FAO Planning at Merthyr Tydfil County Borough Council (MTCBC)

I object as an individual, and on behalf of Coal Action Network Ltd, to P/25/0037. What follows is an updated version of the submission to the original public consultation period that ran with the same planning reference. In the interest of transparency, I consent and request this objection be uploaded to the planning portal to be visible alongside other documents and matters relevant to application P/25/0037 – as other councils do such as Carmarthenshire County Council.

Summary

Application portal documents reviewed:

- Environmental Impact Assessment AKA Environmental Statement (ES) ES Volume 1 – Technical Report (Jan 2025 - 3274-11) (EIA)
- Restoration drawing (Jan 2025)
- Environmental Statement – Non-Technical Summary (Jan 2025)
- Green Infrastructure Statement (Feb 2025)
- WSP technical note 001 Geotechnical and Proposed Restoration Stability (Apr 2025)
- "Agent letter response" (3274) (Jul 2025)

As the most detailed of the documents, and extensive duplication between the documents, the EIA is most heavily referred to in this objection.

Legislation and planning guidance applied:

- Minerals Technical Advice Note 2:Coal (MTAN2)
- Planning Policy Wales Edition 12 (PPW12)
- DECCA Framework (as set out in PPW12)

MTAN2: According to the Welsh Government (2024), "MTAN2 contains guidance on achieving a high standard of restoration, aftercare, and afteruse. Coal developments must meet the restoration and aftercare requirements of PPW and ensure that land is restored to a sustainable and beneficial afteruse…MTAN2 is kept under continual review to ensure it is kept up to date, fit for purpose and relevant." - https://senedd.wales/media/nwdng2f3/gen-ld16780-e.pdf

Any **emboldened** excerpts from P/25/0037 application documents or legislation and planning documents are my own emphasis to identify the most relevant parts of those excerpts.

Summary of grounds for rejection

Application P/25/0037 must be rejected on the grounds that it:

1. Financial feasibility of original, agreed full restoration
2. Relies upon an unsupported baseline year
3. Leaves behind landscape hazards that threaten life and limb
4. Makes false comparisons to the agreed restoration plan's impacts
5. The saving of CO2 compared to the agreed restoration plan is just 2% of what the illegal coal mining has emitted, further reduced by increased carbon sequestration.
6. Creates three new coal tips with the associated consequences of:
    a. Adding the new coal tips to the forthcoming disused tips bill register.
    b. Controversy and stability concerns
    c. Toxic run-off
    d. Soil loss
    e. Landscape vandalism
    f. Revegetation and habitats failure
    g. OB3 ecology and Monster Mountain.
7. Inadequate 5-year aftercare period
8. Commoners' Rights of Pasture

Foreword falsehoods

In the Restoration Strategy's foreword, two false claims are immediately made:

"The closure of the Ffos-y-Fran mine in November 2023 was a significant step change enforced by Welsh Government policies addressing climate change and pressures from climate action groups." – the closure of the Ffosy-fran mine was the result of planning permission expiring in September 2022. The coal operator flagrantly violated planning control for 15 months with virtual impunity, eventually agreeing a further extension with MTCBC to November 2023, **mocking the consensus decision amongst councillors** to reject any extension in early 2023. This is also around the time that the operator was no longer able to sell coal to its largest customer, Port Talbot Steelworks. The operator therefore obtained the extension, de facto, that it was denied and was allowed to sell off remaining coal stocks well into the following year. The misrepresentation in the foreword foreshadows the most disingenuous attempt to justify a restoration plan to do as little as possible we've ever read. The EIA relies on a shaky foundation of "**expectation**" (52 mentions), "**potential**" (344 mentions), "**possibility**" (37 mentions), and "**could**" (91 mentions) to fill in for a lack real restoration works.

The foreword goes on: "Since the original restoration proposals were prepared in 2003, there have been many changes in environmental legislation and government policy, particularly surrounding the subject of climate change and sustainability." This is accurate – but the final phase restoration plan was agreed in 2015, taking into account many of these changes in environmental legislation and government policy. **This appears to be an attempt to frame the agreed (2015) restoration plan as a dusty and out-dated agreement from 2003, rather than a commitment to a higher quality of restoration than what P/25/0037 offers.**

Still on the foreword, falsehoods continue with “2023 was a symbolic year when a traditional coal mining industry, historically so important to the working culture and identity of the South Wales valleys, drew to a close” – Aberpergwm colliery in Glyn Neath is still fully functioning with an authorisation to mine and planning permission until 2039. Unlike the deep coal mining at Aberpergwm, opencast coal mining was popularised relatively recently, and opposed by many miners as it required a lower skillset and employed fewer miners. **The foreword attempts to create a false reverence for Ffos-y-fran, either forgetting or ignoring Aberpergwm colliery.** Again, this foreshadows further false claims within the EIA.

