to land for purposes other than disposal, such as fertilisers, weedicides and pesticides, stockpiles or solid fill, can have adverse effects or pose a risk to the environment.

**Objective 3. 2.2.** Adverse effects caused by solid discharges to land or water from activities are avoided, remedied or mitigated.

**Policy 3.3.4** To give particular consideration to the following matters when assessing applications for consents to dispose of solid materials or to discharge solid contaminants to land or water:

- a) The nature of the materials to be discharged.
- b) Any actions which may be required in order to address any risks posed by the hydro-geological conditions at and around the site.
- c) The potential for any long-term contamination or other long term or cumulative effects arising from the operation.
- d) Any actions planned or required in order to avoid, remedy or mitigate any adverse effects of the site when it is no longer used for the disposal or discharge.
- e) Any effects of leachate and stormwater on groundwater, surface water and coastal water.
- g) Any actual or potential effects of any discharges on human health or amenity and on the health and functioning of plants, animals or ecosystems.
- h) Whether the discharge will attract pest populations and the potential effects of the pests on sensitive land uses and significant indigenous flora and fauna and their habitats.
- i) Any values placed on the site by tangata whenua.
- j) Any other uses or values surrounding the site.

#### **Rule 3.5.6 Other Solid Discharges**

Except as provided for in the rules of this plan 3.5.1-3.5.5 the discharge of any materials or contaminants onto land and the discharge of any solid material containing contaminants into or onto land; or into water shall be a **discretionary activity**.

#### **Rule 6.5.3 Other Liquid Discharges**

Except as provided for in the rules of this plan 6.5.1-6.5.2 the point source discharge of all liquids to land or water shall be a **discretionary activity**.

**Officer comment.** The proposed seismic survey operation is considered to be a discretionary activity pursuant to rules 3.5.6 other solid discharges and 6.5.3 Other liquid Discharges. This is because the activity does not meet all the criteria to allow it as a permitted activity

### **3.4 Part-operative Combined Regional Land & District Plan (PoCRLDP)**

The PoCRLDP does not include any rules pertaining to this discharge. Planning maps r55, r56, r64 and r65 (a and b) show the site locations as within a rural general zone.

The PoCRLDP contains rules relating to Petrochemical exploration and production and mining

**Rule 19.18** defines permitted activities that includes the following:

The following activities shall be permitted activities:

#### **19.18.1.1 Geological and geophysical prospecting activities in the Rural G, Rural P and Industrial Zones**

*Provided that:*

- a) Notice shall be given to landowners within 100 metres of any prospecting activities, to the District Council and to tangata whenua at least 30 days prior

- to commencement of operations. The notice is to include information on the nature, location, timing and effects of the activity.
- b) Public notice in a newspaper circulating in the prospecting area shall be printed 7 days prior to commencement of operations.
  - c) The minimum distance between a shot hole and any dwelling shall be 100m unless the written approval of the owner and occupier has been obtained.
  - d) Restoration and rehabilitation of disturbed areas including access tracks, shot holes, drainage areas, vegetation and gates and fences shall be carried out.
  - e) All activities must comply with the General Rules specified in Chapter 8 – Infrastructure, Works and Services and Chapter 11-Noise and Vibration and Chapter 15-Parking.

**Officer Comment:**

The activity of seismic surveying is considered to be a permitted activity under chapter 19 of the PoCRLDP. The specific activity of discharging solid or liquid to land associated with the survey is however bound by the RMA, regional rules and requires consent. A recommended footnote alerts the applicant to the above criteria that the permitted activity status is required to comply with.

#### **4.0 ASSESSMENT OF ENVIRONMENTAL EFFECTS (104(1)(a))**

##### **4.1 Positive Effects**

The approval of this application will enable the applicant to discharge drill cuttings and drilling fluids from the operation so that there are no adverse effects on the environment.

##### **4.2 Actual and Potential Effects**

###### Contaminants discharged to land

Drilling fluids contain bentonite mud, Barite and additives to proprietary drilling muds. The applicant has provided Material Safety data sheets for two such products that they intend to use. The volume of product likely to be present in drill cuttings and the likely small volume of cuttings per shot hole (0.07-0.14 m<sup>3</sup> per shot hole) is unlikely to result in any measurable level of contaminant in the soil. Bentonite is a natural product found in the Kanokanaia area and a bentonite mine is located at Kanakanaia. Barite is considered to be an inert substance.

