

MEMORANDUM OF UNDERSTANDING

between

The Department of Emergency Services

and

The Local Government Association of Queensland

regarding

**Arrangements for the Shared Administration of the
Dangerous Goods Safety Management Act**

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PREMABLE/CONTEXT

The following are the agreed outcomes of discussions between the Department of Emergency Services (DES) on behalf of the State and the Local Government Association of Queensland (LGAQ) on behalf of Local Government in relation to the roles, responsibilities and interests of both spheres of government, in providing for the safe storage and handling of flammable and combustible liquids and the control of major hazard facilities.

The LGAQ endorses the devolution and delegation process and will actively encourage its members to ensure that due diligence and a high level of consistency are exercised by member councils in administering their responsibilities.

In broad terms, DES is accepted as the agency responsible for maintaining the legislation and will provide training, advice and technical support to facilitate its administration.

Local Government is accepted as the agency responsible for the licensing of flammable and combustible liquids storage sites and the enforcement of licence conditions.

For devolved matters, Local Government will be solely responsible for enforcement.

For delegated matters, Local Government will have shared responsibility for enforcement.

For devolved and delegated matters, Local Government officers will have the relevant powers of an Authorised Officer under the DGSM Act.

1.0 Introduction

For sites storing or handling flammable or combustible liquids, this Memorandum of Understanding (MoU) concerns arrangements for the shared administration of the *Dangerous Goods Safety Management Act 2001 (DGSM Act)* under devolved authority.

In broad terms, it confirms primary carriage of flammable and combustible liquids licensing and the enforcement of licence conditions by Local Government.

For major hazard facilities (MHFs), this MoU concerns arrangements for the shared administration of the DGSM Act, utilising a team approach, across government.

2.0 Purpose

This MoU is made for the purpose of facilitating:

- a co-operative approach between the parties for the shared administration of the DGSM Act;
- an understanding of the anticipated roles, responsibilities and obligations of the parties within that context;
- the cost-effective use of resources devoted to the enforcement of regulatory requirements arising under the DGSM Act; and
- the effective integration of operational demands arising under the DGSM Act with the ongoing operations of Local Government.

3.0 Definitions

“ADG Code” means the Australian Code for the Transport of Dangerous Goods by Road and Rail, as in force from time to time.

An “Authorised Officer” is a person appointed as an authorised officer under the DGSM Act.

A “combustible liquid” is one defined as such under the Australian Standard for the Storage and Handling of Flammable and Combustible Liquids (AS1940).

“Dangerous goods” are goods listed as such or as goods too dangerous to be transported under the ADG Code.

A “dangerous goods location” (DGL) is a place or site where stated dangerous goods or combustible liquids are stored or handled, or are likely to be stored or handled, in quantities that exceed thresholds prescribed under the DGSM Regulation.

The “Dangerous Goods Working Group” (DGWG) is a committee of dangerous goods specialists drawn from government, industry and community sectors for the purpose of developing, implementing and improving dangerous goods safety management legislation. LGAQ is a member of the Committee.

A “facility” is a place where hazardous materials are, or are to be, stored or handled.

A “flammable liquid” is one defined as such under the Australian Standard for the Storage and Handling of Flammable and Combustible Liquids (AS1940-1993).

A hazardous material is defined in the Dangerous Goods Safety Management Act 2001 as:

- "12.(1) A "**hazardous material**" is a substance with potential to cause harm to persons, property or the environment because of 1 or more of the following—
1. the chemical properties of the substance;
 2. the physical properties of the substance;
 3. the biological properties of the substance.
- (2) Without limiting subsection (1), all dangerous goods, combustible liquids and chemicals are hazardous materials."
- (Note: the Act gives 'chemicals' the meaning given in the Environmental Protection Regulation 1998, schedule 9.)

“Local Government” means a Local Government body established under the *Local Government Act 1993*, the *City of Brisbane Act 1924*, the *Community Services (Aborigines) Act 1984*, the *Community Services (Torres Strait) Act 1984* and the *Aboriginal Land Act 1991*.

A “major accident” is a sudden occurrence (eg fire, explosion or emission) leading to serious danger or serious harm to persons, property or the environment.

A “major hazard facility” (MHF) is a facility that is classified as such by the chief executive under Part 4 of the DGSM Act.

“The parties” are the LGAQ on behalf of its members and the Chemical Hazards and Emergency Management (CHEM) Unit of DES.

A “place” includes land, a building, another structure or installation, a road, a vehicle, a tent or marquee, or any other place (even if the place is in a natural or undeveloped state) whether the place is on or under water or on the bed of any waters.

“State” means the State of Queensland.

