

Philip I-Ching Lin

06 November 2011

Hon Brian Ellis MLC  
Standing Committee on Environment and Public Affairs  
Legislative Council of Western Australia

Dear Hon Brian Ellis,

**Submission - Petition No 136 Kwinana Air Buffer Zone Extension**

I am writing to you on behalf of the Mandogalup Local Action Group (MLAG) with regards to the 2010 extension in the Kwinana Air Buffer Zone surrounding the Alcoa Residue Area (RDA). Please note that no complaints have been made to the Parliamentary Commissioner for Administrative Investigations.

The base line report for the buffer extension was found to be inadequate by a recent SAT report. It is confounding that within the time frame from pre 2002 WAPC Kwinana Air Buffer report & the Sep 2010 Buffer extension being 9 years and that only 6 weeks data could be presented.

In the time 1999-2003 Alcoa had irregularities in air quality data reporting which resulted in a government audit, following this time Alcoa commenced air quality modeling with SKM. The SKM (2004) report modeled results as well as the GHD (2009) report modeled results show dust emissions do not follow the contour of the Buffer placed, as echoed in the SAT Report. This means the Mandogalup Cell is generally outside the Alcoa dust emission according to the various models.

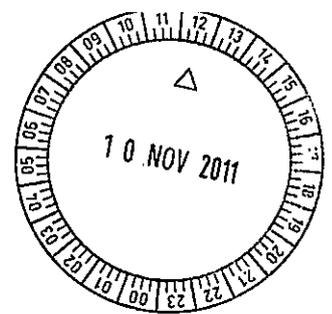
However, The Department of Health (DOH) Letter 06 Sep 2011 states that *"The potential impact of dust for both health and amenity is greatest within 1 km of the RDA"* and *"Currently there is no hard evidence that dust causes asthma however breathing high concentrations of dust over many years is thought to reduce lung function in the long term and contribute to disorders like Chronic Bronchitis and Cardiopulmonary disorders"* and *"DOH Advised that WAPC that some individuals living inside this buffer may be adversely affected by dust while others will not be affected"*. The MLAG has identified many existing residents inside the extended buffer are children or elderly and on average the continual residential periods in between the range of 5 to 50+ years. The diverse community now affected included several family day care centres, large scale market gardens with 100+ staffs, place of worship, foster care families, pregnant mothers, infants and voluntary firefighter centre.

There has been a total lack of ongoing government supervision and independent monitoring and auditing which has been at the expense of private landowners, furthermore the health of people from all walks of life may have been affected by this lack of supervision.

The Department of Environment and Conservation (DEC) in its letter dated 23 Sep 2011 acknowledges that *"The DEC has not carried out any specific technical field studies in relation to the expanded buffer zone"*, *"However, DEC operates two air quality monitoring sites at Wattleup and North Rockingham"*. It is important to note that all DEC monitoring sites are kilometers away from the Mandogalup Cell. It is grossly irresponsible for the DEC and WAPC to expand buffer into the Mandogalup Cell when there is no systematic government due diligence programs in place.

Alcoa has been left to knowingly operate in breach of the 1961 Alumina Refinery Act First Schedule namely Clause 6. (8) *"The Company will ensure that the residue discharged through the pipe or pipes containing the sands will not contain any material which may be or become or cause nuisance or be or become dangerous or injurious to public health"*. It is understood that ALCOA has been pumping toxic caustic materials, as part of its Alumina extracting process into the RDA, raising serious health concerns for its employees, nearby residents and the general community.

If there are health risks, what should the relevant Departments do to minimise that risks? If the health risk is unknown, then the Government should investigate that risk to safeguard its citizens. It is important to note that residents have purchased land in the area knowing clearly they were outside the original buffer



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In recent years WAPC and Town of Kwinana have both identified Mandogalup as an area for future development. A series of public consultation flyers were issued by Planning Authorities, representing this urban development plans. Furthermore WAPC, Satterley and Qube have made numerous purchases in the area, which in turns has contributed in high land valuation resulting in substantially increased land tax and council rates for residents. In fact as recent as 25 Aug 2010 developer contributions were been solicited from residents.

