

Case Report

1. Case Number :	0182-25
2. Advertiser :	Alcoa Australia
3. Product :	Energy/Resources
4. Type of Advertisement/Media :	Print
5. Date of Decision:	20-Aug-2025
6. Decision:	Upheld – Modified or Discontinued

ISSUES RAISED

AANA Environmental Code\1. Truthful & Factual
AANA Environmental Code\2. Evidence
AANA Environmental Code\3. Clear & Not Vague
AANA Environmental Code\4. Genuine Benefit
AANA Environmental Code\5. Future Claims

DESCRIPTION OF ADVERTISEMENT

This print advertisement in the West Australian newspaper 24 May 2025 reads:

"Is Jarrah Forest rehabilitation possible? We're here with the facts.

It's a critical question.

So, we're here with the facts.

We're proud to confirm, the answer is yes – it's not only possible, it's happening.

Studies have confirmed that the Jarrah Forest can, and does, recover after mining.

Research over the past 50 years guides our rehabilitation program which is resulting in self-sustaining forest. And while some features of the forest naturally take time to mature, the results are clear.

Since 1963, only 2% of WA's Northern Jarrah Forest has been cleared for mining, of which 75% has already been rehabilitated. We don't clear old growth forest or mine in national parks.

Our clearing is carefully planned through biological pre-mining surveys and we are committed to protecting stream-zones, granite outcrop communities and threatened species including black cockatoo and their nesting trees.

With a long-term responsibility that goes beyond compliance, a \$15 million Forest Research Centre furthering our decades long research program and the planting of more than 500,000 native seedlings last year alone, Alcoa is doing the work right. The rehabilitation is real, and that's the fact.

alcoa.com/australia"

Is Jarrah Forest rehabilitation possible? We're here with the facts.

It's a critical question.

So, we're here with the facts.

We're proud to confirm, the answer is yes – it's not only possible, it's happening.

Studies have confirmed that the Jarrah Forest can, and does, recover after mining. Research over the past 50 years guides our rehabilitation program which is resulting in self-sustaining forest. And while some features of the forest naturally take time to mature, the results are clear.

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THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

Breaches of Environmental Claims Code as provides misleading information about rehabilitation

Our clients request that Ads Standards investigate whether statements made by the Alcoa of Australia Ltd (Alcoa) in an advertisement in the West Australian newspaper on 24 May 2025 (West advertisement) in relation Jarrah Forest rehabilitation are potentially misleading, in breach of sections 1(a), 1(b), 2, 3(b), 4 and/or 5 of the Environmental Claims Code (Code). Please see below complaint.

RE:Alcoa advertisement in West Australian about Jarrah Forest rehabilitation

We act on behalf of Conservation Council of WA (CCWA), The Wilderness Society (TWS) and WA Forest Alliance (WAFA).

CCWA is Western Australia's foremost non-profit, non-government conservation organisation representing close to 100 environmental organisations across Western Australia, with tens of thousands of engaged individuals state-wide. This broad collective of like-minded groups and individuals creates a vibrant and passionate community, dedicated to the conservation of our unique and diverse state

The WA Forest Alliance is a non-profit, non-government umbrella organisation made up of more than 25 forest conservation groups in Perth/Boorloo and the South West, working together for the protection of WA's south-west forests and wildlife. WAFA's mission is to see WA's native forests fully and securely protected and managed to

maintain and restore their ecological values, and to empower the next generation to successfully defend them against future threats.

The Wilderness Society is an independent, community-based, not-for-profit environmental advocacy organisation. Our vision is to transform Australia into a society that protects, respects and connects with the natural world that sustains us. We are committed to protecting, promoting and restoring wilderness across the continent for the survival and ongoing evolution of life on Earth. From community activism to national campaigns, we seek to give nature a voice to support the life that supports us all. We are powered by more than 150,000 supporters from all walks of life.

Our clients request that Ads Standards investigate whether statements made by the Alcoa of Australia Ltd (Alcoa) in an advertisement in the West Australian newspaper on 24 May 2025 (West advertisement) in relation Jarrah Forest rehabilitation are potentially misleading, in breach of sections 1(a), 1(b), 2, 3(b), 4 and/or 5 of the Environmental Claims Code (Code). The West advertisement is reproduced at Annexure A. The West advertisement contains statements which promote the rehabilitation practices of Alcoa and states:

- *“Is Jarrah Forest rehabilitation possible? We’re here with the facts.....We’re proud to confirm, the answer is yes – It’s not only possible, its happening”;*
- *“Studies have confirmed that the Jarrah Forest can, and does, recover after mining”; and*
- *“Since 1963, only 2% of WA’s Northern Jarrah Forest has been cleared for mining, of which 75% has already been rehabilitated”*

(together, the Statements)

The Statements, alone or in combination, represent that:

- *Rehabilitation of the Jarrah Forest is possible in areas that have been cleared for mining (rehabilitation of Jarrah Forest is possible claim); and*
- *75% of the Jarrah Forest cleared for mining by Alcoa has been rehabilitated to a condition like the undisturbed Jarrah Forest (Alcoa has rehabilitated 75% of Forest claim).*

Background to Alcoa bauxite mining

Alcoa undertakes bauxite mining south of Perth in the Northern Jarrah Forest. Alcoa is a US-owned mining company that has been operating in WA since 1961 under a State Agreement with the WA Government. Alcoa has already cleared over 28,000ha of forests in WA. Currently, Alcoa is seeking approval to clear a further 11,500ha across three regions of the Northern Jarrah Forest (NJF) over a 20 year period. The WA Government has provided Alcoa with an exemption under section 6 of the Environmental Protection Act 1986 (WA), allowing Alcoa to continue clearing forests, despite the ongoing assessment.

The Northern Jarrah Forest is the world's most biodiverse temperate forest, hosting over 800 plant species and 10 endangered animal species.

Environmental Claims Code

The Code relevantly defines "Environment" to include "ecosystems and their constituent parts, including people and communities" and states that "an environmental claim in relation to goods or services...may include representations that state or imply...no effect on the environment." "Environment" therefore captures claims relating to Alcoa's mining activities and rehabilitation of important Jarrah Forests.

Section 1 (a) and (b) of the Code relevantly requires that Environmental Claims should be truthful and factual and not be misleading or deceptive or likely to mislead or deceive. The correlating Practice Note 1 relevantly provides that:

It is not intended that legal tests be applied to determine whether advertisements are misleading or deceptive, or likely to mislead or deceive, in the areas of concern in this Code.

Instead, consideration will be given as to whether the Target consumer would likely be misled or deceived by the Advertising.

Care should be taken when making absolute claims that it can be substantiated as such.

Section 2 of the Code requires that Environmental Claims in advertising must be supported by evidence. Practice Note 1 states in relation to section 2 that the advertiser "should have reasonable grounds for making an Environmental Claim, based on evidence held at the time the claim is made". It also states:

Scientific claims should be consistent with the body of evidence, not simply selective parts that can be used in a misleading way.

Section 3(b) of the Code states that environmental claims must "be specific – broad, vague or unqualified claims should be avoided". Section 3(c) states advertisements must "Include important limitations, conditions or qualifications in a way that is clear to the Target Consumer".

Section 4 of the Code states that environmental claims must be a genuine benefit to the environment and not overstate the environmental benefit.

Section 5 of the Code requires environmental claims about future objectives to be based on reasonable grounds at the time the claim is made.

For the reasons that follow, our client considers that Alcoa may have breached the above mentioned sections of the Code by making the Statements.

