

THE STATE OF WESTERN AUSTRALIA

AND

ALCOA OF AUSTRALIA LIMITED

ACN 004 879 298

DEED OF UNDERTAKING
EXPANSION OF WAGERUP ALUMINA REFINERY

State Solicitor's Office
Commercial
141 St Georges Terrace
Perth WA 6000
Telephone : (08) 9264 1888
Ref: SSO: MJT CGM

14132R6

TABLE OF CONTENTS

1.	DEFINITIONS AND INTERPRETATION	2
1.1	Definitions.....	2
1.2	Interpretation	4
1.3	Terms defined in the State Agreement	5
1.4	Relevant Government Agency	5
1.5	Transfer of functions	6
2.	OBJECTIVES OF THE PARTIES.....	6
2.1	Objectives.....	6
2.2	Parties may have regard to Objectives	7
3.	THE COMPANY'S PERFORMANCE OF OBLIGATIONS	7
3.1	Compliance with laws	7
3.2	Costs and resources	7
3.3	GST	8
4.	AIR QUALITY MONITORING AND AIR QUALITY STUDIES.....	9
4.1	Air Quality Studies.....	9
4.2	Reporting on the Winter 2006 Study.....	9
4.3	Consultation on Air Quality Equipment.....	10
5.	COMMUNITY HEALTH SURVEYS	10
5.1	Health surveys	10
5.2	Methodology applicable to surveys.....	11
5.3	Independent Reporting	11
6.	PROPERTY PURCHASE SCHEME	11
6.1	Area A and Area B purchase programs.....	11
6.2	Supplementary property purchase program and administration.....	12
6.3	Sale and purchase of Eligible Properties.....	13
6.4	Application of FBCO to Eligible Farm Properties.....	13
7.	NOTIFICATION OF STATE'S NOMINEES AND REPLACEMENT	14
8.	COMPANY'S EMPLOYEES, CONTRACTORS, CONSULTANTS AND AGENTS	14
9.	STATE'S ACCESS POWERS.....	15
10.	DOCUMENT RETENTION.....	15
11.	PUBLIC DISCLOSURES	16

12.	INDEMNITIES	16
12.1	Assumption of risk and indemnity by the Company	16
12.2	Release by the Company	17
13.	DISPUTE RESOLUTION.....	17
13.1	Resolution of disputes	17
13.2	Expert determination	18
14.	NOTICE.....	19
14.1	Delivery of Notices	19
14.2	Notice Details	19
15.	MISCELLANEOUS.....	20
15.1	No agency for the State	20
15.2	Further Assurance	20
15.3	Rights and Remedies	20
15.4	Severance	20
15.5	Variations	20
15.6	Assignment.....	21
15.7	Waiver	21
15.8	Entire Agreement	21
15.9	Governing Law.....	21
15.10	Counterparts	21
15.11	Attorneys	21
15.12	No third party benefits.....	21
	SCHEDULE 1 – AIR QUALITY	22
	SCHEDULE 2 – HEALTH SURVEYS	24
	SCHEDULE 3 – SUPPLEMENTARY PROPERTY PURCHASE PROGRAM	27
	SCHEDULE 4 – MAP OF DESIGNATED AREA.....	32

See 19

Stamp Duty Exemption

THIS DEED OF UNDERTAKING is made the 28th day of MARCH 2007

WA 012 879 298
WESTERN AUSTRALIA STAMP DUTY
30/03/07 13:41 002825499-001
DUP \$ *****.00
U/S \$ *****.00
EXEMPT 100 %

BETWEEN

THE HONOURABLE ALAN JOHN CARPENTER M.L.A., Premier of the State of Western Australia, acting for and on behalf of the said State and its instrumentalities from time to time (**State**)

AND

ALCOA OF AUSTRALIA LIMITED ACN 004 879 298 of cnr of Davy and Marmion Streets, Booragoon, Western Australia (**Company**)

RECITALS

- A. The State and the Company are the parties to the agreement made 18 April 1978, the execution of which by the State was ratified by the *Alumina Refinery (Wagerup) Agreement and Acts Amendment Act 1978*, as varied by the agreement made 10 November 1987 which was ratified by the *Alumina Refinery Agreement (Alcoa) Agreement Act 1987* and the agreement dated 28 June 2000. The first mentioned agreement as so varied is referred to in this document as the "**State Agreement**".
- B. The Company recently sought approvals for a proposed expansion of the Wagerup Refinery involving the construction of a third production unit and upgrading the existing Wagerup refinery plant to a refinery capacity to 4.7 million tonnes of alumina per annum (**Wagerup Expansion Project**) and received environmental approval on 14 September 2006 for the expansion under the *Environmental Protection Act 1986*. The Environmental Protection Authority (**EPA**) Bulletin 1215 set out certain recommendations in respect of community health, air quality and land management issues in connection with the Wagerup Expansion Project.
- C. By letter dated 15 August 2006 the Premier of Western Australia sought from the Company various in-principle undertakings intended to address community health, air quality and land management concerns in relation to the Wagerup Expansion Project which undertakings the Company, by letter dated 16 August 2006, agreed in-principle to provide.
- D. The Parties have agreed to enter into this document to satisfy the request from the Premier of Western Australia that the undertakings referred to in Recital C are set out fully and clearly in a formal deed of undertaking.

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this document, unless the context otherwise requires:

Act means any Act of the Parliament of the Commonwealth or of the State of Western Australia.

Air Quality Equipment has the meaning given in subclause 4.3(a).

Air Quality Studies has the meaning given in subclause 4.1(a).

Area A and Area B Purchase Program means the Company's programs for the purchase of properties as contemplated in the Wagerup Land Management revised proposal of January 2002 in the form and content existing at the date of this document.

Baseline Survey has the meaning given in subclause 5.1(a).

Business Day means any day except a Saturday, Sunday or a public holiday in Perth, Western Australia.

Department means a department of the government of the State.

Designated Area has the meaning given in paragraph 2.3(a) of Schedule 3.

Eligible Properties means the properties that are eligible to be sold and purchased pursuant to the SPPP as determined by the SPPP Administrator in accordance with paragraph 2.3 of Schedule 3.

Environment means all components of the earth, including:

- (a) Land, air and water;
- (b) any layer of the atmosphere;
- (c) any organic or inorganic matter;
- (d) any living organism; and
- (e) natural or monopode or modified features or structures,
- (f) and includes ecosystems and all elements of the biosphere,

and Environmental has a corresponding meaning.

Eligible Farm Properties means those farming properties that are Eligible Properties and qualify for participation in the Farm Business Continuation Option in accordance with part 3.1 of Schedule 3.

Environmental Law includes:

- (a) any Act; and
- (b) any Legislative Requirements,

regulating or otherwise relating to the Environment.

Equalisation Payment has the meaning given in paragraph 3.3(b) of Schedule 3.

EPA has the meaning given in Recital B.

ERMP means the Company's Environmental Review and Management Plan and associated documents in relation to the Wagerup Expansion Project.

Fair Market Price means, in relation to an Eligible Property or an Eligible Farm Business, the price calculated in accordance with paragraph 2.4 or paragraph 3.3 of Schedule 3 (as may be applicable).

Farm Business Continuation Option has the meaning given in paragraph 3.1 of Schedule 3.

Follow-up Survey has the meaning given in subclause 5.1(b)(i).

Functionality has the meaning given in part 3 of Schedule 3.

Good Operating Practice means that standard of operating practices, methods, standards and procedures generally accepted and followed by prudent, diligent, skilled and experienced operators acting in accordance with standards generally adopted in Australia by operators engaged in the same or a similar type of industry or undertaking and under the same or similar circumstances and conditions. Good Operating Practice is not intended to be limited to the optimum practice or method to the exclusion of all others, but rather to be a spectrum of reasonable and prudent practices, methods, standards and procedures.

Government Authority means any:

- (a) government or governmental, semi-governmental or judicial entity or authority; or
- (b) minister, department, office, commission, delegate, instrumentality, agency, board, authority or organisation of any government.

GST has the same meaning as in the *GST Act*.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* and, where the context permits, includes the Commissioner of Taxation's goods and services tax rulings and determinations and any other written law dealing with GST applying for the time being in Western Australia.

Harvey-Waroona Index means the index referred to in paragraph 1.1 of Schedule 3.