4.0 Acknowledgements

The parties to this MoU acknowledge that:

- The objective of the DGSM Act is to protect the safety of persons and to prevent harm to property and the environment from hazardous materials.
- The Department of Emergency Services (DES) is recognised as:
 - a provider of emergency management services (emergency management includes prevention, preparedness, response and recovery) contributing to the safety, health and well being of the Queensland community;
 - the Queensland Government's Lead Agency for the Management of Hazardous Substances;
 - the facilitator of a whole-of-government approach to hazardous materials safety management and a shared approach to the administration of the DGSM Act; and
 - a source of expert technical advice with respect to hazardous materials safety management issues.
- Local Government is recognised as the sphere of government which is closest to the people and:
 - plays a vital role in educating, mobilising and responding to the public;
 - promotes public safety and sustainable development;
 - constructs, operates, and maintains economic, social and safety management infrastructure;
 - oversees planning processes;
 - establishes local safety management policies and regulations; and
 - assists in implementing national and state safety management policies.
- The policies, programs, plans and planning decisions of Local Government have a significant impact on safety management in Queensland, the related systems of which function within the context and framework of the State's land use planning system.
- To provide for effective safety outcomes, there is a need to distribute government responsibility through a delegation/devolution arrangement to ensure the relevant sections of the DGSM Act are administered by the most appropriate sphere of government.
- State or regional issues should be administered by the State, whereas Local Government should administer local issues and operations with localised public safety implications.

5.0 Policy Development and Consultation

DES recognises the need to consult with and support Local Government in its performance of devolved and delegated safety management responsibilities.

The parties agree that DES is responsible for the development of administrative arrangements and the co-ordination of hazardous materials management policy.

Policy Development

Both parties are members of the Inter-Departmental Hazardous Substances Co-ordinating Committee (IDHSCC) - a forum convened to give effect to a whole-of-government approach to the safe management of hazardous substances in Queensland.

Both parties are also members of the Dangerous Goods Working Group (DGWG) - a sub-committee of the IDHSCC which serves as a forum for the ongoing resolution of dangerous goods safety management issues relating to the DGSM Act and its implementation.

In keeping with the spirit of DGWG membership, each party will consult the other on hazardous materials issues which have the potential to impact on the other party's areas of interest and responsibility, within the broader context of the DGWG's ongoing business.

In particular, the CHEM Unit will consult LGAQ during the development or amendment of hazardous materials policy, standards, legislation and advisory papers which may impact on Local Government's role or activities.

Both parties will seek consensus as an outcome of their consultations.

Community Awareness

This agreement further recognises the importance of industry and community education and awareness in achieving quality safety outcomes. Accordingly, the parties will:

- co-operate in the development and implementation of a broad and ongoing education and awareness initiative aimed at informing industry, small business and the general community about the advent and implications of the DGSM Act, the DGSM Regulation and any administrative arrangements arrived at in support of the legislation; and
- utilise communication facilities, such as the LGAQ Net, and forums such as the DGWG, to exchange information and consult on dangerous goods issues affecting Local Government.

6.0 Jurisdictions

Joint Jurisdictions

Local Government jurisdictions overlap with those of Workplace Health and Safety Queensland (WHSQ) on any site that is subject to the Workplace Health and Safety Act (WH&S Act) and Flammable and Combustible Liquids licensing.

In such situations, the intended coverage for Local Government, acting under devolved authority, is confined to Part 4 of the DGSM Regulation – with respect to which the requirements of AS1940 provide a formula for compliance.

The intended coverage for WHSQ includes all matters relating to Class 3 Dangerous Goods - other than those that arise under Part 4 of the DGSM Regulation – which are devolved to Local Government – specifically, the requirements of AS1940 will be a matter for Local Governments only to interpret and enforce.

Joint Jurisdictions – Summary

The following table summarises each agency’s broad areas of responsibility for the storage and handling of dangerous goods and combustible liquids.

AREA OF APPLICATION		AGENCY RESPONSIBILITIES	
		Workplace Health and Safety Queensland	Local Government Under Devolved Authority
1.	Class 3 (Flammable Liquids) and Combustible Liquids – Part 4 of the DGSM Regulation (Conditions of Licence)	No jurisdiction under the DGSM Act.	Full jurisdiction under devolved DGSM authority.
2.	Class 3 (Flammable Liquids) and Combustible Liquids - Parts 2 and 3 of the DGSM Regulation (generic issues)	Partial jurisdiction under the DGSM Act limited to shared coverage of generic issues (eg placarding).	Partial jurisdiction under devolved DGSM authority limited to shared coverage of generic issues arising as conditions of licence.
<p>Note 1: Local Government has exclusive carriage of Part 4 of the DGSM Regulation.</p> <p>Note 2: Under Section 92 of the DGSM Regulation, a licensee must comply with the Act and Local Governments may set licence conditions that give effect to the Act – thus covering generic issues (eg placarding).</p> <p>Note 3: A situation of shared coverage may therefore exist with respect to generic issues - although the extent of shared coverage will depend on licence conditions.</p>			

A diagrammatic summary of jurisdictions for the regulation of dangerous goods and combustible liquids is set out in Appendix ‘A’, together with supporting text.

