

Coal Tip Safety in Wales: A Consultation

What action is the Welsh Government considering and why?

The landslide from the Tylorstown coal tip in February 2020, resulting from storms Ciara and Denis, threw into sharp focus the potential dangers from Wales' mining history.

The Welsh Government is committed to bringing forward legislation to deal with the legacy of centuries of mining and to provide an improved management regime for coal tip safety. To support the development of the future legislation, we have set out our proposals in the Coal Tip Safety (Wales) White Paper. The aim of the proposals is to address the many gaps in existing legislation, which were identified by the Law Commission in its review – *'Regulating Coal Tip Safety in Wales'*. The White Paper introduces a suite of proposals for a consistent approach to the management, monitoring, and oversight of disused coal tips in Wales. This is a significant step towards delivering the Programme for Government commitment to introduce legislation to deal with the legacy of centuries of mining and ensure coal tip safety for our communities and the environment.

The proposals build on the Law Commission's recommendations in its March 2022 report. The Law Commission concluded the current regime is not fit-for-purpose as it does not include any mandatory duties on owners to monitor and maintain tips on their land and any enforcement powers were very weak and ineffective, such as the process to obtain access to private land.

The aim of the proposed new regime is to safeguard our communities, protect Wales' critical infrastructure and maintain the environment by introducing a proportionate and enforceable approach for the monitoring and management of tips in Wales, to help reduce the likelihood of further slippages.

An impact assessment¹ has been undertaken by the Law Commission to support its *'Regulating Coal Tip Safety in Wales'* report.

¹ Law Commission Report [Impact Assessment template](#) (equivalent to a Regulatory Impact Assessment in Wales)

Long term

The White Paper proposals aim to introduce a new framework to provide both immediate and long-term security for communities living within the vicinity of coal tips through the provision of regular inspections and a maintenance regime to help reduce future landslides.

In 2021, the independent Climate Change Risk Assessment for Wales (CCRA3)² recognised the potential for climate impacts to increase the risk of future landslides and subsidence linked to historic mining activities. This followed the 2018 Intergovernmental Panel on Climate Change (IPPC) *Special Report on Global Warming of 1.5 C*, which refers to substantial evidence that global warming has already resulted in increases in the frequency, intensity and/or the amount of heavy precipitation in regions, which include northern Europe, and will lead to further increases³.

In July 2021, the Met Office reported an increasing pattern of wetter weather, more frequent storms and heavier rainfall. As a result of climate change, the amount of rain falling on the South Wales coalfields has increased by 13% since the 1960s, and has shifted towards the winter months also, meaning that rainfall is less spread out throughout the year. A number of coal tip landslides, such as the one at Tylorstown, are caused by increased rainfall impacting on the engineered drainage systems, some of which were not designed to cope with current and predicted levels of rainfall.

The proposals in the White Paper aim to help mitigate these risks not only through inspections and maintenance but also for the supervisory authority to utilise appropriate technology (such as satellites, tiltmeters and deformation cameras as currently being trialled in the coal tip safety programme) in the monitoring of tips to provide vital information on any ground and water movement and to provide a means of future proofing the regime in response to the impacts of climate change.

Prevention

The proposals set out in the White Paper are preventative in nature. The change proposed is the introduction of a new regime, which is proactive rather than reactive, which will include ongoing monitoring (with the higher-status tips requiring more frequent and detailed checks) and maintenance of coal tips. Each tip will require a management plan proportionate to the level of hazards it may present to receptors (communities, property, infrastructure, ecosystems, and cultural sites). Through the

² Third UK Climate Change Risk Assessment Technical Report: Summary for Wales, p26

³ IPCC, Special Report, Global Warming of 1.5°, Chapter 3

introduction of the regime, the aim is to reduce the likelihood of future landslides from coal tips in Wales, thereby reducing and preventing risk to life and limb, harm to properties and to critical infrastructure as well as to the environment. The impact of landslides can be catastrophic with potential fatalities, casualties, damage to the environment and to critical infrastructure, impact on communities and the substantial cost of repair.

In addition, an effective management regime can 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. This is reflected in the approximate estimate of £20 million to remediate the Tylorstown landslide.