WAPC Letter 4 Oct 2011 states "*land uses can carry on as they are*" but "*are unable to advise what land uses will/will not be appropriate*". It is a dangerous precedent that major planning decisions are being undertaken without due consideration to implementation. Note it is beyond belief that in 3 years post 2008 Position Paper, 1 year post Alcoa RDA Buffer decision WAPC and Town of Kwinana are still unable to communicate any planning guidelines or appropriate land uses.

The WAPC 2002 Kwinana Buffer position paper noted that mechanisms had to be identified to ensure equitable outcomes for private landowners affected by any expansion of buffer. This is reiterated in the recent SAT Report. Furthermore Clause 4.5 of the State Planning Policy SPP4.1 finds that environmental needs and rights of adjacent landowners would need to be taken into account. However MLAG believes that there were no considerations for local residents in the Buffer extension planning process. With respect the timeframe post 2008 position paper and the Sept 2010 Alcoa RDA buffer decision:

- No consultation was carried out with affected stakeholders post issue of the WAPC 2008 Position Paper.
- The outcomes of investigations stated in the 2008 paper were not presented to private affected land owners for review / comment.
- Base line technical data has not been independently gathered or audited to ensure transparency, accuracy and to rule out Alcoa's self interest.
- It is grossly unfair to expect the public to make a representative submission based on the scant and now proven inaccurate comments released for comment in the WAPC 2008 Position Paper.
- A comprehensive interim report should have been issued between the vague 2008 consultation and the Sept 2010 decision. This report should have included data, maps, modeling, real seasonal impact footprints, detailed closure strategy for Area F including an agreed timeframe and detailed advisory comments from DEC & DOH

MLAG have made numerous and dedicated communications to various departments including WAPC, DEC, Department of Health, Local Council and Alcoa since July 2011, WAPC finally sent letters out to affected landowners more than a year later on 4 Oct 2011.

In the letter from Gary Prattley, dated 04 Oct 2011, Chairman of WAPC, "*By maintaining a separation distance between industry and residential development the buffer area also seeks to avoid restrictions being placed on the activities and operations of industry within the industrial area*". What about the restrictions being placed on the residents? Some residents have been residing in Mandogalup far before Alcoa's operation commenced.

An inquiry is required due to the gravity of this decision, with potential losses being in the Million of dollars and more importantly the uncertainty on the health, quiet enjoyment and wellbeing of all public with an interest in the affected area. We feel that if Alcoa was governed correctly and appropriately, the issues with dust would have been addressed at the source of pollution. The relevant regulator should ensure that Alcoa meets its environmental license and the slurry Alcoa pumps into the RDA meets the 1961 Act.

We request the Committee to start a Parliamentary Inquiry to offer transparency and justice to the local residents. I would like to kindly request my presence in front of the committee for any further inquiries that may arise following your investigation.

I have also enclosed a copy of reference materials to assist the Committee with its research.

Yours Sincerely

Philip I-Ching Lin  
Principle Petitioner  
Petition Number 136



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Government of Western Australia  
Department of Environment and Conservation

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Mr B and Mrs P Barron

Dear Mr and Mrs Barron

Thank you for your letter dated 26 September 2011 regarding the revised Kwinana Air Quality Buffer.

The Western Australian Planning Commission (WAPC) is responsible for planning matters in Western Australia. I understand that in September 2010, the WAPC officially expanded the Kwinana Air Quality Buffer. This was confirmed by the WAPC in May 2011, together with a decision to revise the buffer in this area in five years time to ensure that it reflects the current conditions in the area.

For further information and technical reports which relate to the WAPC's decision-making process, I recommend that you contact the WAPC, via the Department of Planning (DoP), on 6551 9000 or at [www.planning.wa.gov.au](http://www.planning.wa.gov.au).

Any future planning for land within the buffer will be considered by the DoP in liaison with relevant local government and State Government agencies, including the Department of Environment and Conservation (DEC), in order to ensure that land uses within the buffer area are acceptable. To date, DEC has not recommended any intended future use for any land within the buffer zone.