Potentially misleading claims

Claim 1 – Rehabilitation of Jarrah Forest is possible claim

Words likely to mislead or deceive – alleged breach of sections 1 & 3(b) of the Code
The West advertisement makes a future claim that the rehabilitation of the Jarrah Forest is possible. It implies by using the words “rehabilitation” and “restore” in conjunction with the Jarrah Forest, that Alcoa’s actions will lead to the eventual restoration of the Jarrah Forest to a state like the native ecosystem, i.e. the undisturbed Jarrah Forest.

The use of the term “Jarrah Forest” is vague in conflict with section 3(b) of the Code and it is unclear if it is intended to refer to the entire ecosystem of the “Jarrah Forest” or components of it.

In our clients’ view, a consumer would interpret “Jarrah Forest” to mean the entire “Jarrah Forest” ecosystem, and assume rehabilitation is restoring the Jarrah Forest to a state like the undisturbed forest. As outlined below, this is not occurring and is not possible based on experience to date with the rehabilitation. As a result the relevant Statements are likely to mislead.

Overstate environment benefit – alleged breach of section 4 of the Code

To the extent Alcoa intended “rehabilitation” and “restore” to mean restoration to a lower standard than restoring the Jarrah Forest to its natural ecosystem (i.e. undisturbed Jarrah Forest), Alcoa’s use of the terms “rehabilitation” and “restoration” may be misleading by overstating the environmental benefit of the rehabilitation. Furthermore, the WA Government requires rehabilitation as part of the planning approval process, so it is not something Alcoa is doing voluntarily, but mere compliance with regulatory requirements.

Inadequate disclaimer – alleged breach of section 3(c) of the Code

There are no disclaimers or limitations placed on Alcoa’s “rehabilitation” claims, contrary to section 3(c) of the Code. For example, there is no clarification that the rehabilitation may be to a lower standard than the original Northern Jarrah Forest, in accordance with the legal requirements of what is required by the WA Government and will not be rehabilitated to be comparable with the original Northern Jarrah Forest cleared. Nor are there any disclaimers to indicate that the rehabilitation is required as part of the planning approval and is not voluntary.

No reasonable basis – alleged breach of sections 2 & 5 of the Code

The statement that rehabilitation is “possible” does not have a reasonable basis. There are peer reviewed independent studies which suggest that rehabilitation of the Northern Jarrah Forest to a state like the native reference ecosystem is not possible in areas where Alcoa have cleared land for mining. The site has been studied by

academics from the University of WA and Curtin University, Dr Tristan Campbell and Professor Kingsley Dixon and others. [1] In that study, the authors examined the claim that the area of Alcoa mining since 1963 had been “restored to a healthy, resilient forest ecosystem”. The study rated Alcoa two stars out of possible five stars for full ecosystem restoration, based on findings that the restoration areas had not returned to a state like the native reference ecosystem, not improved rehabilitation over longer-term timeframes and was not showing sustained improved outcomes from adaptive management. The authors also noted that only 5% of the area had met Government handover criteria (which was different to completion criteria), with no Government certificates issued since 2007. [2] Furthermore, it was noted that the removal of the substrate on which the vegetation communities rely and have evolved may be a significant cause of Alcoa’s poor restoration outcomes and fundamental ecosystem attributes were not considered in previous studies of the rehabilitation. [3] This resulted in most of the diversity of plant species found in the forest being absent in the rehabilitation areas and key animal species struggling to return due to inadequate habitat. The conclusion of the study raises significant concerns about whether it is possible to rehabilitate the Northern Jarrah Forest in the mining area.

Claim 2 – Alcoa has rehabilitated 75% of Forest claim

The West advertisement claims that 75% of the forest has been rehabilitated. For the reasons set out above, our clients consider that this claim is misleading because consumers understand that the restoration or rehabilitation of the Jarrah Forest means restoration to a “good” or “improved” condition, like the undisturbed Jarrah Forest.

To date, Alcoa’s bauxite mining has impacted over 23,400 hectares of native Jarrah Forest, approximately 20,000 hectares of which is in water catchment areas.

“Rehabilitation” is misleading – alleged breach of section 1 of the Code and overstates environmental benefit – alleged breach of section 4 of the Code

Alcoa’s use of the term “rehabilitated” refers to the full spectrum of the “process” of rehabilitation, including land where only the very early stages of rehabilitation such as contouring of land and seeding has started. Over most of the site, there are many stages of rehabilitation, most of which will need to continue over a long period to be completed. To date, none of the land cleared by Alcoa has met the WA Government’s Rehabilitation Criteria and therefore could be said to be rehabilitated to the legal standard.

A spokesperson for Alcoa appeared on the Australian Broadcaster Corporation (ABC) Perth radio station to conduct an interview on 30 May 2025 (ABC Interview). Many of their comments expanded further on claims made in the West Advertisement, in response to direct questions from the interviewer. [4] An excerpt of the transcript of the interview is set out below:

ABC Interviewer: "I guess it all comes down to the definition of rehabilitated... the ad that Alcoa took out on the weekend saying you have rehabilitated 75% of what you have cleared, people usually see that as being in the past tense, you have not completely rehabilitated 75% of what you have cleared, it could be misleading"

Alcoa Representative: "I don't believe it is misleading, we have rehabilitated 75% of our operations but it is in various stages of rehabilitation and that is something that I certainly acknowledge..."

ABC Interviewer: "So, when you say 75% of the land has been rehabilitated that is technically not correct"

Alcoa Representative: "No, it is correct, when we refer to rehabilitation, what we are talking about here is industry definitions, and yes there are areas that are in early stages of rehabilitation, that would have been re-contoured, be seeded, have the early return of species but I can acknowledge that yes that would certainly look like a disturbed landscape but that is part of a process that is working towards areas that we can certainly reference and refer to where there is 25 – 30 years of rehabilitation which that will look like, once the trees have established and start to become a functioning ecosystem which are part of our completion criteria in relation to handback so what we are talking about there is the return of native flora, native fauna species and there is a series of monitoring that needs to occur over many years, so we're talking about a multiple decades process in order to achieve handback, so when we talk about rehabilitation, yes we are talking about various stages but it is all working towards that outcome of handback and I think it is a fair justification in terms of our operations given that the nature of bauxite mining does require us to move across the landscape and we have demonstrated over many years that we are able to progressively rehab across our mining operations and return it back to a functioning ecosystem"

As set out above, Alcoa's use of "rehabilitated" in the West Advertisement in their view only requires Alcoa to have started the very early stages of rehabilitation for land to be considered "rehabilitated". The Alcoa representative in the ABC Interview acknowledged this "rehabilitated" land would (sensibly, to a member of the public) "look like a disturbed landscape".

Hence, Alcoa's use of "rehabilitated" in the West Advertisement appears to refer broadly to all stages of rehabilitation across "multiple decades" from the very first rudimentary steps of rehabilitation, until further actions are undertaken to allow the areas to be part of the formal handback to the State of Western Australia. In our clients' view, this is inconsistent with what a viewer would understand from the relevant Statements by Alcoa.

Furthermore, there is no consideration of whether Alcoa has sought to manage its mining operations in order to avoid clearing the Northern Jarrah Forest, generating a large active footprint and environmental impact in the area in the first place. Water Corporation WA identified that there were increased risks to the catchment because of open mine areas, because Alcoa have cleared 30% more land than the area they had revegetated in period 2000-2020. [5]

Below at Figure 1 is a photograph of a landscape where Alcoa has completed the first stages of rehabilitation.



