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12 August 2010

Dear Mayor Johnson and GLA Air Quality team

**Mayor Johnson should reject draft Air Quality Strategy for not being 'fit for purpose' Daily limit value for PM<sub>10</sub> is 'highly likely' to be breached again in 2011. Mayor Johnson 'sets himself up for a fall' in mid-2011 by predicting PM<sub>10</sub> compliance throughout London in 2011 when evidence shows his current plans are regressive, unfunded and inadequate**

**Mayor should be working to increase transport funding from Government to ensure full compliance with air quality laws throughout London. He risks undermining these efforts and being accused of insincerity if he pursues removal of WEZ with a loss of £55m per annum of net income**

**After accolades for publishing his health study, Mayor needs to take steps within weeks if London is to win an 'ovation' at the London 2012 Olympics and avoid 'ridicule' over air quality failings**

I am writing on behalf of the cross-party Campaign for Clean Air in London (CCAL) to respond to the consultation on the Mayor's draft Air Quality Strategy (draft AQS) which closes on 13 August 2010 (the Consultation). Thank you for the opportunity to do so.

Details of CCAL's mission and a list of its supporters can be found at [www.cleanairinlondon.org](http://www.cleanairinlondon.org).

The public consultation documents can be seen at <http://www.london.gov.uk/consultation/air-quality> but in CCAL's view they are inadequate. CCAL has asked for further information, only some of which is available. As far as we know, with the exception of information published on 29 June 2010, the additional information provided to CCAL has not been publicised and we think ought to be so in order that the public can comment on it. We also think, for the reasons outlined in this and attached letters, that crucial information is still missing.

This submission attaches and incorporates CCAL's submissions to the Mayor's/Transport for London's (TfL's) consultations on: postponing Phase 3 of the London low emission zone (LEZ3) dated 24 June 2010; and removing the western extension of the congestion charging zone (WEZ) dated 27 July 2010. It similarly attaches and incorporates CCAL's submission dated 17 November 2009 on the earlier draft AQS and its letter to Tessa Jowell MP dated 17 January 2008 about 'No plans to deliver Greenest Games'.

This letter confirms that the totality of the information received to date from TfL and/or the GLA

fails still to address the substantive concerns raised by CCAL in its responses to the LEZ3, WEZ and draft AQS consultations.

## Summary

The Campaign for Clean Air in London (CCAL) welcomes the opportunity to be consulted on the Mayor's draft Air Quality Strategy (AQS).

CCAL is a voluntary organisation which campaigns to achieve urgently and sustainably at least World Health Organisation recommended standards of air quality throughout London.

CCAL is independent of any government funding, has cross-party support and a large number of supporters, both individuals in London and organisations. CCAL provides a channel for both public concern and expert opinion on air pollution on London. This document provides both general and expert comments in response to the consultation.

After accolades for publishing (belatedly) his health study on the mortality impacts of air pollution, the Mayor must stop stumbling backwards and move forward rapidly on air quality.

With many long lead times to implementation, the Mayor must put actions in train within weeks if London is to turn the current prospect of 'ridicule' over air quality failings at the London 2012 Olympics into a 'standing ovation' for delivering the 'greenest and most sustainable' Games. For example, the Mayor should:

1. Launch a major campaign to build public understanding of poor air quality
2. Engage London boroughs in bold, co-ordinated and urgent action to improve air quality
3. Introduce LEZ3 within weeks not months
4. Keep the WEZ
5. Clean up taxis and buses by reducing sharply their harmful emissions by 2012
6. Add one or more additional, inner London low emission zones (or Clean Air Zones) by 2012
7. Remind yourself and others we were promised the 'greenest and most sustainable Games'
8. Combine targeted local measures at 'Priority locations' with substantial structural measures
9. Take action to reduce sharply non-transport emissions
10. Seek additional Government funding but risk accusations of insincerity if WEZ could be removed
11. Establish and fund a 'London Clean Air Policy Research Centre'. Further details of our consultation response are set out below, but in brief:
  - CCAL does not think the consultation has been adequate because:
    - i. insufficient information was provided in the consultation document;
    - ii. although some has since been produced, it is too late for it to inform public comment (CCAL has provided its initial view below); and
    - iii. vital information has still not been supplied.

CCAL has sought confirmation from TfL that it can publish, on the CCAL website, documents it has received from TfL and the GLA during the consultation process. This confirmation is pending after TfL said it is 'keen to ensure that any information that may be published is properly contextualised'.

- TfL's own modelling shows that removal of the WEZ would lead to an unlawful increase in air pollution, inconsistent with EU law.
- Nothing in the draft AQS would compensate for the increased pollution that would result if the WEZ were removed.
- The AQS must include policies and proposals for the achievement of air quality laws.
- There has been no, or no adequate, consideration of the impact of the proposals on particularly vulnerable groups, or minority ethnic groups. An equality impact assessment must be carried out.

For the reasons above, the Mayor should reject the draft AQS and consult again on a version that is 'fit for purpose'.

Further details of CCAL's concerns are set out below.

