

Huw Irranca-Davies MS

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

3 February 2025

Dear Huw,

Stage 1 scrutiny of The Disused Mine and Quarry Tip (Wales) Bill

Thank you for your recent [letter](#) with further information in relation to The Disused Mine and Quarry Tips (Wales) Bill.

The Committee will shortly conclude its evidence gathering on the Bill. While we appreciate you will be giving evidence to us in March, there are several key matters that we would like you to address ahead of your appearance to help facilitate scrutiny.

Threats to the environment

The new regime proposed by the Bill focuses on preventing threats to human welfare that could arise as a result of the instability of disused tips.

1. Why does the new regime not extend to threats to the environment that could arise as a result of the instability of disused tips?

Threats caused by the risk of pollution, combustion and flooding

The Law Commission's report recommended that the risk classification of disused tips should have regard to the risk of instability of a tip and the consequences of a stability failure. It also recommended that the risk the tip presents of pollution, combustion or flooding should be taken into account in the risk classification.



Under the regime proposed by the Bill, disused tips will only be categorised according to the extent to which they threaten human welfare by reason of their instability. The 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.

2. Can you explain why you have chosen to deviate from the Law Commission's recommendation that the new regime should take account of the risk disused tips present of pollution, combustion or flooding?

Application of the new regime to disused non-coal tips

The White Paper for the Bill says:

"we intend in the future to look to extending the scope of the proposed new regime to all disused spoil tips, where it is appropriate. To assist in delivering this aim, we will seek to obtain a baseline of the extent of non-coal tips across Wales and will work with partners to develop an approach, which can collate the relevant information (ownership, status) on these tips in a timely manner."

It sought views on the proposal for "The new regulatory framework to apply to **all disused coal tips but with the potential to incorporate non-coal tips through gradual phasing in** as evidence of numbers, locations and ownership is obtained".

Under the Bill, the new regime applies to both disused coal tips and non-coal tips. The Explanatory Memorandum (EM) says:

"The Authority will focus first on disused coal tips...Once most of the disused coal tips have been assessed and, where warranted, added to the full regime, it will consider disused non-coal tips."

According to the EM:

"it is estimated there are over 20,000 disused non-coal tips. Given that the Authority's main objective is to ensure that disused tips do not threaten human welfare by reason of their instability (under section 2 of the Bill), it is more likely to be concerned about the sorts of hazards presented by disused coal tips, than the sorts of hazards presented by disused non-coal tips."

It estimates that the Authority will start to consider disused non-coal tips in 2032-33.

3. Can you outline your rationale for including disused non-coal tips in the Bill and provide the evidence base that supports the need to apply the new regime to these tips?
4. Can you clarify whether and how the Bill provides for the 'phasing in' of disused non-coal tips into the new regime over time and as appropriate?

5. What engagement have you had with the quarrying and extractive industry (outside of the White Paper consultation) to inform the Bill's development?

Disused tip safety and environmental and planning legislation

The Law Commission report states that the Mines and Quarries (Tips) Act 1969 "is not designed to interact with modern environmental protection. It prioritises public safety, while environmental legislation imposes requirements that can obstruct remediation and clean-up works". It made several recommendations in relation to this, including that the Welsh Government consider "the desirability of providing...an exemption from any requirement to seek advance consent under planning or environmental legislation".

In response to the above, the Welsh Government commissioned Birmingham University to undertake a project to provide "an overview of where there are potential conflicts between tip safety and environmental legislation".

6. Can you explain how the Bill addresses the potential conflicts between disused tip safety and environmental and planning legislation? In particular, how does it reconcile the need for the Authority to carry out operations **immediately** to ensure tip stability with the need to comply with environmental and planning legislation?

Role of the Authority as an emergency responder

7. In 2023, the Mining Remediation Authority (formerly the Coal Authority) became a category two responder under the Civil Contingencies Act 2004. What consideration have you given to including the Authority (established under the Bill) as a category two responder under the Act?

Role of the Authority following a tip failure

8. Can you clarify what role the Authority will have in the aftermath of a tip failure and how the Bill provides for this?

The Committee has received evidence that, following the landslip at a disused coal tip in Tylorstown, in the process of undertaking urgent clean-up work to ensure public safety, (including the removal of trees and waste material) local authority officers were cautioned for failing to obtain the necessary environmental permits.

9. While the above matter falls outside the scope of Bill, can you explain whether and how you intend to resolve existing tensions between public safety operations in the aftermath of a tip failure and compliance with environmental legislation?

Preventing threats to tip safety

The White Paper sought views on whether there are types of activities on disused tips which may need to either be banned or controlled through consents and permits. The activities were categorised

as: trespassing and vandalism; actions with the potential to change the condition or performance of a tip (e.g. have a potentially de-stabilising action); and land use changes.

10. Why have you chosen not to make provision in the Bill for banning or controlling activities on disused tips with the aim of preventing threats to their stability?
11. Can you outline any plans you have (outside of the Bill) to ban or control certain activities on disused tips, including timeframes?
12. What consideration have you given to including the Authority as a statutory consultee for planning applications on or in the vicinity of a disused tip?

I should be grateful if you would provide a response no later than 17 February 2025.

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.