7.0 Delimitation of Jurisdictions

Not applicable for this MoU.

8.0 Roles and Responsibilities – Sites Storing or Handling Flammable or Combustible Liquids

This section establishes the roles and responsibilities of DES and Local Government in relation to the safe storage and handling of flammable or combustible liquids.

8.1 Enforcement

The parties agree that:

- Local Government will have sole carriage of all devolved matters, as prescribed by Regulation, including:
 - the licensing of sites storing flammable or combustible liquids; and
 - the enforcement of licence conditions pertaining to the safe storage of flammable and combustible liquids.
- The licence conditions adopted by an individual Local Government for the safe storage of flammable and combustible liquids must not conflict with the safety requirements set out in the DGSM Act.
- For Class 3 dangerous goods and combustible liquids, WHSQ shall have partial jurisdiction limited to shared coverage of generic issues (eg placarding) that arise under Parts 2 and 3 of the DGSM Regulation – under delegated DGSM authority.
- For its part, Local Government shall have partial jurisdiction limited to shared coverage of generic issues arising as conditions of licence - under devolved DGSM authority.
- At its discretion, an individual Local Government may also have shared carriage of those delegated requirements that a Local Government has chosen to seek carriage of under delegated authority, to which DES is agreeable.
- An individual Local Government's roles and responsibilities may be further extended or limited by mutual agreement.

Approach

- In applying the requirements of the DGSM Act, Local Government will also strive to ensure that:
 - officers authorised under the DGSM Act have the appropriate skills or experience, and participate in the training provided by DES;
 - consideration is given to the ongoing professional development of these officers in relation to dangerous goods safety management issues;

- where necessary, local laws, policies and administrative procedures are established to assist in effectively managing devolved functions; and
- while recognising geographical differences and specific local characteristics, relevant guidelines or administrative procedures are adopted to achieve consistency of administration across Local Government.

8.2 Delegated and Devolved Powers

The parties agree that:

Devolved Powers

- With the assent of the Governor in Council, the DGSM Act will devolve to Local Government all powers and functions, as prescribed by regulation, necessary to effect:
 - the licensing of sites storing flammable or combustible liquids; and
 - the enforcement of license conditions pertaining to sites storing flammable or combustible liquids.
- Specifically, the DGSM Act will, with the assent of the Governor in Council, devolve to Local Government Chief Executives the powers needed to facilitate the appointment of authorised officers - for matters devolved and prescribed by regulation.
- If an individual Local Government is unable to perform a devolved power or function, the individual Local Government shall inform DES and provide details of actions taken to that point. DES may then perform that power or function on behalf of an individual Local Government and recover costs from the individual Local Government concerned.

Delegated Powers

- At an individual Local Government's request DES will, where the Chief Executive is agreeable, delegate the powers and functions necessary to effect compliance with those requirements that a Local Government chooses to seek carriage of, under delegated authority, to which DES is agreeable.
- Specifically, DES will delegate to Local Government Chief Executives the powers needed to extend the powers of Authorised Officers to matters delegated.
- The instrument of delegation will be a written confirmation of specific powers signed by the chief executive of DES.
- Where a power or function has been delegated, Local Government shall administer and enforce the requirements of the DGSM Act according to the instrument of delegation and this MoU.

- Local Government shall have the right to request the revocation of a delegation by written advice to that effect, following consultation with DES.

8.3 Auditing, Monitoring and Inspection

The parties agree that:

- Local Government will provide experienced officers and the infrastructure (office accommodation, transport, communication, word-processing, consumables) necessary to support the ongoing audit and inspection of sites storing flammable or combustible liquids with a view to securing compliance with licence conditions (for devolved matters) and the requirements of the DGSM Act (for delegated matters).
- In doing so, individual Local Governments will integrate the operational demands of the DGSM Act with their ongoing operations. The nature, timing and extent of integration will be at Local Government's discretion, as will the extent of active coverage at any time.

