

CABINET - SUBJECTS FOR CONSIDERATION, 15 OCTOBER 2001 9:30 AM

CABINET MINISTERS

9.30 am - 11.00 am: Cabinet Meeting

Not Relevant

1 New Initiatives/Policy Matters

Not Relevant

104 MEH0054/01CS

**Sludge Contamination at West Lakes
APPROVED AS AMENDED**

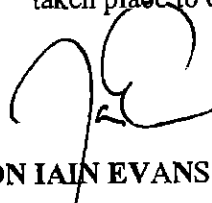
Premier & Cabinet Minister

Not Relevant

CABINET COVER SHEET

- 1. **TITLE:** Sludge Contamination at West Lakes
- 2. **MINISTER:** Hon Iain Evans **MP**
Minister for Environment and Heritage
Minister for Recreation, Sport and Racing
- 3. **PURPOSE:** For Cabinet to note the work and involvement with the West Lakes community undertaken so far through the Environment Protection Authority and the Department for Human Services and the current status of management of the issue; to approve an initial Government response on the matter and associated funding; to endorse proposed project management arrangements.
- 4. **RESOURCES REQUIRED FOR IMPLEMENTATION:** Additional appropriation for the Department for Administrative and Information Services of \$1.95 million during 2001/02 to be available on a draw down basis.
- 5. **RELATIONSHIP TO GOVERNMENT POLICY:** Maintenance of public health and management of Government exposure to legal risk.
- 6. **CONSULTATION:** The following agencies have been consulted in the preparation of this submission: Department for Human Services (Environmental Health), SA Housing Trust, Department for Administrative and Information Services, Land Management Corporation, Crown Solicitor's Office, SAICORP, Department for Treasury and Finance, Department for Transport, Urban Planning and the Arts. The submission reflects the results of that consultation.
- 7. **FAMILY IMPACT STATEMENT:** The issue has public health ramifications which are relevant to families living in the affected areas.
- 8. **URGENCY:** Normal
- 9. **RECOMMENDATIONS:** It is recommended that Cabinet:
 - 4.1 Note the necessary work and involvement with the West Lakes community undertaken so far through the Environment Protection Authority and the Department for Human Services.
 - 4.2 As an initial Government response, agree to reiterate the offer of site testing made by the Authority.

- 4.3 Agree that property owners be advised:
- a) Of the need for site testing to be undertaken before the Government can consider any further response to the situation at West Lakes; and
 - b) that participation in further program of more permanent remedial work that might be considered will be dependent upon property owners having accepted the offer of site testing.
- 4.4 Approve additional appropriation (on a draw down basis) of \$1.95 million for the Department for Administrative and Information Services (DAIS) for the program of site testing for sludge contamination at West Lakes.
- 4.5 Agree that future management of the issue be undertaken by the Department for Administrative and Information Services (DAIS).
- 4.6 Ask the Chief Executive of DAIS to put in place arrangements to ensure the coordinated input of the following agencies in future work and advice to Cabinet:
- Relevant DAIS agencies;
 - Department for Human Services (Environmental Health and SA Housing Trust);
 - Environment Protection Agency;
 - Planning SA;
 - Department of Treasury and Finance (in particular SAICORP);
- 4.7 Agree to refer to SAICORP the matter of further work to identify the Government's potential legal liability in relation to the dispersal of sludge at West Lakes.
- 4.8 Agree that the proposed cross Government Coordinating Group, in conjunction with the Crown Solicitor's Office, review the adequacy of information provision to the community that has taken place to date.



HON IAIN EVANS MP
ENVIRONMENT AND HERITAGE

SIGNATURE OF MINISTER:

PORTFOLIO:

DATE: 4/18/08

TO: THE PREMIER FOR CABINET

RE: SLUDGE CONTAMINATION AT WEST LAKES

1 PROPOSAL

That Cabinet:

- 1.1 Note the necessary work and involvement with the West Lakes community undertaken so far through the Environment Protection Authority and the Department for Human Services and the current status of management of the issue.
- 1.2 Approve an initial Government response on the matter and associated funding.
- 1.3 Agree that future management of the issue be transferred to the Department for Administrative and Information Services.

