

WELSH GOVERNMENT INTEGRATED IMPACT ASSESSMENT

<b>Title of proposal:</b>	<b>The Disused Mine and Quarry Tips (Wales) Bill – Integrated Impact Assessment</b>
<b>Official(s) completing the Integrated Impact Assessment (name(s) and name of team):</b>	<b>Coal Tip Safety Bill and Policy Team</b>
<b>Department:</b>	<b>Climate Change and Environmental Sustainability</b>
<b>Head of Division/SRO (name):</b>	<b>Chris Jones – Mining Legacy and Reservoir Safety Division</b>
<b>Cabinet Secretary/Minister responsible:</b>	<b>Huw Irranca-Davies MS</b>
<b>Start Date:</b>	<b>5/09/2024</b>

## SECTION 1. WHAT ACTION IS THE WELSH GOVERNMENT CONSIDERING AND WHY?

### Context

In February 2020, following storms Ciara and Dennis, a series of coal tip landslides occurred in Wales, including a major landslide of a disused tip in Tylorstown. These landslides illustrate the potential risks that disused tips present to communities and infrastructure.

The former First Minister for Wales, Mark Drakeford MS, established the Coal Tip Safety Task Force in early 2020. It was tasked with a wide-ranging programme of works including reviewing the safety of coal tips across Wales. In October 2020, the Welsh Government asked the Law Commission to undertake an independent review of the coal tips safety legislation and make recommendations for its reform. The review commenced on the 2 November 2020 and [reported](#) on 23 March 2022.

[The Coal Tip Safety \(Wales\) White Paper](#), which consulted on Bill proposals, was published by the Welsh Government on 12 May 2022. It drew on the recommendations of the Law Commission and further analysis undertaken by the Welsh Government. [Responses to the White Paper consultation](#) were published in November 2022. The White Paper asked whether the proposals for the Bill should apply to both coal tips and non-coal tips (for example tips containing waste from Wales's metal mining industry). The majority of responses (88%) agreed. Thus, the Bill's provisions apply to both coal and non-coal disused tips.

There was broad consensus from both consultations that the legislation relating to disused coal tips, the Mines and Quarries (Tips) Act 1969 (the 1969 Act) was no longer fit for purpose. It had been enacted at a time when Wales had an active coal industry.

In summary, the Disused Mine and Quarry Tips (Wales) Bill (the Bill):

- establishes the Disused Tips Authority for Wales (the Authority) as a body corporate. Its main objective in carrying out its functions under the Bill is to ensure that disused tips do not threaten human welfare by reason of their instability;
- makes provision for the assessment, registration and monitoring of disused tips;
- contains provisions that enable the Authority to deal with tip instability and threats to tip instability. This includes powers to require an owner of land to carry out operations and for the Authority to carry out operations itself, and related provisions in respect of payments in connection with such operations; and
- contains supplementary provisions including powers of entry for the Authority, information sharing provisions and powers to require information, and creates related offences to support the enforcement of the regime.

### Long term trends, challenges and opportunities

According to the [Special Report on Global Warming of 1.5C](#) (October 2018) published by the Intergovernmental Panel on Climate Change (IPCC), there is substantial evidence that

limiting global warming to between 1.5°C to 2°C would curb the risks of increases in heavy rainfalls in several high-latitude regions, including Northern Europe.

The [State of UK Climate Report](#) (July 2024) has recently showed that in the UK rainfall has slightly increased in the last decades. In Wales, the [risk assessment](#) undertaken by the Independent Climate Change Committee also reported a small increase of annual mean rainfall in recent years, forecasting that in future, during winters, rainfall is expected to intensify leading to the likelihood of flooding of infrastructure, businesses and homes.

The [Welsh Government statement on coal tip safety](#) (February 2021) highlighted the difficulties in reducing the risk of slope failures near dwellings, acknowledged that the current legislation is not fit for purpose and not robust enough in relation to inspection and maintenance. These deficiencies were referred to in the [report](#) concluding the Law Commission's independent review of coal tip safety legislation.

The Bill addresses these deficiencies by introducing a proactive regime that will protect human welfare, safeguard communities and protect Wales's critical infrastructure through the establishment of a new public body that will have functions in relation to the assessment, registration, monitoring and management of disused tips.

## **Prevention**

The Bill is preventive in nature, centred around a proactive rather than reactive regime, envisaging on-going monitoring requirements for registered disused tips. Disused tips posing higher risk will be more frequently inspected (category 1 and 2 tips) and all disused tips will be properly maintained to address tip instability and threats to tip instability.

The core aim of the Bill is to prevent disused tips from threatening human welfare by reason of their instability. In practical terms what this means is the Authority needs to work to minimise the likelihood of disused tips becoming unstable and threatening human welfare. The impact of landslides can be disastrous with significant damage to communities, the environment and infrastructure resulting in a high cost of repair that can be avoided by putting in place a robust system of inspections and maintenance.

## **Integration**

Disused tip safety is a cross-cutting priority within the Welsh Government, especially as the impacts of a disused tip landslide could have implications, including for housing, health, transportation, utilities, planning and the environment.

