

Agenda – Climate Change, Environment, and Infrastructure Committee

Meeting Venue:	For further information contact:
Committee room 3 Senedd and video	Marc Wyn Jones
Conference via Zoom	Committee Clerk
Meeting date: 30 January 2025	0300 200 6565
Meeting time: 09.15	SeneddClimate@senedd.wales

Hybrid

Private pre-meeting (09.15–09.30)

Public meeting (09.30–13.00)

1 Introductions, apologies, substitutions, and declarations of interest
(09.30)

2 Stage 1 scrutiny of the Disused Mine and Quarry Tips (Wales) Bill – Evidence session with the Law Commission
(09.30–10.30) (Pages 1 – 47)
Alison Young, Commissioner for Public Law and the law in Wales – Law Commission

[Disused Mine and Quarry Tips \(Wales\) Bill: consultation responses](#)

Attached Documents:

Research brief – Disused Mine and Quarry Tips (Wales) Bill
Paper – Law Commission



Break (10.30–10.40)

**3 Stage 1 scrutiny of the Disused Mine and Quarry Tips (Wales) Bill –
Evidence session with Coal bodies**

(10.40–11.50)

(Pages 48 – 70)

Dominic Driver, Acting Executive Director of Evidence, Policy and Permitting –
Natural Resources Wales

Carl Banton, Operations Director – The Mining Remediation Authority

Rick Brunt, Health and Safety Executive Divisional Director – Health and
Safety Executive

[Natural Resources Wales: Site-Specific Coal Tip Contingency Plans,
Environmental Considerations, Guidance note](#)

Attached Documents:

Paper – Natural Resources Wales

Paper – Mining Remediation Authority

Paper – Health and Safety Executive

Break (11.50–12.00)

**4 Stage 1 scrutiny of the Disused Mine and Quarry Tips (Wales) Bill –
Evidence session with the Welsh Local Government Association
and Local Authorities**

(12.00–13.00)

(Pages 71 – 84)

Cllr Andrew Morgan OBE, Leader – Welsh Local Government Association

Stephen Williams, Director Highways, Streetcare and Transportation Services
– Rhondda Cynon Taf County Borough Council

Jacqueline Mynott, Head of Infrastructure Asset Management – Rhondda
Cynon Taf County Borough Council

Cllr Stephen Thomas, Councillor – Blaenau Gwent County Borough Council
Kevin Kinsey, Infrastructure Services Manager – Blaenau Gwent County
Borough Council

Attached Documents:

Paper – Welsh Local Government Association

Paper – Rhondda Cynon Taf County Borough Council

5 Papers to note (13.00)

5.1 Ministerial scrutiny sessions

(Pages 85 – 108)

Attached Documents:

Follow up letter from the Chair to the Cabinet Secretary for Economy, Energy and Planning following the 20 November scrutiny session

Response from the Cabinet Secretary for Economy, Energy and Planning to the Chair following the 20 November scrutiny session

Follow up letter from the Chair to the Cabinet Secretary for Transport and North Wales following the 27 November scrutiny session

5.2 Welsh Government Draft Budget 2025–26

(Pages 109 – 135)

Attached Documents:

Follow up letter from the Chair to the Cabinet Secretary for Housing and Local Government regarding the scrutiny of the Welsh Government's 2025–26 budget

Follow up letter from the Chair to the Cabinet Secretary for Economy, Energy and Planning in relation to the scrutiny of the Welsh Government's 2025–26 budget

Response from the Cabinet Secretary for Economy, Energy and Planning to the Chair in relation to the scrutiny of the Welsh Government's 2025–26 budget

5.3 Disused Mine and Quarry Tips (Wales) Bill

(Pages 136 – 159)

Attached Documents:

Follow up letter from the Chair to the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs in relation to the Disused Mine and Quarry Tips (Wales) Bill

Response from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs to the Chair in relation to the Disused Mine and Quarry Tips (Wales) Bill

5.4 Review of the Public Bill and Member Bill processes

(Pages 160 – 163)

Attached Documents:

Letter from the Chair of the Business Committee to the Chair in relation to the Business Committee's review of the Senedd's processes relating to Public Bills and Member Bills

6 Motion under Standing Order 17.42 (vi) and (ix) to resolve to exclude the public from the remainder of this meeting

(13.00)

Lunch break (13.00–13.30)

Private meeting (13.30–14.45)

7 Consideration of evidence received under items 2, 3 and 4

8 Consideration of draft report on the Welsh Government Draft Budget 2025–26

(Pages 164 – 216)

Attached Documents:

Draft report on the Welsh Government Draft Budget 2025–26

Document is Restricted



Comisiwn y Gyfraith

Diwygio'r gyfraith

Law Commission

Reforming the law

DISUSED MINE AND QUARRY TIPS (WALES) BILL – WRITTEN EVIDENCE TO THE CLIMATE CHANGE, ENVIRONMENT, AND INFRASTRUCTURE COMMITTEE

Introduction

- 1.1 We welcome the opportunity to make this submission to the Senedd Climate Change, Environment, and Infrastructure Committee (“the Committee”), to inform its work scrutinising the Disused Mine and Quarry Tips (Wales) Bill (“the Bill”).
- 1.2 The Law Commission’s report, *Regulating Coal Tip Safety in Wales*,¹ published in March 2022 (“the 2022 report”), was our last word on the subject. The lawyer and researcher who worked on the project have since moved, as has Nicholas Paines KC, my predecessor as Law Commissioner for public law and the law in Wales. Moreover, this is not a project where Law Commission staff have had any ongoing involvement in implementing the report. Therefore, I and my staff are not as acquainted with the work that went into producing the Bill.
- 1.3 Nonetheless we have endeavoured to make this evidence as useful to the Committee as we can.
- 1.4 We are broadly supportive of the Bill, which implements to a significant extent many of the recommendations of our 2022 report. As the then Minister for Climate Change notes in her response to the Law Commission’s report, the Welsh Ministers accepted 18 of our recommendations in full and intended to implement a further 12 in modified form.² The White Paper³ and the Explanatory Memorandum to the Bill also engage with our report.⁴
- 1.5 In our report we identified several shortcomings in the current legal framework, based as it is on the Mines and Quarries (Tips) Act 1969, enacted in response to the Aberfan disaster in October 1966.
- 1.6 In 1969, the coal mining industry was still active. The 1969 Act was primarily designed to regulate the tipping of waste from operational coal mines, as well as mines and

¹ (2022) Law Com No 406.

² Letter from Julie James AS/MS, March 2023. Available at: <https://www.gov.wales/sites/default/files/publications/2023-03/letter-response-to-the-report-on-regulating-coal-tip-safety-in-wales.pdf>

³ Coal Tip Safety (Wales) White Paper (2022) WG44302. <https://www.gov.wales/sites/default/files/consultations/2022-05/white-paper-on-coal-tip-safety-consultation.pdf>

⁴ <https://senedd.wales/media/oixlr5ys/pri-ld16848-em-e.pdf>

quarries associated with the extraction of other minerals. Although Part 2 made provision for disused tips, such tips were considered to be a lesser problem. This does not reflect current reality. Following the decline of the coal industry, there are now far more disused tips than there are active coal mines.

- 1.7 The 1969 Act left responsibility for disused tips to local authorities but gave them only limited powers of intervention. Its mechanisms for requiring owners to carry out remedial work were cumbersome and time consuming. The alternative that it provided, for the local authority to do the work and charge the owner, was also unwieldy. There was no central point of responsibility and thus no overarching mechanism to prioritise tips based on risk. The fragmentation of powers across local authorities led to inconsistent safety standards and risk classifications. There was no power to require or undertake preventive maintenance to prevent a tip becoming a danger. There has also been a reduction in the number of those in local authorities with the requisite expertise to regulate disused tips.
- 1.8 The Bill now before the Senedd provides a solution to the central problems which our 2022 report set out to address. We thought that the regime created by the 1969 Act was no longer adequate and needed to be replaced by a new regulatory regime. The new regime we proposed sought to ensure consistency of approach across Wales and to prevent harm through a proactive rather than a reactive approach.
- 1.9 In our 2022 report, we made 36 recommendations on regulating coal tip safety in Wales. By our reckoning the Bill would implement approximately half of our recommendations.
- 1.10 Some of our recommendations would be implemented by the Bill in a straightforward way. For example, we recommended that a supervisory body with responsibility for the safety of all disused coal tips should be established (recommendation 3); that it should be a new body (recommendation 4); and that it should be a central public body (recommendation 5). Clause 1 of the Bill establishes the Disused Tips Authority for Wales (“the Authority”), which is a new body corporate sponsored by the Welsh Government.
- 1.11 Other recommendations from our 2002 report are implemented, but in a different way to that envisaged by the report. For instance, we recommended that the contents of a newly established tip register ought to be prescribed by the Welsh Ministers by statutory instrument (recommendation 8). In fact, clause 8 of the Bill prescribes the content of the register itself in primary legislation, which is then supplemented by any additional information specified in regulations made by the Welsh Ministers (having consulted the Authority before making such regulations). This provides a clear framework, alongside the necessary flexibility to modify the requirements of the tip register in the light of gained experience and the expansion of the scope of the Bill to other disused tips in addition to disused coal tips.

Points of departure from the Law Commission report

- 1.12 There are several points of departure between the recommendations of our 2022 report and the content of the Bill. This is to be anticipated. We would expect things to have changed since the publication of our report. Our review of coal tip safety legislation took place alongside work by the Welsh Ministers, and by the Coal Tip

Safety Task Force established by the Welsh Ministers in the aftermath of the Tylorstown landslide in 2020. The work of the Task Force has continued since our 2022 report.

- 1.13 There are also many additional points dealt with in the Bill that were not considered in our 2022 report. Again, this to be expected during an iterative process of instructing drafters to prepare the Bill (a process in which we were not involved) alongside the further consultation exercise following the White Paper. Detailed provisions will be required which are consequent upon the main provisions seeking to enact some of our recommendations and which “fill in the gaps” that were not contemplated when making broad recommendations.
- 1.14 For instance, our 2022 report did not consider how a regulatory scheme for disused tips would deal with Crown land. But in practical terms, any provisions giving a power of entry onto land for investigations or maintenance must recognise the special status of Crown land and carve out a separate approach for entering such land.⁵
- 1.15 In terms of substantive differences of approach, I will highlight here some of more obvious ways in which the regime represented by the Bill would differ from that envisaged by our 2022 report.

Application to non-coal tips

- 1.16 It was agreed in the terms of reference for our project that it would focus on the law governing coal tips only. However, as noted in our report, any new regime, like the 1969 Act, may well be required to apply to all types of spoil tips. The Bill proposes an overarching framework suitable for both disused coal and non-coal tips. In contrast to coal tips, where much work has been undertaken in recent years to map them, there is little information on non-coal tips. But they are far more numerous - it is estimated there are 20,000 plus disused non-coal tips in Wales. It is understandable, therefore, that the Bill’s provisions may need to differ from the recommendations in our report to accommodate its broader scope and the relative sparsity of information concerning disused non-coal tips.

Comprehensiveness of the tip register

- 1.17 In our 2022 report we recommended that the supervisory authority should be under a duty to include on the register any tip of which it is aware (recommendation 9). This is not implemented by the regime envisaged by the Bill. Instead, clause 6(1) of the Bill places a duty on the Authority to compile and maintain a register of tips *that it has decided (a) pose a threat to human welfare by reason of instability, or (b) could pose such a threat in the event of instability*. In other words, the tip register will not be a comprehensive list of all disused tips, but only those which in the Authority’s view are a threat or a potential threat to human welfare by reason of instability.
- 1.18 The duty in clause 6(1) sits alongside a duty placed on the Authority to carry out assessments of disused tips (Part 2 of Chapter 2). The Authority is required to carry out:

⁵ Clause 67 of the Bill.

- (1) a preliminary assessment of disused tips not in the register, to identify those tips that may need to be included in it;
- (2) a full assessment of those tips identified by a preliminary assessment as ones that may need to be included in the register; and
- (3) in certain circumstances, a full assessment of tips already in the register.⁶

The Explanatory Notes to the Bill explain that “it is anticipated that a preliminary assessment will take the form of a desktop survey”, rather than an on-site inspection. In relation to a full assessment, “it is anticipated that a full assessment will involve a physical inspection of the disused tip by a suitably qualified person”.⁷

- 1.19 The Authority must also carry out additional preliminary assessments when the Authority agrees this assessment should be carried out due to a change of circumstances, or the existence of new information that was not available at the previous preliminary assessment (clause 14).
- 1.20 Whilst this may not give rise to a comprehensive register, the duty to carry out preliminary assessments on all disused tips will ensure that there is comprehensive knowledge of disused tips by the Authority. The ability to reevaluate the assessment that a disused tip does not meet registration requirements, alongside the duty to monitor registered tips (clause 10) and to carry out additional assessments of registered tips (clause 17) will achieve a further objective of the Law Commission’s recommendations: to ensure that the register is as comprehensive as possible and is kept up to date. In addition, given the broadening of the scope of application of the Bill to all disused tips, a register of those tips which pose a danger to human welfare by reason of their instability may be a necessary policy choice to ensure the utility of the register balanced against the cost of creating and maintaining the register.
- 1.21 However, this may mean that a further reason for maintaining a comprehensive register is not achieved. Those wishing to carry out public works would benefit from consulting the register to be aware of disused tips that may affect these public works. Disused tips that do not pose a danger to human welfare by reason of their instability may nevertheless pose a potential problem for proposed public works.

Hazards considered by the risk classification system

- 1.22 We acknowledged in our 2022 report that the risk of tip instability would be the most significant hazard posed by disused tips. The provisional classification system employed by the Coal Authority since February 2020 broadly classified tips by reference to the risk and the consequences of movement. We recommended that the risk classification of coal tips should have regard to the risk of instability of a tip and the consequences of a stability failure (recommendation 19).
- 1.23 The Bill would enact this recommendation. Clause 24 classifies tips which are included on the register on a scale of 1 to 4, according to the different degrees to which disused tips cause the Authority concern (1 being most concerning, 4 being the

⁶ Clause 11 of the Bill.

⁷ Explanatory Notes to the Bill, paras 49 and 50.

least). Decisions on the risk categorisation of a tip must be made based on one or more of the factors set out in clause 24(3). The factors are: the tip's instability; its potential for instability; the threat to human welfare posed by the tip's instability; the threat the tip could pose to human welfare in the event of instability.

- 1.24 However, in our 2022 report, we considered whether classification should also have regard to other hazards such as pollution, combustion, and flooding. There was widespread agreement from our consultees that it should. We thus recommended that the risk the tip presents of pollution, combustion or flooding should be taken into account in the risk classification (recommendation 20).
- 1.25 Under the regime proposed by the Bill, however, tips will only be categorised according to the extent to which the disused tip threatens human welfare by reason of its instability. The new Authority's assessment of risk will consider only those hazards which relate to tip instability, not risks which are independent of the potential for tip instability.
- 1.26 The additional risk factors considered in our 2022 report, namely pollution, combustion, and flooding, can pose risks independent of instability, and independent of one another. But they can also interact in complex ways. For example, a tip may impact the local risk of flooding in its original position. But it may also pose a flooding risk as a consequence of instability: the failure of a disused tip, due to instability, could lead to a blocked water course and result in a consequential flooding threat to human welfare. Under the Bill, any flooding risk which is independent of the risk of instability will not form part of the risk classification. Likewise, the risk of combustion of tip materials can be quite independent from the risks posed by instability.

Approach to risk assessment and tip management plans

- 1.27 In our 2022 report we recommended that the supervisory authority should be under a duty (a) to arrange for the compilation of a risk assessment and management plan for any tip included on the register; and (b) to approve the tip management plan (recommendation 17). We also recommended that the Welsh Ministers should have a power to prescribe the matters to be included in a risk assessment and tip management plan by statutory instrument (recommendation 18).
- 1.28 The regulatory regime under the Bill also envisages a system of assessments for disused tips. Because the register is not a comprehensive list of all disused tips (as explained above), the Bill envisages that an assessment will be carried out to determine if the tip needs to be included on the register.
- 1.29 However, unlike recommendation 17 of our 2022 report, the Bill does not require the production of management plans. The Explanatory Memorandum says:
- It is also proposed that Welsh Ministers will develop guidance for the Authority, which will include guidance on management plans ... The guidance will make it clear that the Welsh Ministers expect the Authority to produce management plans for the highest risk category of tips, (categories 1 and 2) and to consider on a case-by-case basis whether a management plan is considered appropriate for the lower rated category tips (category 3 and 4) ... The guidance will set out that the Authority will be expected to work with other bodies to develop management plans for tips within

their ownership, and the Authority itself will be expected to produce management plans for private tip owners, who for whatever reason are unable to or refuse to produce a management plan. The expectation is that all management plans are signed off by the Authority.⁸

But management plans do not feature anywhere in the Bill. Additionally, there is no provision in the Bill for the Welsh Ministers to prescribe by statutory instrument the matters to be included in an assessment or tip management plan, as envisaged by our 2022 report. Nor is there a provision in the Bill requiring Welsh Ministers to produce guidance relating to the content of management plans. Clause 69 of the Bill, rather requires the Authority to take any guidance relating to management plans into account when exercising its functions.

Statutory instruments, guidance and “disguised legislation”

- 1.30 The Law Commission’s report recommended the making of statutory instruments determining the content of risk assessment plans and tip management plans.⁹ However, this is not included in the Bill. Rather, the Explanatory Memorandum states that there is an expectation that the Welsh Ministers will produce guidance regarding the content of risk assessment and tip management plans. Clause 69 of the Bill states that the Authority must have regard to this guidance when exercising its functions.
- 1.31 This is a departure from the Law Commission’s recommendation. It is for the Welsh Ministers and the Senedd to determine the extent of democratic scrutiny that may be needed over these measures, it being the case that Statutory Instruments would normally receive more scrutiny than guidance. However, based on my previous work as an academic specialising in constitutional law, I would consider that this use of guidance does not pose any constitutional issues.

Professor Alison Young, Commissioner for Public Law and the Law in Wales.

⁸ Explanatory Memorandum to the Bill, paras 3.73 to 3.75.

⁹ Recommendations 17 and 18.

Agenda Item 3

DMQTWB 09 - Evidence from: Natural Resources Wales

Senedd Cymru | Welsh Parliament

Pwyllgor Newid Hinsawdd, yr Amgylchedd a Seilwaith | Climate Change, Environment, and Infrastructure Committee

Bil Tomenni Mwyngloddiau a Chwareli Nas Defnyddir (Cymru) | Disused Mine and Quarry Tips (Wales) Bill

1. What are your views on the general principles of the Bill, and is there a need for legislation to deliver the stated policy intention?

We in Natural Resources Wales (NRW) welcome the Bill and agree there is a need for legislation. We are responsible for 143 coal tips and 50+ non-coal spoil tips on the land in our care.

As a landowner and a Category 1 responder under the civil contingencies act, we are acutely aware of the need to maintain energy over multiple years to deal with the kind of low likelihood, high impact risk that arises from instability in tips whereby nothing much appears to happen until it is too late.

This is made more acute by climate change which has already meant that changes in weather patterns that exacerbate risk are baked in and accelerating, as set out in the explanatory memo. for the Bill.

We are also responsible for regulating the impact on the environment of some of the activities associated with management of tips.

Our Corporate Plan 2023 - 2030 sets out how one of the steps we will take to achieve our vision of people and nature thriving together is, “.. adapting to the risks and impacts of climate change by...reducing the risks to the assets we manage on the land in our care such as spoil tips ... through maintaining and upgrading infrastructure.”

Accordingly, we are already working with Welsh Government, Local Authorities and others as part of the Coal Tips Safety Taskforce. We believe the Bill, by creating a new Authority and duties for tip owners, will maintain focus to enable all of us in Wales to reduce the risks to society of spoil tips. It should also enable all

relevant bodies to maximise the potential benefits and minimise the potential problems of interaction with other environmental legislation.

2. What are your views on the Bill's provisions (set out according to Parts below), in particular are they workable and will they deliver the stated policy intention?

▪ Part 1 - The Disused Tips Authority for Wales (sections 1 to 5 and Schedule 1)

We support these provisions.

In supporting setting up a new body, we wish to acknowledge the good work of the Mining Remediation Authority, with whom we have a productive partnership, local authorities and, indeed, our own progress in this area, especially since Storms Ciara and Dennis in February 2020. This good work notwithstanding, we support that a new body is needed for the reasons set out above.

To be workable and achieve the policy intention without resulting in other significant unintended risks, we recommend that the stated objective of the body to “promote high standards in relation to management of disused tips” be interpreted to include standards across all relevant elements of environmental protection, akin to our core purpose to pursue “sustainable management of natural resources”.

For example, on managing flood risk, promoting tip stability often involves drainage of water off the tip rather than promoting percolation into the ground, the normal “slow the flow” practice when reducing flood risk using natural flood management approaches. Drainage from tips to maintain stability should be properly planned to help wider measures to manage flood risk. Another example is that some tips include valuable protected habitats the features of which arise due to instability, such as scree habitats. Changes to promote stability may require careful management to reduce impacts on protected nature conservation features, or, at least, active decisions on trade-offs between types of environmental benefit. A third example is on wildfire risk, many of the target tips are in the South Wales Valleys in which there is also a need to adapt to climate change driven increase in risk of wildfire. As for flood risk, we would wish the new body to promote management of tips that contribute to integrated wildfire risk management.

▪ **Part 2 - Assessment, registration and monitoring of disused tips (sections 6 to 32 and Schedule 2)**

We support these provisions, for the reasons set out above and for transparency and to promote environmental justice. Many tips occur in more disadvantaged areas and we support this device that will help give potentially less powerful communities the power to hold the new body, other relevant authorities and tip owners, including us, to account. We welcome the recognition of these social justice considerations for the Bill in general set out in paragraph 9.33 of the explanatory memo., the socio-economic duty section of the impact assessment.

On workability and delivery of the policy intentions:

a. We support the use of four categories, which we feel is the right balance between detailed granularity and keeping it simple. An even number of categories also helps avoid a tendency to choose the middle category.

b. We note there is no duty to review the list periodically but there is a duty to reassess when the circumstances of tips change. We support this type of dynamism which should keep the register fresh without creating a burdensome cycle of review.

c. We advise that the new body needs to manage potential difficulties in defining a “tip”. This is both in terms of what piles of material arising from the disused mines and quarries are included and the number of separate entities. For example, when working with Welsh Government colleagues on the current list of coal tips at one stage we had c150 tips for ourselves whereas Welsh Government colleagues’ initial assessment was that we were responsible for c300 tips. The difference was due to one process lumping tip features and another splitting them. We arrived at a common position due to our already strong collaboration but there was a moment of confusion which the new legislated process should be set up to avoid.

d. The mechanism by which the list is created and stored needs careful thought. It should as far as possible be “future proofed” to advances in, for example, artificial intelligence, machine learning, and remote sensing.

▪ **Part 3 - Dealing with tip instability and threats to tip stability (sections 33 to 54 and Schedule 3)**

We support these provisions; the new body needs such powers if it is to manage the risk, especially due to the urgency of adapting to climate change. In particular, the powers allow the body to promote mitigation of risk not just reacting when the risk has materialised or is imminent.

We support the formation of new criminal offences. We note the active decision not to include civil sanctions. We believe that civil sanctions are part of a proportionate and cost-effective approach to enforcement. We recommend not closing off the introduction of civil sanctions power at some later date.

