

KWINANA AIR QUALITY BUFFER EXTENSION — GOVERNMENT MISMANAGEMENT

Motion

MR R.H. COOK (Kwinana — Deputy Leader of the Opposition) [5.33 pm]: I move —

That this House —

- (1) condemns the Barnett government for its mismanagement of the extension of the Kwinana air quality buffer and its impact on the residents and landholders in the Mandogalup and Wattleup areas; and
- (2) calls on the government to fully compensate those residents, including many elderly residents and landholders, for the loss of land value and sterilisation of their property values.

The ACTING SPEAKER (Ms L.L. Baker): Members, please vacate the chamber if you are going to talk. We are trying to debate a motion.

Mr R.H. COOK: I rise, as will the member for Cockburn, to speak on this important issue today. It is an issue that has been impacting on the residents of the Kwinana and Wattleup areas for many years. It is always difficult when industry is established within close proximity to people. It is always difficult for people who have been there for some time living the lifestyle they have become used to when industry impacts on that lifestyle. As we become increasingly aware of the impact of industry and of pollution, not just airborne pollution, from time to time we should seek to try to accommodate both residents and industry in the area. It is in the Kwinana industrial strip that we have this uneasy coexistence between residents and industry, many of which are trying to do the right thing by the community in making sure that airborne and waterborne pollution and so forth are kept to an absolute minimum so that industries can go about their business in a manner that does not impact on the community.

Also, there are people who have lived in the Hope Valley and Mandogalup areas for many years, in many cases second-generation families who have grown up in that area on market gardens, on small farms or on holdings that are simply consistent with their lifestyle choices—that is, to live in a semi-rural area that is becoming increasingly encroached on by large industry and the expansion of the metropolitan area. Over a number of years governments have sought ways to make sure they can accommodate the needs of both industry and residents in the area. As the metropolitan area encroaches further south, much of this land has changed from semi-rural, supporting market gardens and so forth, as I mentioned, to urban deferred. In one case, its zoning has changed from urban deferred to urban. As a result, we are increasingly seeing conflict between the aspirations of people and the land uses for the area. As I said, over a number of years governments have sought ways to accommodate both industry and residents.

In the 1980s the Kwinana air quality buffer was established as a way of defining a zone which is considered to be safe and in which industry can go about its work and business in a manner that does not impact on the health of people living in the area. In the 1980s the primary concern was sulfur dioxide emissions from industry. Obviously, as we have moved into the 1990s with the availability of low sulfur fuels and with a greater understanding of the sorts of emissions that impact upon people, the types of industry activities that need to be captured in these policy debates have expanded, so it is not just sulfur dioxide but obviously also issues to do with noise, dust and odour that we must consider. In this case, dust is the issue that has impacted on the residents in the Mandogalup and Wattleup areas.

In 2002 a review was undertaken of the Kwinana air quality buffer, and that brought about changes to the buffer as the design and development of the Latitude 32 precinct came into play. It is in that iteration that governments have been increasingly keen to make sure they capture the broader issues related to other emissions. At that time, there was an area around the Kwinana area buffer called area 9, which sits over the Mandogalup area we are debating today. Alcoa was requested to provide some studies into the dust emissions in that area so that a further review could be conducted later in the 2000s to examine the needs for the air quality buffer. In 2008, another review of the air quality buffer was undertaken by the Kwinana Air Quality Buffer Steering Committee, which included representatives from the Western Australian Planning Commission, the then Department for Planning and Infrastructure, the Department of Environment and Conservation, the Department of Industry and Resources and LandCorp. In 2009, that group resolved further in relation to the Kwinana air quality buffer. Significantly, it found at that time that the one-kilometre buffer zone around area 9 should be expanded by another 500 metres. Area 9 is the area that sits primarily over the Kwinana residue storage areas—that is, large ponds of caustic resulting from the refining process. These are by and large fairly benign looking structures although they store some fairly toxic substances. The expansion of the buffer was designed to take account of the occasional increases in dust as a result of the residue storage areas. Information from the Western Australian Planning Commission showed not necessarily a consistent level of dust in the community, but it considered that the

occasional elevated levels of dust in the area could form some level of health risk for the community. Therefore, it was decided at that time that the buffer should be extended by a further 500 metres. The implications of that decision are far reaching. It put homes, large tracts of land, businesses, and in one particular case an urban development, smack in the middle of the extended buffer. One of the areas that was zoned urban deferred had actually then been zoned urban and one company was actively involved and had invested some sums of money in the development of that residential area. Other areas were simply homes that people have lived in for some time. One particular group of residents, the Swift family, have lived in the area for many years. Peter Swift is a constituent of mine and his family still live on their farmlet on that area. His father's ashes are scattered on that property. They, like many people in the area, were looking forward to that property providing them with some security into the future, as part of the master plan for that area was that it was very much identified as being future residential land. Therefore, it was obviously a concern to people such as the Swifts to learn that the area was in fact going to be part of an industrial buffer. This land may not be to everyone's taste; at the end of the Swift's property is a large embankment that is the side of pond F, which is one of Alcoa's residue storage areas. Nevertheless, it is their home and it has been their home for many years. Other people in the area were undertaking other sorts of lifestyles. Lisa Chan and Philip Lin were operating a very productive market garden in the Wattleup area and had invested a lot of money, time and effort in ensuring that they could use that area in the future. As I said, other people and other families who are original settlers of the area were looking forward to seeing that land developed in conjunction with property developers because they were told in good faith that this area would be a future expansion of the metropolitan area.

