

Application for proposed ENFORCEABLE UNDERTAKING

Part 11, Work Health and Safety Act 2012 (SA)

The commitments in this undertaking are offered to the regulator by

The State of South Australia

Department of Planning, Transport and Infrastructure

(the person)

ABN 92 366 288 135

The information provided in this document is for the purpose of an undertaking given to the regulator under Part 11 of the *Work Health and Safety Act 2012* (SA). This information will be managed within the requirements of the current State Government privacy regime.

The terms of an accepted enforceable undertaking are a matter of public record.

When an enforceable undertaking is accepted, notice of the decision to accept it and reasons for that decision will be published by the regulator on the SafeWork SA website within 14 days of the date of the decision.

Enforceable undertakings will not be removed from the public register and will remain on the register after a company or individual has discharged all obligations of the undertaking.

COMMENCEMENT OF UNDERTAKING

This enforceable undertaking is given on the day and date that it is accepted and signed by the regulator. The undertaking and its enforceable terms will commence to operate as a legally binding commitment on the part of the person from the date it is given.

SECTION 1: GENERAL INFORMATION

1.1 Details of the person proposing the undertaking

Nominated person: (Point of contact for SWSA communications)	Graeme Jackson
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Postal address:	GPO Box 1533, Adelaide SA 5001
Telephone:	1300 794 880
Email address:	officeofthechiefexecutive@sa.gov.au
Legal structure:	State Government Department
Type of business:	State Government Department
Commencement date:	N/A
Workers:	
Full time:	2914
Part time:	406
Casual:	87
Products and services:	<p>South Australia's Department of Planning, Transport and Infrastructure (DPTI) is responsible for providing effective planning policy, efficient transport and valuable social and economic infrastructure to South Australians. DPTI works towards the following 5 strategic objectives:</p> <ol style="list-style-type: none"> 1. Growth and job creation 2. Enhanced liveability and connectivity between people and places, business and markets 3. Community-focused and customer-focused services 4. Maximised use and return on infrastructure 5. Optimised, safe and effective operations and workforce

Comments:

DPTI provide contract administration for facilities management across most government Agencies in South Australia, except SA Housing and SA Ambulance Services. This arrangement is called Across Government Facilities Service Arrangements (AGFMA).

A contract exists for the provision of facilities management services between Spotless Pty Ltd, a private sector provider, and the Minister for Transport and Infrastructure. The contract administration is undertaken by the AGFMA Section.

Another section of DPTI, DPTI-Facilities Services provides facilities management services to a range of Agencies. Since the Crown is unable to contract with itself, there is no contract between DPTI-Facilities Services and the Minister for Transport and Infrastructure.

The services provided by DPTI-Facilities Services to Agencies (including SAPOL) under the arrangements include the following:

- a. Planned services including Preventative Maintenance and planned Replacement/Refurbishment Maintenance and Minor Works;
- b. Unplanned services including Breakdown Maintenance and unplanned Replacement/Refurbishment Maintenance and Minor Works; and
- c. Property Services including grounds maintenance (which covers cleaning/hygiene services, ground maintenance services, security services and waste management services).

DPTI-Facilities Services delivers services to approximately 4,459 sites across South Australia for government Agencies. This includes 138 SAPOL sites.

DPTI-Facilities Services currently provides facilities services to Metropolitan Adelaide Region South and Regional South Australia. Spotless Pty Ltd currently provides facilities services to Metropolitan Adelaide Regions Central & Northern.

1.2 Details of the alleged contravention

(If proceedings initiated - This should reflect the details of the Complaint and Summons, omitting personal details and reference to gender.)

SafeWork SA has alleged that DPTI has committed one offence on 4 October 2016:

1. An offence contrary to sections 21 and 32 of the *Work Health and Safety Act 2012* (SA) (**the Act**), in that DPTI:
 - a. failed to ensure, so far as was reasonably practical, that plant at the site was without risk to the health and safety of the worker in that it failed to:
 - i. ensure that the freezer had been included as an item of plant requiring preventative maintenance on the PMS as required by the AGFMA; and
 - ii. ensure that the freezer had undergone preventative maintenance; and

- iii. conduct, or ensure that DPTI-FS had conducted, audits of the plant at the site, in which the freezer was included; and
- iv. monitor the condition and use of the freezer to ensure that it was free from defects and risks of serious injury or death, and was fit for use.

1.3 Detail the events surrounding the alleged contravention

(Generally includes factual incident details and avoids blame or opinions)

DPTI- Facilities Services was the facilities maintenance service provider for the Echunga Training Reserve, a site owned and operated by SAPOL. On 4 October 2016, a worker employed by SAPOL was fatally injured after becoming trapped in a walk-in freezer whilst alone at the site.

DPTI did not have a presence at the Echunga Training Reserve, and its role is limited to the management of facilities services provision.