The potential effects of contaminants adversely affecting the environment is considered to be no more than minor.

###### Cultural

Cultural effects have been discussed in more detail in sections 5.3 and 5.4 of this report.

###### Area of survey

The area involved with the seismic survey includes 18 parcels of land encompassing approximately 215 km<sup>2</sup> to the north of Te Karako and to the west of Whatafutu. The geological area that defines this area is known as Waitangi Hill.

###### Amenity

There are no near neighbours close to the operations been carried out. Potential effects on any neighbours are considered to be less than minor. No physical drilling will be undertaken

within 25m of waterways and within 200m of any sensitive structures (such as bores or dwellings), waahi tapu, or other sites which are significant to iwi.

Noise during the drilling operations will be minimal.

#### Rehabilitation of site after operation

The applicant agrees to rehabilitate the drill sites at the completion of the survey. This will include smoothing of the immediate site for each shot hole and even spreading of spoil and drill cuttings that may have accumulated on the soil surface.

### **3 Section 104 Assessment**

#### *Section 104 Consideration of Applications*

- (1) *When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to—*
  - (a) *any actual and potential effects on the environment of allowing the activity; and*
  - (b) *any relevant provisions of—*
    - (i) *a national policy statement;*
    - (ii) *a New Zealand coastal policy statement;*
    - (iii) *a regional policy statement or proposed regional policy statement;*
    - (iv) *a plan or proposed plan; and*
  - (c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*
  
- (2) *When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if the plan permits an activity with that effect.*
  
- [(2A) *When considering an application affected by section 124, the consent authority must have regard to the value of the investment of the existing consent holder.*]
  
- (3) *A consent authority must not—*
  - (a) *have regard to trade competition when considering an application;*
  - (b) *when considering an application, have regard to any effect on a person who has given written approval to the application;*
  - [[ (c) *grant a resource consent contrary to—*
    - (i) *section 107 or section 107A or section 217;*
    - (ii) *an Order in Council in force under section 152;*
    - (iii) *any regulations;*
    - (iv) *a Gazette notice referred to in section 26(1), (2), and (5) of the Foreshore and Seabed Act 2004;]]*
    - (d) *grant a resource consent if the application should have been publicly notified and was not.*
  
- (4) *Subsection (3)(b) does not apply if a person has given written approval in accordance with that paragraph but, before the date of the hearing (if a hearing is held) or otherwise before the determination of the application, that person gives notice in writing to the consent authority that the approval is withdrawn.*

- (5) *A consent authority may grant a resource consent on the basis that the activity is a controlled activity, a restricted discretionary activity, a discretionary activity, or a non-complying activity, regardless of what type of activity the application was expressed to be for.*

**S104 [1][a]** has been considered in Sections 4.1 and 4.2 of this report.

**S104[1][b]** has previously been noted in Section 3.0.

**S104[1][c]** is not relevant to this application.

**S104[2], [2A], [3] and [4]** are not relevant to this application.

**S104[5]** This application was processed as a discretionary activity.

#### **Section 104B Determination of Applications for Discretionary or Non-complying Activities**

*After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority—*

- (a) *may grant or refuse the application; and*
- (b) *if it grants the application, may impose conditions under section 108.]*

**Officer comment.** In my opinion this discharge permit should be granted subject to those conditions recommended in Section 8.0 of this report.

## **5.0 Part II Assessment**

### **5.1 Section 5 Purpose**

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, "sustainable management" means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while—*
  - (a) *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
  - (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.*

**Officer comment.** The proposed seismic survey operation is not considered to have an impact on the life supporting capacity of the soil and will not restrict sustainable management of resources.

### **5.2 Section 6 Matters of National Importance**

There are no S6 matters of National Importance relevant to this application.