On workability, for us there are two key aspects:

a. Interaction with other environmental regulation: implementation of these provisions should recognise that many of the actions required to deal with tip instability also require compliance with other aspects of environmental regulation, for example, waste, water quality, nature conservation, and flood risk. The time allowed for delivery of notices should take account of the time required to navigate such regulation. In addition, the new body and all stakeholders need to have reasonable expectations of our capacity to provide advice alongside all the other regulatory responsibilities we already embrace. For the most part, advice on such matters will need to be bought in by the new body and/or tip owners rather than expecting it to come from us for free. The most difficult challenge for us is likely to be when works are urgent but not emergency. In such cases, other environmental legislation must be followed and our resources and service level agreements will set the pace at which we can operate. In this respect the Bill is helpful in that it sets out a requirement for forward planning. For the Coal Tips Safety Taskforce we have produced a guidance note “Site-specific Coal Tip Contingency Plans: Environmental Considerations” (attached). We are currently trialling this in practice with a local authority and on one of our higher risk tips. We believe it is a good basis on which the new body could build to work out how to resolve the interaction with other environmental legislation, including the need for reasonable expectations of us.

b. Resources for compliance on the tips in our care: we are responsible for ten coal tips in the first (higher) risk category and a further 22 in the second category. We are already inspecting, maintaining, and making further investment in stability of these tips. Continued development and delivery of plans requires continued

investment, which currently is provided via the Welsh Government's Coal Tips grant. This grant or another source of additional funding will be required for us to afford the requirements, particularly the long-term revenue costs of maintenance. Please see further comments on resources in below. Such resource considerations are almost certain to apply for all tip owners, especially local authorities.

▪ **Part 4 - Supplementary (sections 55 to 70)**

We support these provisions.

We welcome that we are listed as a relevant public authority.

In connection with our comment about wildfire above, we also welcome that the Fire and Rescue Authorities are listed.

We note the wide ranging provisions for powers of entry, which we believe are required for workability.

▪ **Part 5 - General (sections 71 to 88)**

We support these provisions.

We note the definition of human welfare and welcome that its breadth includes, for example, infrastructure such as transport, as opposed to limiting it to direct impact on human health and safety. We have considered whether we would have preferred inclusion of environmental impact. Indeed, in our consultation response to the White Paper we set out a preference for a broad range of environmental, social, and economic considerations in keeping with our own duties for SMNR. However, we understand and support the more focussed provisions in the Bill. Making it wider would almost certainly make confusion with other environmental legislation more likely.

Because of the requirement to plan how to implement the Bill that we discuss above, we support that parts 3 and 4 come into force via statutory instrument at a date after the other provisions come into force.

3. What are the potential barriers to the implementation of the Bill's provisions and how does the Bill take account of them?

Please see our answer to previous question.

4. How appropriate are the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum)

We support these provisions and recommend an “adaptive management” approach to putting the Bill into practice; start the work, learn, and adapt as we collaborate. The timescales for the different elements coming into force are helpful in this regard.

5. Are any unintended consequences likely to arise from the Bill?

Unintended consequences are unlikely, provided the new Body works with other relevant authorities to manage the interaction with other environmental legislation, as we discuss above.

The requirement for Welsh Ministers to provide the new body with guidance will be important for dealing with the potential for confusion with other environmental legislation and for establishing reasonable expectations on our role as a regulator and advisor. We welcome that this is covered in paragraphs 3.75 (general) and 9.33 (for biodiversity) of the explanatory memo.

Not likely but something to consider is whether the Bill could create a perverse incentive to keep tips in a “maintain to keep stable” state as opposed to full restoration and risk elimination. The cost of full restoration is beyond the funding available but the Body could start identifying tips for multi-year investment for full restoration even if that goes beyond the requirements of the Bill.

6. What are your views on the Welsh Government's assessment of the financial implications of the Bill as set out in Part 2 of the Explanatory Memorandum?

We welcome the thought that has gone into this assessment but feel that it underestimates the costs of compliance for tip owners, including us.

The compliance costs appear to us to underestimate the long-term revenue costs of maintenance. As stated in the explanatory memo., one of the reasons for the Bill is to create a body with the powers to require tip owners to maintain the infrastructure created to keep tips stable. However, in the “Compliance Costs” table there is mention only of the cost of urgent works (the current Coal Tips Safety Scheme grant, albeit this includes an element of revenue funding). This is a most welcome grant and we support its continuation as set out in the explanatory memo. However, we believe that the cost of compliance is underestimated and it should include more than the current £1M for longer-term maintenance costs that is mentioned in the memo. as part of the Coal Tips Safety Scheme grant.

We welcome the commitment in the explanatory memo. that additional costs to us would be expected to be included in any future grants from Welsh Ministers and not come from our existing budget (paragraph 10.8). However, we believe that the estimated costs attributable to us set out in table 23 are an underestimate, for the reasons set out above. For efficient budget management and for assurance over long-term risk management, we would also prefer it if the revenue costs were baselined into our Grant in Aid rather than provided by year on year grants.

We are not proposing any inclusion of the potential costs of us having to provide additional advice on the interaction between duties in the Bill and other environmental legislation. This is because the Bill does not create any direct additional powers or duties for our advisory or regulatory functions. However, as set out above the expectations on us will need to be managed and we would prefer it if the memo. at least acknowledged the potential for these additional costs for us.

7. Are there any other issues that you would like to raise about the Bill and the accompanying Explanatory Memorandum or any related matters?

The Mining Remediation Authority (Coal Authority as was) currently provides us with a service of emergency walkover inspections triggered by intense rainfalls over our highest risk tips, as automatically monitored via our hydrometry and telemetry system. As part of implementation, we would welcome discussion of how best to continue this service and of how to build on it for other tip owners.

We welcome the inclusion of non-coal tips in the Bill and support the proposals for the timing of bringing in non-coal spoil tips (2032 – 33). We note the

commentary on the likely risk levels from these tips. We are already investigating such tips on our land. We have found none so far that would make intervention on them more urgent than for the higher risk coal tips on the land in our care. However, at this stage, we do not have enough evidence to confirm their general risk levels.

We recommend that consideration be given to the interaction between Local Resilience Forums and the new Body. It may be beneficial to define the Body as a Category 2 responder under the Civil Contingencies Act in a similar way to that which has been done recently for the Mining Remediation Authority.



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16 January 2025

Dear Lukas,

Thank you for your invitation to the Evidence session about the Disused Mine and Quarry Tips (Wales) Bill scheduled for 30 January 2025. I can confirm that Carl Banton, Operations Director, will attend, give evidence and engage with the committee. It may be helpful if I outline the Mining Remediation Authority's involvement with coal tip safety in Wales ahead of the meeting.

Local authorities are currently the primary authority for the regulation of disused tips and quarries, as set out by the Mines and Quarries (Tips) Act 1969. The Act does not include requirements for regular, formal inspections of tips. In the past, there have been a range of approaches by local authorities to tip management, due to varying levels of experience and resources.

In February 2020 extreme rainfall caused landslips at disused coal tips in Tylorstown and Wattstown in Rhondda Cynon Taf. The Welsh and UK Governments set up the Coal Tip Safety Task Force, to assess the immediate status of disused coal tips in Wales. Our long history of coal tip management meant we were asked by Welsh Government to be a key partner in the Task Force. Our initial work involved emergency inspections at priority tips and developing a database categorising all disused coal tips in Wales. This has helped to identify tips which present a higher potential for impacting public safety.

From this work it became clear that a coordinated programme of risk-based inspections was required. We have supported Welsh Government by undertaking these inspections and have provided a chronology which you can see at Appendix A. This work has provided a baseline to support the development of a Wales wide tip inspection programme.

Making a better future for people
and the environment in mining areas

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In addition to our work for the Welsh Government Coal Tip Safety programme, we are also contracted to Natural Resources Wales to provide tip management advice and undertake inspections.

Whilst managing the associated public safety of tips is a matter for the landowner and local authority, we have and will continue to provide advice to local authorities, Welsh Government and other partners as needed. It was clear from discussions with stakeholders that there was a wide range of approaches to tip management, and that a coordinated programme of risk-based inspections was required to provide a baseline from which development of a Wales wide tip inspection programme could be established.

With assistance from the Mining Remediation Authority, Welsh Government engaged the services of the Law Commission to undertake a review of the existing Mines and Quarries (Tips) Act 1969, the result of which was a recommendation to develop new legislation to address the issue of tip safety in Wales.

We welcome the Introduction of the Disused Mine and Quarry Tips (Wales) Bill and look forward to working closely with Welsh Government on its implementation as an active partner.

I hope this is helpful. Please do let me know if we can assist further. We look forward to attending the inquiry on 30 January 2025.

Yours sincerely,



Lisa Pinney MBE
Chief Executive

Appendix A – Examples of recent support provided by the Mining Remediation Authority

- **2020 – 2021** Coal Tip Safety Task Force set up, inspections of high-risk tips commenced (184 inspections), development of GIS database and categorisation commenced.
- Our Tips Response Team liaised with all Welsh local authorities to collate information on disused tips, including current awareness and management. This work was funded by Welsh Government and delivered under a Memorandum of Understanding.
- **2021 – 2022** Work with Welsh Government and external suppliers on technology trials to give early warnings of movement on tips. First round of Category C and D inspections completed (329 inspections).
- Engaging with Natural Resources Wales, Local Resilience Forums and the Welsh Local Government Association to raise awareness of tip management and emergency response.
- Supported Welsh Government to request that the Law Commission review the Mines and Quarries (Tips) Act 1969. As a result, they recommended that new legislation be developed to address the issue of tip safety in Wales.
- **2022 – 2023** Second round of Category C and D inspections completed (427 inspections).
- We were also instructed by Welsh Government to develop a design for remedial works at Wattstown and to procure and supervise the works. We successfully provided these works in 2022.
- **2023 – 2024** Publicly owned Category B inspections completed (233 inspections). Third round of Category C and D inspections completed (433 inspections).
- **2024 – 2025** Privately owned Category B inspections completed (433 inspections). Fourth round of Category C and D inspections underway (100 inspections to date).

Tip categories

Disused coal tips are being given interim categories. The categories reflect which tips may need more frequent inspections to assess drainage and stability. Categorisation considers many different factors which are assessed by technical experts. Factors considered include:

- Size and geometry
- Potential hazards
- Potential receptors
- Site history
- Any associated infrastructure
- Inspection and monitoring requirements

Category D

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A tip with the potential to impact public safety, to be inspected at least twice a year.

Category C

A tip with the potential to impact public safety, to be inspected at least once a year.

Category B

A tip with the unlikely potential to impact public safety.

Category A

A tip with the very unlikely potential to impact public safety.

Category R

A tip with the very unlikely potential to impact public safety. Potentially removed or levelled and often built over.

DMQTWB 08 - Evidence from: The Mining Remediation Authority

Senedd Cymru | Welsh Parliament

[Pwyllgor Newid Hinsawdd, yr Amgylchedd a Seilwaith | Climate Change, Environment, and Infrastructure Committee](#)

[Bil Tomenni Mwyngloddiau a Chwareli Nas Defnyddir \(Cymru\) | Disused Mine and Quarry Tips \(Wales\) Bill](#)

1. What are your views on the general principles of the Bill, and is there a need for legislation to deliver the stated policy intention?

The Mining Remediation Authority support the Bill and the general principles contained therein. We agree that there is a need to introduce new legislation to provide a modern and consistent framework for managing the legacy of disused coal (and other) tips and quarries in Wales.

2. What are your views on the Bill's provisions (set out according to Parts below), in particular are they workable and will they deliver the stated policy intention?

▪ Part 1 - The Disused Tips Authority for Wales (sections 1 to 5 and Schedule 1)

Section 1 – 5 No comment.

▪ Part 2 - Assessment, registration and monitoring of disused tips (sections 6 to 32 and Schedule 2)

Section 10 – Would be clearer if the manner and minimum frequency of inspections were specified.

Section 12 – Would be clearer if the details of a preliminary assessment were specified.

Section 15 – Would be clearer if the details of a full assessment were specified, and whether this includes ground investigation, soil testing and slope stability analysis.

▪ **Part 3 - Dealing with tip instability and threats to tip stability (sections 33 to 54 and Schedule 3)**

No comments.

▪ **Part 4 - Supplementary (sections 55 to 70)**

Section 55 (1) (e) - This should be amended to “the Coal Authority or Mining Remediation Authority”.

▪ **Part 5 - General (sections 71 to 88)**

No comments.

3. What are the potential barriers to the implementation of the Bill’s provisions and how does the Bill take account of them?

Lack of knowledge by private landowners.

4. How appropriate are the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum)

No comments.

5. Are any unintended consequences likely to arise from the Bill?

1. Potential for conflict of interest with existing Quarry Regulations with regard to definition of abandoned tip / quarry.
2. Potential for loss of staff by expert bodies currently undertaking this work.
3. Conversely, recruitment of staff for these roles may be difficult based on Mining Remediation Authority experience.

6. What are your views on the Welsh Government's assessment of the financial implications of the Bill as set out in Part 2 of the Explanatory Memorandum?

No comments.

7. Are there any other issues that you would like to raise about the Bill and the accompanying Explanatory Memorandum or any related matters?

No comments.

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Lukas Santos
Deputy Clerk
Climate Change, Environment and Infrastructure Committee
Welsh Parliament

Email: seneddclimate@senedd.wales

Date : 17 January 2025

Dear Lukas,

Thank you for your invitation to the Evidence Session regarding the Disused Mine and Quarry Tips (Wales) Bill, scheduled for 30 January 2025. I am pleased to confirm that I, as Director of the Engagement and Policy Division, will attend, provide evidence, and engage with the committee.

In advance of the meeting, I believe it may be helpful to provide an overview of the Health and Safety Executive's (HSE) involvement in the current legislative framework for mines and quarries.

As Britain's national regulator for workplace health and safety, HSE is committed through its mission and strategy to protecting people and places through the enforcement of health and safety legislation across the UK. HSE collaborates closely with a broad range of stakeholders, including the Welsh Government, to address health and safety challenges across a wide range of industries. HSE is focused on tackling both traditional and new risks which guide our interventions and regulatory activity.

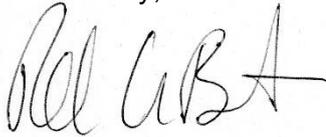
The Mines Regulations 2014 (MR2014) and the Quarries Regulations 1999 (QR1999) are HSE-owned legislation designed to safeguard the health and safety of those working in mines, quarries, and associated tips. HSE work closely with the Mine Remediation Authority (MRA) and Local Authorities (LAs) as they store abandoned mines, quarries and tips plans on HSE's behalf under MR2014 and QR1999.

HSE provided advice and support during the consultation on the Law Commission in 2021/22. HSE welcome this further opportunity to respond to the committee's call for evidence so we can provide knowledge and expertise as part of our ongoing commitment to enhancing tip safety across Wales.

HSE is supportive of the Bill and believes it provides an effective regulatory framework that aligns with the policy intention of protecting human welfare from the instability of disused tips. This supports our organisation's strategy to build and maintain trust, ensuring that people feel safe in their homes, workplaces, and environments.

We look forward to contributing to the discussion and working closely with the Welsh Senedd's Climate Change, Environment and Infrastructure Committee and other stakeholders to support the effective development and implementation of the Disused Mine and Quarry Tips (Wales) Bill.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Rick Brunt', written over a faint circular watermark.

Rick Brunt
HSE
Director Engagement and Policy Division

DMQTWB 24 - Evidence from: Health and Safety Executive

Senedd Cymru | Welsh Parliament

Pwyllgor Newid Hinsawdd, yr Amgylchedd a Seilwaith | Climate Change, Environment, and Infrastructure Committee

Bil Tomenni Mwyngloddiau a Chwareli Nas Defnyddir (Cymru) | Disused Mine and Quarry Tips (Wales) Bill

1. What are your views on the general principles of the Bill, and is there a need for legislation to deliver the stated policy intention?

1 HSE supports the Disused Mine and Quarry Tips (Wales) Bill and believe it provides a modern effective regulatory framework for managing the legacy of disused coal (and other) tips and quarries in Wales.

2. What are your views on the Bill's provisions (set out according to Parts below), in particular are they workable and will they deliver the stated policy intention?

▪ Part 1 - The Disused Tips Authority for Wales (sections 1 to 5 and Schedule 1)

2. HSE's view is that Part 1 - The Disused Tips Authority for Wales (sections 1 to 5 and Schedule 1) is workable and delivers its policy intention.

3. HSE understand creating a new body for Wales, the 'Authority' was the Law Commission's recommendation because they held the view there wasn't a single body that currently existed which could provide a uniform approach in terms of risk assessment, inspection, prioritisation and the allocation of resources. HSE supports the Law Commission's view.

4. Clause 3 (3) states the Authority may give any person, other than the Welsh Ministers, information or advice on, or assistance with, any matter relating to a particular disused tip or to disused tips generally and,

5. Clause (4) states the Authority may charge a fee for the provision of information, advice or assistance under subsection (3). HSE understands preliminary and full assessments the Authority will undertake will take account of existing data

provided by the Mining Remediation Authority enabling an expert-driven, data-driven approach allowing technical experts to inform policy.

6. The Authority should note that HSE have regulatory ownership of (Coal and Non coal) abandoned mines, quarries and tips plans which the Mines Remediation Authority and the Local Authorities store on HSE's behalf which the Authority are likely to access in order to undertake their preliminary and full assessments.

7. Therefore, HSE would like to clarify whether regulators could be charged a fee for the provision of information advice or assistance in relation to Clause 4?

▪ **Part 2 - Assessment, registration and monitoring of disused tips (sections 6 to 32 and Schedule 2)**

8. HSE's view is that Part 2 - Assessment, registration and monitoring of disused tips (sections 6 to 32 and Schedule 2) is workable and achieves its policy intention.

9. Clause 9 - HSE notes and is pleased that members of the public will have access to the electronic register of disused tips that is compiled and maintained by the Authority at all reasonable times.

10. Clause 10 puts a new proactive duty of monitoring on the Authority; Chapter 2, Clauses 11-19 refers to preliminary and full assessments of disused tips being undertaken; and Clause 15 defines the meaning of a 'full assessment'. HSE understands the process for undertaking both preliminary and full assessments will be detailed in guidance, rather than on the face of the Bill.

11. HSE would like the committee to ensure preliminary and full assessments are defined in both the bill and supported by detailed and clear guidance. HSE would welcome sight of the guidance.

12. Does the committee envisage the Authority will approach HSE to take advantage of HSE's skills, knowledge and expertise to support completion of preliminary and full assessments? HSE reviews its current charging regime annually and this type of engagement may need some consideration.

13. Chapter 4 The Categories of Disused Tips. HSE understands the aim of the new categorisation approach is to obtain consistency, accuracy and transparency in the categorisation of all disused tips and they will enable the Bill's objectives to be met. HSE is pleased it's expected there will be a read across with categorisation used already by The Mines Remediation Authority. HSE agrees it will be beneficial for the categorisation of tips and statement of its policy to be set out in guidance

rather than on the face of the Bill as this enables them to be kept under review. Whilst HSE understands there isn't a statutory duty for the Authority to consult on guidance HSE would welcome sight of it

▪ **Part 3 - Dealing with tip instability and threats to tip stability (sections 33 to 54 and Schedule 3)**

14. HSE, view is that Part 3 - Dealing with tip instability and threats to tip stability (sections 33 to 54 and Schedule 3) is workable and achieves its policy intention.

15. Chapter 2 Operations carried out by the Authority. In managing the threat of instability, the Authority may carry out operations on any land if it considers it necessary to prevent threats of instability of a disused tip. As part of their work, the Bill states the Authority has a right to remove and dispose of 'property' and in doing so can sell it but must return any proceeds back to the owner (recouping any costs).

16. HSE understands the reference to 'property', as a result of remediation work, on disused tips, is defined as property situated on the land that belongs to another person if that removal is for the purposes of carrying out operations: (operations being that which is solely to do with human welfare and stability). HSE would like the committee to note that once a tip is being worked on, remediated or the materials rewashed etc, the tip and those undertaking the work become dutyholders under HSE regulations.

17. Depending on the circumstances, that could be the Mines Regulations 2014 or the Quarries Regulations 1999 if the disused tips contain 'minerals' which are extracted and sold and in the event of any building design and management, or even the Construction (Design and Management) Regulations 2015, CDM.

18. In summary, disused tips could come in and out of the scope of this bill and other regulations. HSE is happy to support implementation of the Bill during the course of HSE's day to day operations and engagement with dutyholders, HSE will continue to provide advice on the overall regulatory framework.

▪ **Part 4 - Supplementary (sections 55 to 70)**

19. HSE's view is that Part 4 - Supplementary (sections 55 to 70) is workable and achieves its policy intention.

▪ **Part 5 – General (sections 71 to 88)**

20. HSE’s view is that Part 5 – General (sections 71 to 88) is workable and achieves its policy intention.

21. Clause 81, Meaning of “tip” and “disused tip” In the Bill “tip” means an accumulation or deposit of waste (whatever its form or composition) from a mine or quarry other than an accumulation or deposit situated underground. and it means a tip situated ‘wholly’ or ‘partly’ in Wales other than one to which the Quarries Regulations 1999 (S.I. 1999/2024) or the Mines Regulations 2014 (S.I. 2014/3248) applies.

22. HSE would like to understand why the Bill has included ‘wholly or partly’: what ‘partly’ means and what it is meant to achieve? Does this Bill place wider and more comprehensive duties on the Authority than the 1969 Act currently does for Local Authorities.

23. HSE would like the committee to note that in HSE regulations: The Mines Regulations 2014 and The Quarries Regulations 1999, there is a much broader meaning of a tip. HSE would like to ensure where possible terminology and definitions across the whole regulatory framework is aligned.

24. In MR2014 and in QR1999 tip” means an accumulation or deposit of any refuse from a mine (whether in a solid or liquid state or in solution or suspension) other than an accumulation or deposit situated underground, and includes, but is not limited to: a) overburden dumps, backfill, spoil heaps, stock piles and lagoons, and (b) any wall or other structure that retains or confines a tip.

25. When determining what a ‘lagoon’ is, consideration should be given as to whether the Reservoirs Act 1975 applies which is regulated by the Environment Agency and National Resources Wales.

26. Under Clause 81 (4) HSE note Welsh Ministers have the power by way of regulations to change the definition of a disused tip. HSE would like assurance that any change to the definition of a tip would be subject to the affirmative procedure, so HSE and others would be formally consulted so impacts on existing legislation can be considered.

27. Clause 82 Meaning of “threat to human welfare” In the bill HSE notes a threat to human welfare exists where there is a possibility of (a) loss of human life, (b) serious human illness or injury, (c) serious damage to property, (d) serious disruption of a supply of food, water, energy or fuel, (e) serious disruption of a

system of communication, (f) serious disruption of facilities for transport, or (g) serious disruption of services relating to health.

28. HSE's publicly available Enforcement Management Model (EMM) describes how HSE defines and benchmarks risk and considers the potential harm that might come to people when reviewing the consequences of an event. HSE has descriptors of a 'serious personal injury/serious health effect' and a 'significant injury/significant health effect'. HSE would like assurance that terms such as 'serious' and 'significant' used across the regulatory framework effectively mean the same thing and a similar approach is taken when assessing levels of risk.

3. What are the potential barriers to the implementation of the Bill's provisions and how does the Bill take account of them?

29. The recruitment of personnel with the appropriate level of knowledge, skills and expertise needed to implement the Bill could be a barrier. HSE noted the White Paper identified a lack of specialist skills to support the new regime, and the explanatory memorandum states that the establishment of the Authority hopes to address this. It can take a long time for individuals to acquire the appropriate level that is necessary to become fully operational.

