SUBMISSION ON DRAFT NATIONAL PLANNING STANDARDS

To: Ministry for the Environment
   planningstandards@mfe.govt.nz

Name of submitter: Bathurst Resources Limited

Background

Bathurst Resources Group

1. Bathurst Resources Ltd (Bathurst) is a publicly listed New Zealand resources company with its operations throughout New Zealand. It is New Zealand’s leading coal producer providing coal for local steel making, cement manufacture, delivering energy for domestic dairy and food processing industries and exporting high quality metallurgical coal to international steel makers.

2. Responsible resource use lies behind all of Bathurst’s activities and its approach to sustainable development and management of its social and environmental performance. This means everything the company does is guided by a commitment to shareholders, employees, local communities, and, importantly, the environment. Bathurst’s commitment is backed by significant investment of time and money to ensure social and environmental impacts are managed from design and planning through to production and eventually rehabilitation of mining sites.

3. The ultimate aim is to ensure that Bathurst’s operations enable society to meet its present needs without compromising the ability of future generations to meet their needs.

4. Bathurst has a Health, Safety, Environment and Community management framework to guide the company’s decisions on responsible resource use and the impact of its activities. The framework has been developed generally in accordance with international standards to enable continuous improvement of Bathurst policies, standards and procedures to minimise risk to mine workers and the environment.

5. Within the Southland region Bathurst operates, through its subsidiary company Bathurst Coal Ltd, the Takitimu mine located at Nightcaps. Sub-bituminous coal from the open cut operation is transported by rail and road to a number of major industrial customers in the Southland, Otago and South Canterbury areas.

6. Bathurst also owns and operates, through Bathurst Coal Ltd, the Canterbury coal mine located near Coalgate, Canterbury. The mine was acquired in 2014 and is now undergoing
rationalisation and reorganisation so that it can economically produce greater tonnages of coal primarily for the dairy sector in Canterbury.

7. Bathurst also has mines on the West Coast – Cascade and Escarpment mines – which are currently on care and maintenance until such time as international markets improve.

8. Bathurst is also the 65% owner of BT Mining Ltd which owns the export mine at Stockton on the West Coast, and the Rotowaro and Maramarua mines near Huntly in the North Island. These latter two mines supply coal used in steel making in New Zealand, electricity production at the Huntly Power Station and the dairy industry (among other customers).

9. Accordingly Bathurst has a strong interest in planning documents from National Policy Statements down to district plans and in a number of regions of New Zealand. The policies, objectives and rules in each planning document has the potential to facilitate our business or to unduly restrict it.

10. Coal, like all minerals, can only be extracted from where it is located. Accordingly, unless adequate provision is made in planning documents recognising coal deposits and the providing for its extraction at the relevant locations there is the real risk of sterilisation of the resource.

11. Bathurst accepts that coal is viewed as a transitional energy source and that over time there may be a transition to other sources. However, that transition period cannot be instantaneous given limited economically viable alternative energy sources, particularly in the South Island, and the capital investment industry has made in coal fired boilers. Any transition will need to be a just one (over decades) taking into account potential significant adverse impacts on our exporting industries and the flow-on effects on local and regional communities.

Overall Comment

12. We support the intent of the National Planning Standards to introduce consistency in planning documents throughout the country. As a user of multiple planning documents, we can endorse the difficulty of working through all the different formats and layouts to understand the controls being placed on our activities.

13. We comment on specific provisions below.
Definitions

14. The first step in identifying a mineral deposit is to undertake prospecting or exploration. These activities can be minimum impact – for example involving taking samples by hand, aerial surveying, land surveying or have limited effects – for example trenching or use of explosives.

15. Once exploration has established the existence of an economically viable deposit a miner will apply for a mining permit and then for the necessary resource consents for the proposed mine.

16. The draft National Planning Standards have a number of compulsory definitions that will impact on our activities. We support the use of the definition of “mining” from the Crown Minerals Act 1991 (but do note that it is limited to extraction of the mineral itself and does not cover associated and necessary ancillary activities to extraction and comment further on that below). The definition of mining refers specifically to prospecting and exploration but these terms have not been given any definitions.

17. The Crown Minerals Act 1991 provides accepted industry definitions for these activities and given the use of the terms in the definition of mining (and the inconsistent definition of these activities in the various plans across New Zealand) we think it appropriate for the following definitions from the Crown Minerals Act to also be included in the National Planning Standards:

**Prospecting:**

(a) means any activity undertaken for the purpose of identifying land likely to contain mineral deposits or occurrences; and

(b) includes the following activities:
- geological, geochemical, and geophysical surveying
- aerial surveying
- taking samples by hand or hand held methods
- taking small samples offshore by low-impact mechanical methods.

