

Before the Proposed Te Tai o Poutini Hearings Panel

In the Matter of

the Resource Management Act
1991 (**Act**)

And

In the Matter of

a submission (S491) and further
submission on the Proposed Te Tai
o Poutini Plan by Bathurst
Resources and BT Mining Limited

And

In the matter of

Topic 10: Natural Features and
Landscapes

Statement of Evidence of **Claire Elizabeth Hunter** for Bathurst Resources Limited and BT Mining Limited Dated: 12 February 2024

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INTRODUCTION

Qualifications and Experience

1. My name is Claire Elizabeth Hunter
2. I am a director with the firm Mitchell Daysh Limited, a planning and environmental consultancy operating through New Zealand. I have around 18 years of experience in this field.
3. I hold an honours degree in Environmental Management from the University of Otago. I am a member of the Resource Management Law Association and an Associate Member of the New Zealand Planning Institute.

Code of Conduct

4. Whilst this is not an Environment Court hearing I have read and agree to comply with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023. This evidence is within my area of expertise, except where I state that I am relying on material produced by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Background and Involvement

5. I have been providing planning advice to Bathurst Resources Limited and BT Mining Limited (together, **Bathurst**) for 5 years. I am familiar with Bathurst's operations on the West Coast and in other regions of the South Island.
6. I did not prepare the submission or further submission lodged by Bathurst. I agree with the content of the submissions unless I state otherwise.
7. I have previously prepared and presented evidence for Bathurst at the hearings for Topics 1, 2 and 9.¹

SCOPE OF EVIDENCE

8. Bathurst have engaged me to provide planning evidence on Bathurst's submissions on the Proposed Te Tai o Poutini Plan (**TTPP; the District Plan; or the Plan**).

¹ Statement of Evidence of Claire Hunter, Topic 1 and Topic 2, 29 September 2023 and Statement of Evidence of Claire Hunter, Topic 9, 22 January 2024.

9. In this brief of evidence, I will:
 - (a) specifically address Bathurst's submissions on the Natural Features and Landscapes chapter; and
 - (b) address any further submissions of relevance to this hearing stream and amendments to provisions of interest to Bathurst.
10. I have read the Section 42A Report and addendum (31 January 2024) for Topic 10 prepared by Ms Easton. My evidence responds to the Section 42A Report.

NATURAL FEATURES AND LANDSCAPES CHAPTER SUBMISSIONS

11. I understand that hearings for Topic 10 were initially scheduled to address submissions on Ecosystems and Indigenous Biodiversity. However due to uncertainty with respect to the new Government's intention to review a number of aspects of the Resource Management Act 1991 framework including the National Policy Statement on Indigenous Biodiversity (**NPSIB**), the Hearings Panel determined there to be benefit in delaying these aspects until later this year. Therefore, as per Minute 14, my evidence only seeks to address Bathurst's submission points relating to Natural Features and Landscape matters.
12. With respect of the Natural Features and Landscapes Chapter of the TTPP, Bathurst made three submissions and two further submissions.

Policies

Policy NFL-P1

13. Bathurst sought amendments to Policy NFL-P1 to clarify that existing land uses and lawfully established activities includes mineral extraction activities. Linked to this, the Bathurst submission also seeks some amendments to the definition of lawfully established.
14. The Section 42A Report at paragraph [108] observes that Bathurst's submission relates to an amendment to specifically include "mineral extraction, mineral exploration and anticipated activities in the BCZ and MINZ" and acknowledges that while the substantive issue around the definition of lawfully established in relation to mining activities is to be addressed at the Mineral Extraction hearing, this submission point is supported in part.