It should be noted that although it is not possible for DEC to undertake ambient air quality monitoring near each existing industrial facility in the State, Alcoa is licensed by DEC and must operate the premises in accordance with its licence conditions and approval processes.

I understand that the WAPC will be releasing an update to its *Review of the Kwinana Air Quality Buffer - Position Paper (2008)* to reflect the recent amendments and provide further information on the status of the review.

I trust this information is of assistance.

Yours sincerely

Keiran McNamara  
DIRECTOR GENERAL

7 October 2011

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Government of Western Australia  
Department of Environment and Conservation

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Ms Lisa Chan

Dear Ms Chan

Thank you for your letter received on 6 September 2011 regarding the revised Kwinana Air Quality Buffer.

The Western Australian Planning Commission (WAPC) is responsible for planning matters in WA. I understand that in September 2010, the WAPC officially expanded the Kwinana Air Quality Buffer. This was confirmed by the WAPC in May 2011, together with a decision to revise the buffer in this area in five years' time to ensure that it reflects the current conditions in the area. I am aware that the Department of Planning will be notifying landowners and stakeholders in the area in the coming weeks of the changes.

The Department of Environment and Conservation (DEC) has not carried out any specific technical field studies in relation to the expanded buffer zone. However, DEC operates two air quality monitoring sites at Wattleup and North Rockingham. The Kwinana Industries Council also operates three air quality monitoring sites at Abercrombie Road, Miguel Road and Tindale Avenue on behalf of industries located in the Kwinana industrial area. These data are provided to DEC every month as a requirement of the licence conditions imposed on these industries. The data from DEC and industry are published on DEC's website at [www.dec.wa.gov.au](http://www.dec.wa.gov.au). Data from DEC's sites are summarised in its 2010 annual data report, which is also available from the website.

I trust this information is of assistance.

Yours sincerely

Keiran McNamara  
DIRECTOR GENERAL

23 September 2011

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# 2008 WAPC Position Paper

As the Hope Valley-Wattleup redevelopment area was defined to protect both neighbouring uses from the off-site impacts of the Kwinana industrial area and the Kwinana industrial area from encroachment, there is no need to remove this area from the buffer. Area 6 is to remain in the Kwinana air quality buffer as shown in figure 1.

### 3.7 Area 7 – buffer for the Woodman Point wastewater treatment plant

The Woodman Point wastewater treatment plant services a large portion of the metropolitan region and supplies recycled water to the Kwinana area for industry via the Kwinana water recycling plant. The plant is of significance and its capacity is likely to increase as development extends to the south.

This area was "subject to further investigation" in the 2002 review. The Water Corporation has undertaken some improvements to reduce impacts affecting privately owned land to the north-east of the plant. Odour modelling studies commenced in 2003 to define the extent of the impact with the aim of establishing an appropriate buffer.

A 750 m buffer currently exists which is supported by the Water Corporation. However, small changes have been requested so that the 750 m buffer (mostly) reflects cadastre and existing approvals. This provides the most effective guidance for land use planning decision-making.

The urban deferred area within the 750 m buffer is an area of community interest.

The 750 m Woodman Point wastewater treatment plant buffer encompasses urban deferred land east of Lake Coogee (private land), as well as the public purposes reserve north of the plant. This land was rezoned urban deferred by Metropolitan Region Scheme amendment 939/33A in 1997.

In determining the amendment, the Minister for Planning noted that *"the land within the urban deferred zone should not be considered as being suitable for future residential development. Rather, future use is to be compatible with the location of land within the wastewater treatment plant buffer zone or the Minister for the Environment's conditions of development."*

The EPA released a section 16 report (bulletin 1240, Nov 2006) on the Woodman Point wastewater treatment plant which recommended maintaining the existing buffer (750 m) until after the implementation of stage 1 measures, which are to achieve a 50% odour reduction, to be completed by the end of 2008. The EPA noted that the 750 m buffer was not a technically established buffer. It is recommended that the 750 m buffer be included in the Kwinana air quality buffer to reflect acknowledged and current off-site impacts from the wastewater treatment plant.