The Welsh Government [White Paper](#) proposed to measure hazards to categorise tips and consulted on a complex hazard level matrix considering receptor groups (e.g. houses, communities) and level of hazards (e.g. high, low). Further policy development has informed a more operable approach to avoid complexity; therefore, the Bill presents two interlocking steps to assess tips, a desk-based preliminary assessment to gather initial information on the tip informing the Authority on whether a full assessment is required.

## **Collaboration**

In 2020, in response to Tylorstown, the Welsh and UK Governments set up a joint Coal Tip Safety Taskforce, working collaboratively with the Coal Authority, Natural Resources Wales (NRW), and local authorities to deliver a programme of works including reviewing

the safety of coal tips across Wales, and the inspection and maintenance of higher rated tips.

The Welsh Government also asked the Law Commission to undertake an independent review of coal tip safety legislation. The recommendations from the review were reflected in the Welsh Government's White Paper consulting on proposals for the Bill.

Since 2020 the Welsh Government has funded the Coal Authority to inspect category C<sup>1</sup> disused coal tips once a year and category D disused coal tips twice a year. In 2023, the Coal Authority started inspecting all category B disused coal tips. This helped to identify any maintenance work needed to be carried out by local authorities.

As a result, the Welsh Government has information about the number, location and ownership of disused coal tips in Wales. [Maps](#) containing the location of category C and D disused coal tips were published on 14 November 2023.

## **Involvement**

Respondents to the White Paper included private individuals, a variety of organisations, elected representatives, private companies, academics, professional bodies, and local authorities. Targeted engagement events were held during the 12-week consultation period when the Welsh Government delivered several presentations on the White Paper engaging with a broad range of stakeholders. On a monthly basis, the Welsh Government has continued to engage with the Coal Tip Safety Technical Group which consists of experts and skilled practitioners.

In November 2023, when the category C and D disused coal tip data was released into the public domain, through Data Map Wales, the Welsh Government delivered a series of information sharing sessions for parties affected by the locations of the tips and also ran a Facebook advertising campaign to raise awareness of the events.

## **Impact**

The Welsh Government considered the Law Commission recommendation regarding the establishment of an expert body and undertook further analysis to determine whether the body should be an existing organisation or a newly created one. When assessing the most appropriate method to implement the new regime, six criteria were considered: accountability, independence, expertise, remit, value for money and confidence. The analysis concluded that no one existing body matched against all criteria.

A significant number of respondents to the Law Commission review and the Welsh Government's White Paper supported the proposal to establish a supervisory body.

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<sup>1</sup> The current classification system ranks tips from category **D** to category **R**. Criteria by category: **D** Potential to cause risk to life or property known history of movement/signs of instability **C** Potential to cause risk to life or property no known history of movement/instability signs **B** Unlikely to cause risk to life / property **A** Minor tip or tip has been reclaimed / restored **R** Historic tip location – now removed or levelled and often built over.

Furthermore, the Law Commission identified deficiencies in the provision made by the 1969 Act. The current system does not create a general duty to ensure the safety of coal tips. Nor does it provide a power to require tip owners to carry out preventative maintenance to prevent a tip becoming a danger or allow local authorities to carry out such works. It doesn't cover hazards other than instability, and crucially it does not confer a duty on local authorities to inspect and secure disused tips.

### **Costs and Savings**

The Regulatory Impact Assessment accompanying the Bill sets out estimated costs and benefits of proposals contained within it.

### **Mechanism**

A Regulatory Impact Assessment has been completed alongside the Bill.

## **SECTION 2. WHAT WILL BE THE EFFECT ON SOCIAL WELL-BEING?**

### **2.1 People and Communities**

**How (either positively or negatively), and to what extent (significant/moderate/minimal impact), will the proposal affect people and communities?**

The core aim of the Bill is to make provision to prevent disused tips from threatening human welfare by reason of instability, and to make provision for connected purposes. The Bill will therefore benefit people in all communities across Wales by reducing the likelihood of disused tip landslides and the associated impacts such as loss of life; injury; short- and long-term physical and mental health concerns; damage to housing, schools and health centres; transport and utility disruption; pollution and destruction of the environment.

The new management regime will be particularly beneficial to communities with socio-economic disadvantage, living in areas disproportionately affected by disused coal tips, such as the South Wales valleys, where over 85% of disused coal tips in Wales are

located and where according to the Welsh Indices of Multiple Deprivation (WIMD) are based in communities classed as amongst the 10% most deprived in Wales.

The [economic impact analysis on domestic properties](#) (Annex 4) set out in the White Paper proposals indicated that there is no robust evidence of long-term negative impact of landslide and flooding events on house prices and house sales, the risk primarily lies in the perceived economic impact on the release of the locations of disused tips and the introduction of a regulatory regime rather than any actual economic impacts.

The Welsh Government will continue to work closely with the Association of British Insurers (ABI), Chartered Insurance Institute and under-writers and consider any potential impacts on house prices and house sales.

## **2.2 Children's Rights**

A Children's Rights Impact Assessment (CRIA) has been undertaken, and the Bill is not expected to have a negative impact on the rights of children and young people. It is expected that children and young people will benefit from the implementation of an effective management regime for disused tips, as monitoring and maintenance can reduce the likelihood of tip slips and the impacts these can have on communities, especially children and young people living in close proximity to disused coal tips in the South Wales valleys, which contain some of the most deprived areas in Wales. The CRIA is attached at Annex A.