I am also reminded of another resident, and a good friend of the member for Cockburn and mine, Mr Ray Lee. Mr Lee is a resident in that area, and he is perhaps typical of the people who live in the area. Mr Lee has a heart as strong as an ox; he has a determination and a will that is unbendable. He has lived in this area with his wife for many years, and he has grown vegies in that area for many years. But Mr Lee is not a well man, and a few years ago his wife passed away from a respiratory condition, and it is not entirely clear to Mr Lee what it was. Mr Lee himself suffers from significant health issues that he claims are the result of living in this area in the shadow of big industry in Kwinana. Mr Lee is a market gardener and obviously has large water tanks because he is not on scheme water. He has been told by the Department of Health, I think, or the Department of Environment and Conservation, not to drink that water because quite simply they are not confident that the sort of water that he collects from the roof of his house is fit to consume. Therefore, we have the conflict between government policy to provide an appropriate buffer for the Kwinana industrial strip and the hopes, aspirations and current lifestyles of people who live in the area.

In September 2010, as I said, the Department of Planning reached a decision under the guise of the Kwinana Air Quality Buffer Steering Committee that the buffer zone should be extended to 1 500 metres. The story ended there momentarily. There was a position paper and there were rumours, and the residents had to deal with that particular environment—the rumours that persisted and continued to grow about the extension of this buffer zone that would soon envelop their properties. There was ongoing confusion about that, and I was contacted by a number of people who were concerned. Maps were floating around the Town of Kwinana. Some people had copies of these maps and wondered what they meant, and other people who had copies of position papers and documents wondered what they meant. But there was no actual decision or communication from the government about what the hell was going on. I met with some representatives from the Department of Planning in late 2010 because I wanted to seek some clarity about these rumours. I wanted to know what was going on and what the impact of the extension of the buffer would be. I was told at that meeting in December 2010 that within weeks the department would be writing to all stakeholders to inform them of the decision and the impact of that decision in February 2011. I left that with the representatives of the department, and I assumed that they would be good to their word and would be contacting people, making sure that they consulted widely with the community, and making sure that people knew what the impact of this decision would be. I apologise to my constituents now that I did not continue to pursue this issue, I did not follow it up immediately, and I took the department at its word that it would contact people in February and continue to communicate with them in that dialogue.

It was brought to my attention in July this year that still no formal communication had actually been sent to people in the community. But still these rumours persisted. By this stage, of course, the Town of Kwinana was prepared to give out the information, as much as it could, to anyone who made inquiries at the town council. It is regrettable that people's lives are being significantly impacted upon. People have made investment decisions on behalf of shareholders and directors on the basis of what they understood to be proper government processes, and people have made investment decisions about their businesses. The people in this area are now living under a cloud. They do not know whether that is a cloud of dust or a cloud of bulldust, because all they have to go on are these rumours that persist about whether the area in which they live is safe. In large part, many of those people still do not understand or know whether it is safe.

In a letter from the managing director of Sumich, Mr Nick Tana, to the Director General of Planning, in September this year, Mr Tana says —

If there has been or is going to be a change to the size of the buffer can you please advise what, if any, public consultation has taken place in reaching the decision to increase the buffer. Also please advise what, if any, independent investigations have been conducted to properly assess the health and safety concerns of people living and working in the buffer and also just outside the buffer.

Those words of Mr Nick Tana reflect many of the anxieties of people in the community. I have been to a number of community meetings now at which people have said, “What are the risks of living in this area? If there are risks, then surely the government should be telling us as a matter of urgency. If the government made a decision in September 2010, why are we still waiting in September 2011 for the government to communicate that decision and implement it?” Indeed, in this area there are businesses that produce food for consumption. Is that safe? In this area there is a childcare centre. What are the risks to these businesses? It may be that the risks are not acute. It may be that it is okay for people to continue to live in and continue to conduct their businesses in this area. But the fact of the matter is that, in the meantime, these people are living with a great deal of uncertainty. That is just plain unforgivable—plain unforgivable. I have a great deal of sympathy for the business owners and the property owners in the area, who are now facing a significant devaluing of their properties as a result of the decision to extend the buffer. But I cannot forgive or countenance a situation in which people have to live with this cloud of doubt over their heads about what the nature of the risk actually is.

The government has written to people about the air quality buffer. I note a letter from the Western Australian Planning Commission, dated 4 October, to which is attached a fact sheet. That fact sheet says —

The review of the buffer to the north, northeast and east of Alcoa’s Mandogalup Residue Disposal Area was finalised in September 2010, after the Western Australian Planning Commission considered technical advice from the Department of Health and Department of Environment and Conservation which in turn had considered dust monitoring and modelling information from Alcoa.

The Alcoa report caused people a great deal of concern. That was primarily because the report was considered to be a proprietary document that would not be shared with the public. I note that, since then, that report has been made available, and I think that is a very important consideration and concession by Alcoa. But it is still not particularly clear what the actual risks to the people living in the area are. What the Department of Planning has determined is that the people who live in the area can continue to do so. However, its fact sheet says also —

Any new uses and/or developments would need to comply with the Western Australian Planning Commission’s decision to expand the buffer. For example, approvals for additional residences, subdivision applications, or the development of sensitive uses (i.e. day care centre) would need to consider the Western Australian Planning Commission’s decision and comply with the allowed uses within the buffer area.

That is, part of the area will be zoned “buffer” and part of the area will be zoned “industrial transition”. So, part of the area will be set aside as a buffer between industry and residences, and part of the area will be a transition area in which—I am sure the minister will be able to correct me if I am wrong—some level of industrial development, such as light and service industry and so forth, will be allowed to take place.