8.4 Complaints

The parties agree that:

- In keeping with established practices, Local Government will provide for audit and inspection in response to incidents and complaints for matters devolved or delegated

8.5 Joint Jurisdiction Protocol

The parties agree that:

- Joint jurisdictions arise where:
 - flammable or combustible liquids are present in sufficient quantities on sites storing other classes of dangerous goods; or
 - an individual Local Government has elected to administer DGSM requirements under delegated authority.
- Local Government's partners in a joint jurisdiction would typically include the regional arm of Workplace Health and Safety Queensland (WHSQ) of the Department of Industrial Relations (DIR) and could also include the Gas or Explosives Inspectorates of the Department of Natural Resources, Mines and energy.
- As dangerous goods typically give rise to environmentally relevant activities, the regional arm of the Environmental Operations Division of the Environmental Protection Agency could also be present.

- To avoid duplication and to promote consistency in the pursuit of improved safety outcomes, the parties agree that the following protocols are to be observed in relation to auditing and monitoring sites which fall under joint jurisdiction:
 - where possible, the parties will encourage liaison between the agencies involved to ensure that auditing and monitoring of installations and facilities creates minimal disruption to operations;
 - this may involve attendance at the same time, or agreement that one agency can represent the other; and
 - any information arising in the course of an audit or any monitoring carried out by one agency which could be relevant to the other agency will be reported to the other agency through agreed channels.

8.6 Training

The parties agree that:

- DES will provide Local Government officers with comprehensive training in:
 - obligations established under the DGSM Act;
 - the powers of authorised officers; and
 - the application of AS1940.
- Where Local Government requests further responsibilities under delegated authority, and DES agrees, DES will provide the additional training needed by authorised officers to extend their powers to the matters delegated.
- DES training for Local Government (including content and location) will be prepared in consultation with LGAQ.
- DES will provide training materials and reference documentation for the use of Authorised Officers.

8.7 Technical Advice and Interpretation

The parties agree that:

- In relation to the technical aspects of dangerous goods safety management, the CHEM Unit will serve as a source of expert scientific advice and will assist Local Government in the resolution of technical issues.
- The CHEM Unit will also facilitate the resolution of disputes over interpretation of the DGSM Act and Regulation, by way of advice to Local Government.

- To facilitate Local Government access to technical advice, the CHEM Unit will provide and circulate a list of key contacts via the CHEM Unit homepage, the LGAQ net and this MoU (see Appendix 'B')

8.8 External Requests for Advice and Information

The parties agree that:

- Where practicable, DES will refer all external requests for information and advice relating to flammable and combustible liquids licences (including the local application of AS1940) to the relevant Local Government.
- Likewise, Local Government will refer to DES all requests for information and advice on matters relating to its co-ordinating role, such as the ongoing development of guidelines and legislation.
- DES will also respond to requests on the general operation of the DGSM Act and emergencies.

9.0 Roles and Responsibilities – Major Hazard Facilities (MHFs)

This section establishes the roles and responsibilities of DES and Local Government in providing for the control of Major Hazard Facilities (MHFs).

9.1 Enforcement

The parties agree that:

- DES will have primary carriage of all MHF enforcement matters, other than those relating to flammable and combustible liquids licenses, while Local Government will have a discretionary, supporting role.

9.2 Delegated Powers

The parties agree that:

- DES will be the lead administering agency for the control of MHFs (other than Class 1, Class 2.1, Class 6.2 and Class 7 MHFs) and will exercise all the relevant powers necessary for the pursuit of that role.

9.3 Auditing and Monitoring - MHF Team Approach

The parties agree that:

- Compliance with the MHF requirements of the DGSM Act will be promoted and evaluated by an audit team drawn from a range of participating agencies.
- The audit team leader will normally be drawn from the agency whose core responsibilities most closely match the nature of the facility in question.

- DES will typically co-ordinate and facilitate the activities of the audit team.
- Local Government will provide experienced officers whose task it will be to bring a Local Government perspective to the activities and deliberations of each MHF audit team. However, Local Government involvement in this regard will depend on:
 - the extent to which flammable and combustible liquids safety and Local Government planning issues have a bearing on the work of the audit team; and
 - the extent to which an individual Local Government wishes to be involved in an audit team's deliberations.
- MHF auditing and monitoring programs will be scheduled by the relevant MHF audit team, with the extent of an individual Local Government's involvement agreed on a case-by-case basis.

9.4 Training

The parties agree that:

- DES will provide audit team members with training and information on:
 - MHF obligations established under the DGSM Act;
 - the operational methods of MHF audit teams; and
 - the safety audit protocols that will be adopted.
- DES will provide training materials and reference documentation.
- The nature and extent of further training will depend on the extent of an individual Local Government's involvement, which could range from hands-on scrutiny and decision-making to being kept informed.