2 BACKGROUND

- 2.1 Advice on the status of this matter was provided in a Cabinet Note on July 9, 2001. The issue relates to the impacts of sludge from the Port Adelaide Waste Water Treatment Plant on distinct parts of the West Lakes area. This has resulted in the contamination of soil, with cadmium being identified as the main contaminant from which exposure needs to be controlled. The Department for Human Services considers that if exposure to cadmium is controlled, risks from other contaminants that may be present in the sludge would also be controlled.
- 2.2 The Cabinet Note indicated that several matters required attention:
 - a) determining a Government position on potential health risks in the context of determining the essential requirements for action (bearing in mind the possibility of similar issues in the future at other sites elsewhere in the State);
 - b) examining the need for and options for involvement by the Government, including remedial and reinstatement actions, associated costs and effectiveness in relation to potential health risks;
 - c) establishing a definitive position on the extent of liability, if any, of the Government, Delfin and/or others, including due diligence on history and responsibility for the contamination;
 - d) assessing, as far as possible, any impact on property values;
 - e) coordinating Government action to ensure a consistent approach, particularly in dealing with the public and the media; and
 - f) developing project management arrangements for implementation of any proposed approach to management and remedial action (if needed).
- 2.3 Since the Cabinet Note was presented to Cabinet, the Department for Environment and Heritage has entered into discussions with relevant agencies in the development of a package of recommendations for consideration by Cabinet taking into account the full range of Government interests.

2.4 The purpose of this submission is to provide Cabinet with the results of that further work and with advice on options for action.

3 DISCUSSION

Assessment of legal liability

3.1 The Crown Solicitor has undertaken further work to assess the extent of legal exposure of the Government (through its various agencies), the Delfin Group (West Lakes Ltd) and/or others. At this stage, no consideration has been given to potential liability on the part of the City of Charles Sturt. However, this needs to be borne in mind as SAICORP provides some reinsurance protection for the Local Government Mutual Liability Scheme.

Clause 10(1) Legal Professional Privilege

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3.7 Issue 1: Notification of landowners and occupiers

Clause 10(1) Legal Professional Privilege

- b) As indicated in the July 9, 2001 Cabinet Note and later in this submission, detailed advice has been provided to all residents in the assessment area indicating:
- whether or not it is suspected that their residence is affected
 - the likely route of any toxin
 - the impact of high levels of cadmium intake
 - effective measures that can be taken to prevent excessive exposure to cadmium.

In addition, offers for further testing (soil, urine and vegetables) have been made and the course proposed in this submission will reinforce that approach.

- c) *It is considered that all reasonable steps have been taken to inform the community of the risks that have been identified and how to deal with them.* This will be reinforced in the program proposed in this submission. Nevertheless, it may be worthwhile for the Crown Solicitor's Office to review the entire program of community notification undertaken to date by the Environment Protection Authority, the Environment Protection Agency and the Department for Human Services and advise on its adequacy. Communication between the SA Housing Trust and its tenants should also be reviewed.

3.8 Issue 2: Need for more permanent remedial work.

Remedial work undertaken on contaminated land would mitigate loss and it would be beneficial to know what the cost of this work would be. This information is not to hand in any detail. The proposal in this submission is to gain a more accurate understanding of the extent of the contamination within properties, which will inform an estimate of the cost of undertaking reasonable work. Note that it is unlikely that full rehabilitation of the area will be undertaken, as this could involve removing housing.

Further, in some cases (8-10 houses on Lochside Drive) the depth and extent of the contamination is expected to be such that full rehabilitation would be virtually impossible.