The scenario that we face here is that we have people who are living in an area that they have grown very attached to, that they have made investment decisions about, and that they have established businesses in. We have growing rumours about the findings of a government committee, based upon a secret report into the future of that area. We have increasingly anxious members of that community who now understand that there are some health issues associated with living in the area, and they need to get a handle on those health issues.

In the fact sheet that was sent to stakeholders in the area, the Western Australian Planning Commission also makes comments about the health implications. It says —

The Alcoa residue drying areas and other industries inside the Kwinana Industrial Area are contributing to dust in the surrounding localities. The potential impact of dust is greatest within the expanded buffer zone. This does not mean that dust levels will be continuously high but rather the areas inside a buffer are, on average, subject to more episodes of high dust levels than areas outside a buffer area.

High concentrations of dust can trigger coughs or sneezes and in people with underlying respiratory conditions like asthma even small increases in dust concentration can make symptoms worse. Episodes of high dust levels can be expected to occur anywhere people live in Australia.

High dust concentrations can range from a few points (1–20) above the recommended guideline to hundreds of points above the guideline. **The Kwinana buffer area is expected to experience levels in the few points range.**

The Western Australian Planning Commission has said that there are health implications in this area, and that those people can continue to live there, but, essentially, they do so at their own risk, and that it will not allow anyone else to live there.

What we have is a community in limbo. We have a community which is living in an area to which it is greatly attached, but which has a growing appreciation and understanding that the plans for the future—decisions about their future investments. These decisions were made in good faith, on the basis that the planning guidelines and schemes in place in that area were sound, have now been taken away as a result of this Western Australian Planning Commission decision. The way these decisions were made is regrettable, but the way these decisions were communicated is unforgivable; that is, there was a bit over a 12-month lapse between when the government made its decision and when it actually informed the people that this decision would impact on them.

Lives have been broken as a result of this decision. Futures, particularly financial, have been thrown away because these people are sitting on land that has now been significantly devalued. The government now needs to treat these people in the same way that it treated the people impacted by the Latitude 32 decision. The government should be saying to these people, “We have made decisions that have taken your family homes and have taken the value of your properties away from you because we want industry to expand or continue to conduct itself in a particular way. We understand you don’t like this decision, but we will compensate you for this decision. We now understand the impact of these industries, and we want these industries to continue to conduct themselves in this manner, and there needs to be an accommodation of that.” People do not like these decisions, but people understand them in the context in which they are made.

In relation to this issue, Alcoa has been, in some respects, an unhappy participant. Alcoa has a state agreement to conduct its business, and it is doing what it does; it is conducting its business in the manner it sees best fits and is consistent with the state agreement it has in place. Alcoa, I am sure, did not want to be drawn into this debate, and it has at times been accused of secrecy and collaboration with the government in relation to what some have said is people being hoodwinked out of their properties—they are not my words. I want to assure members of the house that I do not believe Alcoa has conducted itself in that way, but Alcoa understands that it conducts a toxic industry and that there has to be some accommodation of that. All participants in the Kwinana industrial strip understand that. They understand that they conduct businesses that can be harmful to the health of people who live nearby. That is why they protect, very jealously and rightly, the buffer, and it is an important component to their businesses. I am sure the member for Cockburn can relate to this issue, given the difficulties his constituents have had with Cockburn Cement.

I do not blame Alcoa in this. In some respects, the scientific work of Alcoa has allowed consideration to be made of the health implications for these residents. I want residents to be out of harm’s way, but I also understand that those people have lived there for many years, believing that their area was not only safe, but also earmarked for future urban development, because that is what they were told under the planning regime. I want to see better communication of decisions, and I want to see greater transparency in decision making. Most of all, I want to see these people compensated for the losses they will incur through no fault of their own, but simply because of where they, and in many respects their parents and grandparents, have lived for many years. We do not like the conflict that occurs from time to time between residents and industry, but both have a legitimate right to go about their lives—either of living or their commercial business—with quiet enjoyment. In some respects we should look upon the extension of the buffer as government safeguarding health interests and commercial interests.

But the way this decision was communicated was an absolute shocker. It will impact significantly upon the residents of Mandogalup and Wattleup, and they should be compensated and looked after in the same way as the people in Hope Valley have been compensated in relation to Latitude 32. Latitude 32 was in some respects a watershed in the understanding of how industry will sit in that precinct. We now understand that the emissions footprint of that industry is greater than had been designed for, and those people whose residences now fall into this larger footprint should be compensated. They should be given information that allows them to make proper decisions about their futures. If, as the WA Planning Commission says, they can continue to live there, they should be able to continue to live there with the knowledge of the health implications.

People in the Kwinana area are used to living close to industry; many people in the Kwinana area depend on industry for their livelihoods. They understand that the coexistence between industry and residential communities is at times a difficult one, but they also understand that they need to be treated with respect and dignity in the way those decisions are made, in order for people to be accommodated. The government should do the right thing, which is to ensure that these people are properly compensated for the losses they will incur as a result of this government decision.

MR F.M. LOGAN (Cockburn) [6.07 pm]: I thank the member for Kwinana for outlining the case and the motion before the house. I rise to speak to that motion.

