

Response to the Climate Change, Environment and Infrastructure Committee on the Disused Mine and Quarry Tips (Wales) Bill

Institute of Materials, Minerals and Mining

The Institute of Materials, Minerals & Mining (IOM3) is a professional engineering, environmental and scientific institution, a registered charity and governed by a Royal Charter. IOM3 supports professionals in materials, minerals, mining and associated technical disciplines to be champions of the transition to a low-carbon, resilient and resource efficient society. With around 15,000 members, IOM3 brings together expertise across the full materials cycle. This submission is informed by consultations with our members.

Question 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 proposed legislation is a necessary response to the challenges associated with disused mine and quarry tips. The unpredictable nature of spoil tip stability poses a tangible risk to communities living near these sites. By instituting comprehensive monitoring and maintenance frameworks, the Bill will significantly reduce the likelihood of accidents or disasters. Moreover, many historic tips contribute to environmental hazards like water contamination and soil degradation. Addressing these issues will mitigate ecological harm and create opportunities for land reclamation and biodiversity enhancement. While safety and environmental concerns are paramount, it is also essential to acknowledge the historical and cultural significance of these sites. The proposed legislation provides a pathway to integrate preservation efforts with risk management, ensuring that future generations can appreciate Wales' industrial heritage without compromising safety. Finally, the creation of a standardized approach to managing historic tips will ensure consistency across regions, promote transparency, and facilitate collaboration between local authorities, the Welsh Government, and stakeholders.

The establishment of the Disused Tips Authority for Wales is a strong step towards delivering stated policy intentions in this area. As the new body is being set up, it is advisable to examine the approach of other historic mining jurisdictions such as England and to build upon their experiences. To be effective, the Authority must obtain the right skilled staff, including those with a high level of experience in mining and tailings. The remit of the body is highly technical and it will therefore only be as strong as the technical expertise it wields.

Question 2. What are your views on the Bill's provisions, in particular are they workable and will they deliver the stated policy intention? Part 1 - The Disused Tips Authority for Wales.

As noted above, the establishment of a dedicated authority is a welcome development. The DTAW has the potential to provide the focused oversight and accountability required to manage the complexity of disused tip sights. By prioritizing the identification and monitoring of high-risk tips, the Authority is positioned to significantly reduce the likelihood of accidents and disasters. Moreover, provisions for systematic assessment and remediation align with broader environmental goals.

A point of consideration is how and if the DTAW will interact with the existing Mining Remediation Authority. As the MRA manages the effects of past coal mining, including subsidence damage claims which are not the responsibility of licensed coal mine operators, there is the potential for legislative overlap. In introducing the DTAW, the Bill does not refer to the relationship of the Authority with other ancillary bodies, including the MRA. If not explicitly established in the Bill, the nature of these relationships should be considered and formalized at a later stage.

The roles and responsibilities outlined in Sections 1 to 5 of the Bill are largely sufficient to provide clarity around the operation of the Authority. That said, while the Bill need not provide a complete outline of the Authority's remit, there are some areas where further clarification may be needed. It would be valuable to consider these points either at the legislative stage or during the early phases of implementation. These include:

- Whether the Authority will have the mandate to publish guidance documents.
- Whether the Authority will be able to provide professional indemnity insurance and warranty for those offering the services outlined under Section 3(3).
- Whether 'assistance' in the form of operations on land as per Section 3(5) will be carried out based on the initiative of the Authority or in response to formal requests from the landowner or other stakeholders.
- On what basis applications for grants and loans under Section 4(3) will be adjudicated.

Finally, while the provisions in Part 1 are well-conceived and align with the Bill's stated objectives, their success hinges on robust implementation, adequate resources, and proactive stakeholder engagement. To achieve its policy goals, the Authority must be well funded and ensure transparent communication and active collaboration with local communities.

Question 3. What are your views on the Bill's provisions, in particular are they workable and will they deliver the stated policy intention? Part 2 - Assessment, registration and monitoring of disused tips.

The assessment, registration and monitoring of disused tips are critical mechanisms to support effective management and mitigation strategies. The detailed provisions for assessment and registration ensure that all sites are accounted for, facilitating consistent oversight. That said, the success of these activities will depend on the availability of technical expertise and administrative systems to handle the scale of work involved. In light of this, it is important to establish whether preliminary assessments across all sites will be carried out directly by the DTAW or via third party consultants.