Collaboration

The development of these policy proposals has involved collaboration with partners in the First Minister's Coal Tip Safety Task Force. The proposals draw upon the recommendations from the Law Commission, which included pre-consultation with the Task Force partners and wider stakeholders. During the consultation and policy development, partners in the Coal Tip Safety Task Force will also support the trialling of some of the proposals (developing consistent approach) to identify their effectiveness and impact.

We intend to continue this approach during the development of primary legislation.

Integration

Coal tip safety is a cross-cutting agenda for the Welsh Government, especially as the impacts of a coal tip landslide could have a negative impact on housing, health, transportation, utilities, planning and environment. For instance, a landslide, which impacted on a site of significant scientific importance (SSSI) could have negative impact on achieving Programme for Government commitments to embed our response to the climate and nature emergency in everything we do.

Integration has been at the heart of our approach. Two key proposals in the White Paper are the introduction of a hazard assessment to be arranged by the supervisory authority, which will determine the appropriate categorisation of each tip. A tip category determines who will be responsible for a tip and arrange the necessary inspections and any maintenance requirements.

In the development of the hazard assessment and categorisations, we have worked with colleagues to reflect the potential impact a coal tip landslide could have on receptors such as housing, schools, hospitals, roads, railways, heritage sites, rivers,

habitats and forests and integrate these into how a hazard level and therefore a tip category is determined.

Alongside this, we have worked with our Task Force partners, the Coal Authority and local authorities to inform our thinking ahead of the White Paper and ensure a joined-up approach which contributes to public safety and is proportionate to the hazard level.

Involvement

This will be the second consultation on proposals for a new coal tip safety management regime. The first consultation in the summer of 2021 was undertaken by the Law Commission to inform its review (as invited by the Welsh Government). The White Paper proposals draw on the Law Commission's consultation and the recommendations in its final report.

Wales has a proud history of coal mining and coal tips are a legacy of this industrial past. The management of these industrial assets resonates particularly with the communities who live and work nearby. We are actively engaging with communities on the management of and reclamation opportunities for disused coal tips and will continue to do so.

Summary of Proposals

The White Paper sets out our intention for introducing by primary legislation a new management regime for disused coal tips, in the first instance, which may be expanded to capture other mining spoil tips in the future.

The purpose of a proposed bill will be to introduce a consistent, proportionate and enforceable approach to the management, monitoring, and oversight of disused coal tips. To provide flexibility to the regime and to ensure it is up-to-date and responsive, Welsh Ministers will be provided powers to introduce subordinate legislation to set and amend minimum content for assessments and reporting mechanisms.

The main proposals in the White Paper are:

- Establishment of a new supervisory authority, a Welsh Government Sponsored Body, which will be responsible for the oversight and compliance of the proposed new management regime;
- Development of a new national asset register comprised of uniform, coherent and up-to-date data, which is critical for the introduction of a consistent, comprehensive and effective management regime for disused coal tips;

- The mandatory categorisation of all tips derived from a hazard assessment based on the hazard level of a tip and potential impact on receptors. On the basis of the hazard assessment the production of a management plan appropriate to the hazard level of each tip;
- A two-tier approach to undertaking on-the ground checks on tips, these checks reflecting the category of the tip and the frequency required;
- Maintenance works as provided for in a management plan, maintenance agreement or as identified from an on-the-ground check;
- New enforcement powers to ensure compliance with the regime, including rights of access, civil and criminal sanctions and a right of appeal.

Impact

This is a draft impact assessment of the White Paper proposals. We welcome views on the identified impacts, the evidence presented and any areas we have not yet considered.

One of the proposals in the White Paper is the potential to extend the regime to other spoil tips. To assess the full impact of a regime, which extends to non-coal tips will require the collection, collation, and quality assurance of substantial volumes of data (our current estimate is that there are more than 20,000 non-coal tips in Wales). Extending the regime to this wider group of tips will have an impact on the costs and benefits of the regime. This information has not been collected as the primary focus has been on disused coal tips. It is proposed that there will be scoping exercise to assess the extent of the non-coal tip estate and subsequent impact assessments.

A full RIA is being conducted to look at the cost benefit analysis and we will also consider feedback from the White Paper and engagement to add to the final IIA for a future bill.

This impact assessment will be reviewed and updated for the bill proposed to be introduced during this Senedd. The update of the assessment will be based on responses to the White Paper. Where subordinate legislation is proposed in the bill, further impact assessments will be undertaken.