The Minister for Planning is well aware of this issue; it goes back over successive governments. The Kwinana air buffer zone emerged out of the national program for national emissions monitoring back in the early 1990s. The then federal government was trying to get some consistency across the country in the level of emissions that should be emitted by industry, and also the distances between industry and the people who may come into contact with those emissions. So, those national environment protection measures were set. When the major industrial park in Western Australia that emitted the types of emissions that fell under the NEPM guidelines was examined—namely, the Kwinana industrial area—the government of the day endorsed the NEPM programs and guidelines, and applied them in Western Australia. That, obviously, had a particular impact on the people who lived around the Kwinana industrial area. That then required the existing Kwinana air buffer zone to be re-evaluated and redesigned to concur with the new national environment protection measures guidelines. It is my understanding that the act specifies that a review be undertaken every five years, but it seems that over the last two governments it has dragged into one continuous review. The review of the Kwinana buffer zone was undertaken under the Court government, which was during the minister's time, for the purposes of the NEPM guidelines. The review discovered that the sulphur dioxide levels, which primarily came from the Kwinana power station, the BP refinery and originally the BHP smelting process—which was long gone by that time—had dropped significantly. That was because BP had changed its production processes and was now producing low sulphur diesel and lower sulphur content petrol, and the Kwinana power station had started to wind back its operations; in fact, new gas-fired power station was built during the period of the Court government, next to the existing Kwinana coal-fired power station. The SO₂ levels had dropped significantly and were continuing to drop, so the reason for the original Kwinana air buffer that was based around SO₂ was indicating that the buffer could easily shrink back from what was then its current boundaries to its then existing boundaries and probably even further to be around the outlines of the industrial area. It was argued at the time that that did not fit with the NEPM guidelines, and there were particular public servants in the Department of State Development who did not agree with the whole process at all; and even today they do not. They did not like the idea that the buffer could be reduced at all. They strongly endorsed the NEPM process and putting as many other hazards into the NEPM process and a new Kwinana air buffer zone as they possibly could. We went from a Kwinana air buffer zone that was based only on SO₂, and then from the time of the Court government into the Labor government up to 2008 to a new air buffer zone that took into account noise, dust, nitrogen dioxide, SO₂ and a whole series of other chemicals as well, and the levels were way beyond the original intention of the buffer zone around Kwinana.

As soon as those other criteria were introduced into the buffer zone, the buffer zone expanded and exploded across people's existing property. The buffer zone, which had been confined around the Kwinana industrial area, suddenly expanded right out across people's homes to the small townsites of Hope Valley and Wattleup, across people's market gardens and farms, turf farms, and lifestyle property, right the way back to halfway up Wattleup Road. That was significantly further away from the original buffer zone.

The buffer zone has not been finalised. This process began under the Court government and continued all the way through the Labor government. It was not concluded under the Labor government, and as the minister knows it has still not been concluded. The buffer zone exists, but it has not been finalised because there were two areas still outstanding: the Alcoa tailings pods in the Kwinana electorate, which the member for Kwinana referred to; and adjacent to the waste water treatment plant in Munster—neither of which have been resolved. The final boundaries of the Kwinana air buffer zone have not been concluded.

Recently the Western Australian Planning Commission came down with a final drawing of the map around the tailings ponds for Alcoa. The original buffer zone that came out of the NEPM–Kwinana air buffer zone process envisaged a 500-metre buffer around the tailings ponds, particularly on the eastern side of the tailings ponds. Alcoa was more than happy with that because originally Alcoa's Kwinana refinery had a shelf life of only five years. It kicked off in 1966 and was really meant for completion, because it was past its use-by date, in 1996. Major alterations and upgrades were made during the 1990s to Alcoa's Kwinana operations to extend its life and to renew significant parts of the operations; and it has been given a significant upgrade to allow it to operate into the future. I cannot remember the exact number of years that the Kwinana refinery has left to run, but because it was given an extension to its life as a plant something had to be done with the waste. So the tailing ponds, to which the member for Kwinana referred, had to be redesigned. Now we have a very large tailings facility that bounds Sayer Road on the north, Anketell Road on the south and Mandogalup Road on the north. Even with the scale of the tailings ponds envisaged by Alcoa, it still said that the 500-metre buffer was fine because it had changed the way it stacked and stored those tailings. However, inside the Department of State Development there were a couple of people—I have met them—who insisted that Alcoa needs a larger buffer than that, and they have been pushing it all the time, even when Alcoa said, "It's okay; we can operate within our buffer; in fact, we are finishing off the tailings at the eastern end." If the minister has driven down the freeway to that site, he can see that the eastern end is landscaped because Alcoa is finishing at that end. In fact, Alcoa is going west, so it does need the buffer at that end.

Mr R.H. Cook: There is some talk about rehabilitating the pond there, which is the eastern one, and moving it further west.

Mr F.M. LOGAN: As the member knows, if he goes to the eastern edge of those tailings ponds, the rehabilitation that has been undertaken is fantastic. Alcoa has already moved west anyway and built new tailings ponds. It is going to go west until it has completed all the tailings ponds, and probably that will be the end of the refinery anyway. I put it to the house that Alcoa was pushed into accepting an extension to the buffer, because in the minds of these certain public servants that is what industry wanted, and that is what is in the best interests of the state. By the way, minister, these same public servants are still arguing that the current boundaries of the buffer zone are not enough and we should push them out towards the freeway. What for? There is no real reason for doing that. People are not affected by the emissions from the Kwinana area; in fact, as the minister knows, they have been dropping for many, many years. People are not affected by those emissions. There just seems to be a land grab in the minds of certain public servants who think that this is what industry wants. Even when industry tells them what it wants, they still have a view that industry does not know what it really wants and that they will look after industry. Consequently, it has led to the minister recently having signed off on an extension and the conclusion of the buffer around the Alcoa tailings ponds, which has led to a one-kilometre buffer —

Mr R.H. Cook: It is 1.5 kilometres.