### **Mayor's legal duties**

The Mayor has strict legal duties in respect of air quality. To clarify these, CCAL wrote to the Secretary of State for Environment Food and Rural Affairs in an email dated 26 June 2010. Defra replied in a letter dated 20 July saying:

*"You [also] asked whether the Government consider the Mayor of London "solely responsible for compliance with all air quality laws throughout Greater London". The Secretary of State has overall responsibility for compliance with EU air quality limits and the Greater London Authority Act 1999 Part IX sets out the Environmental Functions of the Greater London Authority and the Mayor including with respect to air quality. Section 362 of this states that the Mayor must prepare an air quality strategy for London, which will contain policies and proposals for the implementation in Greater London of policies contained in the National Air Quality Strategy, and policies and proposals for the achievement of air quality standards and objectives prescribed in Regulations made under section 87 of the Environment Act 1995.*

*"The Greater London Authority Act goes on to set out that the Mayor must have regard to certain matters and consult certain bodies in preparing his plan, including the Environment Agency and London Boroughs as well as local authorities adjoining the GLA. In practice, the Mayor and the GLA must work closely with both local authorities and national government departments such as Defra and DfT, and agencies such as the Environment Agency to prepare its strategy for air quality in London, and to ensure it is consistent with national objectives for air quality and national policy measures. Defra officials are working with the Mayor and with the GLA to understand the contribution the Mayor's draft air quality strategy will make to improving air quality within London, and to ensure the limit values are met in the shortest possible time."*

It follows that the Mayor and GLA must produce and implement effective policies and plans to comply with air quality laws and the National Air Quality Strategy or the UK will be in breach of its duties.

### **Adequacy of the consultation**

There has already been correspondence between CCAL and the Mayor/TfL/Greater London

Authority (GLA).

CCAL believes that the draft AQS consultation document published on 28 March 2010 was inadequate because it did not contain essential information.

In response to a Question from Mike Tuffrey AM, Liberal Democrat, on 14 July 2010 which asked:

*“Why have none of the LEZ3, draft AQS or WEZ consultations included a detailed assessment of the impact of your proposals on: breaches of the limit values for nitrogen dioxide (NO<sub>2</sub>); the need not to exceed such limit values anywhere once attained (e.g. attained in 2010); and the need to keep annual mean concentrations of NO<sub>2</sub> below 60 micrograms per cubic metre [ $\mu\text{g}/\text{m}^3$ ] if a time extension is obtained on NO<sub>2</sub>?”*

You replied:

*“In the development of my draft Air Quality Strategy, concentration modelling for NO<sub>2</sub> was carried out for 2015 as this is the year that, if the extension is granted, the EU limit value will apply.*

*“The focus of the first four phases of the LEZ scheme is primarily on reducing PM<sub>10</sub> and thus the assessment of the impact of the proposed deferral of the third phase of LEZ reflected this. However, the impact on emissions of NO<sub>x</sub> was also set out. The assessment for the removal of WEZ looked at 2011 and focused mostly on PM<sub>10</sub> as this is the year by which the EU limit values will apply should an extension be granted. However, estimates of the resulting change in NO<sub>x</sub> emissions were also provided. In the context of the EU limit values for NO<sub>2</sub> the removal of WEZ would not have a significant impact – the challenge for NO<sub>2</sub> is much broader across London, and the removal of WEZ would not significantly affect any areas where the 40  $\mu\text{g}/\text{m}^3$  limit value is achieved as these are located at background locations away from roads.*

*“The draft Air Quality Strategy proposes a wide range of policies to reduce the emissions of various sectors in order to move towards meeting the EU Limit values and deliver health benefits for Londoners. Wider problems are recognised in terms of meeting NO<sub>2</sub> limit values by 2015 and the Strategy highlights that additional Government action would be required. Next year, it is likely that the Government will apply to the European Commission for an extension to 2015 of the date for achievement of NO<sub>2</sub> limit values in the UK. As part of that application, the Government will have to include action plans showing how the limit values will be achieved across the country by that date and how the 60  $\mu\text{g}/\text{m}^3$  margin of tolerance will be met in the interim period. The GLA will work closely with the Government to develop a joint action plan for London.”*

See: <http://www.london.gov.uk/mqt/public/question.do?id=32063>

Your response to Mike Tuffrey shows you have failed to comply adequately with your duties.

Separately, CCAL has been seeking the missing information from the GLA and/or TfL for many weeks. In response, it has received several large tranches of unpublished information which are still inadequate.

CCAL has sought confirmation from TfL that it can publish, on the CCAL website, documents it has received from TfL and the GLA during the consultation process. This confirmation is pending

after TfL said it is 'keen to ensure that any information that may be published is properly contextualised'.

Further, for the avoidance of doubt, this letter also confirms that the totality of the information received to date from TfL and/or the GLA fails still to address the substantive concerns raised by CCAL in its response to the consultations on: the postponement of LEZ3; the removal of the WEZ; and the draft AQS.

The key requests for information and responses are set out below.

1. Mainly low emission zones (12.0 MB total file size)

CCAL submitted Freedom of Information/Environmental Information Regulation requests relating to LEZs on 10 April 2010. TfL responded by releasing several documents to CCAL on 30 May and 7 June subject to copyright and other restrictions i.e. well after the current consultation period was launched for LEZ3 on 17 May. These include:

- i. 'An analysis of air quality data to determine the impact of the London LEZ – 2004 to 2008' by AEA dated January 2010 (33 pages; 3.4MB);
- ii. 'Chemical Speciation of PM<sub>10</sub> at LEZ Supersites' by King's College London dated November 2009 (59 pages, 3.0 MB);
- iii. a Figure titled 'Meeting EU limit values for PM<sub>10</sub> on Knightsbridge, Brompton Road, Thurloe Place and Cromwell Road' (1.6MB);
- iv. 'Emissions related charging: Impact on the vehicle market (Final report for TfL, August 2007)' by Experian (57 pages; 0.5MB);
- v. '(Category 3 Air Quality Monitoring) Analysis of Air Quality Data – LEZ Year 1 (2008/09) Results by King's College London and the University of Leeds dated May 2009 (119 pages; 3.5MB); and
- vi. 'National Travel Survey – Analysis of travel trends for London' dated June 2008' (19 pages).

