

# COMMUNITY ALLIANCE FOR



## POSITIVE SOLUTIONS INC. (CAPS)

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Your Ref: CEO1663/14

Jason Banks  
Director General  
Department of Environmental Regulation  
Locked Bag 33, Cloisters Square  
PERTH WA 6850

29 January 2015

Dear Mr Banks,

Thank you for providing opportunity for the Community Alliance for Positive Solutions Inc. (CAPS) to assist the Department of Environmental Regulation (DER) on your Draft Wagerup Licensing & Approvals Fact Sheet (**Fact Sheet**).

As previously stated in our letter to you dated 28 November 2014, we suggest the DER attribute footnote references to each statement contained in the Fact Sheet in an effort to ensure that this is indeed a 'fact' sheet. Again, for your convenience, in this document, where we suggest amendments to the Fact Sheet, we provide you with relevant references to substantiate our statements.

The proposed amendments contained in the attached Table are necessary prior to our acceptance and support of your Fact Sheet.

Yours Sincerely

Vince Puccio  
Co-Chairs: Community Alliance for Positive Solutions Inc.

Merv McDonald, AFSM

Proudly supported by:



Yarloop  
Waroona  
Hamel  
Harvey  
Cookernup  
Wagerup  
Other  
Impacted  
Areas

No.	DER Response 7.01.2015	CAPS Response 29.01.2015
1	<p>Include the following sentence at the end of the first paragraph of the ‘Introduction’ section:</p> <p style="text-align: center;"><i>“The Pinjarra Cogeneration Plant is regulated under Alcoa’s Pinjarra Alumina Refinery licence”</i></p>	<p>Agreed</p>
2	<p>Amend the last paragraph of the ‘Introduction’ section to include reference to the environment as follows:</p> <p style="text-align: center;"><i>“The Wagerup refinery is subject to community interest regarding public health, the use and zone of land around the refinery and the impact of emissions and discharges on the environment.”</i></p>	<p>We agree the degree of interest among stakeholders is likely to vary. However, the history and extent of public interest and involvement in this development should be documented. We suggest the following wording:</p> <p style="text-align: center;"><i>“The Wagerup refinery <b>has, and continues to be,</b> the subject to community interest regarding the use and zoning of land around the refinery and the impact of emissions and discharges <b>on public health and the environment.</b>”</i></p> <p>The residue storage areas (<b>RSA</b>) are regulated by the conditions of licence L6217/1983/15. We understand this Fact Sheet is being developed as a reference point for members of the general public. It is unlikely they will know the details of the L6217/1983/15. We request that reference be made specifically to the RSA so there is no contention on this issue during future discussions. We suggest inserting the following into the ‘Purpose’ section:</p> <p style="text-align: center;"><i>“The purpose of this fact sheet is to clarify the Department of Environment Regulation’s (DER) core function and role in regulating emissions and discharges from Alcoa’s Wagerup Alumina Refinery <b>and residue storage areas</b> (‘the Wagerup refinery’)....</i></p> <p>The statement “These premises are regulated by DER with respect to emissions and discharges” is a passive statement. We suggest the following reformulation more accurately reflects DER’s statutory role:</p> <p style="text-align: center;"><i>“DER’s role is to regulate the emissions and discharges from these premises and</i></p>

		<i>enforce compliance with conditions of licences and approvals.”</i>
3	No change.	<p>We agree that the ‘Introduction’ section may not be a suitable location for this content. The ‘Public health complaints’ section is more appropriate. We suggest inserting the following information just before the statement starting “All complaints regarding....”:</p> <p><i>“The Winter 2006 Study: Intensive Air Quality Investigations at Wagerup. DEC, 2008 also notes the geographical positioning of the Wagerup refinery at the base of the Darling Scarp may be a complicating factor in determining the effect of the refinery emissions. The reduced atmospheric flow caused by the Scarp may lead to an increase in trapped pollutants at ground level over the adjacent communities. The Department of Health is currently investigating further into this.”</i></p>
4	No change.	<p>Please insert the following after the first sentence of the ‘Noise Regulation 17 approval’ section:</p> <p><i>“The Noise Regulation 17 approval allows Alcoa to emit up to 49dBL<sub>A10</sub> and 59dBL<sub>A1</sub> at location 1 and to emit up to 47dBL<sub>A10</sub> through all hours of the day and through the night.”</i></p>
5	No change.	<p>DER states in 7.1.15 comments that the Wagerup Unit 3 expansion Approval (<b>Approval 728</b>) is not a DER assessment or decision and as such is not ‘relevant to DER’s current regulatory approach’. This statement is misleading. It is irrelevant whether the Approval 728 is a DER assessment or decision, DER still has clear regulatory responsibilities and obligations under that Approval 728 which DER must comply with. Approval 728 conditions which DER is expressly responsible for regulating, include:</p> <ul style="list-style-type: none"> <li>- Condition 4.1: DER must receive evidence of Alcoa’s substantial commencement;</li> <li>- Condition 7.1: DER must review and approve Alcoa’s Decommissioning Plan;</li> <li>- Condition 7.2: DER must review and approve Alcoa’s Final Decommissioning Plan;</li> <li>- Procedure 1 – DER must set up an independent team of specialists to ensure</li> </ul>

		<p>the engineering design for the Wagerup refinery meets international best practice for pollution control, predicted emissions and emissions management and is reasonably likely to achieve the emissions performance levels specified in condition 8. This team is supposed to report to DER.</p> <ul style="list-style-type: none"> <li>- Note 3: “the Minister..will determine any dispute between the proponent and ...the <i>DER</i> over the fulfilment of the requirements of the conditions’ suggests the DER has a pivotal role under this Approval in ensuring compliance with conditions.</li> <li>- Note 4: “ the proponent is required to apply for a Works Approval and Licence for this project....to include the Detailed Design Report referred to in condition 8.1 and the Air Quality Management Plan...in condition 10.1, which will be considered in preparation for the Works Approval and Licence.” DER is the department responsible for the grant of such approvals and licences (s 54 of the EP Act).</li> </ul> <p>We suggest the following:</p> <p><i>“Several statutory assessments and decisions are relevant to DER’s current regulation of the Wagerup refinery and include the 2012 Wagerup refinery Licence Amendment; the Wagerup Unit 3 expansion Ministerial Approval decision and the Noise Regulation 17 approval. These are described below.”</i></p> <p>We suggest the Approval 728 decision is of such significance as to deserve a heading of its own. Please insert heading “Wagerup Unit 3 expansion” as a new paragraph under reference to it in the final paragraph of the 2012 licence Amendment section. Please provide a summary of the history of this decision and identify the role such decision will have on future operations of Alcoa including emissions as well as the part DER plays in regulating this operation as set out above. This seems to be a reasonable request in light of the Fact Sheet’s objective in clarifying the DER’s role in regulation of the Wagerup refinery where DER have a clear involvement in the operations of the expansion pursuant to the Approval 728 conditions.</p>
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6	No change.	See 5 above.
7	No change.	<p>Agree – please add contact details for the OAC to the Enquiries Referral Matrix in Table 1 of the Fact Sheet for up-to-date information on appeals.</p> <p>We note the current licence L6217/1983/15 which commenced 13 November 2013 and expiring 12 November 2015, now deals with this point at A2 and Table 18 of Appendix A, although this document defines the term “CEO” and “SO<sub>2</sub>”, it does not appear to define “Aggregate Calciner Priority” VOCs. Please clarify in the Fact Sheet which volatile organic compounds are now included in this definition and which have been omitted. If a degree of detail is accepted here, it is worth specifying further in this paragraph for the public how Aggregate Calciner Priority VOCs differ from the originally proposed VOC limit requirement.</p>
8	No change.	<p>We acknowledge you repeat that neither the production increase via licence amendment in 2012 nor the planned production increase to 2.8 Mtpa under Works Approval W5391/2013/1 are related to Approval 728.</p> <p>We accept this is your position.</p> <p>In keeping with the development of a “Fact Sheet”, we request that you address the factual accuracy of the paragraph proposed by CAPs beginning “In 2006 the Government granted...” We respectfully request that you either place a (True) or (Untrue, with a more accurate description of events) next to each sentence of this paragraph rather than repeating a position statement.</p>
9	No change.	<p>Thank-you for providing your source material references for investigations that were conducted to determine the noise management requirements for Wagerup refinery.</p> <p>Please let us know if you have also relied upon the below reports; we agree this level of detail is not useful for a Fact Sheet of the nature proposed, however, discussions of accuracy of reported 'facts' in the Fact Sheet require a discussion at this level:</p> <ul style="list-style-type: none"> <li>• Noise Control Recommendations for the Wagerup 3 Expansion Project, Working Document, SVT, 2005, Report</li> </ul>

		<p>#A/05/10/009 RevB</p> <ul style="list-style-type: none"> <li>• Noise Attenuation Scenarios for Alcoa's Wagerup 3 Expansion Project for Hatch, SVT, 2005, Report A/05/05/006 RevO</li> <li>• Alcoa Wagerup Unit 3 Project Existing Refinery Noise Report, Hatch, Report 318029-000-L-24-002 RevC</li> <li>• Noise Regulation 17 Application: An Assessment of the Reasonableness and Practicability of further Noise reduction Opportunities at Wagerup Refinery, Alcoa Report April 2008 (<b>Alcoa Report April 2008</b>)</li> <li>• Review of Acoustic Treatments for Alcoa's Wagerup 3 Expansion Project, SVT, 2006, Report A/05/10/009-05141 RevO</li> <li>• Alcoa Wagerup Unit 3 Expanded Refinery Noise Report, Hatch, Report H318029-000-L-24-0001 RevE</li> <li>• Alcoa Wagerup 3 Expansion Noise Investigation, Hatch, Report H318029-000-G24-007 Rev A</li> <li>• Preliminary Review of Noise Management for Stage 1 of the Wagerup 3 Expansion, SVT Engineering Consultants, Report Rpt01-085125-Rev0-22 Sep 08</li> <li>• Environmental Noise Management Strategy - Stage 1 Wagerup 3 Expansion, SVT Engineering Consultants, Report 02-085125-RevO</li> </ul> <p>DER state in comments 7 Jan 2015 that "these reports not only include the cumulative noise impact assessment both for the existing plant and with the proposed Wagerup Unit 3 expansion, but also the cross-examination and peer review of the noise modelling"</p> <p>In the Noise Attenuation Scenarios for Alcoa's Wagerup 3 Expansion Project for Hatch, SVT, 2005, Report A/05/05/006, no assessment is made against the WGP3 ERMP commitments related to noise management. Again in the Review of Further Acoustic Treatments for Alcoa's Wagerup Refinery - Existing Plant, SVT, 2006, Report A06040001-05141 RevO, no assessment is made of practicability of implementing acoustic treatment options.</p> <p>Further, the Existing Refinery Noise report - Cost</p>
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10	No change.	<p>The EP (Wagerup Alumina Refinery Noise Emissions) Approval 2012 identifies 8 locations within Wagerup at which noise emissions from the Wagerup refinery are likely to be monitored by Alcoa. These locations appear to be pin-point addresses and those 'places' adjacent to those pin-</p>

		<p>point addresses. DER has granted approval to Alcoa to allow the level of noise emitted from the Wagerup refinery to exceed the noise standards prescribed in the EP Noise Regulations for noise received at a noise-sensitive location (such as residential use), if the noise emitted from the refinery when received at the specified locations at the time set out does not exceed the approved noise level, the noise is approved.</p> <p>We request a map be developed indicating the specified locations 1 through to 8 referred to in this Approval. It will then be possible to determine where Hamel sits in proximity to the specified locations. Despite omission in drafting of reference to Area A and B in the Approval, it stands to reason that noise received at a location a specified distance from the refinery when taking into account land forms, buildings, vegetative buffers and wind direction are likely to receive a substantially similar noise reading (noise modelling).</p> <p>If Hamel's noise readings to date have registered at a level higher than 35dB(A) and Hamel is not listed as a specified location within the Approval, arguably Alcoa is in breach of its Reg 17 Approval and we are investigating this further with our solicitors as grounds for a potential legal challenge.</p>
11	<p>Amending second dot point in the "Roles and responsibilities" section to state:</p> <p>"developing and granting or refusing to grant approvals under Part V of the EP Act and the periodic review and update of these approvals"</p>	<p>Thank-you</p>
12	<p>No change.</p>	<p>Noted.</p> <p>CAPs suggest the following wording to replace the third dot point on page 2 in the "DER roles and responsibilities" section:</p> <p><i>"noise regulation, including overseeing Alcoa's noise monitoring program pursuant to the EP (Wagerup Alumina Refinery Noise Emissions) Approval 2012. DER may audit Alcoa's monitoring when necessary.;"</i></p>
13	<p>Amend the first paragraph of the 'Key Issues' section to</p>	<p>Thank-you</p>



	<p>include reference to the environment as follows:</p> <p>“There are a number of issues regarding the Wagerup refinery that are subject to significant community interest, specifically public health, the use and zoning of land around the facility, stakeholder management and the impact of emissions and discharges to the environment.”</p>	
<p>14</p>	<p>DER will delete the first part of the first sentence in the "Public health complaints" section to remove the words <i>"In relation to community complaints regarding public health...."</i></p>	<p>Please replace the first three paragraph of the 'Public health complaints' section to read:</p> <p><i>"Where DER receives complaints and reports from the public regarding excessive Wagerup refinery emissions and discharges, DER's role is to investigate potential breaches of environmental legislation by Alcoa. As part of its investigations, DER may assess the Wagerup refinery's current and/or predicted ground-level emissions concentrations to ensure they are in compliance with the emission limits set by DER in the Wagerup refinery's works approval and licence. DER is empowered under the EP Act to bring prosecutions for repeat offences or breaches of works approvals or licences. Any enforcement actions are determined by DER consistent with its Enforcement and Prosecutions Policy (July 2013).</i></p> <p><i>DER also undertakes an assessment process of the Wagerup refinery emissions upon receipt of a works approval or licence amendment application from Alcoa and may require Alcoa to produce independent assessments of Alcoa's emission levels and concentrations prior to approval. Modelling and other documentation submitted by Alcoa to DER in works approval or licence amendment applications is generally publicly available as part of DER's community consultation process.</i></p> <p><i>DER is responsible for ensuring the limits on the Wagerup refinery's works approval</i></p>

		<p><i>and licence are in keeping with short-term and long-term health exposure limits or guidelines as set out in the [please insert health guidelines which DER adheres to/refers to when determining emission standards]. Advice from the DoH informs DER's assessment process when determining these emission limits for the Wagerup refinery.</i></p>
15	No change.	Please see No. item 14 of this table containing suggested amendment to the first three paragraphs of the "Public health complaints" section.
16	No change.	Please see No. item 14 of this table containing suggested amendment to the first three paragraphs of the "Public health complaints" section.
17	No change.	<p>CAPS appreciates DER has a position on this point regarding reference to the 2004 Parliamentary Inquiry and EPA assessment culminating in the Ministerial Statement 728 in 2006.</p> <p>CAPS is making a new point here which DER has not yet addressed- that being that reliance has been placed on scientific and medical assessments and reports from over 10 years ago (2004 Inquiry) and 9 years (EPA assessment) respectively. Would a reasonable person objectively find that reliance upon out-of-date studies in as significant a field as public health is appropriate?</p> <p>It is well accepted the field of medicine and health, much like the field of technology, experiences advances and discoveries at a rapid rate. This lapse of 10 years being all the more significant where studies may have required an extended observation period of subject exposure to cumulative effects of toxins such as is of concern in this very instance. CAPS is making a valid, factual and reasoned statement here which deserves a higher degree of consideration and response from DER.</p> <p>CAPS request DER replace paragraphs 4, 5 and 6 of this section with the following which for the most part, merely places the reported findings in the past tense:</p> <p><i>"The current and potential future (i.e. proposed Wagerup Unit 3 expansion) health impacts associated with Wagerup refinery's emissions and discharges were reviewed 11 years ago by the 2004 Parliamentary</i></p>

		<p><i>Inquiry and 9 years ago by the 2006 Environmental Protection Authority Assessment of the Wagerup Unit 3 expansion. It was then determined that emission findings at that time, and those predicted for the proposed Wagerup Unit 3 expansion were generally well below national and international health impact based standards and guidelines [please insert which standards and guidelines were relied upon here].</i></p> <p><i>From the information available at the time of the 2004 Parliamentary Inquiry, the review found there to be no recognisable causal link between the refinery emissions and the health issues which were being reported from within the communities surrounding the refinery at that time.</i></p> <p><i>Any complaints regarding public health issues suspected to be associated from unspecified emissions from the Wagerup refinery should be well documented and reported to the DoH [insert dedicated no.]. Where excessive or new Wagerup refinery emissions or odours are observed and are of concern to members of the community surrounding the Wagerup refinery, please ensure these reports are well documented and report these to the DER compliance team on [insert direct no.] for further investigation.</i></p>
18	No Change.	Please see No. item 17 above regarding amendments to paragraphs 4, 5 and 6 of the 'Public health complaints' section of the Fact Sheet
19	Include DoH email address of ehinfo@health.wa.gov.au in Table 1	<p>Thank-you for including an email address for general inquiries at DoH.</p> <p>Our request in this instance was for DER to include reference in the Fact Sheet to a dedicated direct line within the DoH for members of the community to report health concerns suspected to be associated with the Wagerup refinery emissions so that all reports are received and handled uniformly.</p> <p>If it is a problem locating a direct line or sub-division within the DoH who is willing to assist on this matter, we understand, as general members of the public have also reported experiencing this</p>

		<p>issue. We will be happy to continue corresponding with the DoH to provide you with a direct number for inclusion in this Fact Sheet and will do so as soon as practicable.</p>
20	No change.	<p>We again request removal of reference to the Shire of Harvey and Waroona in regards to planning matters associated with the Wagerup refinery and request that members of the general public who are experiencing land use issues be directed to the DoP or Department of State Development.</p> <p>You state in your 7 January comments that the Shire of Harvey and Waroona have been provided with the draft Fact Sheet and that the Shire of Harvey has advised it is 'satisfied with the contents'. How is the Shire of Harvey's satisfaction with the Fact Sheet of relevance in this instance?</p> <p>We request that DER please address the content of CAPS statement, being that the Shire does not have jurisdiction to deal with, or the expertise to advise on, the planning issues associated with the industrial buffer zoning and land use planning matters of the Wagerup refinery.</p>
21	No Change	<p>We appreciate this section purports to establish DER's roles and responsibilities for stakeholder consultation for the Wagerup refinery. This section also identifies Alcoa's community consultation programs. It is fitting to provide a full picture to the intended reader of this document, being members of the general public, in referencing CAPS and the role we play as an independent community organization which actively facilitates consultation between governmental departments, Alcoa and communities.</p> <p>DER's position statements in this section are not factually based for the reasons already itemised in CAPS comments 28 Nov 2014. As such these statements should not appear in a 'Fact Sheet'. Where reasoned and factual statements have been presented by CAPS in relation to DER's inaccuracies, DER appears to be reluctant to engage on a factual discussion of the points presented and instead appears to rely on a broad brush dismissal of 'disagreement'.</p> <p>We request DER deal point by point with the issues raised in CAPS comments 28 Nov 2014.</p>
22	Update table to include reference	Thank-you for amendment to Alcoa noise

	<p>to Alcoa as contact for noise amelioration and property purchase enquiries</p>	<p>amelioration and property purchase enquiries.</p> <p>Please advise relevance of Shire of Harvey advising "it was satisfied with contents of Fact Sheet" where CAPS contention relates to the Shire's lack of jurisdiction of expertise in dealing with land use and zoning matter enquiries from the general public. If the Shire intend by their statement of satisfaction to relate that they are happy to read back the Fact Sheet to callers or refer callers to the Fact Sheet, or are happy to be a point of contact on these issues where they have no jurisdiction or depth of planning expertise, we would prefer no mention of these Shires be made at all to prevent further loss of resources for both the Shire and community on these issues.</p>
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