

1963.

VICTORIA.



ANNO DUODECIMO

ELIZABETHÆ SECUNDÆ REGINÆ

No. 7018.

An Act to ratify validate approve and otherwise give Effect to an Agreement between the Premier for and on behalf of the State of Victoria and BP Refinery (Westernport) Proprietary Limited with respect to the Establishment at Crib Point in the State of Victoria of a Refinery to authorize the Construction of Port Facilities at Crib Point to authorize and make Provision with respect to the Construction of certain Pipelines from Crib Point and for other purposes.

[28th May, 1963.]

**W**HEREAS BP Refinery (Westernport) Proprietary Limited a company incorporated in the State of Victoria is desirous of establishing an oil refinery on certain lands at Crib Point :

And whereas the operation of the oil refinery requires the establishment of adequate port facilities in Westernport :

And whereas an agreement to facilitate the establishment of the said oil refinery and the said port facilities has been entered into between the Premier of the State of Victoria and the Company :

And whereas the agreement is expressed to be subject to ratification by the Parliament of Victoria :

And

And whereas it is expedient in the public interest to ratify validate approve and otherwise give effect to the said agreement and to make other provision as hereinafter enacted :

Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

1. (1) This Act may be cited as the *Westernport (Oil Refinery) Act 1963.* Short title.

(2) This Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette.*

2. (a) In this Act unless inconsistent with the context or subject-matter— Interpretation.

“ The agreement ” means the agreement a copy of which is set out in the Schedule to this Act ; and “ The agreement.”

(b) Expressions used in this Act shall have the meanings respectively assigned to them in the agreement. Expressions used in the Act.

3. This Act shall bind the Crown. Act to bind Crown.

4. (1) The agreement is hereby ratified validated and approved and shall be given effect to. Ratification of agreement.

(2) The following provisions shall be read as in aid of and not in derogation from the provisions of the last preceding sub-section :—

(a) The Premier and all other Ministers of the State of Victoria and all public statutory corporations and all officers concerned are hereby empowered to carry out the agreement and to enter into such agreements and to give such approvals as are provided for by it ; and

(b) This Act and the agreement shall take effect notwithstanding anything in any Act or in any proclamation regulation Order in Council by-law lease licence authority permit or agreement under any Act ; and every Act proclamation regulation Order in Council by-law lease licence or authority permit or agreement shall by virtue of this Act be deemed to be modified to the extent necessary to give full force and effect to this Act and the agreement (but not further or otherwise) and shall be read and construed and take effect accordingly ; and

(c) The

- (c) The provisions of the agreement relating to the extinguishment and removal of easements and the vesting of land referred to in clause 4 of the agreement shall, by force of this Act and without any further authority take effect.

Act to be sufficient authority for doing all things required by agreement.

5. The Company is hereby authorized and empowered to carry out and give effect to the provisions of the agreement in accordance with the terms of the agreement without any other authority licence approval consent or permit than the authority of this Act.

Power to company to construct and operate certain pipelines.

6. (1) The Company may, subject to this Act and to the agreement, construct and operate pipelines by such routes as are approved by Order of the Governor in Council published in the *Government Gazette*.

(2) Where the Governor in Council has approved the route of a pipeline such pipeline shall be an authorized pipeline within the meaning of this Act.

(3) An authorized pipeline shall be constructed along the route approved by the Order of the Governor in Council but any such authorized pipeline may deviate from the approved route within such limits of lateral deviation as are specified in the Order of the Governor in Council.

Power to Governor in Council to grant easements &c. over Crown lands for pipelines.

7. Notwithstanding anything to the contrary in any Act or in any lease licence proclamation reservation declaration or dedication of or with respect to any unalienated Crown land, the Governor in Council may upon such conditions as he thinks fit grant to the Company any lease easement licence or other authority necessary or expedient to enable the Company—

- (a) to construct any authorized pipeline through or over any Crown land ; and
- (b) to operate inspect maintain and repair any part of the pipeline.

Power to public statutory corporations to grant easements &c.

