

Escarpment Coal Mine

AA 51-279

Application for a variation of conditions
December 2021

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1.0 Introduction

Buller Coal Limited (**Company**) is seeking a variation of the term of the *Access Arrangement for Open Cast Coal Mining under the Crown Minerals Act 1991 Mining Permit 51 279* entered into with the Minister of Conservation on 21 May 2013 (together with all subsequent variations¹) (together the **AA**) and the conditions relating to the timing of the payments set out in the Fifth Schedule of the AA (and the First Schedule of the Compensation Deed)

The Company is a wholly owned subsidiary of Bathurst Resources Limited (**Bathurst**) and is a New Zealand registered company (Company No 1534436). Bathurst also owns New Brighton Collieries Limited, Bathurst Coal Limited and has a 65% share in BT Mining Limited.

Bathurst, including BT Mining

Limited, is New Zealand's leading coal producing company with operations throughout New Zealand providing coal for local steel making, delivering energy for electrical generation and to domestic dairy and food processing industries, and exporting high quality metallurgical coal to international customers.

The purpose of this document is to provide an assessment of the potential environmental effects of varying the conditions of the AA as sought. The AA along with resource consents RC10193/1-16 and RC10/70A-H and RC-2017- 0112-01 to 03 (**Consents**) authorise the Escarpment Mine located on the Denniston Plateau.

This assessment covers all those matters of relevance for a variation to the AA.

2.0 Location

The Escarpment Mine (**Escarpment**) is located on the southern edge of the Denniston Plateau, approximately 13 km northeast of Westport and 4 km to the south of Denniston (Figure 1). The land is Crown Land administered by the Department of Conservation (**DOC**) and is within the Mount Rochfort Conservation Area. The Consents area covers approximately 152.2 hectares (ha) on the southern edge of the Denniston Plateau (Figure 1) and within this area, DOC granted the AA for Stage 1 over 106 ha of this land.

¹ First Variation 22 May 2014, Second Variation 29 October 2015, Third Variation 30 June 2016, Fourth Variation 11 June 2018

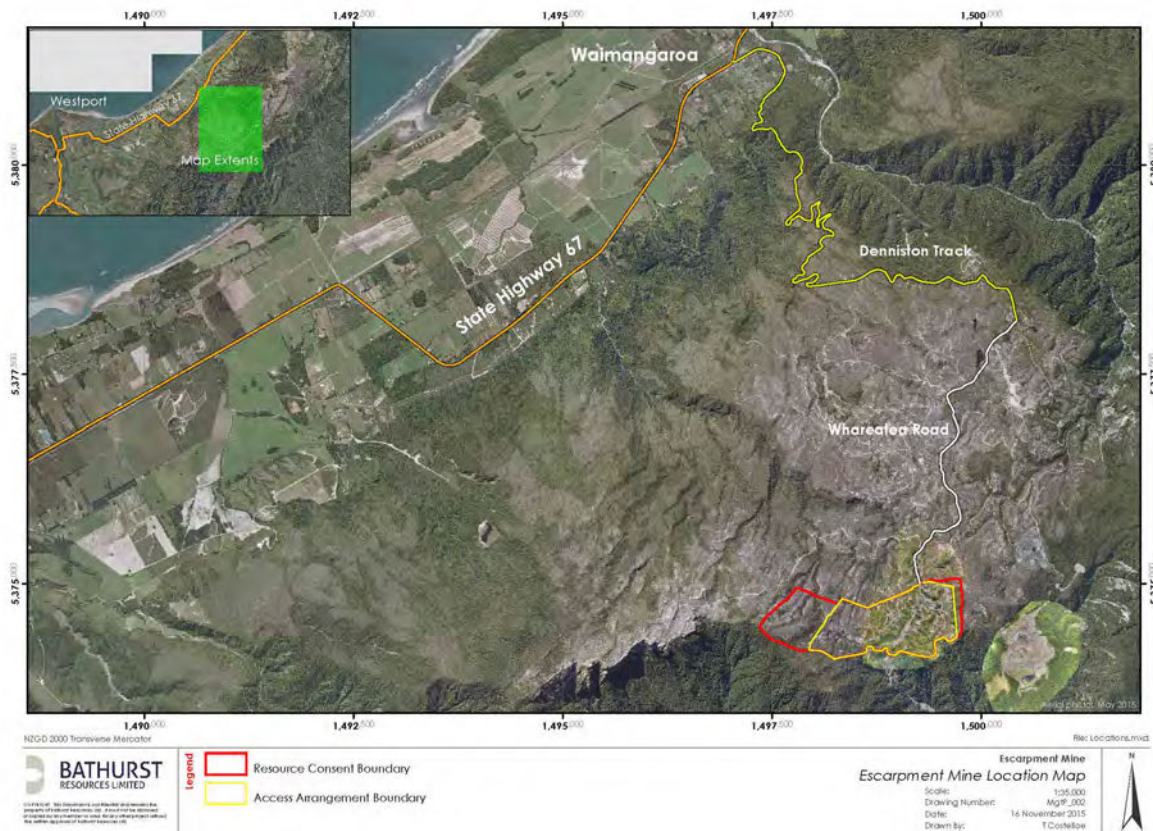


Figure 1: Escarpment Coal Mine - Location Plan

The Company was granted the Consents by the Environment Court in October 2013 and the AA in May 2013. The Buller District Council (**BDC**) and the West Coast Regional Council (**WCRC**) certified the first management plans and Annual Work Plan (**AWP**) required by the Consents in March 2014. The first authority to enter and operate (**AEO**) was issued by DOC on 18 June 2014. The AEO gave DOC's formal approval of all management plans, Bonds, Insurances, and the AWP, and was the final step in enabling the Company to commence operations at the Escarpment Mine.

3.1 Overview of Escarpment Mine Operations

Construction activities commenced in July 2014. Limited works were undertaken before the mine was placed into care and maintenance on 1 May 2016. The sharp downturn in the coal export market made it uneconomic at that time to continue production at the mine.

During the period from July 2014 to May 2016 approximately 55,000t of low quality coal was incidentally won (that is uncovered during construction activities) and sold to the nearby Holcim cement works. The mine has remained in care and maintenance since 2016 with no further overburden removal or coal winning occurring since this time. Ongoing works on site have been limited to water management, weed

control, infrastructure maintenance, removal of previously mined coal from the ROM stockpile, water monitoring and biodiversity monitoring.

Establishment of the incorporated joint venture with Talleys Energy Ltd in 2016 and the subsequent purchase of the Stockton Mine assets (through BT Mining Ltd) in 2017 have created opportunities to utilise the Stockton infrastructure assets and optimise coal quality through blending. This removes the need to establish a separate coal processing plant and rail facility to process Escarpment coal. Blending the Escarpment coal with the Stockton coal will extend the life of the Stockton mine by increasing the total volume and value of coal that can be sold for steel making.

3.2 Timeline for approvals being granted

Current approvals for the Escarpment Mine start to expire from June 2022, a table of the approvals and expiry dates is shown below. Renewal of most of these elements is required to continue with development and mining at the Escarpment Mine.

Approval	Agency	Purpose	Expires
Minerals Permit MP 51 279	NZPAM	Right to mine the coal	23 June 2022
Access Arrangement AA51 279	DOC	Landowner approval	23 June 2022
Wildlife Act Authority WAA (36887-FAU)	DOC	Allows certain activities and their effects on absolutely protected species	30 Sep 2023
Easement WRC (34684-OTH)	DOC	Allows use of the Easement Land for the upgrade, maintenance and use of Whareatea Road (3,625 m) for the purposes of access to and transport of coal from Escarpment Mine.	31 June 2024
Resource Consent RC01093/1-16 RC10/70A-H	WCRC/BDC	Enables mining and associated land use disturbance activities associated with the Escarpment Mine Project.	23 Oct 2025
Resource Consent RC 120063/B	WCRC	Allows indigenous vegetation clearance and incidental earthworks over approximately 1-2 hectares (ha) associated with the up grading of the Whareatea Road to a haul road.	N/A
Resource Consent RC 13216/1	WCRC	Allows discharge of contaminants to water for the purposes of feeding koura in the relocation ponds.	23 Oct 2025
Resource Consent RC 2017-0112-01,02,03	WCRC	Allows diversion and monitored discharge of water containing contaminants into the Cascade Creek and its tributaries, namely V8 Creek.	31 July 2053

Table 1 Escarpment Approvals and Expiry Dates

The process for renewal or extension of the term for each authority is different. The resource consent and concession/easement processes are set out in statute and cannot be extended but provided an application for renewal is lodged a minimum of six months in advance of expiry, the activity may

continue until a decision has been made. The AA or WA Authority do not have a similar prescribed process, although there are precedents (and conditions) that allow for extension of the term.

An extension of duration (**EOD**) for the Mining Permit 51 279 has been lodged with NZPAM. This application is seeking to extend the term for another 20 years. The Company has also lodged an application with NZPAM to change the status of Mining Permit 51 279 from Tier 1 to Tier 2 including removing the underground mining condition from the permit's work programme. The current version of MP 51 279 is attached as **Appendix 1**.

3.3 Compensation – Fifth Schedule of the AA (First Schedule Compensation Deed)

The AA requires that the Company pay DOC a total compensation of \$21,964,000 +GST for the 106ha Escarpment Mine. This payment was set to compensate for the loss of conservation values that cannot be avoided, remedied, or mitigated as a result of the establishment and operation of the Escarpment mine. The money is being used by DOC to undertake historic and biodiversity work on the Denniston Plateau and in the Heaphy Valley (Kahurangi National Park). The payment is to fund biodiversity work over 35 years in the Heaphy and in perpetuity on the Denniston Plateau with a lesser amount for some agreed historic projects at Denniston.