## **2.3 Equality**

An Equality Impact Assessment has been undertaken, and the Bill is not expected to have a negative impact on individuals or groups falling within a protected characteristic. The Bill is expected to have a positive impact on the safety of all citizens by reducing the probability of landslides, and therefore the impacts associated with landslides such as: loss of life; injury; short- and long-term physical and mental health concerns; damage to housing, schools, and health centres; transport and utility disruption; pollution and destruction of the environment. The Equality Impact Assessment is attached at Annex B.

## **2.4 Rural Proofing**

A Rural Proofing Impact Assessment has been undertaken which considers the impacts of the Bill on people and businesses in rural areas. The Bill is not expected to have any negative impact on people or businesses in rural areas, the powers in the Bill apply to all land, therefore rural land will be captured by the provisions in the Bill. In addition, the Bill makes provision in respect of compensation where land is damaged, property is damaged, removed or disposed of, or if there is disturbance to the enjoyment of land. This provision applies to all land, including rural land. The Rural Proofing Impact Assessment is attached at Annex C.

A Sustainable Land Management Assessment has not been undertaken as the conditions requiring the completion of the Assessment are not met. When secondary legislation is

made under powers in the Bill, we will consider the SLM duty and whether an assessment is required.

## **2.5 Health**

### **2.5a How (either positively or negatively), and to what extent (significant/moderate/minimal impact), will the proposal impact health determinants?**

A Health Impact screening has been undertaken and established a full Health Impact Assessment for the Bill is not required. The Bill is not expected to have negative impacts on the health of individuals or communities because the preventive nature of the new regime requires an assessment of all disused tips, and provides for monitoring of the higher rated tips, therefore mitigating the likelihood of landslides. This proactive approach aims to ensure that communities are kept safe, and risks are managed. The Health Impact Screening is attached at Annex H.

## **2.6 Privacy**

A Data Protection Impact Assessment has been undertaken to assess the impact of the Bill's provisions. The assessment was shared in draft with officials from the Information Commissioner's Office and their feedback has been incorporated into the document.

The Assessment considers the provisions in the Bill that require the processing of personal data or which could result in personal data being processed. The relevant provisions were assessed to ensure they provide a legal basis for the processing of personal data, and that the processing of personal data is necessary and proportionate. Necessity and proportionality were assessed taking into consideration the main objective of the Authority, as set out in section 2 of the Bill, to ensure disused tips do not threaten human welfare by reason of their instability. Officials will continue to liaise with the Information Commissioner's Office to ensure best practice is followed when undertaking work to establish the Authority. As with the other impact assessments, it is a living document and will be updated as work progresses to establish the Authority. The Data Protection Impact Assessment is attached at Annex D

## **SECTION 3. WHAT WILL BE THE EFFECT ON CULTURAL WELL-BEING AND THE WELSH LANGUAGE?**

### **3.1 Cultural Well-being**

#### **3.1a How can the proposal actively contribute to the goal to promote and protect culture and heritage and encourage people to participate in the arts sports and recreation? (for Welsh Language see section 3.2)**

The Bill may directly benefit culture, heritage, sports and recreation by reducing the likelihood of disused tip landslides and therefore damage to communities, the environment and infrastructure.

Most of the disused coal tips are in the South Wales valleys, an area of fascinating Welsh history, where for instance the famous Blaenavon World Heritage site is located. Additionally, there are other areas of cultural interest attracting visitors throughout the year, such as Cyfartha Castle Museum and Art Gallery, Brecon Mountain Railway and businesses where old Welsh traditions are preserved like in the Penderyn Whisky Distillery.

**3.1b Is it possible that the proposal might have a negative effect on the promotion and protection of culture and heritage, or the ability of people to participate in arts, sport and recreation? If so, what action can you take to avoid or reduce that effect (for example by providing alternative opportunities)?**

The Bill is not expected to have a negative impact on the promotion and protection of culture and heritage, or on the ability of people to participate in arts, sport or recreation. The Bill is preventative in nature. It will establish a new regime which is proactive rather than reactive, which will include on-going monitoring requirements for each disused tip in the register. The new regime will protect human welfare, and in doing so, will safeguard communities and help to protect Wales's critical infrastructure.

### **3.2 Welsh Language**

A Welsh Language Impact Assessment has been undertaken and the Bill is not expected to have a negative impact on the Welsh language. The Authority will adopt the principle that, in the conduct of its public business and communication in Wales, it will treat the Welsh and English languages equally. The Authority will act in accordance with the requirements of the Welsh Language Standards. The Welsh Language Impact Assessment is attached at Annex E.

## **SECTION 4. WHAT WILL BE THE EFFECT ON ECONOMIC WELL-BEING?**

Supporting growth in the Welsh economy, and through tackling poverty, is at the heart of the Welsh Government's Programme for Government.

### **4.1 Business, the general public and individuals**

**How (either positively or negatively), and to what extent (significant/moderate/minimal impact), will the proposal impact business and the public?**

The overarching aim of the Bill is to ensure that disused tips do not threaten human welfare by reason of their instability. The Bill establishes the Authority and makes provision for connected purposes. The Authority will implement a consistent and robust system of assessment, registration, management, monitoring and oversight of disused tips in Wales.

The legislative proposals seek to address a legacy issue from Wales's mining past. With over 85% of disused coal tips in Wales being in the South Wales valleys, the proposals aim to provide a regulatory regime which reduces the likelihood of landslides on these communities, many of whom are classed among the 10% most deprived using WIMD.