3.9 Issue 3: Determination of Developer's liability.

The final issue is whether or not any exposure of West Lakes Limited has dissolved with that company or whether any such liability could be attached to Delfn Limited. It would be beneficial to know what the position is.

Clause 10(1) Legal Professional Privilege

3.11 The historical situation is quite complex and, particularly given the considerable time that has passed, will take some time and resources to reconstruct. The Crown Solicitor has advised that additional funding and resources will be required if his office is to undertake the task.

3.12 The Crown Solicitor has suggested that there appear to be two options in this regard. The first would be for the Department for Environment and Heritage (DEH) to fund the proposed investigation (which would require additional funding for that Department). Alternatively the matter could be referred to SAICORP, given that there is potential for claim to be made against the Government. In this case SAICORP would determine the extent and course of work to be undertaken by the Crown Solicitor's Office.

3.13 It will be proposed in this submission that future management of the issue be assumed by the Department for Administrative and Information Services (DAIS). In those circumstances it is not sensible for DEH to accept responsibility for funding any further legal investigation. Further, it is not considered reasonable that DAIS be expected to carry the cost of this investigation, at least without additional funding. Accordingly, the option of referring the matter to SAICORP is proposed in this submission. It is also suggested that SAICORP be involved in future management arrangements, given its role as the Government's risk manager.

Current status

3.14 The contamination on residential properties has been inferred from testing on public reserves and road verges undertaken by the Environment Protection Agency on request from the Environment Protection Authority. The potential exists for contamination on 191 residential properties including 57 owned by the SA Housing Trust (the Newport Area). In terms of risk assessment for individual properties the following offers have been made by the Authority using both Agency and Department of Human Services expertise:

- a) to provide urine testing for cadmium and to provide advice on further testing if appropriate, including procedural advice for general practitioners to assist in ensuring an accurate assessment¹;
- b) to test home grown fruit, vegetables and eggs;

¹ Note that the Department for Human Services' preferred position is that urine testing be undertaken by general practitioners. However, the Department can provide advice to doctors to ensure that procedures are adopted that will yield reliable and meaningful results. In addition, the Department can review results to assess whether they indicate any health concerns possibly arising from the contamination.

- c) to test individual properties for the presence of sludge contamination.
- 3.15 Samples have already been taken from each of the 57 properties owned by the Housing Trust (3 jointly with private owners)². The results of this work have been made available to individual tenants. Broadly speaking the tests confirmed the presence of sludge across a significant number of the Trust's properties with levels of contamination similar to that detected in public reserves. Indications were that levels of contamination were lower closer to the lake. However, the level of testing to date has not been sufficient to provide categorical conclusions about all properties and the Trust is continuing to consider all properties as potentially affected.
- 3.16 Further testing has been undertaken by the Trust relating to other potential sources of contamination (Port Misery Dock) and it is expected that preliminary test results will be provided to residents by about the end of September. It would be useful for the communication of the issues relating to the Port Misery Dock to be dealt with by the Trust in coordination with other Government agencies in the context of a whole-of-government approach.
- 3.17 At this stage the Trust has not undertaken a separate formal assessment of its legal exposure. The Trust expects that, in the event of a legal case, a number of government agencies, including the Trust, would be joined to it.
- 3.18 The Environment Protection Authority's original (October 2000) offer to test properties for sludge contamination yielded 78 requests for testing from private individuals. Of these 17 were subsequently withdrawn following further discussion – leaving 61 of which 6 are in potentially affected areas and 55 in the area now assessed to be unaffected.
- 3.19 Cadmium is a naturally occurring element that poses long-term health risks if there is exposure at high levels for lengthy periods. Long term health testing is not required if the source of the contaminant has been dealt with or if an effective barrier to human exposure is in place.
- 3.20 Apart from concerns about any adverse impact on health to date, an issue for residents is to ensure protection from exposure in the future. Unless the contamination is removed or more permanently managed there is a need to maintain diligence in relation to the use of residents' property to protect themselves from exposure to cadmium. In addition, the situation on individual properties can only be inferred from testing on public reserves and road verges in the surrounding areas. Without individual property testing it is not known for certain whether or not, or to what extent, the contaminant is present on any particular property.
- 3.21 In August 2001 the Environment Protection Authority wrote to all residents in the assessment area advising formally of the results of the investigations that had been undertaken to date. Those in areas considered to be unaffected were advised of the fact and invited to contact either the Environment Protection Agency or the Department for Human Services (DHS) if they had any further concerns.
- 3.22 Residents whose properties are potentially affected by sludge contamination were advised of that fact and of the detailed understanding of their area that had led to that conclusion. They were also provided with a booklet setting out advice for dealing with