Financial feasibility

Coal Action Network engaged extensively with the Welsh Government on the issue of financial feasibility after MTCBC consistently failed to respond to us on this topic. Following on from that engagement, on 13th June 2025, MTCBC were finally moved to ask Merthyr (South Wales) Ltd for evidence of the company’s long-standing claim that it was not in a financial position to fund the restoration plan that it had agreed with MTCBC in 2015 to deliver upon cessation of coaling. For example, Planning Statement for 2022 extension application P/22/0237 4.4.3 “As the Council is fully aware, there are insufficient funds within the Escrow **and restoration fund** to allow for the full and successful implementation of the current restoration strategy for the site.” and in the EIA for the reduced restoration proposal P/25/0037 2.2.4 “In Ffos-y-Fran, the **financial shortfall** and increasing environmental concerns **necessitated revisions to the original restoration plan**.”

MTCBC’s letter to Merthyr (South Wales) Ltd set out that: “Further justification is required to demonstrate what the anticipated costs are for the delivery of the approved restoration strategy and why this cannot be reasonably met. This is likely to be an important consideration in considering the acceptability (or otherwise) of any alternative restoration proposals. In this regard, it is understood that, outside of the Escrow account funds, the most recently published company accounts for the applicant (March 2025) include provision of some £91.2 million for meeting the requirements of the approved restoration scheme.”

Merthyr (South Wales) Ltd’s response on 07 July 2025 expresses ‘disappointment’ at having finally been asked to evidence its repeated claims, stating: “We do not believe these to be material planning considerations and have no bearing on planning policy or legislation and therefore are of no merit.” It certainly seemed material to Merthyr (South Wales) Ltd before it was challenged on the claim. The response further states “MSW have responded separately to matters relating to funding and the ESCROW account” – but a subsequent FOI request revealed that nothing in writing was received by MTCBC relating to this.

Further to this, Coal Action Network has obtained the services of internationally renowned foresnic accountants, C. Lewis & Company, to analyse mining company *Merthyr (South Wales) Ltd's* accounts. They report that not only can the mining company afford the full restoration, it's set the money aside for it, and **Merthyr (South Wales) Ltd cannot spend the restoration fund on anything else – unless the Council agrees to downgrade the restoration by granting the company's cut-price restoration application.** This is obviously the ultimate motive of the application now before MTCBC.

MTCBC's input to Ministerial Advice (MA/JJ/2054/23 – July 2023) on why the MTCBC refused to issue a 'Stop Notice' to halt Merthyr (South Wales) Ltd's illegal coal mining identified the supposed risk that the mining company would become insolvent with the loss of restoration funding (besides what was held in the Escrow account). The conclusions of C. Lewis & Company indicate **this was not a substantial risk** as Merthyr (South Wales) Ltd would not have been able to extract that funding from the company in order to become insolvent. As a result of MTCBC inaction, around 640,000 tonnes of coal were extracted and burned, according to Mining Remediation Authority figures.

2007 Vs. 2023 Baseline

The 'baseline' should refer to the site before opencast coal mining commenced after successful appeal (Appeal ref. A-PP 152-07-014). This is the application to which conditions were applied (under The Town and Country Planning (Minerals) 1981 Act) to progressively restore the site and the final phase of restoration to which P/25/0037 refers. The Environmental Impact Assessment (EIA) ES Volume 1 – Technical Report opportunistically seeks to set the baseline to November 2023 when Merthyr (South Wales) Ltd purports to have ceased its illegal coal mining activities: "The baseline conditions used for the purposes of the ES are set at the point when the operational surface mining operations ceased at the end of November 2023." (10.4.1). Based on this unmerited baseline, the EIA is able to go on to make claims such as: "The restoration proposals would improve the visual amenity for these local communities by reducing the height and regrading the western slopes of OB1 and re-shaping the landform around the void." (4.2.19).

The EIA's convenient baseline runs contrary to the DECCA Framework (frequently purported in the EIA to support its lack of works) as referred to in Planning Policy Wales Ed.12:

"A net benefit for biodiversity is the concept that development should leave biodiversity and the resilience of ecosystems in a significantly better state than before, through securing immediate and long-term, measurable and demonstrable benefit. Where a site has been cleared prior to development its biodiversity value should be deemed to have been as it was ***before any site investigations or clearance took place****. A net benefit for biodiversity must be achieved from that point. Habitat status can be established through evidence remaining on site and local desk-based assessments (planning authorities must ensure that they have access to these data sources). In such cases,* ***habitat status will be presumed to be good in the absence of any evidence to the contrary.****"* (6.4.16).

The 'development' here clearly would refer to the opencast coal mine granted on appeal in 2007 (A-PP 152-07-014) for which the application seeks to discharge a condition of. To stray from this planning guidance risks opening the door to other large companies resetting the baseline after reducing the ecological value of an area and thereby later reducing the absolute quality of the restoration they agreed to at the outset of development. This would seriously undermine the aim planning aim of the DECCA Framework towards halting and reversing Wales burgeoning nature crisis.