Inadequate disclaimer – alleged breach of section 3(c) of the Code

The acknowledgements and clarifications of the meaning of “rehabilitated” by the Alcoa representative in the ABC Interview demonstrates that the West Advertisement should have contained a clarification or disclaimer on the meaning of “rehabilitated”, and that without such clarification, the West Advertisement may be misleading. It should have described that Alcoa has undertaken preliminary rehabilitation or the first stage only of the process of rehabilitation.

No reasonable basis – alleged breach of sections 2 and 5 of the Code

As outlined above, there have been recent scientific studies that suggest there are significant ecological concerns with the state of the rehabilitation undertaken to date by Alcoa. Given there is limited WA Government approval of the rehabilitation conducted to date [6], this suggests that Alcoa does not have a reasonable basis to make claims about its rehabilitation of the Northern Jarrah Forest.

[1] Campbell & Dixon et al, “Standards-based evaluation inform ecological outcomes for a major mining activity in a global biodiversity hotspot”, Restorative Ecology, v.34, issue 8, November 2024

[2] Campbell & Dixon et al, “Standards-based evaluation inform ecological outcomes for a major mining activity in a global biodiversity hotspot”, Restorative Ecology, v.34, issue 8, November 2024, p7

[3] Campbell & Dixon et al, "Standards-based evaluation inform ecological outcomes for a major mining activity in a global biodiversity hotspot", *Restorative Ecology*, v.34, issue 8, November 2024, p17.

[4] The ABC Interview can be accessed on the ABC website: *Mornings - ABC listen*.

[5] FOI Document, Water Corporation Briefing dated 16 September 2022, p2.

[6] PMilne, 'Alcoa in WA: 60 years, 28,000 hectares of forest cleared, zero rehabilitation completed' *WA Today*, 15 March 2023

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

*The Rehabilitation Complaint relates to a statement published in the West Australian newspaper on 24 May 2025 (**Rehabilitation Statement**), as part of Alcoa's "Here with the Facts" series (discussed further below). As discussed further below, this campaign has come to an end and Alcoa has no current plans to publish the Rehabilitation Statement in the future.*

The Rehabilitation Statement stated as follows (emphasis in original):

We understand that the focus of the Rehabilitation Complaint by the EDO is on the following statements from the Rehabilitation Statement:

- *"Is Jarrah Forest rehabilitation possible? We're here with the facts. We're proud to confirm the answer is yes – it's not only possible, it's happening";*
- *"Studies have confirmed that the Jarrah Forest can, and does, recover after mining"; and*
- *"Since 1963, only 2% of WA's Northern Jarrah Forest has been cleared for mining, of which 75% has already been rehabilitated",*

*(together, the **Statements**).*

*The EDO asserts that these Statements (alone or in combination) convey the following representations, which the EDO submit give rise to breaches various sections of the AANA Environmental Claims Advertising Code (**AANA Environmental Code**):*

1 *"Rehabilitation of the Jarrah Forest is possible in areas that have been cleared for mining". The EDO refers to this as the "**rehabilitation of Jarrah Forest is possible claim**".*

2 *"75% of the Jarrah Forest cleared for mining by Alcoa has been rehabilitated to a condition like the undisturbed Jarrah Forest". The EDO refers to this as the "**Alcoa has rehabilitated 75% of the Forest claim**".*

For the reasons set out below, Alcoa strongly rejects these allegations.

*To assist the Community Panel, in this response Alcoa has used the “**rehabilitation of Jarrah Forest is possible claim / Alcoa has rehabilitated 75% of the Forest claim**” terminology adopted by the EDO in the Rehabilitation Complaint.*

This is for convenience only and does not mean that Alcoa accepts that the claims as put by the EDO represent a fair reading of the Rehabilitation Statement.

In the letter notifying Alcoa of the Rehabilitation Complaint, Ad Standards identified the following sections of the AANA Environmental Code as being potentially relevant to the issues raised by the Rehabilitation Complaint:

- *section 1(a) (truthful and factual) and (b) (not be likely to be misleading or deceptive to the Target Consumer);*
- *section 2 (supported by evidence);*
- *section 3(b) (clear and not vague; be specific);*
- *section 4(a) (about a genuine benefit to the environment) and (b) (not overstate the environmental benefit); and*
- *section 5(a) (claims about future environmental objectives must be based on reasonable grounds at the time the claim is made).*

We address each of these sections in our response below.

Alcoa is aware of its obligations when making public statements, including in the context of advertisements. Alcoa takes its compliance with the AANA Environmental Code seriously. Alcoa’s advertisements are subject to a comprehensive and rigorous review and approval process. The Rehabilitation Statement was no exception to this process.

Alcoa is strongly of the view that the Rehabilitation Statement is fully compliant with that code, as well as the AANA Code of Ethics, and all other relevant codes and laws, including the Australian Consumer Law (Schedule 2 to the Competition and Consumer Act 2010 (Cth)).

Based on the response set out below, Alcoa respectfully requests that the Rehabilitation Complaint be dismissed. Alcoa’s position is set out in detail below, but in summary, Alcoa’s position is that:

- *the Rehabilitation Statement is not “advertising” within the definition set out in the AANA Environmental Code;*
- *the Target Consumer would read the whole of the Rehabilitation Statement, and would understand ‘rehabilitation’ as used in the context of the Rehabilitation Statement as a whole, to be referring to a process by*

which land previously disturbed for mining operations is improved with the aim of returning the land to a functional ecosystem (but not necessarily restoring it to a state analogous to undisturbed forest). The Target Consumer would not understand the Rehabilitation Statement in the manner asserted in the Rehabilitation Complaint;

- *properly understood, the Rehabilitation Statement is not misleading or deceptive and does not overstate the benefit of rehabilitation to the environment, and does not require further disclaimers or clarification; and*
- *Alcoa has a reasonable basis for the statements in the Rehabilitation Statement, including the publication of more than 260 refereed journal papers and book chapters, 80 technical studies, and 60 higher degree research theses that underpin the statement that rehabilitation of the Northern Jarrah Forest is possible.*

1. Background to Alcoa

Alcoa is a global leader in bauxite, alumina and aluminium products, and has had operations in Australia since 1963. Guided by our Values – Act with Integrity, Operate with Excellence, Care for People, and Lead with Courage – our Purpose is to Turn Raw Potential into Real Progress.

Alcoa has a long history in Australia, operating one of the world’s largest integrated bauxite mining, alumina refining and aluminium smelting systems. Aluminium is a highly versatile metal that is essential for many everyday products, as well as a critical component for technologies necessary for the energy transition. In Western Australia, Alcoa’s two bauxite mines (Huntly and Willowdale) and two operating alumina refineries (Pinjarra and Wagerup) produced approximately 50% of Australia’s alumina in 2023, which is the primary feedstock for aluminium production. Alcoa transports a portion of this alumina to the Portland Aluminium Smelter in Victoria, where in 2023 it produced approximately 18% of Australia’s aluminium.

Alcoa makes a significant and important contribution to the Australian economy and the communities in which it operates. Across its Australian operations, Alcoa employs approximately 4,600 people, with around 4,040 of its employees located in Western Australia. Approximately 2,290 of our Western Australian employees live in the Peel region and across the communities near to where we operate, delivering significant economic and social benefits across the region. In 2024, Alcoa paid about \$931 million in Australian wages, salaries and associated benefits. In 2024, in Australia, our annual

spend was more than \$3.9 billion locally through wages, taxes, royalties, procurement and community investment.

We care about the environment and the communities near where we operate. In Australia and around the world we are consistently recognised for our approach to sustainability. Among other things, our Australian business was the first mining company to receive recognition from the United Nations for rehabilitation excellence.