Mr F.M. LOGAN: It is a 1.5-kilometre buffer around the tailings ponds, which is even further than was ever envisaged in all the discussions I had. Those tailings ponds will be concluded very shortly. The question is: when those tailing ponds are finished and have been covered in trees and grass, will the buffer disappear? The minister knows how long it takes to put those buffer zones in place. How quickly will the ponds be removed and how quickly will the people be able to enjoy the land that remains in the buffer? There is a general acceptance by the people who live in certain parts of the buffer zone that that is what has happened. They know that the buffer is being put in place for both their interest and the interest of industry. Nevertheless, it is taking away their rights to enjoy the benefits of that property by taking away their ability to possibly subdivide, although I accept that there is no guarantee of approval for subdivision. It also impinges on the market value of those properties within the buffer and that impingement, therefore, again takes away the enjoyment of their property rights.

This issue has been going on for many years. It involves a significant number of people who are affected by it. Again it is very much like the Latitude 32 issue. As the minister knows, I raised privately with him this issue of the problems in Latitude 32; they are very similar to the issues raised in this motion before the house. The member for Kwinana has put it one way and I think I might put it another way. It comes to the same conclusion but it is another way of putting it; that is, the money allocated for the Latitude 32 issue, which came out of the Hope Valley–Wattleup redevelopment program, was for the purchase of those properties in Hope Valley and Wattleup that were not intended to be ultimately resumed or purchased and then destroyed. That is it. Those property purchases have now been concluded, apart from one or two contracts that have been agreed to and are being finalised. Nevertheless, a significant number of people remain in the Latitude 32 rural area who are effectively marooned and whose property prices are sterilised when it comes to market value, in a similar way in which the buffer zone has marooned and sterilised the value of properties that fall Outside Latitude 32 but within the KABZ.

There is a real problem: there is not enough money in the fund to actually purchase both properties. There is still some money left in the fund and there is still some money that will flow through into the fund in tranches. I am not too sure how many new tranches will continue over the next one or two years. The money flows in on 1 July every year; that is, at the beginning of every financial year. Because of the nature of properties that can be purchased now—rural properties are obviously larger than townsite properties and are up to five-acre market gardens—the nature of the residents has changed. A lot of them who are seeking purchasers are old people. They want to move and every time they go out for a market price, they are not getting that market price. LandCorp is very enthusiastic about wanting to purchase where it can. I am sure it would be as enthusiastic about purchasing in the buffer zone area, but it cannot because it just does not have enough money in its year-to-year budget for this process. There needs to be government action so that the remaining people in the Latitude 32 rural area who want to get out should be able to get out. Let them go now. LandCorp has told me that it would be enthusiastic about buying out people in certain areas around Musson Road. Musson Road is very close to the Wattleup townsite and to Rockingham Road. LandCorp would really like to buy out those people, and that all fits within the area for development of Latitude 32—the Wattleup townsite redevelopment. LandCorp does not have the money to buy out those people in Musson Road. It would really like to have that funding made available, as it wants to go through the process and conclude the subdivision very soon, but those people are hindering that process.

[Member's time extended.]

Mr F.M. LOGAN: The reality is that we will not reverse this development. I would say that even under a future Labor government we would not reverse the air buffer zone because of the work that has gone into it and the agreements that have now been reached between government and industry. Nevertheless, there are people within the buffer zone, and the government—whether it be this government or a future Labor government—will have to deal with in the same way that we had to deal with people in the Latitude 32 area. Not everybody wants to leave; not everybody wants to run forward and have the government purchase them out, but a number of people do want to leave.

The member for Kwinana referred to Mr Ray Lees in Sayer Road who wishes to leave. Mr Lees—apart from all the things that the member for Kwinana said he was—is a former Mayor of the City of Cockburn, he is a freeman of the City of Cockburn and he is a very well respected citizen in the southern suburbs. The poor man is coming towards the end of his life and lives with constant health problems and irritation from dust that comes from the Alcoa mud lakes—the Alcoa tailings ponds. When they dry out, the dust blows over his property, as they are very close to his property. His own doctor has indicated very clearly where the problem comes from, where the irritation is and how it is affecting his health. The member for Kwinana has indicated what it has done to his water source there and that he would like to get out of the area. LandCorp is still playing ducks and drakes on the value of the property in the area. It says, “This is the market value for the area and it’s very difficult to get a market price in an area which has actually been controlled by a piece of Western Australian legislation that sits over the top of the property.” Where else can he get a market comparator? He cannot, and LandCorp knows that. Over the years we have been able to come up with a fair conclusion for the purchase of houses in the Wattleup–Hope Valley area.

As LandCorp knows, I played a very strong role in getting a process in place that was fair and equitable for everybody, not only for the taxpayers of Western Australia but also for the sellers. I do not think the process in place for a rural landholder is fair and equitable, whether it be a rural landholder in the buffer zone or a rural landholder in Latitude 32. That process is not in place because they are different types of purchases—one was a house. Under the previous purchase regime, one would be an example of a house and garden on a 700-square-metre property, and these are houses, outhouses and associated buildings on a five-acre property; and significantly different in the way in which they are valued. People like Mr Ray Lees believe that LandCorp continues to underestimate the true value of his property. That is why we hear these complaints and people have these feelings of being marooned in the buffer zone—marooned in Latitude 32—and that they say is all the fault of the government. There is no doubt that it is all the fault of the government; it is the fault of all governments. All governments supported putting in place this legislation that has resulted in them being marooned. Nevertheless, I think the government, having put this legislation in place, and this house having supported putting in place this legislation, are duty bound to ensure that these Western Australian citizens are dealt with in a fair and equitable way. Unfortunately, the purchasing took place immediately upon my election to the seat of Cockburn. Unfortunately, I have had to deal with this process through the whole nearly 11 years of my life in this chamber representing the people of Cockburn. I must say—I have set it on the record before—that it has been a shocking experience. People have died. People have committed suicide. The number of people who have been in my electorate office week after week, month after month in absolute tears with families breaking up is awful. It has been an awful, awful process. Effectively, 2 500 people were forcibly shifted by the state government to somewhere else in Western Australia. They moved reluctantly, and on the basis of the price that, although they accepted it, they did not believe was the true value of their property. They still felt that they were pressured into the move. My electorate officer is one of those who were pushed out. He got, I think, only \$91 000 for his house when he left in 2001. It has been a shocking process. And people are still living there. We are, I think, duty bound as not only local members but as members of this house to help those people move on and enjoy the last days of their lives in Western Australia. That can be done by topping up LandCorp funding to allow it to make sensible offers to residents in the rural sector of Latitude 32; and also by changing the criteria and nature of that fund, to allow for the purchase of properties, where necessary, in the buffer zone.

