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COUNCIL LTD

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Department of Climate Change, Energy, the Environment and Water  
<https://consult.dcceew.gov.au/australias-new-nature-positive-laws>  
28 March 2024

Dear Minister

***Re: Australia's new Nature Positive laws***

The Australian Aluminium Council (the Council) represents Australia's bauxite mining, alumina refining, aluminium smelting and downstream processing industries. The Council welcomes the opportunity to provide feedback to DCCEEW on the very important overhaul of Australia's environmental laws the "Nature Positive" laws. As no formal policy paper, set of legislation or consultation questions have been posed by the Department in framing this consultation the Council will provide feedback on the process and key issues only. The Council supports the submission of the Australian minerals industry (including the Minerals Council of Australia, Chamber of Mines and Energy WA and Queensland Resources Council), with regard to specific policy issues.

**Australia's environmental protection system requires review, but this must be a comprehensive and inclusive process**

Current environmental approval processes challenge both brownfield and greenfield developments across all aspects of the resources and energy sectors, irrespective of technology. Parallel processes run by Federal and State governments can be difficult to navigate and must be simplified and streamlined without reducing standards. The Council agrees that the current system is inefficient and requires review.

However, during the Government's current overhaul of the Federal policies it is imperative that adequate resources are provided to the Department of Climate Change, Energy, Environment and Water (DCCEEW) to enable it to make timely decisions with regard to both existing applications for new referrals and post approval review. Environmental approval processes must appropriately balance the need for environmental rigour and protection with timelines that reflect commercial needs.

The industry is increasingly aware of delays, beyond the statutory timelines, for both new and post approval processes. These processes are also seeing increases in opening up of issues to the implementation of policy, which has not been passed as legislation such as Nature Positive, and post approvals opened not just on the clause in question. These delays in the current system are impacting on business confidence in Australia's policy environment. As a leader in sustainable mining practices, the aluminium industry supports regulations that meet the highest standards of environmental protection. Approval processes must reflect the commercial realities of long-life capital-intensive projects and provide efficient pathways for projects seeking approvals without diminishing regulatory standards. Failure to do so will see projects and production move offshore, often to countries with much lower environmental standards. Transitional arrangements for any existing projects or referrals must be clearly articulated. The long term future for the sector in Australia is positive but it is under near term stress.

Consultation on these proposed reforms must genuinely seek to understand and consider the real-world impact of the potential policy options. This is one of the principles for Australian Government policy makers<sup>1</sup>.

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<sup>1</sup> <https://oia.pmc.gov.au/sites/default/files/2023-08/best-practice-consultation.pdf>

To date, the consultation has been targeted and confidential - for example, stakeholder briefings held in October<sup>2</sup> and December<sup>3</sup> 2023 were only open to select groups and materials were not allowed to be copied, photographed or taken from the room. While these documents are now available for public consultation, this is with no context other than a superficial<sup>4</sup> webinar which fails to answer many questions the industry has.

While the consultation appears to run from November to March, information is being added during the process (for example the October information was 50 pages compared with the December information which is now 121 pages). For the public, impacted companies and industry associations not included in the targeted and confidential discussions, there has been no opportunity to understand this consultation as a cohesive package. The current consultation process does not meet the Government's standards for best practice consultation<sup>5</sup>. Given the scale and implications of these reforms, comprehensive and inclusive consultation must be undertaken prior to legislation entering parliament.

Noting that the Council's concerns about both the current system across Federal and State Governments and the consultation processes; the Council believes that there may be value in the Commonwealth adopting an alternate incremental path in order to most quickly and effectively deliver the much needed changes in Australia's approval processes, while maintaining environmental rigour. However, if the Government were considering an incremental pathway; the Council believes it would be essential that this were carried out within the context of a clearly articulated overarching policy framework and consultation plan.

**To achieve net zero will need more mining – not less.**

Without mining, the world cannot reach net zero by 2050, and the minerals required to achieve our decarbonisation goals are of such magnitude that to reach net zero, we will need more mining, not less. While seeking to maintain Australia's highest standards for ESG, it is also worth considering that global demand will continue to be met from elsewhere if not provided by Australia.