2. Background to the “Here with the Facts” series and the Rehabilitation Statement

The Rehabilitation Statement formed a part of Alcoa’s “Here with the Facts” series (the Series). The Series covered a number of topics relevant to Alcoa’s operations in Western Australia. The Series is one of the ways we stay connected with the community, and provide stakeholders with transparent and accurate information about our operations, actions and commitments. The Series sought to address common community questions on aspects of Alcoa’s operations, activities and commitments, as well as the regulatory environment in which we operate.

In addition to the topic of rehabilitation, the Series covered the following topics:

- Alcoa’s long track record of safely conducting mining operations near Perth’s public drinking water supplies;*
- the return of fauna to rehabilitated Jarrah Forest; and*
- creating shared value within the community.*

The Series was implemented through the publication of advertisements in The West Australian newspaper (print and digital editions), certain regional papers, namely the Harvey Waroona Reporter, Serpentine Jarrahdale Examiner and Mandurah Coastal Times, radio, as well as on Alcoa Australia’s Facebook and Instagram pages and the Alcoa Australia website. The series launched on 24 May 2025 and concluded on 9 June 2025.

The Rehabilitation Statement the subject of the Rehabilitation Complaint was published in the digital and print edition of the West Australian on 24 May 2025. It was also published in the Harvey Waroona Reporter on 22 May 2025, the Serpentine Jarrahdale Examiner on 27 May 2025 and the Mandurah Coastal Times on 9 June 2025.

3. Background to Alcoa’s mining operations and rehabilitation efforts

Alcoa has been engaged in mining and subsequently rehabilitating the Northern Jarrah Forest since the 1960s. As the Rehabilitation Complaint acknowledges, Alcoa’s operations in the Northern Jarrah Forest are undertaken pursuant to an agreement

with, and approval by, the WA Government. Alcoa acknowledges the values of the Northern Jarrah Forest, and as such, understands the need to balance environmental, cultural and social factors whilst undertaking its operations.

*Alcoa's rehabilitation activity is measured against Completion Criteria developed with and approved by a number of Western Australian regulators, including the Department of Biodiversity, Conservation and Attractions (**DBCA**), to meet the agreed rehabilitation objective. The rehabilitation objective is to establish and return to the State a self-sustaining Jarrah Forest ecosystem that meets agreed forest values that will support similar management practice as employed in the surrounding Northern Jarrah Forest.*

The Completion Criteria have evolved over time, being informed by interactions in research and practice. Since 1988 and the introduction of a fully native species overstorey, we have undertaken rehabilitation with respect to three successions of Completion Criteria, being:

- 1988-2004;*
- 2005-2015; and*
- 2016 to present.*

Over these three successions, key completion criteria have related to the establishment of a native species overstorey, which is the primary indicator of vegetation cover and primary productivity in a forest ecosystem, and understorey species, which are the predominant floristic diversity in the Jarrah Forest.

Alcoa's current rehabilitation approach is a careful balance of reintroducing vegetation with the intent of approximating the surrounding forest richness, and ensuring sufficient functional groups are present as the ecosystems progress along a restoration trajectory towards unmined forest. Through ongoing monitoring and research, Alcoa continues to strive for continuous improvement of our rehabilitation.

*Alcoa's current rehabilitation Completion Criteria (2016 to present) are published on our website. A significant body of information on Alcoa's historical, current and proposed activities at the Huntly and Willowdale mines (including in respect of rehabilitation) has been recently published to support the Western Australian Environmental Protection Authority's (**WA EPA**) assessment of two current proposals, being the:*

- 'Bauxite mining on the Darling Range in the southwest of WA for the years 2023 to 2027' proposal; and*
- 'Pinjarra Alumina Refinery Revised Proposal',*

(together, the **Current Alcoa Proposals**).

4. Response to Rehabilitation Complaint

It is important that the Rehabilitation Statement is considered as a whole, and each Statement is considered in context. The Rehabilitation Complaint adopts a ‘cherry-picking’ approach, and focuses on particular statements in isolation and without considering that statement in the context of the whole of the Rehabilitation Statement. Alcoa’s position, as explained further below, is that the Target Consumer would read the entire Rehabilitation Statement and consider any particular statements in that context.

(a) Application of the AANA Environmental Code

The AANA Environmental Code applies to “advertising” that involves an “Environmental Claim”. “Advertising” is defined in the AANA Environmental Code. Relevantly, this definition excludes “statements on matters of public policy and the like”.

The Current Alcoa Proposals are in the process of being assessed by both State and Commonwealth regulators, with the period for public comment to the WA EPA currently underway. This process has been the subject of commentary and reporting by the media and other third parties, particularly within Western Australia. This reporting and commentary has focused, among other things, on the impact of mining and rehabilitation efforts on the Northern Jarrah Forest.

In these circumstances, Alcoa considers that the Rehabilitation Statement is a statement on a matter of public policy, and as such, does not constitute “advertising” as defined by the AANA Environmental Code. The consequence of this is that the AANA Environmental Code does not apply to the Rehabilitation Statement, and the Rehabilitation Complaint should be dismissed.

However, in the event that the Community Panel is of the view that the Rehabilitation Statement is “advertising” within the meaning of the AANA Environmental Code, Alcoa accepts that the Rehabilitation Statement contains an “Environmental Claim” within the meaning of the Code, and we therefore address each of the allegations in the Rehabilitation Complaint below.

(b) The Target Consumer

*The AANA Environmental Code defines “**Target Consumer**” as meaning “the average and reasonable consumer of the target audience”. The Rehabilitation Complaint does not address the characteristics of the Target Consumer in any detail.*

As stated above, the Rehabilitation Statement was published in The West Australian newspaper (print and digital editions). Alcoa understands The West Australian to be the leading metropolitan newspaper in Western Australia, reporting on local and world news.

The West Australian is Western Australia's only daily print newspaper. The majority of the readership can be taken to consist of residents of Western Australia, or non-residents with a particular interest in the region. This is the target audience for the Rehabilitation Statement. The regional papers in which the Rehabilitation Statement was published serve their local areas, and readership can similarly be taken to consist of readers in that region.

It is well known that mining is a significant contributor to the WA economy and the source of significant direct and indirect employment within WA. See, for example <https://www.wa.gov.au/government/media-statements/Cook%20Labor%20Government/WA-resources-sector-powers-ahead-with-record-jobs-growth-20250525> and <https://www.cmewa.com.au/media-release/articles/resources-sector-defies-global-headwinds-to-maintain-massive-contribution-to-states-finances/>.

This means a high proportion of the target audience for the Rehabilitation Statement can be expected to have at least some exposure, connection or interest, directly or indirectly, to the mining and resources sector. Accordingly, Alcoa considers that the Target Consumer of the Rehabilitation Statement is likely to have at least the following characteristics:

- *an understanding that mining is a key economic contributor to the Western Australian and Federal economies;*
- *an understanding that mining is a heavily regulated industry and that mining operators are required to undertake their operations in accordance with various regulations and the terms of relevant approvals;*
- *an understanding that the regulatory regime applicable to mining includes environmental regulations and obligations, including in relation to the management of land following the completion of mining operations; and*
- *rehabilitation of environments that were previously the subject of mining operations is a long-term and multi-stage process.*

In assessing what representations were conveyed to the Target Consumer by the Rehabilitation Statement, it is necessary to have regard to the characteristics of the Target Consumer, including the knowledge and understanding of the Target Consumer, as outlined above.

(c) Rehabilitation of Jarrah Forest is possible claim

The Rehabilitation Complaint correctly extracts passages from the Rehabilitation Statement stating, “rehabilitation of the Jarrah Forest is possible in areas that have been cleared for mining”, and “[S]tudies have confirmed that the Jarrah Forest can, and does, recover after mining”.