Costs and Savings

There are no immediate costs arising from this consultation document as the focus is primary legislation. Costs and savings of the proposals will be assessed as part of a

Cost Benefit Analysis and Regulatory Impact Assessment, which will be published alongside a future Coal Tip Safety (Wales) Bill.

Mechanism

The proposal is to bring forward primary legislation. A Regulatory Impact Assessment and Integrated Impact Assessment will be completed alongside a future bill.

CONCLUSION

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

In June 2021, the Law Commission published its consultation paper '*Regulating for Coal Tip Safety in Wales*', which received more than 70 responses across several key stakeholder groups including local authorities, engineers, utility companies, contractors, and individuals. The Law Commission undertook numerous individual consultation meetings with interested parties. Prior to the publication of the Law Commission consultation, it also conducted numerous pre-consultation meetings with a variety of stakeholders, which contributed to the development of the proposals included in its consultation document⁴.

The proposals in the White Paper draw upon the recommendations from the Law Commission.

In addition, the Coal Tip Safety Task Force has brought together the relevant authorities who will have a key role in the proposed regime, in particular local authorities, and Natural Resources Wales, which manages the largest coal tip estate on behalf of the Welsh Ministers. These organisations and the Coal Authority have provided invaluable input into the development of the White Paper proposals and, previously, the Law Commission's recommendations.

We will be undertaking an engagement programme during the White Paper consultation, which will seek to draw views from those most likely to be affected by our proposals. Responses to the White Paper consultation will inform our policy proposals and legislative plans.

We welcome suggestions of any groups representing those who may be impacted by our proposals – especially those with protected characteristics, young people and relevant Welsh language groups – for further engagement during the consultation period and the development of future legislation.

⁴ [Law Commission Documents Template](#)

What are the most significant impacts, positive and negative?

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

The White Paper proposals aim to ensure disused coal tips are managed effectively and proportionately and mitigate the significant consequences resulting from landslides.

Our proposals seek to reduce the likelihood of coal tip landslides, which can also result in risk to life, risk of economic and social impact on communities, and environmental damage, including loss of biodiversity.

It is currently estimated to cost approximately £20 million to address all phases of the recovery and remediation of the Tylorstown landslide. A landslide of a coal tip at the Hatfield Colliery in South Yorkshire in 2013, closed a railway for 6 months and cost £65 million for the recovery and remediation.

The proposals for ongoing, on-the-ground checks and requirements for identified maintenance works aim to reduce the likelihood of landslides and as such avoid the economic costs associated with landslides, which could cut off railway lines and cost multiple millions of pounds to remediate. Regular inspections and maintenance can help to identify early any issues and address as soon as possible, thereby reducing the potential costs arising from a tip landslide.

In relation to the environment, many of the 2,500 coal tips provide thriving ecosystems as well as support habitats and wildlife of considerable local, regional, and national importance. There are currently 99 coal tips in Sites of Special Scientific Interest and 32 in Special Areas of Conservation. A tip slippage would therefore have a negative impact on Wales' biodiversity. Improved management of tips will help to reduce the likelihood of landslides and as such reduce the risk of impact on existing ecosystems, habitats, and wildlife.

Many of the tips currently identified are in areas of Wales, which are classed among the 10% most deprived using the Welsh Indices of Multiple Deprivation (WIMD). By providing a more robust management regime to ensure the safety of coal tips also helps to address the inequality and social justice issues these communities' experience.

Respondents to the Law Commission consultation paper raised concerns about the negative impact coal tips could have on property prices and insurance liabilities. A full economic analysis is being undertaken and a summary document is included in the White Paper. Our initial analysis indicates that there does not appear to be an obvious and sustained long-term negative impact of previous landslide events on house prices. However, our proposed inspection and maintenance regime should also mitigate any negative impacts on insurance liabilities and property prices.

Approximately 85% of all disused coal tips and more than 90% of higher rated tips are located in the South Wales valleys. This reflects a disproportionate impact on a small number of local authorities. An objective of the proposals is to rebalance the disproportionate impact on these local authorities by proposing the supervisory authority arranges for the management of the highest status tips.

Some landowners may own small landholdings and management of a tip may result in a substantial burden. To help mitigate this impact, the White Paper proposals include a power for the supervisory authority to designate a tip based on its burden and arrange for its management.