15. The Section 42A Report at paragraph [112] and paragraph [132] recommends amending Policy NFL – P1 to read as follows:

Provide for activities within outstanding natural landscapes described in Schedule Five and outstanding natural features described in Schedule Six where they ~~do not adversely affect~~ maintain the values that together contribute to a natural feature or landscape being outstanding and are for:

- a) *Existing land uses and lawfully established activities including ~~existing lawfully established residential activities, regionally significant infrastructure, network utilities, renewable energy generation activities, mineral extraction, agricultural, horticultural and pastoral activities;~~*
16. I support the proposed amendments to this Policy. I agree it is appropriate to recognise that some anticipated development can be appropriate within outstanding natural landscapes (**ONL**) and features, provided those activities maintain the values that contribute to that feature or landscape being considered outstanding.
17. This provides greater flexibility to contemplate appropriate subdivision, use and development in such areas in certain circumstances. This re-drafting also appropriately recognises that the status of such areas should not be so rigid that it does not properly take into account existing land uses and other activities which form part of the existing legal environment, particularly where those activities are constrained by functional and operational considerations.
18. Having said that, I note that the term lawfully established appears twice in the redrafting of clause (a) which seems to be unnecessary, and the clause should be amended to read:

Policy NFL-P1

- a) *“Existing land uses and lawfully established activities including ~~lawfully established residential activities...~~”.*

Policy NFL-P5

19. The Section 42A Report at paragraph [164] also recommends accepting Bathurst’s submission on Policy NFL – P5 and adding clause (k) which enables consideration as to whether an activity is appropriate in a landscape context, by taking into account *“the extent to which an activity or structure is lawfully established”*.
20. From a planning perspective, it is sensible to me that when identifying and assessing landscape values, consideration should also be given to existing modifications of the environment (including those which may be able to be developed either through consents or other existing approvals). It would also be appropriate in my opinion, that when developing Special Purpose Zones, such as the Buller Coal Zone (**BCZ**)

and the Mineral Extraction Zone (**MINZ**) to carefully consider how these zones interplay with matters such as landscape and biodiversity values. To this end, I understand that the majority of these zones are outside any areas that have been identified as being outstanding. With respect to the Denniston Plateau, this is consistent with previous landscape assessments and an Environment Court decision which determined that the site is not part of an outstanding natural landscape.² However, there appears to be some overlap within the BCZ and the ONL boundaries (and may be others in other mineral extraction areas). This is shown in the figure below, as extracted from the online version of the TTPP.

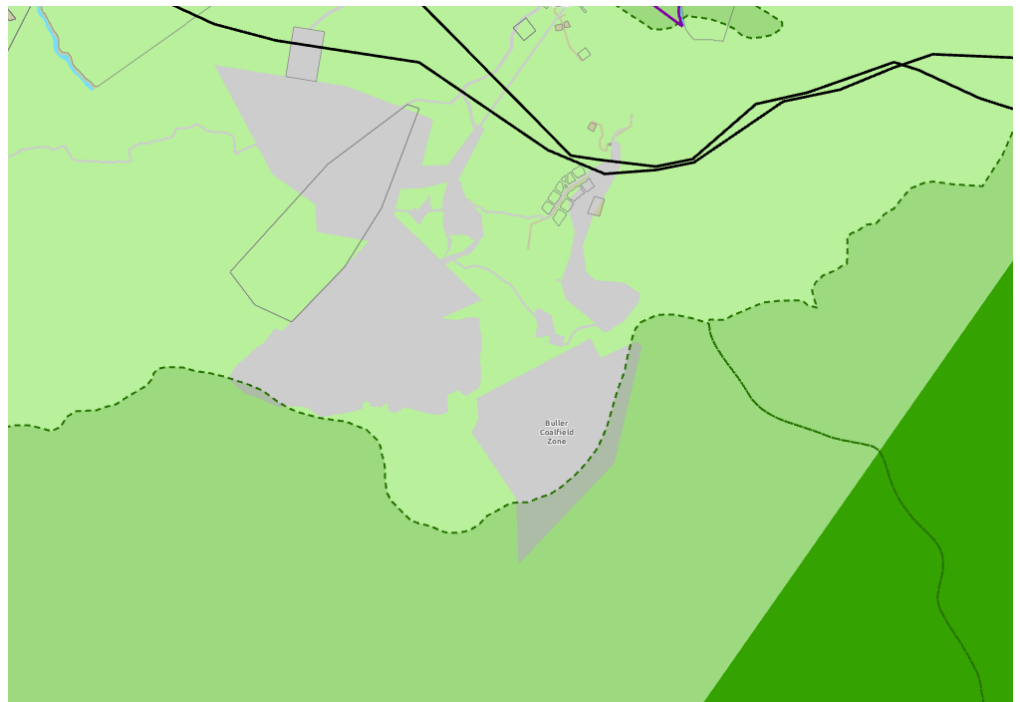


Figure 1: Buller Coal Special Purpose Zone with ONL Overlap Shown (as notified).