Amongst other things, these studies show the existing LEZ is working and provide further evidence the Mayor was wrong to postpone LEZ3. Indeed, the preliminary assessment made by the first of those reports says "*The report notes potentially significant [positive] trends in levels of black carbon and PM<sub>2.5</sub> [i.e. fine particulate matter] across the period of scheme implementation*".

These key studies do not seem to have been available to the general public to inform their response to the LEZ3 and other air quality-related consultations and seem still not to have been published.

2. Health study (0.3 MB total file size)

CCAL submitted a Freedom of Information/Environmental Information Regulation request to the GLA relating to the Mayor's health study on 11 April 2010. The GLA rejected this request on 12 May 2010. CCAL requested an internal review of this decision by the GLA and the report was published finally on 29 June 2010. It is titled:

'Report on estimate of mortality impacts of particulate air pollution in London' by the Institute of Occupational Medicine' dated June 2010 (38 pages; 0.3MB)

Amongst other things, this study shows the severity and impact of poor air quality in central London and that it is a London wide problem. People in outer London boroughs are likely to have been surprised by the extent and health impact of the air pollution in their local area.

CCAL urged TfL to delay the closing date of its consultation on the postponement of LEZ3 on the grounds that the health study is highly relevant to anyone wondering whether LEZ3 is needed to protect: people in outer London boroughs; or those worst affected by poor air quality in inner London. TfL rejected this request on the grounds the health study did not specifically address the health impact of changes in the timing of LEZ3.

The health study has still not been widely publicised by the Mayor.

### 3. Mainly WEZ (19.1 MB total file size)

On 11 June 2010 CCAL requested information relating to the consultation on the proposal to remove the WEZ and more widely. In particular, CCAL requested:

*"copies of any information held by TfL about emissions and/or assumptions relating to Figure 5-1... in 'Proposals for changes to the Congestion Charging Scheme, Public and Stakeholder Consultation May-August 2010...'\* I am interested for example in the assumptions made,...the highest concentrations of PM<sub>10</sub> within each 'concentration contour' shown; and discovering what adjustments (if any) TfL has made to ERG/Kings College London's work. I am keen also and separately to see any work undertaken or estimates produced or analysis done by or for TfL about annual mean concentrations of NO<sub>2</sub> in that part of London for each of calendar 2010 and 2011 since it seems, on the face of it, no such analysis is provided in any of the consultation documents relating to the proposed removal of the WEZ."*

\* This document, with supplementary information, is referred to as the "SD".

The request continued:

*"You are presumably aware that EU limit values for NO<sub>2</sub> entered into force on 1 January 2010 and that EU limit values apply everywhere (and once attained may not be exceeded). This means that if the WEZ is formally removed on 4 January 2011 annual mean concentrations of ambient NO<sub>2</sub> may not exceed 40 micrograms per cubic metre (µg/m<sup>3</sup>) anywhere that has attained that level in calendar 2010. In addition, if the UK obtains a time extension – perhaps until 1 January 2015 – to comply with this limit value then annual mean concentrations of NO<sub>2</sub> must not exceed 60 µg/m<sup>3</sup> after 1 January 2010. I am keen to see any analysis done by or for TfL that addresses this very serious public health issue."*

A response to the request was provided on 13 July 2010. It attached eight Figures or maps totalling 19.1 MB in file size.

As is clear from the fact that it was necessary to make the request, the information is not contained in any of the documents relating to the current air quality-related consultations (extensive though they

may be). The draft AQS refers only to the outputs of models on oxides of nitrogen (NO<sub>x</sub>) and NO<sub>2</sub> (and the models themselves are not disclosed) and says almost nothing about NO<sub>2</sub> concentrations. References to NO<sub>x</sub> are to emissions not concentrations.

Having now seen this response to our request, it emerges that the information requested is vitally important to consultees. In particular:

- a. Modelling of NO<sub>2</sub> concentrations has been undertaken to consider NO<sub>2</sub> levels (e.g. with and without the WEZ). This notwithstanding that there is nothing in respect of NO<sub>2</sub> in: the draft AQS; or the WEZ Consultation; or the WEZ IIA equivalent to Figure 5-1 in the SD and in figure 6 – 2 page 45 WEZ IIA, which illustrates the modelled outputs in respect of PM<sub>10</sub>. Consultees need this information if they are to respond to the current consultations in respect of the proposed removal of the WEZ.
- b. The modelling is incomplete. It does not address the need to achieve the annual mean NO<sub>2</sub> concentrations plus margin of tolerance – the 60µg/m<sup>3</sup> limit in Article 12 and Annex XI of Directive 2008/50/EC. The reasoning given is that ‘Defra is responsible for the assessment of compliance of NO<sub>2</sub> concentrations, including the attainment of 60µg per m<sup>3</sup> (related to the margin of tolerance assessment) for submission to the EU, and this work is currently ongoing and due to be reported in 2011 through the Time Extension Notification process.’ This is also puzzling. The obligation to ensure compliance with limit values plus margin of tolerance is an EU obligation which applies during and if a time extension is obtained, and that obligation attaches to Member States, irrespective of divisions of responsibility within different national governments. Consultees cannot comment meaningfully on the draft AQS if they are unable to ascertain whether the proposal might hinder the UK’s ability to comply with its EU obligations, and it is irrelevant that a central government department may have to undertake the relevant modelling for inclusion in the consultation document.

Consultees need the opportunity to comment on the extent of the modelling undertaken, particularly given that what has been done and/or made available is not sufficient to confirm whether the UK will meet its EU law obligations if the draft AQS is implemented. Consultees also need the opportunity to comment on the rationale for limiting the extent of the modelling in the manner which the Mayor has done. Yet consultees are unable to do either on the basis of the current consultation documents for the draft AQS, postponement of LEZ3 or removal of the WEZ.