The original compensation schedule has been amended three times (2014, 2016 and 2018), reflecting that slower than anticipated rate of construction and then going into care and maintenance with no physical activity and no change in the area of disturbance. There have been no change to the total value of the compensation package. The current schedule is shown in

The compensation package is also tied into the conditions of the Consents. A consent variation to the Consents was granted by the Councils in March 2017 that removed a specific schedule of payments and now simply refers to the total quantum and objectives of the package.

4.0 What is being Sought?

4.1 Extension of Term

The Company is applying for an extension to the term of the AA to align with the EOD application recently lodged with NZPM. That is for an additional 20 years with expiry on 23 June 2042.

As DOC will be aware, consenting of the Escarpment Mine was a protracted and expensive process lasting over 4 years. It was not until mid-2014 that all necessary consents were granted, including the first AEO under the AA. Initial development works were commenced in mid-2014 with incidental low grade coal won being sold to the adjacent cement works. However, the price of coking coal during this time continued its steep downward trajectory and following the closing of the cement works the mine was put on care and maintenance in May 2016 as being uneconomic to operate. It is with the purchase of the adjacent Stockton mine, through BT Mining Ltd, and the synergies with respect to its existing coal

washing plant, ropeway to the rail loadout at Ngakawau and the ability to blend Escarpment coal with Stockton coal that has led to improved economics for the Escarpment mine. The proposed mine plan lodged with NZPAM for the EOD proposes a reduced tonnage being mined per annum but over a longer period. It is anticipated that peak tonnages per annum will be in the order of up to 200,000 tonnes for a period of 10-15 years (subject to market conditions and customer blend requirements), with another 6 years for rehabilitation.

4.1.1 Existing conditions

AA Condition 44² sets out the term of the approval and also clarifies the understanding around the original expectations for the timing of mining and rehabilitation (44(b)). However as already outlined, due to the slower rate of construction and the placing of the mine into care and maintenance, mining has not been completed within the first seven years as originally anticipated. And it is now proposed to mine for a longer period but at lower volumes per annum. Accordingly for consistency, it is also proposed that clause 44(b) be removed completely or amended. Its removal would not materially affect any of the Company's obligations associated with mining, rehabilitation, closure or post-closure work. If the deletion of clause 43(b) is not acceptable then alternative wording is suggested.

Current Wording in AA: **TERM**

44. (a) Subject to Conditions 9(c) and (d), the term of this Access Arrangement will be for a period from the date of execution of this Access Arrangement until 23 June 2022 or for the term of Mining Permit 51-279, whichever is the lesser.
- (b) The parties acknowledge that within this term it is envisaged that the Permit holder will undertake Mining, Mining Operations, and progressive rehabilitation over an initial 7 year period, with the balance of the term being utilised for rehabilitation works and aftercare only. However nothing in this clause 43(b) limits or restricts the period when the Permit holder may undertake any Mining and Mining Operations.

Proposed New conditions

44. (a) Subject to Conditions 9(c) and (d), the term of this Access Arrangement will be for a period from the date of execution of this Access Arrangement until 23 June 2022 **2042** or for the term of Mining Permit 51-279, whichever is the lesser.
- (b) ~~The parties acknowledge that within this term it is envisaged that the Permit holder will undertake Mining, Mining Operations, and progressive rehabilitation over an initial 7 year period, with the balance of the term being utilised for rehabilitation works and aftercare only. However nothing in this clause 43(b) limits or restricts the period when the Permit holder may undertake any Mining and Mining Operations~~

² The original AA this condition was numbered 43, but the latest consolidated version of the conditions has this numbered as 44.

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Or

- (b) The parties acknowledge that within this term it is envisaged that the Permit holder will undertake Mining, Mining Operations, and progressive rehabilitation. ~~over an initial 7 year period, with the balance of the term being utilised for rehabilitation works and aftercare only. However nothing in this clause 43(b) limits or restricts the period when the Permit holder may undertake any Mining and Mining Operations.~~

4.2 Variation to the Compensation Schedule

This application is also seeking to vary the schedule of compensation payments (Fifth Schedule of the AA, First Schedule of the Compensation Deed) by extending the period over which the compensation is to be paid. This reflects the extent of disturbance at the site, which has not changed since the site was placed in care and maintenance in 2016. The revised schedule has been developed in consultation with DOC and enables the compensation funded projects to continue. The historic section of the compensation package remains unchanged as it is anticipated that this will be fully paid by the end of the 2022/2023 financial year (30 June 2023).

The proposal provides a base payment that enables the compensation work to be continued. This is based on the scheduled 2022 payment of \$802,000 spread between the Denniston and Heaphy projects (Denniston \$260,000 and Heaphy \$542,000). In addition, and in order to match payments with disturbance, it is proposed that an additional advance payment be made where there is proposed to be disturbance of new ground as agreed through the AWP. This payment will be on a per hectare rate based on the proportion of outstanding compensation owed and area remaining undisturbed.

Matching compensation to disturbance will reduce the overall time over which the compensation is spread. It is anticipated that DOC will hold this additional money to ensure that the work will continue for the minimum 35 years as agreed in the AA and the Consents. In any year where there is less disturbance than planned, it is suggested that this is adjusted in the following year (as a credit to that year's planned disturbance) thus maintaining the cumulative payments in line with cumulative disturbance, while recognising the minimum \$802,000 annual payment.

The formula for the annual payment will be

Total Payment = Base Rate + (Hectares to be disturbed* \$185,050)

The \$185,050 assumes that there are currently 91.7ha of the AA remaining undisturbed and as at 1 July 2022, \$16,969,000 of compensation outstanding. Therefore \$16,969,000/91.7ha equates to a disturbance payment rate of \$185,050/hectare

As an example, if in financial year 1 July 2023 to 30 June 2024, 10 hectares are planned to be disturbed the compensation payment would be calculated as follows:

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$$\begin{array}{rclcl}
 \$802,000 & + & (10 & \times & \$185,050) = & \mathbf{\$2,652,500} \\
 \text{Base Payment} & & \text{hectares to be} & & \text{Additional per ha rate} & \text{Total Owed} \\
 & & \text{disturbed} & & &
 \end{array}$$

The assignment of payments between the Heaphy and Denniston Biodiversity Enhancement Areas will be removed however, the Company will need to be reassured by DOC that the objectives of the Compensation schedule and the Consents for 35 years at the Heaphy and in perpetuity at Denniston will still be achieved.

4.2.1 Proposed Condition to replace Schedule 1 of the Fifth Schedule.

- 1) The total compensation owed for the life of the Escarpment Mine AA will equate to \$21,964,000.00 dollars +GST (in 2013 terms), being made up of the following amounts;
 - a) \$589,000.00 for Historic values
 - b) \$3,000,000.00 for Denniston Biodiversity Enhancement
 - c) \$18,375,000.00 for Heaphy Biodiversity Enhancement
- 2) As at 30 June 2022, \$4,995,000 will have been paid to DOC according to Schedule 1 of the Fifth Schedule of Variation 4 of the AA 51279
- 3) Compensation Payments will be made at the following rates;
 - a) For Financial year 1 July 2022 to 30 June 2023

Historic	
On eighth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$17,250 commencing 1 July 2022)	\$69,000.00
Denniston	
On eighth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$65,000 commencing 1 July 2022)	\$260,000.00
Heaphy	
On eighth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$135,500 commencing 1 July 2022)	\$542,000.00

- b) For the following years until such time that the full compensation amount of \$21,964,000.00 has been paid the annual quantum shall be set at:

\$802,000 (Base Rate) plus a disturbance compensation payment.

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The disturbance compensation payment shall be calculated as new hectares approved to be disturbed (rounded to the nearest hectare and in accordance with the approved AWP) multiplied by \$185,050.

- c) In any year where the area actually disturbed is less than the area planned for disturbance, the overpayment will be credited to the following year's compensation payment.
- d) The base rate of \$802,000pa will remain unchanged up to the point that the total compensation payment has been made.
- e) Payments shall be made in four equal quarterly payments in advance.

5.0 Effects on Conservation Values s61(2)(d)

The term of the AA is currently aligned to the term of the MP. At the time of granting of the AA this term was considered sufficient to complete the life of mine plan and to carry out rehabilitation of the land. The original AA and Consents applications used a mine plan that maximised production and took approximately five to six years to mine the 150ha footprint with the remainder of the term to be used to complete rehabilitation and mine closure.

The construction and start-up phase has been slower than anticipated with the site placed on care and maintenance since 2016. As part of this application the mine footprint is not proposed to increase beyond the 106ha already approved under the AA, rather the mining rate is proposed to be lower per annum and thus to be over a longer time period but with no additional disturbance or effects on the environment from those originally anticipated and assessed when the AA and the Consents were granted. The environmental controls and mitigation along with all other conditions of the AA will remain unchanged and therefore, no additional adverse effects from extending the term of the AA are anticipated.

During operations and the care and maintenance phase, AWP's have been submitted and approved. Since 2016, these plans have detailed the limited activities occurring on-site, being; maintenance of the mussel shell reactor for water treatment, weed control and monitoring.

The rationale for varying the compensation schedule remains the same as for the previous variations to the schedule, that is to match as far as possible the payments schedule with the extent of disturbance actually occurring on the ground, while acknowledging the need for a base payment to support DOC's ongoing biodiversity and historic work. The DOC Permissions Mining Report (Appendix 3): Previous Applications) for the variation approved in 2016 concluded that

- 1 *The proposed variation of the compensation payments schedule would not reduce the total compensation to be paid under the Compensation Deed*

- 2 *The proposed variation of the compensation payment schedule would not adversely affect the delivery or long-term results of the compensation funded projects.*

In addition, the significance assessment determined that

- 1 *The proposed changes to the variation should not have any material impact on the conservation values of the land nor result in any notable net impact on the land;*
- 2 *The proposed variation would not change the potential effects originally envisaged in the granting of the original AA;*
- 3 *Other activities on the land would not be affected by the proposed variation; and*
- 4 *The variation would not reduce the total compensation to be paid nor affect the Department's ability to deliver the three compensation funded projects.*

Consequently, the decision maker determined that the application was not significant under the relevant matters set out in 61(1AAB) of the Crown Minerals Act 1991 and was not subject to joint decision making.