8. Notwithstanding anything to the contrary in any Act any public statutory corporation may, upon such conditions as are agreed upon by the said public statutory corporation and the Company, and shall if the Governor in Council so determines, grant to the Company any lease easement licence or other authority of the kind referred to in the last preceding section of or over—

- (a) any land vested in the said public statutory corporation ;
- or
- (b) any land under the care and management of the said public statutory corporation—

necessary or expedient to enable the Company to construct any part of the authorized pipeline through or over any such land and to operate inspect maintain and repair any part of the pipeline.

9. (1) The

9. (1) The Company may take compulsorily any easement over any private land which is required for the purposes of the construction operation inspection maintenance and repair of any authorized pipeline or any part thereof.

Power of company to acquire land.  
No. 5507 s. 32.

(2) The *Lands Compensation Act 1958* is hereby incorporated with and shall be read and construed as one with this Act ; and in the construction of that Act for the purposes of this Act unless inconsistent with the context or subject-matter—

“ Board of Land and Works ” or “ Board ” means the Company ;

“ Lands ” means any easement ;

“ Special Act ” means *Westernport (Oil Refinery) Act 1963* ; and

“ The works ” or “ the undertaking ” means any authorized pipeline.

10. (1) Where any easement taken by the Company for any of the purposes of this Act is an easement over land held or occupied by any licensee or lessee of the Crown a description of the easement and a notification that the same has been so taken shall be forwarded forthwith by the Company to the Secretary for Lands.

Easements taken by the company over lands held by Crown licensee or lessees.

(2) Where any such easement is over land held or occupied under licence the description and notification shall be endorsed on the licence by the Secretary for Lands ; and such endorsement shall be recorded in the Department of Crown Lands and Survey and thereupon the rights under the easement shall become vested in the Company for the purposes aforesaid.

(3) Where any such easement is over land held or occupied under lease the Secretary for Lands shall forthwith forward to the Registrar of Titles the description and notification aforesaid ; and the Registrar of Titles shall forthwith on the receipt thereof make an endorsement indicating the fact that the easement has been so taken upon the original Crown lease or certificate of title (as the case may be) affected and also, when produced to him for the purpose, upon the duplicate of the Crown lease or certificate of title ; and upon the first-mentioned endorsement being made the rights under the easement shall become vested in the Company for the purposes aforesaid.

(4) Whenever a Crown grant is issued to any person of the land over which any such easement has been taken the grant shall be made subject to the easement.

11. (1) Subject to and for the purposes of this Act, the Company and all persons authorized by it may—

Power to open and break up streets &c. and temporarily stop traffic.

(a) open and break up the soil and pavement of any public or private street road or bridge ; and

(b) temporarily stop the traffic on any such street road or bridge.

(2) The

Notice before opening and breaking up streets.

(2) The Company shall not (except in cases of emergency) open or break up any street road or bridge or stop any traffic thereon without giving at least three days' notice in writing to the local authority or person having the control or management thereof.

Duties after opening.

(3) When the Company has opened or broken up any street road or bridge the Company shall—

- (a) with all convenient speed and to the satisfaction of the local authority or person aforesaid restore the portion so opened or broken up to as good condition as before it was opened or broken up and remove all surplus material ;
- (b) cause the place where the street road or bridge is broken up to be fenced and to be properly lighted and guarded during the night so as to prevent accidents ; and
- (c) bear or pay all reasonable expenses of the repair of the street road or bridge for six months after the same is restored so far as those expenses have been increased by such opening or breaking up.

Company to be liable for damage done in the exercise of its powers under this Act.

12. In the exercise of the foregoing powers the Company shall do as little damage as may be and shall, if so required within two years from the exercise of such powers, make full compensation to the owner of and all parties interested in any land for any damage sustained by them in consequence of the exercise of such powers, and such compensation shall be either a gross sum or a yearly rent as may be agreed, and in default of agreement shall be determined in manner provided in the *Lands Compensation Act 1958*.

Power to public statutory corporations to co-operate with the Company in construction of pipelines.

13. Where any public statutory corporation has power to construct pipelines water mains gas mains or other similar structures and to purchase or compulsorily acquire land for that purpose any such corporation may, with the consent of the Governor in Council, enter into an agreement with the Company which provides for the co-operation between the public statutory corporation and the Company in the construction of pipelines water mains gas mains or other similar structures required for their respective purposes and the parties to any such agreement are hereby authorized to do all things necessary or expedient to carry out any such agreement.