In addition, further vital matters remain wholly unclear, notwithstanding the response of 13 July 2010. In the absence of such clarity, consultees still remain unable to comment intelligently on the draft AQS. In particular:

- The draft AQS, and its accompanying IIA, propose alternative measures intended to address air quality in London. However, no quantification of the impact of those measures is provided. The draft AQS and its IIA do not quantify them, and the WEZ IIA has (for obvious reasons) been prepared using baseline data which does not include them. But, as the draft AQS IIA notes, a “‘good’ score [for air quality measures] does not necessarily mean ‘good enough’” (para. 4.15). Consultees cannot tell what the cumulative impact of the proposals will be, even though it is only the cumulative impact that is ultimately relevant to the UK’s compliance with EU law.

As indicated above, the modelling of the impact of the proposal to remove the WEZ on NO<sub>2</sub> levels is incomplete. It needs clearly to be shown what impact the proposal would have on the UK's compliance with annual and hourly limit values; the limit values plus margin of tolerance (and whether any alternative measures might be sufficient to mitigate that impact); and the need to ensure limit values once attained are not exceeded. Similar information is needed, but not provided, for PM<sub>10</sub>.

#### 4. Integrated Impact Assessment and other modelling information (19.8 MB total file size)

On 24 June 2010, as part of its submission on the consultation on the proposal to postpone Phase 3 of the LEZ, CCAL requested further information.

A response to the request was provided on 28 July 2010. It included:

- i. 'Local Measures for PM<sub>10</sub> Hotspots in London, Protect 18477 Final Report' by Air Quality Consultants and TRL dated December 2009 (179 pages; 15.9 MB);
- ii. 'Local Measures for NO<sub>2</sub> Hotspots in London, Project 18447 Final Report' by Air Quality Consultants and TRL dated March 2010 (66 pages; 3.9MB);
- iii. 'Summary of policy options considered in development of draft MAQS'; and
- iv. Figures showing Postponement of LEZ: Predicted Impact on Annual Mean NO<sub>2</sub> concentrations in 2011 and Predicted impact on number of daily mean exceedances of PM<sub>10</sub> in 2011.

These are addressed further under Point 8 below. Please note that (iii) fails to filter options in terms of their ability to contribute cheaply to compliance with air quality laws or protect those most exposed to the worst air quality. Instead, (iii) looks only at average city-wide impacts. Further it still fails to consider key options recommended by CCAL e.g. an additional low emission zone covering the combined CCCZ and WEZ area.

#### Overview of additional information provided (only) to CCAL

In summary, documents provided to CCAL show:

- that removing the WEZ will increase NO<sub>2</sub> concentrations in the area, including residential areas, in 2011;
- the daily limit value for PM<sub>10</sub> will be breached, for example, on the pavement outside Harrods – i.e. where the public would normally have access;
- a failure to comply with the NO<sub>2</sub> annual mean limit value plus margin of tolerance (even if a time extension is obtained); and
- that in some areas limit values for each pollutant, having been attained, will then be exceeded.

Key information still not available includes but is not limited to:

- modelling of compliance with the NO<sub>2</sub> hourly limit value if the WEZ is removed;



- modelling of compliance with the NO<sub>2</sub> annual mean limit value plus margin of tolerance if the WEZ is removed;
- modelling showing the cumulative impact of measures to mitigate fully the worsening of air pollution if the WEZ is removed; and
- modelling and supporting information, for London as whole, showing how and when air quality laws will be complied with in full.

In the circumstances, CCAL's ability to respond to the AQS Consultation is compromised.

### **Response to the proposals, insofar as a response is possible**

Notwithstanding and subject to its concerns about the consultation, CCAL outlines below the response which it *is* able to make to the proposal. This response is, of necessity, in general terms. It concerns the modelling which has been included, the estimates of the potential economic impact, and the estimates of the impact on vulnerable members of society.

#### Riddled with 'wishful' thinking

Mayor Johnson's draft AQS, which includes 14 measures for the Government to take, represents more of a 'wish list' itself than a strategy to address one of the biggest public health crises in London. How many premature deaths will actually be avoided each year if the Mayor's committed measures are implemented?

For example, the Mayor clearly:

- a) wishes to delay compliance with laws for PM<sub>10</sub> until 2011 instead of 2010 as required following the European Commission's rejection of the Government's application for a time extension last December;
- b) wishes the Government would fund, implement and take responsibility for 14 of the most important measures needed to improve air quality in London;
- c) wishes the UK didn't need to comply with hourly legal standards for NO<sub>2</sub> which were breached in London for a whole year less than a month after entering into force on 1 January 2010;
- d) wishes annual mean NO<sub>2</sub> didn't need to stay below 60 µg/m<sup>3</sup> from January 2010 even if the UK gets a time extension until January 2015 (or 40 µg/m<sup>3</sup> if no time extension is obtained);
- e) wishes removing the western extension of the congestion charging zone (WEZ) wouldn't result in new breaches of the daily legal standard for PM<sub>10</sub> in Brompton Road, Cromwell Road, Knightsbridge and/or Thurloe Place;
- f) wishes the Government will fail to spot he is planning to sacrifice some £55 million net income per annum (and worsen air quality) by removing the WEZ at the same time he is asking the Government for money and putting up bus fares;
- g) wishes the weather was always mild and wet and London didn't have hot summers like

2003 which is estimated to have resulted, in London, in an additional 46 to 212 premature deaths due to ozone and 85 from dangerous airborne particles; and

- h) wishes his vague plans for action by 2020 would be enough to protect Londoners now and avoid breaches in air quality law every year up to 2015 (and thereafter) (with 'ridicule' in prospect at the London 2012 Olympics).