Landscape safety hazards

P/25/0037 proposes to permanently leave significant health and safety hazards in a landscape that is in easy walking distance from the population of Merthyr Tydfil, even encouraging the public into this area. This section deals with the potential safety hazards of the flooded void and exposed cliff – those relating to leaving the 3 coal tips in situ are explained within the section on coal tips.

Drowning

The size and depth of the flooded void will mean that the water remains very cold beneath the surface, even during summer. This can significantly increase drowning risk for anyone entering the water. In 2023, there were 55 water-related fatalities in Wales with young males (10-19) making up the highest group for accidental fatalities, and 84% of UK child drownings occur in inland waters e.g. rivers, lakes, quarries, and canals.

Drowning realities at similar sites within Wales

The EIA for P/25/0037 analogises the proposal to retain the flooded void to East Pit and Margam Parc Slip, sites we agree shares many parallels as Celtic Energy Ltd evaded restoration costs and the Councils acquiesced to downgrading the restoration to 10% of the original budget. In submitting the downgraded application, Celtic Energy Ltd promised the flooded voids would be safe as people would be kept away with deterrent planting (spikey plants), fencing, and safety warning signs. But at Margam Parc Slip, which is near to surrounding villages, the fencing has been smashed down in several areas for years, with youth swimming into the centre of the flooded void, safety signs ignored, and safety buoys vandalised. None of the deterrence or safety safeguards have been effective or maintained. Local people speaking to Coal Action Network are deeply concerned about these hazards and steer their young children and grand-children away from the area entirely – but that doesn't stop teenagers from venturing into the cold water unsupervised and a terrible tragedy that could be prevented:

"*My grandsons when they're up... I will not let them come here because I'm scared stiff of that void. So I don't encourage them to even know how to get here because I've seen kids their age on bloomin' inflatables*" – Suzanne, Margam

"*What concerns me is the depth of the water... it's dangerous*" – Gaynor, Margam

Ffos-y-fran, now disused operates in the same way as a disused quarry. There have been **more than 20 drowning deaths at just one quarry** - Dorothea in Talysarn, Gwynedd - since 1990. The situation is so bad that another quarry, Mold, dyed the mine water to deter children from swimming.

Cliff falls, jumps, and climbing

The EIA for P/25/0037 promises "The top of the exposed cliffs would be graded down and fenced off and planted with dense vegetation to deter members of the public accessing the upper levels and more exposed sections of the face."

Falls, jumps, and climbing realities at similar sites within Wales

The reality of deterrent fencing and planting has been demonstrated as ineffective at similar sites such as Margam Parc Slip (as outlined above). Bored youth will access areas they find exciting, and they are susceptible to peer pressure, without being fully able to weigh risks – which is why young males (10-19) make up the highest group for accidental water-related fatalities. Dares or demonstrating courage by leaping off the cliff edge into the flooded void are perfectly plausible scenarios, have been occurred at similar disused quarry sites, and carry extremely high risk of fatality. It is also possible that its proximity to Merthyr Tydfil may tempt anyone with suicidal ideation to act on impulse, such as "notorious suicide hotspot" at Southerndown cliffs in the Vale of Glamorgan.

"The site restoration will involve some residual faces being retained and left exposed above the final [highest anticipated] rest-water level… to a depth of approximately **100 metres below** original ground level." - EIA

This compares with the current (2015) restoration plan to "leave a **6-8m high exposure**" (own emphasis). Such a modest ledge would not draw the same public interest and potential for tragedy.

The EIA suggests that by retaining the hazard that Merthyr (South Wales) Ltd created, it will reduce access and the other hazard posed by the very high exposed rock face and cliff edge: "One of the effects of allowing the base of the quarry to flood and form a part of the final restoration will be to isolate certain sections of excavated slope…thereby preventing public access. These areas of the site contain the major sections of residual high rock faces which will remain as final restoration features". However, the current experience at a disused quarry pit near Llanberis in Gwynedd, known as Upper Glyn Rhonwy, tells the opposite story.

This quarry has become an illicit hidden green lagoon despite the risk of prosecution for trespassers. The state this has been left in is exceedingly similar to what the EIA proposes to leave Ffos-y-fran in. "YouTube videos depict individuals **cliff-jumping into the quarry lagoon** while Google Earth images show swimmers in wetsuits preparing to take the plunge. Despite warnings that the water 'could contain harmful chemicals'…The site is **surrounded by a 6ft-high perimeter fence but some visitors choose to ignore the warning notices** posted on them. In 2018 a large rockfall occurred at the quarry and the lake inside contains underwater dangers such as old mining waste… Yet the risks do not deter swimmers from accessing the site. A public footpath runs nearby while **sections of old fallen-down fencing have yet to be replaced** and the quarry's rugged beauty naturally draws the adventurous.".