There are significant differences between tips, particularly between higher and lower status tips. The proposals in the White Paper seek to introduce a proportionate response by providing a more streamlined approach for the lower status tips, including a self-reporting mechanism if a landowner of a low status tips sees any change in the tip's status. More detailed and stringent requirements have been proposed for the higher status tips.

We anticipate significant positive impact for those living within proximity to disused coal tips, particularly those with a higher tip category due to the reduction in any risk of potential future landslides.

We have taken the five ways of working and seven well-being goals set out in the Well-being of Future Generations Act into account in developing the proposals to date and will continue to do so, including through engagement activity during the consultation period on the White Paper.

In light of the impacts identified, how will the proposal:

- **maximise contribution to our well-being objectives and the seven well-being goals**

The aim of the proposals is to mitigate the negative impacts identified, by reducing the likelihood of future landslides from disused coal tips, which could have significant consequences on communities, critical infrastructure, and communities.

The proposals contribute to many of the well-being objectives by reducing the likelihood of future landslides and, therefore mitigating the negative impacts identified, which could hinder securing well-being objectives.

The proposals for the management of coal tips aim to provide a safer environment for communities located close to coal tips, particularly the higher-status tips. As such, more effectively managed coal tips will contribute to the '*make our cities, towns and villages even better places in which to live and work*' well-being objective.

As landslides can have a significant impact on biodiversity, reducing the likelihood of these events enables biodiversity to continue to thrive on these assets. In addition, a

landslide can result in substantial quantities of debris, which may need to be removed (Tylorstown landslide resulted in 60,000 tonnes of debris falling into a river). The removal of debris, in areas which are not readily accessible to large trucks and transportation to a deposit site, can result in significant carbon emissions. The proposals equally help to meet the '*embed our response to the climate and nature emergency in everything we do*'.

We also propose the supervisory authority utilises technology to monitor tips and a series of trials are currently on-going to identify the most appropriate monitoring technique for the specific requirements of different tips. Technology can provide vital information on any ground and water movement and provides a means of future proofing the regime in response to the impacts of climate change. In addition, this will require new skills and potentially the development of new technologies to support the delivery of this proposal and therefore contributes to the '*build a stronger, greener economy as we make maximum progress towards decarbonisation*' objective.

Prosperous Wales – our proposals will require upskilling of the workforce to deliver the proposed assessments, inspections, and maintenance work requirements.

Resilient Wales – through reduction in the likelihood of landslides and mitigating any negative impacts a landslide could have on resilient ecosystems.

Healthier Wales – our proposals help to provide a healthier and safer environment to live in, which could also help to reduce any stress and anxiety experienced due to living within proximity to a coal tip.

More Equal Wales – areas of Wales are disproportionately impacted due to most coal tips being located in some of the areas of greatest deprivation, the proposals help to address this through the supervisory authority being responsible for the highest category tips. In addition, the public will be provided with greater access to information on tip locations.

A Wales of Cohesive Communities – our proposals aim to provide a safer community through reducing the likelihood of landslides and other hazards associated with coal tips.

Wales of Thriving Culture and Welsh language – in terms of the Welsh language we do not anticipate any specific positive impacts, but there will be no negative impacts either. As some coal tips are located in heritage sites and some are in their own right, the proposals contribute by ensuring the sites are managed and reduce any negative impacts, which could arise from a landslide.

Globally responsible Wales – through reducing likelihood of tip landslides and as such reducing transportation of landslide debris, which can impact negatively on global emissions. In addition, we assess our proposals and approach are a "world

first” which would likely lead to new good practice emerging that we would seek to propagate to support tip management approaches overseas.

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

This integrated impact assessment accompanies a White Paper.

All responses to the consultation will be reviewed and used to refine the proposals further as part of the process to develop legislation in this area. A final integrated impact assessment and Regulatory Impact Assessment will be published to accompany any future bill.

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: Dr **Andy Fraser, Deputy Director, Water, Flood and Coal Tip Safety**

Department: **Climate Change and Rural Affairs**

Date: 13 April 2022

B. EQUALITY IMPACT ASSESSMENT

1. Describe and explain the impact of the proposal on people with protected characteristics as described in the Equality Act 2010.

The Equalities Act 2010 places a 'General Equality Duty' on Welsh public authorities to have 'due regard' to the need to eliminate unlawful discrimination, harassment and victimisation, as well as to advance equality of opportunity and to foster good relations between people who share a protected characteristic and those who do not.