Additional information will be available after the implementation of stage 1 and stage 2 measures by the Water Corporation, scheduled for completion by

the end of 2008 and 2009, respectively. The Water Corporation will undertake monitoring of climate conditions and the results of the upgrade works, and review the impact of these works on the buffer during 2010/2011.

The 750 m buffer is to be included in the Kwinana air quality buffer at this time as shown in figure 1.

### 3.8 Area 8 – land adjacent to the corner of Rockingham Road and Frobisher Avenue

This area was "subject to further investigation" in the 2002 review. It includes urban deferred land in the arbitrary 1.5 km buffer established in the 1980s, and the land is also affected by quarrying. The main emissions are odour; however, dust and noise are also a factor.

Although the potential exists for the buffer to be slightly adjusted in this area to align with cadastral boundaries in order to provide a more practical planning outcome, there is no technical information which supports a reduction of the buffer. Accordingly, this area should remain subject to further investigation until an independent review is undertaken of any available technical investigations.

### 3.9 Area 9 – buffer for the Alcoa residue storage area

This area was "subject to further investigation" in the 2002 review due to potential impacts of dust, noise and visual amenity arising from the operations at the Alcoa residue storage area.

Alcoa has recently upgraded their dust control sprinkler systems for the residue storage area and undertook monitoring and modelling during the summer of 2007-2008. This will help to determine the impact of dust in the surrounding areas.

Alcoa is expected to finalise operations in area F by 2010 with the remediation of this area to be completed by 2015. A detailed remediation plan is currently being prepared and is expected to be completed by the end of 2008. This plan will provide the technical information necessary to better define any likely off-site impacts during the remediation phase.

The Alcoa monitoring and modelling studies planned for 2007-2009 will assist with determination of the extent of the buffer, if any, required around the entire residue area once area F is remediated.

No buffer around area 9 can be technically established at this time.

### 3.10 Summary of recommendations and changes

The proposed changes to the Kwinana air quality buffer are outlined in table 1 and depicted in figure 1.

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State agreement  
- Alcoa operates under

Philip Knight

efficiently discharge the iron oxide and the sands into the agreed disposal areas. The Company shall provide on the works site and maintain adequate pumps pipes and apparatus to provide for and maintain the discharge throughout the continuance of this agreement.

(7) The State shall after prior consultation from time to time with the Company decide the routes to be followed by such pipe lines which routes may be within the boundaries of any road railway or land belonging to the Crown or any local authority but subject thereto will follow as direct a route as is reasonably possible and subject to any mutual agreement to the contrary the State shall at the cost of the Company provide lay patrol maintain repair renew and be responsible for and do all things necessary for the continuous operation of such pipe lines from the boundary of the works site to the several discharge points of the residue and such cost shall include reasonable charges for supervision and administration; PROVIDED that the parties may agree that the Company shall carry out and be responsible for all or any of the State's obligations under this subclause. The parties hereto may from time to time agree upon alternative routes and new discharge points for the discharge of the residue and for additional pipe lines upon terms and conditions to be mutually agreed or determined in default of agreement by arbitration as hereinafter provided.

(8) The Company will ensure that the residue discharged through the pipe or pipes containing the sands will not contain any material which may be or become or cause a nuisance or be or become dangerous or injurious to public health.

(9) In so far as the parties mutually agree that for the purpose of this clause it is necessary for the State to acquire land or any rights or interests to in over or in respect of land the State shall acquire the same either privately or compulsorily as for a public work under the *Public Works Act 1902* and the cost and compensation involved shall be paid by the Company to the State on demand.

(10) The Company shall on request be supplied by the State with details of charges made by the State and shall be consulted from time to time regarding the sizes laying and condition of the pipe lines and any major expenditure which the State proposes to incur at the cost of the Company under this clause.

#### Dredging<sup>2</sup>

7. (1) The parties hereto acknowledge that for the purposes of the Company's operations hereunder it may be necessary at least for a main channel to be dredged to enable shipping to proceed through Cockburn Sound to the Company's wharf and possibly also for dredging to be done to the channel approaches and swinging basin in relation to the Company's wharf.

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