"*I've also seen a clip of a lad almost getting hit by several tons of rockfall whilst in the water. You can see why the council aren't keen and why people are nervous, especially when kids are involved*." – Visitor

This accords with risks inherent in the P/25/0037 – as the EIA even admits "There is the possibility that there may be continued random minor rock spalling from rock faces located above the scree cones in the future."

The EIA sets out that "The bottom of the sidewalls would contain areas of scree and dense woodland planting to deter access to these walls from the base.". This is flawed in the claim that it would be

effective as a deterrent to climbing, and fails to acknowledge that such woodland would take a considerable amount of years to become established and dense enough to form any kind of barrier – and would hinge on planting success, which is reduced by denser planting. The risk this poses is significant, as found in Prestatyn, North Wales, which has nearby disused quarries with an exposed wall such as the EIA proposes to retain. Here, Sergeant Mark Jones of North Wales Police issued a statement that "that someone could be badly hurt if teenagers continue to congregate at the "dangerous" locations. He said: "Although they may look inviting and challenging places to climb, they pose many dangers. "Loose rocks, sheer rock faces and the surrounding rugged terrain can make them treacherous places. "This, coupled with the fact that the quarries are disused and are relatively remote can result in anyone who injures themselves finding it difficult to raise the alarm and summon help quickly."

The EIA's provision of deterrence measures is a recognition of the inherent hazards that it proposes to leave on Merthyr Tydfil's landscape, within easy reach of a large population centre. Yet the measures it proposes are the same – or less –, and as demonstrably inadequate, as deterrence measures implemented at similar sites. The two examples of similar sites also indicates that the measures require constant maintenance, which will be a cost to the public purse or at the whim of private land owners, as soon as the site ends its 5-year aftercare period. **It will only take one of the risks highlighted here to result in an avoidable tragic injury or death – the blame for which will fall on Councillors agreeing to change a plan** that would have seen such hazards removed again, returning the area to a safer state, as before opencast coal mining commenced.

Finally, MTAN2 indicates "The affected community should be involved in Health Impact Assessment (HIA), in considering mitigation, specific controls, thresholds, monitoring, and community benefit for operations, particularly those within 500m of settlements, and in restoration, aftercare and afteruse" – this is an obligation upon Councils beyond the statutory consultation period, and it is not clear how MTCBC has complied with this guidance.

GCN habitats, ponds, and wetlands (2015 plan)

The P/25/0037 EIA declares the "approved scheme does not align well with new approaches to nature conservation or national planning policies. To implement the approved scheme would see the destruction of waterbodies and wetland habitat that developed on the site during the operating period and that now support great crested newt and meadow orchids... Any approach which would seek to restore the site to a state representing conditions prior to any mining works would risk serious disruption to amphibians which have since colonised the numerous ponds constructed for previous mining operations."

These statements are demonstrably false; the current (2015) plan states "[Compartment 5 Central Ecological Area] contains ponds where great crested newts and other amphibians have been recorded. Most of this area has been excluded from the site and **will be retained, enhanced and managed as an ecological area**. An area of nature conservation interest between the Bogey Road and the railway line, containing ponds where great crested newts and other amphibians have been

recorded, **will be retained**" and "Water treatment areas, where appropriate, **would be restored as ponds and wetland**, and watercourses, new ponds and reservoirs formed." (own emphasis).

In fact, the current 2015 plan goes further to protect the great crested newts and their habitats than the new proposal "For the period of aftercare of the restored site, all of the existing and new ponds created for great crested newts will be managed by Miller Argent or their agents. Subsequent to the aftercare period, and whilst ownership remains with Miller Argent, the ponds will continue to be managed by them or their agents. At such time as ownership of the land may be transferred, measures to ensure the future management of the ponds through agreement with a suitable organisation would be agreed with CCW."

This compares with the P/25/0037's downgraded proposal "Management of ponds at Ffos-y-Fran has included regular sediment removal to ensure the settling ponds functioned in terms of water flows and settling time. Following restoration, the post closure strategy is to allow these ponds to naturalise to reduce reliance on ongoing maintenance. It is assumed that as part of naturalisation that sediment and vegetation will increase progressively in these ponds over time, however they are likely to still reduce chemical loads to receiving surface water as they are assumed to act as a natural wetland treatment system"

The new plan compared to the current 2015 plan, is a plan to let the ponds slowly fill in, replacing ongoing maintenance and post-aftercare agreements with inaction, hopes, and assumptions.

In an attempt to justify a departure from the earth-moving within the 2015 plan, P/25/0037 boasts "The baseline is now established as one including 30 ponds, more than half of which are eDNA positive from GCN" – but this does not mean that there are Great Crested Newts populations in each of these ponds, and at 17/30 ponds, the eDNA results are *just* over half – and **5 of which Merthyr (South Wales) Ltd has kept in a 'below average' or 'poor' HSI state** despite the potential presence of a protected species.