Legislative Requirement means a requirement imposed or arising under any of the following, whether now in existence or coming into existence in the future:

- (a) an Act;

- (b) an ordinance, rule, regulation, by-law, proclamation, licence, permit, authorisation, code, order or other instrument made or issued under an Act; and
- (c) any other enforceable requirement of a Government Authority.

Objectives has the meanings given in clause 2.1.

Offer has the meaning given in clause 6.2(c).

Party means either party to this document and **Parties** means both of them.

Schedule means each of the schedules to, and forming part of, this document.

SPPP has the meaning given in clause 6.2(a).

SPPP Administrator has the meaning given in clause 6.2(b).

Wagerup Refinery means the refinery established on the Wagerup refinery site pursuant to the State Agreement, including as may be expanded by the implementation of the Wagerup Expansion Project.

Wagerup Expansion Project has the meaning given in Recital B.

Winter 2006 Study has the meaning given in subclause 4.1(a).

1.2 Interpretation

In this document, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) a reference to any thing is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them;
- (c) a reference to a gender includes other genders;
- (d) a reference to a person includes a Government Authority, a public body, a company and an incorporated or unincorporated association or body of persons;
- (e) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, but not limited to, a person taking by novation) and permitted assigns;
- (f) an agreement, representation or warranty on the part of, or in favour of, 2 or more persons binds, or is for the benefit of, them jointly and severally;
- (g) a reference to this document or another instrument includes all variations and replacements of either of them despite any change of, or any change in the identity of, the Company;
- (h) a reference to a clause, schedule, attachment or appendix is a reference to a clause in, or a schedule, attachment or appendix to, this document;

- (i) all the provisions in any schedule, attachment or appendix to this document are incorporated in, and form part of, this document and bind the Parties;
- (j) headings are included for convenience and do not affect the interpretation of this document;
- (k) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (l) no rule of interpretation is to be applied to disadvantage the State on the basis that it was responsible for preparing this document;
- (m) if a word or phrase is defined, other grammatical forms of that word or phrase have a corresponding meaning;
- (n) if the word "including" or "includes" is used, the words "without limitation" are taken to immediately follow;
- (o) a reference to writing includes all means of representing or reproducing words in visible form including by electronic means such as facsimile transmission;
- (p) a reference to a liability includes all obligations to pay money and all other losses, costs and expenses of any kind;
- (q) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated inclusive of that day;
- (r) if a date stipulated for payment or for doing an act is not a Business Day, the payment must be made, or the act must be done, on the next Business Day;
- (s) where the time for performing an obligation or exercising a right is expressed by reference to a period of one or more months before or after a specified date (the *reference date*) that time period will be determined by calculating the number of months specified from the reference date, with the period expiring on the date which is the equivalent date to the reference date, or if there is no such date in the final month, the last day of that final month; and
- (t) an indemnity which is expressed to be in favour of a person who is not a party to this document is held on trust for the benefit of that person.

1.3 Terms defined in the State Agreement

Terms that are defined in the State Agreement have the same meaning where used in this document.

1.4 Relevant Government Agency

- (a) The State may nominate a separate Government Agency or an officer of a Government Agency to deal with the Company, on the State's behalf and in the exercise of the State's rights, in connection with all matters arising under each of clauses 4, 5 and 6 of this document.

- (b) The Parties acknowledge that at the date of this document, the State nominates the following Government Agencies or officers in accordance with paragraph (a) of this clause:
 - (i) the Department of Environment and Conservation, in respect of matters arising under, or in connection with, clause 4;
 - (ii) the Department of Health, in respect of matters arising under, or in connection with, clause 5; and
 - (iii) the Department of Industry and Resources, in respect of matters arising under, or in connection with, clause 6.

1.5 Transfer of functions

- (a) The Company acknowledges that any Government Authority or an office of a Government Authority may be reconstituted, renamed or replaced and that some or all of the powers of the Government Authority or the office (as the case may be) may be transferred to or vested in another entity.
- (b) If a Government Authority or an office of a Government Authority is reconstituted, renamed or replaced (as may be applicable) or if some or all of the Government Authority's or the office's powers are transferred to or vested in another entity, references in this document to the Government Authority or the office (as the case may be) must be deemed to refer, as applicable, to that reconstituted, renamed or new entity to the extent that the entity has assumed or has had transferred to it or vested in it those powers.

2. OBJECTIVES OF THE PARTIES

2.1 Objectives

- (a) The objectives of the State in entering into this document are:
 - (i) to address community concerns in respect of air quality and the risk of injury to the health of persons residing in specified areas in the vicinity the Wagerup refinery site; and
 - (ii) to encourage the Company to establish appropriate land management programs and processes to assist eligible persons residing in the vicinity of the Wagerup refinery site to relocate to other areas outside the vicinity of the Wagerup refinery site, where such persons consider that their health or property may be at risk of damage from the operation of the Wagerup Refinery or where such persons otherwise wish relocate for any reason.
- (b) The objectives of the Company in entering into this document are to satisfy the in-principle commitment it gave to the Premier of Western Australia in its letter to him of 16 August 2006 as described in Recitals C and D and to formally agree the detailed scope and content of the undertaking that the Company agreed to provide in that letter and other associated matters as set out in this document.

2.2 Parties may have regard to Objectives

Subject to any express provision to the contrary in this document, the State and the Company will each have regard to their respective Objectives in carrying out their respective obligations, and in resolving any disputes, under this document.

3. THE COMPANY'S PERFORMANCE OF OBLIGATIONS

3.1 Compliance with laws

The Company agrees to perform the undertaking and obligations under this document in compliance with all laws from time to time applicable to the performance of those things, including:

- (a) all Environmental Laws and any standard, direction or other instrument made under them; and
- (b) all other Legislative Requirements.

3.2 Costs and resources

- (a) Except where and to the extent expressly provided for in this document, the Company is responsible for all costs, charges and expenses of performing its obligations under this document, including all costs, charges and expenses arising from the performance of:
 - (i) clause 4, including all costs of and in connection with installing or implementing Air Quality Equipment or Air Quality Systems and of undertaking the Air Quality Studies;
 - (ii) clause 5, including all costs of in connection with undertaking the health surveys, the appointment of the independent third parties referred to in clause 5.1(a) and the preparation of the reports referred to in clause 5.3; and
 - (iii) clause 6, including all costs of and in connection with the establishment of the SPPP and its administration by the SPPP Administrator, the engagement of the SPPP Administrator and the engagement of any property valuation experts by the SPPP Administrator, provided that the total costs payable by the Company under this sub-clause (iii) excepting the costs of purchasing any Eligible Property or Eligible Farm Property under that clause, are limited to \$320,000.00 (plus GST if applicable) unless agreed otherwise by the Parties in writing.
- (b) Subject to clause 3.3, the Company must pay all invoices submitted by the State in respect of any costs, charges or expenses for which the Company is responsible under paragraph (a), within 45 Business Days from receipt by the Company of the relevant invoice identifying such costs, charges or expenses and, where the invoice is for any such costs, charges or expenses that have been paid by the State directly, then the Company must fully reimburse the State in respect of those costs, charges or expenses. Invoices must:
 - (i) be submitted to the Company at the following address:

Alcoa World Alumina Australia
PO Box 252
Applecross WA 6953
Attention: Accounts Payable Officer; and

- (ii) subject to paragraph (c) of this clause 3.2, be paid by the Company in full to the State or to a third party as the State may direct, by cheque or any other method the Parties may agree.
- (c) If the Company disputes any amount or amounts shown in an invoice submitted to it under sub-paragraph (b)(i):
- (i) the Company must pay the full amount shown in the invoice on the due date determined in accordance with subclause (b) and must within 14 Business Days after that due date give a dispute notice to the State under clause 12 in respect of that dispute; and
 - (ii) if required as an outcome of the dispute resolution process, the State must repay the relevant amount to the Company within 28 Business Days of the date of the resolution.