² Note that there are also 9 properties formerly owned by the Trust and 17 privately owned houses built on land developed by the Trust also within the total of 191. There may be particular issues relating to these.

the matter. Offers of soil testing were also reiterated. The DHS also sent separate letters reiterating offers for urine and vegetable testing.

- 3.23 Response to the DHS and Authority communications has been relatively small. As at August 22, 2001 there had been 15 telephone enquiries to the Environment Protection Agency and 17 to DHS. Those to the former were mainly requesting copies of information packages provided in October 2000; those to the latter were for urine and vegetable testing.
- 3.24 As at August 22, 2001 there had been two requests for soil testing on properties directed to the EPA and 60 requests to DHS for urine testing. DHS had also received 37 urine results for evaluation and 6 new requests for fruit and vegetable testing. Cadmium levels in urine and most vegetable samples tested were low.
- 3.25 The deadline given to request soil testing is October 31, 2001 and it may be that residents are waiting for the results of health assessments before lodging requests for soil testing.
- 3.26 There has been no media interest since the Environment Protection Authority/DHS package was distributed.
- 3.27 The response by residents to date indicates that they have only limited concerns with the primary one being to ensure that adverse health affects have not been suffered.
- 3.28 It should be noted at this point that the involvement of the Environment Protection Authority has extended beyond what might normally be expected as its role. In this respect it has been filling a void in the absence of any other Government agency willing to accept a lead role.

Options for action

- 3.29 In evaluating options for immediate action, consideration needs to be given to:
 - a) ensuring that the Government's legal position is not prejudiced;
 - b) the extent of potential site contamination in other areas of South Australia (particularly in metropolitan Adelaide) and the possibility that action taken at West Lakes might be seen to establish precedence elsewhere.
- 3.30 With regard to the second of these, a distinguishing feature of the West Lakes issue is that the land was originally Government owned and the source of the contamination was via a Government agency. Further, the Crown Solicitor's preliminary review of documents indicates that the contaminant (sludge from the sewage lagoons) may have been dispersed with the knowledge and approval of Government agencies. Notwithstanding any legal position, it is highly likely that the Government will be seen by the community to have particular responsibilities in this case.
- 3.31 The following broad categories of management options are given for consideration by Cabinet. In all cases the offer for urine and vegetable testing made by DHS will stand.

Option A: Minimal response

- 3.32 Given the low interest in property testing that has been exhibited to date, Cabinet might elect to do no more than honor the commitment given by the Environment Protection Authority to test properties for those owners lodging requests by the specified deadline of October 31, 2001.

- 3.33 Essentially this would involve managing the issue on an on-going basis as a public health issue. This would be similar to the lead contamination issue at Port Pirie.
- 3.34 This approach would also allow further time for a more definitive view of the legal position to be developed. However, there is a risk that the Government will be seen to be unresponsive to community concerns.