While this assessment related to a variation to the schedule of compensation payments, it is the Company's view that the same provisions can be applied to the extension of the term of the AA.

DOC has previously approved the extension of the term of other AAs on the Denniston Plateau on the basis that the extension of term does not authorise any further disturbance beyond the area already approved, and notes that the AWP will control the extent and nature of activities on an annual basis.

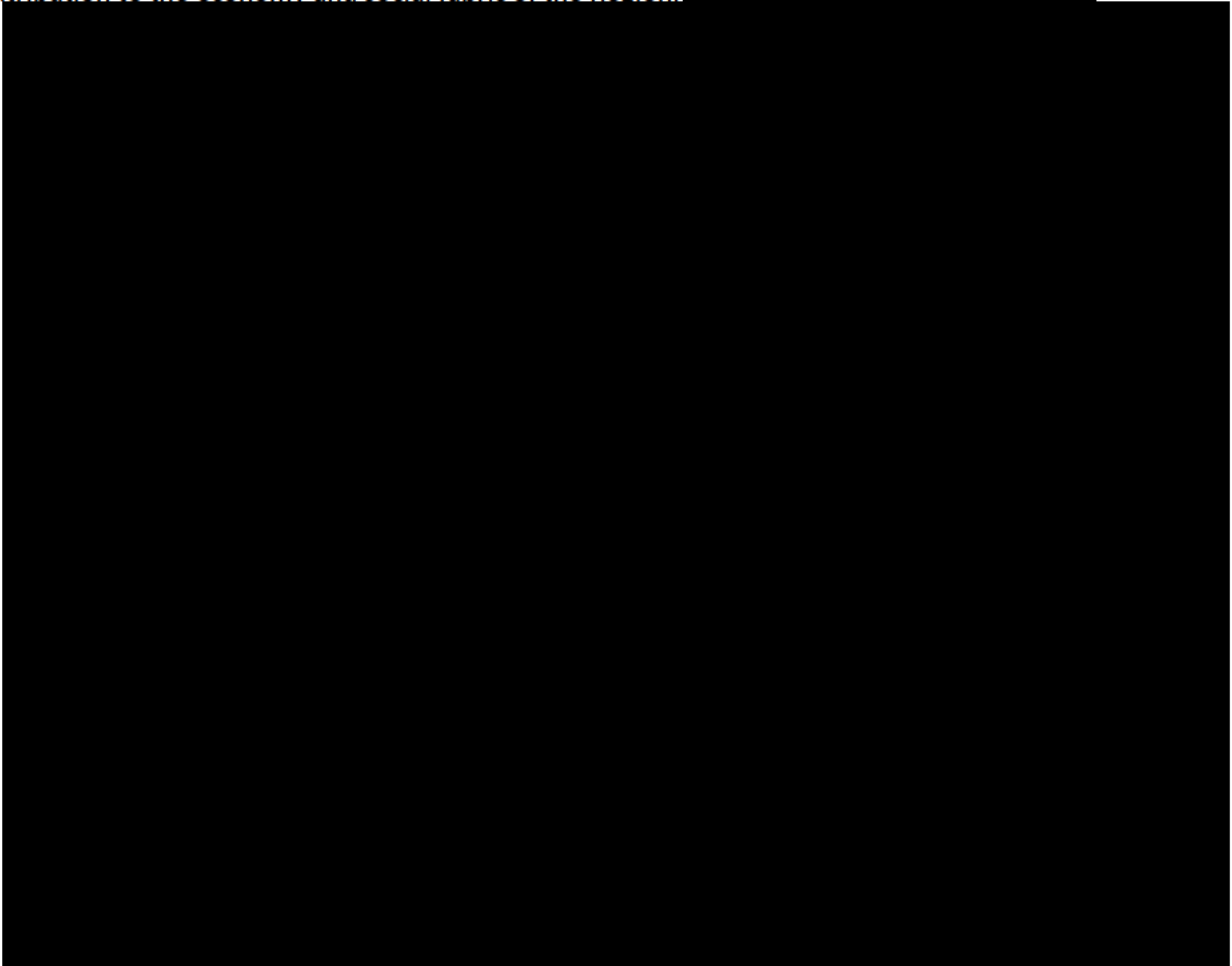
The Company also recently had the term of an AA for a Tier 1 permit (EP40628) authorised solely by DOC. While the decision report for this was not available, it does suggest that DOC had determined that the activity was not a significant exploration or mining activity, and therefore public notification was not required.

Given the significance criteria have never been triggered for a variation of this nature, the Company does not consider that they would be triggered in this instance, and therefore public notification is not required. It is also noted that the application to change the tier status of mining permit 51 279 from a Tier 1 to a Tier 2 has been lodged with NZPAM and it is expected that this will be granted and when granted will apply from the anniversary date of the granting of the permit i.e. June 2022.

6.0 Net Economic and Other Benefits s61(2)(da)

As indicated earlier, the Escarpment coal enhances the value and extends the life of all of Bathurst's assets in the Buller Region through creating an additional coal blending partner for the Stockton coal resource.

A workforce and industry survey undertaken by Bathurst in 2018 highlights the significance of the contribution to the economy and social fabric of the Region. ^{s 9(2)(b)(ii)}



7.0 Consultation

Consultation with the Kawatiri DOC Operations Manager has been undertaken including discussions on the construction of the compensation schedule. The schedule of payments has been disc used and the concept agreed upon in principle.

A copy of the application has been forwarded to Te Runanga o Ngati Waewae .

Once this variation is approved a copy will be provided to the Councils for their files.

8.0 Compliance

The most recent Annual Work plan was approved in June 2021 and the AEO is valid until the expiry of the AA (**Appendix 4**). The AEO recognises that the bond, insurance and all other required documentation is in place.

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Both the Councils and DOC undertake regular (annual) inspections of the site to ensure compliance with the conditions and the AWP. To date, no non-compliance notices or infringement/abatement notices have been issued.

9.0 Glossary of Terms and Abbreviations

Term	Definition
AA	Access Arrangement
AEO	Authority to Enter and Operate
AWP	Annual Work Plan
Bathurst	Bathurst Resources Limited
BDC	Buller District Council
Company	Buller Coal Limited
Consents	Resource consents RC10193/1-16 and RC10/70A-H and RC-2017- 0112-01 to 03
Councils	BDC and WCRC
DOC	Department of Conservation
EOD	Extension of Duration
Escarpment	The Escarpment Mine
NZPAM	New Zealand Petroleum and Minerals (division of Ministry of Business, Innovation and Employment)
WCRC	West Coast Regional Council

Table 2 Terms and Abbreviations

PROJ-BUL-ADM-SPC-001	Escarpment Mine Renewals	 BATHURST RESOURCES LIMITED
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Appendix 1: MP 51 279

Permit Endorsement

(Change of Name)

Coal Mining Permit 51279

In accordance with the attached Certificate of Incorporation, BULLER COAL HOLDINGS LIMITED changed its name to BULLER COAL LIMITED effective from 28 February 2011. The permit is changed to show that it is held in the following name(s):

BULLER COAL LIMITED

DATED this

14

day of

April

2011

.....
Joanne Canavan

Manager, Business Systems and
Development (for and on behalf of the
Registrar)



COMPANIES OFFICE

Certificate of Incorporation

BULLER COAL LIMITED

1534436

This is to certify that L&M COAL LIMITED was incorporated under the Companies Act 1993 on the 6th day of August 2004 and changed its name to BULLER COAL HOLDINGS LIMITED on the 9th day of November 2010 and changed its name to BULLER COAL LIMITED on the 28th day of February 2011.

Registrar of Companies
14th day of April 2011

Neville Harris



The validation code for this Certificate of Incorporation is: INC25823387
For further details relating to this company check www.companies.govt.nz
Certificate generated 14 April 2011 08:33 AM NZST

Crown Minerals Act 1991

(Section 36)

Minerals Mining Permit 51279

I, CHRISTOPHER ERNEST KILBY, Group Manager, Crown Minerals, acting pursuant to section 36 of the Crown Minerals Act 1991 and acting pursuant to delegated authority under section 41 of the State Sector Act 1988, grant to:

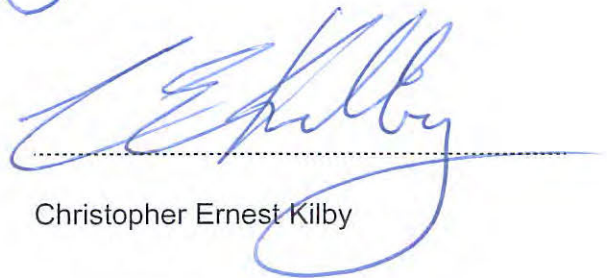
BULLER COAL HOLDINGS LIMITED

an extension of the land area of the permit.

Schedule 2 of the permit is replaced with Schedule 2 attached to this Certificate.

This extension of land is granted subject to the Crown Minerals Act 1991 and all regulations made under that Act, and the conditions of the permit.

DATED this 11 day of February 2011



Christopher Ernest Kilby

Schedule 2

The Land to Which the Permit Relates

Land Area:	199.2 hectares
Regional Council:	West Coast Regional Council
Territorial Authority:	Buller District Council

Description of Land Area:

All that area of land as shown on the attached map and more particularly identified in the spatial database held by the Secretary.

