

Before the Proposed Te Tai o Poutini Plan Hearings Panel

In the Matter of

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

And

In the Matter of

a submission (S491) and further
submission (89) on the Proposed Te
Tai o Poutini Plan by Bathurst
Resources Limited and BT Mining
Limited

And

In the Matter of

Coastal Environment Part A

Statement of Evidence of **Claire Elizabeth Hunter** for Bathurst Resources Limited and BT Mining Limited

Dated: 23 September 2024

INTRODUCTION

大成 DENTONS KENSINGTON SWAN

18 Viaduct Harbour Avenue P +64 4 472 7877
Private Bag 92101 F +64 4 472 2291
Auckland 1142 DX SP26517

Solicitor: C Sheard
E: Christina.sheard@dentons.com

lane neave.

Lane Neave
Level 1, 2 Memorial Street
Queenstown 9300
Solicitor Acting: Joshua Leckie
Email: joshua.leckie@laneneave.co.nz
Phone: 03 409 0321

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 five 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. These submission points are discussed below.
7. I have previously prepared and presented evidence for Bathurst at the Topic 1, 2, 9, 10, 13, 15 and 10B hearings.¹

SCOPE OF EVIDENCE

8. Bathurst has 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**).
9. In this brief of evidence, I will:

¹ Statement of Evidence of Claire Hunter, Topic 1 and Topic 2, 29 September 2023; Topic 9, 22 January 2024; Topic 10, 12 February 2024; Topic 13, 29 April 2024, Topic 15 5 May 2024, Topic 10B, 29 July 2024.

- (a) specifically address Bathurst's submissions on the Coastal Environment (CE) topic; and
 - (b) address any further submissions of relevance to this hearing stream and amendments to provisions of interest to Bathurst.
10. I have read Ms Easton's Section 42A Report for the CE topic. My evidence responds to the Section 42A Report.

COASTAL ENVIRONMENT TOPIC RELIEF

11. Bathurst lodged submissions on two provisions in the CE Chapter, and also made further submissions opposing various submissions lodged by the Department of Conservation (DoC) and Forest and Bird.
12. Bathurst has an interest in the CE provisions of the TTPP on the basis that its Ngakawau Coal Handling Facility is located within the CE Overlay, as shown in Figure 1 below.

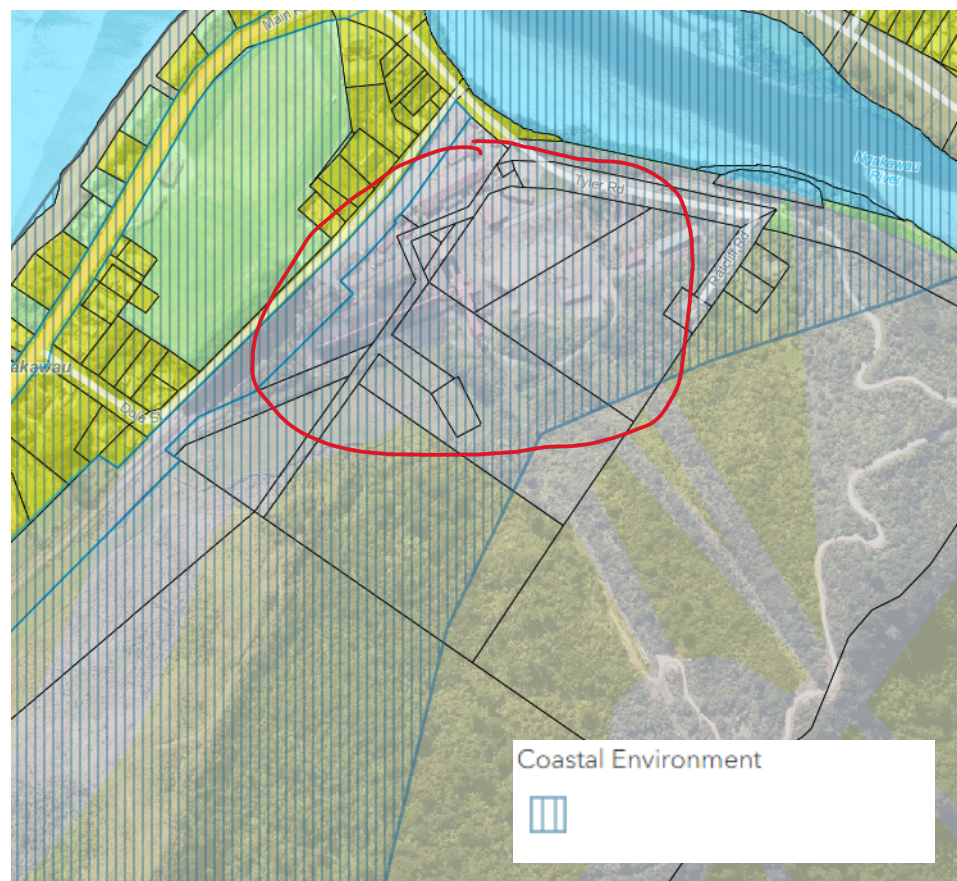


Figure 1: Ngakawau Coal Handling Facility Location (circled in red) and Coastal Environment Overlay