1.4 Details of any enforcement notices issued that relate to the alleged contravention

Not Applicable (Tick if there were no notices issued by SWSA in relation to the contravention)

Date issued	Notice type	Notice number	Contravention or prohibited activity	Action taken in response to notice
09/11/2016	Notice to produce documents to an inspector	WHSNTP 306051	N/A	Documents provided
24/05/2017	Notice to produce documents to an inspector	127136	N/A	Documents provided

1.5 Detail the injury sustained or illness suffered by worker/s or other/s as a consequence of the alleged contravention detailed above

The worker was fatally injured.

1.6 Detail the employment status and the workers' compensation or other insurance status regarding the person who sustained injury or suffered illness as detailed in 1.5

The injured person is:

an employee of the entity

- a self-employed person
- other - the worker was an employee of SAPOL
- not applicable

Status: N/A

(This should reflect the status of any claims and level of recovery/return to work that is applicable)

1.7 Detail the support provided or proposed by the person to the injured person and/or family or other/s

N/A

1.8 Detail any current work, health and safety systems at the workplace

(Describe how health and safety risks are managed, including types of procedures or policies or standards)

SAPOL were responsible for the Echunga Training Reserve workplace at all relevant times and have entered a guilty plea in this regard. DPTI Facilities Management were responsible for management of service provision and this section of the undertaking relates only to that aspect of DPTI's responsibilities.

Under AGFMA the Principal (DPTI) has systems in place to monitor the performance of the Facilities Management Service Provider (FMSP) work health and safety systems.

External WHS system audits

DPTI engaged independent auditors to review Spotless Pty Ltd work health safety systems. In addition, the contract with Spotless has controls to ensure risks and hazards are identified and recorded by the contractor and sub-contractors for individual tasks. The AGFMA Section co-ordinates these audits.

Internal WHS systems

The scope of the DPTI whole of department Safety Management System (**SMS**) is to:

- Ensure compliance with Work Health and Safety (**WHS**) legislation
- Provide a framework to minimise WHS risks in order to maintain safe and healthy workplaces
- Achieve a consistent approach to safety across all our core businesses and operations
- Facilitate learning opportunities and promote a positive safety culture

The DPTI Safety Section is currently reviewing, updating and consolidating safety documentation across DPTI. It is anticipated this will help minimise confusion, encourage worker involvement and engagement and ensure accessibility to consistent and current safety information. The SMS review will be finalised in Q1 2019 and will implement applicable elements of AS4801 and AS/NZS ISO 45001.

DPTI-Facilities Services has controls to ensure risks and hazards are identified and recorded by the FMSP or sub-contractor for individual tasks.

1.9 Detail the level of auditing currently undertaken on the work, health and safety systems referred to in term 1.8, including compliance audits and audit frequency

External WHS audits

Annually	As part of the audit framework AGFMA engage an independent auditor to review the Work Health Safety Systems
SWMS	AGFMA has undertaken a review of the standard Spotless Safe Work Management Systems against DPTI's WHS policies and procedures. The frequency of review will be subject to changes in both WHS systems.

Internal WHS audit

DPTI has an Internal Audit schedule which is conducted across all areas of DPTI (not limited to AGFMA and Facilities Services) by way of 3 audits per month and incorporates elements of the SMS. Three year auditing plans are developed according to the most appropriate and high risk activity areas. To date, 50 sites have been identified in the audit plan up to the end of 2019 (6 sites relate to Facilities Services). The 2019 audit schedule as of 22 January 2019 and a copy of an Internal Audit report template is **attached**.

The programming of audits and corrective actions arising from audits is managed on DPTI's Share Point platform.

DPTI also submits to regular auditing by the Auditor-General, the independent auditor of the South Australian public sector. Audits by the Auditor-General cover financial reports, financial accountability, performance, risk management and legal compliance.

Other audits

AGFMA has an audit and expanded audit program that includes financial, governance, quality and compliance audits relating to the delivery of services by the FMSP. The audit program links into Key Performance Indicators to monitor the FMSP performance.

DPTI also submits to regular auditing by the Auditor-General, the independent auditor of the South Australian public sector. Audits by the Auditor-General cover financial reports, financial accountability, performance, risk management and legal compliance.

1.10 Detail the consultation undertaken or proposed to be undertaken, in relation to this undertaking

(This should reflect any consultation in developing the undertaking e.g. workers, managers, safety committees, injured worker/s external consultants)

The Chief Executive of DPTI has consulted with the AGFMA and Commercial and Legal sections of DPTI in preparing this undertaking. The commitments within are designed to engage with and deliver benefits to AGFMA and the South Australian Government as a whole. In this regard consultation has been undertaken with the AFGMA Facilities

Management Governance Group (FMGG) to ensure that roles and responsibilities across Government are clear. Asset owners have primary responsibility for work health and safety and DPTI has the role of managing service provision in relation to these assets.

