

## **Bathurst Coal Limited**

Forest & Bird Regional Conservation Manager Canterbury Nicky Snoyink

Speaking notes for Hearing 0900 28 October 2021

Applications CRC184166, CRC200500, CRC201366, CRC201367, CRC201368, CRC203016, CRC214320 and CRC214321 by Bathurst Coal Limited for a suite of resource consents to operate, rehabilitate and close the Canterbury Coal Mine.

### **General comments**

1. Forest & Bird made a submission dated 18 May 2020 on the Bathurst Coal Limited (Bathurst) application for retrospective and new consents. We understand that the applicant has decided to close the mine and has amended the original resource consent application to activities related to mine closure and rehabilitation, which are being processed on a non-notified basis.
2. I am speaking today on behalf of Forest & Bird supporters and in particular the Nelson Tasman branch, the National Forest & Bird youth and Christchurch Forest & Bird youth chapters who have a particular interest in Canterbury mudfish and wetland conservation, and climate change, and who made their own submissions on the original application.
3. It has been highlighted to me that the process for speaking today was not clear, and some people in particular the youth, were not aware that the hearing was even on. This raises serious questions around the process and the degree of satisfaction to which submitters have been kept informed.
4. By way of background and prior to making the original submission, Forest & Bird reviewed the original applications and supporting documents and concluded that this was an atrocious situation. Aspects of our original submission may now be irrelevant but the points regarding compensation remain particularly relevant. I will also briefly speak about rehabilitation, permanent protection, a bond, consent conditions and monitoring.

5. It is extremely disappointing that Bathurst have been allowed to mine the area to an order of magnitude bigger than what was originally consented, an order of magnitude larger than the community ever anticipated, extracting much more coal annually than permitted, much of it unconsented, and without regard for the district and regional plan rules.
6. This atrocious situation has now led to the mines early closure and to your determining adequate compensation for the unconsented so called coal “winning,” to redress the ecological loss and environmental harm, and to ensure that the site once closed, will not continue to cause environmental harm.
7. The lack of oversight by those agencies responsible on behalf of the public for sustainably managing natural resources, and protecting the environment, combined with an opportunistic operator highlights the need for much more rigorous process.
8. Hindsight is a wonderful thing however, one way to provide more rigour to the process would be a district wide assessment of significant natural areas (SNA) with robust and regular monitoring and for that information to be held on record. While a record of SNA may not have prevented ecological loss in this instance, it would have helped in avoiding the need to piece together like a jigsaw, different past reports, to determine from an ecological perspective what was there, what has been lost and what adequate compensation looks like.
9. Nonetheless, that is the situation with which you are now tasked.
10. Forest & Bird asks also, that when decide on appropriate compensation and any supporting conditions, that you are also mindful of Bathurst’s compliance history at this site, of the many abatement notices and a conviction for an environmental crime.
11. Forest & Bird reiterate from our original submission [95] that:  
*“Any offset and/or compensation will need to be generous in recognition of the past noncompliance.”*

12. That said, Forest & Bird have read the s42A reports from Environment Canterbury and Selwyn District Council, and both councils' relevant expert advice. We support the recommendations of both councils and anticipate that the elements of Environment Canterbury's concerns regarding water allocation can be resolved through this hearing.
13. We are grateful that the officers reports have gone to great lengths so far as they could, to provide good information to submitters and that they acknowledge the range of concerns that submitters have particularly regarding indigenous biological diversity, cultural effects, effects on landscape and amenity, and that they acknowledge that *"closure and rehabilitation of the site is sufficiently robust enough to have regard to submitters' concerns on these matters."*<sup>1</sup> ... past and present ... and I would add future.. and freshwater and effects of and on climate change to that list.
14. Forest & Bird strongly supports in particular, the ecological advice and recommendations of Environment Canterbury's Dr. Philip Grove on wetlands and Dr. Adrian Meredith on aquatic ecology and the Selwyn District Council terrestrial ecologist Mike Harding.

### **Compensation**

15. Forest & Bird share the concerns in the officers report and by the ecologists, that the compensation offered by Bathurst is inadequate. We want to reinforce the need for generosity, due to the reasons I have described.
16. Loss of wetlands and seepages has occurred, hydrology has been altered, downstream Canterbury mudfish habitat appears to have been affected by the activity, and terrestrial native flora and fauna has been lost or destroyed. Given the parlous state of indigenous biodiversity and wetlands, particularly in the Canterbury region and in the Whitecliffs ecological district, this loss is considerable.

### **Rehabilitation**

17. Forest & Bird want to be sure that there is sufficient rehabilitation of the mine site to limit erosion and sediment runoff, and particularly during extreme weather events, likely to be more common as climate change sets in; and in the likelihood of an earthquake; considering

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<sup>1</sup> Selwyn District s42A Report [40-41]

the site is listed as a High Soil Erosion Risk area as mapped on the Canterbury Land and Water Regional Plan Planning Maps.

18. Forest & Bird need certainty that absolutely no acid mine drainage will enter any of the water ways, especially considering the national importance of the Waianiwaniwa as crucial habitat for the critically endangered Canterbury mudfish, and as a tributary of the already degraded Selwyn Waikirikiri catchment.
19. Regarding natural character of the Malvern Hills, Forest & Bird urges the reinstatement of the landscape along natural contours as far as possible, to resemble and blend with surrounding natural landforms and to absolutely avoid skylines appearing like an “*aircraft carrier*” surface.<sup>2</sup>

#### **Permanent protection**

20. Forest & Bird recommends permanent legal protection for any of the compensation sites to ensure the permanence and integrity of any compensation, and to protect it from future land use changes or threats. This could include land purchase and covenanting.

#### **Bond**

21. Forest & Bird considers that a bond is absolutely necessary to ensure that the rehabilitation and remediation is carried out consistent with the consent and particularly, so costs associated with unanticipated future adverse effects that require attention, are not borne by the public.

#### **Consent conditions**

22. Forest & Bird acknowledges that proposed conditions appended to the s42A reports are a starting point only.
23. Forest & Bird needs certainty and clarity that consent conditions will avoid, remedy or mitigate any affects associated with the proposed activities.

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<sup>2</sup> Selwyn District Council s42A [71]

24. The conditions will need to be enforceable. We recommend that objectives or outcomes, methods and approaches for any proposed management plans be set out in the conditions.

### **Monitoring**

25. A robust monitoring system over a longer time period will be necessary to determine if environmental outcomes are on track and objectives are being met. Forest & Bird expects that a robust monitoring regime for different aspects of the mine closure plan, will be included in the final consent conditions.

Best of luck with your deliberations.

Thank you very much for the opportunity to speak.

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