Given where most disused coal tips are in Wales, it is anticipated that a new regime for the monitoring and management of disused tips will have a greater positive impact on communities with socio-economic disadvantage.

The Bill aims to reduce the likelihood of future landslides associated with disused tips. Landslides can threaten the safety of communities and the environment, with substantial associated costs of repair, for example damage to infrastructure and businesses. The preventive nature of the Bill will help to safeguard communities and businesses from landslides from disused tips. The proactive nature of the new regime is expected to impact positively on communities and businesses (e.g. farms) by reducing the risks of disused tip slides and the costs incurred as a result of a landslide.

The general position is that the powers in the Bill apply to all land, there are some exceptions in relation to residential Crown land. The Authority will be able to require an owner of land to undertake operations to prevent or deal with threats to the stability of a disused tip or to stabilise a disused tip to prevent it from becoming more unstable.

The overarching aim of the Bill is to safeguard human welfare; therefore, it is expected that the Bill will have a positive impact on the public and specifically on residents living in proximity to disused tips. Protections for owners of land have been built into the Bill, including compensation provisions and appeal provisions.

The threshold for the Authority to intervene to prevent or deal with threats to the stability of a disused tip or to stabilise a disused tip or prevent a disused tip from becoming more unstable is lower than the threshold for intervention in the current legislative framework, under the 1969 Act. Under the Bill, the Authority will be able to provide information, advice or assistance. In addition, it may also provide administrative, professional and technical services to any devolved Welsh authority.

## **4.2 Public Sector including local government and other public bodies**

**How (either positively or negatively), and to what extent (significant/moderate/minimal impact), will the proposal impact the public sector?**

The new regime has been designed to address the fractured management of disused tips in Wales. More than 90% of disused coal tips that pose a higher level of threat are in the South Wales valleys, which are already impacted by high levels of poverty. Establishing a new body to implement the new regime will safeguard human welfare by introducing a proportionate and enforceable approach for the monitoring and management of disused tips in Wales, to reduce the likelihood of further slippages.

We are already working in partnership with key stakeholders, such as NRW, the Coal Authority and local authorities. However, establishing a new body with responsibility for disused tip safety, will provide a clear framework for these bodies to work within. The Authority will work with bodies that have experience of inspecting and maintaining disused coal tips, including service contracts. This will help to build and further strengthen cross-disciplinary relationships and share best practice and guidance.

Under the Well-being of Future Generations (Wales) Act 2015, the Authority will be required to think about the longer-term impact of its decisions, work closely with people and communities, and collaborate with other bodies. It must also adopt the five ways of

working to achieve the well-being goals, one of which is to collaborate with public bodies effectively.

We have a funding programme to support local authorities with undertaking any maintenance and / or capital works. We have also committed £65 million to local authorities between 2022-25 to carry out routine works on public and privately-owned disused coal tips. The provisions in the Bill will work to encourage those who are responsible for disused tips to meet their responsibilities, but also provides effective and useable powers to step in where those with responsibility cannot or will not do so.

### **4.3 Third Sector**

**How (either positively or negatively), and to what extent (significant/moderate/minimal impact), will the proposal impact third sector organisations and what they do?**

It is not anticipated that the Bill will negatively impact the third sector, however, as the main purpose of the Bill is to prevent disused tips from threatening human welfare by reason of their instability, the benefits of the new regime, as established by the Bill, are universal. The proactive nature of the new regime is expected to impact positively by reducing the risks of disused tip slides and the costs incurred as a result of a landslide.

The general position is that the provisions in the Bill apply to all land, with some exceptions regarding residential Crown land. Currently we are not aware of any significant disused tip ownership by third sector organisations. That is not to say that this could not change in the future. The Authority will be able to provide information and advice to any person in relation to disused tips, and the Bill includes the right to appeal in certain instances, for example in respect of a notice given by the Authority requiring a landowner to undertake operations, or in respect of a contribution order. In addition, the Bill makes provision in respect of compensation where land is damaged, property is damaged, removed or disposed of, or if there is disturbance to the enjoyment of land.

### **4.4 Justice Impact Assessment**

We have considered the impacts of the Bill on the justice system. The Welsh Government submitted a Justice System Impact Identification Form to the Ministry of Justice, which identified that the Bill will have a low impact on the justice system. The Lord Chief Justice's Department has also been advised of the anticipated impact the Bill will have on the justice system. The Justice Impact Assessment is attached at Annex I

## **SECTION 5. WHAT WILL BE THE EFFECT ON ENVIRONMENTAL WELL-BEING?**

### **5.1 Natural Resources**

**5.1a How will the proposal deliver one or more of the National Priorities in the Natural Resources Policy (NRP)?**

The Authority will comply with existing legislation and policy, which includes the Welsh Government [Natural Resource Policy](#) (NRP). NRP sets out the main principles of the

Welsh Government's approach to the delivery of 'Prosperity for All - the national strategy' and Wales's international commitments.

One of the key challenges addressed by NRP is the challenge to enhance the resilience of ecosystems by improving their conditions, by reducing the pressures on them and by building ecological networks.