Finally, the EIA suggests earthworks may risk Great Crested Newt habitats (4.1.3), but this contradicts another part of the EIA states: "Evidence suggests, from previous surveys conducted, that irrespective of previous mining activities at the site, the occurrence of GCN ponds has increased."

CO2 impacts

The P/25/0037 EIA suggests "The approved Scheme requires significantly more carbon (64,692 tonnes) than the consented scheme (7,072 tonnes). The alternative scheme has a significantly reduced carbon footprint compared to the approved scheme that would represent a saving of around 90% of CO2 emissions." This sounds significant until it is put in the context of Merthyr (South Wales) Ltd's operational emissions whilst mining coal. In 2022, the most recent year for which data is available, Ffos-y-fran's operational emissions stood at 876,589 tonnes of CO2 – in 2021, it was even higher at 930,553 tonnes of CO2. Extrapolating from these figures, the 15 months of illegal coal mining alone that Merthyr (South Wales) Ltd undertook Sep 2022 – Nov 2023 would have generated 1.13 million tonnes of CO2, with the 640,000 tonnes of coal extracted generating a further 2.02 million tonnes of CO2.

T**he approved (2015) restoration plan to put back the land to the long-promised form, would account for just 2% of the carbon footprint** of the illegal mining operation performed by Merthyr (South Wales) Ltd over 15 months, which MTCBC failed to prevent. For Merthyr (South Wales) Ltd to use CO2 as a smoke screen to save tens of millions of pounds in earthworks is greenwash at its most obvious and outrageous. **For MTCBC to give these grounds any credence would be to highlight its own enforcement failures in its refusal to issue a stop notice during the extended period of illegal coal mining**.

Further undermining the merit of the EIA's reliance on CO2 emissions to justify a plan to do less on around 15% of the budget, the flooded void reduces land area upon which grasses or trees would sequester CO2 from the atmosphere. By avoiding returning the overburden mountains back to the void, the new proposal reduces long term CO2 capture potential both with the void and the reduced vegetative potential of the coal tip slopes compared to the considerable ground beneath their footprints. According to the Welsh Government's 2023 State of the Environment report, "UK soils currently store about 10 billion tonnes of carbon. This is roughly equal to 80 years of annual UK greenhouse gas emissions." – retaining the coal tips will reduce the ongoing storage potential of the soil contained within them.

Coal tip consequences

16 years of opencast coal mining in Ffos-y-fran has generated colossal overburden mounds, also known as slag heaps or coal tips. There are three coal tips, with the third being the largest, and cumulatively accounting for 37 million cubic metres of colliery spoil, rocks, and soil.

Central to the agreed (2015) restoration plan is to use the material in the three coal tips to fill in the void again, neutralising both hazards and returning the landscape to a recognisable form. In sharp contrast, P/25/0037 proposes that "The overburden mounds would be retained with some re-profiling of the earthworks around the side slopes.". This section focuses on the potential consequences of leaving the three coal tips in situ.

Disused Mine and Quarry Tips (Wales) Bill

The Disused Mine and Quarry Tips (Wales) Act will create a dedicated register of disused coal tips across Wales with a new Authority to oversee and assess their safety. Leaving these coal tips in situ will eventually add at least 2 new disused tips to the register of some 2,500 disused coal tips. At a time when there is public spotlight on the legacy of hazards and cost to the taxpayer from historic coal mining, P/25/0037 proposes to change the agreed plan and add to that legacy of burden on the public purse to make tens of millions in additional private profit. This is likely to cause MTCBC further reputational damage in addition to the damage done by MTCBC's failure to stop 15 months of illegal coal mining and the CCEI Committee Inquiry.

Controversy and Stability

Coal tip slip on OB1

With coal tip slips in Cwmtillery in November 2024 and Tylorstown in 2020, both of which narrowly avoided loss of life, the spectre of Aberfan – also in Merthyr Tydfil – has understandably risen within

the hearts and minds of Welsh people. It is particularly likely that residents of Merthyr Tydfil will share that fear of coal tip instability. The EIA states “Overburden mounds OB1, OB2 and OB3 have remained stable throughout their existence other than the western facing side of OB1 which on the 29th of July 2022 was affected by significant instability”(7.1.8). OB1 remained stable for over a decade – until it suddenly suffered a large slip sending thousands of cubic metres of colliery spoil down one side of its sharp slopes, despite geotechnical sign-offs on its stability and ongoing monitoring by Merthyr (South Wales) Ltd. OB1 is elevated and just 591m from the nearest residential neighbourhood.

MTCBC’s own independent WSP geotechnical survey flagged stability concerns in April 2025, concluding “The documents do not provide confidence that the tips and slopes will remain stable and will not pose an ongoing risk to residents of Merthyr Tydfil and a potential financial burden to Merthyr Tydfil County Borough Council and their successors”

This is exactly why residents of Merthyr Tydfil will not be reassured when the EIA indicates “No remedial works are required to be undertaken on either OB2 or OB3, they can be considered, in their current form, to be ‘long-term stable’ structures.” (7.7.23) – OB1 would have been included in that category if it hadn’t happened to have had a slip in 2022.