3.3 GST

- (a) In this clause, the expressions "consideration", "recipient", "supply", "tax invoice" and "taxable supply" have the meanings given to those expressions in the GST Act.
- (b) If GST is imposed on any taxable supply made under, by reference to or in connection with this document, the party liable to provide the consideration for that taxable supply must pay an amount equal to the GST payable on the taxable supply, as additional consideration. This clause does not apply to the extent that the consideration for the taxable supply is expressly agreed to be GST inclusive.
- (c) The amount referred to in paragraph (b) must be paid in addition to, and at the same time as, payment for the taxable supply is required to be made under this document, provided that no payment of any amount (including any GST amount) is required under this document until the supplier has provided a tax invoice to the recipient.
- (d) If the amount of GST paid or payable by the supplier on any supply made under this document differs from the amount of GST paid by the recipient, because the Commissioner of Taxation lawfully adjusts the value of the taxable supply for the purpose of calculating GST, then the amount of GST paid by the recipient will be adjusted accordingly by a further payment by the recipient to the supplier or the supplier to the recipient, as the case requires.
- (e) Any reference in the calculation of consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a party, must exclude the amount of any input tax credit entitlement of that party in relation to the relevant cost, expense or other liability. A party will be assumed to have an entitlement to a full input tax credit unless it demonstrates otherwise prior to the date on which the consideration must be provided.
- (f) This clause survives termination of this document.

4. AIR QUALITY MONITORING AND AIR QUALITY STUDIES

4.1 Air Quality Studies

- (a) The Company must implement the air quality study described in paragraph 1 of Schedule 1 (**Winter 2006 Study**).
- (b) The Winter 2006 Study must be carried out:
 - (i) in accordance with any applicable study specifications, frequency and timetables set out in Schedule 1 in respect of that study and all other requirements of this document;
 - (ii) in accordance with established, modern, scientific and good management methods and practices, with due skill, expertise and diligence and using good and sufficient materials and services; and
 - (iii) in strict compliance with all applicable laws and all ethical and other codes of practice and standards where appropriate.
- (c) Subject to subclause (d) of this clause, the Company must notify the State and keep the State informed as soon as reasonably possible, in relation to any delay or deviation from the specifications or timetables set out in Schedule 1 in respect of the Winter 2006 Study.
- (d) The Company must not implement, or permit or suffer the implementation of any material change to the Winter 2006 Study without the prior written approval of the State. The Parties agree for the purposes of this subclause that a material change includes any change to the Winter 2006 Study as described in Schedule 1, whether in terms of its scope, nature or otherwise, of a kind or magnitude that is likely to materially affect the timetable for completing the study or the reasons for, or purposes or objectives of, the Winter 2006 Study.

4.2 Reporting on the Winter 2006 Study

- (a) The Company must provide to the State by no later than 30 March 2007 a report containing information relating to the Winter 2006 Study and containing full details of its completion, including each of the matters set out in paragraph (b). The State may at its sole discretion, extend the due date for the provision of the report.
- (b) The report to be provided pursuant to paragraph (a) must:
 - (i) contain a reasonably detailed description of the implementation of the Winter 2006 Study by reference to the Company's obligations under this document and any highlights or difficulties encountered, and any conclusions reached in relation to any aspect of the Winter 2006 Study;
 - (ii) include a summary of the findings of the report; and
 - (iii) be accompanied by all validated data (to be provided in electronic format) collected from the Air Quality Equipment for the purposes of, or in the course of undertaking, the Winter 2006 Study, and a detailed explanation of the validation process used in respect of that data.

- (c) In the event that any raw data collected from the Air Quality Equipment for the purposes of, or in the course of, undertaking the 2006 Winter Study is not provided to the State in accordance with Clause 4.2(b)(iii) on the grounds that it has not satisfied the validation process, the Company shall promptly meet with the State after providing the report referred to in paragraph (a) above and at that meeting:
- (i) the Company must identify the raw data not provided;
 - (ii) the Company must provide a detailed explanation of the reasons for excluding the raw data and generally provide any information reasonably required by the State to justify the Company's decision for excluding the raw data; and
 - (iii) the State may require the Company to confirm in writing to the State within a reasonable period after the meeting, any of the matters in paragraphs (i) and (ii) above, which have not been identified or provided in writing by the Company at that meeting.

4.3 Consultation on Air Quality Equipment

- (a) The Company must ensure that any equipment used to measure or collect data for the purposes of the Winter 2006 Study (**Air Quality Equipment**) is maintained, operated and inspected at its cost and in accordance with Good Operating Standards provided that the Company must test all such equipment as may be reasonably appropriate and include in the report a copy of the results of that testing.

5. COMMUNITY HEALTH SURVEYS

5.1 Health surveys

- (a) As soon as possible after the date of execution of this document by the Parties, the State will nominate a suitably qualified independent third party or third parties to conduct in accordance with the requirements of this document, a baseline health survey of random samples of persons resident in the localities set out in paragraph 1.1 of Schedule 2 and any other localities agreed between the Company and the State (**Baseline Survey**) to assess the health status of residents in areas where health effects may be attributable to emissions from the operation of the Wagerup Refinery. The Baseline Survey must:
- (i) be commenced within 12 months of 14 September 2006 and be completed by 14 September 2008; and
 - (ii) have a total value of approximately the same value as set out in paragraph 1.2 of Schedule 2 unless otherwise agreed between the Company and the State.
- (b) The Parties agree that:
- (i) further health surveys of random samples of persons resident in the localities set out in paragraph 2.1 of Schedule 2 and any other localities agreed between the Company and the State (each a **Follow-up Survey**) must be undertaken at the sole cost of the Company and commence on each of the dates set out in paragraph 2.3 of Schedule 2.

- (ii) the State must, within a reasonable period before the scheduled commencement of each Follow-up Survey, appoint a suitably qualified independent third party or third parties to conduct the Follow-up Survey; and
 - (iii) the total value of undertaking a Follow-up Survey must be approximately the same value as the estimated value set out in paragraph 2.2 of Schedule 2 in respect of that survey, unless otherwise agreed between the Company and the State.
- (c) Each independent third party appointed pursuant to this subclause 5.1 must report to the State and provide such information as may be reasonably requested by the State including any data (other than data of a personal and confidential nature to Survey respondents) collected from the Survey.

5.2 Methodology applicable to surveys

Each health survey to be undertaken pursuant to subclause 5.1 must comply with the methodology in paragraphs 1.4 or 2.4 (as may be applicable) and any other requirements in Schedule 2.

5.3 Independent Reporting

- (a) In addition to any other obligations to report to the State under this clause 5, the Parties agree that the Company must commission an independent third party to prepare and provide to the State, by no later than 90 Business Days after the completion of each further health survey to be undertaken pursuant to subclause 5.1, a report containing information relating to the health survey and containing full details of its completion, including:
- (i) a reasonably detailed description of the methods undertaken to carry out the health survey, any highlights or difficulties encountered, and any conclusions reached in relation to any aspect of the survey; and
 - (ii) any scientific or other publications authored or co-authored by the Company in relation to any aspect of the health survey.
- (b) Each health survey report submitted under this clause must be:
- (i) prepared in accordance with any policies and content and format requirements as the State may notify to the independent third party from time to time; and
 - (ii) accompanied by any working papers and supporting documents which may assist in its interpretation or analysis.

6. PROPERTY PURCHASE SCHEME

6.1 Area A and Area B purchase programs

The Company agrees to maintain its existing Area A and Area B Purchase Program and agrees to apply the Harvey-Waroona Index in its valuation of properties to any properties purchased pursuant to the Area A and Area B Purchase Program after the date of this document.

