

CABINET - SUBJECTS FOR CONSIDERATION, 10 NOVEMBER 1997 11:00 AM

Submissions

Not relevant



7. **MPNR5/97CS**

**Aquaculture Industry Lease Rehabilitation Fund
APPROVED**

*Premier, Treasurer and
Minister.*

Not relevant



7

CABINET COVER SHEET

1. **TITLE:** Aquaculture Industry Lease Rehabilitation Fund
2. **MINISTER:** Minister for Primary Industries, Natural Resources and Regional Development
3. **PURPOSE:**
 - 1) To approve the establishment of the *Aquaculture Industry Lease Rehabilitation Fund*.
 - 2) To note a series of minor modifications to the wording of the standard Aquaculture Lease.
4. **RESOURCES REQUIRED:** Nil. All necessary actions can be accomplished with existing staff and resources.
5. **RELATIONSHIP TO POLICY:** This proposal is consistent with the provisions of the Aquaculture lease approved by Cabinet on 28 October 1996. If implemented it will expedite the issuing of leases, minimise costs to industry and encourage investment.
6. **CONSULTATION:** This submission has been prepared with advice from the Department of Treasury and Finance and SAICORP. The proposal is supported by the Aquaculture Integrated Management Committee.
7. **FAMILY IMPACT STATEMENT:** No family impact statement has been prepared.
8. **RURAL IMPACT STATEMENT:** No rural impact statement has been prepared. The proposal has no impact on the rural community.
9. **URGENCY:** Normal six working-day rule applies.

10. RECOMMENDATIONS:

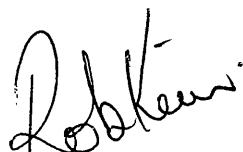
It is recommended that Cabinet:

- 4.1 Approve establishment of the *Aquaculture Industry Lease Rehabilitation Fund* as a separate Treasury line within the Department of Primary Industries and Natural Resources (DPINR) Special Deposit Account, and collection of contributions to the Fund by DPINR, in accordance with the Principles of Management set out in Attachment 1; and
- 4.2 Note a series of minor modifications to the wording of the standard *Aquaculture Lease* as set out in Attachment 3.

**SIGNATURE OF MINISTER:
PORTFOLIO:**

DATE:

26/10/97



**PRIMARY INDUSTRIES, NATURAL
RESOURCES AND REGIONAL
DEVELOPMENT**

MINUTES forming ENCLOSURE to:

TO: THE PREMIER FOR CABINET

RE: AQUACULTURE INDUSTRY LEASE REHABILITATION FUND

1 PROPOSAL

- 1.1 Cabinet approve establishment of the *Aquaculture Industry Lease Rehabilitation Fund* as a separate Treasury line within the Department of Primary Industries and Natural Resources (DPINR) Special Deposit Account, and collection of contributions to the Fund by DPINR.
- 1.2 Cabinet note a series of minor modifications to the wording of the standard Aquaculture Lease.

2 BACKGROUND

- 2.1 Following approval of the standard Aquaculture Lease by Cabinet on 28 October 1996, procedures were developed to enable the smooth processing of leases for approved applicants. The subsequent trialing of these procedures identified a number of unforeseen problems which have prevented the issuing of leases.
- 2.2 In particular, the issuing of Aquaculture Leases has been held up by the absence of satisfactory site rehabilitation indemnity arrangements. These arrangements are an explicit requirement of the lease. They are intended to ensure that the Minister for Primary Industries, Natural Resources and Regional Development and the Crown do not bear the costs of rehabilitation in the event that aquaculture sites are abandoned for whatever reason (eg. bankruptcy).

3 DISCUSSION

- 3.1 The Aquaculture Lease requires lessees to indemnify the lessor (ie. the Minister for Primary Industries, Natural Resources and Regional Development) in relation to any failure to meet their obligations to rehabilitate lease sites on the 'expiration or sooner determination' of the lease. Clause 4.10.1(b) of the lease enables the Minister to establish and/or nominate indemnity schemes in relation to that obligation.
- 3.2 To date only the SA Oyster Growers Association has made any progress with this requirement. Other sectors of the industry (eg. tuna, abalone, mussels, rock lobster, finfish) have not addressed the issue. Negotiating indemnity schemes for each of these industry sectors at this stage will, however, seriously hinder the commencement of leasing because each sector will want their own 'special circumstances' to be taken into consideration.