² West Coast Environmental Network Inc v West Coast Regional Council [2013] NZEnvC047 at paragraph [49].

21. There does not appear to be any clear justification provided as part of the supporting documents for the development of the TTPP, as to why a portion of the BCZ Special Purpose Zone is within an area which is also identified as being outstanding. I understand from reviewing the report prepared by Mr Brown that it was intended that the ONL boundaries were set to avoid areas of mining operations.³ I also note that the review undertaken by Bridget Gilbert Landscape Architecture Limited has recommended that clear guidance is included in the TTPP that explains:⁴
- (a) the reasonably high level nature of the ONL schedules;
 - (b) that the landscape values identified relate to the ONL as a whole, rather than specific sites; and
 - (c) that other landscape values may be identified as part of an application specific landscape assessment, including landscape modifications that are an accepted part of the landscape (e.g. infrastructure, buildings) and more negative landscape attributes (e.g. pests).
22. Ms Gilbert's report also recommends that the ONL linework is clipped to obvious landform and/or contiguous native vegetation cover edges in the immediate vicinity of the mapped ONL. It would appear on the basis of these recommendations that the ONL overlay in Figure 1 should be reviewed and amended to avoid the BCZ area. I understand that Counsel for Bathurst will further address previous landscape assessments prepared in relation to this area in the context of other proceedings.
23. Bathurst has also sought to confirm the landscape status of the BCZ with the GIS mapping that has been supplied by the TTPP Committee. This map is attached to my evidence as Appendix A. As shown in Appendix A, part of the zone remains within the ONL overlay area. I am concerned that this creates further uncertainty in terms of the validity of the mapping exercise that has been undertaken and support the recommendation for a further workstream or review to finalise the location of the ONL overlays.⁵
24. For these reasons (and in the absence of further revision to the mapped ONLs to avoid the BCZ and MINZ areas) I also consider it appropriate for the provisions relating to natural features and landscapes to acknowledge, among other matters, the presence of existing land use activities, existing authorisations (consents, mining licences) and also land use zoning.

³ West Coast Landscape Study: Review of Outstanding Natural Landscapes and Areas of High and Outstanding Natural Character, Brown NZ Limited, March 2022 at page 16.

⁴ Te Tai o Poutini Plan: Landscape Report, Bridget Gilbert Landscape Architecture at [1.2].

⁵ Te Tai o Poutini Plan: Addendum to Natural Features and Landscapes s42A Report – Response to Landscape Review Report from Bridget Gilbert, 31 January 2024, at [3].

25. I also think given the current uncertainty regarding the mapping that has been undertaken, it is important that a consenting pathway remains available for activities which can demonstrate a functional or operational need to locate within these overlay areas. This is discussed further below.

Rules

26. Bathurst sought amendments to Rule NFL-R10 which deals with earthworks within an ONL that do not meet the permitted standards in NFL-R6, to include reference to functional or operational need and activities within the MINZ and BCZ. Such activities would require consent for a Controlled Activity. The Section 42A Report supports this submission in part but does not agree that a Controlled Activity status is appropriate, and recommends a Restricted Discretionary Activity Status is adopted, as follows (at paragraph [314]):

NFL - R10A Mineral Extraction in the Buller Coalfield Zone and Mineral Extraction Zone within an Outstanding Natural Landscape described in Schedule 5.

Activity Status Restricted Discretionary

Where:

• These are on land within the Buller Coalfield Zone or a Mineral Extraction Zone;
and

• This includes earthworks and buildings associated with the activity.

Discretion is restricted to:

• Any requirements for landscape evaluation;

• Managing adverse effects on historical, cultural, and biodiversity values;

• Amenity and visual effects;

• Managing effects on public access and natural character;

• Effects on the values that make the feature or landscape Outstanding;

• Identifying and avoiding adverse effects on Poutini Ngāi Tahu values;

• Extent and design of earthworks; and

• Landscape measures.