6.2 Supplementary property purchase program and administration

- (a) The Company agrees to fund and support the establishment and administration of a supplementary program for the purchase by the Company of Eligible Properties within the vicinity of the Wagerup Refinery in accordance with the requirements of this clause 6 and Schedule 3 (**SPPP**).
- (b) Subject to paragraph (d) of this clause, the SPPP is to be administered by a suitably qualified independent third party (**SPPP Administrator**) appointed by the State to discharge that function in accordance with the terms of this document.
- (c) The SPPP commences on 4 October 2006 and the opportunity to register for participation in the SPPP expires on 3 April 2007. Registration for participation in the SPPP is to be made by way of a written request for valuation of an Eligible Property, to be made by the registered owner of that Eligible Property to the SPPP Administrator. The SPPP Administrator is to ensure that all valuations are completed and provided to the registered owner of the Eligible Property as soon as practical after receiving the request and the provision of a property valuation of an Eligible Property shall constitute an offer by the Company to purchase and take the legal and beneficial interest in the Eligible Property (**Offer**). Subject to clause 6.4(d):
 - (i) registered participants in the SPPP may accept or reject an Offer until 30 June 2007; and
 - (ii) if a registered participant in the SPPP has not notified the SPPP Administrator in writing of their acceptance of the Offer on or before 30 June 2007, then the registered participant is deemed to have rejected the Offer and the registered participant's eligibility for participation in the SPPP terminates and the Company shall have no further obligation to the registered participant in relation to the Eligible Property.
- (d) The State has the right to nominate the SPPP Administrator to be appointed pursuant to this document and, subject to the approval of that nominee by the Company, the State shall appoint the SPPP Administrator who must report to the State in respect of the administration of the SPPP and the performance by the Company of its obligations under this clause. The Parties agree that on the commencement of this document, the State appoints and the Company approves the person identified in paragraph 2.2 of Schedule 3 as the SPPP Administrator and the Company acknowledges that certain preliminary actions have been taken with the Company's agreement by that person, in anticipation of the operation of the SPPP and of his appointment as SPPP Administrator pursuant to this document, including by compiling a registration list of persons who may be eligible to participate in the SPPP and accepting registrations for participation in the SPPP.
- (e) The decision making powers of the SPPP Administrator will be derived pursuant to the terms of engagement negotiated between the State and the SPPP Administrator to be detailed in a letter of engagement.
- (f) Any decisions made by the SPPP Administrator in accordance with his powers, especially in relation to eligibility of properties for purchase by the Company, eligibility for participation in the Farm Business Continuation Option and

eligibility for and amount of any Equalisation Payment will be final and not subject to any review.

6.3 Sale and purchase of Eligible Properties

- (a) The Company must, on the acceptance of an Offer by a registered participant in accordance with clause 6.2(c) and any processes established by the SPPP Administrator in accordance with Schedule 3:
 - (i) agree to purchase and take, the legal and beneficial interest in the Eligible Property from the date of completion of the sale and purchase of the Eligible Property; and
 - (ii) at the completion of the sale and purchase of the Eligible Property pay to the relevant registered owner the Fair Market Price for the Eligible Property.
- (b) Subject to clause 6.4(d), the Company agrees to use all reasonable endeavours to complete each sale and purchase of an Eligible Property pursuant to the SPPP within 3 months of the date on which the Company and the registered owner of the Eligible Property have finally agreed the terms and conditions applicable to the sale and purchase, provided that the parties agree that the sale and purchase of Eligible Properties will provide for settlement of the sale and purchase by no later than 3 October 2007.
- (c) Save for Eligible Farm Properties, the sale and purchase of an Eligible Property will expressly provide for vacant possession on settlement. The sale and purchase of Eligible Farm Properties will expressly provide for vacant possession on settlement unless the Company in its absolute discretion otherwise agrees.
- (d) The Company and each person selling an Eligible Property to the Company, is expected to pay its respective legal and settlement costs arising from any sale and purchase arising under the SPPP and, for the avoidance of doubt, the Company is not to be responsible to pay any of the following costs:
 - (i) any stamp duty or other costs associated with the purchase of a new property by the person selling the Eligible Property; and
 - (ii) any removal or transport costs associated with any property, livestock or goods of the person selling the Eligible Property.

6.4 Application of FBCO to Eligible Farm Properties

The Company agrees that:

- (a) Eligible Farm Properties will qualify for participation in the Farm Business Continuation Option;
- (b) except as otherwise varied by the provisions of this clause 6.4 or by the provisions of paragraph 3 of Schedule 3, the provisions of clause 6.3 apply (with the necessary modifications) to the sale and purchase by the Company of Eligible Farm Properties pursuant to the SPPP;

- (c) the Company may be liable to pay to the relevant registered owner of an Eligible Farm Property:
 - (i) the Fair Market Price; and
 - (ii) subject to clauses 6.4(d), an Equalisation Payment;
calculated in accordance with paragraph 3 of Schedule 3.
- (d) In the case of a sale and purchase of an Eligible Farm Property, if the registered participant has not within the period expiring 6 months after the date of the Offer in respect of that Eligible Farm Property, accepted the Offer and entered into a binding contract with the Company to sell the Eligible Farm Property for the purchase price equivalent to the valuation:
 - (i) the registered participant's eligibility for participation in the SPPP and the Farm Business Continuation Option terminates and the Company shall have no further obligation to the registered participant in relation to the Eligible Farm Property; and
 - (ii) a registered participant's entitlement to an Equalisation Payment shall also lapse and shall not be capable of acceptance.

7. NOTIFICATION OF STATE'S NOMINEES AND REPLACEMENT

- (a) The State may replace any person it nominates pursuant to this document, with any other person in accordance with the requirements of this clause 7 and any other requirements of this document.
- (b) The State must as soon as practicable (and in any event within 5 Business Days) after its nomination of a person or replacement, of that nominee, notify the Company in writing of:
 - (i) the name;
 - (ii) the contact address; and
 - (iii) the facsimile and telephone numbers,

of the person who has been nominated or who has replaced the person previously nominated (as the case may be).

8. COMPANY'S EMPLOYEES, CONTRACTORS, CONSULTANTS AND AGENTS

- (a) The Parties agree that:
 - (i) except where otherwise provided for in this document, the Company may perform its obligations under this document through its employees or, where appropriate, through contractors, consultants or agents acting on the Company's behalf;

- (ii) the Company must ensure that its employees, contractors, consultants or agents carry out the Company's obligations under this document in accordance with the requirements of this document; and
 - (iii) the Company must pay all costs of, and have sole responsibility for, all facilities, employees, contractors, consultants or agents engaged or utilised by, or on behalf of, the Company or for the purpose of undertaking or administering the studies, surveys or programs required to be undertaken pursuant to this document.
- (b) The Company warrants that it and its employees, contractors, consultants and agents are competent and have all the necessary skill, training and qualifications to perform the Company's obligations in accordance with the requirements of this document.

9. STATE'S ACCESS POWERS

- (a) If the State authorises, permits, requests or directs any person to enter a site or other place within the control of the Company or its employees, agents and contractors to inspect work or any items of plant and equipment being carried out on or used in connection with a study, survey or program being carried out pursuant to this document the Company must, and must ensure that its employees, agents and contractors, do all things necessary and grant all necessary rights of access to facilitate and accommodate that permission, authorisation, request or direction to allow for the entry and for the inspection provided that such person must comply with the health and safety procedures relevant to that site or place.
- (b) A site or place referred to in paragraph (a) may only be entered at a reasonable time during a Business Day and with the giving of reasonable notice to the Company.
- (c) The State is responsible for any damage to a site or place caused by any person who enters that site or place with the authority or permission of, or at the direction or request of the State under paragraph (a) except to the extent that such damage is caused or contributed by someone other than such a person.

10. DOCUMENT RETENTION

- (a) The Company must keep full and proper records in respect of its obligations under clauses 4 and 6 of this document, for a period of 7 years commencing on the date of this document.
- (b) It is agreed that both the Company and the State will have full and free access to all records, documents or information created or held by the SPPP Administrator relating to the performance by the SPPP Administrator of his obligations in relation to the SPPP and that each party will be permitted to make copies of any of those records, documents or information.
- (c) It is agreed that both the Company and the State will have full and free access to all records, documents or information created or held by any party appointed in accordance with Clause 5 to conduct the health surveys detailed in that clause relating to the conduct of those health surveys and the preparation of any reports contemplated by Clause 5.

- (d) Subject to Clause 10(e), the Company must give the State and any persons authorised by the State, full and free access to the records required to be kept in accordance with Clause 10(a), and permit the State or such other authorised persons to remove or make copies of any of those records or any other original or copied documents or information held in the Company's possession relating to the Company's performance of its obligations under Clauses 4 and 6 of this document, for the purposes of assessing that performance.
- (e) Subject to compliance by the Company with its obligations under Clause 4.2(c), the Company shall not be obliged to provide to the State, records, documents or information to the extent they contain raw data not provided to the State in accordance with Clause 4.2.

11. PUBLIC DISCLOSURES

The Company acknowledges that the State may disclose to the public or table in the Parliament of the State, any information pertaining to the performance by the Company of its obligations contained in this document including this document and any amendments to it and all reports, documentation and information provided to the State by the Company in accordance with the terms of this document.

