

`Counter Friction to Stop the Machine': Civil Disobedience in Maules Creek

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With thanks to Leon Terrill for his assistance.

When Whitehaven Coal's Maules Creek mine was first proposed, it was to be the biggest open cut coal mine in Australia. Situated in the Leard State Forest in the Liverpool Plains, it immediately attracted opposition from the local farming community who feared it would compromise their livelihood. For nearly six years, farmers tried without success to prevent the proposal using the appropriate legal avenues, however Whitehaven's development progressed on.¹ As a result, tactics changed. On 5 August 2012, activists Murray Dreschler and Jonathan Moylan started the Maules Creek Mine Blockade.² The Blockade soon swelled in number and has hosted, over the course of three years, an array of farmers, environmentalists, and ordinary Australians.

Over a weekend in April 2014, I visited the Blockade in northern New South Wales – an eight-hour drive north of Sydney. I had never attended a protest camp before, nor am I someone who typically seeks out frontline activism. However, something about this campaign struck a chord and I was compelled to learn more.

When I arrived, the Blockade — 'Camp Wando' as it was affectionately called — was located on the property of local farmer Cliff Wallace who had been living in the area for decades. Over the weekend, I met many impassioned individuals from all walks of life who were drawn to the cause for a variety of reasons.

Whitehaven Coal claims the development will generate economic benefits to the community as well as the State. They project that the mine will bring 400–500 new jobs to the area and the State Government will receive \$6.5 billion in royalties and corporate tax in the first two decades of the project.³ The Maules Creek mine is expected to produce 10.5 million tons of saleable coal annually, which includes about 60 per cent semi-soft coking coal and 40 per cent high-quality thermal coal.⁴

The movement against the Maules Creek development was akin to other great environmental campaigns seen in Jabiluka in the Northern Territory and the Franklin Dam in Tasmania in the 1970s and 80s. In a continuation of this tradition, hundreds of people were arrested for physically trying to stop a coal mine

from going ahead.⁵ Environmental activist and former Greenpeace employee Jason Lyddieth attributed this opposition to the variety of issues that galvanised the wider Australian community together. Unfortunately for those involved in the cause, the Blockade ultimately failed to stop construction and the mine is now operational.

The farmlands in Maules Creek (and the Liverpool Plains area more broadly) is home to some of the most fertile, food producing regions in the country. Once the construction of the mine is complete, 38 of the Gomeri People's sacred sites will be destroyed.⁶ This includes Lawlers Well, a site vital to the Gomeri People's traditional heritage and continuing cultural practices. The new coal mine will take three billion litres of water annually from the local river and significantly lower the water table, sometimes up to six metres.⁷ The project will also emit 30 million tons of CO₂ per year,⁸ amid calls for 90 per cent of known coal reserves to remain in the ground to combat global warming.⁹ The Leard State Forest forms the largest remaining fragment of the critically endangered White Box-Gum Grassy Woodland, of which only 0.1 per cent of its original range remains.¹⁰ The forest is home to over 30 threatened species, including the Regent Honeyeater and the Squirrel Glider.¹¹

For the new mine site to go ahead, Whitehaven must indefinitely set aside an 'equivalent' parcel of land, which is similar to the forest which is being destroyed as per the conditions 9, 10, 11 and 12 which were subject to the approval granted by the Environmental Minister under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) ss 130(1), 133.¹² This approval process has been condemned by opponents, arguing that insufficient community consultations were undertaken and inadequate offsets provided. However, an independent review commissioned by Whitehaven Coal and tabled in the Senate found that though Whitehaven Coal needed to purchase an additional four offset properties, they were otherwise compliant with the Commonwealth Approval Conditions.¹³

For years, Whitehaven Coal and the State and Federal Governments have been confronted with an incredible display of opposition from a wide cross section of the Australian community. Peaceful rallies have taken place outside NSW Parliament House and the Department of Planning and Environment calling on the appropriate bodies to shut down the development. After failing to halt the progress of the development, protestors have increasingly turned to non-violent direct action as a last resort.

Jonathan Moylan made headlines in 2013 after he distributed a hoax Australia and New Zealand Banking Group ('ANZ') press release causing Whitehaven Coal's share price to momentarily drop \$314 million in market value.¹⁴ Moylan was charged and pleaded guilty to

disseminating false or misleading information affecting market participation under the *Corporations Act 2001* (Cth).¹⁵ He received a suspended 20 month prison sentence.¹⁶ His case was unusual in that he sought no financial advantage in manipulating the market, but rather to draw attention to the ethics behind banking investment.