One potential consequence of the new regime is a reduction of pressures on species and habitat through appropriate monitoring and management of disused tips. Furthermore, the regime aims to reduce the likelihood of disused tip failures which could result in a reduction of impacts seen on ecosystems.

### **5.1b Does the proposal help tackle the following national challenges and opportunities for the sustainable management of natural resources?**

The new regime is likely to help protect existing habitat and support the maintenance and enhancement of resilient ecological networks in line with statutory duties on the Authority and in the context of national policy on these issues, through reducing the likelihood of disused tip instability and establishing better land management practices.

Additionally, there could be other wider incidental biodiversity benefits in improving the management of disused tip sites (e.g. reducing soil erosion, pollution prevention and encouraging the establishment of vegetation).

## **5.2 Biodiversity**

A Biodiversity Impact Assessment has been undertaken on the impacts of the Bill and we are satisfied that potential impacts on biodiversity have been considered and substantially mitigated or avoided. The Bill aims to reduce the probability of future disused tip failures and consequently reduce associated negative impacts on Wales's biodiversity and tip ecosystems. The Authority as a public authority under the Environment (Wales) Act 2016, must seek to maintain and enhance biodiversity in the exercise of its functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions. The Biodiversity Impact Assessment is attached at Annex F.

## **5.3 Climate Change**

We have determined that a full Climate Change Impact Assessment is not required. However, the Bill will have a positive impact on our preparedness for climate change and associated risks.

There is strong evidence that links the impacts of climate change with our environment, communities, health and wellbeing and infrastructure. This is highly relevant for disused tips management, as an increase in storms and rainfall intensity because of a changing climate could increase pressures on the engineered features of disused tips, which are fundamental to maintaining their integrity.

Several coal tip slides, such as the one at Tylorstown, have been caused by increased rainfall impacting the engineered drainage system, some of which were not designed to cope with current and predicted levels of rainfall.

[The State of UK Climate Report](#) (July 2024) has recently showed that in the UK rainfall has slightly increased in the last decades.

In 2021, the independent Climate Change Risk Assessment for Wales ([CCRA3-IA](#)) recognised the potential for climate impacts to increase the risk of future landslides and subsidence linked to historic mining activities. The report refers to climate related risks such as:

- Risks to soils from changing climatic conditions, including seasonal aridity and wetness (under Natural Environment and Assets [N4](#));
- Risks to transport networks from slope and embankment failure (under Infrastructure [I5](#));
- Risks to building fabric (under Health, Communities and the Built Environment [H5](#));
- Risks to education and prison services (Under Health, Communities and the Built Environment [H13](#)).

The main purpose of the Bill is to prevent disused tips threatening human welfare by reason of their instability. The Bill will achieve this by establishing a regime for the assessment, registration, monitoring and management of disused tips. The provisions in the Bill will not have a direct impact on climate change, however, we have considered climate change in the development of the Bill's provisions.

The evidence supports the need for stronger climate change adaptation planning and to develop combinations of adaptations that can respond to climate change. The Bill is preventative in nature. It will establish a new regime which is proactive rather than reactive, which will include on-going monitoring requirements for each disused tip in the register and will provide the Authority with powers to ensure that disused tips are properly maintained, to address tip instability and threats to tip instability.

### **5.3a Carbon**

We have determined that a full Carbon Impact Assessment (Stage 2) is not required because the Bill will not affect the current process for dealing with the movement of coal at coal tips, meaning that in those cases where owners need to apply for planning permission the Welsh Government's existing policies will still apply e.g. [Coal policy statement](#).

Additionally, the Bill will not increase the likelihood of disused coal tips needing to be moved (if more movement means more risk of combustion). An effective management regime can contribute to reduced occurrences where disused tips experience significant decline, thereby reducing the costs of remediation because regular inspections and maintenance help to identify any issues and address these as early as possible, thereby reducing the need for more expensive and extensive works after a disused landslide.

Finally, tip remediation is not included in the Bill, meaning the Bill does not directly address the movement and potential combustion of coal.

### **5.4 Strategic Environmental Assessment (SEA)**

We have determined that a Strategic Environmental Assessment is not required at this stage of the process as SEAs are applicable to plans and programmes. Hence, an SEA may be required once the Authority is established and is exercising its functions.

### **5.5 Habitats Regulations Assessment (HRA)**

We have concluded that a Habitats Regulations Assessment (HRA) is not required at this stage of the process as HRAs are applicable to plans and programmes. Hence, a HRA may be required once the Authority is established and is exercising its functions.

### **5.6 Environmental Impact Assessment (EIA)**

We have concluded that we do not require an Environmental Impact Assessment, and we do not need to draft any new provisions for the Bill relating to the EIA process.

## **SECTION 6. SOCIO-ECONOMIC DUTY WHAT WILL BE IMPACT ON SOCIO-ECONOMIC DISADVANTAGE?**

### **6.1 The Socio-economic Duty.**

We have undertaken a Socio-economic Duty Assessment, and the Bill is not expected to negatively impact existing inequality of outcome experienced as a result of socio-economic disadvantage. The legislative proposals seek to address the repercussions from Wales's industrial past. With over 85% of disused coal tips in Wales being in the South Wales valleys, the proposals aim to provide a regulatory regime which reduces the likelihood of landslides on these communities, many of whom are classed among the 10% most deprived using the WiMD. Given where most disused coal tips are in Wales, it is anticipated that a new regime for the monitoring and management of disused tips will have a greater positive impact on communities with socio-economic disadvantage. The Socio-economic Duty Assessment is attached at Annex G.