A 'wish list' is not relevant to the task in hand i.e. producing a strategy in accordance with the law. Mayor should make strenuous efforts to gain the initiative on air quality

After accolades for publishing (belatedly) his health study on the mortality impacts of air pollution the Mayor must stop stumbling backwards and move forward rapidly on air quality. To do so, the Mayor must put actions in train within weeks if London is to turn the current certain prospect of 'ridicule' over air quality failings at London 2012 Olympics into a 'standing ovation' for delivering the 'greenest and most sustainable' Games.

For example, the Mayor should:

1. Launch a major campaign to build public understanding of poor air quality

Actively remind people about the dangers of poor air quality and how to: protect themselves (i.e. adaptation); and reduce air pollution (i.e. mitigation). Well done for publishing your health study on mortality due to air pollution (for 2006/8) but please stop referring to the number of premature deaths as being due 'partly' to poor air quality. These 4,267 per year early deaths are no less 'due' to poor air quality than the estimated 80,000 nationally per annum 'due' to smoking.

With the exception of statutory Mayoral documents, please build the GLA's enhanced air quality website capability upon the excellent London Air Quality Network at [www.londonair.org.uk](http://www.londonair.org.uk) (i.e. to maximise return on investment and effort and avoid duplication and confusion).

2. Engage London boroughs in bold, co-ordinated and urgent action to improve air quality

As soon as the consultation on the draft AQS has closed, the Mayor should write to the leader of each London borough seeking his or her support for bold and urgent action to tackle poor air quality. In particular, the Mayor should:

- i. signal the closing of the consultation on the draft AQS and highlight the recent health study and the exposure levels and mortality for each borough and each ward within it;
- ii. show you 'get' (finally) the urgent need to improve air quality (4,267 premature deaths compared to 230 for road traffic accident deaths). Make a fresh commitment to move forwards not backwards on air quality with: ambitious initiatives; clear accountability; measurable milestones; and a meaningful timetable to be announced shortly. More particularly, show you recognise decisive action is needed now to reduce harmful transport emissions (which cause some 80% of the most dangerous emissions in central London);
- iii. encourage each borough to hold a seminar in coming months, like the excellent one organised and webcast by the Royal Borough of Kensington and Chelsea on 16 February 2010, for any local person concerned about air quality to learn about it;
- iv. run an active local campaign to build public understanding of poor air quality with advice about how people can protect themselves (adaptation) and reduce air pollution (mitigation);

- v. seek confirmation that every part of each borough that should have been declared an Air Quality Management Area has been so declared;
- vi. offer to use your 'best efforts' to support any borough that takes bold and urgent action to improve air quality in their area e.g. in planning. Also that you are committed to finding funding and/or mechanisms to develop centrally for London tools and/or other resources that might otherwise need to be produced in each (or many) borough(s);
- vii. admit that the draft AQS is not yet 'fit for purpose' (and a further consultation will be needed) and set out the process and next steps from here in terms of what further information will be provided when (e.g. the publication of the reports on Priority Locations) and the timetable for decisions; and
- viii. propose an autumn Air Quality Summit at City Hall for borough leaders and other key stakeholders (including the media) which you will lead personally. Back it with an unambiguous commitment to produce an air quality vision document by 27 July 2011 (i.e. one year before the start of the Olympics) explaining how achieving full compliance with air quality laws to protect public health can show the world how to tackle wider air pollution and sustainability issues in its largest cities (i.e. CCAL's 'The London Matrix').

### 3. Introduce LEZ3 within weeks not months

This measure was designed to: protect some 15% of those worst effected by poor air quality; and reduce air pollution where legal breaches are worst (i.e. along major roads). It is misleading of the Mayor to mention only that this measure delivers small benefits, of say 1% across the whole of Greater London. As the IIA AQS says (page 5) [CCAL emphasis]:

*"The IIA also recommends further consideration of three strategic options which could have major implications for air quality and other IIA objectives:*

- *The Mayors' proposal, subject to consultation, to delay implementation of Phase 3 of the London low emission zone (which will virtually stop use of more polluting vans in the zone by applying punitive charges) from 2010 to 2012;*
- *The Mayor's proposal, again subject to consultation, to remove the Western Extension to the congestion charging zone (ie stop charging vehicles to enter this area during weekdays);*
- *The potential to use road user charging to incentivise improvements in air quality through differential charges for different levels of pollution, either permanently or temporarily at times of poor air quality.*

The IIA goes on to say on page 31:

*"We recommend that [LEZ3] should be implemented as early as practicable."*

CCAL objects again to the postponement of LEZ3. Please implement it within weeks not months.

### 4. Keep the WEZ

CCAL continues to object (and condemn) the Mayor's proposal to remove the WEZ (see letter dated 27 July 2010). Indeed, for the reasons given in its formal response to the WEZ consultation, CCAL considers it would be unlawful for the Mayor to remove the WEZ.

The Mayor promised to hold a consultation on the removal of the WEZ, not remove it. Please recognise you have now held three such consultations; the world has changed completely since November 2008 when you said you planned to remove it; and, for the reasons set out in CCAL's letter to you dated 27 July 2010, its removal would be unlawful.

The Greener Vehicle Discount would undermine air quality and increase congestion unnecessarily. A 100% discount should only be offered to cars emitting 100g/km or less of CO<sub>2</sub> and meeting or beating the Euro 5 standard for petrol vehicles (since the Euro 5 standard for diesel vehicles is around three times higher for oxides of nitrogen (NOx) than petrol vehicles).