30. HSE understand a skills survey has been undertaken with local government partners, looking at the baseline to better understand current and future demands. HSE hopes Wales will continue to engage with local authorities, skills providers, and the Mine Remediation Authority. The Bill could act as a catalyst for development and investment and growth within this sector

4. How appropriate are the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum)

31. No comment.

5. Are any unintended consequences likely to arise from the Bill?

32. Enforcement powers and sanctions: the White Paper proposed a range of enforcement powers and civil sanctions which have not been included in the Bill. HSE understands this is because this seemed overly bureaucratic and unwieldy, but, more importantly, slow the Authorities ability to act quickly. What work has been undertaken to assess the range of civil sanctions, such as fixed monetary

penalties and compliance notices and whether they are sufficient enough in law to enable the Authority to act?

6. What are your views on the Welsh Government's assessment of the financial implications of the Bill as set out in Part 2 of the Explanatory Memorandum?

33. No comment.

7. Are there any other issues that you would like to raise about the Bill and the accompanying Explanatory Memorandum or any related matters?

34. No comment.

Climate Change, Environment, and Infrastructure Committee- Written evidence on Disused Mine and Quarry Tips (Wales) Bill.

INTRODUCTION

1. The Welsh Local Government Association (WLGA) is a politically led cross party organisation that seeks to give local government a strong voice at a national level. The Association represent the interests of local government and promotes local democracy in Wales. The 22 councils in Wales are all members of the WLGA and the 3 fire and rescue authorities and 3 national park authorities are associate members.
2. WLGA believes that the ideas that change people's lives, happen locally. Communities are at their best when they feel connected to their council through local democracy. By championing, facilitating, and achieving these connections, we can build a vibrant local democracy that allows communities to thrive.
3. The main aim of the Association is to promote, protect, support and develop democratic local government and the interests of councils in Wales. This means:
 - Promoting the role and prominence of councillors and council leaders
 - Ensuring maximum local discretion in legislation or statutory guidance
 - Championing and securing long-term and sustainable funding for councils
 - Promoting sector-led improvement
 - Encouraging a vibrant local democracy, promoting greater diversity
 - Supporting councils to effectively manage their workforce.

General Points and comments

4. We are supportive of the new legislation which seeks to update the Mines and Quarries (Tips) Act 1969, to more effectively manage the 2,573 coal tips and over 20,000 non-coal tips within Wales and increase public safety and control over the management of disused mines and quarry tips.

5. The new Bill proposes a range of key changes, and our evidence will be centred around some of these:
6. **Creation of a new Authority-** WLGA welcomes the consistent and coordinated approach which the new Authority would bring in supervising and managing disused mines and quarry tips. Given the number of tips in Wales and the related issues, it is important that Wales has its own body, accountable to Welsh Government. There are, though, two important aspects which will need to be addressed:
 - a. Costs associated with setting up the new authority and future running costs. Given the pressures on local government (and other public sector) budgets, it will be important to develop the new authority in a cost effective way that does not impact on funding available to councils. As part of the process for establishing the new body the potential for sharing back-office functions with existing agencies could usefully be explored.
 - b. Depleting existing local government expertise- It is expected for the new Authority to require around 80 employees with around 30% being technical, expert in the field. To avoid loss of expertise and capacity from local government it will be important that pay rates for posts in the new body are comparable to those in local government, avoiding competition and upward pressure on wages that have to be offered. Loss of staff and difficulty replacing them would create a range of issues for councils to manage council owned tips and enforce where necessary.
7. **More effectively allows local authorities to carry out tip works & recover costs from landowners-** the additional powers proposed for local authorities are welcome but, reflecting the point above they can only be exercised effectively if capacity and expertise is present. Historically and in areas other than coal tip safety (e.g. land drainage) recovering costs from landowners has been a challenge for local authorities and upfront costs linked with potential legal battles create a hurdle to a more pro-active approach around enforcement. It will be important the new proposals help to find ways to mitigate this.
8. Although the majority of responsibilities will rest with the new Authority, councils, as landowners will have a duty to manage their own estate with an expected increase in revenue and capital costs. Although WG is currently providing capital funding to local authorities for the maintenance and upgrading of disused coal tips, it will be important that councils have the revenue funding to manage the new responsibilities placed on councils.
9. Public sector in Wales is working towards meeting the 2030 net zero commitments and the proposed UK Government's coal mining ban would go a long way in

supporting this and a transition to clean energy. The ban would not include re-mining coal tips and the new legislation itself is promoting coal tip remediation involving coal removal and earthworks as a solution to permanently prevent future coal tip instability. To prevent the unintended potential for the Bill to encourage an industry oriented towards 're-mining' disused coal tips under the guise of preventing future instability, work on the Bill could consider whether a provision prohibiting coal extraction for commercial gain from disused coal tips would be appropriate.

10. In addition, it would be beneficial to bring in a planning regime similar to the COMAH regulations 2015. This puts a responsibility on site owners to prepare an 'internal' plan which would identify who to call if movement is detected, the possible area that would be affected by a slip and actions to be taken by the owners in the case of an emergency. This can then be tied in with an 'external' multi-agency plan on how responding organisations would receive calls, how these would be cascaded, actions taken, evacuation routes, warning and informing of the public and welfare of those affected.
11. Tylorstown landslip also highlighted a range issues around emergency responses and how they relate to regulatory requirements. WG, NRW, Mining Remediation Authority, and WLGA have been working on a potential Memorandum of Understanding to try and find solutions, but the rigidity of the regulatory system makes it very difficult. It is worth noting that climate change is only likely to increase risks and increase impacts on disused coal tips and we need to have a regulatory system fit to meet the challenges linked with climate change.
12. Finally, it worth noting that some councils (such as RCT and Neath Port Talbot) have always been pro-active in managing disused coal tips under their ownership and have already been developing response plans in partnership with others. We would like to draw the Committee's attention to this and flag this as good practice.

FOR FURTHER INFORMATION PLEASE CONTACT

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jean-francois.dulong@WLGA.GOV.UK

Welsh Local Government Association

DMQTWB 22 - Evidence from: Rhondda Cynon Taf County Borough Council

Senedd Cymru | Welsh Parliament

Pwyllgor Newid Hinsawdd, yr Amgylchedd a Seilwaith | Climate Change, Environment, and Infrastructure Committee

Bil Tomenni Mwyngloddiau a Chwareli Nas Defnyddir (Cymru) | Disused Mine and Quarry Tips (Wales) Bill

1. What are your views on the general principles of the Bill, and is there a need for legislation to deliver the stated policy intention?

The general principles of the Bill are needed as the current legislation is not fit for purpose. Whilst the general principles cover most aspects there is a possible lack of depth / clarity of how certain key elements are to be undertaken. Noting that Section 3 of the explanatory memorandum says “The Bill should not be looked at in isolation.” The details in the other work forming the Coal Tip Safety Programme will determine how effective the Bill will be.

Overall lack of clarity about tip owners duties with respect to tip safety – is it expected that tip owners rely on the Authority to determine operations required for tip safety? How does this correlate for example where an adjacent landowner has planning permission for activities that may increase the risk category eg housebuilding below a tip? Or for example deforestation of the forestry estate? How does this Bill interact with adjacent land uses and needs?

Detailed Provisions S3.36 “Clarity of roles and responsibilities” – no mention of other parties roles and responsibilities within the Bill (Owner- only in P3. Ch1. S.33&34)

Overall how does the Bill address future risk, i.e. climate change predictions of rainfall patterns. If a tip is located on unstable natural land does this Bill apply? The stated objective appears inconsistently in the Explanatory Memorandum. For example, paragraph 1.1. refers to “the assessment, registration, monitoring, maintenance and oversight of disused tips”. Whereas, paragraph 3.1. refers to “assessment, registration, management, monitoring and oversight of disused tips in Wales”. In the second example, the focus is on “management” instead of “maintenance”. Given that the intention appears to be for a proactive instead of reactive approach – maintenance would be a more fitting term.

As noted above, there is no detail on owner’s duties. Many owners, including local authorities, have extensive maintenance plans already in place. The drafting of the Bill does not appear to allow for existing maintenance plans to continue – instead

the Authority will be taking full responsibility for registered tips. If this is the case – it would assist if clearer wording around maintenance was included throughout the Bill together with wording on the Authority accepting liability in the event a tip fails in the circumstances where all of the requirements of the Authority (i.e. section 33 notices) have been complied with. As a specific example, paragraph 3.56 of the Explanatory Memorandum confirms that the Authority is required to “Ensure necessary routine maintenance specific to each tip” but this does not appear to be captured by the drafting of the Bill.

2. What are your views on the Bill’s provisions (set out according to Parts below), in particular are they workable and will they deliver the stated policy intention?

▪ Part 1 - The Disused Tips Authority for Wales (sections 1 to 5 and Schedule 1)

S2(1) – “ensure that disused tips do not threaten human welfare...”

This is a good objective to have but “ensure” is a very strong term. Risks can be reduced and mitigated against but it is a very high objective to ensure no threats and to achieve this level of assuredness will require costly standards of risk management that do not necessarily apply to natural land management or to other asset management within Wales.

It is clear that ground conditions change quite suddenly with little or no surface evidence. What is achievable is that each tip is assessed on the risk that they pose to human welfare and Management Plans (tip inspection frequency, remote monitoring, maintenance etc.) and Emergency Plans are prepared so that if instability should occur the appropriate steps are taken by the appropriate parties. In the longer term to achieve the objective to ensure that disused tips do not threaten human welfare will require significant operations.

S2(2) is very dependent on employing appropriate staff within the Authority and applying stringent quality standards. The detail as to what are the high standards to be attained and how they are to be applied is subjective – this needs to be clearly and transparently set out as the legislation is enacted.

The Authority and the powers vested in it appear to remove all existing responsibilities/duties from tip owners and place them with the Authority who will then (subject to inspection) require an owner of land to undertake operations or to carry out operations itself where it deems necessary. Whilst this may be an acceptable approach for those tips currently not being maintained or managed it

raises potential conflict with those owners who currently have robust inspection and maintenance operations in place. Where a tip is local authority (LA) owned does the LA absolve itself of this responsibility to the Authority and if so where is this stated. Where are all owners' future responsibilities stated?

There does not appear to be a mechanism to devolve or delegate the Authorities powers (if required) to (for example) a technically informed body such as a Local Authority to be able to undertake the functions set out in the Bill (on the Authority's behalf). Unless this falls under delegation to a committee or sub-committee? There are "informed and expert" owners currently who will be stripped of any regulatory or management function they currently exercise and will become reliant on the Authority to provide this.

S3-5. Funding is key to the management and maintenance and operations required on tips to maintain and improve safety to successfully achieve the objective of the legislation.

S3(3) Does this apply to any third party and without tip owner permission?

S3(4) this allows the Authority to send any person information and charge that person for the information. This appears to detract from the intention of ensuring tip safety by charging for tip safety advice.

▪ **Part 2 - Assessment, registration and monitoring of disused tips (sections 6 to 32 and Schedule 2)**

A register is a proactive step towards an overall management strategy of tip safety within Wales. The inclusion of the information such as the latest inspection is useful. Will this date be of just an inspection by the Authority or will it include dates of landowner inspections? The interactions between all the available inspection information should be clarified within guidance documents.

The way forward of undertaking preliminary assessments leading to full assessments and subsequent categorisation is welcomed with additional guidance on the categorisation methodology. With respect to Full Assessments, the meaning as given in Section 15 and term 'Full' Assessment may be confusing. Reviewing the costs within the Explanatory Memorandum, this is not a full geotechnical or hydrological quantitative assessment but a qualitative walkover assessment for the purposes of categorisation.

Section 18 Notice of Intention to carry out full assessment – it may be prudent to allow some flexibility on the dates for access onto the land or the stating of one individual. There may be unavoidable reasons for entry on a specific date. A date

range or list of individuals who may carry out the assessment may introduce reasonable flexibility and efficiency into the noticing procedure.

18(2)b – it is presumed the name of the individual who will carry out the assessment is the person entering the land and the assessment will be reviewed and signed off by a senior person rather than reliance on one individual to complete the assessment.

If a tip is deemed to not pose a risk currently it will not be registered – however there is the potential for that tip (due to changes in circumstance) to pose a risk in the future – is there a database of unregistered tips and will these be reviewed to look at potential circumstantial change? Where does the risk and responsibility lie with unregistered disused tips?

Categorisation – 25 (1) states the Authority must publish a statement on its categorisation policy but there is no time frame. 24 (3) The 4 categories are subject to one or more of the matters outlined in 25(3) – it is anticipated that the guidance will outline the methodology to be used in order to assess the risk of instability or failure. This process is a fundamental aspect to this legislation and it is what the registration, categories, inspection, maintenance and management plans all rely on and is not currently explained in any detail. RCT would welcome consultation on the development of the guidance.

28 Notifiable change – what happens in a temporary situation whereby there are more frequent inspections or monitoring? This maybe be something within the guidance to address.

31 Compensation –

'Any other property is damaged, removed, disposed of' – 'Property' includes many things - possibly could be further explained.

'any person's enjoyment of any land is disturbed' – this appears to be a very broad category. This needs review and clarification. It appears anyone could claim a disturbance of enjoyment of land – e.g. noise disturbance, visual disturbance etc. For example, would a person who traverses a tip on open access land but this was restricted due to operations would they be able to claim? If a right of way was closed due to operations would persons be able to claim? This provision could be limited to those with an interest in the land a tip is on or the provision could be removed.

▪ **Part 3 - Dealing with tip instability and threats to tip stability (sections 33 to 54 and Schedule 3)**

In general, the process gives greater powers than those within the MQTA 1969. There is a very broad range of work required to tips e.g. minor vegetation clearance up to major civil engineering /reclamation works – does it include preventative, or monitoring and investigation works potentially on a regular basis and long term?

33 It would be useful to include notice for "cessation of operations" where they are increasing risk to a tip, for example excavations or deposition of materials – we have had both situations within RCT and use of planning enforcement legislation has been the only means of potentially getting works to stop.

It would also be useful to include for “prevention of future operations” which may increase risk to a tip, e.g. widescale deforestation.

33(3)(b) ‘the operations that must be carried out’ can be required to be very prescriptive and requires time and resource to scope.

If specific requirements are met and those operations do not remove the threat/risks then who is liable?

What RCT have found when undertaking operations on tips is that change is required as maintenance and access is progressed and often a phased approach is needed over several ‘seasons’ of work, how would this be addressed within noticing procedures?

There is no mention of standards of workmanship, design, design checking, adherence to other national legislation, supervision, maintenance periods and so forth. If workmanship, designs and standards to ensure stability are not consistent and regulated then this detracts from the aims of the policy intention.

How would short term emergency or general maintenance works be funded?

How do the timescales given for works fit with potential grant funding timescales?

34(1) will the operations include details of access routes such that right of entry includes these routes? Will the right of entry be transferred to the landowners to undertake operations?

35(2)(f) means any activity on adjacent land?

37 Determination of Appeals – the inclusion of PEDW to undertake appeals is noted. It is difficult to anticipate the number of appeals but there could be a lot of work in this process and requirement of tip management and drainage knowledge and experience in reviewing.

40 Power to cancel notice – would it be easier to have power to amend a notice too – see comment 33(3)b above.

44 (3) Duty to give notice – the terminology ‘immediately’ may give cause for difficulties in applying this provision. You may have emergency stand by crews to

undertake immediate work, for example clearing a culvert screen but there will also be other work that needs to be done urgently but requires more lead in time to mobilise such as a couple of days. You may be open to claims if this clause is used to gain entry, but operations did not start until some days after the instruction i.e. not 'immediately'. Within clauses 44(3) and 44(4) provision of an option where 'urgently necessary' (terminology used in the EM) works are required to be undertaken and landowners to be informed of this as soon as reasonably practical would allow for critical urgent work to prevent risks being realised and give the necessary powers of access to manage immediate and urgent work required on a tip.

44 The wording does not permit notice to be served on adjacent land for access across other land, unlike 18 for access for full assessments?

If the Authority notices or undertakes work which subsequently has an effect on neighbouring property, roads, watercourses – can the Authority be served notice or if the operations were detailed by the Authority – what defence does the landowner have against any potential breaches in other legislation for complying with the notice?

48 Compensation for Damage – see comments for clause 31 - this potentially opens up possible claims against a landowner for undertaking operations on their own land. How do you assess the disturbance to a person's enjoyment of land?

▪ **Part 4 - Supplementary (sections 55 to 70)**

In general the process is OK –

Unable to comment on how workable S.58 will be – dependent on individual landowners, for example previous Landed Gentry estates may not have the records for historical ownership. S.59 dependent on Crown Land records.

S.63 – letters will need to be sent to all landowners of a tip. Current DMW records just describe ownership as being mixed not listed individually. Landowner records are dependent on Land Registry – records may be out of date. Frequency of LR checks to be considered. LR searches cost £3 for title + £3 for title plan. Are there any records of people with an interest in the land e.g. leaseholders and private tenants?

Part 4 Information Sharing – noting Section 60 – notice may not be given to a relevant public authority – there could be significant information held by local authorities on privately owned tips – how could this information be shared?

Especially on privately owned tips or tips owned by other public authorities?

Can the Authority not serve notice on the Coal Authority (Mining Remediation Authority) for historic Coal Board records and information or will the Authority have to pay for those records as is the case currently where LA's make enquiries

for information?

63(1) 48 hours of intended entry? What does intended entry mean – the date and time or could it be for a period of time. For example, we have had situations where a landowner has been excavating on a tip – would you want to wait at least 48 hours – probably more by the time the administration and delivery of notices has taken place. Appreciating there is Section 63(3) but this is very specific and requires there to be a suspicion of instability or threat to human welfare to undertake operations on the land. This does not appear to improve access rights over the existing legislation.

63(3)b Only if tip is unstable – you may need to enter land to undertake work to prevent the tip becoming unstable – e.g. clearing a culvert inlet

It does seem, as drafted, to exclude access onto land in certain scenarios where you would want to enter onto the land to review if the tip is unstable or that there is instability – for example during or after periods of heavy or sustained rainfall. You may want to take ground water measurements or inspect culvert inlets – you will not be able to give 48 hours' notice but neither of the conditions for entry are achieved.

63(4) Not residential land? Why exclude access via gardens etc which in some instances may be the only route of access to some areas of a tip? There are some tips and one Category D tip within RCT that realistically the only means of access to certain lower flanks of the tip is via residential driveways and gardens.

▪ **Part 5 – General (sections 71 to 88)**

S.75 same comments as above regarding giving notices and records of ownership.
81 (1) the definition opens up many other sites (not currently necessarily classed as a “tip”) e.g. old colliery surfaces or relatively flat lying areas. Does this include reworked material which was once for example coal tip material but has now been moved and re deposited to a new location? Is it an accumulation or deposit of naturally occurring waste materials from a mine or quarry?

81(2) May complicate ownership issues and legal responsibilities as the wall may not be owned by the “main body” tip owner – is the wall causing an issue with the tip or is the tip causing an issue with the wall? The wall may have preceded the tip formation so why is it to be classed as part of the tip?

82 – what is the definition of “serious” unless this is defined it could be ambiguous.

82 Possibly need something to reference serious disruption to water courses and increase of flood risk or possibly this is already included by looking towards other legislation.

3. What are the potential barriers to the implementation of the Bill's provisions and how does the Bill take account of them?

Some potential barriers to successful implementation of the Bill's provisions have been highlighted in the some of the previous comments.

Other observations are:-

Inspection Frequency – RCT currently inspect Cat D tips (D1, D3) on a monthly or 3 monthly cycle. Cat C tips on a 6 month cycle, Cat B annually, and Cat A's on 2 or 4 year cycles. This not only provides a robust inspection and monitoring regime it provides public confidence that these assets are being managed effectively.

Whilst there is provision for ad hoc inspections / appraisals to be undertaken following inclement weather events it is not considered that the minimum standard interval is frequent enough particularly on the higher risk tips. They are by their definition higher risk and can be prone to rapid changes which is why a higher minimum frequency of inspection would be prudent.

This could be reviewed following (say 5 years) of inspection and management under new legislation.

Conflict with environmental, waste and planning legislation is not addressed. It needs to be considered and a hierarchy of priorities established particularly in the event of an emergency and the actions required to be set in motion.

The new legislation does not address the need for emergency planning or trigger / alert levels in order to manage tip instability events effectively.

4. How appropriate are the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum)

No comment

5. Are any unintended consequences likely to arise from the Bill?

Given the powers conferred on the Authority and the ability to request or enforce works there is likely to be a lot of concern from private tip owners as to the level of work and financial commitment they will be expected to undertake.

As previously stated there has to be a consistent approach to standards of work, methodology, design and supervision – uninformed private owners are unlikely to be aware of many of the requirements so there needs to be guidance documentation and advice readily available.

It is unclear from the legislation what role (if any) there is for larger well informed LAs and public bodies in the future implementation of this legislation.

Removal of responsibility described in MQTA69 for tip owners may lead to less consideration for tip safety and routine maintenance if they believe that someone else is responsible. It also removes powers from local authorities who may rely on MQTA 1969 to gain access to their owned tips, how the Bill confers rights onto tip owners to undertake inspections and maintenance needs to be considered.

In the event of a failure of a tip causing threat to human welfare, who will be held responsible? If Owners (who currently do not have their responsibilities set out) rely on the Authority to inspect, review and recommend maintenance works, will responsibility lie with the Authority or the Owner? If an owner has undertaken all required works and the tip still fails – who is responsible?

Transference of the legislative powers from local authorities may restrict access and rights of entry over adjacent land for LA's to manage tips on their land. Interaction of this legislation in relation to other legislative requirements of local authorities and how the Authority will discharge its duties in relation to this needs to be considered.

6. What are your views on the Welsh Government's assessment of the financial implications of the Bill as set out in Part 2 of the Explanatory Memorandum?

It is assumed that grant funding continues – this is an unknown but underpins much of the financial assessment.

It is assumed that routine maintenance works carried out by owners should be no different to works already being completed where a disused tip is being maintained to a safe level and so no additional cost has been included. However, many private tips are not maintained so there is likely to be a substantial underestimation.

There is an assumption of £11.3m grant funding per year based on the previous year's grant funding, however grant applicants have made bids totalling £27m in 2024-25 alone, so the demand for funding may well be considerably higher than the £11.3m assumed in the RIA.

Does the costing model allow for improvements to drainage infrastructure on tips, for example some infrastructure may need to be replaced and will require upgrade to current capacity and climate change predictions – this increases costs and also requires attenuation and sustainable drainage to be installed which

increases costs.

These are just a few examples where the assumptions made may fall well short coupled with how these anticipated works may need to be procured and managed going forward the outturn cost predictions may be misleading.

7. Are there any other issues that you would like to raise about the Bill and the accompanying Explanatory Memorandum or any related matters?

1. Is the Authority going to be a statutory consultee for planning matters? Planning Guidance should include consultation with respect to Tip Safety.

2. Following inspections how are maintenance works going to be prioritised - is it intended that there will be a prioritisation system?

3. Existing Infrastructure (particularly drainage) on tips is by and large reaching, or has past its design life, and in many cases is failing. Maintenance of this infrastructure is not necessarily just a simple matter of clearing out a ditch it may involve a total redesign and reconstruction. Much of the existing drainage infrastructure is likely to be under designed for current standards (including current climate change requirements) - is the Authority going to design any new requirements based on inspection and assessment or is this aspect to be given to landowners - who will regulate this?