MR J.H.D. DAY (Kalamunda — Minister for Planning) [6.33 pm]: I thank the members for Kwinana and Cockburn for raising this issue and acknowledge their role in representing their constituents in doing so. Having said that, I cannot agree that the extension of the Kwinana air quality buffer has been mismanaged. I accept that these issues are difficult and certainly have impacts on people that are not ideal, in most cases. However, I think the planning system is doing what it is intended to do; that is, balancing up competing interests to ensure that decisions are made to protect as many people as possible in the longer term and to ensure that—particularly for people in the Mandogalup area, for example—no residential development that increases population density will potentially subject new residents in the area to dust exposure from the Mandogalup Alcoa tailings ponds in the future. If the extension of the buffer zone had not been undertaken, and if problems occur in the future, quite rightly any opposition would be asking a government why something had not been done to protect people from living in an area that is subject to dust intrusion from the neighbouring Mandogalup area. Really, the planning

system is doing what it is intended to do and hard decisions need to be made in some cases. I accept that that is probably what has occurred here.

It is worth going back through the history of this whole issue. I understand that originally the Environmental Protection Authority established the “Environmental Protection Policy (Kwinana) (Atmospheric Wastes)” in 1992. Since its introduction it has been used as a default for determining land-use separation around the Kwinana industrial area.

I understand that a review of the Kwinana air quality buffer was an election commitment, acknowledged by the then Minister for the Environment and Minister for Planning and Infrastructure in 2002. The redevelopment of the Hope Valley–Wattleup area in particular was instrumental in bringing about that review.

A buffer review committee was formed with representatives from the former Department of Planning and Infrastructure, the former Department of Industry and Resources, the Department of Environment and Conservation and LandCorp. The purpose of the buffer review committee was to gather and interpret information regarding the Kwinana air quality buffer with the intention of determining an appropriate buffer for the Kwinana Industrial Area. The committee’s decisions and advice also informs planning decisions made by the Western Australian Planning Commission and its committees. In May of this year the committee was disbanded, along with four others operating in the area, and replaced by the western trade coast industries committee.

The Planning Commission released the review of the Kwinana air quality buffer for public comment in August 2002 in conjunction with the former Department of Environment and in particular the water and catchment protection section and the department responsible for the mining industry at the time; albeit I am not quite sure what that department was called. The review recommended a modification to the existing Kwinana air quality buffer in six areas and identified three additional areas which were subject to further investigation.

Due to lack of precise information, particularly with regard to impacts arising from the Woodman Point waste water treatment plant and the Alcoa residue disposal area, the buffer was not able to be finalised. As a result, in October 2008, the WA Planning Commission released the review of the Kwinana air quality buffer position paper, otherwise known as the 2008 position paper. This paper outlined the Planning Commission’s position regarding a number of unresolved portions of a proposed buffer area around the Kwinana industrial area. One of the unresolved areas was around the Alcoa Mandogalup site. According to my notes, the position paper indicated some areas in Mandogalup were “subject to further investigation in conjunction with Alcoa in 2008/2009”.

As required by the 2008 position paper, in December 2009 Alcoa provided a report to the former Kwinana buffer review committee on dust emissions from its Mandogalup site to assist in reviewing the buffer around the Alcoa site in the Wattleup and Mandogalup localities.

At this time, the former Kwinana buffer review committee consisted of representatives of the Department of Planning, the Department of State Development, LandCorp and the Department of Environment and Conservation. This is not simply the Department of Planning or the Planning Commission making decisions in isolation; it does, quite understandably, involve input from other agencies. Indeed, the Department of Environment and Conservation is obviously the primary adviser on these environmental protection issues. The review committee referred that report to the Department of Environment and Conservation and then the Department of Health for independent advice on a recommended appropriate buffer area that considered environmental, health and buffer impacts. The Planning Commission considered a report compiling all this advice in September 2010 and resolved to expand the buffer by one kilometre to the north, north east, and east of the Alcoa residue disposal area, with an additional half a kilometre of non-residential and non-sensitive land uses. The types of sensitive uses allowed within the half a kilometre additional area remain subject to further discussions with the Department of Environment and Conservation, the Department of Health and the two relevant local governments.

Following this decision, the Department of Planning and the Planning Commission were also asked to release the supporting documentation of the decision—namely, the WA Planning Commission September 2010 report and the report that was prepared for and commissioned by Alcoa. In December 2010, the Planning Commission proposed to release the 2009 Alcoa report, including the Department of Planning’s report to the Planning Commission, and legal advice was sought from the State Solicitor’s Office on whether the Alcoa report could be released to stakeholders. In addition, and guided by advice from the State Solicitor’s Office, the Department of Planning communicated with Alcoa directly to seek its comment on the potential release of the report. This process concluded in May this year with the Planning Commission resolving to make these documents available to stakeholders in conjunction with planning advice. At this meeting, the Planning Commission also resolved to assign a five-year review time frame to the buffer in this area to ensure that its extent and location reflects current conditions on the site.

