

18 May 2020

Environment Canterbury and Selwyn District Council  
[hearings@ecan.govt.nz](mailto:hearings@ecan.govt.nz)

cc

To whom it may concern,

**Bathurst Coal Ltd – Notified Consent Applications CRC184166, CRC200500, CRC201366, CRC201367, CRC201368, CRC203016, and RC185622 –Canterbury Regional Council and Selwyn District Council**

Please find enclosed a submission by the Director-General of Conservation (the **Director-General**) in respect of this application.

The Director-General's submission identifies concerns about the effects on threatened indigenous species and significant wetlands. The Director-General therefore seeks that the application is declined unless suitable and appropriate conditions are imposed to address the issues raised.

Please contact Amelia Ching (RMA Planner) in the first instance if you wish to discuss any of the matters raised in this submission (email [amelia.ching@doc.govt.nz](mailto:amelia.ching@doc.govt.nz) or phone 04 354 8400)

Yours sincerely

Kingsley Timpson  
Operations Manager  
North Canterbury

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## Form 13: Submission on limited notified application concerning resource consent

### Resource Management Act 1991

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**To:** Canterbury Regional Council and Selwyn District Council

**Name of submitter:** Lou Sanson, Director-General of Conservation (the **Director-General**)

**Applicant:** Bathurst Coal Limited (the **Applicant**)

**Location:** Bush Gully Road, Malvern Hills

**Description of activity:** Application for resource consents for various resource consents to continue operating and expand the open cast Canterbury Coal Mine and for some retrospective activities, (the **Proposal**)

**Application number:** CRC184166, CRC200500, CRC201366, CRC201367, CRC201368, CRC203016, and RC185622 (the **Application**)

**My submission relates to:** The whole Application

**My submission is:** I oppose the Application.

#### Overview:

1. I oppose the granting of the resource consents for the proposal (in the application's current form), as the proposal does not adequately address the potential adverse effects of the proposal on:
  - a. Significant habitat of Indigenous Species including Canterbury mudfish, and
  - b. Significant Wetlands

#### The Director-General's interest in the Application

2. The Director-General of Conservation ('the Director-General') has all the powers reasonably necessary to enable the Department of Conservation ('the Department') to perform its functions.<sup>1</sup> A function of the Department is to advocate for the conservation of natural and

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<sup>1</sup> Refer section 53 Conservation Act 1987

historic resources generally.<sup>2</sup> Section 2 of the Conservation Act 1987 defines ‘conservation’ to mean *‘the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generation’*.

### **Reasons for the Director-General’s submission**

3. The decisions sought in my submission are required to ensure that, the decision-maker:
  - a. recognises and provides for the matters of national importance listed in Section 6 of the Resource Management Act 1991 (the **Act**); and
  - b. has particular regard to the intrinsic values of ecosystems as required in Section 7(d) of the Act.

### **The Director-General’s submission:**

#### ***Significant habitat of Indigenous Species***

4. The affected tributary streams - Bush Gully Stream, Tara Stream and Oyster Gully are known to contain significant habitat for Canterbury mudfish (*Neochanna burrowsius*). Canterbury mudfish under the New Zealand Threat Classification System (Townsend et al. 2008) has the highest conservation status for native freshwater fish in the South Canterbury Coastal Streams area, of Threatened – Nationally Critical, based on the criteria that irrespective of size or number of subpopulations it has a very high (>70%) ongoing or predicted decline.
5. The proposal details some likely modification of flows in these streams related to the diversion of water due to alteration of the landforms as part of mine development. The taking of some of this water and stormwater, up to 600 cubic metres daily, for dust suppression within the mining area is also proposed.
6. While the applicant considers these minor water takes and diversions, this occurs in the context of streams with very small baseflows and further modification to the hydrology of these streams may have a significant adverse effect on habitat for Canterbury mudfish.
7. I consider that given the significance of Bush Gully Stream, Tara Stream and Oyster Gully to Canterbury mudfish populations, and the likely ongoing detrimental effects of the mining activities on the habitat and species it is important that affects are avoided or consent conditions are given careful consideration and appropriate mitigation measures imposed and monitored.
8. I consider the information provided by the Applicant is insufficient to understand the hydrological effects and I am concerned that the proposal does not adequately address the

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<sup>2</sup> Refer section 6(b) Conservation Act 1987

potential adverse effects on Canterbury mudfish or how the proposal will avoid, remedy, or mitigate potential adverse effects.