- 3.3 In order to progress the issuing of leases, it has been proposed that a whole-of-industry indemnity scheme be established by the Minister for Primary Industries, Natural Resources and Regional Development: the *Aquaculture Industry Lease Rehabilitation Fund* (AILRF). This scheme would see all lessees, irrespective of their industry sector, contribute to a single fund according to the size of their lease. Contributions to the Fund would be held as a bond in a separate Treasury line within the Department of Primary Industries and Natural Resources (DPINR) Special Deposit Account.
- 3.4 Initial contributions to the Fund would be \$20 per leased hectare per annum. Based on existing approvals, the fund would have the potential to be self-insuring after about 3 years (ie. interest accruing would be sufficient to purchase annual premium-based insurance for the industry as a whole) and contributions could be substantially wound-down or stopped after that time. Principles of Management for such a scheme have been endorsed by the Aquaculture Integrated Management Committee and are set out in a Memorandum prepared by the Crown Solicitor's Office (Attachment 1).
- 3.5 The merits of the proposal are that a single, large self-insuring fund would:
- be less costly to industry than conventional insurance products (eg. for an average 10 hectare lease site, three years of contributions to the fund would cost a lessee \$600, while 40 years of commercial premiums, increasing annually with CPI, would cost the lessee considerably more);
 - be easier to establish and administer than several industry-specific indemnity schemes (ie. as well as being capable of self-insurance in a shorter time-frame, a single fund with flat rate contributions is much easier to set up and administer than a number of industry-specific schemes, all with their own basis for calculating contributions); and
 - enable rapid commencement of the issuing of leases (ie. once approved by Cabinet it will be possible to open the fund to contributions almost immediately and, shortly thereafter, begin issuing leases for those applicants who meet the other pre-requisites for tenure.
- 3.6 It should be emphasised that contributions to the AILRF would not represent a new or additional charge in relation to the Aquaculture lease. These contributions will simply be to satisfy the existing requirement of clause 4.10 of the lease regarding indemnity. In fact the establishment of the Fund creates the best opportunity for minimising costs to industry in this respect because it spreads the indemnity risk across a larger number of lessees and enables individual premiums/contributions to be kept low. This view has been supported by SAICORP and the insurance consultants Sedgwick Ltd. in discussions regarding the proposal.

- 3.7 It should also be emphasised that contributions to this fund will not be compulsory. Where they choose, lessees will be free to pursue the other indemnity options provided for by the lease, either individually or in groups. This option is currently being exercised by the S.A. Oyster Growers Association which has decided to continue its existing scheme, subject to satisfactory completion of amendments recommended by the Crown Solicitor's Office.
- 3.8 **Establishment of this type of Fund** is an appropriate course of action in circumstances where industry associations are still developing and coordinated industry action may be difficult or take time to achieve. The Fund is simply to be established as the 'default' option for lessees that will satisfy the site rehabilitation indemnity requirements of the Aquaculture lease. After an initial establishment period it may be possible to transfer administration and management of the Fund to an industry body, such as the SA Fishing Industry Council.
- 3.9 Discussions with SAICORP and Sedgwick Ltd suggest that the likelihood of circumstances which will require aquaculture sites to be cleared and rehabilitated are remote. Current levels of demand for these sites suggests that for the foreseeable future any abandoned site will be easily re-leased. Similarly, the value of fish-farming structures and equipment left on such sites is likely to result in their prior removal by receivers, or an easy salvage sale that will recoup clean-up costs. SAICORP supports the AILRF proposal (Attachment 2).
- 3.10 Clause 10(1)
The changes have been made on the advice of the Crown Solicitor's Office. Clause 10(1)

- 3.11 **Economic, financial and budget implications**
There are no significant economic, financial or budget implications which arise directly from this submission. There is, however, a small chance of risk exposure should aquaculture sites be abandoned and require clean-up during the first few years of the fund's existence (ie. before it has become self-insuring). SAICORP has indicated that it regards this risk as "extremely low" and not sufficient to warrant changing the proposal.
- 3.12 **State development, social, environmental and other impacts**
The proposal will facilitate the smooth issuing of long term leases to approved aquaculture applicants and, in the process, encourage further investment in the farmed seafood sector. It will also ensure appropriate

measures exist for environmental clean-up and rehabilitation of any future abandoned aquaculture sites.