Climate change and scrambler bikes

The EIA admits that “global weather patterns are changing and rainfall levels remain unpredictable” yet only devotes a few lines to make vague references to the formation and geometry of the tips to give a caveated reassure that “…elevated ‘groundwater’ levels within the structures are not expected to occur other than potentially minor perched aquifers.”(7.7.21). This assessment also fails to consider how climate change may interact with other risk factors. In a February site visit close to OB3 (the largest coal tip) by Coal Action Network, four youth were witnessed on scrambler bikes ascending and descending the sides of the slopes. This was not a motocross event and it was not on the motocross track built into the top of OB3. The result of these activities on the Bedwas coal tips and in Margam Parc Slip is significant erosion, destruction of what little vegetation has managed to take hold, and blocking drainage channels essential for coal tip stability. It will also increase suspended solids in run-off, which the EIA agrees will increase the metal load, covered in more detail below in ‘toxic run-off’. The coal tips attract scrambler bikes, but this is incompatible with safe public access. The motorised, high-speed, and destabilising effects of the scrambler bikes means it would be unsafe for pedestrians to walk within proximity of the base of the tips with risk of scree falling on their heads or a collision with a scrambler bike. Scrambler bikes are also likely to use the same paths to access the area as pedestrians, further risking collision and damaging the paths, reducing accessibility.

Besides the safety hazards to long-term tip stability and run-off posed by scrambler bikes, there are also the safety risks to the riders on steep, loose slopes – an accident waiting to happen. Preventing scrambler bikes being ridden up and down the coal tip slopes have failed at other sites that are in proximity to population centres, and attempts to do so will be a constant drain on public resources as private landowners are unlikely to have the ability to do so. The only way to prevent scrambler bikes is not to attract them to the area with three coal tips, one of which is being actively promoted as a destination for scrambler bikes.

The local anti-social issue of youth on noisy and damaging scrambler bikes is one of the issues that the Ffos-y-fran 'reclamation' scheme was intended to prevent – instead, the operator is now profiting from hosting huge national scrambler motocross events atop the coal tip that it promised to refill the void with, and unauthorised scrambler bikes have returned to the area.

Maintenance and costs

The long-term stability of coal tips is often dependent on continual and costly maintenance and monitoring works – which is the central thrust of the Disused Mine and Quarry Tips (Wales) Bill, but the Bill would not remove the onus on Councils. For Caerphilly County Council, "…the predicted spend on tips maintenance in the 2020/21 financial year was just over £1 million." – and the cost of remediating a coal tip after a slip can be in the tens of millions. P/25/0037 is a proposal to leave expensive and potentially hazardous liabilities on the door step of Merthyr Tydfil, and make it someone else's problem.

Toxic run-off

MTAN2 points out that "Surface tipping gives rise to spoil heaps that may exceed 100 hectares and rise to over 50 metres above ground level. Whilst visual intrusion is the most obvious impact, noise, dust and water contamination can occur, as well as the loss of the underlying habitat."

The EIA states that the coal tips are "…classified as low risk with respect to the potential leaching of acid and metalliferous drainage." (9.6.2) but then goes on to admit "Surface water quality sampling and analysis indicates that manganese, iron as well as magnesium, sulphate and potassium are elevated (relative to adopted assessment criteria) in some of the drainage from around MA6 and the settling ponds to the south of OB3." (9.6.4). To an extent, these unacceptable levels of metals are filtered by settling ponds, but this leaves yet another burden and expensive liability to maintain after Merthyr (South Wales) Ltd has left with its profits: "As such, a programme of monitoring is recommended along with establishment of a plan for settling pond management/maintenance and consideration of the benefits of constructing an enhanced wetland to ensure the removal of metal load in this location continues in the time period post restoration." (9.7.1). This technique will also mean the areas around the coal tips will also be contaminated by higher levels of metal load, spreading the impact footprint of the coal tips even further.

Soil loss

According to the EIA, the coal tips comprise approximately 37 million tonnes of soil, rocks, and colliery spoil (3.2.6). MTAN2 provides strongly-worded guidance on what approach should be taken towards soil in the restoration of opencast coal operations; "Soils are effectively non-renewable resources that are essential for human life…soils should be accorded the same priority in environmental protection as air and water" (R2) – it is not clear that this guidance has been complied with in the EIA for soils contained within the coal tips and the soils lying beneath the coal tips' footprint. It is not specified and unlikely, for example, that top soil has been deposited on the outer surface of the coal tips, reducing the likelihood of survival for whatever vegetation may have been viable on such steep slopes. MTAN2 goes on to say "care should be taken to avoid contamination with other materials or causing compaction by unnecessary trafficking by motorised equipment" (R2). This would apply, for example, to HGVs atop OB3 undertaking earthworks to form and maintain

the Motocross track, subsequently attended by thousands of large vehicles (EIA 3.2.8), as visible in Google Satellite maps. MTCBC has failed to implement MTAN2 guidance in this respect to date.