### 5.3 Section 7 Other Matters

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—*

- (a) *Kaitiakitanga:*
  - [(aa) *The ethic of stewardship;*
- b) *The efficient use and development of natural and physical resources;*
- (c) *The maintenance and enhancement of amenity values;*
- (d) *Intrinsic values of ecosystems;*
- (e) *(Repealed);*
- (f) *Maintenance and enhancement of the quality of the environment;*
- (g) *Any finite characteristics of natural and physical resources;*
- (h) *The protection of the habitat of trout and salmon.*
- (i) *The effects of climate change.*
- (j) *The benefits to be derived from the use and development of renewable energy.*

**Officer comment.** Amenity values or the quality of the environment should not be affected by this activity. The applicant recognises Te Aitanga a Mahaki as kaitiaki of the area. The applicant has met with Te Aitanga a Mahaki Trust and has provided details of their proposed plans of the seismic survey, as well as future operations. The purpose of this survey is to obtain geological information for oil and gas prospecting. It is known these resources do have a negative effect on climate change but are a needed resource. Overall this activity will help obtain information for the oil and gas prospecting for future investigations and operations that may be carried out in the area.

Disturbance to Papatuanuku is of concern to Iwi. Questions about where the activity was taking place and the purpose, deposition of soils or other by products or materials (how, where, when) have been addressed during meetings with local residents. These concerns have, in my opinion been adequately covered through the meetings with Tangata Whenua with both Council Officers and the applicant. The activity is not considered to interfere with the expression of tikanga Maori, gathering rongoa or other practices, or on waahi tapu or other areas of significance. The activity has a low impact on other natural areas, flora, fauna, peoples health and wellbeing. The impacts on the Mauri and wairua of the whenua (keeping these in balance and being mindful of them) and the kaitiaki role that Iwi have over the whenua are also important and have, in my opinion been adequately addressed.

The activity of drilling the shot holes as part of the seismic survey is a permitted activity in rules within District and Regional plans for Gisborne District Council. The above comments therefore relate to the effects of the small volumes of spoil that will be deposited near each of the proposed shot holes.

### 5.4 Section 8 Treaty of Waitangi

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti a Waitangi).*

**Officer comment.** The tangata whenua issues in relation to this seismic survey and discharge of drilling cuttings to land have been considered adequately. (See section 5.3 above). The principles of the Treaty of Waitangi have been taken into account.

At a residents meeting at Whatatutu on November 28<sup>th</sup> 2011 the Group Manager Environment and Policy suggested that a written request for notification of these consents could be made following the meeting. No such request has been received, and this in some way confirms that cultural values have been sufficiently considered for the seismic survey work. Later exploratory well drilling that may include practices, such as 'fracking' these activities may require more in depth consideration of cultural values.

## 6.0 NOTIFICATION

### **Section 95 A-F When Public Notification of Consent Applications is Required**

Under s95A the consent authority may in its discretion decide to publicly notify and under s95(2) (a) it must publicly notify if it decides under s95D that the effects of the activity will have or are likely to have adverse effects on the environment that are more than minor.

**Officer comment.** In this case discretion was used to not notify the consent application.

The effects from the proposed activity are considered to be no more than minor and no affected parties were identified in relation to this application (RMA S95). Therefore this application has been processed on a non-notified basis. A more complete assessment under s95 of the RMA has been completed on December 12<sup>th</sup> 2011.

## 7.0 CONSULTATION

The applicant has met with te Aitanga a Mahaki Trust as kaitiaki of the area. The Iwi will continue to be consulted as the project progresses. No written approvals from any party was included with the application. All land owners/occupiers of property through which the seismic survey will traverse will have civil agreements to cover access requirements. Notices to property owner/occupiers shall meet the permitted activity requirements under rule 19.18 of the PoCRLDP.

## 8.0 RECOMMENDATIONS

That pursuant to Sections 104 and 104B of the Resource Management Act 1991, consent be granted under delegated authority to TAG Oil (NZ) Ltd and Apache Corporation to discharge drilling cuttings to land associated with the seismic survey, in the location north of Te Karaka and west of Whatatutu as shown above in figure 1 (approximately 215 km<sup>2</sup> of land) subject to the following conditions:

### 8.1 Recommended Conditions

The following conditions shall be attached to Discharge Permit **DL-2011-105167-00**

1. All operations shall (unless modified by the following conditions) be carried out in accordance with the submitted consent application dated 18<sup>th</sup> November 2011.
2. Drilling fluids and mud shall be managed such that fluids and semi fluids are contained, recirculated and re-used where ever practical.