The completion of a full assessment of sites, where deemed necessary, is an important risk mitigation mechanism. To strengthen this process, it may be beneficial to identify a non-exhaustive list of circumstances that can trigger a full assessment of disused tips as per Section 11(c). Moreover, what constitutes a full assessment under Sections 15 and 16 could be outlined in greater detail. For instance, it is unclear whether this would include intrusive ground investigation and/or proprietary software 2 and 3-D modelling. Additionally, in relation to 17(1)(a), it would be helpful to specify whether the changes in circumstances which trigger an additional full assessment are to be identified via ongoing monitoring, through reporting by stakeholders or both.

The systemic assessment and categorization of tips is a key step to enabling targeted interventions that prevent accidents and environmental harm. Maintaining a public register promotes transparency, enabling stakeholders and communities to access relevant information about tip management. That said, it is noted that, under Section 24(3), the negative environmental impacts of the tip and the effects on local flora and fauna are not included in the matters for consideration. It is unclear whether these matters are likely to be included in "other information" used to decide a tip's category as per 26(3). In any event, it is advisable that the Bill explicitly refer to environmental protection issues in the matters for consideration.

It is vital that all assessments, both preliminary and full, be carried out in line with British Standards. There is no reference to an approved code of practice when assessing and categorising tips and this should be rectified. It is also essential that any workers subcontracted to carry out assessment or investigation engage with all codes of practice in place.

In conclusion, Part 2 is a well-structured framework that aligns with the stated policy intentions. The effective and expedient implementation of these provisions can be supported by providing greater clarity on the points outlined above. Ultimately, however,

the success of these mechanisms will depend on an adequate investment in resources and a commitment to regular review and adaptation to emerging challenges.

Question 4. What are your views on the Bill's provisions, in particular are they workable and will they deliver the stated policy intention? Part 3 - Dealing with tip instability and threats to tip stability.

Part 3 of the Bill provides a strong basis for proactively and reactively responding to the risks associated with tip instability. The inclusion of procedures for assessing stability risks ensures that potential hazards are systematically identified and mitigated. Moreover, by outlining processes to directly address instability, the provisions prioritize the safety of communities and the environment. However, to ensure the workability of these provisions in practice, greater clarity is required in certain areas.

It is unclear whether Section 33(1) applies only to the completion of operations or also to the ongoing monitoring and aftercare of the site associated with initial operations. The Bill should specify whether the landowner or the DTAW are responsible for these long term activities and how these activities will be funded in perpetuity. If the landowner is to fund and post operations at their own cost, the timeframe allowed for the completion of these activities must take into account the various stages of the planning process. In relation to Section 33(4), the Bill states that the minimum notice period allowed for the beginning of operations must be 21 days. However, it would be useful to also indicate the maximum notice period that the Authority has the discretion to issue. Moreover, it should be clarified whether initiating the planning process will be treated as the 'beginning' of operations.

Additional guidance is needed under 36(c), pertaining to circumstances where landowners may appeal the decision of the Authority on the basis that alternative operations can be carried out. The Bill should make clear that the efficacy of alternative operations must be rigorously established, ideally through technical assessment by way of intrusive ground investigation and stability modelling. Similarly, under 36(4), whereby a landowner may appeal the Authority's decision on the basis that they are unable to meet the costs of the operations required, the Bill should mandate that these claims are substantiated by a qualified budget assessment. Lastly, the onus to submit an appeal within 21 days should be revised, as this timeframe is insufficient for any landowner to engage with a specialist and prepare a reasonable response.

In relation to operations carried out directly by the Authority, as outlined under Part 3, Chapter 2, provision must be made for the aftercare and ongoing monitoring associated with operations. It should also be noted that third party consultants may be required to obtain necessary planning permission and SAB approvals prior to the implementation of operations. Finally, Section 43, on the removal and disposal of property for the purpose

of carrying out operations should clarify the legal mechanism through which this will be achieved and through which compensation will be issued.

In conclusion, Part 3 provides a firm framework for managing tip stability challenges. Providing greater clarity on how operations will be carried out in practice would strengthen these provisions. Ultimately, the effective implementation of this part of the Bill will require seamless collaboration between local authorities, the Disused Tips Authority, and emergency services.

Question 5. What are your views on the Bill's provisions, in particular are they workable and will they deliver the stated policy intention? Part 4 – Supplementary.