Legend

MP 51279



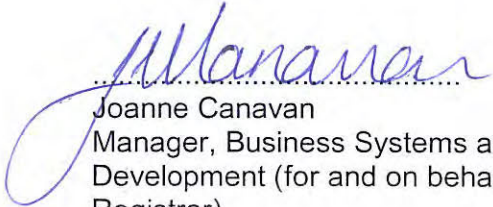
Permit Endorsement
(Change of Name)

Coal Mining Permit 51279

In accordance with the attached Certificate of Incorporation, L&M COAL LIMITED changed its name to BULLER COAL HOLDINGS LIMITED effective from 9 November 2010. The permit is changed to show that it is held in the following name(s):

BULLER COAL HOLDINGS LIMITED

DATED this 3rd day of December 2010


Joanne Canavan
Manager, Business Systems and
Development (for and on behalf of the
Registrar)

Crown Minerals Act 1991

(Section 41)

Coal Mining Permit 51279

This permit endorsement records the consent of the Minister on 24 August 2010 to the dealing(s) contained in the agreement(s) identified by the permit holder as requiring the consent of the Minister pursuant to section 41 of the Crown Minerals Act 1991.

Crown Minerals Act 1991

(Section 32)

Coal Mining Permit 51279

I, CHRISTOPHER ERNEST KILBY, Group Manager, Crown Minerals, acting pursuant to section 32 of the Crown Minerals Act 1991 and acting pursuant to delegated authority under section 41 of the State Sector Act 1988, grant to:


L&M COAL LIMITED

the exclusive right to mine for coal in the land described in Schedule 2.

This mining permit is granted for a term of 12 years commencing on the date specified below.

This permit is granted subject to the Crown Minerals Act 1991 and all regulations made under that Act, and the conditions of the permit.

DATED this 24 day of June 2010


Christopher Ernest Kilby

Schedule 1

General Conditions

GOOD EXPLORATION AND MINING PRACTICE

- 1 The permit holder shall make all reasonable efforts to explore and delineate the mineral resource potential of, and mine, the land to which the permit relates in a systematic and efficient manner and in accordance with this permit and good exploration and mining practice.

COMPLIANCE AND CONSENTS

- 2 In carrying out activities under this permit, the permit holder must:
 - (a) comply with the Crown Minerals Act 1991 and all other relevant legislative requirements; and
 - (b) obtain any consents and approvals required under the Resource Management Act 1991 and any other Acts.

WORK PROGRAMME COMMITMENTS

- 3 Where the permit holder is required to commit to work pursuant to the permit, the permit holder must establish to the satisfaction of the Chief Executive of the Ministry of Economic Development ("Secretary") that the permit holder can fulfil that commitment.
- 4 The permit holder shall make all reasonable attempts to undertake the work programme in accordance with this permit.

SUBCONTRACTING

- 5 The permit holder is not discharged from any obligation arising under this permit by contracting a third party to perform the relevant obligation.

FEES AND ROYALTIES

- 6 The permit holder shall pay annual fees and any other applicable fees relating to this permit, in accordance with the relevant regulations.
- 7 The permit holder shall be liable for payment of a royalty to the Crown calculated in accordance with Part 9 of the Minerals Programme for Minerals (Excluding Petroleum) 2008 and Schedule 4.
- 8 The permit holder shall report and pay royalties in accordance with the relevant regulations.

REPORTING

- 9 The permit holder shall submit reports to the Secretary in accordance with the relevant regulations.

Schedule 2

The Land to Which the Permit Relates

Land Area: 190.4 hectares

Regional Council: West Coast Regional Council

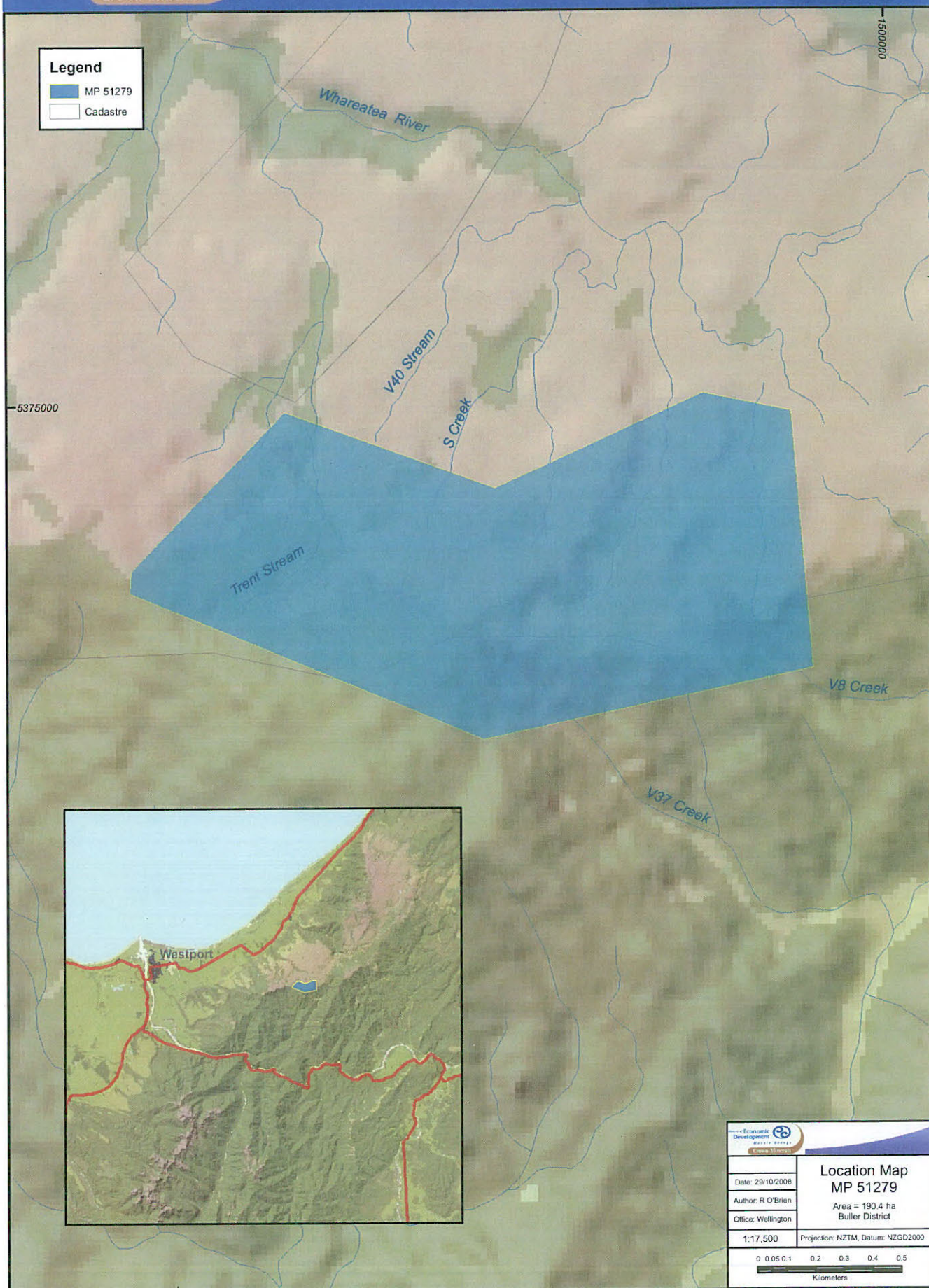
Territorial Authority: Buller District Council

Description of Land Area:

All that area of land as shown on the attached map and more particularly identified in the spatial database held by the Secretary.

Legend

- MP 51279
- Cadastre



Location Map MP 51279	
Area = 190.4 ha Buller District	
Date: 29/10/2008 Author: R O'Brien Office: Wellington	Projection: NZTM, Datum: NZGD2000
1:17,500	
0 0.05 0.1 0.2 0.3 0.4 0.5 Kilometers	

Schedule 3

Work Programme

- 1 The permit holder shall make all reasonable efforts to undertake the activities authorised by the permit in general accordance with the following work programme:
 - (a) stripping of topsoil and overburden and stockpiling, backfilling or other disposal as appropriate using earthmoving machinery as necessary;
 - (b) the extraction of coal by opencast methods;
 - (c) the extraction of coal by underground methods as necessary;
 - (d) mining activities are to commence within five years of the commencement date of this permit;
 - (e) exploration and resource appraisal work as appropriate; and
 - (f) rehabilitation as appropriate.

Schedule 4

Royalties

POINT OF VALUATION

- 1 The point of valuation for the coal recovered under this permit is at the permit boundary.

ANNUAL REPORTING PERIOD

- 2 The annual reporting period for this permit is 1 January to 31 December.

Appendix 2: Current Compensation Schedule

Schedule 1

Compensation payment sums and dates

Historic

Date for payment	Amount
On approval of first Annual Work Programme	\$0.00
On first anniversary of approval of first Annual Work Programme	\$0.00
On second anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$7,500 commencing 1 July 2016)	\$30,000.00
On third anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$5000 commencing 1 July 2017)	\$20,000.00
On fourth anniversary of approval of first Annual Work Programme	\$0.00
On fifth anniversary of approval of first Annual Work Programme	\$0.00
On sixth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$75,000 commencing 1 July 2020)	\$300,000.00
On seventh anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$42,500 commencing 1 July 2021)	\$170,000.00
On eighth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$17,250 commencing 1 July 2022)	\$69,000.00
	\$589,000.00

Denniston Biodiversity Enhancement Area

Date for payment	Amount
On approval of first Annual Work Programme	\$205,450.00
On first anniversary of approval of first Annual Work Programme	\$0.00
On second anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$23,250 commencing 1 July 2016)	\$93,000.00
On third anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$23,900 commencing 1 July 2017)	\$95,600.00
On fourth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$70,750 commencing 1 July 2018)	\$283,000.00
On fifth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$65,000 commencing 1 July 2019)	\$260,000.00
On sixth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$45,000 commencing 1 July 2020)	\$180,000.00
On seventh anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$45,000 commencing 1 July 2021)	\$180,000.00
On eight anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$65,000 commencing 1 July 2022)	\$260,000.00
On ninth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$180,368.75 commencing 1 July 2023)	\$721,475.00
On tenth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$180,368.75 commencing 1 July 2024)	\$721,475.00
	\$3,000,000.00