4. The requirement to improve the existing drainage infrastructure on tips is a crucial element of their safety moving forward. It is essential to remove the water as efficiently and as quickly as possible from the tip - however - this poses a conflict with other regulatory requirements. Storage, attenuation, detention are all methods to do this but come at a cost and depend on available land to provide these features.

5. Many tips do not have formal drainage infrastructure - however given the changing weather patterns and events experienced together with such things as off road activity causing new uncontrolled drainage features on tips and the likely need for new formalised drainage has this been factored into the financial model in order to provide an acceptable level of safety?

6. Bodies such as LA's are seen by the public to be largely responsible for their welfare, provide a degree of confidence and are their usual first port of call and these expectations need to be managed appropriately around such a sensitive and emotive subject.

7. Will you supply information and reports you create on tips to the tip owners?

4.6 Should Rhondda Cwm Taff Committee read Rhondda Cynon Taf Committee?

Rebecca Evans MS

Cabinet Secretary for Economy, Energy and Planning

13 December 2024

Dear Rebecca,

Thank you for attending the Committee's meeting on 20 November 2024 to discuss Welsh Government policies on energy, planning and transport. The Committee agreed that I should write to you to request clarification of several issues raised during the session.

Energy

The Committee notes your comments regarding a target for Trydan Gwyrdd Cymru to develop renewable energy capacity of at least 250 MW by 2030, with an additional 750 MW by 2040.

- The Committee would be grateful for further information about the five priority projects being developed by Trydan Gwyrdd, including their proposed locations. If you cannot share this information now, can you tell the Committee when you expect to be in a position to do so?

You referred to the historic problems with grid investment and infrastructure. Your official referred to steps that are being taken to manage the connection queue and collaborate with National Grid and NESO to address these challenges.

- How is the Welsh Government collaborating with National Grid and NESO to improve the speed of access for the priority projects?

Given the potential overlap, the Committee believes that the functions and duties of Trydan Gwyrdd Cymru, the Welsh Government Energy Service, Ynni Cymru, and the proposed GB Energy need to be clarified.

- You told the Committee that the Welsh Government has "been really keen to stress to the UK Government that Trydan Gwyrdd Cymru gives the UK Government's Great British Energy company the opportunity to make some early quick wins, because we've already established projects that could be taken forward." Can you elaborate on this statement and explain how

the proposed GB Energy company will be involved with the sites being developed by Trydan Gwyrdd Cymru?

We welcome your comments about opportunities for local ownership and benefits for communities arising from developments. You said this was an opportunity “to do things differently in terms of community benefit and show how things can be done to extract the maximum benefit for communities”.

- How is Trydan Gwyrdd Cymru engaging with the communities surrounding the five priority proposals? Can you give an update on the development of any proposed arrangements for local ownership or community benefits?

The Welsh Government launched a consultation on its renewable energy targets in January of last year. A summary of responses was published in July. You told the Committee that the targets were also updated in July, in light of the review.

- What are the updated renewable energy targets, and when and where were they published?

The Committee notes your comments about the forthcoming consultation on CCS.

- Can you set out a timeline for the consultation and the next steps?
- You said that CCS should only be used where there is no alternative for an industry, such as cement manufacturing. To what extent does your position align with the UK Government’s, given its funding of CCS initiatives?

We note your comments in relation to undergrounding electricity cables where feasible and the advisory group’s role in developing principles to guide future energy infrastructure decisions. Your official confirmed that the advisory group will report in the new year.

- Can you confirm the timeline for the group to report and set out the Welsh Government’s next steps for progressing its conclusions?

Planning

The Welsh Government consulted on proposals for full cost recovery for the new Infrastructure Consenting regime between May and July 2024. You told the Committee that the Welsh Government will consult in November 2024 on improving the capacity and resilience of planning services.

- What measures will be put in place to ensure that income from increased planning fees is used to improve planning services, and how will the Welsh Government respond to calls for ring-fencing elements of this income for local planning authorities?

We note your comments about the creative solutions, albeit short-term, being provided by Net Zero Industry Wales to address resource pressures in specific local authorities. However, you recognised this was not a “long-term answer”.

- What longer-term strategies are the Welsh Government considering to address resource and capacity constraints in local planning authorities?

The Committee notes your comments on Developments of National Significance (DNS) and that decisions for energy projects under 50 MW will be delegated to Planning and Environment Decisions Wales (PEDW).

- How will the delegation of DNS decisions for energy projects under 50 MW to PEDW maintain democratic accountability and ensure local community engagement?
- Does the decision to put in place interim measures to delegate schemes up to 50 MW to PEDW indicate there will be significant delays in implementing the new regime as provided for by the Infrastructure (Wales) Act 2024? Can you set out a timeline for the new regime being in place?

The Committee notes with concern the delay in producing Strategic Development Plans, particularly given that even the most advanced region, South-East Wales, will require 4 to 5 years to complete its plan—approximately 15 years after the Planning (Wales) Act 2015 was passed. Other regions appear likely to take significantly longer.

- What steps are being taken to ensure consistent progress across all regions in developing Strategic Development Plans, and how will the Welsh Government support regions that are currently lagging behind?

Transport

You explained to the Committee the current ad hoc approach to Ministerial joint-working on transport issues. The Committee believes there is a need to ensure streamlined decision-making across portfolios, particularly given the complexities of responsibilities for aviation, ports, freight and related matters, including road and rail links to ports.

- What are the advantages of the current ad hoc arrangements over formalised arrangements, such as a joint working group?
- Can you update the Committee on how you are working with other ministerial colleagues on the Border Target Operating Model?

The Committee supports the commitment to developing both a freight and logistics plan and a national ports and maritime plan under the Wales Transport Strategy. Your official explained that the

Wales Transport Strategy deadline for the port and maritime plan is the end of this Senedd term. However, the National Transport Delivery plan says the timescale for development is 2022-2024.

- Can you clarify the intended timescale for completing the ports and maritime plan?

You told the Committee about the Welsh Government's work with the UK Government on free port development, including the progress on the Celtic free port and Anglesey free port.

- Can you provide an outline of the intended timescales for completing the remaining approval processes for the two Welsh free ports, and when do you expect them to become operational?
- Can you explain why the Celtic and Anglesey freeports are at different stages in the approval process?

The Committee notes the planned £206 million investment in Cardiff Airport to support economic growth, and your comments about being open to refining the programme of investment in light of the Competition and Markets Authority (CMA) assessment. We are also aware of a recent economic assessment referenced by the airport.

- In September, Cardiff Airport told PAPAC that "a recent economic assessment" was undertaken recently by Grant Thornton as part of the preparations for the future investment plans. Could you provide the Committee with a copy of the most recent assessment?
- What is the status of the outstanding targets set for the airport's 2021 rescue and restructuring plan? Will these targets be abandoned or rolled into the objectives for the £206 million funding and long-term strategy?
- What are the consequences for Cardiff Airport if it fails to meet any targets set under either the rescue and restructuring plan or the new long-term strategy funding?

Thank you again for your constructive contribution to the Committee's ongoing work. We look forward to your response on these important matters.

I should be grateful for a response as soon as possible, and by 23 January at the latest.

Yours sincerely,



Llyr Gruffydd MS,
Chair, Climate Change, Environment and Infrastructure Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg | We welcome correspondence in Welsh or English.





Llywodraeth Cymru
Welsh Government

Llyr Griffiths MS

Chair

Climate Change, Environment and Infrastructure Committee

24 January 2025

Dear Llyr,

Thank you for to your letter following my appearance before the Committee on 20 November to discuss Welsh Government policies on energy, planning and transport.

Below are detailed responses to each point you have raised.

Energy

Further information about the five priority projects being developed by Trydan Gwyrdd, including their proposed locations

A comprehensive early feasibility review undertaken by Trydan Gwyrdd Cymru's initial programme team identified significant development potential on the Welsh Government's Woodland Estate, amounting to an additional 250MW of renewable energy capacity by 2030 and an additional 750MW by 2040 – subject to availability of grid connections.

The feasibility review identified five sites that appear to have strong development potential for onshore wind. Projects were ranked based on deliverability, considering planning, road access, access to grid and indicative financial return. The proposed locations of these sites are expected to be announced once there is sufficient confidence that they are viable, and enough information to answer the valid questions people near the site will have. We expect to announce the first sites in the coming months.

How the Welsh Government is collaborating with the National Grid and NESO to improve the speed of access for the priority projects

Welsh Government officials continue to work with a broad spectrum of partners and stakeholders to ensure the needs of the people of Wales are considered in the significant work for planning the expansion of the GB electricity network. With the National Energy System Operator (NESO) beginning work on a Strategic Spatial Energy Plan, we are pleased that the Welsh Government as a co-commissioner of the plan is on the committee that will oversee the process. We have already actively worked with the NESO to ensure that their final network option for the Celtic Sea will provide a robust long-term solution for Wales and the southwest of England.

The Beyond 2030 report from the NESO set out network recommendations for the GB electricity system and reconfirms the need for a high voltage transmission link between North and South Wales, which was first proposed in the HND (Holistic Network Design) report. The Welsh Government has been having ongoing conversations with National Grid Electricity Transmission about the timescales for proposals and how options for such a route would be designed.

The NESO is leading a process to reform connections to the transmission network, originally to make it quicker and easier to connect. This process is part of wider reforms to networks needed to deliver net zero. The Welsh Government is engaging with NESO to understand how this process could help deliver Wales's renewable energy targets. The reform has the potential to bring forward Trydan Gwyrdd Cymru's priority projects' grid connection dates. This will partly be through de-prioritising inactive projects in favour of ones that are progressing through development milestones.

It is useful to note that nearly all projects in Wales connect to the distribution network, whilst the UK/NESO reforms are focused on the transmission network. District Network Operators (DNOs) represent the needs of their proposed distribution-connected projects with the NESO. DNOs have been deeply involved with our local and regional energy plans, but the current process takes account only of those projects that have signed a contract for a grid connection. Projects with land rights, a grid connection, and that are moving through the planning process, will be prioritised. Welsh Government has flagged the challenge this presents for some small organisations, including community groups, and are working with DNOs to make sure they are not unduly disadvantaged.

Clarification regarding GB Energy and how they can potentially be involved with the sites being developed by Trydan Gwyrdd Cymru

The Welsh Government has had initial conversations with Great British Energy about the opportunities for partnership working across the portfolio of current delivery mechanisms including:

- The Welsh Government Energy Service, which provides support to public sector bodies and community groups.
- Ynni Cymru who are scaling up long term support for community energy and investigating the role of smart local energy systems to deliver local value and minimise the need for new, large infrastructure.
- Trydan Gwyrdd Cymru, our utility scale developer working on public land in Wales to deliver wind projects for the people of Wales.

The details of the involvement that Great British Energy could have on any of the Welsh Government's delivery mechanisms are yet to be determined. However, given that the Welsh Government has organisations and programmes already currently operating, it offers opportunities to scale up existing projects or the provision of support relatively quickly.

The Trydan Gwyrdd Cymru team met with the GB Energy team in December and shared information under a non-disclosure agreement. However, GB Energy is initially focused on investment in the less developed technologies such as offshore and floating wind.

Initial discussions with Great British Energy have centred on the need to avoid duplication, focus on where Great British Energy can add the most value, and the importance of maximising benefits to the people of Wales.

How Trydan Gwyrdd Cymru is engaging with communities and proposed arrangements for local ownership or community benefits

As previously stated, the proposed locations of Trydan Gwyrdd Cymru's first priority sites are expected to be announced in 2025. Trydan Gwyrdd Cymru will be organising face-to-face meetings and workshops, attending local events and undertaking digital engagement across Wales once the locations have been released.

The developer has already begun engaging with the public as from July to September 2024 they ran a survey called "YOU first!" to understand what is important to people in Wales when it comes to renewable energy projects. The outcomes of the survey are being used to inform the development of an approach to local ownership and community benefits.

The Board of Trydan Gwyrdd Cymru includes an expert on local and shared ownership and the leader of a community organisation in South East Wales. They are leading work for the Board on models of ownership that could make such major projects more accessible to communities, particularly those in the least affluent areas.

Renewable energy targets

The consultation on targets took place 24 January until 18 April 2023. On 14th July 2023 a summary of responses were published together with a written statement by the Minister for Climate Change Julie James. The written statement introduced the new targets for Wales.

Timelines for consultation on CCS and next steps

On 2nd December 2024 the Welsh Government launched a twelve-week consultation on its preferred policy position for carbon capture, utilisation and storage (CCUS). Officials are reviewing responses and feedback from stakeholders, and will consider whether any refinements to the policy are required after the consultation closes.

A written statement confirming the adopted policy position will be issued during March 2025, accompanied by a Welsh Government response to the consultation and the final drafting of the policy.

During 2025, detailed guidance on the implementation of the policy will be developed for planning officers and other decision makers. This guidance will build upon the numerous studies commissioned by the Welsh Government, its work on regulatory route maps, and our collaboration with the UK and Scottish Government's policy and regulatory groups over the past three years. The guidance will facilitate the effective deployment of CCUS where it makes a clear and measurable contribution to decarbonisation and Wellbeing of Future Generations Act goals.

Welsh Government's position regarding CCS and how this aligns with UK Government

The Climate Change Committee (CCC) has been consistent in stressing CCUS is crucial for the transition to Net Zero by 2050. CCUS will play a crucial role in reducing emissions from industrial processes and combustion, electricity generation, hydrogen production, and also where CO₂ is removed from the atmosphere through greenhouse gas removals technologies. Similarly, the International Energy Agency and the Intergovernmental Panel on Climate Change have endorsed CCUS as a critical tool in decarbonisation, particularly in heavy industry such as cement.

However, the CCC are also clear that capture and storage is not a silver bullet and that every attempt must be made to prevent the greenhouse gases being generated in the first instance. Our vision for the future of industry and energy generation in Wales is one in which sustainable industries are retained in Wales and continue to generate high-quality jobs and other benefits for the communities in which they operate. We want industry to substantially reduce its reliance on fossil fuels and its generation of greenhouse gases.

We see a role for targeted implementation of CCUS where it will accelerate emission reductions during the transition away from fossil fuels, and for those industries where there is no reasonable alternative to avoid or substantially reduce the emission of CO₂ to atmosphere. To this end, our policy looks to encourage the deployments of CCUS where:

- it makes a clear contribution to decarbonisation and the economy,
- there are no reasonable alternatives to reduce emissions, and,
- its deployment does not unnecessarily prolong the use of fossil fuels.

The Welsh Government is not able to meet its decarbonisation targets without the right policy and financial commitments from Westminster as the UK Government holds many of the powers and levers related to CCUS. Therefore, the Welsh Government will continue to engage with the UK Government on its developing CCUS policies and regulatory measures, at both an official and Ministerial level, to ensure they take account fully of the needs of Wales and to ensure the technology makes a sustained contribution to decarbonisation. Not least because most CCUS projects entail a significant degree of cross-border and cross regulatory agency working. Officials are working with the UK Government on developing support for non-pipeline transport of CO₂, UK Government Cluster sequencing and economic and environmental regulatory controls.

Timeline for advisory group's report on future energy infrastructure decisions. Next steps for progressing its conclusions

The Independent Advisory Group on Future Electricity Grid for Wales group met during 2024 and has agreed to extend its timetable to account for the complexity of the issues under consideration. We expect the independent group will provide draft recommendations for principles for acceptable electricity grid development in Wales for Ministers to consider by the end of March 2025. These recommendations will be published in due course. The Welsh Government will need to consider the scope and nature of the recommendations before developing plans for further action.

Planning

Measures to ensure income generated from increase planning fees is used to improve planning services and how Welsh Government will respond to calls for ring fencing elements for local planning authorities

I issued an important and wide-ranging consultation- '*Promoting a resilient and high performing planning service*' on 15th November. The consultation sets out my initial proposals for improving the capacity and resilience of planning services. The consultation includes proposals to increase planning applications fees (including a pathway to full cost recovery). The proposed fee increase will significantly enhance local planning authority resources and place them on a sustainable financial footing.

I am only prepared to introduce increased planning application fees where they result in improved performance.

Applicants tell me they are prepared to pay for improved planning services, if there is an assurance that improvements will follow and endure. I will re-introduce the Planning Performance Framework, which was paused during the Covid pandemic, to ensure that performance is effectively monitored. A new requirement for local planning authorities to provide management and financial information will be introduced to evidence how the enhanced fee income is delivering improved performance locally.

Planning fee income is not currently ringfenced which means that it may be used to offset wider local authority budget pressures. Whilst there is wide ranging support for the ringfencing of fees, I recognise that there are challenges to implementing this approach. However, if the enhanced performance information demonstrates that performance has not improved and that planning application fee income is being used for other purposes, I will consider introducing ring fencing.

Longer term strategies being considered to address resource and capacity constraints in local planning authorities

The impact of public austerity on local planning authorities has been severe meaning that it will take time to restore the service to a high performing level. The second part of the consultation sets out our proposals to address capacity constraints in local planning authorities and requests additional ideas. It seeks views on how best to increase the pipeline of planners and related professionals by ascertaining the demand and viability for bursary and apprenticeship schemes in both LPAs and CJs. In addition, my officials are currently working with the WLGA to understand the current and medium-term LPA demand for Welsh Government funded bursary schemes.

I have commissioned the Royal Town Planning Institute to undertake a piece of work on 'workforce planning' to be published early summer. It will provide a detailed picture of the existing and future resource and skills requirements across the planning service. This will allow the Welsh Government, local planning authorities, and other partners to devise strategies to address future workforce needs.

We are also looking closely at regional delivery options for planning services especially in a world where there is a finite supply of professionals. The consultation is seeking views on wider proposals relating to more effective regional working by CJs, including the establishment of planning skills hubs in particular for specialist planning functions.

How the delegation of DNS decisions for energy projects under 50MW to PEDW maintain democratic accountability and ensure local community engagement

The delegation of DNS decisions for energy projects under 50 MW to PEDW does not result in a democratic deficit, inspectors appointed by PEDW already determine other applications and planning appeals on behalf of the Welsh Ministers. To ensure that complex, novel or contentious issues are determined by Welsh Ministers there is a power to direct a specific application in relation to DNS electricity generating projects below 50MW is to be considered by them.

The decision to delegate schemes up to 50 MW to PEDW is an interim measure, which will only have effect on projects falling under the DNS system. When the new regime provided for by the Infrastructure (Wales) Act 2024 comes into effect new projects below 50MW will be determined by the local planning authority.

The delegation of DNS decisions does not amend the requirements for community engagement throughout the DNS process. A guide setting out how communities can expect to be involved in the development of a DNS proposal is provided below.

<https://www.gov.wales/sites/default/files/pdf-versions/2024/4/2/1713868874/developments-national-significance-guide-engaging-process.pdf>

Timeline for new regime and potential delays in implementing new regime

The new regime provided for by the Infrastructure (Wales) Act 2024 is planned to come fully into operation during September 2025. The planned introduction date is subject to the response to question two of the consultation on implementing subordinated legislation. The question sought views on the time needed for stakeholders to be ready for the new requirements to commence.

How Welsh Government will support regions to develop Strategic Development Plans

The Town and Country Planning (Strategic Development Plan) (Wales) Regulations 2021 came into force on 28 February 2022, enabling the four Corporate Joint Committees (CJCs) to exercise their strategic planning function from 30 June 2022. The legislation reset the governance structure from the Planning (Wales) Act 2015. The current position is that LPAs continue to progress work on their replacement LDPs in parallel with SDPs to maintain an up-to-date plan coverage and avoid a policy vacuum.

To support early preparatory technical work, two non-statutory advisory notes covering governance, and key SDP plan preparation procedures were issued in August 2021. Specific SDP guidance in the form of a draft SDP Manual was issued for targeted informal consultation during 2022 to inform/assist the plan preparation process. The SDP Manual will be formally published during 2025.

Officials continue to engage with CJCs and LPAs to provide detailed technical advice on the content of SDPs and the plan preparation process. This has been through direct contact with CJCs, individual LPAs, and LPA regional groups. Officials have also engaged with the SE Wales CJC to develop a Draft Delivery Agreement, the precursor to prepare an SDP. This provides a template to enable other regions to follow.

Transport

Advantages of ad hoc arrangements over formalised arrangements, such as a joint working group

Ad hoc arrangements have the advantage of considering time critical Transport planning application and consenting. Formalised arrangements such as the Regional Transport Plans (which the Corporate Joint Committees are preparing) offer a forum within which Government can look at any arising issues as part of future proofing.

Collaboration with other ministerial colleagues on the Border Target Operating Model

The Deputy First Minister is now leading the Welsh Government's work on border controls, as this fits well with his portfolio. Other ministers are involved as required, for example, we jointly gave evidence to ETRA on 15 January. The Committee may wish to direct any follow up questions to him, nevertheless I can provide a brief update on the work.

The Committee will be aware that the Border Target Operating Model (BTOM) was agreed with the UK and Scottish Governments in August 2023, and Defra is now leading for the UK Government.

The new UK Government intends to renegotiate borders agreements with the EU, including a new veterinary agreement. We are broadly supportive of their approach, but it is likely to take some time to reach agreement, so we need to continue to work on the outstanding issues.

The changes laid out in the BTOM are a necessary result of Brexit and the UK's exit from the European Single Market. The Welsh Government worked with the Scottish and UK governments to develop coherent and consistent rules which respect our high standards of biosecurity, whilst maintaining the viability of businesses, including the ports, including for smaller ports, and we secured a border operating model which works for Wales and the whole of GB.

At the time the BTOM was agreed, there were a number of outstanding issues which prevented us finalising the regime for goods from the island of Ireland, so no date has yet been set for identity and physical checks to begin at Ireland-facing ports. We have emphasised the need for a joined-up approach, whether goods arrive in Wales, Scotland or England.

I am pleased to say that policy discussions have restarted with the UK and Scottish Government, and I'm sure that the Deputy First Minister will update the Committee as matters progress.

Intended timescale for completing the ports and maritime plan

We intend to complete the strategy by the end of this term of government, spring 2026. My initial priority will be to support my colleague the Cabinet Secretary for Transport and North Wales, with the establishment of a Welsh Government-led multistakeholder taskforce to develop a new strategy for the future of the Port of Holyhead. The task force will include participation from Minister Lawless from the Irish Government so that we can ensure that the port will meet the future needs of both nations. The taskforce will also consider the resilience of sea connectivity between Wales and Ireland more generally, so that these critical transport links can better withstand the challenges we expect from climate-driven changes in severe weather patterns and other hazards and threats. The taskforce will of course link in with our broader work on a Welsh Ports and Maritime Strategy for Wales.

This shorter-term priority work will help shape the scope of the wider Ports and Maritime Strategy for Wales and determine the budget required to deliver the Strategy. I will report back to the Committee once the taskforce has completed its work on a new strategy for the future of the Port of Holyhead and its work around the resilience of sea connectivity between Wales and Ireland more generally. I will write again to the committee once we have agreed a scope and have allocated budget for the development of the wider Ports strategy.

Intended timeline for remaining approval process for the two Welsh freeports

The Celtic Freeport has tax sites designated and is operational, as businesses on the sites can qualify for tax relief. We are now working with the Freeport to complete their Full Business Case (FBC) and put in place a Memorandum of Understanding (MoU). Once the MoU is signed, we can start to release seed capital funding for infrastructure and skills projects. We aim to agree the MoU in Spring 2025.

Subject to relevant parliamentary scrutiny, the tax site designation legislation for Anglesey Freeport will come into effect on 23 January and the Freeport will be open for business. My officials are awaiting the formal submission of the Freeport's FBC for assessment and have been working closely with the Freeport consortium on its development. Dependent on the FBC assessment we would hope to agree the MoU by the summer of 2025.