## **SECTION 7. RECORD OF FULL IMPACT ASSESSMENTS REQUIRED**

You have now decided which areas need a more detailed impact assessment. Please list them below.

<b>Impact Assessment</b>	<b>Yes/No</b>	<b>If yes, you should</b>
Children's rights	Yes	Complete the Children's Rights Impact Assessment- completed Annex A

Equality	Yes*	Complete the <b>Error! Reference source not found.</b> – completed at Annex B
Socio-economic Duty	Yes	Complete the Socio-economic Duty Assessment - completed at Annex G
Rural Proofing	Yes	Complete the <b>Error! Reference source not found.</b> -completed at Annex C
Health	Yes	High Level Health Impact Assessment -completed at-H
Privacy	Yes	Complete the <b>Error! Reference source not found.</b> - completed at Annex D
Welsh Language	Yes	Complete the Welsh Language Impact Assessment - completed at Annex E
Economic / RIA	No	
Justice	Yes	Annex I
Biodiversity	Yes*	Complete the Error! Reference source not found. – <b>completed</b> at Annex F
Climate Change	No	
Strategic Environmental Assessment	No	
Habitat Regulations Assessment	No	
Environmental Impact Assessment	No	

\* Mandatory for all proposals in order to meet statutory obligations.



## SECTION 8. CONCLUSION

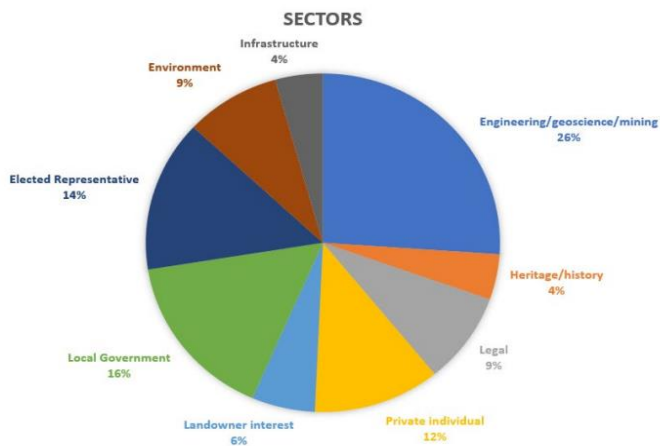
### How have people most likely to be affected by the proposal been involved in developing it?

8.1 The Welsh Government consulted on the Bill proposals in the White Paper on [A new regulatory framework for disused coal tips in Wales](#). The consultation ran from 12 May to 4 August 2022 supported by a comprehensive consultation plan, and a total of 44 responses were received, including from private individuals, various organisations, elected representatives, academics and local authorities. Prior to this consultation, the Law Commission consulted extensively on its proposals, and the Welsh Government has continued to engage with key stakeholders throughout the development of the Bill.

Those most likely affected by the proposals have been consulted in a number of ways:

- The Law Commission's consultation reached a wide range of stakeholders

#### Chart 1 - Sectors

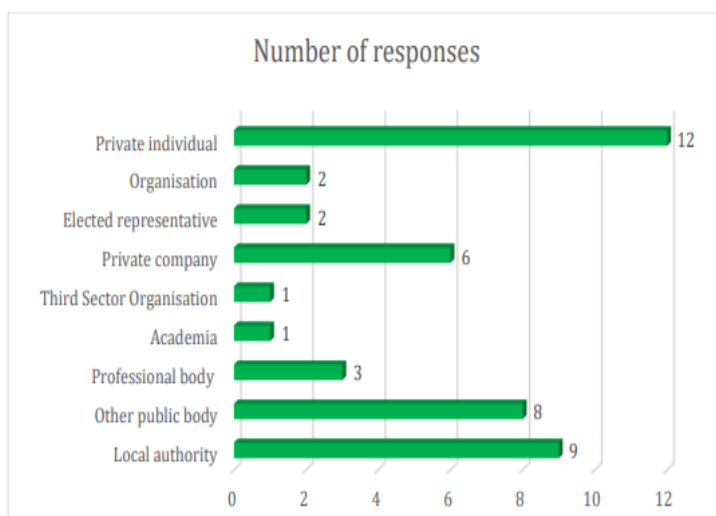


Source: Law Commission's [Consultation Analysis](#)



- The Welsh Government’s consultation received 44 responses, 40 from Wales with 4 respondents from England.

**Chart 2 – Number of responses by respondent category**



Source: Welsh Government [summary of responses](#) to the White Paper.

In November 2023, the Welsh Government released the category C and D disused coal tip data into the public domain, through Data Map Wales. Following the publication of the location of category C and D rated disused coal tips in Wales, a series of information sharing sessions for parties affected by the locations of the tips were held across Wales.