Alcoa considers these to be truthful and accurate representations. The statements are made with the benefit of Alcoa’s extensive research history, which spans nearly 50 years. This history provides a sufficient basis for the statements made in the Rehabilitation Statement. We address each of these allegations specifically below, but first make some overarching comments.

Research and studies and the paper relied upon in the Rehabilitation Complaint

Alcoa’s extensive research history has established a robust foundation for mine-site rehabilitation practices in Western Australia. Our research output includes approximately 260 refereed journal papers, 80 technical studies, and 60 higher-degree research theses, all contributing to adaptive management in Alcoa’s mining operations (a list of which is available here:

<https://www.alcoa.com/australia/en/pdf/WA-Environmental-Research.pdf>).

This research underpins the ability of Alcoa to make the statements that it made about rehabilitation.

This is far from a fringe view. The possibility of Jarrah Forest rehabilitation is also acknowledged by the Western Australian government. Native forests in south-west Western Australia are notably managed under the Forest Management Plan 2024-2033 (FMP). The FMP guides forest protection and use, balancing cultural, environmental, social and economic values – such as Noongar traditions, biodiversity, heritage, recreation, tourism, water supply, and forest-based industries. The FMP has been prepared by the Western Australian Conservation and Parks Commission and DBCA.

The FMP acknowledges that “[c]ommercial mining operations have been occurring in south-west forests since the 19th Century” and “[w]hile mining for a variety of minerals has occurred, the commodities being extracted influence the level of direct and indirect impacts on the forest environment during and following mining operations”. In this regard, the FMP expressly states that (see <https://www.dbca.wa.gov.au/media/3373/download>):

... mining of bauxite and mineral sands has occurred since the 1960s and involves laterally extensive but relatively shallow excavation of mineral ore

material and smaller volumes of material transfer. While usually directly and indirectly affecting more substantial areas of forest than open cut mining, these operations more readily permit progressive rehabilitation. In areas affected by these operations it may also be possible to establish post-mining landform and soil conditions that enable establishment of vegetation and fauna habitat elements with similarities to those occurring in natural forests.

*Alcoa is aware of the technical article cited in the Rehabilitation Complaint titled ‘Standards-based evaluation inform ecological restoration outcomes for a major mining activity in a global biodiversity hotspot’ (**Paper**). While Alcoa respectfully disagrees with some of the findings of the Paper, of most relevance for the purposes of considering the Rehabilitation Complaint is that the Rehabilitation Complaint misrepresents the findings and conclusion of the Paper.*

The Rehabilitation Complaint asserts that the Paper suggests that rehabilitation of the Jarrah Forest is not possible. This is not what the Paper says. Rather, the Paper examines the outcomes achieved to date and opines that they more accurately represent ‘rehabilitation’ than ‘full ecological restoration’. Notably, the Paper opens with the following statement:

[...] post-mining ecological restoration programs aim to reinstate biodiversity and other components of ecosystem integrity, but often fail to achieve full recovery [...] and are therefore more accurately described as rehabilitation.

Alcoa agrees with the distinction that the Paper draws, and considers that the Target Consumer would understand that there is a distinction between ‘full ecological restoration’ and ‘rehabilitation’.

The distinction is consistent with government intention. In this regard, we refer to, an ABC News article published on 27 November 2023 in respect of Alcoa’s rehabilitation of the Jarrah Forest, a spokesman for the then Western Australian Minister for the Environment, the Hon Reece Whitby, is quoted as stating that “[...] it’s important to understand there is a difference between rehabilitation and complete restoration. Unlike rehabilitation, which includes landscaping, seeding and overburden and topsoil return, complete restoration involves re-establishing forest ecosystems” (see <https://www.abc.net.au/news/2023-11-27/the-leeuwin-group-scientists-stop-alcoa-mining-wa-jarrah-forests/103155496>).

In any event, the AANA Environmental Code Practice Note explains that “Scientific claims should be consistent with the body of evidence, not simply selective parts that can be used in a misleading way”. Alcoa’s statement that rehabilitation of the Northern Jarrah Forest is possible is underpinned by a large body of science, including

the papers, studies and research referred to above. The possibility of rehabilitation is also consistent with the regulatory regime applying to mining operations, which typically require mining operators to engage in rehabilitation once those operations have come to an end, as is the case in the Northern Jarrah Forest. In this regard, the WA EPA has accepted that post-mining rehabilitation is possible.

The meaning of ‘rehabilitation’ in context

The distinction that the Paper draws between ‘full recovery’ on the one hand, and ‘rehabilitation’ at the other goes to what appears to be the core issue at the heart of the Rehabilitation Complaint and the various allegations made – namely, the meaning of ‘rehabilitation’. The Rehabilitation Complaint appears to adopt the position that it means “restoring the Jarrah Forest to its natural ecosystem” (i.e. “undisturbed Jarrah Forest”) (see paragraph 19 of the Rehabilitation Complaint).

Alcoa’s position is that ‘rehabilitation’ would not be understood in this way by the Target Consumer. Our position is supported by both the ordinary and industry usage of this term. In particular, in terms of industry usage:

- *the definition of ‘rehabilitation’ by the Society for Ecological Restoration is globally accepted and has been adopted by the International Council on Mining and Metals. Under this definition, ‘rehabilitation’ refers to “management actions that aim to reinstate a level of ecosystem productivity or function on degraded sites, where the goal is renewed and ongoing provision of ecosystem services rather than the recovery of a specified target native ecosystem” (see <https://www.icmm.com/en-gb/our-principles/position-statements/nature>).*
- *the definition of ‘rehabilitation’ in the WA EPA’s Guidance for the Assessment of Environmental Factors (in accordance with the Environmental Protection Act 1986) – Rehabilitation of Terrestrial Ecosystems (No. 6), which notably expressly draws a distinction between ‘restoration’ and ‘rehabilitation’. Under this definition, ‘rehabilitation’ means “[in] restoration ecology (reclamation) is normally defined as a process where disturbed land is returned to a stable, productive and self-sustaining condition, taking future land use into account. This process differs from the narrower definition of restoration by not aspiring to fully replace all of the original components of an ecosystem. However, the current document promotes a narrow definition of rehabilitation, which aims to maximise the return of biodiversity by reinstating self-sustaining and functional ecosystems based on local species” (see*

https://www.epa.wa.gov.au/sites/default/files/Policies_and_Guidance/GS6-Rehab-Terrestrial-Ecosystems-260606.pdf).

- The WA Department of Mines, Petroleum and Energy defines ‘rehabilitation’ as follows in the Statutory Guidelines for Mine Closure Plans: “[t]he return of disturbed land to a safe, stable and non-polluting / non-contaminating landform in an ecologically sustainable manner that is productive and/or self-sustaining consistent with the agreed post-mining land use” (see <https://www.wa.gov.au/system/files/2025-04/rec-ec-111d.pdf>).
- The Commonwealth Department of Industry, Science and Resources defines ‘rehabilitation’ as comprising “the design and construction of landforms as well as the establishment of sustainable ecosystems or alternative vegetation, depending upon desired post-operational use” and draws a distinction between rehabilitation and restoration (see <https://www.industry.gov.au/sites/default/files/2019-04/lpsdp-mine-rehabilitation-handbook-english.pdf> section 2.1).

More generally, the Macquarie Dictionary defines ‘rehabilitate’ as meaning (among other things) “to restore to a good condition...; regenerate, or alter to an improved form”.

It is apparent from these definitions that the Target Consumer would understand ‘rehabilitation’ as used in the context of the Rehabilitation Statement as a whole, to be referring to a process by which land previously disturbed for mining operations is improved with the aim of returning the land to a functional ecosystem (but not necessarily restoring it to a state analogous to undisturbed forest).