Aluminium is one of the commodities most widely used in the global transition to a clean energy future<sup>6</sup>. It is also recognised for its importance to both economic development and low emissions transition. Aluminium use is highly correlated with GDP, so as countries urbanise, per capita use of aluminium increases. It is expected that by 2050, global demand for aluminium is expected to nearly double<sup>7</sup>. While an increasing proportion will be met through recycled aluminium, there will still be a need for increased production of primary aluminium requiring a comparable increase in global bauxite mining and alumina refining rates. With the right policy settings, bauxite, alumina and aluminium will have a central role in Australia's transformation to clean energy superpower, with policy support to be commercially and environmentally sustainable.

Most of the world's bauxite comes from surface mines in tropical and sub-tropical areas, where bauxite typically occurs in extensive, relatively thin near-surface layers, normally beneath a few metres of overburden. Because bauxite deposits often cover a very large area, bauxite mining involves disturbance of comparatively large land areas compared to the mining of other minerals, though for a shorter time. Australian bauxite deposits have high grades and are shallow and relatively easy to mine. Bauxite mining is well suited to progressive rehabilitation.

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<sup>2</sup> [https://storage.googleapis.com/files-au-climate/climate-au/p/prj2a856c124c355ffc31cc7/public\\_assets/Consultation%20documents%20October%202023.pdf](https://storage.googleapis.com/files-au-climate/climate-au/p/prj2a856c124c355ffc31cc7/public_assets/Consultation%20documents%20October%202023.pdf)

<sup>3</sup> [https://storage.googleapis.com/files-au-climate/climate-au/p/prj2a856c124c355ffc31cc7/public\\_assets/Consultation%20documents%20December%202023.pdf](https://storage.googleapis.com/files-au-climate/climate-au/p/prj2a856c124c355ffc31cc7/public_assets/Consultation%20documents%20December%202023.pdf)

<sup>44</sup> <https://consult.dcceew.gov.au/australias-new-nature-positive-laws/public-webinars>

<sup>5</sup> <https://oia.pmc.gov.au/sites/default/files/2023-08/best-practice-consultation.pdf>

<sup>6</sup> <https://www.worldbank.org/en/topic/extractiveindustries/brief/climate-smart-mining-minerals-for-climate-action>

<sup>7</sup> International Aluminium Institute High Substitution Scenario

### **Australia's integrated aluminium industry means an efficient overall regulatory framework is needed**

Australia's aluminium industry, including bauxite mining, alumina refining, aluminium smelting and downstream processing industries, has been operating in Australia since 1955, and over the decades has been a significant contributor to the nation's economy. It includes six bauxite mines which collectively produce over 100 Mt per annum making Australia one of the world's largest producers of bauxite. Australia is the world's largest exporter of alumina with six<sup>8</sup> alumina refineries producing around 20 Mt per annum of alumina. Australia is the seventh largest producer of aluminium, with four aluminium smelters and additional downstream processing industries including more than 20 extrusion presses. Aluminium is Australia's highest earning manufacturing export. The industry directly employs more than 19,000 people, including 6,600 full time equivalent contractors. It also indirectly supports around 60,000 families predominantly in regional Australia. The integrated nature of bauxite mining, alumina refining, aluminium smelting and extrusion processes in Australia means that efficient and effective regulatory processes for each step are critically important to the ongoing operation of the overall system.

Australia's aluminium industry contributes more than \$16B<sup>9</sup> a year to the economy in export value. Australia is one of the very few countries which has bauxite mining, alumina refining, aluminium smelting and aluminium extrusion industries, making aluminium one of the few commodities in which the raw materials are mined and are processed all the way to a consumer product right here in Australia. However, there is an opportunity to leverage this existing industry further. The bauxite (aluminium ore) mined in Australia produces around 20 Mt of primary aluminium; more than 13 times Australia's current production. So, while the existing aluminium industry in Australia is a successful example of vertical integration, it is far from being at capacity and there is economic opportunity for Australia to be gained under the right policy conditions.

Conversely, the current capacity remains vulnerable to both domestic policy and geopolitical risk. While seeking to maintain Australia's highest standards for ESG, it is also worth considering that global demand will continue to be met from elsewhere if not provided by Australia. This may increase the net global impact of mining, compared with continued development in Australia. While Australia has been the world's largest producer of bauxite and has 22% of global reserves, Guinea has 27% of global reserves, and is now an equally large producer of bauxite and is the world's largest exporter of bauxite, principally to China. Whilst Western world production has been falling, China has secured its supply of bauxite by significant investment in bauxite mines in Guinea and has constructed low cost alumina refineries built on the coast to reduce freight costs. Australia's mineral exports, such as bauxite and alumina, rely on bulk freight which has also undergone a step change in its volatility, exposing the industry to vulnerabilities.

