

DMQTWB 13 - Evidence from: Thomas Glyn Watkin

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?

I entirely agree with the statement in the Explanatory Memorandum which accompanies the Bill that “there is a clear case to replace the current regime established by the 1969 Act [the Mines and Quarries (Tips) Act 1969] and replace it with a new regulatory regime” (EM ¶3.112). The 1969 Act was passed when there was still an “active mining industry, and was designed to regulate the tipping of waste from operational mines” (EM ¶3.11). As noted by the late Lord Howe of Aberavon in a postscript to his reflections on the Aberfan Disaster and the subsequent tribunal of inquiry in which he took part as a counsel, “Danger was a daily reality in the mining communities, but it was the safety of the men in their place of work which demanded attention, perhaps blinding people to other, less obvious, dangers in their neighbourhood”. With the demise of the coal industry, the other dangers need to be differently addressed.

I am pleased that it is proposed that the new regime is intended to apply to a wider range of disused tips than just coal tips.

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)

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

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

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

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

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

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)

I consider it appropriate that, in order to future proof the ambit of the regime, the definition of a 'disused tip' is subject to amendment by regulations (section 81). This will enable a rapid legislative response should the need arise, and is suitable in other circumstances generally given that the statutory regime itself will have been settled by bill with full opportunity for detailed scrutiny and amendment.

It is also appropriate that regulations amending the definition of 'disused tips' should be made by statutory instrument subject to the affirmative resolution procedure (section 74 (3) and (4) (e)).

I was initially less convinced as to the need for such a wide-ranging 'Henry VIII' power to amend primary legislation as is contained in sections 73 (2) and (3) and

74 (5), but on balance am prepared to accept that it may be desirable to include it because items of legislation requiring amendment or repeal may be identified in the future, particularly when amending the definition of 'disused tips' so as to extend the range of the new regime.

5. Are any unintended consequences likely to arise from 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?

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

I am grateful to the Committee for the invitation to make a written submission in relation to this inquiry. Unless otherwise stated, the opinions expressed are entirely my own and do not represent the views of any body or institution with which I am or have been associated.

I have no personal or professional interest in the matter under inquiry, but two possible conflicts of interest should be noted.

First, I was born and brought up in the village of Cwmparc in the Rhondda. Cwmparc had, at the time of my birth, two active collieries, but both had ceased production by my mid-teens. Spoil from the collieries had been deposited on the mountainsides around the village. The subject of the legislation is therefore of concern to me as a former inhabitant of a mining village which has coal tips. I currently continue to maintain a residence in the village, although it is not my principal residence and it is not affected by the legislative proposals.

Secondly, I am a member of the Welsh Advisory Committee of the Law Commission of England and Wales. As such, I had the opportunity to comment upon the Law Commission's work and report which led to the current legislative proposals, and I did so comment. The opinions expressed in this paper are

however, as stated in ¶1 above, entirely my own and should not be taken to represent the views of the Law Commission or of its Welsh Advisory Committee.

In the mining village in which I was brought up and lived for the first 35 years of my life, the coal tips were situated on the opposite side of the valley to the houses and the community, or at a safe distance away. During the last half century, some new housing developments have been built on the same side of the river as the now disused tips, which tips have also been landscaped and grassed over.

Although the developments in question are not in my view threatened by the tips, I have however expressed concern that the location of disused tips, particularly those which are no longer as apparent as they once were, should be a factor to be borne in mind when planning consent is sought for new developments. Given the current need for more housing and the political determination that that need be met, cognizance of the location of such tips is, in my view, all the more important. This comment may not be of direct relevance to the current bill, but I believe that awareness of the issue is necessary to “provide communities in Wales living near disused tips with the assurances and safeguards they need to feel safe and secure in their homes” (EM ¶3.111).

I have no further comments to make, other than to reiterate my thanks to the Committee for the invitation to submit my views and my hope that my comments may be of use.