12. INDEMNITIES

12.1 Assumption of risk and indemnity by the Company

- (a) Except as otherwise provided in this document the Company:
 - (i) must perform the obligations set out in this document at its own risk; and
 - (ii) indemnifies and must keep indemnified the State, the Minister responsible for the administration of the *Alumina Refinery (Wagerup) Agreement and Acts Amendment Act 1978* and any Western Australian Government Authority and any other employee, agent, contractor, consultant or adviser of or to the State, the Minister or of a Western Australian Government Authority, from and against all losses of every kind that may be incurred or sustained by any or all of them in respect of or arising from:
 - (A) any negligent act or omission on the part of the Company (including its employees, contractors, agents or consultants); and
 - (B) any breach by the Company of its obligations under this document.
- (b) The indemnity in paragraph (ii) of this subclause will not apply to the extent that the loss or claim is caused or contributed to by fraud, default or a negligent act or negligent omission on the part of:
 - (i) the State or any of the persons referred to in subclause (a)(ii) or any person appointed by them to perform any function pursuant to this document; or
 - (ii) the SPPP Administrator.

- (c) The State and each of the persons indemnified pursuant to paragraph (a) must use reasonable endeavours to mitigate the losses that may be incurred or sustained by each of them respectively for which they are indemnified under this subclause.
- (d) The indemnities in this clause 12 survive the expiry or termination of this document.

12.2 Release by the Company

The Company releases to the full extent permitted by law the State and each of the persons referred to in subclause 12.1(a)(ii) from all losses, damages, liabilities, actions, suits, claims, demands, costs and expenses of every kind which arise from the Company's performance of its obligations under this document and any act, omission, accident, loss of life, injury, damage, malfunction or other event in connection with such performance by the Company, except to the extent caused or contributed to by any of those persons referred to in subclause 12.1(a)(ii).

13. DISPUTE RESOLUTION

13.1 Resolution of disputes

- (a) Subject to paragraphs (b) and (c) of this clause, where a dispute of a kind not referred to in paragraph (b) arises under or in connection with this document then:
 - (i) the Party that claims that there is a dispute must give the other Party a written notice setting out the basis of the dispute (each a Dispute Party);
 - (ii) within 10 Business Days after the notice of dispute is given, the Parties must confer at least once to try to resolve the dispute or to agree on methods of doing so. At such a conference, each Party must be represented by a person having authority to agree on a resolution of the dispute;
 - (iii) if the dispute is resolved under subclause (a)(ii), the Parties must record their agreement in writing to be signed by both Parties; and
 - (iv) if the dispute is not resolved under subclause (a)(ii) within a further 5 Business Days after the conference takes place, then either Party may commence proceedings as it sees fit.
- (b) Subject to subclause (c), where a dispute arises under this document in relation to a question of fact, then:
 - (i) the procedures set out in subclause (a) (i), (ii) and (iii) of this clause 12.1 apply in respect of that dispute; and
 - (ii) if the dispute is not resolved in accordance with that procedure within a further 5 Business Days after the conference, then either of the Dispute Parties may refer the dispute to an expert for determination in accordance with subclause 13.2.
- (c) Nothing in subclauses (a) and (b) of this subclause 13.1 precludes the State or the Company from taking immediate steps to seek legal or equitable relief before the appropriate Court within the State.

13.2 Expert determination

- (a) Where a dispute or difference is to be referred to an expert, the expert determination is to be conducted by:
- (i) an independent industry expert agreed to by the Parties; or
 - (ii) if the independent industry expert agreed to between the Parties:
 - (A) is unavailable;
 - (B) declines to act; or
 - (C) does not respond within 10 Business Days to a request by one or both Parties for advice as to whether he or she is able to conduct the determination,
- an independent industry expert appointed by the President of the Institution of Engineers Australia.
- (b) An expert determination conducted under this subclause 13.2 is not an arbitration and the expert is not an arbitrator.
- (c) The Parties agree that the expert determination is to be carried out as follows:
- (i) the expert will:
 - (A) act as an expert and not as an arbitrator expert and may reach a decision from his or her own knowledge and expertise;
 - (B) proceed in any manner he or she thinks fit subject to any express provision contained in this clause;
 - (C) conduct any investigation which he or she considers necessary to resolve the Dispute or difference;
 - (D) examine such documents and interview such persons as he or she may require;
 - (E) make such directions for the conduct of the determination as he or she considers necessary;
 - (F) be entitled to confer with such other professionally qualified persons as the expert in his or her absolute discretion thinks fit;
 - (G) afford the Parties a fair opportunity to make submissions in relation to the matters in issue
 - (H) be required to disclose to the Parties any interest he or she has in the outcome of the determination; and
 - (I) not communicate with one Party to the determination without the knowledge of the other Party.
 - (ii) the State and the Company must each bear:

- (A) its own costs of and incidental to any expert determination process; and
- (B) one half of the costs of the expert's fees and disbursements;
- (iii) unless otherwise agreed between the Parties, the expert must notify the Parties of his or her decision upon any expert determination conducted under this subclause 13.2 within 20 Business Days from the acceptance of the expert of his or her appointment; and
- (iv) the determination of the expert:
 - (A) must be in writing setting out the reasons for his or her determination;
 - (B) will be final and binding except in the case of fraud or manifest error; and
 - (C) is to be given effect to by the Parties.

14. NOTICE

14.1 Delivery of Notices

Each notice or other communication given under this document:

- (a) must be in writing;
- (b) may be given by an authorised officer of the State or the Company (as applicable);
- (c) must be:
 - (i) hand delivered or sent by prepaid post to the address of the recipient specified in clause 14.2; or
 - (ii) sent by facsimile to the facsimile number of the recipient specified in clause 14.2;
- (d) subject to paragraph 14.1(e), is taken to be received:
 - (i) in the case of hand delivery, on the date of delivery;
 - (ii) in the case of post, on the third Business Day after posting; and
 - (iii) in the case of facsimile, on the date on which the sender's facsimile machine records that the facsimile was successfully transmitted; and
- (e) if received after 5.00 pm or on a day other than a Business Day, is taken to be received on the next Business Day.

14.2 Notice Details

The address and facsimile numbers of each of the State and the Company for the purpose of clause 14.1 is as follows:

State

Director General

Department of Industry and Resources

1 Adelaide Terrace

East Perth WA 6004

Facsimile: (08) 9222 3862

Company

Service Delivery Manager - Real Estate

Alcoa of Australia Ltd (ACN 004 879 298)

Cnr of Davy and Marmion Streets

Booragoon WA 6154

Facsimile: (08) 9316 5142

15. MISCELLANEOUS

15.1 No agency for the State

This document must not be construed as constituting an agency, association, employment, joint venture, or partnership of any kind between the State and the Company nor to confer upon either Party the right to sign or complete any instrument or to pledge credit on behalf of the other Party.

15.2 Further Assurance

The Company must do everything reasonably necessary, including signing further documents, to give full effect to this document.

15.3 Rights and Remedies

The rights, powers and remedies available to the State or a Government Authority in this document are in addition to, and not exclusive of, the rights, powers and remedies existing at law, in equity or under the State Agreement.

15.4 Severance

Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

15.5 Variations

This document may only be varied, replaced or novated by another document executed by the State and the Company.

15.6 Assignment

The Company may only dispose of, declare a trust over or otherwise create an interest in its rights under this document with the consent of the State.

15.7 Waiver

- (a) Any waiver by the State or the Company must be in writing and signed by the party waiving the right.
- (b) Any waiver by the State or the Company does not affect its rights in respect of any other breach of this document by another party.
- (c) Subject to paragraph (a), any failure by the State or the Company to enforce any right under this document will not be construed as a waiver of their respective rights under this document.

15.8 Entire Agreement

This document contains the entire agreement between the State and the Company about the subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter, including as set out in the letters referred to in Recital C, is replaced by this document and has no further effect.

15.9 Governing Law

This document is governed by the laws of the State of Western Australia. The Parties irrevocably submit to the non-exclusive jurisdiction of the courts of Western Australia.

15.10 Counterparts

The Parties may execute this document in counterparts.

15.11 Attorneys

Each person who executes this document under a power of attorney on behalf of a party declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

15.12 No third party benefits

The Parties acknowledge and agree that:

- (a) no provision of this document is intended to confer any benefit, whether directly or indirectly, on a person who is not a Party, including (without limitation) on any registered owner of any Eligible Property (a **third party** for the purposes of this subclause) and a third party is not entitled to the benefit of, and may not enforce, any provision of this document; and
- (b) section 11 of the *Property Law Act* 1969 does not apply to this document.