3. Drilling procedures and methods shall comply with NZ Standard 4411:2001, Environmental Standard for Drilling of Soil and Rock, where appropriate and in particular the following sections of NZS4411:
  - 1.5 Competence of driller
  - 2.4.1 Drilling Fluid including 2.4.1.1-2.4.1.2.4
  - 2.4.3.2-2.4.3.4 Bentonite, water and additive provisions
  - 2.4.5 Gravel Pack
  - 2.7 decommissioning
4. Drill cuttings that remain on site at the completion of each shot hole shall be evenly dispersed over sufficient area, adjacent to the drill hole such that cuttings are not more than 300mm deep at any point.
5. Upon completion of drilling all cables, pegs and other material used for the seismic survey shall be removed and the farmland shall be restored to a state that is equal to pre-survey state.
6. The following records shall be kept:
  - Location of shot holes at an accuracy of +/- 20m
  - Average depth and range of depths of drilled shot holes
  - Depth to bedrock
  - A record of all instances of non compliance with conditions of this consent, New Zealand Standard 4411 and resulting action.

These records shall be provided to the Gisborne District Council Environmental Services Manager upon request in writing and within an agreed timeframe.

#### Foot Notes:

1. The consent holder is advised that this permit does not in itself give any legal authority or otherwise to enter onto or carry out any work on private land, road reserve or Council land. It does not imply any exclusive rights to operate over land which is the subject of this permit. It does not excuse the consent holder from obtaining all other legal and statutory authorities and consents nor meeting all other statutory requirements.
2. This discharge permit is for activity that is associated with geological prospecting. This activity is permitted under chapter 19 of the PoCRLDP.

Subject to the following:

- a) Notice shall be given to landowners within 100 metres of any prospecting activities, to the District Council and to tangata whenua at least 30 days prior to commencement of operations. The notice is to include information on the nature, location, timing and effects of the activity.
  - b) Public notice in a newspaper circulating in the prospecting area shall be printed 7 days prior to commencement of operations.
  - c) The minimum distance between a shot hole and any dwelling shall be 100m unless the written approval of the owner and occupier has been obtained.
  - d) Restoration and rehabilitation of disturbed areas including access tracks, shot holes, drainage areas, vegetation and gates and fences shall be carried out.
  - e) All activities must comply with the General Rules specified in Chapter 8 – Infrastructure, Works and Services and Chapter 11-Noise and Vibration and Chapter 15-Parking.
3. This consent is granted by the consent authority subject to its servants and agents being permitted access to the relevant parts of the site at all times for the purpose of carrying out inspections, surveys, investigations, tests, measurements or taking samples.

4. Reasonable costs incurred by the consent authority in monitoring, supervision and enforcement of any or all of the conditions of these consents shall be fully met by the consent holder pursuant to Section 36 of the Resource Management Act 1991.

**Reasons for the Decision:**

1. The proposal is a means of safely discharging material from this and other sites.
2. There is low risk of contamination to surface or groundwater resources.
3. The site is suitably located in a reasonably isolated site away from other dwellings.

**Relevant Resource Management Act Sections:**

RMA Section 9 Restrictions on use of land

RMA Section 15 Discharge of contaminants into environment

**Planning Documents Considered:**

Regional Policy Statement for the Gisborne District (RPS)

Regional Plan for Discharges to Land and Water (RPDLW)

Part-operative Combined Regional Land & District Plan (PoCRLDP)

The Waste Management Plan for the Gisborne District (2005)

**Principle Issues:**

1. Contamination of water.
2. Provision of a valuable resource for the applicant/property owner.

**Summary of Evidence Considered and Main Findings of Fact:**

1. The nature of the discharge.
2. Planning maps r55, r56, r64 and r65 a and b (PoCRLDP).
3. The site of the survey operation is fairly isolated.
4. The material is unlikely to result in adverse effects on the environment.