Activity status where compliance not achieved: Discretionary

27. As I have discussed in evidence for earlier hearing topics, it would be appropriate in my view to ensure consistency in the mechanics of the TTPP, noting that earthworks, where associated with an existing mineral extraction activity are permitted under the Special Purpose Zone provisions. I am of the view that in this instance the mineral extraction zones should be free from the encumbrance of an ONL status given the nature and intent of the Special Purpose Zones and landscape evidence previously prepared in relation to these areas. However, if there are circumstances where there may be valid overlap (based on a further fine grained landscape analysis), I agree with the Section 42A Report that a Restricted Discretionary activity status for new mineral extraction activities in such areas would present an appropriate pathway.
28. I note that the matters of discretion are all however similar in intent and likely outcome. They also appear to address matters which are broader than landscape and visual amenity (e.g. public access and biodiversity). Additionally, some of the

intent of the matters is unclear, for example “landscape measures” presumably means mitigation and remediation but this is not abundantly clear.

29. I therefore consider that the list could be redrafted as follows:

- (a) *The effects on landscape and visual amenity values, and views of the activity particularly from public roads and areas;*
- (b) *Mitigation and remediation measures.*

FURTHER SUBMISSIONS

30. Bathurst also made further submissions on the following submissions:

- (a) opposing the amendment sought by Forest and Bird to NFL-P2 to remove the word significant before adverse effects; and
- (b) supporting Straterra’s submission seeking review of the size and extent of ONLs and the provision of more information on the criteria used. Bathurst supports this submission as the ONL around the Denniston Plateau is considered inconsistent with the natural features and crosses into the BCZ.

31. Policy NFL-P2 seeks to establish a hierarchical approach to the management of significant adverse effects within ONLs. Forest and Bird’s submission on this matter sought to remove the reference to “significant”, which would result in the first priority being an obligation to avoid all adverse effects. I agree with Bathurst’s further submission to oppose this submission. This Policy establishes a high threshold in my view, and it is appropriate that it has regard to the scale and significance of the adverse effect, given that as a first priority avoidance is required. Section 6(b) is not a ‘no change’ provision, and avoidance of all adverse effects is likely to provide a very limited window for any activities to be undertaken in such areas. For these reasons I support the Section 42A Report recommendations on this matter.

32. Bathurst also supported Straterra’s submission on the extent and mapping of ONLs within the region. It appears from my review of the material provided that there are some uncertainties regarding the accuracy of some of this mapping and note the recommendations cited above taken from the recent Bridget Gilbert Landscape Architecture Limited report.

33. As I have also outlined above, there is an overlap between an area of ONL and the BCZ Special Purpose Zone. There may be some accuracy issues regarding this and in my view given the intent of the zone in particular, it would be sensible if this overlay were to avoid the BCZ. There could be unforeseen or undue costs associated with

such a status in these areas, and I do not think that has been appropriately accounted for as part of the Section 32 analysis which supports the mapping to date.