Crown not to be liable to make compensation.

14. Except where otherwise expressly provided no public statutory corporation and no person or body of persons corporate or unincorporate shall be entitled to receive or shall receive from the Crown any money or compensation or consideration in respect of or in any manner arising out of the passing or operation of this Act or any act matter or thing done thereunder.

SCHEDULE.

## SCHEDULE.

This Agreement is made the fifteenth day of May one thousand nine hundred and sixty-three Between the Honorable Henry Edward Bolte in his capacity as the Premier for the time being of the State of Victoria for and on behalf of the said State of the one part and BP Refinery (Westernport) Pty. Limited a company incorporated in the said State the registered office of which is situate at 505 St. Kilda-road Melbourne in the said State of the second part—

Whereas—

- I. The Company is desirous of establishing an Oil Refinery at Crib Point in the said State.
- II. The State for the purpose of encouraging the decentralization of industry desires to assist the Company in establishing the said refinery.
- III. Before the Company incurs the expense involved in the establishment of the said oil refinery it requires that certain rights and powers incidental to the establishment and carrying on of the said oil refinery will be assured to it.
- IV. In order to effectuate the establishment and carrying on of the said oil refinery the parties hereto are desirous of entering into the agreement following so that upon its ratification validation and approval by the Parliament of the said State the agreement will become binding on the said State and the Company in manner hereinafter appearing.

NOW IT IS HEREBY AGREED as follows :—

### PART 1.—PRELIMINARY.

1. (1) In this agreement unless inconsistent with the context or subject-matter— Definitions.
  - “ THE ACT ” means the Act of the Parliament of Victoria to be passed to ratify validate approve and otherwise give effect to this Agreement.
  - “ COMMENCING DATE ” means the date of execution of this Agreement.
  - “ COMMISSIONING DATE ” means the date on which the Company first receives petroleum for processing into the refinery from a tanker.
  - “ COMPANY ” means BP Refinery (Westernport) Pty. Limited and if the rights of the Company are assigned pursuant to this Agreement to any company means that assignee company.
  - “ GOVERNOR IN COUNCIL ” has the same meaning as in the *Acts Interpretation Act 1958*.
  - “ JETTIES ” includes wharves landing places and berths.
  - “ PETROLEUM ” means and includes mineral oils and other hydrocarbons of any description or source whether crude or refined including but without limiting the generality of the foregoing all petroleum feedstocks and products obtained from these substances and mixtures of these substances or their products with other substances.
  - “ PIPELINES ” means pipelines installations and attendant facilities erected constructed laid down established or fixed between the refinery and oil installations established or to be established at Dandenong Port Melbourne Spotswood and Laverton and such other installations as are with the approval of the Governor in Council to be supplied from the refinery by pipeline.
  - “ PUBLIC STATUTORY CORPORATION ” means any body corporate established by or pursuant to any Act for any public purpose and, without affecting the generality of the foregoing, includes a municipality.
  - “ REFINERY ” means the oil refinery constructed on the refinery site to the plans and specifications of the Company in accordance with the provisions of this Agreement.

SCHEDULE

SCHEDULE—*continued.*

“REFINERY SITE” means the whole of the land described in Certificates of Title Volume 7048 Folium 587 Volume 7290 Folium 836 Volume 7408 Folium 468 Volume 8047 Folium 497 and Volume 8127 Folium 739 and any other land adjacent thereto which may be acquired by the Company.

“THE STATE” means the State of Victoria.

(2) The headings and side-notes shall not affect the interpretation of the Agreement.

Agreement not to operate until validated by Act of Parliament.

2. This Agreement shall not be of any force or effect nor shall either party have any claim against the other in respect of any matter arising out of or in connexion herewith until it has been ratified validated approved or otherwise given effect by an Act of the Parliament of Victoria which comes into operation before the thirtieth day of June One thousand nine hundred and sixty-three.