1.11 Detail the rectifications to the workplace or work practices made as a result of the alleged contravention and the enforcement notices issued

(This should reflect measures taken to rectify the contravention, post incident)

SAPOL were responsible for the Echunga Training Reserve workplace at all relevant times and therefore undertook a number of corrective actions to rectify deficiencies in relation to their asset management responsibilities. DPTI Facilities Management were responsible for management of service provision and have undertaken a number of corrective actions in that regard.

Following the incident DPTI took several steps to provide necessary education and conduct audits of the data currently held by Government Agencies in relation to facilities management. DPTI provided certified training on asset management and briefings to Agency representatives on work health safety roles and responsibilities, and undertook audits of SAPOL sites to identify and rectify any gaps in the recorded data as against the actual plant and equipment on site.

DPTI have also reviewed their Technical Data Sheets, and committed to continue its ongoing practice of external reviews of these guides for high risk plant to ensure compliance with legislation and identify potential risks. Material published by DPTI on their website in relation to the AGFMA has been updated for clarity of roles and responsibilities. Further detail on each of these rectifications is as follows:

1.11.1. Asset Management Training

On 3 December 2018, DPTI's AGFMA Section hosted a one-day training event on "Understanding of Asset Management Foundation – ISO51000".

The training was delivered by The Asset Management Academy, with AGFMA coordinating the program and providing the training facilities.

The individual Agencies paid for attendance by their employees at \$175 per person. There were 50 attendees with 17 undertaking the Institute of Asset Management exam to obtain the qualification IAM 'Foundation Award' Course.

Total amount spent on auditing \$8,750

1.11.2. On-site audits of SAPOL sites

SAPOL were responsible for the Echunga Training Reserve workplace at all relevant times and as a result DPTI arranged audits of 44 SAPOL sites to understand the accuracy between actual on-site plant and equipment/building fabric data with what is recorded in SAMIS and the FMSP Preventative Maintenance Schedules (PMS). Initially, the AGFMA Section of DPTI

managed audits of 4 SAPOL sites that were selected by SAPOL. These audits were completed in June 2017.

The initial sample audits managed by the AGFMA Section identified that gaps existed between what was actually on site and what appeared in SAMIS or the FMSP PMS.

Based on the findings from the initial audits, SAPOL selected a further 40 sites (with one later removed due to imminent site disposal) to be audited which were arranged and managed by their respective FMSP. Of the total 43 sites audited, 21 were in Spotless regions and 22 were in DPTI-Facilities Services regions.

The majority of critical plant and equipment was captured. The results of the on-site audits resulted in both FMSPs updating their PMS to ensure that all critical plant and equipment was captured, and across all Agency portfolios, DPTI has placed a greater emphasis on on-site inspections by the FMSP to ensure high risk plant and equipment had not been missed from PMS.

DPTI-AGFMA Section engaged Architects Inc to carry out the initial 4 audits.

The cost of the initial four audits was as follows:

Christies Beach Police Station - \$4,268

Sturt Police Station - \$4,433

The Parks Police Complex - \$3,608

Elizabeth Police Station - \$3,445

DPTI-Facilities Services engaged SurvCad and WSP to carry out the further 19 on-site audits at an approximate cost of \$70,000.

Spotless undertook 21 audits undertaken by external consultants and internal resources. The cost of these audits was estimated at \$50,000.

Internal audit for PIRSA sites cost \$12,750 (DPTI internal cost)

Total amount spent on auditing \$ 148,504

1.11.3. WHS Briefings

DPTI engaged Deloitte to provide a series of Work Health and Safety briefings to the Agencies involved in the Facilities Management Governance Group, which includes DPTI, SAPOL, SA Health, Department of Education, Courts Administration Authority, Department of Correctional Services, Primary Industries South Australia, Department of Premier and Cabinet/Department of Treasury and Finance, Department of Child Protection, Department of Human Services, SAFECOM, Department of Environment and Water and TAFE SA.

Briefings occurred on 10 August 2017, 9 February 2017 and 3 May 2017. The presentation to the group was summarised in an article in the AGFMA Newsletter published on 9 August 2017 and distributed to a broad range of government Agency staff and managers. **The total cost of engaging Deloitte, which also included their development of a Contractor Management Framework, was \$37,500.**

A copy of the presentation, which focussed on Managing the Safety of Contract Workers, is **attached**.

1.11.3.1 Other forums

DPTI have undertaken a proactive approach across government Agencies in the development of a specific Contractor Safety Management roles and responsibilities Guideline that includes roles and responsibilities in AGFMA arrangements. This was discussed with the cross government WHS managers group, a whole of government meeting of Work Health Safety Managers, quarterly meeting and co-ordinated by the Office of the Commissioner for Public Sector Employment, from 11 September 2017 and was included as an agenda item of the group from 2017 into 2018. Stakeholder meetings have been held with key stakeholders including SAPOL and feedback considered in the update to the document which was published on 6 February 2018. A copy of the Contractor Safety Management Roles and Responsibilities guideline was forwarded to all workgroup members and included in the minutes of the meeting.