I know that members made the point in this debate that there was an unreasonable delay in information being made available to landowners and to residents in the area, in particular a copy of the report commissioned by Alcoa to support its case that the buffer should be increased to some extent. I recall that the release of that report was regarded with some sensitivity by Alcoa and negotiations and discussions with Alcoa were needed. However, the decision ultimately was made that the report would be made available to stakeholders. I think that explains some of the delay that occurred.

Mr R.H. Cook: But the decision of the steering committee wasn't contingent upon the availability of that report to the public.

Mr J.H.D. DAY: That is correct.

Mr R.H. Cook: The steering committee made its decision in September last year, so why does it take until October this year for the decision of that steering committee to be communicated to the community?

Mr J.H.D. DAY: As I recall, and it goes back some way from when this issue was raised with me some months ago, the discussion that was going on with Alcoa about the release of the report was certainly one of the major complicating factors. That is my recollection, but I am happy to seek further advice about that.

Consistent with Department of Health and Department of Environment and Conservation advice, the purpose of the buffer area is to recognise uncertainties inherent in the level and frequency of impacts from the Alcoa residue disposal area and the Kwinana industrial area more broadly. The role of the buffer is to set an area within which residential expansion and associated sensitive land uses are restricted—for example, the buffer area that was used in early 2010 was one reason for the refusal of application for a residential subdivision on Wattleup Road west in Hammond Park. In planning terms, the buffer is of course important because it provides a means of separating the potential expansion of residential and sensitive land uses from industrial operations, in particular the activities of Alcoa and the Kwinana industrial area generally, and reduces the ability of these two land uses to negatively impact on one another. That is the whole purpose of a buffer, of course. If there is a carefully considered judgement that there needs to be an increase in a buffer area based on well-founded scientific advice, which is what has occurred in this case, clearly, I think agencies of government would not fulfil their obligations to the public if the decision was not made to act on that advice. As I said earlier, government agencies and government would be criticised if some action were not taken and if negative effects did occur in the future.

Mr F.M. Logan: That is true, minister, I wouldn't disagree with you on that. The irony is that this recent decision, though, is extending the buffer at a part of the Alcoa tailings ponds which are coming to a conclusion. If you're going to put it anywhere, it would be in a different place. Why would you extend it there? They are finishing off.

Mr J.H.D. DAY: I can only say that it is based on the scientific report that has been done. However, as I said a little while ago, there will be a review after five years and there is nothing to stop a review occurring earlier, of course, if circumstances change or if an earlier review or reconsideration of the distance of the buffer in place is justified. It is worth making the point that without a buffer in place, the Planning Commission is not able to effectively regulate future residential expansion in the area and this could potentially affect the amenity and health of future residents in the area, as well as industry's ability to operate and expand in the future. As far as Alcoa is concerned, I can well understand why it would be very sensitive about this issue, given the experience it had around the Wagerup refinery, as I recall. It is entirely understandable why Alcoa would want to ensure that it is able to continue its operations, which are important for the economy of the state and employment, without at least the possibility, if not likelihood, of it being challenged and legal action taken against it in the future.

In accordance with the Planning Commission's state planning policy 4.1, "State Industrial Buffer Policy", buffer areas are intended to be incorporated into local government town planning schemes and strategic plans through appropriate land use designations, zoning and development controls. Planning authorities may also prepare policies or strategies to provide land use, subdivision and development control guidance for town planning schemes.

The designation of the buffer by the Planning Commission is consistent with state planning policy 4.1 and advice from the Departments of Health and Environment and Conservation provides a basis for the Planning Commission to manage the expansion of residential and sensitive uses within the area, as I indicated. Therefore, as I said, the Planning Commission's decision has been based on advice from the Departments of Health and Environment and Conservation. Within the buffer there is no proposal to amend the rural, urban or urban deferred zones that lie within the buffer area as these zones can accommodate non-residential uses, most notably industrial uses would be the obvious consideration. There is no proposal to change the rural zoning in the Town of Kwinana local scheme. The City of Cockburn, I understand, is reviewing structure planning in the Hammond Park west area, which is formerly the Wattleup locality; however, it is understood that the City of Cockburn is awaiting further outcomes from any further dust studies that may occur in that area before proposing changes to

any structure planning. Any amendments to local or regional schemes include provision for public advertising and comment, of course.

The designation of the buffer by the Planning Commission was defined to take into account uncertainties in the level and frequency of impacts from Alcoa and the Kwinana industrial area, and provides a basis for the Planning Commission to manage future residential expansions that may be proposed. Key considerations of the Planning Commission were not only the potential immediate consequences of not having a buffer, but also the future strategic interests of the area for residential expansion and industrial growth. As I indicated, if there was no resolution by the Planning Commission in relation to the buffer area, it would potentially lack that basis for refusing residential subdivisions that could be negatively affected by neighbouring industries. However, advice would still be sought from the Department of Health and the Department of Environment and Conservation.

I understand a recent decision by the State Administrative Tribunal dismissed an appeal against the refusal by the Planning Commission of a proposed residential subdivision in Hammond Park west, as I already mentioned. In making that decision, the tribunal exercised the precautionary principle, taking into account advice from the Department of Health and the Department of Environment and Conservation. However, the tribunal stated that the buffer should be given no weight due to significant methodological concerns in relation to scientific assessment utilised for the purpose of establishment of the buffer. The air quality monitoring for 12 months and assessment should inform the confirmation or variation of the buffer. Further to this, the tribunal suggested that the buffer should not be reflected in town planning schemes at that time and should await the results of the monitoring and assessment that I mentioned. That is what, as I understand it, has now occurred, and so there is now a much stronger foundation on which to make more precise decisions.