**56** people booked to attend the sessions through the registration process.

**Table 1 – breakdown by LA**

<b>Breakdown by LA:</b>	
Blaenau Gwent	18
Caerphilly	6
Cardiff	3
Swansea	2
Merthyr Tydfil	5
Neath Port Talbot	3

**Table 2 – Breakdown by session**

<b>Breakdown by session:</b>	
Online sessions	43
NPT	2
Merthyr Tydfil	3
Caerphilly	5
Pontypridd	1
Pontypool	2

Rhondda Cwm Taf	14
Torfaen	1
N/A	4

- A Facebook advertising campaign was run to raise awareness of the events and the campaign resulted in 6,404 clicks on the link to the [www.gov.wales/find-disused-coal-tips](http://www.gov.wales/find-disused-coal-tips) website. Most engagement was from older age groups, with 54% of responses from those 55+ age group.
- Welsh Government commissioned Children in Wales to run consultation events for children and young people aged 14-16.

## 8.2 What are the most significant impacts, positive and negative?

### Positive impacts

The Bill is preventative in nature. It will establish a new regime which is proactive rather than reactive, which will include on-going monitoring requirements for each disused tip in the register and will provide the Authority with powers to ensure that disused tips are properly maintained, to address tip instability and threats to tip instability.

The impact of landslides can be catastrophic with potential fatalities, casualties, damage to the environment and critical infrastructure, the associated impact on communities and the substantial cost of repair. The introduction of an effective management regime will contribute to significantly reduced costs of remediation as regular inspections and maintenance help to identify any issues and address these as early as possible, thereby reducing the need for more expensive works after a tip slips.

The Bill will establish the Authority. The Authority's main objective is to ensure that disused tips do not threaten human welfare by reason of their instability. The new management regime implemented by the Authority will impact positively on the prevention of landslides from disused tips, which can threaten the safety of communities and the environment and avoid the associated substantial costs of repair from potential damage to communities, infrastructure and the environment.

The Authority will help to enhance the development of expertise and specialist skills across several different areas in this field, which has seen a decline in recent years due to the decline in the coal mining industry, other factors that have impacted on the lack of expertise in this field include retirements and funding constraints.

The Bill introduces a comprehensive and risk-based registration and risk assessment of tips; makes provision for monitoring and inspection, with the Authority having power to require operations to be undertaken by landowners to address risk to the stability of a tip, and also powers for the Authority to carry out works itself, including urgently necessary works to

ensure the stability of a tip. This includes provisions relating to powers of entry and the ability to recover certain expenses from landowners.

By introducing the Bill, we also aim to enhance our contribution to the sustainable development principle of the [Well-being of Future Generations Act 2015](#) (WFGA) to improve the economic, social, environmental and cultural well-being of Wales. The Bill also embraces the seven well-being goals in the WFGA.

### **1. A prosperous Wales**

The Authority will create employment opportunities because of the activities associated with the new regime. The new regime will support the long-term development of specialist expertise in this area. There will be financial benefits to the increased prevention of disused tip slides, which will save on the considerable costs of clean up and remediation.

### **2. A resilient Wales**

Improvements in the monitoring and management of disused tips will have a direct, positive and significant impact, locally, regionally and nationally on our environment. The new regime will contribute to an increase in the confidence of a community in relation to the longer-term stability of nearby disused tips, potentially leading to a greater willingness to establish new businesses, or to invest in the land itself for more productive use. Transforming the regime for the management of disused tips will safeguard our communities. This is a preventative regime that has been designed to be flexible enough to adapt to and respond to the impacts of climate change.

### **3. A healthier Wales**

The regime will reduce the likelihood of disused tips from threatening human welfare by reason of their instability, it will reduce the likelihood of landslides which have a negative impact on mental health. The preventive nature of the new regime provides for monitoring and inspecting disused tips, therefore mitigating the impact on mental health that any incidents may have. This proactive approach will help to keep communities safe, as risks will be managed to prevent the likelihood of future landslides.

Many communities, particularly in the South Wales Valleys live in the physical and psychological shadow of disused tips. With over 85% of disused coal tips in Wales located in the South Wales Valleys, the Bill will have a greater positive impact on communities with socio-economic disadvantage, because these communities live in areas disproportionately affected by disused coal tips.

The Tylorstown landslide was a warning sign of the potential risks that disused tips can pose to human welfare if a preventive regime of inspections and maintenance is not put in place. This should mitigate the impact on mental health, reassuring communities that disused tips are properly monitored and managed.

### **4. A more equal Wales**

The policy intention is that the Authority will be added to Schedule 19 of the Equality Act 2010, making it subject to the public sector equality duty under section 149(1). The Bill is not expected to have any negative impacts on those with protected characteristics.

## **5. A Wales of cohesive communities**

The new management regime will contribute to safer communities by reducing the likelihood of landslides and other hazards associated with disused tips. As such, more effectively managed disused tips will contribute to the 'make our cities, towns and villages even better places in which to live and work' well-being objective.

## **6. A Wales of vibrant culture and thriving Welsh language**

In terms of the Welsh language, we do not anticipate any direct positive or negative impacts as a result of the Bill. Some disused tips are located in or close to heritage sites, and the Bill will ensure that disused tips are monitored, assessed and managed in an appropriate and robust way. This will reduce the likelihood of future tip landslides, thereby reducing any negative impacts on communities (including Welsh speaking communities) and infrastructure that may be near any disused tips.

## **7. A globally responsible Wales**

It is worth noting that reducing the likelihood of disused tip landslides will also reduce the need to transport landslide debris, which can impact negatively on global emissions, and this will be beneficial for the environment.