DPTI also presented the DPTI Contractor Safety Management Guideline, which included a framework and tools for managing contractors, to the Work Health and Safety Manager forum on 11 December 2018 and distributed the approved document to all workgroup members.

1.11.3.2 Safety Notices

On a regular basis DPTI share Incident and Hazard reporting between FMSP's. The intention is to improve the reporting of safety issues generally for the sector, improve and increase communication, avoid recurrence of incidents, and ensure the outcomes of incidents are treated uniformly with consistent messages sent to sub-contractors and Agencies. This initiative will also contribute a benefit directly to workers.

1.11.4. Service Level Guidelines

In 2017, the Service Level Guidelines were issued to all agencies within the scope of the Across Government Facilities Management Arrangement. The [Service Level Guidelines \[http://www.dpti.sa.gov.au/data/assets/pdf_file/0019/413164/Facilities_Management_Services_Arrangements_-_Service_Level_Guidelines.pdf\]](http://www.dpti.sa.gov.au/data/assets/pdf_file/0019/413164/Facilities_Management_Services_Arrangements_-_Service_Level_Guidelines.pdf) include roles and responsibilities of parties in the arrangement and Contractor Safety Management Guideline.

1.11.5. Internal Review of Technical Data Sheets

Technical Data Sheets (TDS) outline the preventative maintenance servicing activities and frequencies for specific building fabric elements, plant or equipment for application at state Agency sites and include facilities such as hospitals, medical centres, schools, prisons, art centres, training complexes, and accommodation and administration buildings. There are over 1500 TDS in the DPTI reference set. The full list can be found at www.dpti.sa.gov.au/facilities_management/agency_client_services/technical_data_schedule.

The preference is for the TDS to be generic for maximum coverage however, for specialised elements, plant or equipment a specific TDS is prepared. The TDS' are not exhaustive in detail and the expectation is that the person undertaking the service has the competency (including satisfactory knowledge of legislation, Australian Standards and Codes applicable

to that service), level of training, registration or license appropriate to the service. The TDS' are listed in a database spreadsheet for the facility managers, and, for each TDS line item, key information is provided. This includes: the category, applicable legislation, frequencies, any associated requirements e.g. registration or inspections, and explanatory notes. Facilities Management Service Providers work with the agency representatives as the asset owner to provide advice, support and deliver services in line with Agency agreed levels/funding allocations.

The generic TDS for the freezer involved in the incident, ME89, provides details of activities and frequencies for the servicing of Refrigeration Plant – Hard / Cool / Freezer Room (its name has been updated to ME89 Coolroom / Freezer Room). A number of changes have been made to this TDS which have been shared with the FMSP. It is available to Agency clients on the AGFMA website.

ME89 is part of a suite of 9 TDS related to cool rooms, freezers and controlled environment rooms. The entire suite has been reviewed in similar light to ME89 and updated. Comparative risk profiles have been considered too, e.g. temperatures vary significantly across the different types of plant. TDS ME89B, previously written for a PIRSA site for a shipping container freezer, has also been upgraded to be generic. This has been communicated to the FMSP's including the high risk nature of shipping container freezers.

The purpose of the changes to TDS ME89 is to ensure that the maintenance activities and their frequencies remain appropriate for the plant in question and in line with industry practices and legislation.

TDS ME89 has been updated with a framework of activities for safety related elements. The TDS in place at the time of the incident (Last Amendment Date 5 June 2014) had a cover-all requirement "*Check condition and operation of any 'locked in' alarms and escapes*" on a 6-monthly basis. Subsequently, there have been several amended versions with content changes (published dated 12 October 2016 and 10 October 2018). The current version (published on 19 December 2018) has formatting improvements only. The content amendments since the 5 June 2014 version include (non-exhaustive):

- additional room fabric/structural condition checks
- additional hazard checks
- more detail on the door and hardware checks
- temperature alarm and thermostat checks; and
- a framework of activities for safety related elements e.g. room lighting including 'best practice' (over and above legislation) elements if applicable to that room.
- additional informative notes added to the Special Comments, including:
 - the various types of 'High Risk' that may be applicable to that installation
 - the need for the activities and frequencies to be adjusted to suit the site conditions, application, performance requirements and the specific manufacturer's recommendations.

- applicable 'core' legislation and standards, now including the Minister's Specification SA 76 (2015 edition). Previous editions did not reference 'cool room, Strongrooms etc.'

The current version [www.st.dtei.sa.gov.au/tds/data/TS_ME89.pdf] includes the checking of the condition of all door hardware attached, including hinges, closers and seals, and requires operation of the internal safety release whilst accompanied by a worker standing outside the door. This new requirement ensures that the operation of the internal safety release on such a freezer is functionally tested, rather than just observed to be working when the door is not fully closed. No changes have been made to the frequency of checks, just the components to be checked.