As the IIA AQS says (page 5) [CCAL emphasis]:

*“The IIA also recommends further consideration of three strategic options which could have major implications for air quality and other IIA objectives:*

- *The Mayor's proposal, subject to consultation, to delay implementation of Phase 3 of the London low emission zone (which will virtually stop use of more polluting vans in the zone by applying punitive charges) from 2010 to 2012;*
- *The Mayor's proposal, again subject to consultation, to remove the Western Extension to the congestion charging zone (ie stop charging vehicles to enter this area during weekdays);*
- *The potential to use road user charging to incentivise improvements in air quality through differential charges for different levels of pollution, either permanently or temporarily at times of poor air quality.*

The IIA goes on to say on page 31:

*“It must be recognised that [the proposal to remove the WEZ], is in itself contrary to the Mayor's vision for air quality and the ‘timely’ principle.”*

CCAL objects again to the proposed removal of the WEZ.

5. Clean up taxis and buses by reducing sharply their harmful emissions by 2012

It is clear taxis and buses are a significant part of London's air pollution problems.

The Mayor should provide a scrappage scheme to support: the replacement of all pre-Euro 1 taxis from London by 1 January 2012; and a requirement that only taxis meeting the Euro 4 standard for NOx and PM<sub>10</sub> should be allowed to pick up customers within the central congestion charging zone and WEZ area from 1 January 2012.

The Mayor should fit Selective Catalytic Reduction or SCR(T) abatement equipment to ensure all London buses operating in inner London meet the Euro 4 standard for PM and NOx from early 2012.

6. Add one or more additional, inner London low emission zones (or Clean Air Zones) by 2012

CCAL has urged the Mayor of London and TfL on numerous occasions, including in very detailed submissions, to introduce one or more additional inner low emission zones (or ‘Clean

Air Zones') in London. This or these would be in addition to LEZ3 and would ban the most polluting (diesel) vehicles from the most polluted parts of London (i.e. inner London and around Heathrow).

You will be aware there were some 40 such inner LEZs in Germany by the end of 2009 with scores more across Europe (see: <http://www.lowemissionzones.eu/>)

The IIA lists in Annex 1 (page 48) a number of proposals considered but not included in the draft

AQS. In particular:

*'Simple' LEZ (based on a ticket vignette scheme similar to Berlin) eg for central London: This was initially considered as a stop-gap measure rather than a more effective, but expensive, camera-enforced LEZ. However, there are concerns about the potential benefits and the effectiveness of the vignette approach without incurring significant enforcement costs and the implications of non-compliance for the integrity of a scheme.*

In CCAL's view the focus should be on minimising 'inputs' (e.g. costs) and maximising 'outputs' (e.g. concentrations or human exposure). The reason given for not considering this measure further suggests a wrong focus, perhaps within TfL, on compliance rates (irrespective of costs) as the 'output' rather than: concentrations of harmful air pollutants; and sustainable (and structural) compliance with air quality laws. The experience in Germany, where the penalty for entering the zone without an applicable permit includes one point on a driving licence, is that significant concentration reductions can be achieved together with very high compliance rates and credibility at modest cost.

CCAL considers the Proposal in Policy 5 on page 78 of the draft AQS 'The Mayor will support boroughs that decide to take local action to address air quality through local low emission zones or similar measures' should be supplemented by one or more Proposals making clear the Mayor will take the lead on implementing one or more additional inner low emission zones in London.

CCAL continues to advocate strongly the implementation of one or more of these additional inner LEZs in London. The implementation earlier or simultaneously of a stronger, Berlin-style, inner LEZ might allow the Mayor to slow the tightening of the outer LEZ (all other things being equal).

#### 7. Remind yourself and others we were promised the 'greenest and most sustainable Games'

The world was promised the 'greenest and most sustainable' Games if London won right to the host the 2012 Olympics (see CCAL letter to Tessa Jowell dated 17 January 2008).

This commitment is regularly being re-written by the spin doctors who prefer a vague vision of 'sustainable Games'. As a 'word-smith' you will know that 'sustainable pollution' is still 'pollution'.

In this context, it is very odd to see people raising concerns over whether or not say one lane of the Blackwall Tunnel will be put aside for Olympic officials and athletes (when it is obvious one or more such lanes will need to be set aside). As recent disclosures from the Olympic

Delivery Authority have shown, London probably needs to deliver reductions of some 30% in background (i.e. non- Games) traffic in key areas during the Games.

Rather than announcing a last minute ‘odd and even number plate ban’ (as currently seems inevitable because of the lack of leadership on this issue), CCAL suggests the Mayor champion a vision of the 2012 Olympic and Paralympic Games and the Queen’s Diamond Jubilee showcasing ‘2015 London’ for the necessary weeks. This might involve banning from inner (i.e. not just central) London and the Olympic Route Network: all pre-Euro 4 diesel vehicles (i.e. including cars, buses and coaches but excluding taxis ‘dropping-off’ but see earlier); and all pre-Euro 3 petrol vehicles. It would probably need a German-style badging scheme with dissuasive penalties. Owners (and their families) of banned vehicles that were registered at an address in London before 1 July 2010 could be offered free public transport for the duration of the 2012 bans.

Please remind yourself and others that London is fully committed to delivering the ‘greenest and most sustainable Games’.

8. Combine targeted local measures at ‘Priority locations’ always with underlying structural measures

CCAL recognises the distinction in the draft AQS between: targeted local measures at ‘Priority locations’ (Policy 3) which are seen as being most at risk of not meeting EU limit values; and ‘Action days and Special measures’ to manage air quality on exceedance days and encourage behavioral change (Policy 6).

CCAL has considered the reports prepared for TfL by Air Quality Consultants and TRL titled:

- “Local measures for PM<sub>10</sub> hotspots in London” (dated December 2009); and
- “Local measures for NO<sub>2</sub> hotspots in London” (dated March 2010).

