

## C Rural Proofing Impact Assessment

The overarching aim of the Bill is to prevent disused tips from 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, including the establishment of a new public body, the Disused Tips Authority for Wales.

The Authority's main objective, in carrying out its functions as provided for in the Bill, is to ensure that disused tips do not threaten human welfare by reason of their instability. The Authority will undertake a range of activities, including the assessment and subsequent categorisation of disused tips, monitoring functions and the creation and maintenance of an electronic register of disused tips.

The Bill also provides the Authority with the ability to require an owner of land to carry out operations on land where it considers such operations to be necessary to prevent or deal with threats to the stability of a disused tip, or to stabilise a disused tip or prevent it from becoming more unstable, so as to avoid or reduce threats, where it considers such operations necessary to achieve the objective set out in the Bill. The Authority must provide advice and assistance to Welsh Ministers in relation to disused tips and can give information and advice to any person in relation to disused tips.

### **Describe and explain the impact of the proposal on rural people, businesses and communities.**

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. The preventive nature of the Bill will safeguard communities from landslides from disused tips. The proactive nature of the new regime is expected to impact positively on rural businesses and communities (e.g. farms) by reducing the risks of disused tip slides and the costs incurred as a result of a landslide.

The geographic distribution of disused coal tips tends to be focused on areas of higher population (i.e. urban or areas of rural towns) within the Welsh Coalfields due to the settlement and infrastructure that established in close proximity to mining areas. Analysis of Welsh Lower Super Output Areas ([LSOAs – small geographic areas created for the purposes of presenting census information](#)) clearly shows this trend. LSOAs classified as 'Urban' have 61% of the total area of higher rated disused coal tips<sup>1</sup> with 39% of the area in LSOAs classified as 'Rural' in [UK Government's Rural Urban Classification](#). Of these 'Rural' LSOAs less than 10% of higher rated disused coal tips occur in rural areas with low population density (rural villages and dispersed settlement) with the remaining majority occurring within 'Rural town and fringe areas.'

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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.

**Table 1 Rural/Urban C and D tips areas**

<b>Rural/Urban Class</b>	<b>Area of Disused coal Tips (ha)</b>	<b>% of Total Area</b>
Urban city and town	1338.3	60.7
Rural town and fringe	665.5	30.2
Rural town and fringe in a sparse setting	2.6	0.1
Rural village and dispersed	200.2	9.1
<b>Total</b>	<b>2206.5</b>	<b>100</b>

The total area of higher rated (C and D) disused coal tips that exist on agricultural land equates to 0.07% of all agricultural land in Wales. Under the Bill, the Authority must compile and maintain an electronic register of disused tips that pose a threat to human welfare by reason of instability or could pose such a threat. This means that disused tips (including disused coal tips) will need to be assessed, and registered and monitored where appropriate. It is possible that such actions may have an impact on rural people, businesses and rural communities, however not all disused tips pose a threat to human welfare and where this is the case any associated impact on rural communities etc. is expected to be minimal.

An example of an impact is where operations might be required under the new regime on a disused coal tip (e.g. engineering works to build a culvert). These works may be potentially disruptive to agriculture (such as landscaping landforms, drainage channels, creation of access routes for machinery etc). Not all disused tips will be affected by operations of this nature, which are more likely at tips which present a greater threat to human welfare.

There is currently no collected data on the proportion of non-coal tips on agricultural land, but it is expected that there are significant numbers in rural areas (e.g. rural Ceredigion has the highest concentration of metal mines in Wales), with a potential impact on rural people, businesses and communities.

#### Impacts on rural areas.

The Authority will undertake a range of activities, including the assessment and subsequent categorisation of disused tips, monitoring functions and the creation and maintenance of an electronic register of disused tips. The powers in the Bill apply to all land, therefore rural land will be captured by the provisions in the Bill.

The Authority will be able to require an owner of any 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. This is necessary for the Authority to carry out its functions as provided for in the Bill.

