

**Submission on Resource Consent applications to Environment Canterbury:
CRC184166, CRC200500, CRC201366, CRC201367, CRC201368 and CRC203016
and to Selwyn District Council: RC185622**

Applicant: Bathurst Coal Limited

Submitter: Malvern Hills Protection Society

1. The Malvern Hills Protection Society (the Society) understands this hearing is confined to activities associated with the closure of the Bathurst Coal Mine in the Malvern Hills, rehabilitation of the mine site, retrospective consents for earthworks and wetland vegetation removal, and compensation for activities not consented.
2. The Society accepts that some of the issues raised in our original submission such as traffic movements, noise, dust, and lighting are now no longer relevant. However, other issues in the Society's submission such as flooding, discharges from mining activities, loss of wetland habitats and effects on indigenous flora and fauna, landscape effects and compensation, remain of concern during the closing down phase of the mine and long term.
3. The Society is unclear how changes to the catchments, and especially the Surveyor's Gully catchment, might impact downstream at Glentunnel where the Surveyors Gully stream flows through the village just before it reaches the Selwyn/Waikirikiriri River.
4. The Society seeks certainty that any future environmental degradation or destruction on the mine operating area (MOA) or outside the area is the responsibility of Bathurst Coal Ltd and not the community.
5. We have read the Section 42A reports by Selwyn District Council and Environment Canterbury, and the evidence of Mr Mike Harding, Dr Adrian Meredith, and Dr Philip Grove.

Terrestrial Biodiversity - Mr Mike Harding (Attachment 6 SDC s42A)

6. The Society supports the report by Mr Harding in its entirety, and provides additional comment:
7. At para 26 of Mr Harding's report he notes that remediation on the completion of mining activities is required by the CCM Environmental Management Plan and has not been considered by the applicant.
8. Mr Harding goes on to suggest at para 29 that rehabilitation of soils and drainage similar to that present prior to the mining disturbance, would *provide conditions suitable for the natural establishment and recovery of the seepage wetland vegetation (wiwi rushland) and associated indigenous species (such as Coprosma Dumosa)*. The Society supports remediation of the site required by the CCM Environmental Management Plan.

9. At paras 38 - 40 Mr Harding reports that the compensation proposed for the loss of seepage wetlands at the North ELF Area and the restoration and enhancement of existing off-site wetlands do not provide 'like for like' compensation. The creation or restoration of additional areas of seepage wetland habitat, provided with long term legal protection, would better compensate for the loss of wiwi rushland from the North ELF area.
10. According to Mr Harding, at para 44 of his report the proposal for lizard habitats fails to meet the specifications proposed in the CCM Environmental Management Plan. The Society supports the creation of new lizard habitats according to the CCM Environmental Management specifications, and for the applicant to commit to pest control across the wider area.

Terrestrial and wetland ecology - Dr Philip Grove (Appendix 9 ECan s42A).

11. The Society supports the evidence of Dr Grove in its entirety and provides additional comment:
12. At para 18 Dr Grove states that consent to remove a wetland on the North ELF was obtained from Environment Canterbury. The consent CRC190172 for the wetland removal was granted in 2017 for a term of 15yrs. The consent was granted non-notified.
13. The Society understands that the applicant now seeks retrospective consent from Selwyn District Council for the removal of that wetland area.
14. The Society is extremely disappointed that the Regional Council authorized the wetland removal in the Malvern Hills when wetland loss is contrary to national and regional policy objectives, which clearly seek no further loss. NZ has lost 90% of its wetlands. In Canterbury natural wetlands on the plains are now very rare with most of the remaining wetlands coastal, in the foothills, high country, and margins of rivers.
15. Members of the community trust Councils to make decisions on their behalf to protect wetland habitats of ecological significance guided by National policies and objectives. In this case ECan clearly failed. It seems to our members that rare and distinctive wetland habitats are being 'balanced' into extinction in favour of economic development.
16. At para 84 it is stated that surface water runoff and subsurface flows from the Bush Gully stream catchment will now flow into Tara Stream catchment. The Society is opposed to the mixing of waters in this way, and especially as the effects on aquatic ecology have not been assessed.

Surface water quality and ecology effects - Dr Adrian Meredith (Appendix 5 ECan s42A).