Heaphy Biodiversity Enhancement Area

Date for payment	Amount
On approval of first Annual Work Programme	\$381,550.00
On first anniversary of approval of first Annual Work Programme	\$0.00
On second anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$48,675 commencing 1 July 2016)	\$194,700.00
On third anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$49,925 commencing 1 July 2017)	\$199,700.00
On fourth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$131,500 commencing 1 July 2018)	\$526,000.00
On fifth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$137,250 commencing 1 July 2019)	\$549,000.00
On sixth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$157,250 commencing 1 July 2020)	\$629,000.00
On seventh anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$157,250 commencing 1 July 2021)	\$629,000.00
On eight anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$135,500 commencing 1 July 2022)	\$542,000.00
On ninth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$920,253.13 commencing 1 July 2023)	\$3,681,012.50
On tenth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$920,253.13 commencing 1 July 2024)	\$3,681,012.50
On eleventh anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$920,253.13 commencing 1 July 2025)	\$3,681,012.50
On twelfth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$920,253.13 commencing 1 July 2026)	\$3,681,012.50
	\$18,375,000.00
	\$21,964,000.00

This compensation equates to \$21,964,000.00 dollars +GST (in 2013 terms) over the life of mine, being made up of the following amounts;

\$589,000.00 for Historic values

\$3,000,000.00 for Denniston Biodiversity Enhancement

\$18,375,000.00 for Heaphy Biodiversity Enhancement

PROJ-BUL-ADM-SPC-001	Escarpment Mine Renewals	 BATHURST RESOURCES LIMITED
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Appendix 3: Previous Applications



9 March 2018

Judi Brennan
Department of Conservation
Private Bag 7091
HOKITIKA 7842

Dear Judi

RE: Application to Vary Access Arrangement MP 51 279

This letter is an application to vary Schedule 1 of the Fifth Schedule (Compensation Deed) of Access Arrangement MP 51 279 (AA).

Buller Coal Limited (BCL) placed the Escarpment Mine into care and maintenance in 2016. While limited maintenance works have continued to occur at the site, as described in the 2017-18 Annual Work Plan (AWP), there are no immediate plans for any additional land disturbance.

This application is to extend the compensation payment timeframe. The total quantum owed remains unchanged and the payment schedule has been discussed with the DOC Buller Kawatiri staff to ensure that the Department can continue its three compensation funded projects without disruption. We do not consider that this variation will have any effects on the conservation values at the mine site, or the wider Denniston Plateau as we have been advised by the Department that the proposed quantum is sufficient to undertake the planned conservation works at all sites.

We are seeking that the AA be varied by replacing Schedule 1 of the Fifth Schedule with the attached revised payment schedule.

For the last 2 years we have made quarterly payments and are seeking that this payment regime continues.

At the commencement of care and maintenance (1 July 2016) the total AWP footprint was 24.3 hectares (ha) with a total disturbance of 15.3ha. This footprint has not changed and there is no immediate intention to change this. The total disturbance equates to 14% of the AA footprint.

Following completion of the 2019 scheduled payments, 13% of the compensation fund will have been paid to the Department and by the end of the 2020, 22% of the total amount will have been paid. The majority of the 15.3ha area of disturbance has been in areas already modified by previous mining activity and includes roads, mine adits, weed infested areas, and coal stockpile and storage areas.

We consider that this revised payment regime is fair and reasonable as it enables the ongoing biodiversity and historic work to be undertaken and is in proportion to the area disturbed compared to the total permitted area of disturbance within the Escarpment Access Arrangement footprint.

We trust that this letter and information is sufficient for you to make an assessment and recommendation to the decision maker. I have attached for your information the application and decision documents from when we last applied to vary this schedule.

Yours faithfully

s 9(2)(a)

A large black rectangular redaction box covers the signature area.

Ian Harvey

General Manager Export Operations

Cc: Campbell Robertson BRL , Fiona Bartier BRL

Schedule 1

Compensation payment sums and dates

Historic

Date for payment	Amount
On approval of first Annual Work Programme	\$0.00
On first anniversary of approval of first Annual Work Programme	\$0.00
On second anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$7,500 commencing 1 July 2016)	\$30,000.00
On third anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$5000 commencing 1 July 2017)	\$20,000.00
On fourth anniversary of approval of first Annual Work Programme	\$0.00
On fifth anniversary of approval of first Annual Work Programme	\$0.00
On sixth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$75,000 commencing 1 July 2020)	\$300,000.00
On seventh anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$42,500 commencing 1 July 2021)	\$170,000.00
On eighth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$17,250 commencing 1 July 2022)	\$69,000.00
On ninth anniversary of approval of first Annual Work Programme	\$0.00
On tenth anniversary of approval of first Annual Work Programme	\$0.00

\$589,000.00

Denniston Biodiversity Enhancement Area

Date for payment	Amount
On approval of first Annual Work Programme	\$205,450.00
On first anniversary of approval of first Annual Work Programme	\$0.00
On second anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$23,250 commencing 1 July 2016)	\$93,000.00
On third anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$23,900 commencing 1 July 2017)	\$95,600.00
On fourth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$70,750 commencing 1 July 2018)	\$283,000.00
On fifth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$65,000 commencing 1 July 2019)	\$260,000.00
On sixth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$45,000 commencing 1 July 2020)	\$180,000.00
On seventh anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$45,000 commencing 1 July 2021)	\$180,000.00
On eight anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$65,000 commencing 1 July 2022)	\$260,000.00
On ninth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$180,368.75 commencing 1 July 2023)	\$721,475.00
On tenth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$180,368.75 commencing 1 July 2024)	\$721,475.00

\$3,000,000.00

Heaphy Biodiversity Enhancement Area

Date for payment	Amount
On approval of first Annual Work Programme	\$381,550.00
On first anniversary of approval of first Annual Work Programme	\$0.00
On second anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$48,675 commencing 1 July 2016)	\$194,700.00
On third anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$49,925 commencing 1 July 2017)	\$199,700.00
On fourth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$131,500 commencing 1 July 2018)	\$526,000.00
On fifth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$137,250 commencing 1 July 2019)	\$549,000.00
On sixth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$157,250 commencing 1 July 2020)	\$629,000.00
On seventh anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$157,250 commencing 1 July 2021)	\$629,000.00
On eight anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$135,500 commencing 1 July 2022)	\$542,000.00
On ninth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$920,253.13 commencing 1 July 2023)	\$3,681,012.50
On tenth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$920,253.13 commencing 1 July 2024)	\$3,681,012.50
On eleventh anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$920,253.13 commencing 1 July 2025)	\$3,681,012.50
On twelfth anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$920,253.13 commencing 1 July 2026)	\$3,681,012.50
	\$18,375,000.00
	\$21,964,000.00

This compensation equates to \$21,964,000.00 dollars +GST (in 2013 terms) over the life of mine, being made up of the following amounts;

\$589,000.00 for Historic values

\$3,000,000.00 for Denniston Biodiversity Enhancement

\$18,375,000.00 for Heaphy Biodiversity Enhancement

T s 9(2)(a)
F
E bullercoal@bathurstresources.co.nz

14-16 Palmerston Street
Westport 7825, New Zealand
PO Box 290, Westport 7866
New Zealand

18 May 2016

Judi Brennan
Department of Conservation
Private Bag 7091
HOKITIKA 7842



Dear Judi

Application to Vary Access Arrangement MP 51 279

This letter is an application to vary Schedule 1 of the Fifth Schedule (Compensation Deed) of Access Arrangement MP 51 279.

As you are aware, Buller Coal Limited (BCL) has placed the Escarpment Mine into care and maintenance until there is an increase in the price for international coking coal. While limited maintenance works are planned to continue at the site, as described in the recently submitted Annual Work Plan, there are no plans for any additional land disturbance.

This letter is an application to vary the compensation payment schedule (Schedule 1 of the Fifth Schedule) by extending the payment timeframe by 2 years. The total quantum owed remains unchanged. This extension reflects the extended mine life and the absence of any further earthworks for the forthcoming one to two years. We are seeking that the AA be varied by replacing Schedule 1 of the Fifth Schedule with the attached payment schedule.

Yours faithfully

s 9(2)(a)

s 9(2)(a)

Environmental Manager

Schedule 1
Compensation payment sums and dates

Historic

Date for payment	Amount
On approval of first Annual Work Programme	\$0.00
On first anniversary of approval of first Annual Work Programme	\$0.00
On second anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$7,500 commencing 1 July 2016)	\$30,000.00
On third anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$5000 commencing 1 July 2017)	\$20,000.00
On fourth anniversary of approval of first Annual Work Programme	\$300,000.00
On fifth anniversary of approval of first Annual Work Programme	\$170,000.00
On sixth anniversary of approval of first Annual Work Programme	\$69,000.00

Denniston Biodiversity Enhancement Area

Date for payment	Amount
On approval of first Annual Work Programme	\$205,450.00
On first anniversary of approval of first Annual Work Programme	\$0.00
On second anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$23,250 commencing 1 July 2016)	\$93,000.00
On third anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$23,900 commencing 1 July 2017)	\$95,600.00
On fourth anniversary of approval of first Annual Work Programme	\$134,169.00
On fifth anniversary of approval of first Annual Work Programme	\$687,500.00
On sixth anniversary of approval of first Annual Work Programme	\$687,500.00
On seventh anniversary of approval of first Annual Work Programme	\$687,500.00
On eight anniversary of approval of first Annual Work Programme	\$409,281.00

Heaphy Biodiversity Enhancement Area

Date for payment	Amount
On approval of first Annual Work Programme	\$381,550.00
On first anniversary of approval of first Annual Work Programme	\$0.00
On second anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$48,675 commencing 1 July 2016)	\$194,700.00
On third anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$49,925 commencing 1 July 2017)	\$199,700.00
On fourth anniversary of approval of first Annual Work Programme	\$2,466,550.00
On fifth anniversary of approval of first Annual Work Programme	\$3,684,298.00
On sixth anniversary of approval of first Annual Work Programme	\$3,894,301.00
On seventh anniversary of approval of first Annual Work Programme	\$3,401,733.00
On eighth anniversary of approval of first Annual Work Programme	\$4,152,168.00