The Equality Act 2010⁵ protects people against discrimination because of the protected characteristics that everyone has. People are protected from discrimination in the workplace, when they use businesses and other organisations that provide services and when they have contact with public bodies.

The proposals in the Coal Tip Safety White Paper introduce a new management regime for all disused coal tips, which provides for the monitoring, maintenance, oversight and enforcement of non-compliance. The proposals require a new supervisory authority, local authorities and owners of disused coal tips to take certain actions dependent on the category of a tip. The responsibilities of the highest status tips fall to the supervisory authority, addressing the potential burden these tips could have on individual owners. As such, our proposals will have an effect on public and private sector bodies, as well as individuals, although we do not anticipate any direct impact in terms of promoting equality, we do not believe these proposals negatively impacting on people with a protected characteristic.

85% of disused coal tips are located in the South Wales valleys, in some of the most deprived areas in Wales. We believe these proposals will have a positive effect on the safety of all citizens, whether falling within a protected characteristic group or not, by reducing the probability of 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 Equality Act 2010 requires public sector bodies to comply with the public sector equality duty and applies to local authorities in Wales and we would expect this to apply to the new proposed supervisory authority as a Welsh Government Sponsored Body.

We do not have access to data related to the age or socio-economic profile of tip owners within the scope of the proposals in the White Paper.

⁵ <https://www.legislation.gov.uk/ukpga/2010/15/introduction>

We would be interested to hear from consultation respondents if they consider there are impacts, we have not identified.

Following the consultation on the White Paper, we will review the consultation responses and work to refine our proposals prior to introducing changes and bringing forward legislation in this area. During this process, we will keep this impact assessment under review and revise it as our proposals are further refined.

◆ ***What are the possible negative impacts on people in protected groups and those living in low-income households and how will you mitigate for these?***

The White Paper proposals introduce a new management regime, which will require proactive monitoring and management of disused coal tips in Wales. An effective management regime can reduce the likelihood of landslides and therefore mitigate any negative impacts (such as debris from a tip destroying property or utility structure, blocking transport links or rivers) on communities living within the proximity of these tips.

Many of the tips currently identified are located in communities classed among the 10% most deprived using the Welsh Indices of Multiple Deprivation (WIMD), so improvements in the safety of coal tips we anticipate will have positive impacts on these communities. Respondents to the Law Commission consultation paper raised concerns about the negative impact coal tips could have on property prices and insurance liabilities. A full economic analysis is being undertaken and a summary document is included within the White Paper. Our initial analysis indicates that there does not appear to be an obvious and sustained long-term negative impact of these previous landslide events on house prices. However, our proposed inspection and maintenance regime should also mitigate any negative impacts on insurance liabilities and property prices.

Depending on the category of tip, there will be mandatory duties on tip owners such as meeting the required frequency of inspections and ensuring a tip is maintained. To reduce the burden, we have proposed that the highest status (therefore likely to be more costly) tips will come under the responsibility of the supervisory authority and the second highest status tips will be under the management of the local authorities (except for those in the management of NRW or the Coal Authority). In addition to this we are proposing where a lower status tip may pose a significant burden on an owner, the supervisory authority can designate it and determine who may be best placed to oversee the management of the tip.

We do not believe the proposals will have any negative impacts on individuals on the basis of a protected characteristic.

Record of Impacts by protected characteristic:

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
Age (think about different age groups)	These proposals are not anticipated to have a negative impact on age.	<p>The Coal Tip Safety White paper proposals will provide universal benefit of an improvement regime for managing coal tip safety, providing safer communities to live in.</p> <p>Where an owner of a tip may fall into this category, there will be support, advice and guidance provided by the supervisory authority.</p>	<p>There are no negative impacts to this group who live in a community close to a coal tip.</p> <p>For owners of a disused coal tip, we propose the supervisory authority is responsible for the highest status tips and local authority the second highest status tips in private ownership. Where a tip is significantly burdensome on an owner, the supervisory authority can designate it and make arrangements for its management.</p>
Disability (consider the social model of disability ⁶)	These proposals are not anticipated to have a	The Coal Tip Safety White paper proposals will provide universal benefit of an	There are no negative impacts to this group

⁶ Welsh Government uses the social model of disability. We understand that disabled people are not disabled by their impairments but by barriers that they encounter in society. Ensuring that your proposal removes barriers, rather than creating them, is the best way to improve equality for disabled people. For more information, go to the intranet and search 'social model'.