17. The Society supports the evidence of Dr Meredith in its entirety and provides additional comment:
18. The Waianiwaniwa Valley is the last and only stronghold of Canterbury mudfish (*Neochanna burrowsuis*). It is the jewel in the Crown of mudfish populations. The Waianiwaniwa population is likely the largest, thus lots to lose here. The potential loss of mudfish populations in the Waianiwaniwa was a heavily weighted consideration by commissioners when considering CPW's consents to flood the valley.
19. Dr Meredith's evidence on Canterbury mudfish in the Waianiwaniwa Valley, and its tributaries, provides the Society with some assurance of the species survival when he writes at para 34 *unlike other populations, the Waianiwaniwa population is not constrained to a single site or reach, so it is not at high risk of easy extinction of the population.*
20. It appears from the evidence that mudfish habitat is still intact in the mining area apart from certain reaches of Tara Stream. The Society agrees remediation of Tara Stream is warranted to reinstate both more viable wetland conditions, and mudfish refuge closer to the mine site (para 50). Targeted surveys and monitoring for mudfish in Tara Stream should be used to indicate stream health across the wider catchment.
21. Sediment and other pollutants discharged to Bush Gully and Tara Stream will be strongly detrimental to mudfish. The Society agrees with Dr Meredith that emphasis should be on mitigating the past degree of sedimentation and removing sediment from critical areas to reinstate sustainable stream habitats (para 54).
22. The disposal of a total of over 107,000 tonnes of coal ash (coal combustion residue CCR) in re constructing landforms is of major concern to the Society. At para 81 Dr Meredith states the *coal ash placement and potential for additional seepage contaminant losses from the coal ash are poorly considered by the applicant.*
23. The mine is located in a high erosion zone, the area is prone to heavy rainfall events. On 29 May 2021, 265mm of rain was recorded at Whitecliffs over 3 days. Farmers in the Waianiwaniwa valley recorded 300mm. Flooding caused erosion, slips and the closure of local roads. Flows in the Selwyn/Waikirikiri swelled to 223.51 cumecs at the Whitecliffs recorder. (Niwa data attached). The Society is concerned at the potential for serious discharges of acid mine drainage (AMD) and other contaminants from coal ash (CCR) seepage during heavy rain events.

24. The Society shares Dr Meredith's concerns at the proposals to construct and store potentially toxic water in sizeable lakes at the mine site, of much larger scale than the two existing 'ponds' (paras 119 – 155). How will the mine pit lakes cope with the storm events similar to that which occurred in May?

Landscape

25. The Malvern Hills area is a highly valued landscape by residents. It is part of the Inland Scenic Highway 72 from Woodend to Winchester. The road through the Waianiwhi Valley is popular with cyclists. Walkways have been established in the nearby Malvern Hills villages of Whitecliffs, Coalgate and Glentunnel. Although most of the mine site is not visible from the road, it can be viewed from neighbouring ridges.
26. The Society notes there is general agreement between the Selwyn District Council landscape expert Mr Graham Densem, the Addendum AEE, and Bathurst's expert Mr Frank Boffa on landscape rehabilitation. The Society supports the landscape outcomes listed at para 71 of the SDC Section 42A Officer's Report, and the requirement for clearly defined conditions of consent to provide assurance that the landscape outcomes will be achieved.
27. The Society supports Mr Densem's request (SDC s42A Attachment 5) that the text 'in red' be inserted into SDC Condition 21 to ensure the condition is enforceable....*All rehabilitation areas must be graded according to the contours shown on the map 'Closure Landform' by Frank Boffa, which is Figure 2 in the Graphic Attachment to Appendix 2 of the Addendum AEE, and are compatible with...*
28. The Society remains concerned at slope stability during heavy rain and flooding events and potential impacts on land and infrastructure downstream of the mine.

Compensation

29. It is clear from the expert evidence and reports for Environment Canterbury and Selwyn District Council that environmental gains of the compensation proposed by the applicant are not equivalent to the wetland seepage losses, and for the loss of and degradation of indigenous biodiversity.
30. The Society feels compensation should also be provided for the breaches of consent which included the taking of much larger volumes of coal than were originally consented by Selwyn District Council.
31. The applicant must propose a new and larger compensation package which provides clear environmental gains, secured in perpetuity, including a bond, all to be provided for in enforceable consent conditions.

32. The Society supports the bond proposals put forward by the Councils' experts to address past, current, and potentially future losses of biodiversity and landscape values.
33. Compensation needs to be sustained over time to ensure long term protection from the adverse effects of land use change, vegetation clearance, climate change effects, earthquakes, and other threats.