The Rehabilitation Complaint also criticises Alcoa’s use of the term ‘Jarrah Forest’. The detail of the complaint is unclear. On one hand, the Rehabilitation Complaint says that the term is vague, and it is unclear if it is intended to refer to the entire ecosystem of the ‘Jarrah Forest’ or components of it, but on the other also says that a consumer would interpret the phrase as meaning the entire ‘Jarrah Forest’ ecosystem.

Alcoa submits that the Target Consumer’s interpretation would be straight forward: the Rehabilitation Statement is clearly made by Alcoa, about what Alcoa is doing, and would clearly only be referring to efforts in relation to areas for which Alcoa is responsible. It strains credulity to suggest that a reasonable reader would interpret the phrase to mean the entire ‘Jarrah Forest’ ecosystem, and assume rehabilitation is restoring the Jarrah Forest to a state like the undisturbed forest.

Overstate environment benefit – alleged breach of section 4 of the Code

The Rehabilitation Complaint alleges that Rehabilitation Statement breaches section 4 of the AANA Environmental Code by overstating the environmental benefit of rehabilitation in two ways. Alcoa's position is that there is no basis to these allegations.

First, the Rehabilitation Complaint relies upon the use of the words 'rehabilitation' and 'restore' (or 'restoration') in conjunction in the Rehabilitation Statement, as overstating the environmental benefit of the rehabilitation. However, neither "restore" nor "restoration" are used in the Rehabilitation Statement.

It follows that this aspect of the Rehabilitation Complaint is simply incorrect.

Further, the following statement in the Rehabilitation Statement explains the nature of the rehabilitation, such that there is no overstating of the environmental benefit (emphasis added):

*Studies have confirmed that the Jarrah Forest can, and does, recover after mining. Research over the past 50 years guides our rehabilitation program which is **resulting in self-sustaining forest**. And while **some features of the forest naturally take time to mature**, the results are clear.*

Secondly, as addressed above, the Target Consumer would understand that rehabilitation and site management obligations following the cessation of mining operations are part of the regulatory requirements applying to mining operations in Western Australia.

The Rehabilitation Statement expressly refers to Alcoa's compliance responsibilities. Accordingly, the Target Consumer would understand from the Rehabilitation Statement that at least some of Alcoa's rehabilitation efforts reflect regulatory requirements.

Nevertheless, Alcoa emphasises that it takes compliance with its legal rehabilitation obligations as a serious matter and Alcoa invests significantly to rehabilitate the areas in which we operate. Alcoa constantly strives to meet and exceed expectations, including in the area of environmental management, and rehabilitation is one of our key environmental priorities. Alcoa was the first mining company to receive recognition from the United Nations for rehabilitation excellence in 1990, earning a place on the Global 500 Roll of Honour. Alcoa has also received a number of awards in respect of its rehabilitation activities, including:

- *Society for Ecological Restoration International Award for Outstanding Contribution to the Field of Ecological Restoration (for leadership in mine rehabilitation in Western Australia); and*

- *2002 Western Australian Department of Mines and Petroleum Golden Gecko Award for Environmental Excellence (for mine rehabilitation and restoring the botanical diversity of the Jarrah Forest).*

In May 2024, Alcoa announced the establishment of the Forest Research Centre at the Alcoa Environmental Symposium held at Perth's Murdoch University. The Forest Research Centre builds on some 50 years of research and development that has guided us in the continuous improvement of the ways we manage and rehabilitate the areas where we mine. The Forest Research Centre will receive \$15 million in Alcoa research funding over 5 years.

Inadequate disclaimer – alleged breach of section 3(c) of the AANA Environmental Code

The Rehabilitation Complaint alleges that Alcoa has breached section 3(c) of the AANA Environmental Code on the basis that Alcoa has not included disclaimers or limitations in the Rehabilitation Statement that clarify (1) that “rehabilitation may be to a lower standard than the original Northern Jarrah Forest” and (2) that “rehabilitation is required as part of the planning approval and is not voluntary”.

Alcoa submits that this aspect of the Rehabilitation Complaint should be dismissed. Considering the overall impression of the Rehabilitation Statement as a whole, from the perspective of the Target Consumer, neither of these matters required further clarification, at least for the following reasons:

- *This allegation is based on a false premise, namely that ‘rehabilitation’ would be understood by the Target Consumer as meaning returning the previously cleared forest to a state analogous to original, undisturbed Northern Jarrah Forest. As explained above, this is not how the Target Consumer would understand the reference to ‘rehabilitation’ in the Rehabilitation Statement. The Target Consumer would understand that ‘rehabilitation’ refers to a long-term process which aims to return landscape to functioning ecosystems. No further clarification or disclaimer is necessary when the term ‘rehabilitation’ is properly understood, as it would be by the Target Consumer.*
- *As also explained above, the Target Consumer would understand that rehabilitation and site management obligations following the cessation of mining operations are part of the regulatory requirements applying to mining operations in Western Australia. Further, the Rehabilitation Statement expressly refers to Alcoa’s compliance responsibilities.*

Accordingly, no further “clarification” that rehabilitation obligations form part of Alcoa’s regulatory compliance requirements was required.

No reasonable basis – alleged breach of sections 2 & 5 of the Code

The Rehabilitation Complaint alleges that the Rehabilitation Statement breaches sections 2 and 5 of the Code because the statement that rehabilitation is “possible” does not have a reasonable basis. This allegation assumes that ‘rehabilitation’ means returning the Northern Jarrah Forest “to a state like the native reference ecosystem”, and based on this meaning, relies upon the Paper discussed above.

Alcoa refers to its comments above in relation to the Target Consumer’s understanding of “rehabilitation” as used in the context of the Rehabilitation Statement, namely that this term would not be understood as referring to the return of the forest to a state analogous to the native, undisturbed ecosystem. Again, this aspect of the Rehabilitation Complaint is based on a false premise.

Alcoa also refers to its comments above regarding the Paper. That study in fact provides support for the statement that rehabilitation is possible (on a proper understanding of ‘rehabilitation’). Alcoa’s statement that rehabilitation of Jarrah Forest is possible is further underpinned by the publication of more than 260 refereed journal papers and book chapters, 80 technical studies, and 60 higher degree research theses, as noted above.

Accordingly, Alcoa respectfully submits that these allegations should be dismissed.

(d) Alcoa has rehabilitated 75% of the Forest claim

Alcoa acknowledges that the Rehabilitation Statement states that “Since 1963, only 2% of WA’s Northern Jarrah Forest has been cleared for mining, of which 75% has already been rehabilitated”.

The Rehabilitation Complaint alleges that this statement is misleading, overstates the environmental benefit, should have been the subject of a disclaimer, and is not reasonably supported. Alcoa submits that this aspect of the Rehabilitation Complaint should be dismissed. Alcoa addresses each of these allegations below, but makes the following overarching comments.

Similarly to the claim addressed above, the crux of the Rehabilitation Complaint in relation to this claim is the meaning of ‘rehabilitation’ and ‘rehabilitated’. The Rehabilitation Complaint alleges that “consumers” (rather than the Target Consumer) understand that “the restoration or rehabilitation of the Jarrah Forest means restoration to a ‘good’ or ‘improved’ condition, like the undisturbed Jarrah Forest”.