Mr R.H. Cook: Minister, I notice that you did not mention what the tribunal found—that is, they found there is a threat of serious or irreversible environmental damage for residents of the proposed subdivision in relation to dust from the residue disposal area and the sand quarry. There is a health implication on those residents that are left behind. They would sound like the Leader of the House, as he coughs now, all the time, for instance. There are a range of significant issues that still have not been addressed in terms of those health implications and so forth.

Mr J.H.D. DAY: For those who are living there now—and obviously the Department of Environment and Conservation has the primary responsibility of assessing conditions as they are now and whether some greater protection should be put in place. I am happy to get that followed up. However, in relation to the decision about extending the buffer, obviously the intention is to try to ensure that, if there is a problem there now, it is not going to be compounded substantially by a lot more people coming to live in the area, but I will get that aspect followed up in relation to the current residents.

I will just make one or two other comments. I reiterate that the Planning Commission has resolved that a review of the buffer area be undertaken after five years—that is, in 2016. Alternatively, consistent with the tribunal decision, reviews are possible after 12 months of monitoring in accordance with Department of Environment and Conservation requirements and assessment of those results by the respective departments—in other words, Health and Environment and Conservation.

The Department of Planning has since written to all landowners in the affected area on 4 October 2011. The letter explained the reason for the buffer being expanded and included a frequently asked questions attachment.

Just in relation to the issue raised by the member for Cockburn about the possibility of additional land acquisition by LandCorp in the Wattleup area, I accept that that would be desirable. That is an issue we can afford in next year's budget. Certainly, as members opposite would know, particularly those who were in government and put budgets together, there is always competing priorities, and hard decisions have to be made about how funds are allocated. I know that submissions have been made in the past for an additional amount of funding to be made available to LandCorp which were not successful at the time.

In concluding, I think it is important to emphasise that the definition and implementation of an appropriate buffer between industry and residential and sensitive uses is a very complex planning challenge. Government agencies have worked together in good faith to determine a revised buffer area that offers adequate separation distances between residential, sensitive uses and industrial operations with the aim of protecting the interests of both the community and industry in the particular areas of Mandogalup and Wattleup. It is all about orderly and proper planning.

Hard decisions need to be made, but if they were not being made, then clearly, as I said, the government and state agencies would be open to criticism for not taking action on the basis of what I understand has been quite thoroughly assessed scientific advice.

Mr R.H. Cook: Are you saying there is no impact on residents at all, and that is why you do not need to do anything until the reviews are done?

Mr J.H.D. DAY: No, I did not say there is no impact. As I understand it, there is no decision that prevents landowners doing what they are doing now on their land, but there is an indication that any application for residential development in particular or other sensitive land uses would most likely not be supported at least at present in the buffer area. It is much better to give people an indication that that is likely to be the case rather than them not have any certainty about what is likely to be approved in the future. There is nothing to stop people who own land there now from continuing to use the land in the way that they have been. What probably has been affected are people's expectations about their ability to develop in the future, whether it be the short term or long term. I understand that that would be disappointing, but it is not unusual for that to occur. Hard planning decisions need to be made to ensure orderly and proper planning, taking into account a whole range of competing uses. The operation of industry in the state is clearly important to the state's economy overall, and important to the provision of employment, including both the electorate of Kwinana and Cockburn, I have no doubt.

Therefore, the government does not support the motion that has been moved, but I appreciate the genuine intentions of the members for Kwinana and Cockburn in raising these important issues.

Question put and division taken with the following result —

Ayes (20)

Ms L.L. Baker
Ms A.S. Carles
Mr R.H. Cook
Ms J.M. Freeman
Mr W.J. Johnston

Mr J.C. Kobelke
Mr F.M. Logan
Mr M. McGowan
Mrs C.A. Martin
Mr M.P. Murray

Mr P. Papalia
Mr E.S. Ripper
Mrs M.H. Roberts
Mr C.J. Tallentire
Mr P.C. Tinley

Mr A.J. Waddell
Mr P.B. Watson
Mr M.P. Whitely
Mr B.S. Wyatt
Mr D.A. Templeman (*Teller*)

Noes (25)

Mr P. Abetz
Mr F.A. Alban
Mr C.J. Barnett
Mr I.C. Blayney
Mr J.J.M. Bowler
Mr I.M. Britza
Mr G.M. Castrilli

Dr E. Constable
Mr M.J. Cowper
Mr J.H.D. Day
Mr J.M. Francis
Mr B.J. Grylls
Dr K.D. Hames
Mrs L.M. Harvey

Mr A.P. Jacob
Mr R.F. Johnson
Mr A. Krsticevic
Mr J.E. McGrath
Mr W.R. Marmion
Mr P.T. Miles
Ms A.R. Mitchell

Mr M.W. Sutherland
Mr T.K. Waldron
Dr J.M. Woollard
Mr A.J. Simpson (*Teller*)

Pairs

Mr J.R. Quigley
Dr A.D. Buti
Mr J.N. Hyde
Mr A.P. O'Gorman
Ms R. Saffioti
Mr T.G. Stephens

Mr D.T. Redman
Mr T.R. Buswell
Dr G.G. Jacobs
Mr C.C. Porter
Dr M.D. Nahan
Mr V.A. Catania

Question thus negatived.

House adjourned at 7.00 pm