Option B: Property testing

- 3.35 If any degree of more permanent remedial work is to be considered, there is a need to have a clearer understanding of the nature and extent of sludge contamination actually present on the properties concerned. As indicated above, the Environment Protection Authority has already made an offer for property testing and the take-up rate to date has been very low.
- 3.36 Consideration could be given to reiterating the Authority's offer along the following lines:
- a) indicating that the Government is considering the extent, if any, of more permanent remedial work it may be willing to undertake in the area;
 - b) explaining that in order to do this the Government needs to have a clearer understanding of the actual nature and extent of sludge contamination on relevant properties;
 - c) providing an indication of the nature of the work involved in testing;
 - d) explaining the implications if testing is undertaken.
- 3.37 With regard to (c) the proposed testing program, based on requirements stipulated by the Environment Protection Agency (EPA) would incorporate:
- a) sampling of soil cores recovered from up to six locations per property;
 - b) laboratory analysis of selected samples for cadmium and if required other contaminants; and
 - c) professional interpretation of the data both on an individual site basis and also a regional basis.

An allowance would also be made to undertake a detailed survey of sludge lenses and soil profiles within each property to allow for the evaluation of site specific and regional management measures as required by the EPA and/or DHS. The test results would be provided to property owners and supplemented with advice on whether additional measures were required to prevent exposure to the contaminants (eg additional barriers). Disruption for residents would be minimal.

- 3.38 The focus of testing would be only on the impacts of contaminated sludge in the West Lakes area. As indicated earlier, apart from the dispersal of sludge from the Waste Water Treatment Plant other landfill was used more generally in the area. Whether that material contained contamination is not known, nor has it been raised as an issue. That matter would not be an issue considered in this program of testing.
- 3.39 The Land Management Corporation (LMC) has estimated the direct cost of the testing program indicated above to be \$5,750³ per property as follows:

³ This estimate is based on current market rates previously applied to the preliminary testing works undertaken by the EPA. It represents an estimate of the average cost per site and is not necessarily a reflection of costs that will actually be incurred on any particular site. In managing the proposed site testing works the LMC will utilise the

	\$
Site testing and survey work	1,700
Laboratory analysis	1,750
Data interpretation	1,300
Reporting	1,000
	5,750

Allowing for project management and other associated costs the average cost per property (for a program of the scale envisaged here) is estimated to be approximately \$8,000.

- 3.40 An implication for landowners in having testing undertaken (refer 3.36(d)) is the requirement for the Environment Protection Agency (EPA) to disclose information it holds on section 7 statements under the *Land and Business (Sale and Conveyancing) Act*. It is likely that the EPA would hold a copy of the information produced through this testing program. The effect of this is that any potential purchaser of the property would be aware of relevant contamination assessments. [At present the EPA would respond to the effect that while no specific information is held in relation to the property there is other information (ie relating to public places) that may be relevant.] Of course, if the contamination were removed or more permanently managed, this fact would also be recorded.

Option C: Clean up

- 3.41 As already indicated a pre-cursor to consideration of any program of remedial works would be a program of property testing as suggested in Option B. A variety of options for remedial work would be available.

- a) As a minimum works could be undertaken to ensure that effective barriers are in place to protect occupants from the contamination.

The following are more permanent measures that could be considered.

- b) In some circumstances it may be possible that the sludge could be removed from areas where there may be a high risk of exposure to the contamination. Essentially these would be areas of exposed soil such as occurs in vegetable gardens. Areas where there are effective barriers (eg under the house, out-houses, swimming pool, concrete paving, established lawns) would not be touched.
- c) As an extension to (b) in some cases the sludge could be removed in all areas except those where there are permanent structures (house, out-houses, swimming pool, concrete paving, etc.).
- d) A more radical program would involve removing the sludge from beneath some of the permanent structures. However, in some cases this would be virtually impossible.

- 3.42 The process of removing sludge in selected cases may involve excavating to the depth of the sludge, removing the contaminated material, backfilling with clean fill and re-establishing the grounds and/or structures. This is clearly an intrusive process with the extent of intrusion (and cost) becoming greater with the degree of remedial work undertaken.