9. The proposal also includes the discharge of water into the Tara Stream from the water treatment system on site. The details of this particular aspect of the proposal is unclear as the Applicant and Canterbury Regional Council disagree on activities are currently consented.
10. I am concerned that any changes to the physico-chemical properties of water is a threat to Canterbury mudfish and appropriate conditions are required to manage effects.

### ***Significant wetlands***

11. I am concerned that the proposal does not adequately address the actual or potential effects on wetlands. This is because I consider that the AEEs do not adequately identify potential hydrological effects on significant wetlands within the Mine Operating Area (MOA) and outside the MOA, and that no mitigation is proposed to provide certainty that the effects on the significant wetlands will be appropriately avoided, remedied or mitigated.
12. I am concerned with the potential hydrological effects on the wetlands (seepages and flushes) present in the catchment(s). I am concerned that those seepages would likely be important to sustain flows, especially during dry periods.
13. I am concerned with the further loss of wetland habitat. I understand that some wetland disturbance is consented, however, I seek that any further wetland disturbance be avoided, or measures be made to appropriately offset and compensate for losses.
14. I understand there is conflicting information on the removal of seepages and wetlands located on the north-west slopes<sup>3</sup>. I seek clarification of the retrospective wetland removal and further information to fully understand the effects on the wetlands in gullies south-east of the mine.

### **Statutory considerations**

15. I consider that, as currently proposed, the proposal does not promote the sustainable management purpose of the Act, and the proposal is contrary to various relevant provisions and statutory instruments that apply to it. In particular, the proposal does not adequately avoid, remedy, mitigate or offset potential adverse effects on threatened indigenous fauna and wetlands, proposes to take water in an overallocated catchment, and is therefore contrary to:
  - a. sections 6(a) and (c) of the Act;

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<sup>3</sup> Para 16-18 of Appendix E of the Canterbury Regional Council Notification Report – Memorandum of Dr Philip Grove

- b. relevant objectives and policies in the Canterbury Land and Water Regional Plan, including Objective 3.8 and 3.17, and Policies 4.50, 4.81 and 11.4.24; and
- c. relevant objectives and policies in the Canterbury Regional Policy Statement, including Objectives 7.2.1 and 9.2.1, Policies 9.3.1 and 9.3.5.

16. The proposal is a non-complying activity. Therefore, as the effects are more than minor Council should **decline** the application under Section 104D of the Act.

**Decision sought:**

17. I seek that the application is **declined** unless:

- a. suitable conditions are imposed to ensure that the actual and potential effects of the proposal are adequately avoided, remedied, mitigated or offset;
- b. additional information, necessary to understand the potential adverse effects as discussed above, is provided by the applicant including, but not limited to, information on the on-site water treatment system, potential hydrological effects, and effects on wetlands,
- c. any other additional measures are imposed to address the concerns associated with the above.

I **do wish to be heard** in support of my submission.

If others make a similar submission, I will consider presenting a joint case with them at a hearing.

A copy of this submission has been served on the applicant.

Kingsley Timpson

Operations Manager

North Canterbury

Acting pursuant to delegated authority

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Date: 18 May 2020

Note: A copy of the Instrument of Delegation may be inspected at the Director-General's office at Conservation House Whare Kaupapa Atawhai, 18/32 Manners Street, Wellington 6011

**Address for service:**

Department of Conservation  
Christchurch Shared Services