MTAN2 is clear: “Achievement of satisfactory restoration requires careful conservation, storage, management and **reinstatement** of soils” (R2) and “Wherever possible, land will be re-instated to contours and levels similar to original ground surface and schemes should ensure that in all circumstances that all overburden and soil materials are fully utilised with none remaining unused” (268). Therefore, P/25/0037’s proposal to leave 37 million tonnes of coal tips in situ runs directly contra to current planning guidance, sterilising huge quantities of irreplaceable top soil.

Landscape vandalism

MTAN2 cites that “The European Landscape Convention, ratified on 1 March 2004, recognises landscape as an essential component of people’s surroundings.”, with Policy Planning Wales elaborating “The intrinsic value of a place to people or communities is particularly important, which may be due to aesthetic, cultural, spiritual or historical reasons and planning authorities are best placed to understand these.” (2.4). The final landscape proposed in P/25/0037 would leave the area in an unrecognisable state compared to before opencast coal mining took place and to what is in the agreed restoration (2015) plan. By ascribing that “planning authorities are best placed to understand” the intrinsic value of a landscape, it confers a responsibility on planning authorities to establish and represent this understanding, and apply it to any application seeking to vary it as P/25/0037 so dramatically does. According to the restoration aftercare drawing, residents living in the centre of Merthyr Tydfil, in the area of the train station, the coal tips tower above them by 270m (OB1), 250m (OB2), and 210m (OB3). Residents living in Mountain Hare close to the site with largely unobstructed views will be living in the shadow of coal tips that stretch above them by 210m (OB1), 190m (OB2), and 150m (OB3). For these nearby residents, **OB1 will be equivalent in height to 26 two-story houses**.

The mitigation that the EIA proposes is limited to “some minor earthworks to soften the engineered profiles **may** be undertaken… with the **lower slopes** being planted and/or hydroseeded with a woodland mix.” but that “The overburden mounds of OB2 and OB3 would remain largely as they appear today…” (4.2.8), despite admitting the unnatural/stark profiles that have been created but with minimal mitigation commitments. As comparable sites such as Margam Parc Slip and East Pit demonstrate, plantings and hydo-seeding often fails or is only successful in small patches due to poor soil and erosion, and requires constant and costly maintenance.

Along with retaining the exposed cliff as an “educational resource” (4.2.3), the EIA’s asserts that “The overburden tips of OB1 (in part) OB2 and OB3 would also be retained as testimony to the coal extraction industry...” (4.2.14). This is a disingenuous justification to keep tens of millions in profits – to highlight this, in another place within the EIA, it describes Ffos-y-fran as suffering “…scars of former mining activity…” (4.2.17). The EIA seems to flip flop on whether a lack of mining restoration equates to a scar or a testimony, depending on whether it hinders or helps doing the least possible restoration works now.

Revegetation and habitats failure

The EIA admits “Many restoration schemes in South Wales, have seen the total removal of colliery spoil as part of the reclamation process.” but then adds “This is seen by some bodies as a missed opportunity to preserve some legacy features and to allow the natural regeneration of old spoil tips for biodiversity benefit.” (4.2.21). What bodies, the EIA fails to identify or cite publications supporting this claim. Nevertheless, the EIA uses this claim to justify “The Ffos-y-Fran final reclamation scheme will retain some areas of existing overburden and spoil to allow what can be a unique habitat to form naturally.”. Rather than “some areas”, the reality is that P/25/0037 will keep virtually all the coal tips in situ as covered in more detail in other sections of this objections. Furthermore, advocacy not to unnecessarily remove colliery spoil and coal tips relate to historic disused tips which nature has slowly colonised over a period that often amounts to 30 years or more – none that we are aware of support creating new coal tips such as is being proposed in P/25/0037, and appears to be a misrepresentation of these unidentified ‘bodies’ referred to in the EIA. It is also the case that valuable ecosystems have not developed across all coal tips, a roll of the dice that the EIA admits in abandoning the coal tips “to allow **what can be** a unique habitat to form naturally”. (4.2.21).

MTAN2 warns against “...the loss of the underlying habitat.” (256). We were unable to see the footprint of coal tips OB1 and OB2 within the EIA, but based on the 35 hectares (ha) covered by OB3 (3.2.7), we estimate the total footprint of all 3 coal tips to be around 85ha. Assuming that the viability of the coal tip surface to support vegetation is limited, the P/25/0037 is a proposal to reduce acid grassland grazing, micro-features, and effective woodland planting by an area approximately equivalent to Dowlais. The habitat reduction this entails is incompatible with the nature emergency announced by the Welsh Government in 2021.