A total estimated time of 390 hours has been allocated to this task, which amounts to approximately **\$33,150**.

1.11.6. External Review of TDS to confirm accuracy and compliance

DPTI has engaged external consultants to review packages of a suite of TDS's identified as high risk or complex plant in order to provide:

1. an independent check of the accuracy and appropriateness of the TDS reference set;
2. that the reviewed TDS are compliant with legislation;
3. higher confidence that risks are being considered and assessments are current; and
4. advice where potential savings may be found.

Three packages of reviews have taken place on July 2017, September 2017 and April 2018, with each package including approximately 30 TDS.

Trento Fuller Building Certifiers & Consultants, Trinamic Consultants (formerly Gascoigne Consultants) and System Solutions Engineering have undertaken the external reviews and have recommended various changes to the TDS. The review of the consultants recommendations for package 1 and 2 have been reviewed and updated where appropriate. The review of the recommendations from package 3 is underway. All updated TDS's have been shared with the FMSP's and are available to the Agencies via the website.

TDS ME89 was included in the first TDS package review undertaken by Trento Fuller Building Certifiers & Consultants in collaboration with System Solutions Engineering for specialist engineering expertise. The review did not recommend any changes to the ME89 at the time.

The Facilities Management Governance Group (**FMGG**) have recommended further TDS reviews and it is intended that TDS Package Reviews 4 and 5 will take place in 2019.

The cost to review a single TDS is approximately \$800 to \$1000. DPTI estimate that the total cost of independent review of the three packages spent to date is **\$90,000**. This figure does not include the internal resources used to review the advice, manage changes and update the TDS.

1.11.7. New published material

In an effort to increase awareness of role responsibilities within AGFMA, DPTI-Facilities Services has updated the material it publishes in relation to the AGFMA and the provision of facilities services. This material is used by FM Providers and Agencies to understand their respective roles.

AGFMA – Annual Inspection, Testing and Audit Plan Guidance Note

The purpose of this note is to provide guidance to the FM Provider and the Agency in regard to preparing the Annual Inspection, Testing and Audit Plan (**Annual Plan**), in particular in determining which Designated Locations and Nominated Assets are subject to a physical inspection as an input into the Annual Plan. Given the number of sites across the state, physical annual inspections are not practical and the guide establishes a risk based approach which prioritises physical site inspections over a 1, 2 or 3 year site inspection period. This is intended to operate in addition to agencies' (i.e. SAPOL) own audits, risk assessments and hazard identification processes undertaken to keep site plant and equipment records updated. The outcome is that the efforts of limited resources can be focussed on the sites that present the highest levels of risk.

AGFMA in scope/out of scope building maintenance guide (dated 31 June 2017)

The purpose of this paper is to provide guidance on what plant and equipment items should be maintained and/or repaired through the AGFMA. The publication of the guide ensures that all items receive the most appropriate level of servicing and supports efforts to ensure a safe place of work.

Guide – AGFMA – Issue Resolution

This guide has been prepared to assist Agencies to resolve issues that arise in relation to the AGFMA before they become a formal dispute. It provides a procedure to follow depending on the type of issues that arises.

All of these documents are available on the AGFMA website:

www.dpti.sa.gov.au/facilities_management.

1.11.8 High risk plant audits

1.11.8.1 Cool Rooms

Site inspections were conducted by AGFMA at PIRSA sites that had a high number of cool rooms or controlled temperature environments such as the Plant Research Centre at Urrbrae, SARDI West Beach and North Arm Port Adelaide. Advice was provided to PIRSA and the FMSP of a range of risks relating to the plant and equipment. Subsequently PIRSA engaged an independent auditor through DPTI-Facilities Services to provide a Compliance Checklist for all their Cold Storage Facilities. This report was completed in September 2017. PIRSA have progressed implementation of retrofitting this plant and equipment to address the risks identified. These works are being delivered by the relevant FMSP.

Cool room risks was discussed with Agencies at the SAMIS User Group meeting on 17 July 2017.

In 2018, Spotless undertook internal gap analysis of cool rooms ensuring the 259 cool rooms were accounted for, under a maintenance plan and analysis of the condition of the plant. The results were provided to AGFMA on 18 October 2018.

1.11.8.2 Cooling Towers

As part of the Expanded Audit Framework on high risk plant, AGFMA has shared the audit findings of cooling towers with industry stakeholders. The action is to ensure that stakeholder consultation is taking place and is effective, and to ensure all Agencies are educated on the findings of the audits, which assessed the compliance and legislative risks and work health safety and that they are aware of their obligation as building owner.

The results of the High Risk Plant: Cooling Tower audit were shared with Agencies at a workshop held on 8 November 2017 presented by expert consultant Roz White from Auditing Australia and Michaela Hobby, Manager Health Protection Programs. The presentations from the workshop can be provided upon request.