The Authority will have the ability to carry out operations on land if it considers it necessary to prevent or deal with threats to the stability of a disused tip or to stabilise a disused tip from becoming more unstable. It is expected this power will be used in circumstances such as those where the Authority believes that owners are unable or

unwilling to undertake the work themselves or following a successful appeal against a notice.

In an emergency, the Bill provides the Authority with a power to carry out operations without giving notice, where it considers that operations need to be carried out immediately. In these circumstances the Authority will be acting to avoid or reduce threats to human welfare, it will have to act quickly, therefore, it is not required to issue a notice to the owner of the land prior to carrying out the operations. However, once it has commenced operations, the Authority must as soon as practicable, give the owner of the land notice that the operations have begun with an outline of the reasons why the works were necessary.

The Bill contains rights of entry for an owner of land who is required, by the Authority, to carry out certain operations. It also provides that a person authorised by the Authority may enter land to enable the Authority to carry out its functions in relation to inspection, monitoring, assessment, operations, consequential works, etc. It also includes provisions relating to compensation in respect of situations including those where land is damaged, property is damaged, removed or disposed of, or if there is disturbance to the enjoyment of land.

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. For some disused tip and landowners, costs associated with necessary operations may be beyond their financial means. In these circumstances a landowner will be able to appeal against a notice to carry out operations on the grounds that the owner is unable to meet the cost of operations required by the notice.

**Is the proposal relevant to SMEs or micro-enterprises? If yes, how have you taken their situation into account? Does the proposal expect businesses to be able to access support? (This may be in the form of advice, training, finance etc.) If yes, what barriers will rural businesses face and how will they be overcome?**

**The provisions in the Bill refer to an owner of land, this would include small medium enterprises or micro-enterprise if they are owners/partial owners of land or have an estate or interest in land. For example, the Authority has the power to give a notice to the owner of any land requiring them to undertake operations to prevent or deal with threats to the stability of a disused tip or to stabilise a tip or prevent a tip from becoming more unstable, to avoid or reduce threats to human welfare. Prior to issuing a notice, we would expect the Authority to engage in discussion with landowners on the need for the operations and what they are expected to achieve. The Authority will also 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.**

**What contact have you had with rural stakeholders? Please briefly describe any events targeted at rural stakeholders or any consultation engagement you have had with rural stakeholders. Did any other issues come up as a result of the engagement with stakeholders or any consultation around this proposal? If yes,**

## **what were they and how have you modified your proposal to take them into account?**

In response to the Tylorstown landslide, the Welsh Government established a Coal Tip Safety Task Force to deliver a programme of work to address the safety of coal tips in Wales. The Law Commission independent review of coal tip safety legislation complements this work. The Law Commission ran a consultation from the 9<sup>th</sup> of June 2021 to the 10<sup>th</sup> of September 2021, the consultation presented a number of provisional proposals for a new regulatory regime and the consultation analysis informed the Law Commission report “Regulating Coal Tip Safety in Wales”, published in March 2022.

The Welsh Government’s response to the Law Commission report was published on the 22 March 2023 and its findings were taken into consideration in the Coal Tip Safety (Wales) White Paper, published in May 2022. The White paper also included further analysis undertaken by the Welsh Government on areas either not addressed in the Commission’s report or that needed further research. Stakeholders were invited to submit their views on the White Paper during a 12-week consultation. The analysis of the consultation responses was considered in the further development of the Bill.

The Coal Tip Safety White Paper’s proposals were directly presented to key representatives of the rural community at the Rural Payments Wales Stakeholder Forum on the 13<sup>th</sup> of July 2022.

From May to July 2022, the Welsh Government held four Technical Working Group meetings, which were attended by local authority officers from different areas of Wales, (e.g. Pembrokeshire and Monmouthshire), which provided them with an opportunity to discuss the building blocks of the new regime. The Welsh Government also delivered a series of workshops for specialist audiences, for instance the Institution of Civil Engineers (ICE), the UK Environmental Law Association (UKELA) Wales Group, the Environmental Platform Wales (and various workshops for local authorities).