This compensation equates to \$21,964,000.00 dollars +GST (in 2013 terms) over the life of mine, being made up of the following amounts;

\$589,000.00 for Historic values

\$3,000,000.00 for Denniston Biodiversity Enhancement

\$18,375,000.00 for Heaphy Biodiversity Enhancement

File ref: PAM-11-07-51279

Date: 28 June 2016

To: Bob Dickson, Conservation Operations Manager, Buller District

From: Toby Wilkes – Consultant Permissions Advisor

PERMISSIONS MINING REPORT

Third Access Arrangement Variation for MP 51279 - Buller Coal Limited, Escarpment Mine, Denniston Plateau

Summary of variation application

Buller Coal Limited (BCL) (a wholly-owned subsidiary of Bathurst Resources Limited) have applied to the Minister of Conservation to vary the access arrangement (AA) for MP 51279 in order to revise the schedule of compensation payments required under the AA. BCL are placing Escarpment Mine into a period of care and maintenance while coal process remain low. During the care and maintenance period there will be no increase in mine footprint and associated disturbance of the land and of conservation values at the site. BCL have therefore requested that the required compensation payments be re-scheduled to better reflect the progress of mine disturbance and accommodate the extended mine life due to slow extraction rates. The proposed changes to the scheduling of compensation payments does not reduce the total compensation to be paid and has been designed to help ensure that the Department can continue its three compensation funded projects without disruption.

Revised compensation payment schedule

BCL are proposing to vary the Compensation Deed for the AA to revise the schedule of compensation payments. The revised schedule is being proposed to reflect that the mine is

entering a period of care and maintenance during which time no increase in mine footprint and disturbance will occur. No other changes to the Compensation Deed are proposed and the total compensation to be paid would remain the same.

The current compensation payment schedule is:

Historic

Date for payment	Amount
On approval of first Annual Work Programme	\$0 + GST
On first anniversary of approval of first Annual Work Programme	\$0 + GST
On second anniversary of approval of first Annual Work Programme	\$350,000 + GST
On third anniversary of approval of first Annual Work Programme	\$170,000 + GST
On fourth anniversary of approval of first Annual Work Programme	\$69,000 + GST

Denniston Biodiversity Enhancement Area

Date for payment	Amount
On approval of first Annual Work Programme	\$205,450 + GST
On first anniversary of approval of first Annual Work Programme	\$0 + GST
On second anniversary of approval of first Annual Work Programme	\$322,769 + GST
On third anniversary of approval of first Annual Work Programme	\$687,500 + GST
On fourth anniversary of approval of first Annual Work Programme	\$687,500 + GST
On fifth anniversary of approval of first Annual Work Programme	\$687,500 + GST
On sixth anniversary of approval of first Annual Work Programme	\$409,281 + GST

Heaphy Biodiversity Enhancement Area

Date for payment	Amount
On approval of first Annual Work Programme	\$381,550 + GST
On first anniversary of approval of first Annual Work Programme	\$0 + GST
On second anniversary of approval of first Annual Work Programme	\$2,860,950 + GST
On third anniversary of approval of first Annual Work Programme	\$3,684,298 + GST
On fourth anniversary of approval of first Annual Work Programme	\$3,894,301 + GST
On fifth anniversary of approval of first Annual Work Programme	\$3,401,733 + GST
On sixth anniversary of approval of first Annual Work Programme	\$4,152,168 + GST

The proposed new payment schedule is:

Historic

Date for payment	Amount
On approval of first Annual Work Programme	\$0.00
On first anniversary of approval of first Annual Work Programme	\$0.00
On second anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$7,500 commencing 1 July 2016)	\$30,000.00
On third anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$5000 commencing 1 July 2017)	\$20,000.00
On fourth anniversary of approval of first Annual Work Programme	\$300,000.00
On fifth anniversary of approval of first Annual Work Programme	\$170,000.00
On sixth anniversary of approval of first Annual Work Programme	\$69,000.00

Denniston Biodiversity Enhancement Area

Date for payment	Amount
On approval of first Annual Work Programme	\$205,450.00
On first anniversary of approval of first Annual Work Programme	\$0.00
On second anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$23,250 commencing 1 July 2016)	\$93,000.00
On third anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$23,900 commencing 1 July 2017)	\$95,600.00
On fourth anniversary of approval of first Annual Work Programme	\$134,169.00
On fifth anniversary of approval of first Annual Work Programme	\$687,500.00
On sixth anniversary of approval of first Annual Work Programme	\$687,500.00
On seventh anniversary of approval of first Annual Work Programme	\$687,500.00
On eight anniversary of approval of first Annual Work Programme	\$409,281.00

Heaphy Biodiversity Enhancement Area

Date for payment	Amount
On approval of first Annual Work Programme	\$381,550.00
On first anniversary of approval of first Annual Work Programme	\$0.00
On second anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$48,675 commencing 1 July 2016)	\$194,700.00
On third anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$49,925 commencing 1 July 2017)	\$199,700.00
On fourth anniversary of approval of first Annual Work Programme	\$2,466,550.00
On fifth anniversary of approval of first Annual Work Programme	\$3,684,298.00
On sixth anniversary of approval of first Annual Work Programme	\$3,894,301.00
On seventh anniversary of approval of first Annual Work Programme	\$3,401,733.00
On eighth anniversary of approval of first Annual Work Programme	\$4,152,168.00

In developing the revised schedule BCL consulted with Department staff who would be involved with the planning and implementation of the compensation funded projects to help ensure that the revised schedule would not impede the ability of the Department to deliver the projects. Department staff are satisfied that the revised schedule of payments would adequately provide for the continuation and delivery of the enhancement projects.

Effects on Conservation Values

The proposed variation would not have any material bearing on the mining operations or effects on conservation values at the mine site itself. The revised payments schedule is not expected to adversely impact the delivery or long term results of the planned enhancement projects agreed to in the Compensation Deed and therefore no reduction in the benefits to be provided by the compensation are expected to result from the variation should it be approved.

Cultural considerations

The Department has not undertaken Iwi consultation with respect to this application. Te Runanga o Ngati Waewae did not oppose the granting of the 106 ha AA for MP 51279. As discussed above, the variation should not decrease the benefits of the compensation projects and therefore it was not considered necessary to consult with Te Runanga o Ngati Waewae with regard to the variation.

Legal Considerations: Crown Minerals Act 1991

Joint decision making and public notification

Joint decision making - s61(1)(c), s61(1AA)(b) and s61(1AAB)

Mining Permit 51279 is classified as a Tier 1 permit, as per section 2B and Schedule 5 of the Crown Minerals Act 1991 (CMA). Variations to access arrangements for Tier 1 permits on Crown administered land are to be considered by the appropriate Minister (in this case the Minister of Conservation) under s61(c) of the CMA unless the variation is to allow access for significant exploration or mining activities (in which case the variation is to be determined by the appropriate Minister and the Minister of Energy and Resources under s.61(1AA)).

Section 61(1AAB) sets out the matters that the appropriate Minister must have regard to in deciding whether the proposed variation is significant. The proposed variation has been assessed subject to the relevant matters set out in s61(1AAB) and is not considered significant (See Appendix 3 for the report and decision on significance under s61(1AAB)). Therefore, as per s61(1)(c) of the Act, the decision on this application lies solely with the Minister of Conservation.

This application is not the initial AA application for MP 51279 therefore s61(1AA)(a) of the Act does not apply and joint decision is not required under that provision.

Public notification – s61C

Section 61C of the Act requires the public notification of an AA (or AA variation) application for mining activities if the Minister of Conservation determines it to be significant under s61C(2). The proposed variation has been assessed subject to the relevant matters set out in s61C(2) and is not considered significant (See Appendix 3 for the report and decision on significance under s61C(2)).

Relevant matters for decision making

The land over which access is sought is not restricted from prospecting, exploration or mining by the CMA, therefore the Minister in making his decision needs to carefully consider the provisions of section 61(2) of the CMA.

The purpose of the CMA is “*to promote prospecting for, exploration for, and mining of Crown owned minerals for the benefit of New Zealand*”. Section 61(1A) of the CMA states that “*the Minister must not accept any application for an access arrangement or enter into any access arrangement relating to any Crown owned mineral in any Crown owned land or internal waters described in Schedule 4*” of the Act. The public conservation land over which BCL are seeking access to under this variation is not included in Schedule 4 therefore the Minister is able to accept and consider this application.

The considerations to take into account in making a decision on this application are set out in section 61(2) of the CMA. Section 61(2) states that:

“In considering whether to agree to an access arrangement in respect of Crown land, the appropriate Minister shall have regard to:

- (a) the objectives of any Act under which the land is administered; and*
- (b) any purpose for which the land is held by the Crown; and*
- (c) any policy statement or management plan of the Crown in relation to the land;*
- (d) the safeguards against any potential adverse effects of carrying out the proposed programme of work; and*
- (da) the direct net economic and other benefits of the proposed activity in relation to which the access arrangement is sought; and*
- (db) if section 61C(3) applies, the recommendation of the Director-General of Conservation and summary referred to in that subsection; and*
- (e) such other matters as the appropriate Minister considers relevant.”*

These matters are discussed below.

61(2)(a) The Objectives of Any Act Under Which the Land is Administered

Under the Conservation Act 1987, “conservation” is defined as “... *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 generations.*”

As discussed earlier in this report, the impacts from the proposed variation would not materially affect the potential impacts of the mine on conservation values nor reduce the benefits of the compensation projects funded via the required compensation payments. Therefore the proposal is considered consistent with the objectives of the Conservation Act.