Stephen Galilee, CEO of the NSW Mineral Council, commented that Moylan participated in repugnant behaviour and was not penalised enough: 'We have twenty thousand mining families across NSW who rely on the coal industry for their livelihood. He is campaigning against the jobs of those people and their families. That's an act of economic vandalism in my book.'¹⁷

CEO of Whitehaven Coal, Paul Flynn, was unmoved by the arguments made by those opposed to the mine. 'Protestors should respect the fact that this is an approved project that has passed the highest contemporary environmental approvals standards.'¹⁸ He instead focussed on seeing out the development.

The relationship between civil disobedience and participating in good faith in a democracy is a complex one. Those who break the law for their own ends take themselves out of the democratic process and assert their own. However, in many cases, such as Maules Creek, it is only after attempts for change within the law have been thwarted that civil disobedience arises.

Democracies may behave in ways that stray from democratic ideals or enact laws that are unjust. Therefore, in theory, a person may break unjust laws and still maintain their commitment to democracy more so than an individual who mindlessly obeys every piece of legislation passed.¹⁹ Academic Menachem Marc Kellner has argued, '[o]ne very effective way of thwarting [anti-democratic tendencies], and of promoting democracy, is to refuse to go along with them, even on those occasions when they seem to bear the imprimatur of democracy itself.'²⁰ Democracy is to be interpreted then as not merely a procedure but as a set of values to strive for. Poet and philosopher, Henry David Thoreau, commented in 1849 on the role of civil disobedience as a check on power: 'Let your life be a counter friction to stop the machine. What I have to do is to see, at any rate, that I do not lend myself to the wrong which I condemn.'²¹

However, difficulties arise when considering whose ethics are to be prioritised, and who decides which laws and decisions made are unjust. Protestors acting on their conscience, as opposed to democratically-elected politicians, are accountable only to themselves rather than any kind of majority vote. The Blockade formed at Maules Creek asserted their views from a particular moral standpoint which was in conflict with the economic dividends propounded by Whitehaven Coal and the State. Despite the earnestness of the protestors' arguments, there is an uneasy tension as to when ethical

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arguments should trump decisions made by empowered authorities. Nevertheless, successes, such as the Franklin Dam, demonstrate that there is an important place for protests to protect the environment where decisions made do not reflect the will of the populous.

Hundreds of individuals have entered the Whitehaven mine site and have locked on to machinery or blocked access roads to halt construction and production. With courage, protestors put their bodies on the line and risked a criminal conviction which may have other knock-on effects on their livelihoods. Those arrested at the mine site have been charged with unlawful entry into enclosed land under s 4 of the *Inclosed Lands Protection Act 1901* (NSW) and/or interfering with a mine under s 201 of the *Crimes Act 1900* (NSW). The project has seen over 300 arrests including a 92 year old war veteran, doctors, religious leaders and even former Wallabies captain, David Pocock.²² Pocock stated he ‘believe[s] it’s time for direct action on climate change, standing together as ordinary Australians to take control of our shared future.’²³

An acceptance of penalties incurred as a result of undertaking illegal acts was integral to the form of civil disobedience exhibited at Maules Creek. According to philosophers Peter Hare and Edward Madden, civil disobedients who show a willingness for punishment hope to ‘stir the conscience of public and government.’²⁴ At Pocock’s arrest he commented that raising awareness was an objective of his in supporting the local farming community: ‘It is part of being a human being and taking on the challenges we face as a society. It is about giving back and getting the conversation going.’²⁵ Although Pocock was high-profile and introduced different sections of the population to the issues faced in Maules Creek, his efforts ultimately did not achieve the greater

goal of stopping the Whitehaven development. Pocock and his wife Emma were given no convictions for their conduct at Maules Creek, however as recently as 1 April 2015 dozens of protestors were given thousands of dollars’ worth of fines.²⁶ Magistrate Lisa Stapleton found protestors’ illegal behaviour to be dangerous and at times life-threatening.²⁷