CONCLUSION

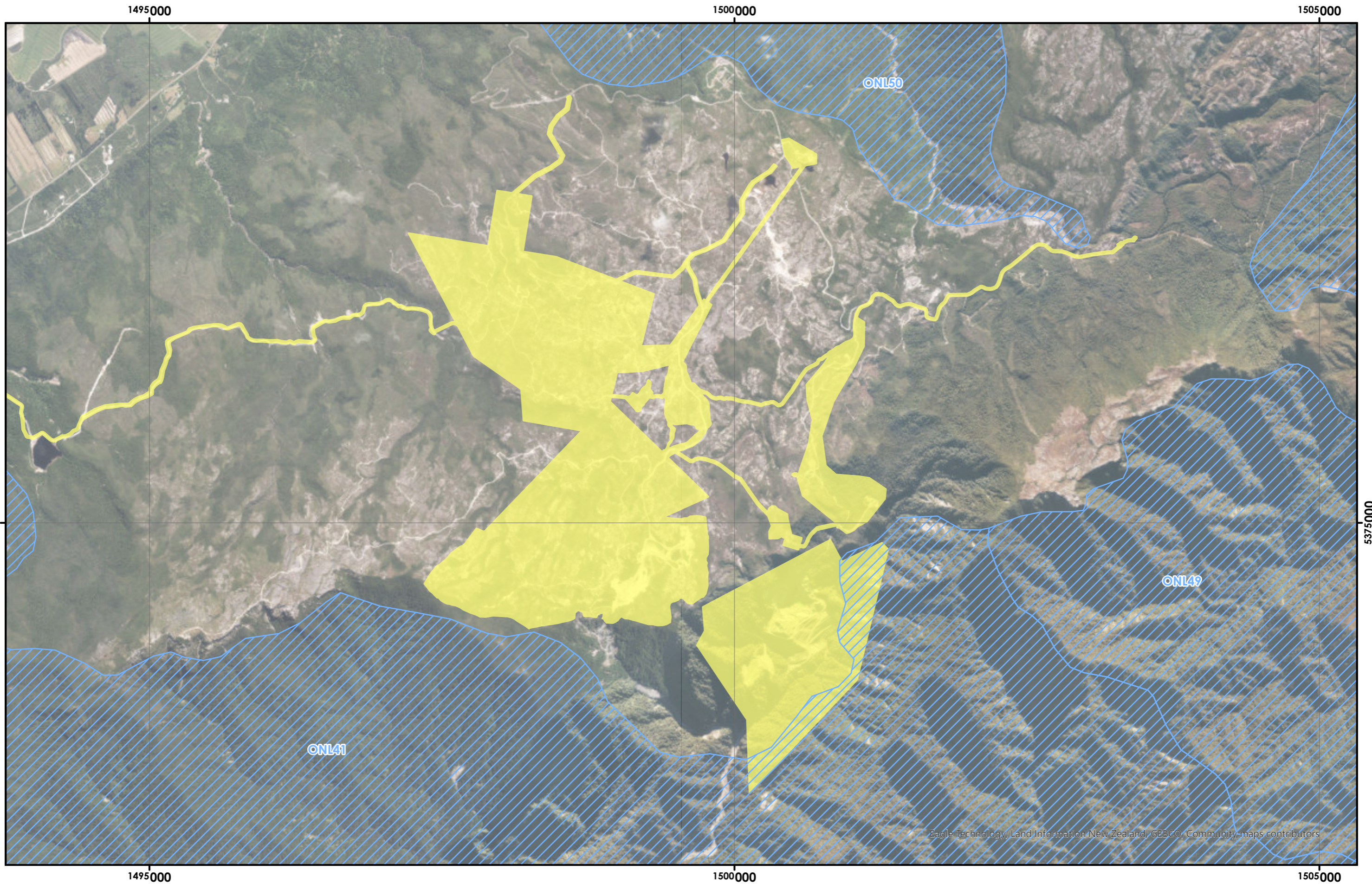
34. As set out in my evidence, I support Bathurst's submissions and further submissions concerning the Natural Features and Landscape Chapter of the TTPP. It appears that there is some uncertainty regarding the mapping of ONLs within the region. In my view this needs to be addressed and in areas such as the Special Purpose Zones for mineral extraction, such statuses in terms of their costs and benefits, need to be carefully considered to confirm if they remain applicable. I consider this would also benefit from consideration of previous landscape assessments in the relevant area.
35. Given the inherent uncertainty that can be associated with any mapping exercise and the nature of mineral extraction activities in that they are functionally and operationally constrained, I am of the view that a consenting pathway should remain available for such activities to be considered where conflicts with landscape status may arise. I therefore generally agree with the Section 42A Report recommendations on these matters, subject to minor amendments as I have outlined in this evidence.



Claire Elizabeth Hunter

12 February 2024

Appendix A



Eagle Technology, Land Information New Zealand, GBCO, Community maps contributors

NZGD 2000 Transverse Mercator

W:\GIS_Master\GIS_Data\Projects\BLR\Legal\Project Files\BLR-LGL-PLN-01563\BLR-LGL-PLN-01563.aprx



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- Legend**
- Proposed Buller Coalfields Zone Extent
 - Outstanding Natural Features (GIS data from WCRC as of 9/2/2024)

DRAFT

Denniston Plateau
 Proposed Buller Coalfields Zone
 With Outstanding Natural Landscapes
 SCALE: 1:30,000 A3
 DATE: 12 February 2024
 DRAWN BY: CanardR
 DRAWING NUMBER: 01563-1