Alcoa refers to its comments above regarding this term, and how it would be understood by the Target Consumer. Having regard to the characteristics of the Target Consumer and the Rehabilitation Statement as a whole, the Target Consumer would understand that rehabilitation is an ongoing and long-term process, and that ‘rehabilitated’ does not mean that this process has been completed. Rather, it would reasonably be understood as a reference to the land being part of the rehabilitation program, and no longer subject to mining operations. This understanding is supported by the references in the Rehabilitation Statement to:

- “Research over the past 50 years guides our rehabilitation program”, which clearly indicates that rehabilitation is a long-term and ongoing effort;*
- “which is resulting in self-sustaining forest”, which again indicates that the rehabilitation process is ongoing and evolving; and*
- “some features of the forest naturally take time to mature”, which clearly indicates that the rehabilitation process is a long-term one, with features of the environment evolving and emerging slowly over time.*

Understood in this way, Alcoa considers that the statement that of the 2% of the Northern Jarrah Forest that has been cleared for mining, 75% has already been rehabilitated is truthful and accurate. Alcoa does not understand the Rehabilitation Complaint to be raising any issue with the calculation or substantiation of the 75%, although Alcoa notes that this was the subject of a thorough internal verification process.

“Rehabilitation” is misleading – alleged breach of section 1 of the Code and overstates the environmental benefit

In paragraph 24, the Rehabilitation Complaint appears to accept that the use of the term ‘rehabilitation’ in the Rehabilitation Statement refers to all stages of the rehabilitation process, and that even early stages such as contouring and seeding are, nevertheless, part of the rehabilitation process. This is consistent with Alcoa’s position, as set out above.

There is, with respect, an inconsistency in the EDO’s position regarding ‘rehabilitated’. In paragraph 24, the Rehabilitation Complaint refers to the Western Australian Government’s Rehabilitation Criteria, and alleges that as none of the Alcoa cleared land has met this criteria it “could not be said to be rehabilitated to the legal standard”. However, earlier in paragraphs 19 and 20, the Rehabilitation Complaint suggests that the Rehabilitation Statement is misleading because it does not explain that rehabilitation is not voluntary. This means the Target Consumer understands “rehabilitated” to mean rehabilitated in accordance with particular Government

rehabilitation criteria, but that at the same time, is unaware that rehabilitation is not voluntary.

Alcoa notes that in any event, it has handed back two areas, totalling 1355ha and obtained Certificates of Completion from the then Department of Environment and Conservation (these functions would now be undertaken by the DBCA) in relation to these areas.

Inadequate disclaimer – alleged breach of section 3(c) of the Code

The Rehabilitation Complaint alleges that the Rehabilitation Statement should have contained a clarification or disclaimer on the meaning of ‘rehabilitated’, and that it should have “described that Alcoa has undertaken preliminary rehabilitation or the first stage of the process of rehabilitation”.

Alcoa’s position is that no clarification or disclaimer on the meaning of ‘rehabilitated’ was necessary, having regard to how the Target Consumer would understand that term, in the context of the Rehabilitation Statement as a whole. This includes the references in the Rehabilitation Statement, set out in our overarching comments above, that clearly indicated that rehabilitation is an ongoing, long-term and evolving process.

No reasonable basis – alleged breach of sections 2 and 5 of the Code

This allegation appears to turn on interpreting ‘rehabilitated’ as meaning that the land has met the Western Australian Government rehabilitation criteria. We refer to our comments above regarding the manner in which this term would be understood by the Target Consumer in the context of the Rehabilitation Statement as a whole. There is no basis for this allegation and it should be dismissed.

(e) Compliance with AANA Code of Ethics

While the notification of the Rehabilitation Complaint did not raise any concerns under the AANA Code of Ethics, Alcoa also firmly believes that the Rehabilitation Statement fully complies with all sections of that Code. Compliance with Section 1 of the AANA Code of Ethics has been addressed through the responses provided above in relation to compliance with the AANA Environmental Code. Addressing each part of Section 2 of the AANA Code of Ethics separately:

- *Section 2.1 (Discrimination or vilification) – The Rehabilitation Statement did not portray people or depict material in a way which discriminates against or vilifies a person or section of the community.*

- *Section 2.2 (Exploitative or degrading) – The Rehabilitation Statement did not employ sexual appeal or exploitive or degrading material.*
- *Section 2.3 (Violence) – The Rehabilitation Statement did not present or portray violence.*
- *Section 2.4 (Sex, sexuality and nudity) – The Rehabilitation Statement did not present or portray sex, sexuality or nudity.*
- *Section 2.5 (Language) – The Rehabilitation Statement did not use strong or obscene language.*
- *Section 2.6 (Health and safety) – The Rehabilitation Statement did not encourage or condone unhealthy or unsafe behaviour.*
- *Section 2.7 (Clearly distinguishable advertising) – The Rehabilitation Statement was clearly distinguishable as advertising.*

For completeness, the AANA Code for Advertising and Marketing Communications to Children, the AANA Food and Beverages Code Marketing and Communications Code and the AANA Wagering Advertising Code are not relevant to the Rehabilitation Statement.

Conclusion

For the reasons set out above, Alcoa firmly believes that the Rehabilitation Statement fully complies with the AANA Environmental Code, AANA Code of Ethics and all other relevant codes and laws, and respectfully submits that the complaint should be dismissed.

THE DECISION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches the AANA Environmental Claims Code (the Environmental Code).

The Panel noted the complainant's concern that the advertisement contains misleading and unsubstantiated environmental claims.

The Panel viewed the advertisement and noted the advertiser's response.

Is the material advertising?

The Panel noted the definition of advertising in the Code:

“(a) any advertising, marketing communication or material which is published or broadcast using any Medium or any activity which is undertaken by, or on behalf of an advertiser or marketer,

- *over which the advertiser or marketer has a reasonable degree of control, and*
 - *that draws the attention of the public in a manner calculated to promote or oppose directly or indirectly a product, service, person, organisation or line of conduct,*
- (b) but does not include:*
- *labels or packaging for products*
 - *corporate reports including corporate public affairs messages in press releases and other media statements, annual reports, statements on matters of public policy and the like*
 - *in the case of broadcast media, any material which promotes a program or programs to be broadcast on that same channel, station or network.”*

The Panel noted the advertiser’s response that the material is a statement of public policy and does not meet the definition of advertising.

The Panel considered that the material was part of a series of paid advertisements in local print and digital news aimed to draw the attention of the public in a manner calculated to promote the organisation. The Panel considered that such statements if published in a media release or on the advertiser’s website may constitute a statement of public policy, but when part of a paid media campaign this material does meet the definition of advertising under the Code.

Does the advertisement make an Environmental Claim?

The Panel noted the Environmental Code provides the following definition:

“Environment Claim means any message or representation (including text, images, graphic, audio or symbolic representation) that gives the impression that an industry, business, product or service:

- a. has a neutral or positive impact on the environment*
- b. is less harmful for the environment than alternatives, or*
- c. has specific environmental benefits.”*

The Panel noted the complainant had identified the following environmental claims in the advertisement:

- Rehabilitation of the Jarrah Forest is possible in areas that have been cleared for mining
- 75% of the Jarrah Forest cleared for mining by Alcoa has been rehabilitated to a condition like the undisturbed Jarrah Forest

The Panel noted the advertiser’s response that each statement should be interpreted in the context of the whole advertisement, and not as individual claims.

The Panel considered that the advertisement makes a number of statements give the impression that Alcoa has a positive or neutral impact on the environment and that the rehabilitation efforts have specific environmental benefits, including:

- That Jarrah Forest rehabilitation is not only possible, it's happening
- That research has shown that it can, and does, recover after mining
- That research has shown that the rehabilitation program results in self-sustaining forest (noting that some features take time to mature)
- 75% of the cleared forest has already been rehabilitated
- That they don't clear old growth forest or mine in national parks
- That they are committed to protecting stream-zones, granite outcrop communities and threatened species
- That their long-term actions go beyond what is required for compliance
- They have funded a \$15 million forest research centre
- They planted more than 500,000 native seedlings last year
- Rehabilitation is real and a proven fact.