These reports recommend prioritising the tackling of the risk of breaching the PM<sub>10</sub> daily limit value and/or the NO<sub>2</sub> annual mean limit value at hotspots.

In CCAL’s view, the Mayor’s approach will not ensure the compliance it seeks. In particular:

- i. the Mayor is relying too heavily in his draft AQS on targeted local measures at a small number of ‘Priority locations’ (or corridors) in order to achieve compliance with the PM<sub>10</sub> daily limit value in 2011 (and thereafter).

With the proposed delay of LEZ3, the proposed removal of the WEZ and/or without other underlying structural measures, such as an inner London ‘Clean Air Zone’, it would be like playing ‘Russian Roulette’ with £300m bullets (and/or the premature death of Londoners). Miss one spot, such Brompton Road or roads around a waste station, and the UK is set to receive a £300m fine per annum per pollutant for breaching air quality laws. Which local authority wants to share that bill with the Mayor?;

- ii. similarly the Mayor is muddling objectives in his approach to ‘Action days’ and ‘Special measures’. The former seem to be unspecified, unquantified, unfunded and untested measures to use when his approach to ‘Priority locations’ fails (and are

therefore particular flawed without structural measures); and the latter seem designed to encourage behavioural change (which is more relevant to Policy 12).

Please make use targeted local measures at 'Priority locations' as an enhancement to structural measures not a substitute for them. Please: clarify specifically how and when you will use 'Action days'; and consider planned regular events and similar measures as part of Policy 12 to avoid confusion.

#### 9. Take action to reduce sharply non-transport measures

In respect of non-transport measures, CCAL brings to your attention particularly the recommendations made by Environmental Protection UK in its response to this Consultation e.g. in respect of biomass.

#### 10. Seek additional Government funding but risk accusations of insincerity if WEZ could be removed

The Mayor should be working to increase transport funding from Government to ensure full compliance with air quality laws throughout London. He risks undermining these efforts and being accused of insincerity if he pursues removal of WEZ with a loss of £55m per annum of net income.

#### 11. Establish and fund a 'London Clean Air Policy Research Centre'

Make London an international leader in practical action to tackle air pollution. Establish and provide core funding, for the first five years, for a 'London Clean Air Policy Research Centre'. Its purpose would be to mitigate the health impact of poor air quality in London through the identification of credible and effective policies backed by scientific understanding. The Centre should: consider the combined effect on health of mixtures of pollutants (while striving to meet single pollutant standards); consider the toxicity of dangerous airborne particles (not least in the coarse fraction, PM<sub>2.5-10</sub>); assess the true exposure of people to air pollution (i.e. not just residency based); identify, test and recommend actionable policies (especially those with clear synergies between improving public health and tackling climate change). Establish the Centre within King's College London's Environmental Research Group at an estimated core funding cost of some £1m to 2m per annum.

CCAL urges the Mayor to make strenuous efforts to gain the initiative on air quality. Equalities impacts: The most vulnerable would suffer most

The Mayor's responsibility for adopting his AQS stems, in part, from his obligation to implement the National Air Quality Strategy in London: section 362(2)(a) Greater London Authority Act 1999. The air quality-related consultation documents acknowledge that:

- i. the National Air Quality Strategy "*recognises that 'certain groups within society' are more susceptible to the impacts of poor air quality upon both life expectancy and quality of life. Older people and people who suffer from certain pre-existing medical conditions are seen as being the most vulnerable. Members of these groups would therefore be expected to benefit the most from improvements to air quality, or to suffer the most from any changes for the worse.*"

- ii. *“The NAQS does not itself state whether these ‘more susceptible’ groups include people from other EPGs, such as those from black, Asian and other minority ethnic (BAME) groups or those who live in areas characterised by high levels of deprivation. However, the government has acknowledged that there is inequality in the distribution of air pollution and tackling this inequality has become part of its social exclusion, equality and deprivation agenda.”*

Yet the Mayor appears to pay little to no regard to the impact of the draft AQS on these groups.

The IIA AQS refers to ‘Equalities assessment’ in Annex 2 on page 51. It mentions a workshop held in April 2010 (which CCAL was not invited to attend) and goes on to say:

*“The workshop did not in fact raise any specific equalities’ impacts of the policies contained with the [draft AQS]”; and*

*“The [draft AQS], along with the IIA is currently out to consultation until 13 August 2010, following which the consultants will do another round of assessment.”*

CCAL assumes you are aware of the Defra report titled ‘UK notification to the European Commission to extend the compliance deadline for meeting PM<sub>10</sub> limit values in ambient air to 2011’. If not, CCAL can provide it to you. The report concludes inter alia:

*“Overall the analysis undertaken suggests there is a notable difference in the impact of delaying achievement of the limit values by ethnic group. Both at the national level and when split by urban and rural areas, individuals who identify themselves as White – British are consistently exposed to lower concentrations of PM<sub>10</sub>. Therefore the expected health costs of not achieving limit values would be expected to be lower for this group than other ethnic groups.”*

The approach adopted in the draft AQS does not meet the Mayor’s obligations to implement the National Strategy. If harmful emissions are expected to increase, and the most vulnerable (or those in particular minority groups) are expected to bear the brunt of the effects, it is no answer that they will find it difficult to prove it, or that the modelling would be difficult to conduct, or that different people in other areas will experience improvements (as cited, for example, in the WEZ consultation documents).

CCAL calls on the Mayor to carry out a thorough Equalities Impact Assessment. Reject the draft AQS and consult again on a version that is ‘fit for purpose’ CCAL has set out, in this letter, key legal duties for the Mayor in respect of his AQS and equality. A fundamental requirement is for the AQS to include:

*“...policies and proposals for the achievement of air quality standards and objectives prescribed in Regulations made under section 87 of the Environment Act...”*

The draft AQS currently fails to comply, inter alia, with this requirement.