9.5 Advice and Information

The parties agree that:

Technical Advice and Interpretation

- MHF audit teams will foster compliance with the requirements of the DGSM Act by working with industry on MHF safety issues.
- While the CHEM Unit will be represented on each audit team, CHEM Unit staff will defer to the technical expertise of their counterparts, as appropriate, within a collegiate approach.
- The CHEM Unit will nevertheless be the leading authority for interpreting the DGSM Act and will serve as the "first port of call" for Local Government in this regard.

- For technical matters, the CHEM Unit will co-ordinate advice to Local Government from the most competent or appropriate quarter.

General Advice and Information

- Where practicable, Local Government will refer all external requests for information and advice relating to the control of MHFs to DES.
- Likewise, DES will refer to Local Government all requests for information and advice on matters relating to its role.

10.0 Incident Notification and Response

For the duration of this agreement, incident notifications will continue to be covered exclusively by existing State legislation and, where applicable, Local Government licence conditions. It follows that:

- Local Government will continue to respond to serious incidents in accordance with local policy;
- Incident notifications for all classes of dangerous goods and combustible liquids will continue to be covered by the *Workplace Health and Safety Act (WH&S Act)*;
- Class 1, Class 2.1, Class 6.2 and Class 7 Dangerous Goods will also be covered by specific State legislation; and
- Class 3 dangerous goods and combustible liquids will, in most cases, also be covered by Local Government flammable and combustible liquids licences, and licence conditions.

The Department of Industrial Relations (DIR) will therefore have an overlapping interest in Class 3 dangerous goods and combustible liquids incidents from an occupational health and safety standpoint.

As part of a separate agreement with DES, DIR will inform DES of any major accidents involving dangerous goods or combustible liquids. However, this does not imply that Local Government has an emergency response role.

Where the hazardous material was a flammable or combustible liquid, DES will share the information received with the relevant Local Government.

The incident will then be managed by Local Government, as happens now, with support from the CHEM Unit if requested.

11.0 Major Accidents and Investigations at MHFs

It is recognised that either or both parties will initially be made aware of major accidents at MHFs involving flammable or combustible liquids.

Principles

As an overarching principle, the parties recognise the need and importance of co-operation on matters of interest to each other and undertake to:

- Participate in and support a team approach to the investigation of major accidents.
- Keep each other fully and freely informed of reported major accidents in an expeditious manner.
- Take responsibility for passing on all relevant information when an investigation begins.
- Work together to ensure an outcome consistent with all relevant legislation.
- Inform the other when an election is made to relinquish involvement in an investigation.
- Strive to undertake all monitoring and investigative tasks with the maximum of efficiency and the least disruption to industry and the community.
- Consult, through appropriate channels, on the release of each other's information under Freedom of Information (FOI) legislation.

It is not envisaged that a Local Government will normally initiate or co-ordinate a major accident investigation.

Local Government Responsibilities

The parties agree that, with the assent of the Governor in Council, Local Governments will be responsible for the enforcement of licence conditions pertaining to sites storing flammable and combustible liquids.

In the event of an accident, this responsibility could require a Local Government to:

- undertake a site inspection;
- secure evidence;
- take statements; or
- compile an accident report.

In the event of a major accident involving flammable or combustible liquids at a MHF which is licensed, Local Governments may be called on, by the MHF Team Leader, to perform or assist with those functions for which they would normally have devolved responsibility.

CHEM Unit Responsibilities

The CHEM Unit provides a 24-hour emergency response service, which may place CHEM Unit staff at the scene of a flammable and combustible liquids accident ahead of a Local Government's Authorised Officer.

Under normal circumstances, CHEM Unit staff will support local Authorised Officers in their deliberations and investigations at an accident scene through the provision of advice on scientific and technical matters.

In the case of a major accident at a MHF, however, it is agreed that CHEM Unit staff will assume a co-ordinating role with Local Government support.

Where a team-based or joint investigation is undertaken, it shall be led by the most appropriate authority and, specifically, by a person mutually agreed between the parties as having the most experience in the type of accident in question.

Operational Protocols

To facilitate their respective roles and functions, the parties agree that:

- The regional arm of the agency (where applicable) receiving advice of a major accident is to provide notification to the other agency as soon as the accident is assessed as being of interest.
- For Local Government, an accident is of interest if it involves a site licensed for flammable or combustible liquids.
- For the CHEM Unit, an accident is of interest if it involves serious danger or serious harm to persons, property or the environment.
- The agency receiving the advice will also notify the informing agency as soon as practicable of:
 - in the case of Local Government, any wish to proceed with an investigation; or
 - in the case of the CHEM Unit, any wish to co-ordinate an investigation.
- Where a decision is made to proceed with or co-ordinate an investigation, the receiving agency is to attend the scene as soon as practicable.
- Both agencies will co-operate to ensure timely and accurate outcomes for investigations where both are involved. This may entail:

- joint interviews of witnesses; or
 - sharing of photographic and other evidence; or
 - agreeing to the location of, and access to, seized evidence.
- Where either party undertakes an investigation of mutual interest, a copy of any report prepared in relation to the investigation will be forwarded without charge to the other party on the basis that doing so will not prejudice any legal proceedings which have been, or may be, initiated.