Clarification around why Celtic and Anglesey freeports are at different stages in approval process

Each Freeport is assessed independently. Various factors can affect the timings of the approval process. These range from timings for the submission from the Freeport of relevant documents, responses to requests for further information, and the degree to which further actions are needed to meet assessment thresholds.

The approval process involves both the Welsh and UK Governments, with decisions needed from Ministers in the Welsh Government, Ministry of Housing, Communities and Local Government, and HM Treasury (HMT). The final decision from HMT on the tax sites for both Welsh Freeports also formed part of the overall UK Government

considerations for the first phase of the spending review. Whilst an exceptional case was agreed to progress the Celtic Freeport in advance of the autumn budget, the Anglesey approval was considered as normal after the budget was agreed.

Most recent economic assessment for future investment plans for Cardiff Airport

An independent economic assessment for the future plans for Cardiff Airport was conducted as part of the submission to the Competition & Markets Authority and their assessment of our proposed long-term investment in Cardiff Airport which was published on 2 October.

I am not going to comment on the detail of the economic assessment or the CMA report. We are taking the time needed to give full consideration to the CMA's assessment.

As previously stated to committee we remain open to refining our proposed programme of investment on the basis of that assessment.

I will update the Senedd and this Committee in due course once we have decided on the best way forward and I will commit to publishing a redacted / summary version of the economic assessment shortly after when the time is appropriate.

Status of outstanding targets set for the Airport's 2021 rescue and restructuring plan and how targets will be incorporated into objectives for long term strategy

Update on performance targets set out in the Airport's rescue and restructuring aid grant agreement:

Description of the Target	Date by when it should be achieved	Evidence required	Updates
Achieve an annual level of 1.3m flown passengers	31 March 2026	Report detailing passenger numbers based on data submitted to the Civil Aviation Authority (CAA)	Cardiff Airport has recovered 52% of its 2019 passenger figures, recording 860,000 passengers through its terminal by the end of the last financial year (31 March 2024). Due to the unforeseen loss of Wizz Air in early 2023 and route cancellations such as the Ryanair route to Belfast in October, the airport is now on a trajectory to achieve 1.3m

			passengers by 31 March 2028.
Reach a level of profitability, measured by the EBITDA (Earnings Before Interest, Taxes, Depreciation, and Amortization) margin	31 March 2029	Set of audited accounts	The airport is yet to reach a level of profitability, measured by the EBITDA margin. LBITDA (Loss Before Interest, Taxes, Depreciation, and Amortization) is in line with budget, reaching positive EBITDA is a future target.
Minimum of £500,000 salary cost saving	Year ended from 31 March 2022	Annual report	The Airport achieved the target of a minimum of £500,000 salary cost saving in Year ending 31 March 2022.
Maintain operating costs in line with the 11/02/21 forecast.	31 March 2029	Any projected increases of more than 5% to be notified to the Welsh Government Official as part of the quarterly reporting.	The airport continues to maintain operating costs broadly in line with the 11/02/21 forecast. However, we recognise a number of factors continue to impact on the aviation industry including inflationary pressures, a tight labour market and mandatory regulatory requirements, that present significant challenges to the aviation industry in its recovery and it is no different for Cardiff Airport.

Commitment to becoming carbon neutral:

31 March 2023

To be updated as part of the quarterly reporting.

The position remains the same as articulated to Public Accounts and Public Administration Committee in a letter from the WG dated 5 May 2023; [Letter from the Welsh Government to the Chair - 6 May 2023.pdf](#)

- a) Commit to an operational solar farm at Cardiff airport (or some other energy efficient usage for energy consumption)
- b) Commitment to the development of sustainable aviation fuel and to offer this to airlines at Cardiff Airport as soon as practicably possible.
- c) Commitment that all future vehicle purchases will be electric or hybrid (where available)
- d) Offer a pricing structure (that can be made publicly available) where there is discount on fees and charges for those airlines operating the most fuel-efficient aircraft.
- e) Focus on enhancing environmental flightpath.

No revisions, new measures or targets have been agreed by either party on any of the above targets.

The above targets will not be brought forward and included as part of any new targets set by the WG as part of any future long term strategy or funding package for the airport. The above targets were specifically set / agreed as part of the rescue and restructuring package in March 2021. A new set of targets would be agreed between the Welsh Government and CIAL as part of any future funding support / package.

Consequences if Cardiff Airport fail to meet targets

The Rescue and Restructuring package has fulfilled its primary function, which was to support the airport through what's been quite a long-tail impact from the pandemic, perhaps longer than people had originally anticipated. We made our very best estimates about how things might unfold when we created the funding package. We are very comfortable that it has protected the airport through those long-tail issues.

We think the airport team have done a fantastic job in those circumstances, to get Cardiff Airport to where it is today, and provide that really solid and stable platform for a future that we hope will be positive.

The Targets are not considered performance conditions, rather being targets to aim towards and not performance conditions that must be satisfied.

The Welsh Governments will not seek to penalise the airport for not meeting any of its agreed targets.

We are now moving into the next phase, which is about long-term investment, based on economic growth, the potential of the airport and the surrounding area. That is the focus of this next stage in the airport's journey, and that is why we have got on and made our subsidy application to the Competition and Markets Authority.

Yours sincerely,



Rebecca Evans AS/MS

Ysgrifennydd y Cabinet dros yr Economi, Ynni a Chynllunio
Cabinet Secretary for Economy, Energy and Planning

Ken Skates MS

Cabinet Secretary for Transport and North Wales

13 December 2024

Dear Ken,

Thank you for attending the Committee's meeting on 27 November 2024 to discuss Welsh Government policies on those aspects of the transport portfolio that you are responsible for. The Committee agreed that I should write to you to request clarification of several issues raised during the session.

Freight

During scrutiny of the Cabinet Secretary for Economy, Energy and Planning on 20 November, we discussed freight policy in the context of her responsibility for maritime ports and Cardiff Airport. Freight does not feature in the responsibilities listed on the Welsh Government website under your portfolio or hers. However, the Cabinet Secretary for Economy, Energy and Planning explained that freight is your responsibility.

- Could you update us on progress in developing the Wales National Freight and Logistics Plan, including when it will be published and what it will contain given the National Transport Delivery Plan commits to develop this by 2024.
- Could you outline how you collaborate with the Cabinet Secretary for Economy, Energy and Planning on the areas where your portfolios intersect, including freight?

Rail reform

The Committee notes your discussions with the UK Government about the forthcoming Rail Reform Bill and the proposed Wales and Borders business unit within Great British Railways (GBR). You told us

about your hopes that, in future, the role of Welsh Ministers in the governance of Welsh rail services will be strengthened.

1. Can you provide details of the discussions you and our officials are having with your counterparts to ensure that Welsh Government priorities are adequately reflected in the Bill?
2. How do you envisage GBR, a body exercising functions in relation to reserved matters, will be accountable to Welsh Ministers in a meaningful way? For example, do you anticipate the Bill devolving significant executive powers to the Welsh Ministers alone, or shared with the Secretary of State?
3. Can you provide further detail on your suggestion that Senedd members will be able to scrutinise the Wales and Borders business unit?

In September, the Cabinet Secretary for Finance and Welsh Language, Mark Drakeford MS, wrote to the Chancellor of the Exchequer setting out priorities for the 30 October budget. The letter called for “a fair approach to the application of Barnett in relation to rail funding, including a review of comparability with the Department for Transport and of the Rail Network Enhancements Pipeline processes, and working together to develop an agreed pipeline of rail infrastructure investment across Wales, and agree treatment of the Core Valley Lines (CVL) Network in the Barnett formula.”. This issue was discussed in the meeting and we would like clarification on certain aspects.

4. Could you provide further information and detail on the treatment of funding for the Core Valleys Lines under the Barnett formula, including:
 - How this is managed currently under the transfer of ownership agreement.
 - The matters that remain to be clarified in the light of the letter from the Cabinet Secretary for Finance and Welsh Language to the Chancellor of the Exchequer.
 - The total funding currently received annually, and the amount you estimate is due following further agreement.

The Committee notes your comments on the potential establishment of a dedicated “enhancement” fund within GBR.

5. What assurances have you received from the UK Government about creating a dedicated enhancement fund for Wales?
6. How do you anticipate accountability for this fund be shared between Welsh and UK Ministers to ensure effective delivery of Welsh rail priorities?

In June 2024, the then Minister for Finance and Local Government, Rebecca Evans MS, wrote to Senedd Members to explain that the Welsh Government estimated the total owed to date (up to 2024-25) in consequential funding arising from HS2 to be £350 million.

7. Could you:
 - Set out the calculations underpinning the figure of £350 million, which the Welsh Government has said would be due up to the current financial year.
 - Provide the Welsh Government's view, with calculations, of total consequential funding which would be due on the total project spend, based on current estimates now that phase 2 has been cancelled.

In relation to the UK Government's review of the Green Book appraisal process, we note the comments made during the meeting about the political nature of final funding decisions.

8. Could you explain what steps you are taking to ensure Welsh priorities are adequately reflected in UK ministerial decision-making processes, particularly in cases where objectives between the Welsh and UK Governments may differ?
9. Could you provide further information on the composition, operation, and role of the Wales Rail Board, particularly in light of your comments about the Green Book and its interaction with the objectives of the UK and Welsh Governments?

You highlighted the challenges arising from the increasing frequency of extreme weather events, particularly for vulnerable lines such as the Conwy Valley.

10. What actions are the Welsh Government taking to address the growing risks of climate change to the transport network, including rail?

Rail services and performance

The Committee notes your comments regarding TfW's improved overall performance and the impact of severe weather on recent performance.

We look forward to receiving the supplementary note you promised during the meeting detailing target points for the introduction of new rolling stock on each of the lines and routes in Wales.

During the meeting, you highlighted the potential benefits of extending services, for example, between Milford Haven and Paddington.

11. Could you provide an update on the proposed Milford Haven to Paddington Service?

Road safety and pavement parking



The Committee notes your comments that the new Welsh road safety strategy has been delayed due to prioritisation of the 20mph policy and discussions with the UK Government on their road safety strategy for England.

12. Could you provide the Committee with a timeline for publishing the new road safety strategy?

The Committee notes the ongoing challenges posed by pavement parking, particularly for vulnerable pedestrians, and the capacity constraints faced by local authorities. **We look forward to receiving the note on pavement parking, which you promised during the meeting.**

13. In your note, could you also clarify whether you believe it would be appropriate for the UK Government to legislate on pavement parking for Wales, as suggested, given this would limit the opportunity for Senedd scrutiny and, in any event, would not address the underlying issue of local authority capacity.

Road building and unadopted roads

You highlighted examples, such as the Newtown bypass, as projects that enhance well-being and active travel by diverting traffic from local roads. In relation to Welsh Government policy commitments to reduce car miles per person we note that your answer referred to giving people choices over how to travel.

14. To better understand the role of road building in meeting the Welsh Government's targets, we would welcome data or evidence from projects like the Newtown bypass or others, explicitly demonstrating how they have contributed to a reduction in private car use on the network as a whole, as opposed to specific sections.
15. Could you clarify whether the target of a 10% reduction in car miles per person by 2030, as set out in the 2021 Net Zero Plan, remains Welsh Government policy and how the Welsh Government is pursuing this target?

You told the Committee that 17 local authorities have shown an interest in securing funding for unadopted roads.

16. Can you provide further details on how you intend to support Welsh local authorities in dealing with this matter? Can you also provide an update on the extent to which this issue is linked to broader issues, such as unadopted drains and other adoption of other community assets?

Active travel

Concerns have been raised regarding the impact of shared active travel routes on disabled users, such as blind and partially sighted people, and the rise of high-powered e-bikes on active travel infrastructure. To ensure active travel is inclusive, we would welcome your response to the following:

17. What measures are being introduced to ensure the needs of disabled people are fully considered in the planning and design of active travel infrastructure?
18. How is the Welsh Government addressing the safety concerns associated with high-powered e-bikes on active travel routes?

Legislation

On 9 July 2024, the then First Minister, Vaughan Gething MS, delivered a statement on the legislative programme to Plenary. In that statement, he said the Welsh Government would “consult on a draft taxi and private hire vehicles Bill this Senedd term, and we will continue to work with passengers, the trade and licensing authorities to take forward reforms through non-legislative means.”

19. Can you update the Committee on the development of the draft Bill and provide a timeline for the consultation on it? Can you also provide an update on the progress of non-legislative reforms in relation to this sector?

Thank you again for your constructive contribution to the Committee’s ongoing work. We look forward to your response on these important matters.

I should be grateful for a response as soon as possible, and by 23 January at the latest.

Yours sincerely,



Llyr Gruffydd MS,
Chair, Climate Change, Environment and Infrastructure Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg | We welcome correspondence in Welsh or English.



Jayne Bryant MS

Cabinet Secretary for Housing and Local Government

16 December 2024

Draft Budget scrutiny 2025-26

Dear Jayne,

Thank you for your response to our latest letter regarding decarbonisation of housing. We appreciate your engagement with the Committee on this topic.

The Climate Change, Environment and Infrastructure Committee has started its preparations for scrutiny of the Welsh Government's draft Budget for 2025-26.

Following publication of the draft budget on 10 December 2024, and to assist the Committee in its preparations, I would be grateful if you would provide information to address the matters set out in Annex 1. Of course, you should not feel limited by our request and are welcome to address any other matters you believe will assist the Committee in its work.

I should be grateful for a response as soon as possible, and by **23 January** at the latest.

I am copying this letter to John Griffiths MS, Chair of the Local Government and Housing Committee.

Yours sincerely,



Llyr Gruffydd MS,
Chair, Climate Change, Environment and Infrastructure Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg. / We welcome correspondence in Welsh or English.

Warm Homes Programme

The new Warm Homes Programme commenced in April 2024. Eligible households will receive a 'Whole House Assessment', captured in a 'passport' showing the work required and the order in which it will be done. The new programme will also prioritise low carbon technologies 'where it makes sense to do so'.

Both the resource and capital budgets for the programme have increased – capital from £35m to £37.5m, and resource from £2.48m to £3.73m.

- Will these allocations enable the prioritisation of low carbon technologies in a greater number of households accessing support through the programme?
- What is your estimate of the number of households you will support through the programme in 2025-26, and how does this compare to previous years?
- How have the changes to the programme's eligibility criteria and the increased budget cap per household impacted the number of households eligible for support?
- Why does responsibility for the Warm Homes Programme (the Welsh Government's 'primary mechanism to tackle fuel poverty') sit in your portfolio, when responsibility for fuel poverty sits with the Cabinet Secretary for Social Justice?
- How are you working for the Cabinet Secretary for Social Justice to balance the need to decarbonise homes through deeper retrofit with the urgent need to tackle fuel poverty?
- Can you provide an update on work to develop an area-based scheme as part of the programme, and clarify whether any of the budget allocation under this BEL is earmarked for such a scheme?

Residential decarbonisation and quality

Capital funding for residential decarbonisation and quality has decreased from £96m to £95m, and resource funding has remained static at £1.673m.

- Can you outline which projects and programmes fall under this BEL?
- How much funding has been allocated to the Optimised Retrofit Programme (ORP), and what are the priorities for its next phase (ORP4)?
- How will allocations under this budget line support owner occupiers to decarbonise their homes?

Launched in October 2024, Green Homes Wales is a Welsh Government initiative, managed by the Development Bank of Wales. It is designed to support eligible homeowners in making energy efficient improvements to their homes. The Scheme offers both interest free financing and fully funded expert support, aiming to help householders save money on energy bills and reduce carbon emissions.

- How much funding has been allocated to Green Home Wales for 2025-26, and how many households do you estimate the scheme will support during that period?

Rebecca Evans MS

Cabinet Secretary for Economy, Energy and Planning

16 December 2024

Draft Budget scrutiny 2025-26

Dear Rebecca,

Thank you for your evidence paper in response to our [letter](#) of 29 October regarding the scrutiny of the Welsh Government's 2025-26 budget. We appreciate your engagement with the Committee on this topic.

Following publication of the draft budget on 10 December 2024, the Committee agreed to write with further questions to inform its scrutiny. I would be grateful if you would provide information to address the matters set out in Annex 1.

I should be grateful for a response as soon as possible, and by **23 January** at the latest.

Yours sincerely,



Llyr Gruffydd MS,

Chair, Climate Change, Environment and Infrastructure Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg. / We welcome correspondence in Welsh or English.

Energy

Green Energy

Resource funding for the green energy BEL has increased from £3.3m to £8.46m, and capital funding has decreased from £17.2m to £12.4m.

- Can you clarify which specific projects and programmes sit under the green energy BEL?
- What are the budget allocations for Trydan Gwyrdd Cymru?
- Alongside Welsh Government funding, do you envisage leveraging private sector funding to support Trydan Gwyrdd Cymru's work?
- How will allocations under the Green Energy BEL support renewable energy developers in Wales to maximise opportunities through the Contracts for Difference scheme?

Ynni Cymru

The resource and capital budgets for Ynni Cymru have remained the same, at £2.47m and £10m respectively.

- How do the budget allocations reflect the Welsh Government's ambition for 1 GW of renewable energy generation capacity to be locally owned by 2030?
- How many community renewable energy projects do you intend to support through Ynni Cymru in 2025-26?

Welsh Government Energy Service (WGES)

The WGES works with the public sector and community enterprises to reduce energy use, generate locally owned renewable energy and reduce carbon emissions.

The resource budget for the WGES has increased from £3.97m to £4.17m, and the capital allocation has decreased from £3.2m to £2.2m.

- What is your current estimate of progress towards a net zero public sector by 2030, and do you believe this ambition is achievable?
- How will budget allocations to the WGES accelerate progress towards a net zero public sector?
- Can you confirm who has responsibility for the WGES, given that the Budget Expenditure Line sits under Climate Change and Rural Affairs rather than Economy, Energy and Planning?

Local Area Energy Plans

The Net Zero Plan stated Local Area Energy Plans would be developed by the end of the 2023-24 financial year. Your paper indicates a budget of £0.65m in 2025-26 to deliver these plans.

- What is the reason for the delay in the plans being produced?
- How will the budget allocation of £0.65m be used to facilitate their completion?
- The renewable energy deep dive said the Welsh Government would scale up local energy plans to create a national energy plan by 2024. Has this plan been developed? If so, how has the plan influenced budget allocations in the energy aspect of your portfolio?

Infrastructure Commission

Under its terms of reference, the National Infrastructure Commission for Wales (NICW) is subject to a comprehensive review at least once every 5 years. This is currently underway and the Cabinet Secretary has said this will be completed by the end of the year, with the outcome published in early 2025.

The allocation of £400,000 for the NICW has remained the same as previous years.

- How has the review of the NICW been taken into account when making this allocation and does this indicate that the Commission will not be subject to any significant changes?

Maritime Ports and Cardiff Airport

Your paper says the draft budget will support development of a Maritime and Ports strategy for Wales before the end of this Senedd term. However, the MEG does not appear to include any allocation for ports:

- Please could you outline where in the draft budget funding for development of the strategy can be found? How much is budgeted for its preparation?
- Please can you set out the specific steps which will be taken in 2025-26 to develop this strategy?

As noted in our letter to you following scrutiny in November, your official told us during that session that the Maritime and Ports Strategy was due to be developed by the end of this Senedd. However, the National Transport Delivery Plan indicates that this was to be completed between 2022 and 2024.

- Please can you explain why this deadline has slipped, including when the decision was taken, and what assessment you made of the impact on ports of the delay.

Road, public transport and freight policy and investments are crucial in ensuring effective connectivity for maritime port operations and Cardiff Airport. While Welsh Government priorities are set out in the National Transport Delivery Plan, we are interested in how the prioritisation of investments in these areas within the portfolio of the Cabinet Secretary for Transport and North Wales reflect the needs of maritime ports and Cardiff Airport, now that these are your responsibility.

- Please could you set out how you have engaged with the Cabinet Secretary for Transport and North Wales on the development of 2025-26 draft budget within the transport MEG, specifically in terms of the prioritisation of schemes which might be needed to support maritime ports and Cardiff Airport.

We have received a paper from the Cabinet Secretary for Transport and North Wales which indicates that the National and International Connectivity BEL within the Transport MEG includes funding for "on-going work on the future of Cardiff Airport". Given that you are responsible for the Airport:

- Can you outline why this funding is not within your MEG, what it will fund and how you are involved in delivery of this work?

While we appreciate that you are limited in what you can say on the detail of the CMA report and your approach to funding for the long-term strategy for Cardiff Airport, we would like some reassurance on the planned approach and the way forward. The budget documentation does not include any reference to the long-term strategy:

- Can you reassure us that the funding will be available once you have determined the approach following your review of the CMA's report, and indicate where this funding is currently held?

We note that the BELs included in the draft budget have a negative allocation of £3m of resource, and about £1.8m of capital funding, for Cardiff Airport.

- Please can you set out what these relate to?

Planning

In November, the you announced that decisions on energy proposals with generating capacity of up to 50 megawatts would be delegated from the Welsh Ministers to PEDW planning inspectors. You said in Committee on 20 November this would reduce the end-to-end time by three months or more.

Resource funding for the Planning and Environment Decisions Wales (PEDW) and Planning & Regulation Expenditure BELs has increased by £3.82m to accelerate infrastructure planning decisions.

The Draft Budget narrative says "key delivery partners, including Natural Resources Wales [NRW], will receive an uplift in funding, including an additional £5m to enhance its capacity to progress

infrastructure consents promptly and to provide necessary input in the land use and marine planning processes”.

- What will the £3.82m resource allocation be spent on specifically?
- What will the £5m additional allocation proposed for NRW be spent on specifically?
- What assessment have you made of the impact this level of additional funding will have on timescales for infrastructure planning decisions?
 - o When do you expect to see results?
- More broadly, how does this Budget increase capacity elsewhere in the planning system, which has a key role in supporting decision-making on infrastructure developments?
 - o The Draft Budget narrative says key delivery partners, “including” NRW will receive additional funding – other than NRW, which organisations are these, how much funding is allocated to them and for what purpose specifically?
 - o Does the Draft Budget provide additional funding specifically for Local Planning Authorities to increase planning capacity? If so, how? If not, why?



Rebecca Evans AS/MS
Cabinet Secretary for Economy, Energy and Planning
Ysgrifennydd y Cabinet dros yr Economi, Ynni a Chynllunio



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA/RE/11105/24

Llyr Gruffydd MS
Chair – Climate Change, Environment and Infrastructure Committee

23 January 2025

Dear Llyr,

Thank you for your letter of 16 December on the scrutiny of the Welsh Government's 2025-26 budget which was published on 10 December.

The enclosed paper provides detail on the Economy, Energy and Planning MEG plans, set out in draft budget and information on the specific areas requested by the Committee.

Yours sincerely,

Rebecca Evans AS/MS
Cabinet Secretary for Economy, Energy and Planning
Ysgrifennydd y Cabinet dros yr Economi, Ynni a Chynllunio

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.



Climate Change, Environment and Infrastructure Committee

Response to Follow Up Questions
on Draft Budget 2025-26 –
Economy, Energy and Planning
Main Expenditure Group (MEG)

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1. Energy

Green Energy

Can you clarify which specific projects and programmes sit under the green energy BEL?

The Green Energy BEL supports most of the Welsh Government's activity on the transition to meet our renewable energy targets and support the transition to a net zero energy system.

This includes the development of policy to support the scaling up of renewable energy generation and monitoring that activity through the publication of energy use and generation reports. Funding within the BEL also supports policy development to transition away from fossil fuels, including activity to publish policy positions on Carbon Capture and Storage and hydrogen. In addition, funding in the BEL supports the implementation of the Welsh Government's heat strategy.