The Baird Government announced in November 2014 that they would move towards imposing even harsher penalties for protestors illegally entering mine sites.²⁸ Mr Baird said it was ‘galling’ ‘that mining companies were responsible for the safety of protestors who were trespassing illegally on private property’.²⁹ The Lock the Gate Alliance — who were heavily involved in the Maules Creek protests — were outraged by the announcement, believing the penalties were high enough already. They cited the \$1500 fine imposed on Santos (a coal seam gas company) for contaminating an aquifer with uranium, as a point of difference.³⁰ There is an inevitable conundrum for governments who want to crack down on unsafe behaviour but also want to avoid being seen as yielding to vested interests. It is dangerous for unauthorised people to be found on mine sites, however where governments are too harsh on protestors they may arouse suspicion or sympathy from those outside the debate. It is a highly politicised position for decision-makers which is likely to provoke criticism from the parties involved either way.

As of July 2015, the Whitehaven coal mine is mostly complete and has begun extracting coal. The Blockade has more or less disbanded. However, opponents are still optimistic that approval for the mine can be discredited through an Independent Commission Against Corruption or Senate Inquiry, or Royal Commission.

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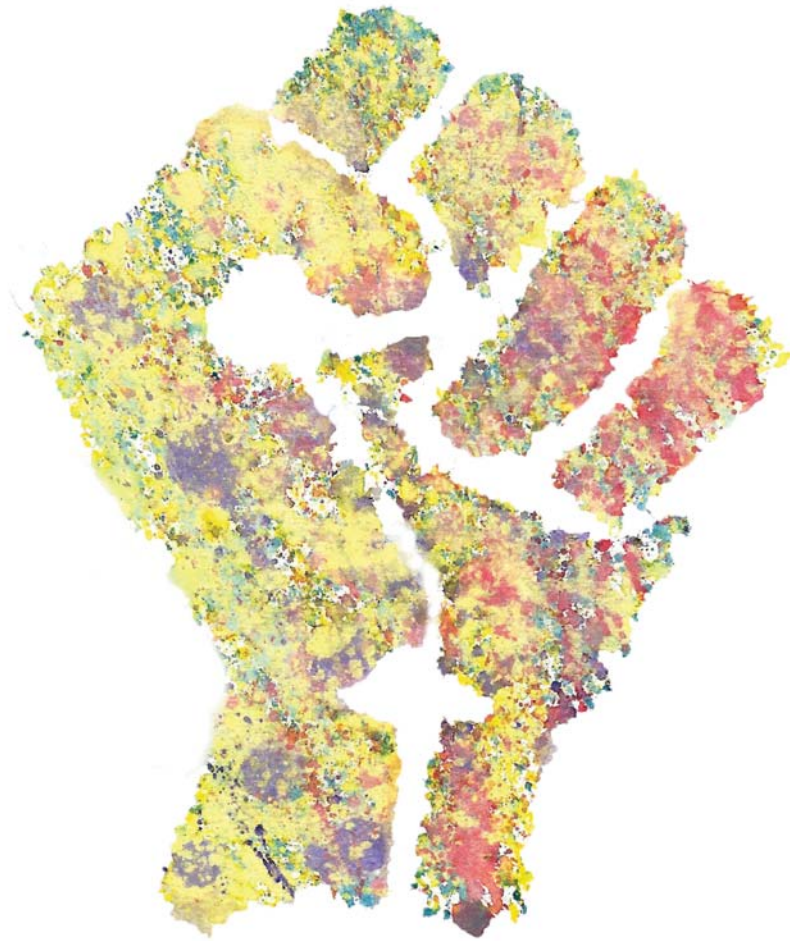


Illustration by Angelina Yurlova

The Gomeroi People have petitioned the Environment Minister Greg Hunt to protect their remaining sacred sites with emergency cultural heritage legislation.³¹

Despite the failure to stop Whitehaven's project from going ahead, Lyddieth believes that the activism witnessed at Maules Creek is a historic achievement in Australia and is a part of something much bigger. The Maules Creek Blockade brought together a range of ordinary Australians, not known for their activism, to stand up against mining interests in the Leard State Forest. Those who campaigned, donated to the cause, and those who were given criminal convictions did not do so in vain: what occurred at Maules Creek is part of a resurgence of mass environmental activism in Australia. Lyddieth concluded: 'the non-violent actions used at Maules Creek forms part of a global trend of peaceful resistance making the world a better place. Coal mining companies in Australia now have to consider the legitimate and continued backlash of communities who do not want coal mining expansion in a way that was inconceivable five years ago'.³²

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