12.0 Prosecutions

The following points relate to prosecutions (if any) mounted under the DGSM Act for breaches of dangerous goods safety management requirements.

For Sites Storing Flammable or Combustible Liquids That Are Not MHFs

For sites storing flammable or combustible liquids that are not MHFs it is agreed that:

- For *devolved matters*, Local Government will have exclusive carriage of prosecutions.
- For *delegated matters*:
 - Local Government will have carriage of prosecutions arising within its jurisdictions.
 - DES will provide expert scientific advice and support during investigations, together with advice on the viability of prosecutions under the DGSM Act.
 - The agency advocating prosecution under the DGSM Act will bear the cost of proceeding.

For Major Hazard Facilities (MHFs)

For Major Hazard Facilities (MHFs) it is agreed that:

- DES will, as appropriate:
 - co-ordinate investigation;
 - provide for enforcement actions falling short of prosecutions; and
 - keep the MHF Team fully informed.
- The agency leading the MHF Team will provide for prosecutions.
- The decision to proceed with a prosecution will be made after consultation between the parties.
- Where there is dissent, the agency advocating prosecution under the DGSM Act will bear the cost of proceeding.

For all Cases

For all cases, it is agreed that:

- Consideration will be given to all other avenues for achieving the safety outcomes required by the DGSM Act prior to a prosecution being mounted.
- The rights of either party to launch prosecutions under its own legislation are not affected by these arrangements.

13.0 Implementation and Commencement

With regard to the implementation of this MoU, DES and LGAQ agree to:

- pursue the intent of this MoU in a spirit of co-operation;
- maintain regular contact to monitor and promote its effective implementation; and
- consult from time to time as to its interpretation and operation.

In the broader context, it is acknowledged that some Islander and Community Councils are not members of the LGAQ. DES nevertheless undertakes to use its best endeavours to apply the terms of this MoU to all Councils.

In keeping with the spirit of this agreement, DES and LGAQ further undertake to circulate this MoU to all relevant parties and to encourage compliance with its contents.

This MoU will ultimately be combined with others covering the shared administration of the DGSM Act. It will then be published and distributed to promote industry awareness of the arrangements agreed.

Commencement

This MoU commences on 7 May 2004.

14.0 Dispute Resolution

The Parties agree that DES and Local Governments will work together to arrive at mutually acceptable solutions to any problems or disputes that may arise in relation to this MoU.

Specifically, where regional/district personnel are in dispute as to jurisdiction or responsibilities, or as to what course of action is appropriate in any given circumstance, the dispute is to be referred to the Chief Inspector (for Local Government personnel) and the Director, CHEM Unit (for DES personnel).

Where problems or disputes cannot be resolved between the relevant officers, it is agreed that the matter should go before the Chief Executive Officers of each agency.

15.0 Term of MoU

It is agreed that this MoU shall have a term of three years from commencement unless, by mutual agreement, it is reviewed at an earlier time and re-drafted.

The Parties undertake to formally review this agreement, by means of an agreed procedure, within one month of the second anniversary of its execution.

Specifically, LGAQ and the CHEM Unit will consider:

- the effectiveness of devolution and delegation in achieving desired outcomes; and
- issues of consistency in the administration of devolved and delegated responsibilities.

16.0 Variations

DES and LGAQ agree that this MoU may be varied or modified at any time with the agreement of all signatories.

This MoU may also be terminated by the written agreement of all signatories.

Amendment or termination of this MoU will not affect the terms of agreements or contracts which are in place.

17.0 Execution of Agreement

Dated this _____ of _____ 2004.