The results of the Cooling Tower audits were shared with Spotless and Facilities Services, the FMGG, and with relevant affected Agencies.

Total amount spent on high risk audits \$44,000

Total amount spent on rectifications \$ 361,904

SECTION 2: GENERAL TERMS

The person acknowledges and commits to the general terms set forth in the sub-terms below.

2.1 Acknowledgement that the regulator alleges a contravention occurred as detailed in term 1.2

It is acknowledged that SafeWork SA has alleged that DPTI has contravened sections 21 and 32 of the WHS Act.

2.2 Statement of regret that the alleged contravention occurred and the reasons the person considers this undertaking is a more appropriate response to the alleged contravention than a court imposed sanction.

(This should not include an admission of guilt)

Whilst SAPOL were responsible for the Echunga Training Reserve workplace at all relevant times and have pleaded guilty, DPTI regrets that the incident occurred and has taken, and will continue to take, such steps as are reasonably practicable to ensure that such an incident or a similar incident does not occur again.

2.3 Statement of commitment that the behaviour, activities and other factors which caused or led to the alleged contravention has ceased and will not reoccur

DPTI is committed to ongoing compliance with all its obligations under the Act.

2.4 Acknowledgment of the guidelines published by the regulator for the acceptance of an undertaking

I have read and understood:

Guidelines for the acceptance of an enforceable undertaking

Version: 1 Dated: June 2018

2.5 Acknowledgement that this undertaking may be published and publicised

2.5.1 DPTI acknowledges that the undertaking may be published on the SafeWork SA website and referenced in SafeWork SA material.

2.5.2 DPTI acknowledges that the undertaking may be publicised in newspapers.

2.6 Statement of the person's ability to comply with the terms of this undertaking and meet the projected costs of the activities

The Crown in right of the State of South Australia has the financial ability to comply with the terms of this undertaking.

2.7 Statement regarding person's relationship with any corporations, officers, employees, contractors, proposed beneficiaries of donations or scholarship or other recipient of financial benefit contained in this undertaking

DPTI confirm that there are no relationships with any corporations, officers, employees, contractors or proposed beneficiaries of donations or scholarships or other recipient of financial benefit contained in this undertaking.

2.8 Statement regarding Intellectual Property Licence

DPTI, grants SafeWork SA a permanent, irrevocable, royalty-free, world-wide, non-exclusive licence to use, reproduce, publish, distribute, electronically transmit, electronically distribute, adapt and modify any materials developed as a result of this undertaking.

2.9 Acknowledgement that the person may be required to provide a statutory declaration

SafeWork SA has requested a statutory declaration outlining details of any prior work health and safety convictions¹, subject to any local legal constraints such as spent conviction legislation, or findings of guilt under work health and safety legislation or work health and safety related legislation?

YES NO

The statutory declaration is attached (if applicable)

YES NO

2.10 Statement of commitment from the person to participate constructively in all compliance monitoring activities for this undertaking

- 2.10.1** It is acknowledged that the regulator will conduct compliance monitoring to ensure compliance with the terms of this undertaking.
- 2.10.2** Cooperation will be given to allow the regulator's officers to assess compliance including giving access to relevant material (evidence of compliance).
- 2.10.3** It is acknowledged that the regulator may initiate additional compliance inspections as considered necessary at the regulator's expense.
- 2.10.4** A progress report, together with supporting evidence, in relation to compliance with each of the enforceable terms of this undertaking will be provided to the regulator at three monthly intervals during the course of the undertaking.

2.11 A commitment by the person to perform activities that will ensure the ongoing effective management of risks to health and safety in the future conduct of its business or undertaking

(Detail the management strategies to be employed that will satisfy and demonstrate to officer/s of the person that this commitment is being met)

DPTI is committed to discharging its obligations under the Act and this commitment is reinforced by:

1. the rectifications referred to in section 1.11 above; and
2. the undertakings made within this document.

2.12 A commitment regarding linking the promotion of benefits by the person to this undertaking

(Activities that may promote or benefit the person need to link the activity/benefit to this undertaking)

¹ Subject to any local legal constraints such as spent conviction legislation

DPTI is committed to promoting the benefits contained within this undertaking and to the undertaking itself.

SECTION 3: ENFORCEABLE TERMS

The person acknowledges all activities set forth in the enforceable terms below must be auditable and include a date for completion and a minimum cost for each activity.

The person commits to performing the activities below diligently, competently and by the respective completion date.

3.1 A commitment to disseminate information about this undertaking to workers, and other relevant parties, and in the annual report (if applicable)

(This may include dissemination to work health and safety representatives and in the annual report, if applicable)

Dissemination will be achieved by doing the following:

1. The DPTI Chief Executive will send an email to all employees in DPTI informing staff of the executed enforceable undertaking, explaining the commitment of DPTI to health and safety in the workplace and a reminder that this enforceable undertaking is for everyone to ensure safety is always front of mind.
2. The enforceable undertaking will be made available on DPTI's Intranet and a link will be provided in the above email.