As well as the above activities, funding within the BEL also supports our energy delivery functions. This includes fossil fuel licensing, the development and implementation of Local Area Energy Plans, strategic work on grid infrastructure needs in Wales, and the funding for Trydan Gwyrdd Cymru.

What are the budget allocations for Trydan Gwyrdd Cymru?

Trydan Gwyrdd Cymru has been allocated the following allocations for financial year 2025-26:

- £1.918m for non-project costs and;
- £4.526m for project costs.

These numbers are inclusive of VAT.

Alongside Welsh Government funding, do you envisage leveraging private sector funding to support Trydan Gwyrdd Cymru's work?

It is not anticipated that private sector funding will be leveraged in the near term to support Trydan Gwyrdd Cymru's work. The funding for financial year 2025-26 covers the core costs to fund the company and the early phase development work for their priority projects. Private sector funding opportunities are more likely to be associated with projects post development once developments have received planning consent. The Welsh Government is however exploring ways to enable partnership working between Trydan Gwyrdd Cymru and Great British Energy which could unlock different financing options.

How will allocations under the Green Energy BEL support renewable energy developers in Wales to maximise opportunities through the Contracts for Difference scheme?

The Green Energy BEL will support activity that will lead to a sector deal with the renewable energy industry in Wales. This sector deal will address barriers to scaling up renewable energy generation in Wales and identify opportunities to maximise economic and social value in Wales. The Green Energy BEL will also support our activity to support the marine renewable sector, including the offshore wind task and finish group. Together with our planning reforms we expect to see a rise in the number of renewable energy projects successfully bidding for Contract for Difference.

Ynni Cymru

How do the budget allocations reflect the Welsh Government's ambition for 1 GW of renewable energy generation capacity to be locally owned by 2030?

Welsh Government provides of a package of support to increase the amount of locally owned renewable energy generation in Wales including:

- Welsh Government Energy Service (WGES) which offers technical, commercial and procurement support to local authorities and community energy organisations. Support is available from project conception through to completion.
- Ynni Cymru which supports organisations and small businesses to develop and deliver Smart Local Energy Systems (SLES). As stated above, £2.47m revenue funding and £10m capital funding has been allocated to Ynni Cymru for financial year 2025-26.
- Community Energy Wales (CEW) which is a not-for-profit membership organisation that supports and represents community groups working on energy projects in Wales.
- Trydan Gwyrdd Cymru which is a renewable energy developer wholly owned by Welsh Government. Its aim is to develop at least 250 MW of new renewable energy generation capacity by 2030. As stated above, £1.918m revenue funding and £4.526m capital funding has been allocated to Trydan projects for financial year 2025-26.

How many community renewable energy projects do you intend to support through Ynni Cymru in 2025-26?

Ynni Cymru supports community renewable energy projects primarily through the provision of capital grants and its Health Check service.

The £10m Smart Local Energy System capital grant fund was awarded to 32 projects in financial year 2024-25, these projects were split across public sector organisations, community groups and SMEs. I will be announcing the next steps on how we intend to allocate the £10m Capital for 2025-26 in the coming weeks.

Ynni Cymru provides a range of services to the community energy sector ranging from online seminars and asset health checks. As these are demand led services, we cannot at this stage forecast the number of projects that will be supported through Ynni Cymru services during 2025-26.

Welsh Government Energy Service (WGES)

What is your current estimate of progress towards a net zero public sector by 2030, and do you believe this ambition is achievable?

There is no doubt that the 2030 ambition is challenging, but it is worth remembering that it is a collective ambition. There will be areas where some public sector organisations will excel and others where those same organisations will struggle.

This is an ambition, not a target, but we do expect every public sector organisation to strive to achieve it. It can only be achieved if all organisations pull together, which is what our Welsh public sector is so good at.

There is really positive work being delivered across the public service. From local energy planning, to work on decarbonising public service fleets, there is practical progress on the ground and really positive sharing of learning. I am grateful to the WLGA and NHS Wales colleagues for the way in which they are enabling this work.

How will budget allocations to the WGES accelerate progress towards a net zero public sector?

The capital funding within the Economy, Energy and Planning MEG does not fund the net zero public sector activity. The capital funding from the Green Energy BEL supports community energy projects through the local energy grant.

Can you confirm who has responsibility for the WGES, given that the Budget Expenditure Line sits under Climate Change and Rural Affairs rather than Economy, Energy and Planning?

The budget for the WGES sits within the Deputy First Minister's responsibility within the Climate Change and Rural Affairs MEG as it is primarily focused on public sector decarbonisation. The capital allocation of £2.2m is funded within my portfolio within the Economy, Energy and Planning MEG to deliver community energy projects through the local energy grant.

I work closely with the Deputy First Minister and my Cabinet colleagues, and our officials work closely across teams and departments.

Local Area Energy Plans

What is the reason for the delay in the plans being produced?

Welsh Government's work to help local authorities in Wales develop local area energy plans across Wales was completed in spring 2024, with authorities taking various routes to finalising and publishing their plans. Most plans have been signed off by the relevant local authorities' cabinet and published online. We are therefore in the enviable position of being the first UK nation to have full coverage of local energy plans.

How will the budget allocation of £0.65m be used to facilitate their completion?

The Local Area Energy Plans across Wales have already been developed. The £0.65m of the budget allocation will be used to continue funding the regional energy teams to ensure they can support local areas facilitate delivery of these plans.

The renewable energy deep dive said the Welsh Government would scale up local energy plans to create a national energy plan by 2024. Has this plan been developed? If so, how has the plan influenced budget allocations in the energy aspect of your portfolio?

Since the Local Area Energy Plans have been finalised, the Welsh Government has been working with the Energy Systems Catapult, our technical advisor on these plans, to bring together the data from across Wales, to understand what this means at both regional and national levels. Our intention is to continue to use this evidence base, incorporating it into Datamap Wales to support action.

The National Energy Plan however has not been developed. Since we committed to delivering a National Energy Plan, the situation across the UK has changed significantly. The co-commissioning of the Strategic Spatial Energy Plan (SSEP) for Great Britain by Welsh, Scottish and UK Governments, to be delivered by the National Energy System Operator, is a significant development. We also await clarity from Ofgem on the role of the Regional Energy System Planner, having worked with stakeholders across Wales to develop and provide a national response to the autumn consultation. The publication this month of the UK Government's Clean Power 2030 plan is a further development that broadly supports the commitments the Welsh Government has made. There is also a major programme under way to develop plans to transform the energy networks in Great Britain to better meet the needs of a low carbon and more distributed energy system.

We have therefore paused activity on the National Energy Plan in the latter part of last year. This has allowed us to work with the NESO and the UK Government to understand the array of changes under way and provide insight into Welsh policies in devolved areas. Once the timescales and outputs for the GB system plans are agreed, we will be able to judge whether a National Energy Plan is necessary to support delivery. Until then, we will continue to work with regions to understand and support their ambitions around energy and to deliver the economic opportunities across Wales from moving to a clean energy system.

2. Infrastructure Commission

The allocation of £400,000 for the NICW has remained the same as previous years. How has the review of the NICW been taken into account when making this allocation and does this indicate that the Commission will not be subject to any significant changes?

The £400,000 budget allocation for NICW comprises of £200,000 for the Commission's annual research / work programme and the remainder allocated to Commissioner fees, operating costs, events and smaller projects.

The review of NICW, which will be published shortly, has not specifically examined the amount of budget allocation.

During the past two financial years, NICW has not spent all its budget allocation, nor has it requested more to adequately carry out its work and remit. Given this, it would suggest that the current allocation is sufficient for NICW to carry out its remit.

3. Maritime Ports and Cardiff Airport

Please could you outline where in the draft budget funding for development of the strategy can be found? How much is budgeted for its preparation?

Funding allocation for the development of the Maritime and Ports strategy cannot currently be quantified, until we have determined the scope of the work and associated costs to develop the strategy by the end of this term of government. Therefore, given the uncertainties no funding has been allocated as part of the draft budget, but this will be monitored during the 2025-26 financial year.

Please can you set out the specific steps which will be taken in 2025-26 to develop this strategy?

My initial priority will be to support my colleague the Cabinet Secretary for Transport and North Wales with the establishment of a Welsh Government-led multistakeholder taskforce to develop a new strategy for the future of the Port of Holyhead. The task force will include participation from Minister Lawless from the Irish Government so that we can ensure that the port will meet the future needs of both nations. The taskforce will also consider the resilience of sea connectivity between Wales and Ireland more generally, so that these critical transport links can better withstand the challenges we expect from climate-driven changes in severe weather patterns and other hazards and threats. The taskforce will of course link in with our broader work on a Welsh Ports and Maritime Strategy for Wales.

This shorter-term priority work will help shape the scope of the wider Ports and Maritime Strategy for Wales and determine the budget required to deliver the Strategy. I will report back to the Committee once the taskforce has completed its work on a new strategy for the future of the Port of Holyhead and its work around the resilience of sea connectivity between Wales and Ireland more generally. I will write again to committee once we have agreed a scope and have allocated budget for the development of the strategy.

As noted in our letter to you following scrutiny in November, your official told us during that session that the Maritime and Ports Strategy was due to be developed by the end of this Senedd. However, the National Transport Delivery Plan indicates that this was to be completed between 2022 and 2024. Please can you explain why this deadline has slipped, including when the decision was taken, and what assessment you made of the impact on ports of the delay.

The Welsh Ports and Maritime Strategy for Wales has been put on hold for several years due to resource constraints, budget availability and changes in

government priorities. The original intention was to develop this alongside a new logistics and freight plan for Wales, another commitment under the Wales Transport Strategy given the significant interdependencies between the sectors, the supply chain challenges currently being experienced worldwide and the potential opportunities for more sustainable logistics models.

The former Deputy Minister for Climate Change prioritised developing a freight and logistics plan for Wales which now sits with the Cabinet Secretary for Transport and North Wales as part of his portfolio of responsibilities. The Welsh Government continues to work closely with all major Welsh Ports, and as a group via the Welsh Ports Group which includes representation from the industry bodies the British Ports Association and UK Major Ports Group as well as minor Ports being a collective voice for the industry in Wales.

The Welsh Government has assessed and continues to assess the requirements for support at Welsh major ports. These assessments include publications such as the Welsh ferry ports five-point plan, as well as work associated with the Freeport programme, post-EU border control arrangements and port infrastructure under the Marine Energy Programme.

Many of these assessments have been central to our work following Brexit and the Covid-19 pandemic. The Welsh Government has supplied matched funding for both Port Talbot and Milford Haven ports to assist their infrastructure development planning for floating offshore wind opportunities.

We continue to work with the UK Government on Freeports and Border Control Posts (BCP). We will work with ports and their key stakeholders to develop our thinking about a new ports' strategy for Wales.

The current total projected cost is £87.6m. The UK Government has provided £53.5m towards these costs up to 2025-26 which have been assessed by previous UK Treasury decisions as necessary for the build. We are continuing our discussions with UK Treasury around the remaining costs for operation.

The projected cost assumes that, after a short transitional period, all operational costs can be met from charges.

Progress continues with the UK Government on a range of port-related issues including floating offshore wind, border control posts and the Freeports programme. The Freeports Programme in Wales aims to regenerate ports, foster economic growth and promote sustainability and fair work. Last year the Welsh and UK Governments jointly announced two prospective Freeports in Wales: the Celtic Freeport in Neath Port Talbot and Pembrokeshire and the Ynys Mon / Anglesey Freeport. Both have now submitted outline business cases and proposed tax sites which are in the final stages of assessment by both

governments. Agreement of outline business cases will lead to the designation of tax sites and an invitation to submit a full business case to release up to £25m of capital seed funding. These prospective Freeports are focused on boosting the distinct strengths that both sites boast, exploiting opportunities from offshore wind and marine energy to advanced manufacturing and innovation.

Further assessment of the five-point plan will be fed into the future Maritime Strategy.

Please could you set out how you have engaged with the Cabinet Secretary for Transport and North Wales on the development of 2025-26 draft budget within the transport MEG, specifically in terms of the prioritisation of schemes which might be needed to support maritime ports and Cardiff Airport.

I work closely with the Cabinet Secretary for Transport and North Wales regarding prioritising transport schemes that improve connectivity to our maritime ports and Cardiff Airport. Regarding Cardiff Airport, Transport for Wales (TfW) operates an hourly service on the Vale of Glamorgan line serving Rhoose International Station and connecting with the 905-shuttle bus, which operates between the main Airport terminal and Rhoose rail station. The 905 bus is specifically timed to connect with train departures on the Vale of Glamorgan rail line linking Cardiff to Bridgend. The Airport is also served by the 304-bus service to Llantwit Major, Barry and Cardiff. TfW will be introducing additional peak time rail services on the Vale of Glamorgan line by 2026 providing additional public transport opportunities to travel to Cardiff Airport. The Cabinet Secretary for Transport and North Wales has also grant funded improvements to the bus waiting area at the Airport, new improved shelter, seating and real time bus information which will benefit passengers and staff travelling by bus links. TfW will also be rolling out "Pay as You Go" ticketing across the South Wales Metro area later this year which will benefit passengers and provide them with the cheapest fares for journeys within the South Wales Metro area.

I continue to work with the Cabinet Secretary for Transport and North Wales, TfW and Cardiff Airport to explore solutions to improve direct services to and from Cardiff Airport.

Maritime Ports and Cardiff Airport Transport connectivity needs are considered as part of the Regional Transport Plans that the Corporate Joint Committees are preparing now and offer another forum within which Government can look at any connectivity issues or opportunities. Equally, my officials work closely with the Cabinet Secretary for Transport and North Wales' officials when working on the Celtic Freeport in Neath Port Talbot and Pembrokeshire and the Ynys Mon / Anglesey Freeport business cases to ensure passengers and freight connectivity needs are considered as part of the development of the Freeports.

We have received a paper from the Cabinet Secretary for Transport and North Wales which indicates that the National and International Connectivity BEL within the Transport MEG includes funding for “on-going work on the future of Cardiff Airport”. Given that you are responsible for the Airport: Can you outline why this funding is not within your MEG, what it will fund and how you are involved in delivery of this work?

In his evidence to your Committee on 8 January 2025, the Cabinet Secretary for Transport and North Wales set out the rationale for where the budget sits. The funding relates to on-going WGC Holdco Limited operational costs and Welsh Government consultancy fees in relation to Cardiff International Airport Limited. I am very much involved in the delivery of this work.

While we appreciate that you are limited in what you can say on the detail of the CMA report and your approach to funding for the long-term strategy for Cardiff Airport, we would like some reassurance on the planned approach and the way forward. The budget documentation does not include any reference to the long-term strategy: Can you reassure us that the funding will be available once you have determined the approach following your review of the CMA’s report, and indicate where this funding is currently held?

The CMA published its report on 2 October 2024. I will take the necessary time to fully consider their assessment and determine whether we need to refine our proposed investment program based on their feedback. As part of this, I will consider the implications for budgets in 2025-26 and future years, and will discuss with my Cabinet colleagues and agree our future approach.

We note that the BELs included in the draft budget have a negative allocation of £3m of resource, and about £1.8m of capital funding, for Cardiff Airport. Please can you set out what these relate to?

The total revenue funding allocated as part of this budget has been maintained at £-3m (Cardiff International Airport BEL 1240). This relates to the annual accrued interest on Cardiff Airports outstanding loan. In December 2024, the outstanding debt was £34.3 million. This includes interest, which is added to the balance each month.

The £1.783m of capital funding for Cardiff Airport (Cardiff International Airport BEL 1240) is an annual indicative allocation of funds for the airport. Given I am still considering the findings of the CMA’s report no budget has been allocated as part of the draft budget for Cardiff Airport, but this funding would be used in the first instance.

4. Planning

Resource funding for the Planning and Environment Decisions Wales (PEDW) and Planning & Regulation Expenditure BELs has increased by £3.82m to accelerate infrastructure planning decisions.

The Draft Budget narrative says “key delivery partners, including Natural Resources Wales [NRW], will receive an uplift in funding, including an additional £5m to enhance its capacity to progress infrastructure consents promptly and to provide necessary input in the land use and marine planning processes”.

What will the £3.82m resource allocation be spent on specifically?

Funding for PEDW and Planning and Regulation has increased by £3.741m when compared to the revised baseline. Of the additional £3.741m increase, £1.9m allocated for PEDW will be utilised to support the increase capacity to deal with infrastructure applications in a timely way. The additional funding will be spent on:

- £453,890 to cover inflationary cost pressures (e.g. pay awards and other essential running costs like travel and subsistence, postage, and IT licences) that have arisen since 2021 when PEDW's Programme Funded budget was set at a flat rate.
- £400,000 for digital 'one-off' costs to complete Casework Portal work to enable submissions and representations to be made electronically, and to facilitate essential migration of our CRM system onto new digital platform.
- £1,046,110 for additional staff, including Planning Inspectors and Caseworkers, to respond to increased work pressures in priority casework including Development of National Significance (DNS) applications and examination of Local Development Plans (LDPs)

The £1.841m increase for Planning and Regulation expenditure is intended to support accelerated infrastructure planning decisions and assist the recovery of planning services at the local level. The enhanced budget is supportive of our proposals to increase planning application fees to cost recovery levels and improve local planning authority resilience as set out in our recent consultation **Promoting a resilient and high performing planning service | GOV.WALES**.

Although the precise allocations are yet to be determined, indicative allocations include;

- £150,000 to enhance infrastructure decision making capacity in Planning Directorate; £260,000 for sector wide workforce planning and local planning

authority bursary and apprenticeship schemes to increase the pipeline of planners,

- £1,000,000 for supporting regional working and local authorities with high infrastructure application caseloads and;
- £400,000 for digital transformation of planning services.

What will the £5m additional allocation proposed for NRW be spent on specifically?

The funding provided to NRW does not sit within the Economy, Energy and Planning MEG. It sits from within the Climate Change and Rural Affairs MEG. The additional revenue funding is targeted at accelerating NRW's determination of infrastructure and planning decision in response to the First Minister's priority re jobs and green growth. The funding will support the introduction of 59.5 new roles needed to increase NRW's capacity across a range of its services, including planning advice, marine advice, regulation and preparation of processes, guidance and systems to implement the Infrastructure (Wales) Act 2024. This Act aims to simplify the process for developing significant infrastructure projects by establishing a single infrastructure consenting process for specified types of major infrastructure projects. NRW has a major role to play both as a statutory consultee and as the regulator for a range of consents – these include: -

- Statutory consultee in the planning system
- Statutory consultee for a range of consents for marine development
- Regulator for a range of necessary consents and permits, e.g. marine licences and EPR

What assessment have you made of the impact this level of additional funding will have on timescales for infrastructure planning decisions?

The funding for additional staff resource in PEDW will deliver additional capacity, above business as usual, to meet increased work demands in the following areas:

- Examination of 8 Local Development Plans – submissions expected in 25/26 – 26/27.
- Examination of 3 DNS (or Infrastructure Consent) applications per Planning Inspector per annum, i.e. 8 new Inspectors = 24 applications per annum.
- Clear current backlog of around 200 planning and environmental appeals arising from prioritisation of DNS and LDP work amongst other things.
- Funding will double capacity in the Infrastructure Consent Casework Team to speed up validation and acceptance timescales.

Infrastructure planning and delivery is a complicated interconnection between the various roles of the applicant, consultees, and decision makers. NRW alone cannot speed up timescales for decision, however, in terms of impact on NRW's own ability to act in a timely manner, the additional funding will enable NRW to:

- Handle a greater volume of applications once tools and staff are in place and trained.
- Improve its engagement at pre-application stage; assuming advice is acted on, this will reduce the time needed at the formal application stage; and
- Increase its own efficiency by improving the range of standing guidance, processes and systems.

When do you expect to see results?

From Jan 2025 the delegation of decisions to Planning Inspectors on energy projects up to 50MW will speed up DNS decisions by approximately 12 weeks.

By April 2025 additional Casework Officer resource will speed up time frames from submission to 'acceptance' from current peak of 6-7 months to 6-8 weeks.

Improvements to PEDW Casework Portal to be launched March 2026.

By the end of the year, increased Inspector capacity should result in quicker end-to-end processing of Infrastructure applications and reduce average speed to determine applications by 6-8 weeks.

The additional resource will help PEDW to prepare for procedural changes resulting from the new Infrastructure Consenting regime under the infrastructure (Wales) Act, to ensure a smooth transition from DNS regime.

NRW intends to phase delivery to ensure smooth implementation of additional staff and systems. NRW expect to see:

- tools and processes coming into place to support implementation of the infrastructure Consenting regime during 2025-26.
- a steady uplift in the efficiency of marine and terrestrial advice on infrastructure decisions following investment in and training of case managers and specialist advisors.
- a steady increase in standing guidance providing applicants with greater clarity and advice upfront, both from NRW's statutory consultee and permission roles.
- new regulatory processes and novel technologies in place to streamline permitting approaches.

- An uplift in permitting capacity for industrial decarbonisation in 2025-26.

More broadly, how does this Budget increase capacity elsewhere in the planning system, which has a key role in supporting decision-making on infrastructure developments?

The draft budget increase must be viewed alongside the comprehensive proposals set out in the consultation Promoting a resilient and high performing service and the infrastructure (Wales) Act and associated forthcoming subordinate legislation. Both the consultation and the legislation operate on the principle of full cost recovery. The budget allocation is intended to pump prime and accelerate capacity building ahead of full cost recovery through mechanisms including providing financial support for bursaries and apprenticeships to increase the number of appropriately qualified professionals. It can also provide pump priming funding for regional working in specialist areas such as providing advice on the impact of infrastructure projects and direct support for local planning authorities subject to multiple infrastructure applications.

The Draft Budget narrative says key delivery partners, “including” NRW will receive additional funding – other than NRW, which organisations are these, how much funding is allocated to them and for what purpose specifically?

Local planning authorities/Corporate Joint Committees will be the main beneficiaries of the additional £1.841m for the purposes as detailed above.

Does the Draft Budget provide additional funding specifically for Local Planning Authorities to increase planning capacity? If so, how? If not, why?

Local planning authorities/Corporate Joint Committees will be the main beneficiaries of the additional £1.841m for the purposes as detailed above.

**Climate Change, Environment,
and Infrastructure Committee**

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Huw Irranca-Davies MS

Deputy First Minister and Cabinet Secretary for Climate
Change and Rural Affairs

18 December 2024

Dear Huw,

The Disused Mine and Quarry Tips (Wales) Bill – follow-up from 12 December 2024 meeting

Thank you for attending the Committee's 12 December 2024 meeting to give evidence to inform our scrutiny of the Disused Mine and Quarry Tips (Wales) Bill.

Following the session, the Committee agreed I should write to you with additional questions.

The Disused Tips Authority for Wales

1. Section 2 provides that the Disused Tips Authority's (the Authority) "main objective" in carrying out its function is to ensure that disused tips do not threaten human welfare by reason of their instability. Can you clarify whether the objective set out in section 2 is the Authority's only objective? If not, what are its other objectives and why are these not provided for in the Bill?
2. Section 2(2) provides that in pursuance of its main objective the Authority must promote "high standards" in relation to the management of disused tips and threats to their stability. What is the meaning of "high standards" in this context? How will the Authority be expected to demonstrate it is meeting this duty?
3. Section 3(4) enables the Authority to charge a fee for the provision of information, advice or assistance under section 3(3).
 - The Bill makes no further provision in relation to how the Authority will determine the level of fees – why?