SCHEDULE 1 – AIR QUALITY

1. Winter 2006 Study

1.1 Timetable and frequency

This study is to be undertaken during the period July 2006 to October 2006.

1.2 Specifications

PTRMS

- A PTRMS be installed, operated and managed by CSIRO for an 8 week period during August through to October 2006.
- Install and operate an automated DNPH tube sampler taking three 8 hour samples per day during the 8 week period the PTRMS is operational. The number of tubes sampled will be determined based on interpretation of the PTRMS data.
- CSIRO will review the PTRMS data to identify mass numbers above background, looking at between 15 and 25 mass numbers.
- CSIRO will identify the most likely compound associated with these mass numbers.
- CSIRO to comment on the most likely natural and man-made sources in the Wagerup Environment related to these mass numbers over the 8 week period.

Trace Station

- Install and operate a trace station to collect NO_x, CO and CO₂ at the PTRMS site during the same 8 week monitoring period.
- Install and operate a TEOM to monitor PM_{2.5} at the PTRMS during the same 8 week monitoring period.
- Trace NO_x analyser will have a high capacity pump.
- Trace CO analyser with external pump and in-line sample filter.
- Ambient air CO₂ analyser with external pump.
- Weekly single point calibration and filter change.
- Monthly calibration of the TEOM.
- Monitoring will be undertaken in accordance with the appropriate Australian Standards.

Long path OPSIS

- Monitor benzene, formaldehyde and sulphur dioxide with the long path OPSIS located near Boundary Rd to the south of the refinery.
- Long path OPSIS is to monitor during the 8 week period the PTRMS is operational.
- The OPSIS will be operated in accordance with the OPSIS Quality Assurance and Quality Control Manual.

Field Odour Surveys

- Undertake five odour assessments between August and October 2006.
- Odour assessments will be undertaken on days when meteorological conditions are predicted to result in detectable odours. Alcoa will liaise with the DEC in selecting of these days.
- Field odour assessors will ideally undergo olfactory tests in accordance with appropriate standards prior to undertaking field surveys.
- Odour assessors will be distributed to maximise detection of odours and moved in response to changing meteorological conditions, where possible.
- Odour assessors will rate odour intensity on a scale from 0 to 6.
- Odour concentrations will be determined from the field odour intensity surveys.
- The odour assessments will be undertaken in general accordance with the requirements of VDI (Verein Deutscher Ingenieure) and as modified by Environmental Alliances.

Silco canister sampling

- During the field odour surveys Silco canister samples will be taken if warranted by odour levels detected.
- Silco canister samples taken to provide information on a range of sources and background ambient air.
- Sample analysis by USEPA Method TO15.
- Samples should be analysed by a laboratory that is accredited for TO15 analysis, where possible.

SCHEDULE 2 – HEALTH SURVEYS

1. Baseline Survey

1.1 Localities to be surveyed

The Baseline Survey is to be undertaken at the following localities in Western Australia:

- (a) Yarloop,
- (b) Hamel;
- (c) Wagerup
- (d) Waroona; and
- (e) Cookernup.

1.2 Value of survey

Approximately \$500,000

1.3 Requirements and specifications

The health survey will commence within 12 months of 14 September 2006 and be completed with a report submitted by 14 September 2008.

The final report will be made publicly available.

The survey will be conducted by suitably qualified independent consultants reporting to the Department of Health.

1.4 Methodology for Baseline Survey

The proposed methodology for the health status survey is outlined as follows:

- A cross-sectional survey method will be undertaken with the potential collection of additional data as agreed between Alcoa and the Department of Health. This involves surveying the community at a point in time, rather than over a period of time;
- Selection of a random sample of the populations of Yarloop, Hamel and nearby localities;
- The sample sizes will be large enough to be statistically valid (with adequate statistical power). A biostatistician will advise on appropriate sample size;
- The Computer Assisted Telephone Interview (CATI) technique (if practical) will be used;
- The WA Health and Wellbeing Questionnaire developed by the Department of Health, or alternative questionnaire as agreed with the Company, will be used for the survey. The questionnaire covers topics such as, demographics, health enhancing behaviours,

health risk factors, socioeconomic status, psychological distress and chronic health conditions;

- Demographic and socioeconomic data will be obtained for input into the survey analysis;
- Age standardised prevalence rates for males and females will be calculated;
- A statistical comparison of the survey results with the most recent results obtained for Western Australia will be undertaken;
- Logistic regression techniques will be applied to detect associations between the likelihood of chronic health conditions and several factors, including; geographic location, health enhancing behaviours, health risk factors, socioeconomic status, psychological distress and demographic variables; and
- Logistic regression techniques will be applied to detect associations between the likelihood of individual symptom types and several factors, including; geographic location, health enhancing behaviours, health risk factors, socioeconomic status, psychological distress and demographic variables.

2. Follow-up Survey

2.1 Localities to be surveyed

A Follow-up Survey is to be undertaken at the following localities in Western Australia:

- (a) Yarloop,
- (b) Hamel;
- (c) Wagerup;
- (d) Waroona; and
- (e) Cookernup.

2.2 Value of survey

Approximately \$500,000

2.3 Requirements and specifications

- (a) The Follow-up Survey is to be undertaken:
 - (i) 5 years after the commissioning of the Wagerup Expansion Project; and
 - (ii) subsequently at 5-yearly intervals for up to 20 years, if the results of the previous Follow-up Survey indicate a need, with the Follow-up Survey or Follow-up Surveys to commence at the same time of year or season as the Baseline Survey.
- (b) The need for subsequent Follow-up Surveys will be determined:

- (i) if logistic regression shows that after controlling for other variables, compared to the State, there is a statistically significant association between geographic location and the likelihood of reporting symptoms; and
 - (ii) if logistic regression shows that after controlling for other variables, compared to the State, there is a statistically significant association between geographic location and the likelihood of reporting chronic health conditions
- (c) After completion of the initial (baseline) survey the results will be used to evaluate the potential benefits of a cohort study.

1.4 Methodology for Follow-up Surveys

The methodology in Part 1.4 for the Baseline Study also applies in respect of each Follow-up Survey.

SCHEDULE 3 – SUPPLEMENTARY PROPERTY PURCHASE PROGRAM

1. Area A and Area B purchase programs

1.1 Harvey-Waroona Index

The Company will base future Area A and Area B property valuations on recent sales of equivalent or similar properties in Waroona and Harvey. The valuations will be carried out by a valuer who is a member of the Australian Property Institute and who has not less than five (5) years' relevant experience in valuing properties of a similar nature in Waroona and Harvey and surrounding areas. This will form the basis of determining "unaffected market value" for Area A and Area B purchases.

2. Supplementary property purchase program (SPPP)

2.1 Term of operation of SPPP

The SPPP is to operate in accordance with the requirements set out in clause 6.

2.2 SPPP Administrator

The SPPP Administrator appointed by the State at the date of this document is Mr Hendy Cowan.

2.3 Eligible Properties

- (a) Only the following properties are eligible to be sold and purchased pursuant to the SPPP:
- (i) properties zoned for residential use located outside the existing Areas A and B and within the localities of Hamel, Wagerup, Yarloop and Cookernup, as delineated in the Map in Schedule 4 (**Designated Area**);
 - (ii) properties zoned for residential use, located outside the Designated Area but within the vicinity of the Wagerup refinery site and which the SPPP Administrator determines at his discretion should be eligible to participate in the SPPP, subject to paragraph 2.3(b) below;
 - (iii) farming properties (including Eligible Farm Properties) located within the Designated Area; and
 - (iv) farming properties (including Eligible Farm Properties) located outside the Designated Area but within the vicinity of the Wagerup refinery site and which the SPPP Administrator determines at his discretion should be eligible to participate in the SPPP, subject to paragraph 2.3(b) below,

if the properties were owned by the registered participant who was the registered owner as at 14 September 2006. For the avoidance of doubt, it is not relevant for the purposes of the above test whether or not the current registered owner resides or has resided at any time at the relevant property.