<p>and the way in which your proposal could inadvertently cause, or could be used to proactively remove, the barriers that disable people with different types of impairments)</p>	<p>negative impact for people with disabilities.</p>	<p>improvement regime for managing coal tip safety.</p> <p>Where an owner of a tip may fall into this category, there will be support, advice and guidance provided by the supervisory authority.</p>	<p>who live in a community close to a coal tip.</p> <p>For owners of a disused coal tip, we propose the supervisory authority is responsible for the highest status tips and local authority the second highest status tips in private ownership. Where a tip is significantly burdensome on an owner, the supervisory authority can designate it and make arrangements for its management.</p>
<p>Gender Reassignment (the act of transitioning and Transgender people)</p>	<p>These proposals are not anticipated to have a negative impact on people who have undertaken or are in the process of gender reassignment.</p>	<p>The Coal Tip Safety White paper proposals will provide universal benefit of an improvement regime for managing coal tip safety.</p>	<p>There are no negative impacts to this group due to these proposals.</p>
<p>Pregnancy and maternity</p>	<p>These proposals are not anticipated to have a negative impact on people who are pregnant, adopted and are on maternity/paternity leave.</p>	<p>The Coal Tip Safety White paper proposals will provide universal benefit of an improvement regime for managing coal tip safety.</p>	<p>There are no negative impacts to this group due to these proposals.</p>

Race (include different ethnic minorities, Gypsies and Travellers and Migrants, Asylum seekers and Refugees)	These proposals are not anticipated to have a negative impact on race.	The Coal Tip Safety White paper proposals will provide universal benefit of an improvement regime for managing coal tip safety.	There are no negative impacts to this group due to these proposals.
Religion, belief and non-belief	These proposals are not anticipated to have a negative impact for Religion, belief and non-belief.	The Coal Tip Safety White paper proposals will provide universal benefit of an improvement regime for managing coal tip safety.	There are no negative impacts to this group due to these proposals.
Sex / Gender	These proposals are not anticipated to have any negative impact for sex and/or gender.	The Coal Tip Safety White paper proposals will provide universal benefit of an improvement regime for managing coal tip safety.	There are no negative impacts to this group due to these proposals.
Sexual orientation (Lesbian, Gay and Bisexual)	These proposals are not anticipated to have any impact for sexual orientation	The Coal Tip Safety White paper proposals will provide universal benefit of an improvement regime for managing coal tip safety.	There are no negative impacts to this group due to these proposals.
Marriage and civil partnership	These proposals are not anticipated to have any impact on marriage or civil partnership.	The Coal Safety White paper proposals will provide universal benefit of an improvement regime for managing coal tip safety.	There are no negative impacts to this group due to these proposals.

<p>Children and young people up to the age of 18</p>	<p>These proposals are not anticipated to have any negative impact on children and young people.</p>	<p>The Coal Tip Safety White Paper proposals will provide universal benefit of an improvement regime for managing coal tip safety. There are several UNCRC Articles (6,12,17,27) that the proposals will enhance.</p>	<p>There are no negative impacts to this group due to these proposals.</p>
<p>Low-income households</p>	<p>These proposals are not anticipated to have any negative impact on low-income households.</p>	<p>The Coal Tip Safety White Paper proposals will provide universal benefit of an improvement regime for managing coal tip safety. It is also noted that the majority of coal tips are located in deprived areas and therefore any improvement to the safety of these tips and to the environment will have a positive benefit on low-income families, including the reduction in risk of landslides and localised flooding.</p> <p>Where an owner of a tip may fall into this category, there will be support, advice and guidance provided by the supervisory authority.</p>	<p>There are no negative impacts to this group due to these proposals.</p> <p>The inspection and management of disused coal tips may help to improve the community and reduce any potential impact on property prices and insurance liabilities.</p> <p>For owners of a disused coal tip, we propose the supervisory authority is responsible for the highest status tips and local authority the second highest status tips in private ownership. Where a tip is significantly burdensome on an owner, the supervisory authority can designate it and make arrangements for its management.</p>

Human Rights and UN Conventions

Do you think that this policy will have a positive or negative impact on people's human rights? (Please refer to point 1.4 of the EIA Guidance for further information about Human Rights and the UN Conventions).