Bonds

34. The Society supports bond amounts to cover the costs of completing the final landform development in relation to slope stability, and to cover the costs of compensating for the loss of wetlands and seepage systems, and the loss of indigenous biodiversity both within the MOA and outside the mine site.

Conclusion

35. The Society's concerns in relation to the effects of retrospective earthworks that has caused the loss and degradation of indigenous vegetation and habitats of indigenous fauna, and the degradation of landscape and natural character values, are well covered in the SDC s42A report by Mr Andrew Henderson and by the Council's experts, and generous compensation for the loss is sought. The Society agrees.
36. The concerns of the Society in relation to surface water quality and aquatic ecosystems are well addressed in the ECan s42A report by Ms Adele Dawson, and by the Council's experts. The Society supports the recommendation by Ms Dawson that the applications should be REFUSED as the consent authority cannot be satisfied that the adverse effects on the environment will be minor (s104D(1)(a)) and the application is for an activity that will not be contrary to the objectives and policies of the relevant and proposed plan (s104(1)(b)(iii)).
37. If the Commissioners are of a mind to grant consent, then the Society seeks generous compensation from Bathurst Coal Ltd for the breaches of consent and consequential environmental losses.

Liz Weir
Rosalie Snoyink
On behalf of the Malvern Hills Protection Society
27 October 2021

Site 68001 Selwyn at Whitecliffs

From 26-May-1964 15:00:00 to 28-Jul-2021 10:10:00

Flow in cubic metres per second

Year	Maximum	Date	Time
*1964	40.583	26-May-64	15:00
1965	183.77	31-Jan-65	21:00
1966	79.411	31-Jul-66	1:15
1967	72.76	6-Jan-67	16:45
1968	47.492	11-Apr-68	16:00
1969	10.092	25-Dec-69	15:45
1970	58.905	24-Sep-70	14:30
1971	37.812	21-Oct-71	20:46
1972	174.12	16-May-72	20:00
1973	52.481	13-Aug-73	2:45
1974	91.631	17-Apr-74	0:45
1975	75.196	13-Mar-75	11:00
1976	62.791	7-Sep-76	12:15
1977	37.296	4-May-77	4:45
1978	143.53	20-Apr-78	21:15
1979	99.922	26-Aug-79	3:05
1980	99.359	11-Jun-80	7:00
1981	22.671	15-Jun-81	8:15
1982	48.291	27-Oct-82	14:00
1983	69.772	10-Jul-83	9:11
1984	56.237	24-Nov-84	14:00
1985	31.14	19-Aug-85	22:00
1986	200.8	11-Aug-86	10:00
1987	142.03	4-Mar-87	6:15
1988	34.427	13-Sep-88	16:30
1989	49.285	8-Oct-89	17:15
1990	36.298	25-Aug-90	1:15
1991	26.963	20-Sep-91	9:15
1992	26.904	10-Sep-92	22:30
1993	91.126	23-Dec-93	16:30
1994	152.34	27-Jul-94	1:30
1995	38.954	16-Jun-95	4:45
1996	47.5	16-Jul-96	9:15
1997	58.735	6-Feb-97	3:45
1998	17.439	2-Jul-98	22:45
1999	19.898	20-Nov-99	15:00
2000	342.71	19-Aug-00	10:00
2001	43.949	21-Jul-01	20:45
2002	218.24	13-Jan-02	6:45
2003	37.239	7-Apr-03	8:00
2004	29.683	15-Aug-04	7:30
2005	6.1727	1-Jan-05	00:00
2006	45.492	16-Jun-06	14:00
2007	16.466	11-Oct-07	8:15
2008	129.57	31-Jul-08	9:30
2009	59.83	24-May-09	21:00

2010	108.81	26-May-10	16:00
2011	74.943	19-Oct-11	13:00
2012	62.247	13-Aug-12	12:15
2013	59.929	17-Jun-13	22:00
2014	104.13	18-Apr-14	10:15
2015	17.565	20-Jun-15	4:30
2016	25.657	17-Nov-16	17:05
2017	153.55	22-Jul-17	0:20
2018	78.13	21-Feb-18	8:15
2019	56.543	21-Jul-19	11:10
*2020	11.913	29-Jun-20	11:00
*2021	223.51	30-May-21	20:45

Maximum is 342.713 at 19-Aug-2000 10:00:00

'*' denotes years with gaps in the data or incomplete years