- (b) For the purposes of paragraphs 2.3(a)(ii) and 2.3(a)(iv), above, in order to gain eligibility for participation in the SPPP, the registered owner of a relevant property must be able to demonstrate that, prior to the approval of the Wagerup Expansion project on 14 September 2006, he or she had displayed, an increased level of concern about the Wagerup Refinery operations or its possible expansion. A demonstration of the display of an increased level of concern within the meaning of this clause may include, but is not limited to:
 - (i) having made complaints to either Alcoa or the State Government about the impacts of the operations or its expansion;
 - (ii) having been a member of a group who openly opposed the proposed Wagerup refinery expansion; and
 - (iii) having placed their property on the open market within the last 12 months.
- (c) The SPPP Administrator is to determine ownership of properties for the purposes of this document solely through a search of the public register maintained by the Registrar of Titles within the Department of Land Information.
- (d) Commercial businesses other than farms of the kind referred to in paragraph 2.3(a)(iii) above are not eligible for participation within the SPPP.
- (e) Save for Eligible Farm Properties, the sale and purchase of an Eligible Property will expressly provide for vacant possession on settlement. The sale and purchase of Eligible Farm Properties will expressly provide for vacant possession on settlement unless the Company in its absolute discretion otherwise agrees.
- (f) Under the SPPP, the Company is only obliged to purchase land and fixtures. A determination of whether an item is a fixture is to be made by the SPPP Administrator, having regard to the principles of relevant case law e.g. objective intention, the degree of annexation to the land and the purpose of annexation. Examples of fixtures include houses, sheds, tanks, dairies, fences, yards, vines and fruit-trees. Examples of non-fixtures include livestock, tools, plant and equipment, spare parts, fodder and grain.

2.4 Valuation: Fair Market Price

- (a) The Fair Market Price payable for each Eligible Property must be the price determined by an independent valuer nominated by the SPPP Administrator using the current market value method, which is the estimated amount for which land and fixtures should exchange on the date of valuation between a willing buyer and a willing seller in an arm's-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion.
- (b) The Harvey-Waroona Index will not apply in determining the Fair Market Price of Eligible Properties to be sold and purchased pursuant to the SPPP.
- (c) The sale and purchase at the Fair Market Price must be agreed to by the registered owner of the relevant Eligible Property provided that the SPPP Administrator is only authorised to offer to the registered owner, and the Company is only liable to pay, the purchase price as determined by or under paragraph (a) above and the

SPPP Administrator must not enter into any purchase price negotiations with the registered owner.

- (d) The Company is only obliged under the SPPP to purchase and pay for land and fixtures on that land and the calculation of the Fair Market Price will not include any goodwill, chattels, trading stock, livestock, plant and equipment, standing crops, consumables, work in progress and similar assets or attributes located on or associated with the relevant property.

2.5 Principles underlying the administration of the SPPP

- (a) The SPPP is to be implemented so as to cause minimum impact on the local property market, disruption to the local community or impact on the operation of the Wagerup Refinery.
- (b) The SPPP will not be established or implemented so as to provide a financial incentive for people to sell to the Company rather than through the established property market. Purchases by the Company will be an adjunct to the normal property market, not a replacement.

3. Farm Business Continuation Option

3.1 Eligible Farm Properties

Farming properties that are eligible to be sold and purchased under the SPPP and, where the **land** and **fixtures** agreed to be purchased by Alcoa were used by the owner for the purposes of **carrying on a business of primary production** as that term is used from time to time in the *Income Tax Assessment Act 1936 (Act)*, are also eligible to be treated as "Eligible Farming Properties" pursuant to the SPPP under the Farm Business Continuation Option.

Under the Act "**primary production**" is currently relevantly defined as production resulting directly from:

- (a) the cultivation of land;
- (b) the maintenance of animals or poultry for the purpose of selling them or their bodily produce including natural increase;
- (c) forest operations which include:
 - (i) the planting or tendering in the plantation or forest of trees intended for felling;
 - (ii) the felling of trees in a plantation or forest; or
 - (iii) horticulture, and includes the manufacture of dairy produce by the person who produced the raw material used in that manufacture.

The "primary production" must amount to the **carrying on of a business**. Taxation Ruling 97/11 sets out some of the indicators that determine whether a business is being carried on.

3.2 Principles applicable to the administration of the Farm Business Continuation Option

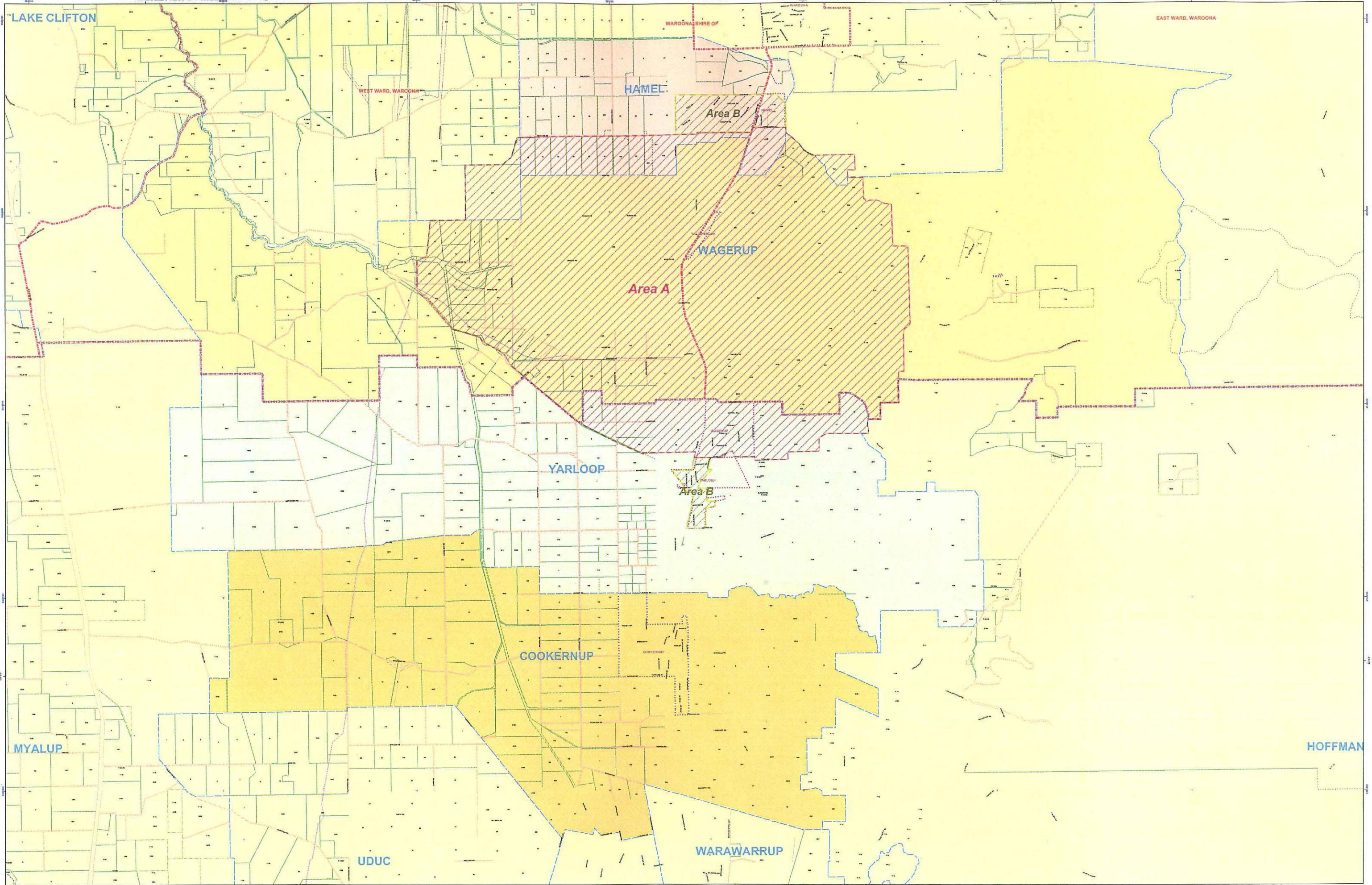
In addition to the principles set out in part 2.4 of this Schedule 3, the Farm Business Continuation Option is to be implemented for the purpose of assisting owners of Eligible Farm Properties who wish to continue the same farming business on the same scale using the same methods as they currently undertake (hereinafter referred to as a "like for like basis"), to do so at a new location outside the vicinity of the Wagerup Refinery but within Western Australia, that is considered appropriate for the relevant farming purpose as determined by the SPPP Administrator.