Dissemination will occur by: within 90 days of this Undertaking coming into effect.

3.2 Activities to be undertaken to promote the objects of the *Work Health and Safety Act 2012 (SA)* that will deliver benefits for workers/others

Activities	Minimum cost	Timeframe
3.2.1 DPTI AGFMA Section will prepare and run a "Risk & Compliance Management Course) over 2 days for key Facilities Management Operators at all Agencies across SA. The content of the training will be informed by the outcome of the review referred to in 3.3.1.	\$345,000 (\$1,380 x 250 attendees)	12 months from acceptance
3.2.3 DPTI has committed to expanding their Audit Framework to include additional work health and safety related audits, and assurance of safe places of work. An expanded Audit Framework will improve safety outcomes by focussing efforts on specific hazards and emerging risks in the workplace. In 2017-2018, DPTI completed 5 of 12 high priority audits which included <ul style="list-style-type: none"> • High Risk Plant: 	\$80,000	2 years from acceptance

	<p>Cooling Tower audit The other audits included:</p> <ul style="list-style-type: none"> • Subcontractor management • WHS System audit • Technical Data Sheet audit • Claims validation process audit • Travel and accommodation cost audit <p>DPTI will complete the outstanding 7 high priority audits within 2 years from acceptance of this undertaking, which will include:</p> <ul style="list-style-type: none"> • Work standards audit • Preventative maintenance audit • Preventative maintenance plans/budgets and schedules audit • Adjusted jobs audit • Job duration audit • Physical inspection and comparison of site based equipment to FM Preventative Maintenance • Unit cost comparison – Preventative Maintenance (Regional focus) 		
3.2.4	<p>DPTI will send the officer who is responsible for reviewing and managing TDS reviews to the National Construction Code Seminar in March 2019. This seminar and other relevant professional development will ensure that the technical expert relied upon by DPTI is trained in contemporary building standards and codes. DPTI will ensure that the officer maintains comprehensive up to date knowledge of all relevant contemporary standards including but not limited to TDS, relevant codes and standards.</p>	\$160 (plus other training as applicable)	Training within 6 months of acceptance, and ongoing
Total minimum cost of benefits for workers/others		\$ 425,160	

3.3 Activities to be undertaken to promote the objects of the *Work Health and Safety Act 2012 (SA)* that will deliver benefits for industry

Activities	Minimum cost	Timeframe
<p>3.3.1</p>	<p>DPTI will engage an external consultant to undertake an across-government review of asset management and facilities maintenance to provide recommendations on an effective system for risk assessment and management to ensure that there is certainty and clarity in relation to the responsibilities of both DPTI and all Government Agencies in meeting their risk and safety responsibilities. The review will investigate the level of understanding across government that DPTI Facilities Management are responsible for management of service provision and agencies have primary responsibility for management of assets and recommend methods to communicate responsibilities in this area more clearly. DPTI will consult with SafeWork SA as the review progresses as a key stakeholder.</p>	<p>\$200,000</p> <p>12 months from acceptance</p>
<p>3.3.2</p>	<p>DPTI will prepare a report on the outcome of the external review at 3.3.1 above and provide it to the Government's Senior Management Council for implementation across all Agencies.</p>	<p>\$1000</p> <p>Within 3 months of the review in 3.3.1 being finalised</p>
<p>3.3.3</p>	<p>DPTI will respond to all findings and recommendations of the above report.</p>	<p>\$5000</p> <p>Within 6 months of the report in 3.3.1 being published</p>
<p>3.3.4</p>	<p>DPTI will undertake to participate in a forum or presentation during SafeWork Month 2019 or to participate in a presentation at another time agreed with SafeWork SA. At the presentation, DPTI will have a representative speak for about 15 minutes and sit on an EU Panel discussion as required in relation to this enforceable undertaking and the importance of emergency exits and door releases. DPTI commits to consult with SafeWork SA once other opportunities have been identified within SafeWork Month 2019.</p>	<p>\$5000</p> <p>12 months from acceptance</p>
<p>3.3.5</p>	<p>DPTI will share the results of the Expanded Audit Framework audits (referred to at 3.2.3 above) with government and industry stakeholders to ensure that stakeholder consultation is taking place and is effective, and to ensure all agencies including</p>	<p>nil</p> <p>6 months from completion of audits listed in the Expanded Audit Framework</p>

	SafeWork SA are educated on the findings of the audits. This has already commenced, with the results of the High Risk Plant: Cooling Tower audit see 1.11.8.2		
Total minimum cost of benefits for industry		\$ 211,000	

3.4 Activities to be undertaken to promote the objects of the *Work Health and Safety Act 2012 (SA)* that will deliver benefits for community

