

DATED: 7 **DAY OF** November **2000**

**MEMORANDUM
OF
ADMINISTRATIVE ARRANGEMENT**

BETWEEN

DEPARTMENT OF PRIMARY INDUSTRIES AND RESOURCES

- AND -

**DEPARTMENT FOR TRANSPORT, URBAN PLANNING
AND THE ARTS**

ADMINISTRATIVE ARRANGEMENT dated the 7 day of November 2000

BETWEEN

DEPARTMENT OF PRIMARY INDUSTRIES AND RESOURCES of Level 7, 101 Grenfell Street, Adelaide SA 5000 (“**PIRSA**”)

AND

DEPARTMENT FOR TRANSPORT, URBAN PLANNING AND THE ARTS of Level 5, 136 North Terrace, Adelaide SA 5000 (“**DTUPA**”)

BACKGROUND

A. Pursuant to section 98 of the Petroleum Act, 2000 (“Petroleum Act”), the responsible Minister for the Petroleum Act or his delegate (“Minister”) must after preparation of an environmental impact report (“EIR”) by a licensee, classify the proposed activities to which the EIR relates (which activities are defined as “regulated activities” under section 10 of the Petroleum Act) as either low, medium or high environmental impact.

B. The classification of environmental impact will determine the degree of consultation required in the approval process for the regulated activities proposed by a licensee as follows:

Low impact activities

Pursuant to section 101 of the Petroleum Act the Minister is required to consult with government agencies in accordance with the Regulations under the Petroleum Act (“Petroleum Regulations”) before approving a statement of environmental objectives (“SEO”) for low impact activities. Petroleum Regulation 12 requires the Minister to consult with the Department of Environment and Heritage, DTUPA, Department for Water Resources and other agencies as prescribed from time to time in the Petroleum Regulations.

Medium impact activities

Upon the preparation of a SEO for medium impact activities, the Minister must, if

satisfied that the SEO is an acceptable basis for public consultation, conduct a consultation process in accordance with section 102 of the Petroleum Act, which process is similar in nature to the public environmental report (“PER”) process under the Development Act, 1993 (“Development Act”).

High impact activities

Pursuant to section 103 of the Petroleum Act, the Minister must be satisfied that a SEO for high impact activities properly reflects the relevant environmental impact assessment (“EIS”) under Part 8 of the Development Act before approving the SEO.

- C. The classification of environmental impact is to be determined by the Minister on the basis of the EIR and an established criteria for the assessment of the environmental impact of regulated activities (section 98(2), Petroleum Act) which criteria must be published in the Gazette (section 98(3), Petroleum Act) (“Criteria”).
- D. DTUPA has experience and knowledge in classifying regulated activities to which an EIR relates.
- E. To ensure that such experience and knowledge is fully accessed and utilised within Government, PIRSA and DTUPA have sought to establish an arrangement where PIRSA can consult with DTUPA in the assessment of the environmental impact of regulated activities on a collaborative basis.

THE ADMINISTRATIVE ARRANGEMENT IS AS FOLLOWS:

- 1. PIRSA and DTUPA (“Agencies”) acknowledge that this is an Administrative Arrangement between Administrative Units of the Crown in right of the State of South Australia and it is not intended to create legal relations.

- 2. **Commencement and Completion of Arrangement**

This Administrative Arrangement shall commence on the date the Petroleum Act comes into operation and shall continue unless terminated.

3. **Role of PIRSA**

The Petroleum Group (“Group”) of PIRSA is responsible for administering the Petroleum Act on behalf of the Minister. The Group’s role includes:

- 3.1 developing and implementing appropriate, effective and efficient regulatory systems;
- 3.2 being an effective change agent to facilitate industry compliance with community expectations;
- 3.3 facilitating stakeholder consultation in the assessment of the environmental impact of regulated activity proposals under the Petroleum Act;
- 3.4 facilitating stakeholder consultation on the environmental objectives and the criteria for assessing the attainment of those objectives in the preparation of a statement of environmental objectives under section 98 of the Petroleum Act; and
- 3.5 providing assurance to stakeholders that industry reports as to compliance with objectives have integrity.

4. **Role of DTUPA**

4.1 The Environmental Impact Assessment Branch, Planning SA (“Branch”) of DTUPA:

- (a) is responsible for the management of the Major Development and Projects assessment process under the Development Act;
- (b) advises the Major Developments Panel on the key issues of major environmental, social or economic importance which require assessment;
- (c) assesses the likely impact of proposals and makes recommendations on minimisation of adverse impacts and monitoring and subsequently provides advice through the Minister responsible for the Development Act to Cabinet and the Governor to assist decision-making on the Major Development proposals; and
- (d) provides advice on other projects and activities, related to the environment and development, that are not subject to the statutory impact assessment process.

4.2 The core functions of the Branch includes:

- (a) assessing projects declared to be of major environmental, social and economic importance on behalf of the Minister responsible for the Development Act;
- (b) the preparation of guidelines (issued by the Major Developments Panel) and assessment reports for Major Developments and Projects and reports for decision making by the Governor on Major Developments;
- (c) the assessment of variations to Major Developments which have been the subject of an environmental impact assessment process;
- (d) the provision of environmental, social and economic advice into strategic policy formulation and plan amendment reports;
- (e) the provision of departmental advice to the Development Assessment Commission and other bodies on activities with particular environmental sensitivity; and
- (f) undertaking environmental assessment of mining tenement proposals under section 75 of the Development Act for the Minister responsible for the Petroleum Act and the Mining Act, 1971.