### **Negative impacts**

The Bill is preventative in nature. It will establish a new regime which is proactive rather than reactive, which will include on-going monitoring requirements for each disused tip on the register and will provide the Authority with powers to ensure that disused tips are properly maintained, to address disused tip instability and threats to tip stability. The impact of landslides can be catastrophic with potential fatalities, as was the case with the tragic disaster in South Wales in October 1966 when a coal tip landslide engulfed a row of houses and a school, killing 28 adults and 116 children.

All relevant assessments have been undertaken, together with ongoing engagement with key stakeholders, such as the Coal Authority, NRW and local authorities during the development of the Bill. We are not expecting any significant negative impacts as a consequence of the Bill. Research demonstrates how our climate is continuing to warm, and the impacts of this on disused tips has the potential to be significant. An increase in storms and rainfall intensity due to a changing climate could increase pressures on the engineered features of disused tips, which are fundamental to maintaining their integrity. Therefore, we can't guarantee that future landslides will not occur, however, the preventative measures in the Bill are designed to intervene at an earlier stage to identify potential risk much sooner, and to put preventative measures in place to minimise the likelihood of a slip. We have identified some areas which may give rise to some concerns, outlined below.

### **Recruitment**

Over recent decades there has been a loss of expertise in respect of mining activities and disused tips due to the cessation of coal mining in Wales, and other factors such as retirements, and funding constraints. The recruitment of staff for the Authority will likely

attract interest from a small specialist workforce, of which some are employed by the Coal Authority and local authorities.

In the short term, this could have a negative impact on the Coal Authority and local authorities as they may lose some experienced and qualified staff to the Authority. This could mean some staff shortages due to recruitment challenges in some specialist areas. However, in the long term this could be an opportunity for universities, colleges and training bodies to develop and/or expand training/learning opportunities to fill gaps in the sector, for example an apprenticeship scheme. In addition, the Authority will be able to foster and grow technical skills, which will help to ensure consistency, and clearer career progression for staff. It could also help to create opportunities for training and development with some industries, such as technology, that can be utilised in the new regime.

### **8.3 In light of the impacts identified, how will the proposal: maximise contribution to our well-being objectives and the seven well-being goals; and/or,**

- **avoid, reduce or mitigate any negative impacts?**

Under the Wellbeing of Future Generations Act 2015 the Authority will be required to think about the longer-term impact of its decisions, work better with people and communities, and collaborate with other bodies. It must also adopt the five ways of working to achieve the well-being goals, one of which is to collaborate with public bodies to work effectively.

The Authority will learn from the experience of the Coal Authority, which since 2020 has been carrying out inspections of all interim ratings of category C and D tips and collating data on the location, status and ownership of disused coal tips.

The Authority will provide an advisory function to encourage people, for example, the owners of disused tips, to meet their responsibilities, or to help with matters arising in relation to a disused tip.

It will be important for the Authority to build relationships with, and engage in, discussions with owners of land prior to issuing notices. This will provide an opportunity for landowners to discuss the expected works with the Authority, in particular if they do not possess the technical or practical capacity or financial means to undertake the works expected by the Authority.

The Welsh Ministers intend to issue guidance to the Authority on several areas including inspections and monitoring, appeals, compensation and charging. In developing the guidance all appropriate engagement and consultation will be carried out with stakeholders. Section 69 of the Bill will require the Authority to have regard to such guidance in exercising its functions.

### **8.4 How will the impact of the proposal be monitored and evaluated as it progresses and when it concludes?**

The RIA has detailed proposals on post-implementation review, ongoing evaluation and monitoring, some of which is outlined below.

It is anticipated that an initial post-implementation review will be held approximately 5 years after the regime comes into effect, which would be 7 years after Royal Assent. This would allow for the vast majority of disused coal tips to have been fully assessed and, where appropriate, added to the register and would come at the point where non-coal tips are starting to be considered.

Such a review would likely consider both the effectiveness of the regime, including the guidance which will have been issued, as well as of the Authority.

Ongoing evaluation will also be possible through the statutory obligations on the Authority set out in the Bill to:

- prepare a corporate plan of how it intends to discharge its functions during each three-year planning period and lay a copy before the Senedd;
- prepare annual reports and lay a copy before the Senedd; and
- prepare a statement of accounts on an annual basis.

Ongoing evaluation should consider the robustness of the monitoring regime. This could include a review of interaction with other environmental regimes, as well as the effectiveness of working relationships with the statutory bodies of related regimes.

We expect the post-implementation review to also consider the approach which should be taken to disused non-coal tips, which will have commenced mapping by this point. This will be informed by learning from the coal estate and allow the Authority to refine its approach.

Further impact assessments will be carried out as appropriate in due course when subordinate legislation is made under powers in the Bill. Consultation will take place in respect of subordinate legislation and will be proportionate and appropriate to the nature of the regulations being proposed. Engagement with stakeholder groups, including those with protected characteristics, where appropriate, will be undertaken whilst policy is being developed. It will be easier for the impacts to be envisaged by those stakeholders at that stage when specific policy considerations are being drafted.

## SECTION 9. DECLARATION

### Declaration

I am satisfied that the impact of the proposed action has been adequately assessed and recorded.

Name of Senior Responsible Officer / Deputy Director:

Chris Jones

Department:

Climate Change and Environmental Sustainability

Date: September 2024