3.13 Staffing implications

The proposal can be readily incorporated into current licensing (and proposed leasing) procedures with negligible impact on DPINR's administrative workload. A proposed review of the Fund at the end of its third year of operation will examine transferring management and administration of the Fund to an appropriate industry body, or the need for cost recovery if such a transfer is not recommended. In the interim cost recovery is not worth pursuing because of the very small identifiable costs and the fact that it will further retard the commencement of issuing leases.

3.14 Consultation

The proposed *Aquaculture Industry Lease Rehabilitation Fund* has been developed with assistance and advice from staff of the Department of Treasury and Finance, DPINR Corporate Services, Crown Solicitor's Office, SAICORP, and the insurance consultants Sedgwick Ltd. In addition, the proposal was considered and endorsed by the Aquaculture Integrated Management Committee on three separate occasions. The proposal has also been conveyed to the office of the Minister for Transport and Urban Planning who has delegated the authority to issue Aquaculture leases to the Minister for Primary Industries, Natural Resources and Regional Development.

4 RECOMMENDATIONS

It is recommended that Cabinet:

- 4.1 Approve establishment of the *Aquaculture Industry Lease Rehabilitation Fund* as a separate Treasury line within the Department of Primary Industries and Natural Resources (DPINR) Special Deposit Account, and collection of contributions to the Fund by DPINR, in accordance with the Principles of Management set out in Attachment 1; and
- 4.2 Note a series of minor modifications to the wording of the standard Aquaculture Lease as set out in Attachment 3.

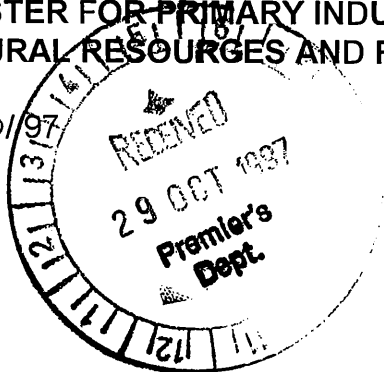
Rob Kerin

Rob Kerin

MINISTER FOR PRIMARY INDUSTRIES,
NATURAL RESOURCES AND REGIONAL DEVELOPMENT

In Cabinet

10 NOV 1997



**Attachment 1: Principles of Management for the Aquaculture Industry Lease
Rehabilitation Fund.**

Draft Memorandum

11 pages removed

Exempt clause 10(1) – legal professional privilege

Attachment 2: Comments from SAICORP on the Aquaculture Industry Lease Rehabilitation Fund.



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DEPARTMENT OF TREASURY AND FINANCE

24 September 1997

Mr. Peter Houston
Aquaculture Group
PISA
GPO Box 1625
ADELAIDE SA 5001

Dear Peter,

RE: AQUACULTURE INDUSTRY LEASE REHABILITATION FUND

Further to our correspondence, telephone conversations and several meetings over the past few months regarding the development of the Aquaculture Industry Lease Rehabilitation Fund, I can confirm that SAICORP is satisfied that the proposed arrangements satisfactorily provide adequate protection to the Government against all foreseeable risk exposures.

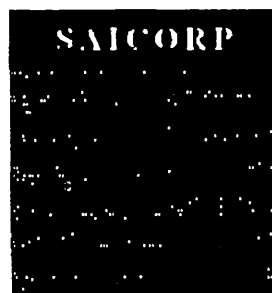
Principally, SAICORP is satisfied that the Fund will establish in short time sufficient reserves to meet the cost of any required site rehabilitation which becomes necessary for sites leased by aquaculture growers who cannot be contributory members of the SA Oyster Growers Association insurance scheme.

In association with the terms of the lease arrangements to be implemented, the Fund will provide for sound risk management of the aquaculture sites and SAICORP is therefore happy to endorse your proposal.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'M. Ayre', written over a horizontal line.