As recommended in the Law Commission report we also propose rights of access for:

- inspecting, carrying out tests or sampling upon a known or suspected coal tip;
- performing, supervising or inspecting works of maintenance or remedial operations or installing and monitoring instrumentation upon a coal tip; and
- gaining access to a coal tip for the above purposes.

We recognise that this may have a negative impact on people's human rights, and we propose there to be a notice period given, unless access is required in an emergency. Using this power will be a last resort as we aim to work with owners to balance their rights and the needs of the public.

The effect in relation to the UN Convention on Rights of the Child are addressed in Annex A.

D. DATA PROTECTION IMPACT ASSESSMENT SCREENING

One of the major gaps in the existing legislation is the lack of a central register of disused coal tips, which means no central record of the location of all tips or on a tip's current maintenance status.

The Law Commission proposed a requirement on a new supervisory authority to compile and maintain a new centralised asset register. This included a list of potential minimum content to be prescribed by the Welsh Ministers in subordinate legislation. There was almost unanimous support for this proposal.

We have included a proposal for the supervisory authority to compile and maintain a national asset register in our White Paper,. The proposal will be to provide the supervisory authority with a power to develop the asset register and lawful authority to collect, where relevant, associated personal data where it relates to a private citizen as whole or part owner of a tip.

The aim of the register is to:

- Improve risk-management through the collation of consistent information on any risks/hazards associated with a tip and the management requirements for each tip;
- Improve decision-making with information on coal tip locations, status, and proximity to critical infrastructure and/or the environment such as designated sites; and
- Improve oversight to ensure the consistent approach is applied throughout the regime and inspections and maintenance works are undertaken; and
- Provide transparency.

The proposals include the following minimum content of the register, which will be prescribed by the Welsh Ministers in subordinate legislation:

- Unique reference number;
- Name of tip;
- Location;
- Categorisation;
- Dates of inspections/appraisals;
- Assessment report;
- Inspection/Appraisal reports;
- Management plan; and
- Maintenance agreements.

There will be a public facing element to the register, which will include the following information: Tip Name/identifier; Location; Categorisation; Ownership status (public or private); and Inspection timeline.

We have begun the process of consulting with the Information Commissioner's Office (ICO) and intend to work with them to fully consider the impacts of our proposals as they develop.

The consultation exercise for the White Paper will inform this assessment, and mitigation of any risks.

A full Data Protection Impact Assessment will be completed for consideration prior to the introduction of the proposed Bill.

F. BIODIVERSITY IMPACT ASSESSMENT

The Well-being of Future Generations (Wales) Act 2015 puts in place the ‘Resilient Wales’ goal - ‘*A nation which maintains and enhances a biodiverse natural environment with healthy functioning ecosystems that support social, economic, and ecological resilience and the capacity to adapt to change (for example climate change).*’

The Environment (Wales) Act 2016 introduced the section 6 duty, which requires public authorities to *maintain and enhance biodiversity in the exercise of 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 Welsh Government’s Nature Recovery Action Plan states our ambition to reverse the decline in biodiversity, for its intrinsic value, and to ensure lasting benefits to society. The plan includes six objectives for reversing the decline of biodiversity, which should be used to help develop and guide actions to comply with the section 6 duty.

The White Paper proposes the introduction of a new regime to address the legacy of disused coal tips in Wales by creating a new proactive tips management regime. It will include on-going monitoring (with higher- status tips requiring more frequent and detailed checks) and maintenance of coal tips. Each tip will require a management plan proportionate to the level of hazards it may present to receptors (communities, property, infrastructure, ecosystems, biodiversity, and cultural sites).

The projected increase in impacts from climate change, as reflected in the Climate Change Risk Assessment for Wales⁷ (CCRA3), has led to the increased prospect of landslides, which can cause significant damage to communities, critical infrastructure, and the environment, including to biodiversity on tips.

In addition to the potential impacts of climate change on disused tips, many of the 2,456 coal tips in Wales provide thriving ecosystems as well as supporting habitats and wildlife of considerable local, regional, and national importance. A tip slide would have a negative impact on Wales’ biodiversity. Improved management of tips can help reduce the likelihood of slides and as such reduce the risk of impact on existing ecosystems, habitats, and wildlife. Our proposals aim to reduce the probability of future landslides and consequentially reduce these negative impacts.