Signed for and on behalf of the Department of Emergency Services

.....
Michael Kinnane
Director-General

Signed for and on behalf of the Local Government Association of Queensland

.....
Greg Hallam
Executive Director

**SUMMARY OF REGULATORY JURISDICTIONS
FOR THE STORAGE AND HANDLING OF DANGEROUS GOODS AND COMBUSTIBLE LIQUIDS**

DG CLASS	1	2.1 ⁺	2.2 ⁺	2.3 ⁺	3* (and combustible liquids)	4*	5*	6.1*	6.2	7	8	9*
HEAD OF POWER and MAIN ENFORCEMENT AGENCY	<i>Explosives Act and DGSM Act</i>	<i>Gas Act and DGSM Act</i>	<i>DGSM Act</i>		<i>DGSM Act</i>	<i>DGSM Act</i>			<i>Health Act</i>	<i>Radiation Safety Act</i>	<i>DGSM Act</i>	
	NRM&E (Explosives Inspectorate)	NRM&E (Petroleum & Gas)	DIR ⁺⁺ (WHSQ) [Non-technical coverage]		Local Government	DIR (WHSQ)			Qld Health	Qld Health (Radiation Health)	DIR (WHSQ)	
	<i>Generic workplace coverage - eg placarding Under the DGSM Act DIR (WHSQ)</i>											
COORDINATION	<i>Dangerous Goods Safety Management (DGSM) Act DES (CHEM Unit)</i>											
RELATED ACTIVITIES	Environmentally Relevant Activities - <i>Environmental Protection Act</i> - EPA DG transport - transport operations legislation** - Queensland Transport											

DES Department of Emergency Services
DIR Department of Industrial Relations
WHSQ Workplace Health and Safety Queensland

EPA Environmental Protection Agency
NRM&E Department of Natural Resources, Mines and Energy

+ For gases other than LP gas, natural gas and coal gas, enforcement occurs mainly (as indicated) under the DGSM Act

++ With support from MRME for technical issues (eg gas reticulation). DIR jurisdiction is limited to coverage of non-technical issues (eg cylinder storage)

* Materials that are explosives (but not Class 1 dangerous goods) are also regulated under the *Explosives Act* by the Explosives Inspectorate

** For transport of materials other than explosives – which is regulated under the *Explosives Act* by the Explosives Inspectorate

SUMMARY OF REGULATORY JURISDICTIONS FOR THE STORAGE AND HANDLING OF DANGEROUS GOODS AND COMBUSTIBLE LIQUIDS - SUPPORTING TEXT

STORAGE AND HANDLING

Regulation of the storage and handling of dangerous goods and combustible liquids arises from a number of heads of power which are administered by a number of different agencies according to dangerous goods class, as outlined below and illustrated in the accompanying diagram.

1.1.1 Class 1

Class 1 dangerous goods (explosives) are regulated under the *Explosives Act*, which is administered by the Explosives Branch in the Department of Natural Resources, Mines and Energy (NRM&E).

The Explosives Branch also regulates explosives of other classes and the transport of explosives (see below).

1.1.2 Class 2

Class 2 dangerous goods are regulated by two agencies under shared jurisdiction:

- the Petroleum and Gas Operations Branch (P&G) in NRM&E; and
- Workplace Health and Safety Queensland (WHSQ) in the Department of Industrial Relations.

P&G focuses on the following areas under the *Gas Act* (to be replaced soon by the future *Petroleum and Gas Production and Safety Act*) and the DGSM Act:

- Fuel gases of Class 2.1 (LPG, natural gas, coal seam gas and commercial gases derived from sewage, rubbish tips or similar); and
- Reticulation of gases (including hospital gases).

In the case of Class 2.1, P&G enforces the requirements of the DGSM Act and Regulation (Parts 2 and 3) under delegated authority with a view to providing for:

- the safe management of individual Class 2.1 installations (bulk or packaged) within a workplace; and
- the holistic management of Class 2.1 dangerous goods at places where that is the only class of dangerous goods stored and handled.

P&G approaches these areas of jurisdiction from the technical perspectives of Class 2 dangerous goods safety management, i.e the application or interpretation of a gas-related technical standard such as AS1596¹ or AS 5601² and ensuring that acceptable approval processes have been applied to devices used to consume, transport or use gases. Such aspects include, for example, matters related to the use and operation of devices and equipment that have been designed, constructed and installed specifically

¹ Australian Standard AS 1596 ‘Storage and Handling of LP Gas’

² Australian Standard AS 5601 (AG 601) ‘Gas Installations’

for the storage and handling of compressed or liquefied gases e.g. gas cylinders and regulators, LPG tanks and associated pipework.

However, P&G's jurisdiction is not limited to the technical aspects. It can also address the general storage and handling requirements of DGSM, as they apply to Class 2.1 or impact on that Class. Examples include ventilation, segregation and ignition sources.

Where the technical aspects of Class 2 dangerous goods safety management (eg gas reticulation) are dominant, P&G will take carriage of issues arising under either the *Gas Act* or the DGSM Act.

In addition, P&G supports other agencies by providing advice on technical aspects relating to all Class 2 dangerous goods.