### **Policy Specific Feedback**

- There is no clear view on how the full package of legislation, policies, plans, strategies, standards and guidance will work as material is only available on a piecemeal basis.
- Transitional provisions and arrangements for any existing projects or referrals must be clearly articulated. The proposed changes are substantial, and time is needed to be incorporated into business planning processes. The commercial uncertainty created over the scale of these reforms should not be underestimated.
- Key terms such as "unacceptable impacts" are not clearly defined. Without understanding this key terminology in the legislation, the public cannot form a view on the implications of the reform and the extent to which large areas of landscape will be unavailable. Additionally, there are no thresholds for prohibitive actions (i.e. viability for certain species).
- Compliance and penalties are included with large penalties which are not in line with environmental breach. This could constrain innovation and adaptive management. Mitigation and management should use an adaptive approach with the ability to modify approach if it is not working or maximising positive

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<sup>8</sup> Alcoa has announced it will curtail Kwinana later in 2024

<https://www.alcoa.com/australia/en/news/releases?id=2024/01/alcoa-announces-curtailment-of-kwinana-alumina-refinery-in-western-australia&year=y2024>

<sup>9</sup> <https://www.industry.gov.au/sites/default/files/2023-12/resources-and-energy-quarterly-december-2023.pdf>

outcomes (instead of punishing proponents) to promote innovation and continuous improvement with the exception where proponents are wantonly and intentionally breaching.

- There is a lack of transparency of pricing on restoration contributions and projected gain for restoration. This will be key for industry to understand if future development and restoration are feasible, and for resource and budget planning.
- The reforms create a power for new grounds of termination of approvals and no requirement for prior notice of termination. Government should be transparent with industry and be explicit on all grounds for termination and provide notice of termination, and opportunity for proponent to respond to notice of termination.
- It is not clear how social (including First Nations) or economic factors are taken into account by the EPA staff, CEO, or Minister or in regional planning, as these can only be considered in the third threshold for approval; by which time the proposal must have met all other operating standards. This implies that social and economic factors are only a reason to overturn approval not considered in favour of approval.
- The CEO and Minister have very broad decision making powers, which seem to be inconsistently applied within different sections of the policy approach creating uncertainty. The Council believes the Minister should be the default decision maker and be able to consider social and economic factors.
- Climate change has been introduced into the consultation despite DCCEEW previously stating that climate change triggers would not be part of the package, the framework for climate change is still pending at the State and Commonwealth levels and climate change is addressed under separate Government policy and legislation.
- The requirement for States to be accredited will be a large burden and the timeliness of this should not be underestimated.
- It had been suggested but not documented that under the reforms critical minerals will be treated differently to “non-critical” minerals under the regional planning reforms. This should be extended to the new Strategic Materials<sup>10</sup>, as their role in the net zero transition is just as crucial, only their status in Australia is currently not considered vulnerable.
- It is still unclear what regional planning will look like (e.g., conservation and development zones) and requires collaboration between the States/Territories and Commonwealth. This lack of transparency can impact on the ability of industry to have time for adequate planning and transitional arrangements.
- While conceptually having a centralised information agency (the EIA) sounds positive, the current standard places a higher emphasis on the source of the rather than the inherent characteristics of the data and should be modified to ensure the best data is rapidly accepted regardless of source. The Council believes that data, regardless of its Tier, should have the same weighting.

The Council recognises that further work is required in the reform of Australia’s environmental approvals. While Australia’s environmental protection system requires review, but this must be a comprehensive and inclusive process. Given the scale and implications of these reforms, comprehensive and inclusive consultation must be undertaken prior to legislation entering parliament, and the Council looks forward to working constructively on the next steps in the process.

Kind regards,



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<sup>10</sup> Critical Minerals List Update - [https://storage.googleapis.com/converlens-au-industry/industry/p/prj2807d5847ce2bae3896d1/public\\_assets/critical-minerals-list-2023-update.pdf](https://storage.googleapis.com/converlens-au-industry/industry/p/prj2807d5847ce2bae3896d1/public_assets/critical-minerals-list-2023-update.pdf)