Activities	Minimum cost	Timeframe
3.4.1 Presentation to TAFE or school students on a topic to be agreed in conjunction with SafeWork SA, to be run either in conjunction with SafeWork Month activities, or separately.	\$1000	24 months from acceptance
3.4.2 DPTI will sponsor an annual Award/Scholarship to be given to a TAFE student to allow them to undertake a hospitality course including a strong safety focus.	\$10 000	6 months from acceptance
3.4.3 As part of its undergraduate vacation employment program DPTI will provide a place for a safety related undergraduate to undertake safety related projects within the AGFMA section.	\$10 000	12 months from acceptance
Total minimum cost of benefits for the community		\$ 21,000

3.5 Agreement to pay the regulator's costs

- 3.5.1** Agreement is given to paying the regulator's costs associated with this undertaking, as itemised below, and it is acknowledged that payment is due 30 days after receipt of the regulator's invoice:

Recoverable costs	Amount
Investigation, legal & administrative costs associated with the alleged contravention & proposed undertaking	\$ 20,000
Total Amount	\$ 20,000

3.6 Minimum spend

3.6.1 DPTI acknowledges the minimum spend for this undertaking will comprise of the:

(The amounts below should correspond with total amounts from terms 3.2–3.5 above)

Estimated total value of	Minimum spend
Benefits to workers/others	\$ 425,160
Benefits to industry	\$ 211,000
Benefits to community	\$ 21,000
Regulator costs	\$ 20,000
Estimated total minimum spend for the undertaking	\$ 677,160

3.6.2 DPTI agrees to spend any residual amount arising from the total minimum spend value not being met. Agreement on how to spend this residual will be sought from the regulator.

3.7 A commitment to establish and maintain (or maintain if a system already exists) a work, health and safety management system (WHSMS)

DPTI is committed to meeting all legal requirements and responsibilities in the WHSMS area.

3.8 A commitment to ensure the WHSMS is audited by third party auditors

DPTI:

1. Commits to undergoing an external audit of the AGFMA section by accredited third party auditors within 3 months of signing this undertaking.
2. Commits to providing a copy of the Enforceable Undertakings – Information for Auditors of OHSMS fact sheet to the auditor.

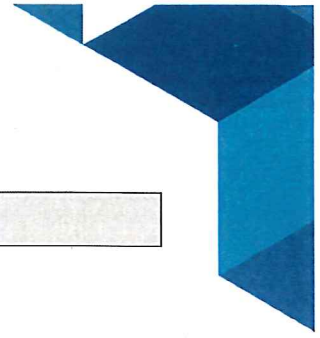
3.9 A commitment to provide a copy of each finalised WHSMS audit report to the regulator

3.9.1 It is acknowledged that audit reports received from the auditor will be sent to the regulator within 30 days of the audit along with a letter certifying that the report has not been altered from the copy provided to the person by the auditor.

- 3.9.2 It is acknowledged that within 30 days of receipt of the auditor's written report, the regulator will be advised of the intended action in addressing each of the report's recommendations.


3.10 A commitment to implement the recommendations from these audits (unless otherwise negotiated with the regulator)

- 3.10.1 The recommendations resulting from the WHSMS audit will be fully implemented within six months of receiving the audit report, unless the regulator offers a variation of the undertaking due to the actions being unreasonable.



SECTION 4: OFFER OF UNDERTAKING

I offer this undertaking and commit to the terms herein.

Signed: 
[Person]


TONY BRAXTON-SMITH
[Print name]

CHIEF EXECUTIVE
[Position]

Dated at 50 FUNNERS STREET this 22nd day of MARCH, 2019
ADELAIDE

OR

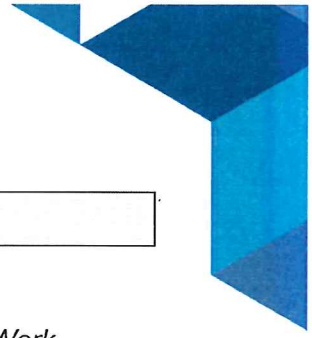
As a duly authorised person of Click or tap here to enter person I offer this undertaking and commit Click or tap here to enter person to the terms herein.

Signed: 
[Duly Authorised Person]

MARTYN CAMPBELL
[Print name]

EXECUTIVE DIRECTOR, SAFEWORK SA
[Position]

Dated at 33, RICHMOND RD this 25th day of MARCH, 2019
KESWICK
SA, 5035



SECTION 5: ACCEPTANCE OF UNDERTAKING

I accept this undertaking as an enforceable undertaking under section 216 of the *Work Health and Safety Act 2012* (SA).

Signed:



[Person]

MARTYN CAMPBELL

[Print name]

EXECUTIVE DIRECTOR

[Position]

Dated at 33, Richmond Rd this 25 day of MARCH, 2019.
Keswick, SA 5032