WHSQ focuses on general aspects of Class 2 dangerous goods safety management i.e. those that have general application for the holistic management of stated dangerous goods and combustible liquids, particularly those arising from Part 5 of the DGSM Act and Part 3 of the DGSM Regulation. This can include but is not limited to separation, segregation, ventilation, cylinder handling and restraint, sources of ignition, and placarding.

1.1.3 Class 3 (and combustible liquids)

Class 3 dangerous goods and combustible liquids are regulated under shared jurisdiction by:

- individual Local Governments; and
- Workplace Health and Safety Queensland (WHSQ).

Local Government jurisdiction is limited to Class 3 (flammable liquids) and combustible liquids at premises that have (or should have) a flammable and combustible liquids (FCL) licence issued by the Local Government.

The licensing authority is devolved to Local Governments in Part 4 of the DGSM Regulation which applies to the storage and handling of flammable and combustible liquids to which AS 1940 applies. Local Government jurisdiction is based on the requirements of the DGSM legislation as they apply to the storage and handling of FCL. Certain types of premises are exempt from this licensing requirement, namely:

- Places not covered by the application of the DGSM Act (s.3);
- Places that store only minor quantities of FCL (as defined in AS 1940³, Table 2.1);
- Rural places as defined in the DGSM regulation (Schedule 1); and
- Places to which AS 1940 does not apply.

When issuing a FCL licence, the Local Government may attach conditions of licence appropriate to give effect to the DGSM legislation. Conditions may be drawn from AS 1940, another appropriate standard or the DGSM legislation itself. The DGSM Regulation (s.92) prescribes compliance with the Act as a condition of licence.

³ Australian Standard AS 1940 'The Storage and Handling of Flammable and Combustible Liquids'
Memorandum of Understanding
Local Government Association of Queensland and Department of Emergency Services

WHSQ focuses on the general aspects of flammable and combustible liquids safety management, i.e. those that have general application for the holistic management of stated dangerous goods and combustible liquids, particularly those arising from Part 5 of the DGSM Act and Part 3 of the DGSM Regulation. This can include but is not limited to separation, segregation, ventilation, sources of ignition, and placarding.

This jurisdiction applies at a premises regardless of whether or not it has (or should have) a FCL licence.

1.1.4 Classes 4, 5, 6.1, 8 and 9

Dangerous Goods of Classes 4.1, 4.2, 4.3, 5.1, 5.2, 6.1, 8 and 9 are regulated solely by WHSQ, except where they are classified as explosives under the *Explosives Act* (see below).

1.1.5 Class 6.2

Dangerous Goods of Class 6.2 (Infectious Substances) are regulated solely by Queensland Health under Health legislation.

1.1.6 Class 7

Dangerous Goods of Class 7 (Radioactive Substances) are regulated solely by Queensland Health (Radiation Health Branch) under the *Radiation Safety Act*.

1.1.7 Explosives

Dangerous Goods of classes other than Class 1 can be declared as explosives under the *Explosives Act*. In such cases, they are regulated by the Explosives Branch.

COORDINATION

In its Lead Agency role for hazardous materials management, the Department of Emergency Services, through the CHEM Unit, provides policy coordination for dangerous goods storage and handling. The CHEM Unit supports DGSM enforcement agencies by providing training and other services.

RELATED ACTIVITIES

Under the *Environmental Protection Act*, the Environmental Protection Agency addresses chemicals management issues that overlap with storage and handling of dangerous goods under DGSM, in particular:

- Environmentally Relevant Activities (ERAs); and
- Hazardous waste management.

The transport of dangerous goods (other than explosives) is regulated under the *Transport Operations (Road Use Management – Dangerous Goods) Regulation*, which is administered by Queensland Transport (Land Transport and Safety Division). The transport of explosives is regulated under the *Explosives Act* by the Explosives Branch.

The transport of class 2.1 fuel gases to premises will be regulated by P&G by defining these activities as “operating plant” under the future *Petroleum and Gas Production and Safety Act*.

**CONTACT DETAILS
FOR
THE DEPARTMENT OF EMERGENCY SERVICES**

For Dangerous Goods Safety Management issues contact:

The Chemical Hazards and Emergency Management (CHEM) Unit

Location:

Block C, Level 2
Emergency Services Complex
Cnr Park and Kedron Park Rds
Kedron QLD 4031

Postal:

GPO Box 1425
Brisbane QLD 4001

Fax: (07) 3247 8433

Phone: (07) 3247 8444

Homepage: Web: <http://www.emergency.qld.gov.au/chem>

For information and advice:

Phone: (07) 3247 8444

And ask for:

The Manager, Dangerous Goods Safety Service

or:

The Manager, Major Hazards Safety Service

or:

The Manager, DGSM Legislation and Coordination

For emergencies: Call 000 in the first instance.