13. Bathurst's submission related to Rule CE-R4, which provides that buildings and structures in the CE are a permitted activity where they:
 - (a) are not located within an ONL, ONF, or area of High / Outstanding Coastal Natural Character; and
 - (b) comply with the rules for buildings and structures within the relevant underlying zones (except for in the GRUZ, RLZ, and SETZ zones where the rule provides a specific set of controls (including a 7 metre height limit).
14. Bathurst's submission asked for the Buller Coalfield Zone (**BCZ**) and Mineral Extraction Zone (**MINZ**) zones to be specifically listed in the rule alongside the GRUZ, RLZ and SETZ, to be subject to the specific set of controls, inclusive of the 7 metre height limit.
15. Upon reviewing the submission, the Section 42A report writer has noted that the adoption of this proposal would result in the imposition of more stringent bulk and location regulations on mining buildings/structures where the underlying zoning is BCZ and is also within the CE overlay, such as is the case at the Ngakawau Facility.² Bathurst acknowledges that this was not the intent of the submission and, consequently, requests the withdrawal of this particular submission point (Submission point S491.030). It is also worth noting that Bathurst intends to continue the existing coal handling operations. As it relates to the BCZ and activities within the CE overlay, Bathurst's submission seeks to sustain and manage the long-standing facility by ensuring that the provisions in the TTPP do not inadvertently hinder its existing operations.
16. The Ngakawau Coal Handling Facility is essential to the overall Stockton operations. It serves as a terminal to the aerial ropeway stockpile area for coal products and a loading facility for rail or truck transportation to Lyttelton Port for export purposes. Ancillary support activities are also located within this area, including maintenance and other mechanical workshops. The coal is conveyed from the plateau via an aerial ropeway. The aerial ropeway and other infrastructure at the site were established around the 1950s. However, certain buildings related to the overall Stockton operation predate this period, some originating before the 1900s. It is understood, however, that their use has always been in relation to the coal processing requirements for the Stockton mine.
17. The current utilisation of this site is also authorised under the Ancillary Coal Mining Licence 3715002 (**ACML**). Additionally, under the operative Buller District Plan, the

² Section 42A Report Coastal Environment at [282].

site is currently zoned as industrial, permitting industrial and/or process activities such as coal storage, handling, and transportation.³

18. Based on the establishment dates (as well as the ACML and the existing industrial zoning), the structures and operations on this site have existing use rights. I also note that this matter was considered during witness conferencing for the BCZ and MINZ. I understand that all involved planners agree (at least on a principled and pragmatic basis) that lawfully established buildings will retain existing usage rights.⁴ Therefore, regardless of whether the ACML is integrated into the TTPP through grandfathering (as is my preferred approach), these existing use rights will remain unfettered.
19. On the basis that the load-out facility retains its existing use rights (irrespective of the grandfathering of the CML/ACML into the TTPP), it would be, in my view, inconsistent and not the most appropriate outcome in a section 32 sense to not adopt a similarly pragmatic approach for mineral extraction and associated rehabilitation activities that have been lawfully established. This further reinforces the approach outlined in my evidence presented during the Mineral Extraction hearing⁵ by making it abundantly clear that existing activities consistent with their terms and conditions can continue as existing and permitted land use activities within the BCZ.

Additional Submission points – Objective CE - O3

20. Bathurst also submitted on Objective CE- O3 of the CE Chapter, which seeks to provide for activities that have a functional need to locate in the coastal environment in a way that minimises the impacts on natural character, landscape, natural features, access, and biodiversity values.
21. Bathurst proposed including "operational need" alongside "functional need." The author of the Section 42A report has accepted this submission point, and I concur with its appropriateness, particularly within the coastal environment. This is due to the frequent presence of industrial activities associated with ports and transportation routes, such as rail networks, which are often situated in coastal areas due to access requirements and, therefore, have operational needs.
22. Bathurst also sought to replace the term "minimise" with "avoided, remedied, mitigated, offset or compensated". The Section 42A report writer does not support this submission and states:

³ Operative Buller District Plan at Section 5.2.6.
⁴ See paragraph 6.2 of the Overall JWS #2 – Planning MINZ.
⁵ See paragraph 81, in particular, of Claire Hunter's Evidence.

*"I also consider that the use of effects management hierarchy (including offsetting and/or compensation) is the way in which the objective might be achieved - and that any reference to offsetting and compensation is considered at a policy level, and in relation to biodiversity as outlined in the NPSIB."*⁶

23. In response to the submission made by Forest and Bird however, the report states that the term minimise is preferred on the basis that it aligns with the definition of *"reduce to the smallest amount reasonably practicable"*.
24. Given the definition of 'minimise', which requires the impacts (or adverse effects) themselves to be *reduced to the smallest amount reasonably practicable*, I do not agree that the objective, as currently drafted, allows for consideration of offsetting and compensation. I therefore support the intent of Bathurst's submission which seeks to allow for consideration of the full range of effects management tools to address any actual or potential adverse effects arising.

Further submission points

25. Bathurst made eight further submissions, five opposing submissions by Forest and Bird, and three opposing submissions by the Department of Conservation.
26. I have reviewed the Section 42A report regarding these submissions and the recommendations therein and I support them.

CONCLUSION

27. As set out in my evidence, Bathurst is seeking to withdraw its submission point on Rule CE – R4. The existing Ngakawau Coal Handling Facility will retain its existing use rights irrespective of whether the ACML/CML is grandfathered into the TTPP. Consequently, the existing structures and operational use of this facility will be able to continue as they are currently (without being impeded by consenting risk) and, therefore, agrees that Rule CE – R4 is not applicable to its existing activities and operations.
28. With regard to Objective CE-O3 Bathurst is seeking to ensure appropriate recognition is given to activities that may be functionally and/or operationally constrained by providing access to a comprehensive suite of tools for managing their effects on values within the coastal environment.

⁶ Section 42A Report Coastal Environment at [108].

29. The proposed changes are appropriate, in my view, as they generally align with national policy documents that set out specific pathways for certain activities, recognising their functional and/or operational constraints within other environmental contexts, including freshwater and areas of indigenous biodiversity.



Claire Elizabeth Hunter

23 September 2024