## PART II.

## DIVISION A—OBLIGATIONS OF THE COMPANY.

Obligations of the company.

3. Subject to the performance by the State from time to time of the obligations imposed on it by this Agreement the Company shall—

Establishment of refinery.

(a) After the commencing date and without undue delay commence and complete the construction of the refinery and thereafter maintain operate and use the refinery and all additions and alterations thereto ;

(b) At the cost of the State not exceeding Three million five hundred thousand pounds and to the satisfaction of the Chief Engineer of Ports and Harbors for the State—

Construction of jetties.

(i) erect and establish on the shore adjacent to the eastern boundary of the refinery site and immediately seaward from such shore, such jetties to its own design and specifications and carry out all necessary preliminary investigations in connexion therewith as the Company shall require from time to time for the purpose of the establishment and operation of the refinery ;

Construction of tugs and small craft.

(ii) construct build and commission to its own design and specifications not more than two sea-going tugs and such other small craft as in the opinion of the Company are necessary or desirable for the berthing removal and servicing of vessels at the jetties and moorings and for the provision of fire fighting services in connexion with the operation of the refinery ;

Dredging.

(iii) undertake when it becomes necessary in the opinion of the Company for the purposes of the refinery such dredging as shall provide—

(A) a navigable channel of 49 feet minimum depth below low low water and of a bottom width of approximately 1,000 feet through the Western entrance to Westernport between Grant Point and Tortoise Head ;

(B) a navigable channel of 47 feet minimum depth below low low water and of a bottom width of approximately 600 feet through the Northern Arm of Westernport between Tortoise Head and the jetty area at Crib Point ;

(C) an adequate area in the vicinity of the jetties at a minimum depth of 47 feet below low low water to enable safe and unrestricted berthing of vessels and including a turning circle off the jetties of a diameter of approximately 2,000 feet and minimum depth of 47 feet below low low water ; and

(D) an area measuring approximately 2,250 feet long by 300 feet wide alongside the jetties of a minimum depth of 52 feet below low low water ;

## SCHEDULE—continued.

- (c) Maintain and keep in good repair to the satisfaction of the Chief Engineer of Ports and Harbors for the State the jetties until twenty years after the commissioning date and for such further periods as are from time to time agreed between the Company and the Premier ; and the State shall be liable to reimburse the Company the reasonable cost of such maintenance and repairs which have been undertaken with the approval of the Chief Engineer of Ports and Harbors for Victoria ; Maintenance of jetties.
- (d) At its own cost—
- (i) construct, erect and establish with any additions and alterations thereto that may from time to time be considered necessary, such pipes and other facilities to its own design and specification as may in the opinion of the Company be necessary for the loading unloading and bunkering of petroleum, providing a fire fighting service and the provisioning servicing watering and repairing of vessels using the jetties ; Jetty facilities.
- (ii) erect and establish on the shore adjacent to the refinery site and immediately seaward from such shore such water intake structures and water outfall facilities to its own design and specifications as the Company may reasonably require for the purposes of the establishment and operation of the refinery and shall thereafter maintain the said water intake structures and water outfall facilities and any additions and alterations thereto ; Water structures.
- Provided that such pipes structures and other facilities shall be and remain the property of the Company ;
- (e) In the erection, equipment and operation of the refinery, comply with accepted modern refinery practice and the standards and specifications required for the time being in the construction and operation of refineries in Great Britain and the United States of America ; Refinery standards.
- (f) Make adequate provision when necessary and to the satisfaction of the Shire of Hastings for the disposal of the storm water drainage from the land which at the date of this Agreement had a right of such drainage over the land colored blue and purple on the map in the margin of Certificate of Title Volume 7048 Folium 587. Disposal of storm water drainage.