61(2)(b) Purpose For Which The Land Is Held By The Crown

The land under application is Crown land held by the Department of Conservation as stewardship area pursuant to section 25 of the Conservation Act 1987. This land is held for the protection of natural and historic resources.

Section 25 of the Conservation Act states: *“Every stewardship area shall so be managed that its natural and historic resources are protected.”*

Section 2 of the Conservation Act defines natural resources as: *“natural resources means—*

- (a) Plants and animals of all kinds; and*
- (b) The air, water, and soil in or on which any plant or animal lives or may live; and*
- (c) Landscape and landform; and*
- (d) Geological features; and*
- (e) Systems of interacting living organisms, and their environment;—*
and includes any interest in a natural resource.”

Section 2 of the Conservation Act also defines protection as: *“protection, in relation to a resource, means its maintenance, so far as is practicable, in its current state; but includes—*

- (a) Its restoration to some former state; and*
- (b) Its augmentation, enhancement, or expansion.”*

As discussed earlier in this report, the impacts from the proposed variation would not materially affect the potential impacts of the mine on conservation values nor reduce the benefits of the compensation projects funded via the required compensation payments. Therefore it is considered to be consistent with the purpose for which the land is held.

61(2)(c) Policy Statements or Management Plans in relation to the application area

The Permissions Report for the AA (see Appendix 2) contains detailed discussion on the relevant policy statements and management plans for the EMP. To avoid duplication these are not included here. It is recommended that the reader refer to the Permissions Report for the AA as required.

As discussed earlier in this report, the impacts from the proposed variation would not materially affect the potential impacts of the mine on conservation values nor reduce the benefits of the compensation projects funded via the required compensation payments. Therefore it is considered to be consistent with the relevant policy statements and management plans.

61(2)(d) Safeguards Against Any Potential Adverse Effects of Carrying out the Proposed Programme of Work

To safeguard against adverse effects occurring if access is granted, the Minister is able to impose any conditions considered necessary as part of an AA to avoid, remedy or mitigate any adverse effects that might result from the proposal.

The AA contains a suite of conditions aimed at protecting and safeguarding the conservation values of the land. The proposed variation would not vary or detract these conditions and all necessary bonds and insurances would remain in place during the care and maintenance period

61(2)(da) The direct net economic and other benefits of the proposed activity in relation to which the access arrangement is sought

The proposed variation has no material bearing on the direct net economic effects of the mining operation.

61(2)(db) If section 61C(3) applies, the recommendation of the Director-General of Conservation and summary referred to in that subsection

As discussed above, this application is not subject to joint decision making or considered to require public notification. Accordingly 61C(3), and subsequently 61(2)(db), do not apply.

61(2)(e) Other Such Matters the Minister May Consider Relevant

Compensation

The Minister is able to require compensation to be paid for the loss of conservation values and the existing AA requires BCL to pay total compensation of \$21,964,000 + GST for the 106ha Escarpment Mine. The proposed variation would not increase the originally envisaged impact of the mine on conservation values. The changes to the compensation payments schedule would not reduce the total compensation to be paid nor affect the Department's ability to deliver the compensation funded projects.

West Coast *Tai Poutini* Conservation Board

Due to the administrative nature of the variation application and potential effects it was not sent to the Board for comment.

Conclusion and Recommendation

Given the above considerations the following conclusions have been reached:

1. The proposed variation of the compensation payment schedule would not reduce the total compensation to be paid under the Compensation Deed.
2. The proposed variation of the compensation payment schedule would not adversely affect the delivery or long term results of the compensation funded projects.

This report has outlined the proposed variation to the AA, its potential impacts on the conservation values of the land and implications for the Department and the Crown. The changes have also been discussed with regard to relevant legislation and policies. When weighed against the relevant matters the Minister is required to have regard to, it is considered that the potential impacts of the proposed variation are not such that the application should be declined. It is therefore recommended that the application is approved, subject to the conditions included in the attached draft AA variation.

s 9(2)(a)



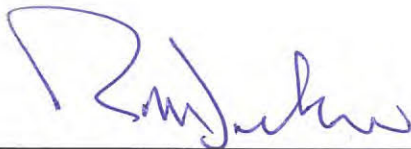
Dated: 28/6/16

Toby Wilkes,
Consultant Permissions Advisor

Decision

Approved / Declined / Seek further information and advice

Decision Makers comments:



Bob Dickson,

Dated:



Conservation Operations Manager, Buller District, acting pursuant to delegated authority under s 61(1) Crown Minerals Act 1991 on behalf of the Minister of Conservation.

Appendix 1

Draft Access Arrangement Variation

ACCESS ARRANGEMENT THIRD VARIATION

THIS THIRD AGREEMENT varying and modifying the Access Arrangement for Mining Permit 51279 dated 21 May 2013.

Date of execution of this variation 20 June 2016.

Parties:

The Minister of Conservation (hereinafter together with the Minister's agents referred to as "the Minister")

and

Buller Coal Limited (herein after referred to as "the Permit holder")

WHEREAS

- A. By an agreement for an access arrangement made pursuant to section 61 of the Crown Minerals Act 1991 on 21 May 2013 (the Access Arrangement) the Minister granted access to the public conservation land described in the First Schedule to that Access Arrangement on the terms and conditions set out in the Access Arrangement to the permit holder.
- B. On 22 May 2014 the Minister agreed to a first variation to the access arrangement as varied.
- C. On 29 October 2015 the Minister agreed to a second variation to the Access Arrangement.
- D. This third variation varies and modifies the Access Arrangement.

The parties hereby AGREE as follows:

Variation of existing Schedules

- 1. That Schedule 1 of the Compensation Deed contained in the Fifth Schedule of the Access Arrangement is hereby varied as follows by deleting the Schedule 1 of the Compensation Deed contained in the Fifth Schedule of the Access Arrangement and replacing it with the following new Schedule 1 of the Compensation Deed:

"Schedule 1

Compensation payment sums and dates

Historic

Date for payment	Amount
On approval of first Annual Work Programme	\$0.00
On first anniversary of approval of first Annual Work Programme	\$0.00
On second anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$7,500 commencing 1 July 2016)	\$30,000.00
On third anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$5000 commencing 1 July 2017)	\$20,000.00
On fourth anniversary of approval of first Annual Work Programme	\$300,000.00
On fifth anniversary of approval of first Annual Work Programme	\$170,000.00
On sixth anniversary of approval of first Annual Work Programme	\$69,000.00

Denniston Biodiversity Enhancement Area

Date for payment	Amount
On approval of first Annual Work Programme	\$205,450.00
On first anniversary of approval of first Annual Work Programme	\$0.00
On second anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$23,250 commencing 1 July 2016)	\$93,000.00
On third anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$23,900 commencing 1 July 2017)	\$95,600.00
On fourth anniversary of approval of first Annual Work Programme	\$134,169.00
On fifth anniversary of approval of first Annual Work Programme	\$687,500.00
On sixth anniversary of approval of first Annual Work Programme	\$687,500.00
On seventh anniversary of approval of first Annual Work Programme	\$687,500.00
On eighth anniversary of approval of first Annual Work Programme	\$409,281.00

Heaphy Biodiversity Enhancement Area

Date for payment	Amount
On approval of first Annual Work Programme	\$381,550.00
On first anniversary of approval of first Annual Work Programme	\$0.00
On second anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$48,675 commencing 1 July 2016)	\$194,700.00
On third anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$49,925 commencing 1 July 2017)	\$199,700.00
On fourth anniversary of approval of first Annual Work Programme	\$2,466,550.00
On fifth anniversary of approval of first Annual Work Programme	\$3,684,298.00
On sixth anniversary of approval of first Annual Work Programme	\$3,894,301.00
On seventh anniversary of approval of first Annual Work Programme	\$3,401,733.00
On eighth anniversary of approval of first Annual Work Programme	\$4,152,168.00

This compensation equates to \$21,964,000.00 dollars + GST (in 2013 terms) over the life of mine, being made up of the following amounts;

\$589,000.00 for Historic values
\$3,000,000.00 for Denniston Biodiversity Enhancement
\$18,375,000.00 for Heaphy Biodiversity Enhancement"

Confirmation of other Access Arrangement Conditions


2. Except to the extent to which they are varied by this variation the covenants, terms and conditions expressed and implied in the Access Arrangement continue to apply.

Costs


3. The Permit holder will pay the costs of and incidental to the preparation and completion of this variation.

Signed for and on behalf of
the Minister of Conservation
by **Bob Dickson**
Conservation Operations Manager,
Buller District,
Department of Conservation,
pursuant to a written delegation
from the Minister of Conservation
under the Crown Minerals Act 1991

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)
)
)
)
)
)
)
)
)



In the presence of:

Witnessed Signature	
Witness Full Name	Gert van der Merwe
Witness Address	PO Box 384 Westport
Witness Occupation	DOC Ranger

Signed on behalf of **Buller Coal Limited** by

Director (signature)	
Full name	

In the presence of:

Witnessed Signature	
Witness Full Name	
Witness Address	
Witness Occupation	

And by

Director (signature)	
Full name	

In the presence of:

Witnessed Signature	
Witness Full Name	
Witness Address	
Witness Occupation	

Signed on behalf of **Bathurst Resources Limited** as guarantor by

Director (signature)	
Full name	

In the presence of:

Witnessed Signature	
Witness Full Name	
Witness Address	
Witness Occupation	

And by

Director (signature)	
Full name	

In the presence of:

Witnessed Signature	
Witness Full Name	
Witness Address	
Witness Occupation	

Appendix 2

Permissions Mining Report for the AA for MP 51279

Appendix 3

Significance assessment report

File ref: PAM-11-07-51279
Date: 23 June 2016
To: Judi Brennan – SLM and Permissions Manager
From: Toby Wilkes – Consultant Permissions Advisor

MP 51279 Third AA Variation – Significance assessments for Joint Decision Making and Public notification under s61(1AAB) and 61C(2) of the CMA 1991

Introduction

Buller Coal Limited (BCL) (a wholly-owned subsidiary of Bathurst Resources Limited) have applied to vary the Access Arrangement (AA) for MP 51279. If approved it would be the third variation of the AA. The proposal (Appendix 1) would:

1. Vary the schedule of compensation payments required by the Compensation Deed (schedule 6 of the Access Arrangement).

MP 51279 is a Tier 1 permit, as per section 2B and Schedule 5 of the Crown Minerals Act 1991 (CMA), and the variation is to an AA that allows mining activities, therefore section 61(1AAB) and section 61C(2) of the Act applies and the appropriate Minister (that being the Minister of Conservation) must decide whether the application is significant for the purposes of joint decision making and public notification. This report discusses the proposed variation and comes to conclusions on the relevant matters for consideration under section 61(1AAB) and section 61C(2).