Part 4 is essential to supporting the overarching goals of the Bill by defining powers, enforcement mechanisms, and procedural arrangements. Clear provisions for non-compliance will ensure that regulatory requirements are upheld, promoting accountability among all stakeholders. Moreover, streamlined procedures for appeals, reporting, and governance will enhance operational efficiency and accessibility. Transparent enforcement and accessible appeals as outlined in this part are both important for promoting trust and confidence in the system among affected communities. The workability of these provisions relies on adequate resourcing and the commitment of relevant authorities to uphold the intended standards. Additional points of consideration in Part 4 are as follows:

- Under Section 55 (1)(e), it should be noted that the Coal Authority has been renamed as the Mining Remediation Authority.
- Under Section 68(1), where services are provided to devolved Welsh Authorities, the Authority, either directly or via a third party consultant, must provide the appropriate professional indemnity insurance and warranty.

Question 7. What are the potential barriers to the implementation of the Bill's provisions and how does the Bill take account of them?

The successful implementation of the Disused Mining and Quarry Tips Bill may face several potential barriers. First and foremost, the effective management of disused tips requires significant financial and human resources, which may strain existing budgets. The establishment of the Disused Tips Authority, at a minimum, ensures a dedicated resource pool to address these challenges. That said, the success of the Authority is dependent on the attainment of adequate funding and staffing.

Another key issue with regards to the management of disused tips is technical complexity. Assessing, categorizing, and remediating tips involves specialized technical expertise that may not be readily available. Indeed, there is currently a shortage of qualified geo technicians throughout the world. The bill mandates collaboration with experts and institutions, fostering knowledge-sharing and capacity-building to address

technical gaps, which is welcome. Beyond this, access to skills and expertise should be at the forefront during every stage of implementation, including the establishment of the Authority itself.

Stakeholder resistance can also act as a major barrier to the management of disused tips. Local communities may resist certain interventions due to concerns about disruption or perceived inequities. Within the Bill, provisions are made for community engagement, transparency, and public registers. These mechanisms should be implemented in a manner that proactively builds trust and encourages cooperation, such that the Authority can fulfil its policy objectives while maintaining positive public relations.

The potential delays associated with legal and administrative procedures should not be underestimated. Complex legal requirements may impede the implementation of necessary actions. As noted above, under Question 4, the legal mechanisms through which the Authority will operate are not clear from the Bill in its current form. Providing clear legal guidelines can minimise delays and ensure timely action.

Finally, unforeseen environmental or safety issues may arise during remediation efforts. Comprehensive Environmental and Social Impact Assessments (ESIA) are one safeguard against these challenges. In addition, the provisions of the Bill pertaining to monitoring, risk assessment and emergency intervention can provide a framework for adaptive management.

For the most part, potential barriers to the management of disused tips are addressed in the provisions of the Bill. Whether these barriers can be overcome in practice will depend on the effective implementation of these provisions.

Question 9. Are any unintended consequences likely to arise from the Bill?

While the Bill aims to address critical safety and environmental concerns, there are potential unintended consequences that warrant consideration. By proactively identifying and addressing these issues, the bill can better achieve its objectives while minimizing negative outcomes.

A key issue is the economic impact of the Bill on local communities. Stringent regulations and remediation costs could impose excessive financial burdens on landowners and local authorities, with knock-on effects for local economies. As is noted above in Question 4, the source of funding for long-term activities associated with site operations is currently unclear. This should be rectified and, in addition, the Bill should include provisions for financial assistance or subsidies to alleviate economic pressures on affected stakeholders.

Another concern not addressed in the Bill is the potential for displacement associated with the Authority's activities. Large-scale remediation projects might require the

relocation of residents or businesses near disused tips, causing social and economic disruption. Comprehensive relocation plans and community engagement strategies should be mandated by the Bill in such circumstances.

The Bill also does not consider the likelihood of facing environmental trade-offs in the management of disused tips. Remediation activities, such as excavation or transportation of waste, could inadvertently cause additional environmental harm, including by increasing carbon emissions or disrupting local habitation. Environmental impact assessments and sustainable practices should be mandatory components of remediation plans to ensure responsible decision-making and mitigate collateral damage.

Finally, the risk of administrative overload should be considered. The scale and complexity of implementing the Bill may strain administrative capacities, leading to delays or inconsistencies in enforcement. Providing more comprehensive administrative guidelines at the legislative phase, including on the relationship between the Authority and other relevant bodies, may be beneficial. Moreover, funding and staffing for the Authority and supporting agencies are critical to ensure the effective execution of the Bill's aims.