

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.