- What factors do you expect the Authority to take into account when determining the level of fees, and will the Authority seek to achieve full cost recovery?

Register of disused tips

4. Section 9 makes provision for public access to the register. How will you ensure that digitally excluded groups/individuals are able to access the register?
5. The White Paper proposed layered access to the register with certain data publicly accessible and 'excluded data' only accessible to the supervisory authority, local authorities and individual tip owners.
 - Can you clarify whether and how the Bill provides for 'layered access'?
 - To what extent are you satisfied that the regulation making power in section 8(2)(f) is sufficiently broad to enable the exclusion of information as specified in section 9?

Assessments of disused tips

6. Section 13 provides that the Authority must send its proposed programme of preliminary assessments to the Welsh Ministers for approval before the end of 12 months beginning with the coming into force of the section.
 - Why do you consider it necessary for the Authority's proposed programme of work to be approved by the Welsh Ministers?
 - Section 13 does not include a timeframe within which the Welsh Ministers must approve the proposed work programme - why?
7. In giving evidence to the Committee, you asserted that the Authority would be able to begin work before its proposed work programme has been approved by the Welsh Ministers.
 - To what extent does this undermine the approval process?
 - Is there a risk that works would be undertaken that were not later approved, and costs and resources wasted?
8. Do you envisage the Authority consulting on its proposed programme? If so, why does the Bill not make provision for this? If not, why?
9. The Bill provides for the Authority to produce a report of each preliminary and full assessment. Will these reports be made publicly available? If so, how does the Bill provide for this? If not, why not?

Making representations

10. The Bill provides the Welsh Ministers with regulation making powers to change the minimum period for making representations on proposals to register and deregister a disused tip, and make a notifiable change in relation to the disused tip.
 - Why is this power needed?
 - Can you confirm that this power could be used to reduce the minimum period for making representations? If so, under what circumstances do you envisage the power being used for this purpose?

Compensation for damage, loss or disturbance etc.

11. Sections 31 and 48 make provision for certain persons to recover compensation in certain circumstances. What factors do you anticipate will be taken into account when determining the amount of compensation that a person is entitled to recover?
12. The Bill makes provision for any person whose enjoyment of land is disturbed as a result of an inspection, monitoring activity, assessments, or operations being carried out to recover compensation. Why do you consider this provision reasonable and appropriate? How will the disturbance of a person's enjoyment be assessed?

Duty to give interested parties copies of notice of operations

13. Sections 35 and 45 place a duty on the Authority to give a copy of the notice issued under section 33 (Notice requiring owner of land to carry out operations) and section 44 (Duty to give notice to owners) to any other person with an interest in the notice.
 - How did you determine the persons (in addition to the owner of land) with an interest in the notice?
 - What is the rationale for the 12 year period in sections 35(2) and 45(2)?
14. Please could you provide the breakdown of information on tip ownership that you referred to in Committee?

Appeals against notices under section 33

15. Section 36 provides the owner of land who is given notice requiring the carrying out of operations a right to appeal against the notice. The appeal must be made within 21 days beginning with the day that the notice is given. What is the rationale for this minimum notice period?

16. The Bill does not include a timescale within which the “appointed person” (under section 37) must determine an appeal - why?
17. According to the Explanatory Notes, in practice, appeals will be determined by Planning and Environment Decisions Wales (PEDW). To what extent are you satisfied that PEDW has sufficient capacity and resource to determine appeals in a timely manner so as to avoid delays in the carrying out of operations?

Operations carried out by the Authority

18. Section 42(3) provides that where the Authority carries out operations necessary to achieve the objective in section 42(2), it may also carry out any consequential works of reinstatement that it considers are reasonably necessary. Why do you consider it appropriate to leave it to the discretion of the Authority to determine whether and what works should be carried out?
19. Section 44 provides that the Authority may not carry out operations on land under section 42 unless it has given the owner of the land at least 21 clear days’ notice of its intention to do so. What is the rationale for this minimum notice period?
20. Who will be responsible for meeting the costs of operations required to ensure the safety of disused tips?
21. Section 56 provides power for the Authority to require relevant public authorities to give information. The meaning of “relevant public authority” is set out in section 55. What consideration did you give to including the Health and Safety Executive within the meaning of “relevant public authority”, given its role in overseeing active tips which may eventually become disused tips?

Recovery of interest

22. The provisions of section 49 enable an owner to recover expenses from a contributory, but does not make provision for the payment of interest. Section 51(7) provides the Authority to recover certain expenses and entitles the Authority to recover interest “at a rate determined by the Authority”. Why is it considered appropriate for the Authority to recover interest, and to determine the amount of interest due to it?

Warrant to enter land

23. Section 64(7) provides that a warrant issued under section 64 continues in force until the purpose for which it is issued has been fulfilled. How will this provision as drafted protect against unreasonable delay in entering the land to fulfil the purpose for which it was issued?

Power to modify application of Act to Authority land

24. Section 80 provides power to the Welsh Ministers to make regulations to modify the application of the Act in relation to land in which the Authority has an estate or interest.

- Why is this power needed?
- Under what circumstances do you envisage the Authority acquiring an interest or estate in land in the future?

Use of Welsh Tribunals

25. What consideration did you give to using the Welsh Tribunals rather than the courts to carry out various functions under the Bill, for example to determine disputes and appeals, and to make or vary contribution orders. Why did you decide that the courts were your preferred option?

Funding

26. What financial assistance (if any) will be made available to disused tips owners to cover the costs associated with the new regime, in particular the cost of carrying out operations to comply with section 33 notices?

27. The Regulatory Impact Assessment makes numerous references to the Coal Tip Safety Grant, in particular referencing the grant will mean there are no additional costs to the Mining Remediation Authority, local authorities or NRW as a result of the Bill. Can you clarify how much of the grant is covered by the additional funding from the UK Government, and how much is Welsh Government funding?

- The RIA states while it 'assumes that funding provided for the coal tip safety grant will continue, any reduction in grant will mean that the capital aspects of the bill will not be affordable'. Specifically what would the impacts be if the grant was to reduce or end?
- The RIA outlines 'the assumption of £11.3m grant funding per year is based on the previous year's grant funding, however grant applicants have made bids totalling £27m in 2024-25 alone, so the demand for funding may well be considerably higher than the £11.3m we have assumed in this RIA'. How will this funding gap be filled?

I should be grateful to receive a response as soon as possible and by 22 January 2025 at the latest.

Yours sincerely,



Llyr Gruffydd MS,
Chair, Climate Change, Environment, and Infrastructure Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg/We welcome correspondence in Welsh or English.



Huw Irranca-Davies AS/MS
Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros
Newid Hinsawdd a Materion Gwledig
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Llywodraeth Cymru
Welsh Government

Eich cyf/Our ref: PO/HIDCC/0016/25

Llŷr Gruffydd MS
Chair
Climate Change, Environment and Infrastructure Committee
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22 January 2025

Dear Llŷr,

Thank you for your letter of 18 December 2024, with follow up questions from the Committee session on 12 December. Please see below my responses to those questions.

The Disused Tips Authority for Wales

1. Section 2 provides that the Disused Tips Authority's (the Authority) "main objective" in carrying out its function is to ensure that disused tips do not threaten human welfare by reason of their instability. Can you clarify whether the objective set out in section 2 is the Authority's only objective? If not, what are its other objectives and why are these not provided for in the Bill?

Response

As set out in section 2, the Authority's main objective in carrying out its functions under the Bill is to ensure that disused tips do not threaten human welfare by reason of their instability. It is complemented by the provision in section 2(2) which provides that "in pursuance of its main objective, the Authority must promote high standards in relation to the management of disused tips and threats to their stability".

A list of the Authority's objectives is not included on the face of the Bill as it is not feasible to provide a comprehensive description in the Bill of all of the Authority's objectives.

The main objective, as the phrase suggests, is one of the Authority's objectives. There are others, but these will depend on the circumstances of a particular case, including the specific powers it is acting under. This will include complying with any relevant legal requirements, for example.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

The purpose of section 2 is to make clear, on the face of the Bill, what the Authority is, principally, being established to do. It helps set the provisions of the Bill in context.

The main objective will, at a general level, operate to influence judgments made by the Authority about how the other powers and duties that are conferred on it ought to be carried out.

In common with other public bodies, it will have general objectives relating to performance of its functions that will be set in the remit letter for the Authority.

2. Section 2(2) provides that in pursuance of its main objective the Authority must promote “high standards” in relation to the management of disused tips and threats to their stability. What is the meaning of “high standards” in this context? How will the Authority be expected to demonstrate it is meeting this duty?

Response

As you will be aware, the Bill does not include a definition for “high standards”. This means that the phrase has its ordinary meaning, and what will be considered to be a “high standard” will be context dependent.

In promoting high standards, we would expect the Authority to follow best practice and relevant guidance, and to keep up to date and implement any developments in relevant technology or advancement in relevant knowledge. We would also expect the Authority to be seen to manage disused tips and threats to their stability in a transparent way that garners public trust. As part of this, the Authority will be proactive in helping and advising landowners on management of disused tips. The Authority will promote high standards by employing appropriately qualified individuals, ensuring that continuous training is undertaken and by designing operations based on the latest and most appropriate equipment and knowledge. As such, the Authority will continually demonstrate that it is meeting this duty through its actions, for example, in the way it carries out assessments, and the way it approaches operations etc. The Authority will also have to set out how it has carried out its functions during each financial year and how it has met its duties in its annual report.

3. Section 3(4) enables the Authority to charge a fee for the provision of information, advice or assistance under section 3(3).
 - a) The Bill makes no further provision in relation to how the Authority will determine the level of fees – why?
 - b) What factors do you expect the Authority to take into account when determining the level of fees, and will the Authority seek to achieve full cost recovery?

Response

The Authority will develop its own policy for charging fees for information, advice and assistance, but the level of fee charged for the provision of a service under section 3 will be limited by reference to the costs incurred in providing that service. This is a consequence of the absence of express wording in section 3 authorising the Authority to set fees at a higher level (e.g. fees that include an element of profit). At this stage we do not know what kind of services the Authority will want to provide or charge for, or whether it will seek to recover the full cost of providing a service. These will be matters for the Authority to determine, acting in accordance with the established principles of public law. We therefore do not consider it necessary for the Bill to make express provision in this regard.

The Welsh Ministers will issue guidance which will confirm that the Authority cannot charge a fee for services etc. in respect of which the Welsh Government has provided funding through grant in aid. For example, the current expectation is that the Authority will receive funding to carry out all preliminary assessments. No fee should be charged for these.

Register of disused tips

4. Section 9 makes provision for public access to the register. How will you ensure that digitally excluded groups/individuals are able to access the register?

Response

Accessibility and inclusivity will be considered during the design of the digital services provided by the Authority.

The electronic register of disused tips will be a digital service by design – it will be openly available on the Authority’s website, and will not require log in details to access. It is the intention that those who are digitally excluded will be able to request (e.g. by phone call or by letter) a printed copy of maps or information in the register.

5. The White Paper proposed layered access to the register with certain data publicly accessible and ‘excluded data’ only accessible to the supervisory authority, local authorities and individual tip owners.

- a) Can you clarify whether and how the Bill provides for ‘layered access’?
- b) To what extent are you satisfied that the regulation making power in section 8(2)(f) is sufficiently broad to enable the exclusion of information as specified in section 9?

Response

The Bill does not provide for layered access to the register.

Section 8 sets out information that must be included in an entry in the register for a disused tip and requires entries to include a map showing the area of the tip. This includes information such as the tip’s category and the date of the most recent inspection of the tip.

Section 9 places a duty on the Authority to ensure that that the maps and information can be accessed electronically by members of the public at all reasonable times. The Bill does not make express provision providing access to other information for bodies such as local authorities, NRW etc. These bodies will be able to access information on the register in the same way that members of the public will be able to.

We are satisfied that the regulation-making power in section 8(2)(f) is sufficiently broad to ensure that additional information which is included in the register will not be publicly accessible. Section 9 requires the Authority to ensure the maps and information in the register can be accessed electronically at all reasonable times by members of the public. The only exception to this requirement is in respect of information specified by regulations made under section 8(2)(f), which does not have to be made available to the public.

In practice, it is considered the section 9 duty will most likely be satisfied by making the register accessible on the Authority’s website.

Assessments of disused tips

6. Section 13 provides that the Authority must send its proposed programme of preliminary assessments to the Welsh Ministers for approval before the end of 12 months beginning with the coming into force of the section.
- a) Why do you consider it necessary for the Authority's proposed programme of work to be approved by the Welsh Ministers?
 - b) Section 13 does not include a timeframe within which the Welsh Ministers must approve the proposed work programme - why?

Response

It is not unusual for the Welsh Ministers to be involved in oversight of and approval of work programmes of sponsored bodies.

The work programme in question will set out the Authority's proposed approach and timetable for carrying out the preliminary assessments required by section 13 of the Bill. Preliminary assessments will determine which disused tips require full assessment. We believe there is a public interest in the Welsh Ministers approving the programme as it is key to the performance of the Authority's functions and to fulfilling its main objective.

There is no requirement imposed on Welsh Ministers to approve the programme. If the Welsh Ministers think that changes are required but those changes go beyond modifications of the programme, Welsh Ministers would send the programme back to the Authority for it to address their concerns. Setting a deadline on the face of the Bill would force the Welsh Ministers to approve a programme that may be unsuitable. Also any deadline would be arbitrary, as the time needed will depend on the content of the programme being considered).

The Welsh Ministers will be appraised of the work the Authority is doing to develop the work programme in the 12-month period between the coming into force of section 13 and the formal submission of the programme for approval. Therefore, the content of the programme will not come as a surprise to Welsh Ministers and we expect that approval will be able to be provided quickly.

7. In giving evidence to the Committee, you asserted that the Authority would be able to begin work before its proposed work programme has been approved by the Welsh Ministers.
- a) To what extent does this undermine the approval process?
 - b) Is there a risk that works would be undertaken that were not later approved, and costs and resources wasted?

Response

There is a 12-month period between the commencement of section 13 and submission of the work programme to the Welsh Ministers for approval. This timeframe is necessary to allow the Authority to develop a robust, well thought through programme of work that will guide, for example, how the Authority prioritises the carrying out of assessments and when preliminary assessments of non-coal disused tips begin.

It would not be acceptable for all of the Authority's work to be delayed by 12 months. The Authority will, during that 12-month period, begin work, including the process of undertaking preliminary assessments. It is anticipated that the programme of works will be developed so that the disused tips (whether they be coal or not) that are currently known to present the greatest threat to human welfare will be the first to receive a preliminary assessment. In respect of disused coal tips, decisions on prioritisation for preliminary assessment will be based on existing data from the Mining Remediation Authority.

Welsh Government officials will be involved in these early discussions when the Authority is established. The preliminary assessments will be conducted, in the main, by experts from the Authority on the basis of a paper exercise – considering existing inspections reports, mapping, categorisation level etc.

There is no risk of wasted costs. Welsh Ministers' approval is linked to the approval of the programme of works for carrying out preliminary assessments. However, Welsh Ministers' approval is not required for any works/operations that are carried out under other provisions in the Bill.

8. Do you envisage the Authority consulting on its proposed programme? If so, why does the Bill not make provision for this? If not, why?

Response

It is envisaged the Authority will engage with stakeholders who have relevant expertise and information that might assist in developing its programme of work for preliminary assessments, such as the Mining Remediation Authority, Natural Resources Wales and local authorities.

The development of the work programme will be a technical, expert led exercise aimed at conducting preliminary assessments of those disused tips that pose the greatest risk first. Due to its very technical nature, it is not the type of programme that is suitable for public consultation.

However, section 13(5) requires the Authority to publish the programme. As a public authority, if individuals, during the course of the programme's development, were to make representations to the Authority about the content of the programme these would be taken into consideration.

9. The Bill provides for the Authority to produce a report of each preliminary and full assessment. Will these reports be made publicly available? If so, how does the Bill provide for this? If not, why not?

Response

The Bill does not require the reports for each preliminary and full assessment to be made publicly available. However, members of the public will be able to request information held by the Authority (e.g. under the Freedom of Information Act 2000, the Environmental Information Regulations 2004) subject to restrictions on disclosure under relevant data protection legislation. In our view, there is no public interest in general publication of the reports of each preliminary and full assessment.

Under section 19, where the Authority produces a report of a full assessment in relation to a disused tip, it must, as soon as practicable, give notice of the conclusions of the report to every owner and every occupier of the land on which the tip is situated. Providing the conclusions of the full assessment to these parties is considered appropriate and sufficient because they will be directly affected by the conclusions reached in the relevant report. If, the full assessment concludes that the criteria for registering a disused tip are met, the notice of proposed registration will set out the reasons for the proposal. These reasons will reflect the conclusions of the full assessment. The notice of proposed registration must be given to every owner and occupier on which the tip is situated, and any other person who, to the Authority's knowledge, has an estate or interest in that land. It is considered appropriate that notice is given to these persons.

Welsh Government will expect the Authority, subject to the relevant legislation and standards for handling and releasing sensitive information, to make available all information deemed necessary to keep members of the public informed and provide all necessary assurances that a disused tip is safe and secure.

Making representations

10. The Bill provides the Welsh Ministers with regulation making powers to change the minimum period for making representations on proposals to register and deregister a disused tip, and make a notifiable change in relation to the disused tip.
 - a) Why is this power needed?
 - b) Can you confirm that this power could be used to reduce the minimum period for making representations? If so, under what circumstances do you envisage the power being used for this purpose?

Response

We have no current plans to exercise the regulation-making powers in sections 20(4), 22(4) and 29(3) that give the Welsh Ministers the ability to change the minimum period for making representations about a proposal by the Authority to, respectively, register a tip, remove a tip from the register or make a notifiable change.

A minimum period of 30 days to make representations to the Authority is a reasonable amount of time. However, it is considered necessary for the Welsh Ministers to have a power to change the period in the future, should that prove to be appropriate. As the Authority carries out its functions and gathers experience in adding and removing disused tips from the register and making notifiable changes, experience may indicate the minimum period for making representations may need to be reconsidered. For example, if experience shows that it often takes longer than 30 days to gather the requisite information to be in a position to provide meaningful representations, the ability to amend the 30-day period will ensure that the Welsh Ministers are able to be responsive to gained experience and are able to amend the minimum period for making representations, should that be considered necessary. Experience might also show that different periods are appropriate for different proposals. The powers in the Bill would allow Ministers to achieve this outcome.

It is possible that the power may be exercised to reduce the minimum period for making representations. At this stage, we do not envisage using the power in this way. As set out above, a minimum period of 30 days for making representations is considered reasonable.

Compensation for damage, loss or disturbance etc.

11. Sections 31 and 48 make provision for certain persons to recover compensation in certain circumstances. What factors do you anticipate will be taken into account when determining the amount of compensation that a person is entitled to recover?

Response

The Welsh Ministers intend to issue guidance that will provide examples showing how various situations can trigger a right to compensation.

The examples will illustrate various factors that should be considered when determining compensation, for instance:

- The type of land (e.g. urban, rural, residential and agricultural)
- The nature of damage to property and/or estate (e.g. structural repair, subsidence and waterlogging)
- The nature of disturbance to land (e.g. noise, dust and vibrations from heavy machinery).
- The type of land, the nature of damage and/or disturbance will determine the category of payment (e.g. property devaluation and loss of agricultural productivity) and the intention is that the final guidance will set out the expectation as to how the determination of compensation in respect of each category will work.

Draft high-level guidance on this issue will be made available to the Committee shortly – this will sit alongside the Bill and provide an illustration of the type of issues that we intend to cover in any guidance. This will be developed in more detail in consultation with key stakeholders and partners once the Bill has received Royal Assent.

12. The Bill makes provision for any person whose enjoyment of land is disturbed as a result of an inspection, monitoring activity, assessments, or operations being carried out to recover compensation. Why do you consider this provision reasonable and appropriate? How will the disturbance of a person's enjoyment be assessed?

Response

If a person's enjoyment of land is disturbed as result of an inspection, monitoring activity, assessments, or operations, we consider it reasonable and appropriate that compensation may be recovered by that person. Whether or not compensation will be paid will depend on the specific circumstances. Any disputes in relation to compensation for disturbance will be determined by the court in the normal way.

An example of where compensation may be appropriate could be where a campsite needs to be temporarily closed whilst operations are being carried out and the land owner suffers a drop in income as a result, or where a farmer is not able to farm on a particular piece of land during operations.

Draft high-level guidance on this issue will be made available to the Committee shortly – this will sit alongside the Bill and provide an illustration of the type of issues that we intend to cover in any guidance. This will be developed in more detail in consultation with key stakeholders and partners once the Bill has received Royal Assent.

Duty to give interested parties copies of notice of operations

13. Sections 35 and 45 place a duty on the Authority to give a copy of the notice issued under section 33 (Notice requiring owner of land to carry out operations) and section 44 (Duty to give notice to owners) to any other person with an interest in the notice.
- a) How did you determine the persons (in addition to the owner of land) with an interest in the notice?
 - b) What is the rationale for the 12-year period in sections 35(2) and 45(2)?

Response

When determining who needs to be served a copy of a section 33 or section 44 notice, we considered the equivalent provisions under sections 14 and 17 of the Mines and Quarries (Tips) Act 1969.

The provisions in sections 35 and 45 are based on those provisions. However, it should be noted that sections 35 and 45 are wider, as under sections 33 and 44 notices can be given to persons other than the tip owner and the threshold for intervention in the Bill is lower than under the 1969 Act.

The provisions relating to who must be given a copy of a section 33 or 44 notice are identical. When drafting the list, we included those persons whom we consider to have an interest in being notified if operations are to be carried out on land – whether by the owner of that land or by the Authority. This is to ensure that anyone who might be affected by the carrying out of operations on the land, or who might be required to contribute towards the cost of carrying out the operations, is informed about them.

They might have an interest in being notified because, for example, they have a current interest/estate in the land, or occupy land or have an interest in any of the material comprised in a disused tip, and so may be impacted by the works required to be carried out under the notice. Pursuant to section 36, owners and interested parties (ie those who have been given a copy of the notice) may appeal against a section 33 notice.

In terms of why we have chosen the 12-year period, we have opted to maintain continuity with the relevant provisions of Mines and Quarries (Tips) Act 1969. Landowners are aware of the provisions of that Act and the 12-year period referred to in sections 14(4) and 17(5). For example, we understand some public authorities when selling land containing tips take steps to ensure the contract reflects this point. It is also considered that the 12-year period may act as an additional incentive for landowners to take responsibility for their land, and ensure it is well maintained. Twelve years is considered a reasonable amount of time for liability to last.

14. Please could you provide the breakdown of information on tip ownership that you referred to in Committee?

Response

The picture of ownership of disused coal tips is a complex one. Often a single tip can be owned by multiple parties made up of a mixture of public, private and commercial interests. Parts of a tip may also comprise of unregistered land. This makes information on tip ownership complicated. It should also be noted that ownership will change over time so that presentation of figures is a snapshot and therefore is subject to change.