Proposed variation

BCL are proposing to revise the schedule of compensation payments required under the AA. BCL are placing Escarpment Mine into a period of care and maintenance while coal markets remain low. During the care and maintenance period there will be no increase in mine footprint and associated disturbance of the land and of conservation values at the site. BCL have therefore requested that the required compensation payments be re-scheduled to better reflect the progress of mine disturbance and accommodate the extended mine life due to slow extraction rates.

The current compensation payment schedule is:

Historic

Date for payment	Amount
On approval of first Annual Work Programme	\$0 + GST
On first anniversary of approval of first Annual Work Programme	\$0 + GST
On second anniversary of approval of first Annual Work Programme	\$350,000 + GST
On third anniversary of approval of first Annual Work Programme	\$170,000 + GST
On fourth anniversary of approval of first Annual Work Programme	\$69,000 + GST

Denniston Biodiversity Enhancement Area

Date for payment	Amount
On approval of first Annual Work Programme	\$205,450 + GST
On first anniversary of approval of first Annual Work Programme	\$0 + GST
On second anniversary of approval of first Annual Work Programme	\$322,769 + GST
On third anniversary of approval of first Annual Work Programme	\$687,500 + GST
On fourth anniversary of approval of first Annual Work Programme	\$687,500 + GST
On fifth anniversary of approval of first Annual Work Programme	\$687,500 + GST
On sixth anniversary of approval of first Annual Work Programme	\$409,281 + GST

Heaphy Biodiversity Enhancement Area

Date for payment	Amount
On approval of first Annual Work Programme	\$381,550 + GST
On first anniversary of approval of first Annual Work Programme	\$0 + GST
On second anniversary of approval of first Annual Work Programme	\$2,860,950 + GST

On third anniversary of approval of first Annual Work Programme	\$3,694,298 + GST
On fourth anniversary of approval of first Annual Work Programme	\$3,894,301 + GST
On fifth anniversary of approval of first Annual Work Programme	\$3,401,733 + GST
On sixth anniversary of approval of first Annual Work Programme	\$4,152,168 + GST

The proposed new payment schedule is:

Historic

Date for payment	Amount
On approval of first Annual Work Programme	\$0.00
On first anniversary of approval of first Annual Work Programme	\$0.00
On second anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$7,500 commencing 1 July 2016)	\$30,000.00
On third anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$5000 commencing 1 July 2017)	\$20,000.00
On fourth anniversary of approval of first Annual Work Programme	\$300,000.00
On fifth anniversary of approval of first Annual Work Programme	\$170,000.00
On sixth anniversary of approval of first Annual Work Programme	\$69,000.00

Dennistown Biodiversity Enhancement Area

Date for payment	Amount
On approval of first Annual Work Programme	\$205,450.00
On first anniversary of approval of first Annual Work Programme	\$0.00
On second anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$23,250 commencing 1 July 2016)	\$93,000.00
On third anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$23,900 commencing 1 July 2017)	\$95,600.00
On fourth anniversary of approval of first Annual Work Programme	\$134,169.00
On fifth anniversary of approval of first Annual Work Programme	\$687,500.00
On sixth anniversary of approval of first Annual Work Programme	\$687,500.00
On seventh anniversary of approval of first Annual Work Programme	\$687,500.00
On eight anniversary of approval of first Annual Work Programme	\$409,281.00

Heaphy Biodiversity Enhancement Area

Date for payment	Amount
On approval of first Annual Work Programme	\$381,550.00
On first anniversary of approval of first Annual Work Programme	\$0.00

On second anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$48,675 commencing 1 July 2016)	\$194,700.00
On third anniversary of approval of first Annual Work Programme (Made in Quarterly Payments of \$49,925 commencing 1 July 2017)	\$199,700.00
On fourth anniversary of approval of first Annual Work Programme	\$2,466,550.00
On fifth anniversary of approval of first Annual Work Programme	\$3,684,298.00
On sixth anniversary of approval of first Annual Work Programme	\$3,894,301.00
On seventh anniversary of approval of first Annual Work Programme	\$3,401,733.00
On eighth anniversary of approval of first Annual Work Programme	\$4,152,168.00

The proposed changes to the scheduling of compensation payments does not reduce the total compensation to be paid and has been designed to help ensure that the Department can continue its three compensation funded projects without disruption. In developing the revised schedule BCL consulted with Department staff who would be involved with the planning and implementation of the compensation projects to help ensure that the revised schedule would not impede the ability of the Department to deliver the projects. Department staff are satisfied that the revised schedule of payments would adequately provide for the continuation and delivery of the enhancement projects.

Potential Effects on Conservation Values

The proposed variation is largely administrative and would not have any material bearing on the mining operations or effects on conservation values at the mine site itself. The revised payments schedule is not expected to adversely impact the delivery or long term results of the planned enhancement projects agreed to in the Compensation Deed and therefore no reduction in the benefits to be provided by the compensation are expected to result from the variation should it be approved.

Relevant matters under s61(1AAB) and s61C(2)

The relevant matters to have regard to when considering if an application is significant for the purposes of s61(1AAB) and s61C(2) are the same for both sections:

- (a) the effects the activities are likely to have on conservation values for the land concerned; and*
- (b) the effects the activities are likely to have on other activities on the land; and*
- (c) the activities' net impact on the land, either while the activities are taking place or after their completion; and*
- (d) any other matters that the Minister considers relevant to achieving the purpose of this Act.*

These considerations are discussed in turn below with regard to the proposed third variation to the AA for MP 51279.

- (a) the effects the activities are likely to have on conservation values for the land concerned

As noted above the proposed changes to the AA would not materially affect the potential impacts of the mine on the conservation values of the land.

- (b) the effects the activities are likely to have on other activities on the land

The proposed changes to the AA should not have any impact on other users of the land as they are administrative in nature and would not result in any changes in 'on the ground' mining operations.

- (c) the activities' net impact on the land, either while the activities are taking place or after their completion

The proposed changes to the AA should not result in any material net impact on the land as they are administrative in nature and would not result in any changes in 'on the ground' mining operations.

- (d) any other matters that the Minister considers relevant to achieving the purpose of this Act

Compensation

The Minister is able to require compensation to be paid for the loss of conservation values and the existing AA requires BCL to pay total compensation of \$21,964,000 + GST for the 106ha Escarpment Mine. The proposed variation would not increase the originally envisaged impact of the mine on conservation values. The changes to the compensation payments schedule would not reduce the total compensation to be paid nor affect the Department's ability to deliver the compensation funded projects.

Conclusions

Given the above consideration the following conclusions have been made:

1. The proposed changes to the variation should not have any material impact on the conservation values of the land nor result in any notable net impact on the land;
2. The proposed variation would not change the potential effects originally envisaged in the granting of the original AA;
3. Other activities on the land would not be affected by the proposed variation; and
4. The variation would not reduce the total compensation to be paid nor affect the Department's ability to deliver the three compensation funded projects.

s 9(2)(a)



Dated: 23/6/16

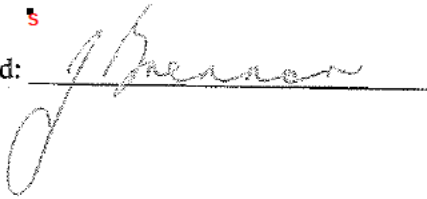
Toby Wilkes,
Consultant Permissions Advisor

Decision

1. The application is considered significant under the relevant matters set out in section 61(1AAB) of the CMA 1991 and will be subject to joint decision making:

Yes / No

Signed:



Date:

27/06/2016

Judi Brennan – SLM and Permissions Manager
Hokitika Shared Service Centre

APPENDIX 1: AA VARIATION APPLICATION

PROJ-BUL-ADM-SPC-001	Escarpment Mine Renewals	 BATHURST RESOURCES LIMITED
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Appendix 4: 2021-22 AWP and AEO

**AUTHORITY TO ENTER AND OPERATE ON PUBLIC CONSERVATION LAND
UNDER MINING PERMIT 51279**

Pursuant to, and subject to all the conditions set out in the Access Arrangement 37873-AA dated 21 May 2013 as varied:

Permit Holders Name: **Buller Coal Limited**

Address: s 9(2)(a)
 PO Box 250
 Westport 7866

Is authorised to enter that portion of land managed by the Department of Conservation, being that area specified within the First Schedule of the Access Arrangement 21 May 2013, as varied, to conduct care and maintenance activities in accordance with the Annual Work Plan for Care and Maintenance for the period **01 July 2021 to 30 June 2022**.

Any variation to the approved Annual Work Plan will require a new work plan to be submitted, considered and approved by the Department prior to any works commencing which are not authorized under the Annual Work Plan for Care and Maintenance - 01 July 2021 to 30 June 2022 approved by the Department.

The Permit holder is reminded that updated insurance certification must be provided to the Department upon expiry of the current insurance on 31 August 2021.

This Authority acts to approve the updated bond quantum for the 2021-2022 Annual Work Plan period of \$1,459,000.

Dated at **Westport** this 22 day of June 2021



Suvi van Smit
Operations Manager
Buller District
Department of Conservation