3.3 Valuation: Fair Market Price and Equalisation Payment

- (a) Each registered owner of an Eligible Farm Property may:
 - (i) sell the relevant property at the Fair Market Price; and
 - (ii) be entitled to receive an Equalisation Payment subject to paragraphs (b) and (c) of this part 3.3 and the other provisions of this document.
- (b) Subject to paragraphs (c) and (d) of this part 3.3 and the note to this part, for a period of 6 months from the date of receiving an Offer in accordance with the provisions of this document, the registered owner of an Eligible Farm Property is entitled to apply for an Equalisation Payment, if he or she wishes to continue the same farming business on a like for like basis as provided for in part 3.2 of this Schedule.
- (c) If the purchase price for the new farming property differs from the Fair Market Price payable by the Company in respect of the Eligible Farming Property and the new farming property has a different Functionality compared to the Eligible Farming Property, the entitlement to and amount of the Equalisation Payment, if any, is to be determined by the SPPP Administrator, provided that:
 - (i) the parties agree that the intention is that an Equalisation Payment will apply only where, by moving to the new farming property, the owner will suffer a reduction in Functionality of the farming business previously carried out at the Eligible Farming Property;
 - (ii) to the extent that a difference in Functionality that would otherwise be compensatable is the result of a higher price per hectare payable in respect of the new farming property (i.e. fewer ha = reduced functionality) and that higher price/ha is driven by factors that do not, or do not to the same extent, drive the value of the Eligible Farming Property, then the difference in functionality will be disregarded for the purposes of calculating any Equalisation Payment;
 - (iii) where the productivity level of the new farming property is not similar to that of the Eligible Farm Property because of factors that do not, or do not to the same extent, drive the productivity level of the Eligible Farm Property, then this will automatically exclude the new farming property from eligibility for any Equalisation Payment;
 - (iv) a reference to the Functionality of an Eligible Farming Property includes but is not limited to any of the following:

- (A) the stock-carrying capacity of the land;
 - (B) the production rate per hectare; or
 - (C) the fixed infrastructure required to operate the farming enterprise; and
- (v) the Functionality of a new farming property shall not be determined having regard to any stock, chattels, vehicles, residences or unattached machinery.
- (d) If the registered owner of an Eligible Farm Property has not within 6 months from the date of receiving an Offer in respect of that property:
- (i) identified a new farming property appropriate for the farming business being carried out at the Eligible Farm Property, as determined by the SPPP Administrator; or
 - (ii) has not accepted or has rejected the determined Equalisation Payment, where such payment applies as determined by the SPPP Administrator,
- the owner's entitlement to any Equalisation Payment lapses and the Company shall have no further obligation to the registered owner in relation to the Equalisation Payment.
- (e) In the event that the registered owner of an Eligible Farming Property rejects the Equalisation Payment determined by the SPPP Administrator, the registered owner may at that time elect not to proceed with the sale of the Eligible Farm Property and the Company and the registered owner shall have no further obligation to each other in relation to the sale and purchase of the Eligible Property.
- (f) The Company is not required to make any Equalisation Payment until the owner of the relevant Eligible Farm Property has contracted to purchase the new farming property and, if applicable, has incurred the liability for the expenditure that comprises the Equalisation Payment.

SCHEDULE 4 - MAP OF DESIGNATED AREA



MAP USER INFORMATION
 PROJECTION: Universal Transverse Mercator
 DIMENSION DATUM: Horizontal: Geocentric Datum of Australia 1984; Vertical: Australian Height Datum 1971
 GEODETIC CONTROL: Geonome using Western Australian Primary Triangulation Traverses, Standard Surveys and Levelling
 HORIZONTAL ACCURACY: ±1.0 metres at map scale for areas/boundaries that have not been spatially upgraded (this includes 1:2 metres at 1:25000 and 200 metres at 1:250000)
 VERTICAL ACCURACY: ±0.2 metres in spatially upgraded urban areas; ±0.5 metres in spatially upgraded rural areas; ±1.0 metres in unspatially upgraded rural areas
 COMPILATION: On the Spatial Cadastre Coverage (SCC) from DLI Public Plans and Topographic Database at scales varying from 1:1 000 to 1:500 000

GRATICULE VALUES
 Longitude and latitude coordinates are shown in degrees, minutes and seconds, near sheet corners and at regular intervals. Map Grid of Australia 1984 (MGA84) coordinate values are shown to nearest whole meters and at regular intervals east and north from the false origin of the zone.
DATA SOURCES
 Cadastre and Tenure information sourced from the Spatial Cadastre Database (SCD).
 Street Addresses sourced from the DLI Property Street Address Dataset.
 Administrative boundaries are sourced from the DLI Administrative Boundaries Dataset.
 Local Government Authority Boundaries are sourced from the DLI Local Government Authority Boundaries Dataset.
 Local Government Authority Councils, boundaries and delegations are sourced from the DLI Local Government Authority Councils Dataset.
 Local Authorities terminate at Low Water Mark unless otherwise specified.
 Locality Boundaries may not be aligned to the SCD.
 Topographic data sourced from the DLI Topographic Database.
 Coastlines and shorelines are interpreted from aerial photography or recorded from ground surveys.
 Local Authorities terminate at Low Water Mark unless otherwise specified.
 Pastoral Leases terminate 40 metres above MSL. Water Mark unless otherwise specified.
 Boundary shown are Unimproved Crown Land (UCL) unless otherwise specified.



SCALE 1:30 000

CADASTRAL BOUNDARIES	ADMINISTRATION BOUNDARIES	CULTURE	HYDROGRAPHIC
Surveyed Boundary	Local Government Ward Boundary	Appurtenant Ground	River or Watercourse
Unsurveyed Boundary	Local Government Authority (LGA)	Railway Line	Lake or Dam
Grouped Lot Boundary	Locality	Railway Station	
Road Footprint	Remains	Dead Address	
Unsurveyed Road Footprint		Lot Location Number	
Surveyed High Water Mark		Revenue Lot	
Unsurveyed High Water Mark		Unimproved Crown Land	
Essament			

Grid North

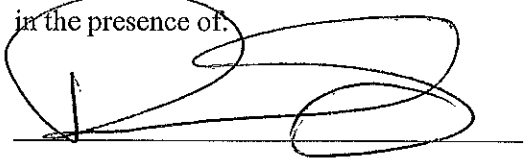
DISCLAIMER
 This map is a graphical representation of data extracted from the Spatial Cadastre Database and Property Street Address Data and is intended to be an advisory or general reference only. It does not constitute a guarantee or warranty of any kind for the information contained herein. While DLI has made every effort to ensure the accuracy and completeness, it does not accept any liability for any loss or damage incurred as a result of the use of the information in this map.
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 Email: dlinfo@sa.gov.au
 Website: www.sa.gov.au
 Digital cadastre and Property Street Address information is available from DLI
 GEOGRAPHICAL DATA SECTION
 Tel: (08) 9273 7343, Fax: (08) 9273 7344
 Email: geoinfo@sa.gov.au

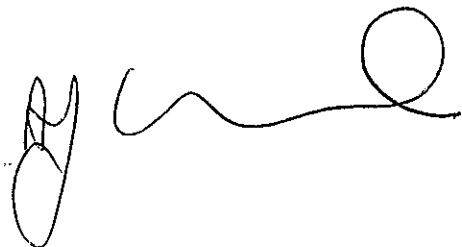
Smartplan Map with Street Addresses of:
Waroona Harvey Localities
 Map of Designated Area
 Current as at:

IN WITNESS WHEREOF this document has been executed as a deed by or on behalf of the parties hereto the day and year first hereinbefore mentioned.

SIGNED by THE HONOURABLE
ALAN JOHN CARPENTER MLA
in the presence of:




)
)
)

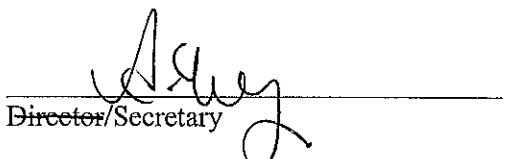


THE COMMON SEAL of
ALCOA OF AUSTRALIA LIMITED
ACN 004 879 298 was hereunto affixed
in accordance with its constitution
in the presence of:

)
)
)
)
)




Director


Director/Secretary