Rural organisations (e.g. CLA Cymru and NFU Cymru) and individuals from rural areas, who responded to the consultation, raised concerns over timings of inspections and access. Taking on board their feedback, the intention is that guidance that Welsh Ministers will produce for the Authority on inspections will advise on the timeliness of inspections, assessment and monitoring on rural land that is used for grazing and other farming activities, and routine works would take into account certain activities that take place seasonally, like lambing in the spring.

Following the publication of the location of C and D rated disused coal tips in Wales in November 2023, the Welsh Government commissioned a marketing company, Cazbah, to organise a series of engagement events and to run a Facebook advertising campaign to raise awareness on these events.

In 2023, the campaign was launched on 15<sup>th</sup> November and completed on 9<sup>th</sup> December, with geographic focus shifting as the events progressed. It was featured on Facebook, Instagram and Messenger, targeting 18+ by local authority area to include Blaenau Gwent, Caerphilly, Neath Port Talbot, Merthyr Tydfil, Rhondda Cynon Taf and Torfaen. The campaign resulted in 6404 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. The Welsh Government will continue to monitor the impacts through their communications and engagement with all stakeholders throughout the passage of the Bill.

The events were open to the public to register. The sessions were delivered online and face-to face to ensure that access was available to as wide an audience as possible. The online events were scheduled at different times of the day to cover differing work patterns, and the face-to-face events took place in the local authority areas most affected by the disused coal tip sites. These were Torfaen, Caerphilly, Rhondda Cwm Taf, Neath Port Talbot and Merthyr Tydfil.

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
Rhondda Cwm Taf	14
Torfaen	1
N/A	4

**Table 2 – Breakdown by session**

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

**What evidence have you used to inform your assessment, including evidence from rural people or their representatives?**

In 2022, the Law Commission recommendations provided valuable evidence for a new management regime for disused coal tips. The Bill reflects a number of its recommendations, such as the establishment of an expert body and a national asset register<sup>2</sup>, which were included in the Welsh Government’s White Paper consulting on the establishment of a new Supervisory Authority and the creation of an electronic bilingual register.

**A total of 44 responses to the White Paper were received** from a range of individual stakeholders, companies, organisations and local authorities. The responses reflected a range of perspectives and views, but were, in general supportive of the proposals for legislation, and in particular there was significant support for establishing an expert body and of developing a national asset register. Respondents also welcomed the design of the new management regime consisting of four main blocks: assessment, registration, categorisation and maintenance of disused tips.

Rural organisations (e.g. CLA Cymru and NFU Cymru) fed back in their consultation responses that they were concerned about tip categorisation, timings of inspections

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<sup>2</sup> The Bill places a duty on the authority to compile an electronic register of disused tips in Wales that pose a threat to human welfare by reason of instability or could pose a threat in the event of instability.

and impact that remedial work could have on some owners during certain times of the year (e.g. lambing and harvest). They also enquired about the level of financial contribution towards any maintenance works required to be carried out by an owner.

**To further consider disused coal tips in rural communities we have also drawn upon the data collection undertaken by the Coal Authority with support from local authorities. This has helped to identify proximity of disused coal tips to communities, critical infrastructure, and the environment.**

#### **What other evidence would inform the assessment?**

The Coal Authority has an ongoing programme of winter and summer inspections of category C and D disused coal tips. Category D disused coal tips are inspected twice a year and category C disused coal tips once a year. Disused coal tip inspections help to identify maintenance works required on disused tips and the Welsh Government has made funding available from 2022 to 2025 to enable local authorities to undertake maintenance and remediation works on disused coal tips.

#### **Sustainable Land Management (SLM) Impact Assessment**

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.