The Panel considered that while each of these statements could constitute an environmental claim on its own, they also combine to form an overall impression that:

- 75% of the cleared Jarrah Forest has already been rehabilitated into a self-sustaining forest which has recovered from mining
- That these efforts are above what is required to achieve compliance with government regulation.

The Panel considered whether this overall impression constituted an environmental claim.

Section 1: Environmental Claims in Advertising must:

- a. Be truthful and factual. The overall impression created by the advertisement including the Environmental Claim should not be false or inaccurate.**
- b. Not be or likely to be misleading or deceptive to the Target Consumer.**

The Panel noted that the Practice Note for the Environmental Code says:

"It is not intended that legal tests be applied to determine whether advertisements are misleading or deceptive, or likely to mislead or deceive, in the areas of concern in this Code.

Instead, consideration will be given as to whether the Target consumer would likely be misled or deceived by the Advertising.

Any Environmental Claim should be accurate, true and factually correct.

Even claims that are factually correct can sometimes still mislead consumers. Advertisers should consider the overall impression created by the claim and

within the overall context of the Advertising, including through use of visual and audio elements. Advertising can be found in breach of this provision if the overall impression is false, inaccurate, misleading or deceptive even if each individual claim can be substantiated.”

The Panel noted that this advertisement appeared in a WA newspaper and considered that the target consumer would be adults living in West Australia who may have some understanding of the environmental impacts of mining, but who were not experts and who would not have an in-depth understanding of this area.

The Panel considered that a target consumer was likely to interpret the statement “75% of the cleared forest has already been rehabilitated” as the rehabilitation work was already done, to a point where the area would resemble a forest. The Panel considered that the reference to “self-sustaining forest” adds to this interpretation. The Panel considered that the word forest is widely understood to be an ecosystem of dense trees and undergrowth.

The Panel considered that while the advertisement begins with the statement that rehabilitation is happening and includes a qualification that some features of a forest take time to mature, these were not enough to counteract the overall impression that the cleared areas had already been rehabilitated to a point which would look like a forest. The Panel considered that while the target consumer may understand the land had not been returned to its former state, they were also unlikely to understand that rehabilitation is a long-term project and the areas referred to as rehabilitated may only contain seedlings and not forest.

The Panel considered that the overall impression created by the advertisement was inaccurate and likely to mislead or deceive target consumers.

Section 1 conclusion

The Panel concluded that the advertisement did breach Section 1 of the Environmental Code.

Section 2: Environmental Claims in Advertising must be supported by evidence

The Panel noted that the Practice Note for the Environmental Code says:

“Advertisers should:

- *have reasonable grounds for making an Environmental Claim, based on evidence held at the time the claim is made*

Supporting evidence

Environmental Claims in Advertising must be substantiated and verifiable.

Advertisers must be able to support claims at the time the claim is made but are not necessarily required to include that supporting information in the advertisement unless it is required to make the claim true. Additional information provided must be truthful and not misleading. Supporting information held by advertisers at the time a claim is made must include sufficient detail to allow evaluation of a claim by the Target Consumer.”

The Panel noted the complainant’s concern that the advertiser does not have a reasonable basis to make claims about its rehabilitation of the Jarrah Forest, given the presence of conflicting scientific studies.

The Panel noted the advertiser’s response that the target consumer would understand that rehabilitation of environments that were previously the subject of mining operations is a long-term and multi-stage process, and the claim that rehabilitation of the forest is possible is supported by 260 refereed journal papers, 80 technical studies, and 60 higher-degree research theses.

The Panel considered that the advertiser has provided links to a number of sources which provide definitions of rehabilitation and which seek to provide evidence that the target consumer would not understand rehabilitation to mean restoring forest to its undisturbed state.

The Panel considered that there is a difference between the terms “rehabilitation” and “rehabilitated”, and that the latter conveys the impression that the work had been completed, rather than that this was an ongoing process. The Panel considered that the term ‘forest’ also conveyed the impression of dense trees and undergrowth, and not of seedlings and young trees.

The Panel considered that the overall impression of the ad that rehabilitation had been completed to a point where the area would constitute a forest was not supported by evidence provided by the advertiser.

Section 2 conclusion

The Panel concluded that the advertisement did breach Section 2 of the Environmental Code.

Section 3: Environmental Claims in Advertising must:

- **Use clear language, having regard to the Target Consumer**
- **Be specific – broad, vague or unqualified claims should be avoided**
- **Include important limitations, conditions or qualifications in a way that is clear to the Target Consumer**

The Panel noted that the Practice Note for the Environmental Code says:

“Clear language

Scientific terminology or references should be relevant and accurate. They should be used in a way that can be readily understood by the Target Consumer, including through further information provided to explain the terminology (for example through website links, QR codes and other available means).

Be specific – avoid broad, vague or unqualified claims

Advertisers should be specific when making Environmental Claims and it should be clear if the Environmental Claim refers to an entire or part of a product, component, package, service or company’s business operations.”

For the reasons described in sections 1 and 2 above, the Panel considered that the language in the advertisement was not clear or specific to a point where the target consumer would understand that rehabilitation was an ongoing project which had not been completed. The Panel considered that the advertisement did not contain limitations or qualifications in a way which would make this clear to the target consumer.

Section 3 conclusion

The Panel concluded that the advertisement did breach Section 3 of the Environmental Code.

Section 4: Environmental Claims in Advertising must:

- **Be about a genuine benefit to the environment**
- **Not overstate the environmental benefit**

The Panel noted that the Practice Note for the Environmental Code says:

“Advertisers should not make Environmental Claims that exaggerate an environmental benefit or understate an environmental harm.

Environmental Claims about a product, service or business should only be made when there is a genuine environmental benefit. You risk misleading consumers if you advertise environmental benefits which are irrelevant, insignificant, or simply advertise the observance of existing law (unless this is made clear).”

For the reasons discussed in sections 1 and 2 above, the Panel considered that the use of the words “rehabilitated” and “forest” meant that the overall environmental claim was overstated.

The Panel considered that from the information in the advertisement, it was unclear to what extent the environmental benefits detailed by the advertiser were simply advertising the observance of existing law, as apposed to going beyond it.

Section 4 conclusion

The Panel concluded that the advertisement did breach Section 4 of the Environmental Code.

Section 5: Environmental Claims in Advertising about future environmental objectives must be based on reasonable grounds at the time the claim is made.

The Panel noted that the Practice Note for the Environmental Code says:

“Environmental Claims relating to aspirational targets or environmental goals should only be made if the advertiser has reasonable grounds at the time the claim is made. Reasonable grounds may include verifiable data, clear plans and milestones that outline how the target or goals will be met.”

The Panel considered that the overall claim being made by the advertise related to work that had already been completed, rather than what was ongoing. The Panel noted while the advertisement touches on some future environmental objectives, these were specific and limited and likely to be made on reasonable grounds.

Section 5 conclusion

The Panel concluded that the advertisement did not breach Section 5 of the Environmental Code.

Conclusion

Finding that the advertisement breached Sections 1, 2, 3 and 4 of the Environmental Code the Panel upheld the complaint.

THE ADVERTISER’S RESPONSE TO DECISION

Thank you for the opportunity to make an Advertiser Statement. The advertisement the subject of the complaint had already been discontinued per the original schedule, and there are no plans for the advertisement to be used again in future.