In respect of PM<sub>10</sub>, it is clear from the LEZ3 consultation documents there is ‘no margin of



error' within the draft AQS to achieve full compliance with the PM<sub>10</sub> limit values in 2011 (as required by law even if the UK obtains a time extension). Worse, the Mayor admits the current modelling (which he says indicates compliance with PM<sub>10</sub> limit values in 2011) fails to take account of variations in the weather and/or transboundary air pollution. The draft AQS goes on to say on page 58:

*"This is reflected in the approach adopted in this Strategy where interventions will be focused on three interconnected corridors that include the specific locations [i.e. priority locations] at most risk of not meeting the extended 2011 deadline for EU limit values for PM<sub>10</sub>."*

It then says on page 60:

*"Subject to funding being available, TfL is ready to implement a programme of local measures at the priority locations from 2010."*

In other words, the Mayor is expecting breaches of the PM<sub>10</sub> daily limit value once variations in the weather and/or transboundary air pollution are taken into account and he is depending on, as yet unfunded, targeted local measures at 'Priority locations' to close the gap. Together with other evidence referred to in this letter, CCAL considers it 'highly likely' the PM<sub>10</sub> daily limit value will be breached in London in 2011 despite the Mayor's expectations and statements to the contrary.

In respect of NO<sub>2</sub>, the draft AQS says on page 127:

*"Modelling indicates that the measures included in this Strategy (those that are quantifiable) together with natural fleet turnover will reduce the number of roads in London which would exceed the EU limit value in 2015 by between 10% and 15%, providing a significant improvement in air quality."*

*"At some locations, closest to major roads, limit values will be exceeded to such an extent that a further reduction in emissions of 80% would be needed to meet limit values for NO<sub>2</sub>."*

The draft AQS then says on page 134:

*"The GLA's preliminary analysis indicates that [electrification of the overground rail network in London, reducing airport emissions by 25%, better use of the vehicle tax regime and installation of more extensive measures through London wide home retrofit] (to be implemented by central Government and others) would close this gap [in inner and outer London]; and*

*"This would mean that only a few locations in central London would still be in breach of NO<sub>2</sub> limit values in 2015. At these locations, the Mayor is proposing further joint working with the Government and boroughs to apply targeted local measures to ensure limit values are met. The overall approach would be similar to that taken on PM<sub>10</sub>."*

Note though that the 'Hotspots' reports emphasise a significant distinction between the type of measures needed to tackle PM<sub>10</sub> (i.e. targeted measures such as power washing to achieve the daily limit value at 'Priority locations') and NO<sub>2</sub> (i.e. systematic measures such

as road user charging to achieve the annual mean limit value). This seems to contradict the Mayor's statements on 'hotspots'.

The IIA AQS says:

*"However in many areas [the AQS] says little about practical details of implementation, leaving considerable uncertainties about what will be done, when and with what level of resources, and how effective it will be. The uncertainties are compounded by the large degree that implementation of the [AQS] will depend on action by others outside the Mayor's control." Paragraph 4.21 on page 20*

*"We therefore recommend that (1) The [AQS] should include direct actions by the Mayor wherever practicable, and invoke action by others where the Mayor cannot act effectively and cost effectively, or where these are needed to support or enable action by the Mayor. Paragraph 6.4 on page 29*

*"Where the improvement in air quality is reliant on actions by others, it is important for the [AQS] to be able to ensure and demonstrate progress. We therefore recommend that (2) Where the strategy does depend on action by others, milestones by which progress should be monitored and yardsticks for success should be specified." Paragraph 6.5 on page 29*

The current draft AQS clearly fails the IIA's test never mind the full legal tests.

## Conclusion

The information which has been provided to the public in this consultation is inadequate. Some further information has, following its requests, been provided to CCAL. On the basis of this information, incomplete though it is, the draft AQS would lead to:

- breaches of the PM<sub>10</sub> daily limit value in 2011;
- aggravated breaches of each of the PM<sub>10</sub> daily limit value and the NO<sub>2</sub> annual mean limit (i.e. exceedances of limits which had attained in 2010);
- a failure to comply with the NO<sub>2</sub> annual mean limit value plus margin of tolerance (even if a time extension is obtained); and/or
- an increase in harmful concentrations generally.

For the reasons outlined above this would be unlawful.

Further, for the avoidance of doubt, CCAL considers that the various tranches of information released to CCAL by the GLA and/or TfL, since 28 March 2010 and/or referred to in this letter, still fail to address the substantive concerns raised by CCAL in its responses to the most recent consultations on: the postponement of LEZ3; the removal of the WEZ; and in this letter. CCAL awaits further information including in relation to compliance with the NO<sub>2</sub> hourly limit value.

CCAL therefore concludes that the Mayor should reject the draft AQS. There should be no other outcome without further information and modelling, all of which should be subject to further consultation.

CCAL calls on the Mayor to carry out a thorough Equalities Impact Assessment.

Now is the time for the Mayor to comply with the law and produce a strategy to make London truly 'clean and green'.

Please contact me if you have any questions or would like more information on any of the points raised in this letter.

With best wishes.  
Yours sincerely

Simon Birkett  
Founder  
Campaign for Clean Air in London

Cc:  
Commissioner Potočník, European Commissioner for the Environment  
The Rt. Hon. Philip Hammond MP, Secretary of State for Transport  
The Rt. Hon. George Osborne MP, Chancellor  
The Rt. Hon. Caroline Spelman MP, Secretary of State for Environment, Food and Rural Affairs  
Lucinda Turner, Transport for London