OB3 AKA ‘Monster Mountain’

MTAN2 is clear that “The approved restoration and aftercare schemes must ensure satisfactory and suitable reclamation to agriculture, forestry, nature conservation or amenity will take place and without delay if such separate planning permission is not granted or implemented within the life of the coal permission.” (283). Yet the EIA highlights “It is the intention of MSW to retain OB3 as a

motorsport facility, subject to agreement and approval with MTCBC and develop it further as an international motocross circuit. This will be subject to a separate planning application and therefore if consented, **this may result in the omission of the current restoration proposals for OB3 from the final restoration strategy**. However, for the purposes of this ES and the final restoration strategy, the working assumption is that the plateau of OB3 would be returned to rough grassland and grazed as part of the urban common land." (3.2.8). It is contrary to MTAN2 to exclude OB3 from the final restoration strategy as, even if planning permission is granted, it will not have been granted or implemented within the life of the coal permission. Furthermore, the EIA plan to return the top plateau to "rough grassland and grazed as part of the urban common land" is baffling. Livestock would be dangerously exposed on top of OB3, livestock climbing the sides of OB3 will lead to significant erosion and blocking of drainage channels, and to get up to that level to monitor livestock will be onerous for Commoners. It is suspected, therefore, that the EIA is proposing – once again – to do the cheapest option rather than what is best for habitat restoration or afteruse.

Inadequate 5-year aftercare period

MTAN2 indicates that "An aftercare period of 5 years is likely to be adequate if the afteruse is for agriculture, **although a longer period will be necessary for afteruse where tree or hedge planting** is involved, or where nature conservation is important." (276). Yet the P/25/0037 EIA stipulates just a "5-year establishment/aftercare/maintenance period is included in the restoration plans." despite featuring "**tree and hedgerow planting** along the western flank of the site" (19.1.31). The agreed (2015) restoration plan's aftercare period is also 5 years – but as P/25/0037 is a new S73 application, this aftercare period should be extended to bring it in line with MTAN2 guidance. The reason for this guidance is that the risk maintenance period for tree and hedgerow success is longer, and to allow time to nurture replanting of sections that fail. This is reinforced in a 2024 CPRE report: "Long-term management is important… beyond quantity of restored and created hedgerow, the quality and longevity is also critical: planting the right trees in the right places and ensuring their survival through appropriate aftercare.". Albeit an older report, the Scottish Development Agency reviewed nearly a decade of funding standard and larger tree plantings, and found **only 54% survived** after 5 years. Several outcomes 'expected' in the P/25/0037 EIA depend on the success of tree and hedgerow planting, including critical – through inadequate – safety facets. Therefore, **an extended aftercare period of at least 10 years is required** to ensure the success of the planting – this would match the "10-year aftercare period management plan" proposed for Glan Lash opencast coal mine restoration (PL/08275) and ensure that MTCBC and council tax payers aren't left with costly maintenance works or an unsuccessful restoration scheme after 5 years.

Commoners' Right of Pasture

Commoners had their Right of Pasture (grazing rights) suspended for the site when the application for Ffos-y-fran opencast coal mine was approved on appeal in 2007. Commoners have been allowed to graze animals in some sections of the site as the void moved with the coal mining and was sequentially backfilled. Nevertheless, P/25/0037 proposes to leave the void flooded, removing a significant portion of grazing land available under Commoners' Right of Pasture. Further physical restrictions to pasture for commoners would be imposed by P/25/0037's proposal to plant

intentionally thick woodland and shrub planting in some areas, leave behind steep-sided overburden mounds, and create permanent fencing. Finally, many of the hazards to human life would also imperil the life and welfare of grazing animals, which additionally cannot read warning signs. P/25/0037 poses additional risk of drowning, falling from cliff edges, entanglement in dense shrubs, woodland, and wire fencing – particularly where this isn't maintained to a high standard, slips on the steep and loose sides of coal tips, and exposure to the elements atop coal tips. P/25/0037's dense tree planting, flooded void, and coal tips also introduces new challenges for commoners to visually monitor and locate their grazing animals, and efficiently get access to them for welfare checks, feeding, and herding.

Commoning is a way of life with a rich history dating back to 1066 and enshrined in the Magna Carta (1215). According to the Foundation for Common Land: "If Commoners leave the land, ancient knowledge will be lost, and the intricate equilibrium of these landscapes, ecosystems and breeds will break down irretrievably. In turn, a way of life, and a living part of our history, will be lost". The Gelligaer and Merthyr Common is also important to the preservation of native local and Welsh breeds of farmed animals like the South Wales Mountain Sheep, sometimes called a Nelson or a Glamorgan Welsh, and Welsh Black cattle. This traditional Welsh breed of cattle is one of the oldest cattle breeds in the UK and is the only native Welsh breed.