⁷ Evidence for the third UK Climate Change Risk Assessment (CCRA3), Summary for Wales, 2021

Embedding biodiversity

1. How will your proposal integrate biodiversity into decision making?

- ◆ ***Have you considered the impacts and positive opportunities for action for biodiversity at the early stages of thinking or project design?***

Our analysis of the location of disused coal tips has provided the following information in Table 1.

Designation	Number of tips within site
Local Nature Reserve	28
National Nature Reserve	7
Special Protection Area	3
Areas of Outstanding Natural Beauty	20
Special Areas of Conservation	32
Sites of Special Scientific Importance	99
National Park	69

In the current interim categorisations of disused coal tips (developed to help prioritise inspections and maintenance) biodiversity, like all other receptors is not captured as a factor. The White Paper seeks to address this by introducing a new approach to assessing the hazards presented by a tip and the impact on receptors.

A key proposal is the introduction of a hazard assessment to be arranged by the supervisory authority, which will determine the appropriate categorisation of each tip. A tip category determines who will be responsible for a tip and arrange the necessary inspections and any maintenance requirements. The category also determines the scale of management plan required for a tip.

In the development of the hazard assessment and categorisations, we have worked with colleagues to reflect the potential impact a coal tip landslide could have on receptors such as housing, schools, hospitals, roads, railways, heritage sites, rivers, habitats, and forests and integrate these into how a hazard level and therefore a tip category is determined.

As such biodiversity is captured in the first step in the new management regime, which will help assign a category to a tip and the subsequent level and frequency of monitoring as well as the scale of management plan required. A higher status tip requires a more detailed plan, which may also require a specialist ecological inspection.

2. Has your proposal ensured biodiversity is accounted for in business decisions?

We will be consulting on our proposals in the White Paper. The proposals include a requirement for all tips to have a management plan produced and the supervisory authority can arrange for third parties to develop the management plan, this could be local authorities, owners, or consultants. The minimum content for a management plan will be prescribed by the Welsh Ministers in subordinate legislation. All parties carrying out a management plan will be required to comply with the required minimum content. We also propose for higher-status tips a 'tip profile' is produced, which information on whether the tip is situated in a designated site, heritage site, proximity to rivers and other key environmental/ecological information.

The White Paper proposes the establishment of a new statutory public body, which will be a public body for the purposes of the Wellbeing and Future Generations Act 2015 and will therefore have to comply with the sustainable development duty at section 3 of that Act.

Improving our evidence, understanding and monitoring

3. Have you used the best available evidence of biodiversity to inform your proposal and this assessment?

We have utilised coal tip data to determine the proximity of coal tips to designated sites. However, we also know that coal tips provide thriving ecosystems as well as supporting habitats and wildlife of considerable local, regional, and national importance.

We have engaged with academics on this matter and intend to obtain further information during the consultation process and welcome stakeholders views.

4. Have you used up to date knowledge of the key impacts on biodiversity to make evidence-based decisions?

The proposals in the White Paper in relation to hazard assessments and management plans aim to provide site specific information for each tip.

5. Can your proposal contribute to our body of knowledge for biodiversity?

The proposals in the White Paper in relation to hazard assessments and management plans can contribute through the collated of site specific information for each tip.

Governance and support for delivery of biodiversity action

6. Can your proposal support biodiversity action in any way?

Our proposals in the White Paper aim to reduce the probability of future landslides and consequentially reduce associated negative impacts, including those on biodiversity and ecosystems.

Safeguarding species and habitats of principal importance

7. Is all legislation complied with to ensure protection of marine and terrestrial species and habitats?

We are currently undertaking research on the interconnections between environmental law and coal tip safety. The findings of this research will be included in the integrated impact assessment for any proposed bill.

8. Does the proposal seek first to maintain and enhance biodiversity?

Our proposals seek first and foremost to address the safety of disused coal tips and reduce the likelihood of future landslides and any resulting negative impacts

9. Does your proposal contribute to the creation of new habitat?

Our current proposals focus on the introduction of a new management regime for coal tips only. Another project within the coal tip safety programme will consider opportunities for tip reclamation however, including assessing the role of coal tips in creating ecological networks and areas for tree planting.