## DIVISION B—OBLIGATIONS OF THE STATE.

## 4. The State shall—

- (a) by virtue of the Act authorize the construction and operation in accordance with this Agreement of the refinery, the jetties and other facilities attendant thereto, and such authorization shall be sufficient for such construction or operation without any other authority, approval, permit, licence or consent ; Construction and operation of refinery to be authorized.
- (b) extinguish and direct the Registrar of Titles to remove all easements existing over the land comprised in Certificate of Title Volume 7048 Folium 587 ; Removal of easements.
- (c) upon the Company becoming registered as the proprietor of the land described in the certificates of title referred to in this paragraph, vest in the Company for an unencumbered estate in fee simple so much of the land at present set aside for road purposes partly as a government road and partly in private ownership and situated between the land described in Certificates of Title Volume 7048 Folium 587 and Volume 7290 Folium 836 and the land described in Certificates of Title Volume 8127 Folium 739 and Volume 8047 Folium 497 and any necessary Crown Grant or Certificate of Title shall be issued accordingly ; Vesting of certain land in the company.
- (d) grant to the Company a lease, easement, or licence over an area not exceeding ten chains in width over such part of the Crown lands situated between the refinery site and the waters of Westernport as is selected by the Company, whether such land is a government road, public purposes reserve or otherwise to provide an adequate area for the Company to construct and operate the jetties and other structures installed pursuant Grant of certain easements.

## SCHEDULE



SCHEDULE—*continued.*

to this Agreement ; and the land over which the lease, easement or licence is granted may be fenced by the Company as it considers necessary for the protection of the public and of the Company's facilities provided that the existing government road between the refinery site and the shores of Westernport shall remain available for public use at all times save when temporarily closed during any bridge construction or other diversion thereof ;

- Control of waters. (e) control the use of the waters within the distance of six hundred feet from any part of the jetties ;
- Use of jetties. (f) allow the use of the jetties for receiving petroleum and any goods commodities or ballast whatsoever for the refinery or required for use in connexion therewith, for the handling or distribution of any petroleum, for the despatch therefrom of petroleum from the refinery and any cargoes, goods or commodities and for the bunkering of vessels ;
- Maintenance of channels turning circles and other dredged areas. (g) after completion of any dredging pursuant to this Agreement maintain at its cost the depth and widths of the channels and turning circles and other dredged areas and shall at its own cost carry out all connected survey work and investigations ;
- 24-hour use of channels and other facilities in Westernport. (h) ensure that all tankers and other vessels which can and desire to use the access channels and other facilities connected with the refinery will not be unreasonably prevented at any time of the day or night from using the said channels and carrying out all necessary operations within Westernport and at the jetties ;
- Navigational aids. (i) ensure that adequate navigational aids and other normal harbor services are established and maintained in good order and condition for both day and night operation ;
- Pilotage service. (j) ensure that an adequate pilotage service is provided at all times of the day and night for vessels entering and leaving Westernport for purposes connected with the refinery at rates not exceeding those for Port Phillip ;
- Supply of power. (k) facilitate through the State Electricity Commission of Victoria and ensure the provision to the Company at the refinery site of an adequate supply of power for construction and operational purposes at rates agreed between the Commission and the Company ;
- Supply of water. (l) facilitate through the State Rivers and Water Supply Commission and ensure the provision to the Company at the refinery site of an adequate supply of water for construction and operational purposes at rates to be agreed between the Commission and the Company ;
- Sinking of bores. (m) permit the Company to sink bores within the refinery site for the provision of water without fee charge or royalty ;
- Use of sea water. (n) permit the Company—  
 (i) to use sea water for refinery purposes including cooling and fire-fighting purposes ;  
 (ii) to dispose of all effluent water to the waters of Westernport—without fee charge or royalty and for such purposes shall grant such easements not to exceed three chains in width for buried pipes over land situated between the refinery site and those waters at such place or places as may be reasonably required by the Company and are approved by the Governor in Council ;
- Roads leading from the refinery. (o) ensure that roads leading from the refinery site to the main trunk roads at Dandenong and Frankston shall be adequate for the transport requirements of the Company during the construction and operation of the refinery ;
- Construction and maintenance of roads within the refinery. (p) if so requested by the Company and at the cost of the Company forthwith construct and maintain all internal roads on the refinery site which may reasonably be required from time to time by the Company ;

## SCHEDULE—continued.

(g) provide in the Act—

- (i) authority for the acquisition by the Company of any easements over private land for pipelines along routes which have been authorized by the Governor in Council ;
- (ii) for the grant by the Crown of such leases easements or licences over Crown lands and over lands vested in or controlled by any Public Statutory Corporation as may reasonably be required by the Company for such pipelines.

Acquisition of easements for pipelines.

Grant of leases, easements or licences over public lands.

## DIVISION C.—FINANCIAL.

5. (a) The following maximum inward wharfage charges shall be payable during the period of 20 years from the commissioning date :

Inward wharfage charges.

- (i) where the input of petroleum over the jetties in any one year amounts to 2,500,000 tons or less, the rates shall be 4s. per ton of 250 gallons for petroleum received from outside Australia or 3s. per ton for petroleum of Australian origin ;
- (ii) where the input of petroleum in any one year exceeds 2,500,000 tons the rates payable shall in each case be reduced on every ton in excess of 2,500,000 tons received in that year by one shilling per ton :

Provided that the rate applicable to petroleum shipped within Victoria and unshipped over the jetties shall be, one fourth only of the rates hereinbefore specified.

In this clause "petroleum of Australian origin" includes petroleum refined in Australia irrespective of its origin.

(b) After the said period of 20 years the wharfage charges on inward petroleum shall be such as are from time to time fixed in accordance with the law for the time being in force in relation to wharfage charges for Westernport : Provided that no such charge shall exceed 75 per cent. of the charges applying to petroleum received in similar circumstances at the Port of Melbourne or 80 per cent. of the charges applying to petroleum received in similar circumstances at the Port of Geelong whichever is the lower.

Wharfage charges after the period of 20 years from the commissioning date.

(c) The State shall ensure that tonnage dues payable in respect of Westernport do not exceed those payable in respect of other Victorian ports.

Tonnage dues.

(d) The State shall ensure that inward wharfage charges on petroleum manufactured in the refinery and shipped into the Port of Melbourne shall be payable at the same rate as applies from time to time to petroleum shipped into the Port of Melbourne from the Port of Geelong.

Wharfage charges on petroleum shipped from the refinery into the Port of Melbourne.

(e) (i) During the said period of twenty years no outward wharfage charges shall be payable by the Company or by any person associated or engaged with it in a joint business venture at any time ;

Outward wharfage charges.

(ii) After the expiration of the said period of twenty years outward wharfage charges shall be payable by the Company and by any person associated or engaged with it in a joint business venture at such rates as are from time to time fixed in accordance with the law for the time being in force in relation to outward wharfage charges for petroleum : Provided that such charges shall not exceed 75 per cent. of the charges for petroleum applying at the Port of Melbourne or 80 per cent. of the charges for petroleum applying at the Port of Geelong whichever is the lower.

(f) No inward wharfage charges shall be payable by the Company upon equipment and materials for use in the construction of the refinery and the jetties and additions thereto where such equipment and materials are unloaded in Westernport.

Inward wharfage charge on materials unloaded at Westernport.

(g) The Company shall submit from time to time to the State during the progress of the works to be completed by the Company at the cost of the State pursuant to this Agreement audited statements of the progress expenditure of the Company on such works and subject to the approval of such statements by the State or its nominee the State shall reimburse the Company for the amount thereof within a reasonable time as mutually agreed.

Progress payments.

## SCHEDULE—continued.

## DIVISION D—GENERAL.

Priority of use of jetties. 6. (a) The Company and persons associated or engaged with it in a joint business venture shall have absolute priority over all others in the use of the jetties and those persons shall pay wharfage charges at the rate for the time being payable by the Company.

Sub-contractors. (b) Without affecting the liability of the parties to each other under this Agreement either party shall have the right from time to time to entrust to other persons the performance of such portion or portions of its obligations and operations authorized under this Agreement as it may consider expedient.

Right of Company to assign its interest in this Agreement. (c) The Company shall have the right to assign or otherwise dispose of this Agreement or any interest therein to a company in which The British Petroleum Company of Australia Ltd. a company incorporated in the Australian Capital Territory and whose registered office in the State is situate at 131 Queen-street Melbourne holds thirty per centum or more of the issued share capital.

Delays in performance of obligations. (d) This Agreement is made subject to any delay in the performance of any obligation or obligations under this Agreement which may be occasioned by or arise from circumstances beyond the power and control of the party responsible for the performance of such obligation, including but without limiting the generality of the foregoing delay caused by or arising from act of God, act of war, force majeure, act of public enemies, strikes, lock-outs, stoppages, restraint of labour, or other similar acts, whether partial or general, shortage of essential materials, reasonable failure to secure or delays of contractors, riots and civil commotion and a failure by either party to perform its obligation for any such reason shall not be deemed a breach of this Agreement and such obligation shall be performed within a reasonable period following the cessation of the circumstances which so delayed it.

Harbour services. (e) (1) The State shall when requested by the Company operate and thereafter maintain repair insure and keep insured the tugs and small craft referred to in this Agreement and shall provide normal harbour services at all times including a fire-fighting service (all of which tugs crafts and services are in this paragraph hereinafter called "the harbour services").

(2) The State shall from time to time consult with the Company as to the extent and methods of operation of the harbour services.

(3) The State shall levy charges upon users of the harbour services at rates to be mutually agreed upon with the Company.

(4) The Company shall annually reimburse the State for so much of the cost of the operation maintenance repair and insurance of the harbour services as is not recovered by the State from the users or insurers of the same.

(5) On or after the 30th day of June in each year the State shall notify the Company of the cost of the harbour services not recovered from the users and insurers of the harbour services during the year then ended and within a reasonable time of the production of the certificate of the Auditor-General relating to such cost the Company shall reimburse the State for the certified amount.

(6) The Company shall have priority over all others in the use of the harbour services aforesaid.

Power to enter into agreements. (f) The Premier and the Company may from time to time enter into agreements or arrangements for better giving effect to the provisions of this Agreement.

(g) If the Company—

Determination of agreement. (1) enters into liquidation (other than a voluntary liquidation for the purpose of reconstruction) ; or

(2) delays the commencement of the construction of the refinery beyond the period of one year from the commencing date for any cause other than those specified in paragraph (d) of this clause ; or

(3) abandons or repudiates this Agreement—

the State may by notice in writing determine this Agreement but such determination shall not affect the enforcement of any right, obligation or liability theretofore acquired accrued or incurred.

Additional works. (h) The Company may with the approval to the general nature of the works by the Governor in Council construct, erect and establish to its own design and specifications such additions and alterations to the jetties tugs and small craft and carry out such dredging as may in the opinion of the Company be necessary to

## SCHEDULE—continued.

provide for any increase in the designed capacity or throughput of the refinery and if moneys are lawfully available for the purpose such works shall be at the cost of the State.

(i) If there shall be any difference or dispute between the parties hereto in respect to any matter arising out of or in connexion with this Agreement either party may give notice to the other of the difference or dispute and if the difference or dispute is not settled within one month after service of the notice— Arbitration.

(i) that matter shall be referred to two arbitrators one to be appointed by the Company and one by the Premier; and

(ii) the provisions of the *Arbitration Act* 1958 (in particular the provision allowing arbitrators to appoint an umpire) shall apply to the reference as if it were a reference by consent under that Act.

(j) Any notice consent or other writing authorized or required by this Agreement to be given or sent shall be deemed to have been duly given or sent by the State if signed by the Premier or other Minister of the Crown acting on his behalf and forwarded by prepaid post to the Company at its registered office in the State of Victoria or to the refinery site, and by the Company if signed by a Director or the Secretary of the Company in the State, and forwarded by prepaid post to the Premier and any such notice consent or writing shall be deemed to have been duly given or sent on the day on which it would be delivered in the ordinary course of post. Notices.

7. This Agreement shall be interpreted according to the laws for the time being in force in the State of Victoria. Interpretation of agreement.

In Witness whereof the parties hereto have executed this Agreement the day and year first before written.

Signed sealed and delivered by the said  
HENRY EDWARD BOLTE in the presence  
of J. C. Macgibbon.

(L.S.)

HENRY E. BOLTE.

The Common Seal of BP Refinery  
(Westernport) Pty. Limited was hereto  
affixed in the presence of

(L.S.)

N. R. SEDDON,  
Director.

J. P. WALTERS,  
Secretary.