RISK MANAGER



Level 13
State Administration Centre
200 Victoria Square East
Adelaide 5000

GPO Box 1045
Adelaide SA 5001
DX56205 Victoria Square

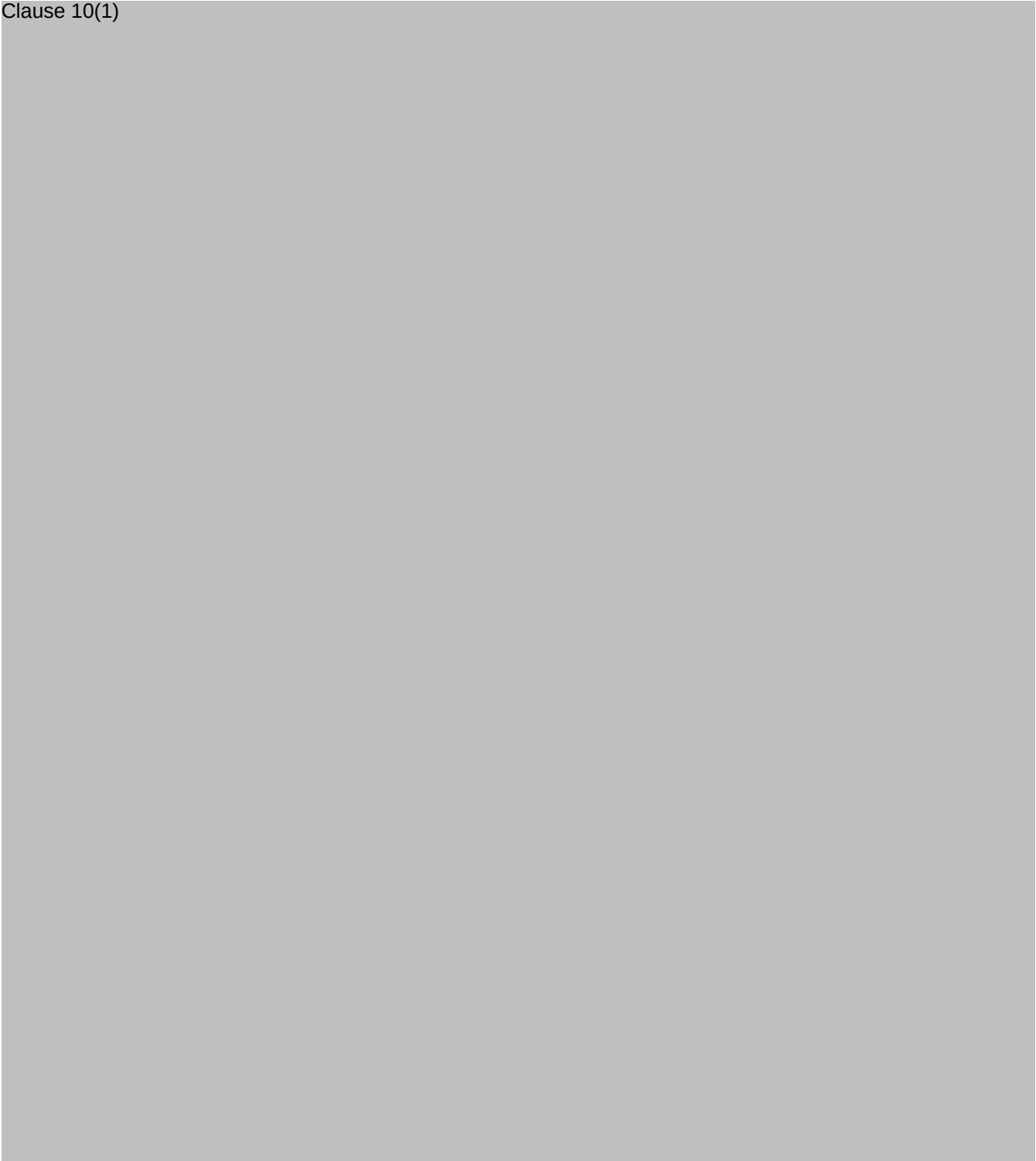
Telephone (08) 8226 9788
Facsimile (08) 8226 9733

Attachment 3: Minor amendments to the Aquaculture lease.

The following changes to the Aquaculture Lease have been recommended by the Crown Solicitor's Office. Clause 10(1)

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Clause 10(1)

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