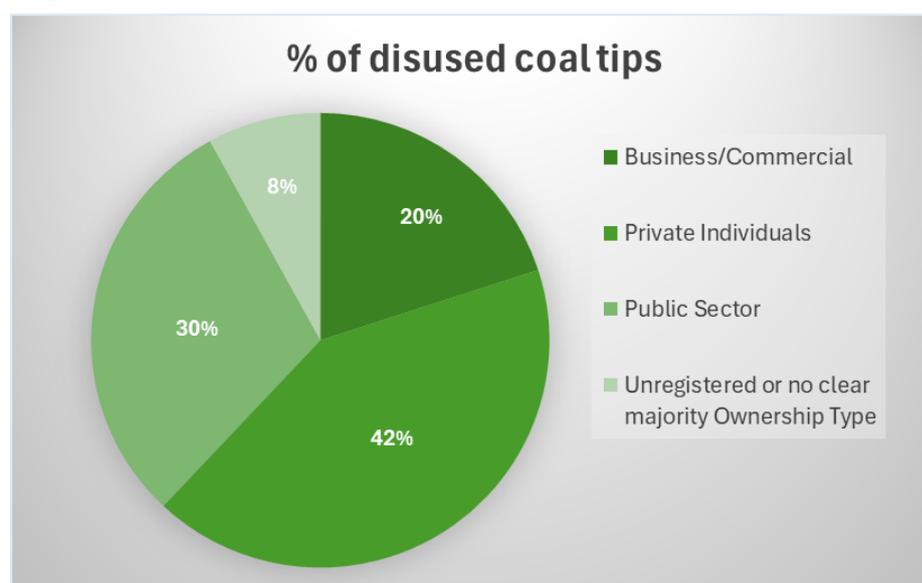
Ownership of disused coal tips by Ownership Type

Table 1 and figure 1 below provide a breakdown of disused coal tips in Wales on the basis of ownership type, which is based on majority ownership (that is where the sum of the areas assigned to one ownership type is greater than 50% of the tip's area). Note that each ownership type can represent a single owner (e.g. a business, an individual, or a public sector body) or multiple owners of that same type (e.g. more than one business, multiple individuals, or public bodies etc).

Table 1: disused coal tips by ownership

Ownership Type	% of disused coal tips
Business/Commercial	20
Private Individuals	42
Public Sector	30
Unregistered or no clear majority Ownership Type	8

Figure 1: disused coal tips by ownership



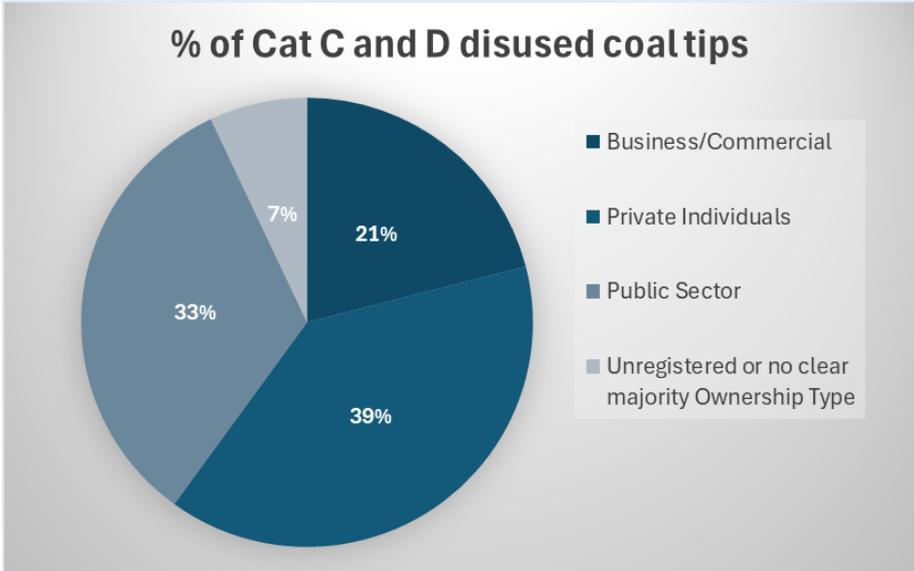
Ownership of Category C and D disused coal tips by Ownership Type

Table 2 and figure 2 below provide a breakdown of disused coal tips with a category rating of C or D on the basis of ownership type which is based on majority ownership (that is where the sum of the areas assigned to one ownership type is greater than 50% of the tips area). Note that each ownership type can represent a single owner (e.g. a business, an individual, or a public sector body) or multiple owners of that same type (e.g. more than one business, multiple individuals, or public bodies etc).

Table 2: disused coal tips by category and ownership type

Ownership Type	% of Cat C and D disused coal tips
Business/Commercial	21
Private Individuals	39
Public Sector	33
Unregistered or no clear majority Ownership Type	7

Figure 2: disused coal tips by category and ownership type



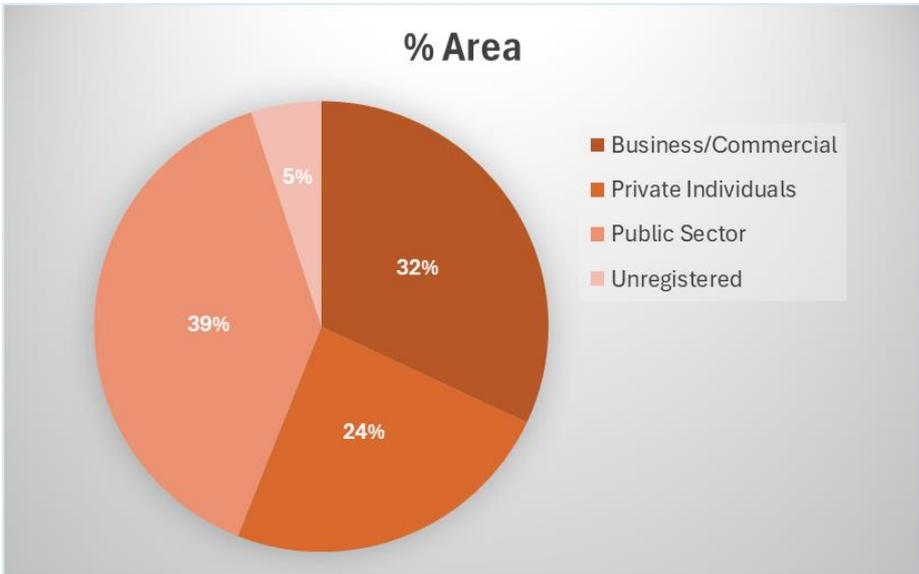
Total area of disused coal tips owned by Ownership Type

Table 3 and figure 3 below provide a breakdown of the sum of the area of all disused coal tips in Wales by assigned ownership type (as explained above).

Table 3: ownership of disused coal tips by km² area

Ownership Type	% Area	Area (km ²)
Business/Commercial	32	27.4
Private Individuals	24	20.3
Public Sector	39	33.7
Unregistered	5	4.5

Figure 3: ownership of disused coal tips by % area



Appeals against notices under section 33

15. Section 36 provides the owner of land who is given notice requiring the carrying out of operations a right to appeal against the notice. The appeal must be made within 21 days beginning with the day that the notice is given. What is the rationale for this minimum notice period?

Response

We believe that a period of 21 days to make an appeal is a reasonable timeframe. The Authority will only use its powers under section 33 to issue a notice requiring operations in circumstances where advice and support from the Authority has not resulted in an owner carrying out the necessary operations. Therefore, the issuing of a notice is a measure of last resort where informal approaches have failed. In these circumstances, an owner should not be surprised to receive such a notice and will understand why the Authority believes operations are necessary.

Also, it is important when considering the time frame for making an appeal to take account of the criteria for issuing a section 33 notice. The Authority will only issue such a notice where it considers that operations are necessary to prevent or deal with the threats to the stability of a disused tip, or to stabilise a disused tip or prevent a disused tip from becoming more unstable, so as to prevent or reduce threats to human welfare. A period of 21 days allows a person sufficient time to decide whether to appeal against a notice, which also recognises that a longer timeframe for making an appeal could result in delays and deterioration of the site.

Finally, section 15 of the Mines and Quarries (Tips) Act 1969, gives a 21-day period for making an appeal against a notice issued by a local authority under section 14 of that Act. Therefore, there is parity, in terms of time limits for making an appeal, with the current legislation.

16. The Bill does not include a timescale within which the “appointed person” (under section 37) must determine an appeal - why?

Response

Appeals under section 36 can be made on the grounds set out in section 36(3) or on hardship grounds under section 36(4), if the owner of land cannot meet the cost of the operations required by the notice.

The varied nature of the grounds of appeal and the likely differing complexity of the factual circumstances surrounding individual appeals – for example some land may have multiple owners – means that it is not considered appropriate to set a time limit within which the appointed person must determine every appeal. Some appeals will be determined on the basis of written representations, whilst others may involve the appointed person entering and inspecting land or the examination of expert witnesses. What is considered to be a reasonable timeframe for the determination of one appeal will therefore be different to what is considered reasonable in another appeal.

The Welsh Ministers must make regulations about the procedure to be followed by the appointed person in determining appeals. In addition, the Welsh Ministers intend to issue guidance on the subject of appeals which will underline the importance of timely determination of appeals.

Draft high level guidance on this issue will be made available to the Committee shortly – this will sit alongside the Bill and provide an illustration of the type of issues that we intend to cover in any guidance. This will be developed in more detail in consultation with key stakeholders and partners once the Bill has received Royal Assent.

17. According to the Explanatory Notes, in practice, appeals will be determined by Planning and Environment Decisions Wales (PEDW). To what extent are you satisfied that PEDW has sufficient capacity and resource to determine appeals in a timely manner so as to avoid delays in the carrying out of operations?

Response

It is expected, that in most cases, matters of contention or disagreement will be resolved through engagement and dialogue between the Authority and tip owners and interested persons. This expectation will be set out in guidance, which will include guidance about approaches and practices which can be used to avoid and resolve disagreements. As such, we anticipate the number of appeals to PEDW will be low.

The regulatory impact assessment estimates there will be 10 appeals under section 36 per year - based on the assumption that 25% of the estimated 40 notices requiring an owner of land to carry out operations will be the subject of an appeal. This represents approximately 1.5% of all appeal cases determined by PEDW each year, which is manageable within current working arrangements.

Section 41 applies where the Authority has cancelled a section 33 notice and the owner who was given a notice has incurred expenditure in complying with it. Subsection (2) gives the owner a right to appeal to Welsh Ministers to be reimbursed by the Authority for expenditure already incurred. Given the low number of notices anticipated, even fewer will be cancelled. Thus, the number of appeals made under section 41 are anticipated to be extremely low.

Whilst appeals under the Bill will be additional work for PEDW, PEDW is well placed to respond flexibly to workload demand, which is often necessary across its portfolio of appeals and other casework. PEDW's workload can vary significantly over time in response to market pressures as well as policy and legislative changes. Therefore, PEDW operates a flexible and responsive business model that can adapt to workload pressures and priorities as required.

Operations carried out by the Authority

18. Section 42(3) provides that where the Authority carries out operations necessary to achieve the objective in section 42(2), it may also carry out any consequential works of reinstatement that it considers are reasonably necessary. Why do you consider it appropriate to leave it to the discretion of the Authority to determine whether and what works should be carried out?

Response

It is not envisaged that consequential works of reinstatement will be required for all operations undertaken under section 42. As the expert body, the Authority will design and carry out operations under section 42, and is therefore best placed to determine whether any consequential works of reinstatement are reasonably necessary. As a public body, the Authority is under a duty to act in accordance with public law principles, and must act reasonably and rationally when reaching a decision as to whether or not any works of reinstatement are needed.

19. Section 44 provides that the Authority may not carry out operations on land under section 42 unless it has given the owner of the land at least 21 clear days' notice of its intention to do so. What is the rationale for this minimum notice period?

Response

We believe that a minimum of 21 days is a reasonable timeframe, noting that section 44(3) makes alternative provision in relation to operations that need to be carried out immediately. It gives the landowner sufficient time to, for example, remove plant and machinery or make alternative arrangements for livestock before the Authority, or contractors on behalf of the Authority, enter land to carry out the operations specified in the notice.

Section 17 of the Mines and Quarries (Tips) Act 1969 also requires a local authority to give at least 21 days' notice before entering land to carry out operations. Therefore, there is parity, in this regard, with the current law.

20. Who will be responsible for meeting the costs of operations required to ensure the safety of disused tips?

Response

The Bill does not change who is responsible for the safety of a disused tip. In normal circumstances the cost of operations will be met by the owner of the land on which the operations are carried out. Section 46 provides that where an owner of land has to bear expenses as a result of the carrying out of operations specified in a notice issued under section 33 or 44, the owner or the Authority can apply to the court for an order requiring one or more other persons to contribute towards those expenses.

If the Authority decides that it needs to undertake work on behalf of the owner (either because the owner cannot or will not), the Authority will undertake the work and pay for the work itself - it will then be able to recover the costs from the owner if the owner is able to cover the costs without suffering hardship.

21. Section 56 provides power for the Authority to require relevant public authorities to give information. The meaning of "relevant public authority" is set out in section 55. What consideration did you give to including the Health and Safety Executive within the meaning of "relevant public authority", given its role in overseeing active tips which may eventually become disused tips?

Response

Consideration was given to whether the Health and Safety Executive (HSE) should be included within the meaning of "relevant public authority" in section 55.

Given the reserved nature of the HSE, it was decided not to include the HSE in the list of reserved public authorities in the Bill.

Recovery of interest

22. The provisions of section 49 enable an owner to recover expenses from a contributory, but does not make provision for the payment of interest. Section 51(7) provides the Authority to recover certain expenses and entitles the Authority to recover interest "at a rate determined by the Authority". Why is it considered appropriate for the Authority to recover interest, and to determine the amount of interest due to it?

Response

It is anticipated that the Authority will have considered the financial situation of an owner before it decides to carry out work on behalf of that owner, and therefore before it seeks to recover expenses. Having done that analysis and having completed the work on behalf of an owner, it is important that the Authority has the ability to recover costs in a speedy manner, in line with Managing Public Money. Having the ability to charge interest is seen as a way of encouraging early settlement and is in the public interest.

Draft high level guidance to the Authority on this issue will be made available to the Committee shortly – this will sit alongside the Bill and provide an illustration of the type of issues that we intend to cover in any guidance. This will be developed in more detail in consultation with key stakeholders and partners once the Bill has received Royal Assent.

Matters relating to owners recovering expenses and any appeal to vary the demand will be considered by the courts rather than by persons appointed by Welsh Ministers. The courts will be bound by relevant legislation in respect of the application of interest.

Warrant to enter land

23. Section 64(7) provides that a warrant issued under section 64 continues in force until the purpose for which it is issued has been fulfilled. How will this provision as drafted protect against unreasonable delay in entering the land to fulfil the purpose for which it was issued?

Response

Unreasonable delay is inconsistent with the Authority's main objective and in any event, as a public body, the Authority must act in accordance with public law principles (i.e. it must act reasonably, fairly etc.). Therefore, it was not considered necessary to expressly include a provision to protect against unreasonable delay.

Power to modify application of Act to Authority land

24. Section 80 provides power to the Welsh Ministers to make regulations to modify the application of the Act in relation to land in which the Authority has an estate or interest.
- a) Why is this power needed?
 - b) Under what circumstances do you envisage the Authority acquiring an interest or estate in land in the future?

Response

The Bill establishes the Authority and gives the Authority various powers and duties relating to, for example, the assessment, registration and monitoring of disused tips. It also contains provisions that enable the Authority to deal with tip instability and threats to tip instability.

The regulation making power in section 80 allows the Welsh Ministers to modify the application of the Act so that the Act continues to operate as intended in the situation where the Authority is, for example, a landowner.

At present, there are no plans for the Authority to acquire an estate or interest in land. The regulation making power has been included as a safeguard should the Authority, at some point in the future, become a landowner, for example.

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Any regulations made under section 80 will be subject to the affirmative procedure.

Use of Welsh Tribunals

25. What consideration did you give to using the Welsh Tribunals rather than the courts to carry out various functions under the Bill, for example to determine disputes and appeals, and to make or vary contribution orders. Why did you decide that the courts were your preferred option?

Response

The Bill provides for various criminal offences. It is considered appropriate that they are dealt with by the magistrates' court, and in relation to the offence in section 61(3) – the magistrates' court or the Crown Court.

Under the Bill, certain applications can be made to the Welsh Ministers who will appoint a person to determine those applications. It is anticipated that person will be Planning and Environment Decisions Wales (PEDW). PEDW will determine applications in respect of appeals against a notice requiring a landowner to carry out operations and in respect of reimbursement of an owner's expenses on cancellation of a notice requiring operations.

Disputes relating to compensation, applications for contribution orders, appeals by contributories against an owner's demand, appeals against the Authority's demand are all dealt with by the court. This will be the county court or the High Court, depending on the level of the claim.

Welsh Tribunals cover specific areas including the Welsh Language Tribunal, the Agricultural Land Tribunal for Wales and the Residential Property Tribunal Wales. None of the Welsh Tribunals have the necessary expertise to perform the functions imposed by the Bill. The courts (which currently determine disputes and deal with applications under the Mines and Quarries (Tips) Act 1969) and PEDW are considered better placed than any of the Welsh Tribunals to deal with the subject matter of any applications/disputes in connection with the Bill.

Funding

26. What financial assistance (if any) will be made available to disused tips owners to cover the costs associated with the new regime, in particular the cost of carrying out operations to comply with section 33 notices?

Response

Disused tip owners will be able to apply to the Coal Tip Safety Grant for support – it is envisaged that the grant will continue to provide financial assistance for owners to undertake remediation and maintenance works. This will include section 33 works, which we would expect to form one of the Authority's priorities.

27. The Regulatory Impact Assessment makes numerous references to the Coal Tip Safety Grant, in particular referencing the grant will mean there are no additional costs to the Mining Remediation Authority, local authorities or NRW as a result of the Bill. Can you clarify how much of the grant is covered by the additional funding from the UK Government, and how much is Welsh Government funding?

- a) The RIA states while it 'assumes that funding provided for the coal tip safety grant will continue, any reduction in grant will mean that the capital aspects of the bill will not be affordable'. Specifically, what would the impacts be if the grant was to reduce or end?

- b) The RIA outlines 'the assumption of £11.3m grant funding per year is based on the previous year's grant funding, however, grant applicants have made bids totalling £27m in 2024-25 alone, so the demand for funding may well be considerably higher than the £11.3m we have assumed in this RIA'. How will this funding gap be filled?

Response

At the time the RIA was published, no additional funding had been confirmed from the UK Government. Therefore, the additional funding is not included within the document.

The additional funding will have no impact on the affordability of the Bill, but will mean that work on tips in Wales will be expedited. The additional allocation of funds will be reflected in a revised RIA following Stage 2 of the scrutiny process.

Similarly, any reduction in funding would mean that the Authority would need to prioritise how it allocates funding, with priority given to tips with the highest risk.

Officials have written to applicants of the grant scheme to ascertain demand for funding for FY 2025-26 and this will provide an indication of whether a funding gap exists for future years. In FY 2024-25 - the Welsh Government allocated £18.4m to local authorities and NRW. Initial applications received totalled £29.4m. However, an appraisal of the applications concluded that it was unlikely that proposals totalling £11m will be delivered before the end of the 2024-25 financial year (which was the end of the multi-year budget timeframe). The proposals that were not deliverable within the timeframe of the grant will be considered for funding in future grant schemes.

If you have any further questions, please let me know.

Yours sincerely,



Huw Irranca-Davies AS/MS

Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros Newid Hinsawdd
a Materion Gwledig

Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

Y Pwyllgor Busnes Agenda Item 5.4

Business Committee

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Senedd Committees

21 January 2025

Dear Chair,

Business Committee review of the Public Bill and Member Bill processes

The Business Committee is reviewing the Senedd's processes relating to Public Bills and Member Bills. We would like to hear your views on what is working well and what could be improved.

Annexed to this letter are the terms of reference for our work and a list of the areas of focus for our initial evidence gathering we have identified to date. We would welcome your views on the matters within our terms of reference which are relevant to your work, including, but not necessarily limited to, the areas of focus. If there are other matters of relevance to our terms of reference that you would like to raise in your evidence, please do so.

We would be grateful if you could provide your written evidence **by Friday 28 March 2025**. You can either send your submission to SeneddBusiness@senedd.wales or respond to specific questions on each of the areas of focus set out in the [online form](#) available as part of our [open consultation](#).

To ensure that anyone who would like to share their views about the legislative processes is able to do so, we have also issued an [open consultation](#). We would be grateful if you could share the consultation with your stakeholders.

Yours sincerely,



The Rt Hon Elin Jones MS

Chair of the Business Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg. We welcome correspondence in Welsh or English.



Senedd Cymru
Welsh Parliament

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Annex: terms of reference and areas of focus for the initial evidence gathering phase

Public Bill process

Terms of reference

To explore options for improving the operation and effectiveness of the Senedd's scrutiny of Public Bills introduced in accordance with Standing Order 26, by reviewing experiences in the Sixth Senedd (and previous Seneddau where relevant), including:

- Relevant procedures, practices, conventions, culture and ways of working.
- The experience of legislating in a hybrid environment.

Areas of focus for the initial evidence gathering phase

- The overall effectiveness of the Senedd's consideration of Public Bills and opportunities for the public and stakeholders to contribute to the Senedd's scrutiny.
- The timetabling of Senedd scrutiny of Public Bills, including: the establishment of Bill timetables in accordance with SO26.7 (and the factors taken into account when timetables are established); and the timing of amendment tabling deadlines, the publication of Marshalled Lists/Groupings Lists and proceedings.
- The explanatory materials and information provided during the Public Bill scrutiny process, including: the requirements for Explanatory Memorandums specified in Standing Orders; the timing of written responses to Stage 1 committee reports; the provision and presentation of other information during scrutiny (such as Welsh Government-provided documents or Senedd Research publications); arrangements regarding explanatory text about the purpose and effect of amendments; and the availability, accessibility and clarity of the guidance available to Members and the public about the legislative process.
- How admissibility of amendments is assessed, and how amendments to Bills are debated and disposed of.
- How the Senedd is asked to agree to the financial consequences of Bills and amendments, including the movement of Financial Resolutions and whether it is sufficiently clear how 'significant' should be interpreted for the purposes of SO26.69-26.71.
- Whether the rules relating to the optional 'Further' amending stages are clear enough.

- The rules relating to emergency Bills.
- Whether the experience of legislating in a hybrid context, in which Members and others may participate virtually or in person, has had any impact on the Senedd's scrutiny of Public Bills.
- Any considerations for the Public Bill process arising from the increase from 60 to 96 Members in 2026 or the increase in the frequency of ordinary Senedd elections from every five years to every four years.

Member Bill process

Terms of reference

To explore options for improving the operation and effectiveness of the Senedd's Member Bill process, by:

- Reviewing experiences in the Sixth Senedd (and previous Seneddau where relevant), including relevant procedures, practices, conventions, culture and ways of working prior to a Member Bill's introduction (including but not limited to the way in which Members are selected for the opportunity to propose a Bill, the process for gaining 'leave to proceed', and the level of information Members are required to provide at these stages).
- Identifying any potential implications for the Member Bill process arising from the increase in the number of Members of the Senedd.
- Identifying and, where appropriate, raising with relevant decision-makers including the Senedd Commission and the Independent Remuneration Board of the Senedd, issues relating to the resource and support available to Members during the Member Bill process.

Areas of focus for the initial evidence gathering phase

- The overall effectiveness of the Member Bill process.
- How Members are selected for the opportunity to propose a Bill.
- How Members are granted leave to introduce Bills.
- The rules about what can, or cannot, be included in a Member Bill, i.e. the 'scope' of such Bills.

- Any considerations for the Member Bill process arising from the increase from 60 to 96 Members in 2026 or the increase in the frequency of ordinary Senedd elections from every five years to every four years.
- The implications of the above for the support and resources available to Members wanting to propose Bills.

Agenda Item 8

By virtue of paragraph(s) vi of Standing Order 17.42

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