**Exploration** means any activity undertaken for the purposes of identifying mineral deposits or occurrences and evaluating the feasibility of mining particular deposits or occurrences of 1 or more minerals; and includes any drilling, dredging, or excavations (whether surface or subsurface) that are reasonably necessary to determine the nature and size of a mineral deposit or occurrence.

We also think it necessary to include a definition of mining operations (again using the definition provided by the Crown Minerals Act) which are necessarily ancillary to the extraction of a mineral but which do not fall within the definition of mining itself which
relates solely to the extraction activity. This could be done by extending the definition of mining to include mining operations as follows:

Mining –
(a) means to take, win, or extract, by whatever means, -
   (i) A mineral existing in its natural state in land; or
   (ii) A chemical substance from a mineral existing in its natural state in land; and
(b) includes –
   (i) the injection of petroleum into an underground gas storage facility; and
   (ii) the extraction of petroleum from an underground gas storage facility; but
(c) does not include prospecting or exploration for a mineral or chemical substance referred to in paragraph (b);
and includes mining operations.

Mining operations would then be defined, as per the Crown Minerals Act (with one tweak) as follows:

Mining Operations
(a) means operations in connection with mining, exploration or prospecting for any mineral; and
(b) includes, when carried out at or near the site where the mining, exploration or prospecting is undertaken, -
   - The extraction, transport, treatment, processing, and separation of any mineral or chemical substance from the mineral, and
   - The construction, maintenance, and operation of any works, structures, and other land improvements, and of any related machinery and equipment connected with the operations; and
   - The removal of overburden by mechanical or other means, and the stacking, deposit, storage, and treatment of any substance considered to contain any mineral, and
   - The deposit or discharge of any mineral, material, debris, tailings, refuse or wastewater produces from or consequent on the operations; and
   - The doing of all lawful acts incidental or conducive to the operations; and
(c) includes any activities relating to the injection into and extraction of petroleum from an underground gas storage facility.

18. One of the issues we face as a mining company is that plans may make specific provision for mining, for example, with carefully worked out controls on that activity but fail to limit the application of other definitions and rules which then overlap and impose additional unnecessary controls, and sometimes contradictory requirements.

19. Here we are concerned that the definitions of earthworks, land disturbance and quarry have the potential to overlap and double up with prospecting, exploration and mining. Clearly the nature and scale of associated earthworks and land disturbance will be

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1 It is necessary to omit the words Crown owned as a number of minerals in New Zealand are privately owned, including some coal deposits.
considered when prospecting, exploration and mining are undertaken and therefore those activities should be excluded from these definitions.

20. The definitions of earthworks and land disturbance also overlap to a very large degree and it is confusing to have mandatory definitions that do this. What is the reasoning behind this?

21. Further it has to be questioned as to the rationale for a separate national definition of quarry, this activity is already covered by the definition of mining and how the two definitions are meant to sit together legally is unclear and it is to be noted that the Crown Minerals Act makes no such distinction. Further RMA should be focused on effects and quarrying has exactly the same potential as any other mining activities to affect the environment. The definition of quarry should be deleted.

22. We also query the need for a definition of swale and green infrastructure in the first national compulsory standards. Is there really a pressing need for these words to be defined when so many others have been left out?

23. The definition of reclamation may prove problematic for those undertaking open cast mining, as an integral part of rehabilitation will be backfilling the open pit (which is a void that fills with water) with overburden to re-create a landform. This has never been viewed by either the mining industry or councils as a reclamation but might well fall within this definition. We suggest that the following words be added to the definition:

"... but does not include beach re-nourishment or any deposition of material or infilling that is not permanent nor any rehabilitation activities associated with mining."

24. Proposed Zones

25. As mentioned above mining activities must necessarily occur where the minerals are located. The economic benefits that accrue from mining for the local, regional and national economy are significant, and the need to avoid sterilisation of the resource important, and this should be recognised in the definition of Rural Production Zone.

26. The Rural Production Zone should be modified as follows:

The purpose of the Rural production zone is to prioritise primary production activities that rely on the productive nature of the soils, the location of minerals, intensive primary production, and also providing for associated rural industry.
Signature of submitter
(or person authorised to sign
on behalf of submitter)

17 August 2018

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Contact person: