



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

28th November 2014

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**).

We appreciate the difficulty in drafting a high level summary which accurately reflects the regulatory and environmental complexities of the Alcoa Wagerup Alumina Refinery history. For this reason, 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. For your convenience, in this document, where we suggest amendments to the Fact Sheet, we endeavour to provide you with relevant references to substantiate our statements.

We set out below, a number of points and suggested amendments which we feel necessary prior to our acceptance and support of your Fact Sheet.

1. Page 1

1.1 Introduction - paragraph 1.

The Alcoa Co-generation Plant at Pinjarra has been omitted from the list of premises regulated by Department of Environment and Regulation (DER). We suggest the Fact Sheet be amended as follows:

"Alcoa of Australia Limited (Alcoa) operates two bauxite mines, three alumina refineries and two co-generation plants in Western Australia: the Willowdale Bauxite Mine, the Huntly Bauxite Mine, the Kwinana Alumina Refinery, Pinjarra Alumina Refinery, the Wagerup Alumina Refinery, the Wagerup Co-generation Plant and the Pinjarra Co-generation Plant."

1.2 Introduction – last paragraph

The last introductory paragraph aims to identify why the Wagerup Alumina Refinery is of high community and public interest. We agree as spokespersons of our community that public health and the use and zoning of land around the refinery is of primary interest to us as a community but we are also concerned with ecologically sustainable development and the impacts of a refinery such as Wagerup upon the environment. As such, we suggest the Fact Sheet be amended as follows:

"The Wagerup refinery is subject to significant community interest regarding the impact of the Wagerup refinery's emissions and discharges upon public health and the environment as well as

Yarloop
Waroona
Hamel
Harvey
Cookernup
Wagerup
Other Impacted Areas

issues relating to the use and zoning of land around the refinery. As such, DER's role is to ensure that these stakeholder interests are appropriately protected in regulating emissions and discharges from the Wagerup refinery and Residue Storage Area (RSA)."

1.3 Introduction – suggested further paragraph

The introduction of the Fact Sheet describes the location of the Wagerup refinery. We suggest a further statement describing the geography of the refinery's location and how that geography affects any emissions produced by the Wagerup refinery is relevant and necessary to give the public a full understanding of the importance of DER's core function and role in regulating the refinery's emissions and discharges. We suggest the following additional statement be inserted after the words "(located approximately 2.5 kilometres south of the refinery)."

"The Wagerup refinery is positioned geographically at the base of the Darling Scarp. Studies have evidenced the geographical location of the Wagerup refinery may be resulting in an increased tendency for reduced atmospheric flow of the Wagerup refinery emissions and a subsequent increase in smog and trapped pollutants at ground level over the adjacent communities of Yarloop and surrounding communities. Emission plumes consisting of over 260 identified chemicals from the Wagerup refinery and mud lakes remain for up to eighteen hours at a time at ground level. This study did not take into account the Wagerup refinery liquor burner which is a major contributor of toxic emissions and was not in operation at the time of the study¹. See Related document – Winter 2006 Study: Intensive Air Quality Investigations at Wagerup, Department of Environment and Conservation, 2008."

1.4 Regulatory Background

We suggest the insertion of the following relevant details which are necessary to give the reader a full understanding of the regulatory background:

- a) Insert the following statement after the sentence - *"Alcoa also holds a noise regulation 17 approval allowing the noise emissions from the refinery to exceed the assigned levels in the Environmental Protection (Noise) Regulations 1997(Noise Regulations)."*

"As Alcoa could not meet its previous noise conditions under the Noise Regulations, the noise regulation 17 approval allows Alcoa to emit 47db of night-time noise, as measured within Area A, instead of 35db of noise as required under the Noise Regulations."

- b) Amend the wording of the final sentence to:

"The 2012 Licence Amendment and Wagerup Unit 3 expansion Approval decisions also inform DER's regulation of the Wagerup refinery's emissions and discharges and are described below."

1.5 2012 Licence Amendment- heading

The heading to this section should more accurately be: **"2012 Licence Amendment and Wagerup Unit 3 Expansion"**.

1.5 2012 Licence Amendment – paragraph 2

¹ Nor were the cooling towers, slurry tanks 25A, calciner 4 LVV or Southern part of the Wagerup refinery taken into account in the Winter 2006 Study: Intensive Air Quality Investigations at Wagerup, Department of Environment and Conservation, 2008.

The Fact Sheet states Alcoa's 2012 Licence Amendment allowed Alcoa to increase production of alumina at the refinery from 2.6 million tonnes to 2.65 million tonnes annually, with proposed future increases to 2.8 million tonnes per annum (subject to volatile organic compound (VOC) reduction project offsets). Please also specify that:

"DER required Alcoa under its 2012 Licence Amendment to reduce its VOC emissions from the Wagerup refinery by 31 March 2014 so as to achieve a reduction of VOC emission that equates to at least 1.5 times the amount of VOC emissions attributed to a production increase from 2.6 to 2.8 million tons of alumina a year²."

Please also state that:

"The conditions of Alcoa's 2012 Licence Amendment are currently upon appeal to be determined by the Minister for Environment."³

1.6 2012 Licence Amendment – paragraph 4

Please remove the entirety of paragraph 4 which states inaccurately that:

"This production increase is, not linked to the proposed expansion of Wagerup refinery to a maximum production of 4.7 million tonnes per annum ("Wagerup Unit 3 expansion") as approved by the Minister...etc"

There is a direct logical causal link between Alcoa's production 'creep' in the 2012 Licence Amendments from 2.6 to 2.8 million tons per annum and the history of Alcoa's failure to adequately meet the conditions required to implement Wagerup Unit 3 expansion. While Alcoa was unable to commence expansions due to a failure to comply with environmental conditions, it has received licence amendment approval to increase production without having to meet the requisite 42 conditions. Please replace the deleted paragraph 4 of this section with the following:

"In 2006 the Government granted expansion approval to Alcoa for the Wagerup refinery to expand their productions on the basis it met 42 Ministerial Conditions prior to expansion⁴. Alcoa was unable to comply with the 42 Ministerial Conditions and expansion of the Wagerup refinery was delayed. Despite Alcoa's inability to meet the Ministerial Conditions, in 16th September 2011 the State Government granted an extension on Alcoa's commencement date for the Wagerup refinery expansion with new expiry date of 16 September 2016⁵. As Alcoa still cannot meet the required conditions for expansion, it continues to increase production under the 2012 Licence Amendments with only the above mentioned environmental constraint of meeting VOC reduction targets⁶."

2. Page 2

2.1 Noise Regulation 17 Approval - generally

² Draft Works Approval for Alcoa of Australia Ltd, No. W5391/2013/1 dated 1 May 2014 p4 of 25 executive summary of proposal.

³ Letter from Jason Banks, Director General of DER to Mr Puccio and Mr McDonald, dated 2 October 2014.

⁴ Wagerup Alumina – Production To Maximum Capacity of 4.7Million tonnes Per Annum And Associated Bauxite Mining – Statement No. 000728 (Plus Fact Sheet).

⁵ Ministerial Statement 728 under Part IV of the Act.

⁶ Draft Works Approval for Alcoa of Australia Ltd, No. W5391/2013/1 dated 1 May 2014 p4 of 25 executive summary of proposal.

Please state or reference in your Fact Sheet which independent scientific reports or studies Alcoa and subsequently DER relied upon in reaching the noise modelling conclusions relied upon in granting the Noise Regulation 17 approval. To our knowledge, the DER has never been presented with or produced a Cumulative Impact Assessment to ascertain true noise levels, for either of Alcoa's current Wagerup operations nor for the proposed Wagerup Unit 3 expansion.

2.2 Noise Regulation 17 Approval – new paragraph

Please insert the following after paragraph 2 of this section:

“The Noise Regulation 17 approval allows Alcoa to exceed the Noise Regulations limits and emit 47db of night-time noise within Area A only. Alcoa is currently in breach of the Noise Regulation 17 approval with noise in exceedance of 35db being identified in Hamel.⁷ The DER is currently progressing this matter with Alcoa.⁸ Alcoa has been working with SVT Engineering to develop their Noise Amelioration Plan (NAP). SVT's report of December 2008 was relied upon by Alcoa in developing the current NAP and is based on results of previous studies⁹. SVT did not undertake any noise modelling as part of their 2008 study and SVT also disclaim that “the refinery noise models used in previous studies are not considered appropriate for future assessment of the expansion project”.¹⁰”

2.3 DER Roles and Responsibilities

Please amend the second dot point of this section as follows:

“assisting where possible with the development of applications for approval and either approving or declining those applications;”

The third dot point states that DER have oversight of the *Environmental Protection (Wagerup Alumina Refinery Noise Emissions) Approval 2012*. This should include a further statement that DER delegate their function of noise regulation to Alcoa whereby Alcoa establishes its own noise monitoring program and monitors its own compliance.

2.4 Key Issues

Again please note in this section, as at point 1.2 above, that community interest in protection of the environment is also a key factor which has created significant community interest.

2.5 Public health complaints – paragraph 1

We suggest the following text replaces paragraph 1 of this section:

“Where community public health complaints are made to the DER as a result of the Wagerup refinery emissions and discharges, DER is responsible for regulating the Wagerup refinery ground level emissions and discharges in accordance with short-term and long-term health exposure limits and guidelines.”

⁷ Letter from Jason Banks, Director General of DER to Mr Puccio and Mr McDonald, dated 2 October 2014.

⁸ Letter from Jason Banks, Director General of DER to Mr Puccio and Mr McDonald, dated 2 October 2014.

⁹ SVT Engineering Consultants Environmental Noise Management Strategy – Stage 1 Wagerup 3 Expansion Report 02-085125-Rev0-8 Dec 08, page 11.

¹⁰ SVT Engineering Consultants Environmental Noise Management Strategy – Stage 1 Wagerup 3 Expansion Report 02-085125-Rev0-8 Dec 08, page 11.

Please also specify in this paragraph which short-term and long-term health exposure limits and guidelines the DER is responsible for ensuring compliance against.

2.6 Public health complaints – paragraph 2

Please amend paragraph 2 as follows:

“Each time Alcoa submits a works approval or licence amendment application to DER and an increase of emissions and discharges is predicted or is likely, the DER then requires Alcoa to submit to the DER an independent contractor’s assessment of Alcoa’s current ground level emissions and discharge concentrations as well as modelling which predicts the likely increase of Alcoa’s emissions of discharges and DER makes findings of such assessment publicly available. The DER then consults with the DoH to ensure emission concentrations comply with short-term and long-term health exposure guidelines.”

2.7 Public health complaints – paragraph 3

Please amend this paragraph as follows:

“DER investigates complaints and makes prosecutions against Alcoa in relation to breaches of environmental legislation under the EP Act and regulations and in the event Alcoa breaches its conditions of licence for operation of the Wagerup refinery.”

3. Page 3

3.1 Public health complaints – paragraph 4

The subject matter dealt with in paragraph 4 of this section requires more attention. We suggest the following:

The DER’s review of community health impacts was based upon an inquiry from ten years ago, namely the 2004 Parliamentary Inquiry and the EPA’s Assessment of the Wagerup Unit 3 expansion proposal Environmental Review Management Program(ERMP). Neither the Minister for Environment in granting approval for expansion nor the DER in undertaking a review of health impacts, relied upon or undertook or commissioned any Cumulative Impact Assessment at any stage of their review. As such, reviews of the potential health impacts from cumulative toxic emission from the refinery and the Residue Storage Area (RSA) on current and future operations were not and have not been considered.”

3.2 Public health complaints – paragraph 5

Paragraph 5 of this section fails to reference any source documents or studies upon which the broad generalist statements attempt to rely. The statement “The then Minister for Environment has noted, however....” does not even reference a Ministerial Statement and we can only assume for the purposes of this review that this is reference to the 2006 Ministerial Statement 728? Can we then assume the DER is relying upon a parliamentary inquiry from 10 years ago and a statement made by the Minister 8 years ago, in an environment where medical and scientific research is readily available on such issues and develop on a daily basis? If so, this is very embarrassing. The statements made in this paragraph unsurprisingly fail to accurately reflect available medical findings on the relationship between the refinery emissions and reported health issues. Please amend this paragraph as follows:

“The DER’s review of historical studies on the potential health impacts associated with the Wagerup refinery emissions found no causal link between the range of ongoing complaints and issues reported by a large number of members of the surrounding communities and the concentrations of chemical emissions from the

refinery. No studies have been undertaken or relied upon by DER regarding this issue since 2006. The DER has been advised by the DoH that “appropriate safeguards” need to be introduced to protect and monitor the health of the community¹¹. The DER has also been provided with outcomes and recommendations from the WA Medical Practitioner’s Forum on 23 June 2005 where 5 medical doctors signed concluded that “there appears to be an association between health problems and Alcoa’s refinery” and “there needs to be a focus on getting affected people out of the exposure situation”. The DEC 2006 Winter Study found correlation between emissions and community complaints¹². This study was peer reviewed by Dr. Ronald Calhoun and colleagues at the Arizona State University/ National Oceanic & Atmospheric Administration (NOAA USA) and the Royal Metrological Society who all concurred with the findings. Telethon Institute for Child Health Research (2008),¹³ Found residents of Hamel/Wagerup/Yarloop and Cookernup, significantly reporting symptoms potentially related to chemical exposure i.e. headaches, nose bleeds, cancer etc. The DER have also received a copy of a letter from Mr John Hyde, Parliamentary Secretary to the then Minister for Health to the Yarloop community stating that “both the DoH and Government readily accept that there has been health issues with the refinery and this has never been questioned”¹⁴. All of these documents are on public record. Despite this, the DER have not relied on either the DoH’s findings, nor the DEC 2006 Winter Study findings, nor the WA Medical Practitioner’s Forum findings and recommendations in stating that there is no causal link between health and emissions surrounding the Wagerup refinery.”

3.3 Public health complaints – paragraph 7

Please include a contact name and direct number for a member of staff at the DoH which will be handling all complaints regarding alleged public health impacts from unspecified emissions or odours from the Wagerup refinery.

3.4 Zoning of land surrounding the Wagerup refinery

Please remove reference to the Shire of Waroona and Harvey as points of contact for queries and enquiries relating to land use planning matters. Enquiries or issues regarding the Wagerup refinery industrial buffer zoning and land use planning matters are matters above and outside of the jurisdiction and experience of the local Shires. Please state a contact name and direct number for a staff member at the Department of Planning (DoP) or Department of State Development whom members of the local community can directly contact.

3.5 Stakeholder consultation

This section makes a number of references to the Alcoa Community Consultation Network (CCN), even stating that it has a defined charter and terms of reference. Please also state the CCN is not a legally constituted or incorporated community organisation and is purely a group coordinated and controlled by the licensee.

The assertion that CCN meetings are open to all interested parties is also incorrect. The CCN does not, as stated, provide a forum in which the community can discuss issues regarding the Wagerup refinery. Issues such as health, land zoning and other social matters are not received by the CCN. Please remove all reference to such statements.

¹¹DoH Submission July 2005 to DER in response to Alcoa’s ERMP

¹² DEC Winter 2006 Study- Pages 9-10

¹³Telethon Institute for Child Health Research (2008) Wagerup & Surrounds Community Health Study.Perth: Telethon Institute for Child Health Research.

¹⁴ Letter from Mr. John Hyde, Parliamentary Secretary to the then Minister of Health, writing on behalf of the Minister of Health to a Yarloop resident, dated 11th October 2007.

The Fact Sheet further selectively states the CCN contains a sub group, the Resolution Committee, which is said to facilitate progress and report on recommendations resulting from the CSIRO Air Quality Review of 2004. Please also include in your Fact Sheet, a statement that the CCN selected the CSIRO Air Quality Review of 2004 to progress where the community in fact requested a subgroup for the DEC Winter Study 2006, a far more comprehensive study based on state-of-the-art LIDAR technology and that this request, to date, has been declined.

Please also include a further paragraph outlining the involvement and work of the Community Alliance for Positive Solutions Inc. (CAPS Inc.) which is an independent and legally constituted and incorporated community organisation with over 400 members. CAPS is not linked in any way to the licensee or other stakeholders and regularly meets with the DER and many other WA and Australian Federal Government Departments, Ministers and MPs, international private sector companies and community based environmental groups.

4. Page 5

4.1 Comments on the MATRIX

CAPS Inc. should be listed as a resource, as the organisation has the most comprehensive collection of information of the on-going of issues, a wealth of personal experience, and a network of experts. Alcoa should not be listed under any part of Health, as this creates a huge conflict of interest, and because of the need for confidentiality, this area needs to be dealt with by persons independent of the licensee, preferably the DoH and DER. Alcoa's Supplementary Property Purchase Programme (SPPP) scheme ended in August 2008 and is, therefore, irrelevant to this document unless it has been reinstated. If so, when did this occur and why has the public not been notified. As previously stated, the Shires of Waroona and Harvey have no place in Land Use and Zoning matters in this document. Alcoa should be listed for enquiries around their Land Management Scheme, property sales and compensation, plus noise amelioration for affected properties.

Thanking you for your attention and in anticipation of a favourable reply.

Yours Sincerely

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

Merv McDonald, AFSM

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