5. **Basis of Arrangement**

- 5.1 The aim of the arrangement is to establish a process whereby PIRSA can seek comment from DTUPA on PIRSA's estimation of the environmental significance of the potential impacts of a proposal and whether or not any potential impacts may have been overlooked in the licensee's EIR.
- 5.2 To facilitate the process, PIRSA and DTUPA agree to the following procedures and protocol:

Low impact activities

- (a) Advice on the classification will not be sought from DTUPA for regulated activity proposals classified as low impact by PIRSA.
- (b) In establishing and approving the SEO for low impact activities within an area defined in Schedule 20 of the Development Regulations 1993 ("Schedule 20 Area"), PIRSA will consult with DTUPA. DTUPA will not be consulted for low impact activities outside a Schedule 20 Area.
- (c) PIRSA will provide a list on a periodic basis, of all low impact

activities approved to DTUPA for its information or will make the information available to DTUPA through an acceptable medium such as the internet or as requested by DTUPA.

Medium impact activities

- (a) Where PIRSA's preliminary assessment of a proposed regulated activity results in a classification as a medium impact activity, it will be referred to DTUPA for comment on the determination before initiating the public consultation process for medium impact activities under section 102 of the Petroleum Act. This will apply to regulated activities both within and outside a Schedule 20 Area.
- (b) Comment on the proposed classification from DTUPA will be provided to PIRSA within ten (10) business days of the referral being received by DTUPA.
- (c) DTUPA may request that additional documents or information be provided to it in respect of the referral as it may reasonably require to make comment on the appropriate classification of the proposal. Any period between the date of such a request and the date of compliance is not to be included in the time within which DTUPA must provide comment on the proposed classification.
- (d) In the case where DTUPA does not concur with PIRSA's medium impact preliminary classification:
 - (i) DTUPA will outline the reasons for its comments in accordance with the Criteria;
 - (ii) PIRSA will reconsider its classification on the basis of the reasons and other information provided by DTUPA in close consultation with DTUPA; and
 - (iii) PIRSA will determine its classification of the proposed regulated activity subsequent to considering DTUPA's comments.
- (e) In the case where a proposed regulated activity is classified as medium impact, DTUPA's comment will be specifically sought on the EIR and draft SEO during the relevant public consultation process for medium impact activities. DTUPA's comments will address:

- (i) whether the EIR is to an appropriate professional standard;
- (ii) any significant issues which DTUPA is aware of that have not been raised in the EIR;
- (iii) the relevance of the draft SEO given the information available in the EIR and the knowledge and experience of DTUPA; and
- (iv) any additional objectives and assessment criteria and specific conditions of approval that need to be included in the SEO.

High impact activities

- (a) For regulated activity proposals which PIRSA believes could be classified as high impact activities and would therefore need to be referred under the Development Act for assessment under Part 8, DTUPA will be consulted. This consultation will seek DTUPA's advice on whether the environmental significance of the proposal is high enough to warrant environmental impact statement ("EIS") assessment. Subsequent to this consultation PIRSA will make its official classification of the regulated activity's level of environmental impact (as either medium or high).
- (b) Comment on the proposed classification from DTUPA will be provided to PIRSA within ten (10) business days of the referral being received by DTUPA.
- (c) DTUPA may request that additional documents or information be provided to it in respect of the referral as it may reasonably require to make comment on the appropriate classification of the proposal. Any period between the date of such a request and the date of compliance is not to be included in the time within which DTUPA must provide comment on the proposed classification.
- (d) In the case where DTUPA does not concur with PIRSA's high impact preliminary classification:
 - (i) DTUPA will outline the reasons for its comments in accordance with the Criteria;
 - (ii) PIRSA will reconsider its classification on the basis of the reasons and other information provided by DTUPA in close consultation with DTUPA; and

(iii) PIRSA will determine its classification of the proposed regulated activity subsequent to considering DTUPA's comments.

(e) In the case where a regulated activity proposal is classified as high impact by PIRSA, subject to the advice provided by DTUPA under the above protocol, it will be referred to DTUPA for EIS assessment under Part 8 of the Development Act. On the basis of the outcome of the EIS process, the Minister responsible for the Development Act will advise the Minister on what ought to be the decision relating to the proposed regulated activity. Where the Minister does not agree with advice tendered by the Minister responsible for the Development Act, the matter must be referred to the Governor and the Governor will determine whether the Minister should adhere to the advice of the Minister responsible for the Development Act.

5.3 The Minister responsible for the Development Act agrees that the medium impact approval process described in section 102 of the Petroleum Act will produce an outcome equivalent to or superior than the PER process under the Development Act.

6. **Termination**

This Administrative Arrangement can be terminated by either Agency without cause by giving the other Agency two (2) weeks written notice.

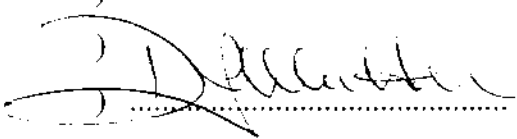
SIGNED for the **DEPARTMENT OF PRIMARY**

INDUSTRIES AND RESOURCES by

DENNIS RAY MUTTON Chief Executive,

Department of Primary Industries and Resources,

a person duly authorised in the presence of:

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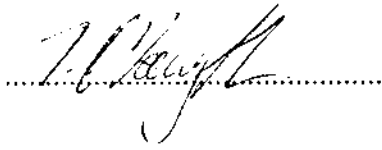

Witness:

[Print Name: LEAVNG LEIBLICH]

SIGNED for the **DEPARTMENT FOR TRANSPORT,**)

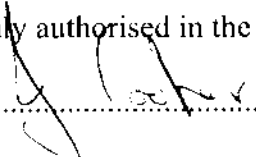
URBAN PLANNING AND THE ARTS by)

TIMOTHY WILLIAM O'LOUGHLIN Chief Executive,)



Department for Transport, Urban Planning and the Arts,)

a person duly authorised in the presence of:)



Witness:

[Print Name: Jane Cooper]