- 3.43 Determining the extent of remedial work in each case would depend on a risk assessment taking into account factors such as the degree of contamination, existing

environmental resource network established by the Corporation and normal procurement practices will be applied to maximise potential efficiencies and cost savings.

land use, and likelihood of future changes to land use (with the present and future owners). These would need to be balanced against the cost of various options.

- 3.44 An extreme example of remedial work would involve demolition of the residence. This would be a high cost option, involving considerable disruption for occupiers and could only be justified by the presence of extremely high levels of risk. It is thought highly unlikely that this course would be adopted in any particular case. Further, in the worst cases (8-10 houses over the Southern sludge lagoon) the depth and extent of contamination are expected to be such that it would be virtually impossible to clean up even with such extreme measures.
- 3.45 The cost of more permanent measures cannot be predicted until there is a clearer understanding of the extent of the need. Development of clear cost scenarios for this work can only be developed once a property testing program has been completed. However, the cost is likely to be considerable and the Government would need to have a clearer understanding of its legal position before making a commitment to a major program.

Proposed initial response

- 3.46 The above options represent a spectrum of possible responses for the Government. In the absence of a clear understanding of the legal position it is difficult for the Government to determine its final position at this time.
- 3.47 However, it should be recalled that the source of this contamination was a Government facility and it seems that the material was dispersed with the knowledge of at least some areas of Government. Given this, and regardless of legal responsibility, it is likely that the Government will be seen to carry some responsibility in the matter. It is therefore suggested that the Government should be seen to be responding positively in dealing with the matter.
- | | |
|--|---|
| | Clause 10(1) Legal Professional Privilege |
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- 3.48 It is therefore proposed that the Government's initial response be Option B.
- 3.49 As indicated earlier, the Environment Protection Authority has already made an offer for testing to be conducted on individual properties in affected areas. A more proactive restatement of that offer as outlined in paragraph 3.36 would add the full commitment of the Government to it. It would also be possible to indicate that an appropriate infrastructure for the testing program has been put in place together with the necessary funding. These matters are discussed later in this submission.
- 3.50 As also indicated earlier, 55 property owners outside the areas now thought to be affected responded positively to a soil-testing offer made by the Environment Protection Authority in October 2000. Subject to further discussion with the relevant property owners it is proposed to honor this commitment. The proposed program allows for testing of these 55 properties.
- 3.51 Site testing could only be undertaken with the permission of property owners. In this regard, property owners will need to be properly informed of the nature and level of the risk if contamination is confirmed and the alternatives available to them. They would also need to understand that participation in this program of testing is a pre-requisite to any further offer of action that the Government might make.

Future management arrangements

3.52 In the July 9, 2001 Cabinet Note it was suggested that management of this matter might ultimately pass to the Department for Administrative and Information Services.

3.53 The following portfolio agencies could assume the lead management role:

- a) the Department for Environment and Heritage because of the environmental aspects of the issue, and its involvement in the issue to date;
- b) the Department for Transport, Urban Planning and the Arts because of the urban planning related aspects of the issue;
- c) the Department of Administrative and Information Services (DAIS) because of the major project management skills that are potentially required.

It could also be argued that DAIS is the portfolio with the greatest connection to the West Lakes contamination because of its linkages to the Land Management Corporation and SA Water, which had some connection with the original government participation. Also the West Lakes land was originally held by the Minister for Marines, predecessor to the Ports Corporation.

3.54 Management of the issue to date has been undertaken by the Department for Environment and Heritage (DEH) as a result of the initial involvement of the Environment Protection Agency assisting the Environment Protection Authority initially in its statutory role. However, as observed earlier, the Authority's involvement has now passed what would normally be expected. Further, DEH does not have the major project management skills that would be required for a major program of more permanent remedial work. Nor could it be considered to be a client agency for such a program.

3.55 As indicated earlier, it is expected to take some months for the legal position to be clarified. In addition, the proposed program of property testing, together with associated data analysis and assessment could, given a reasonable take-up of the testing offer, take some 6-12 months to complete. It is only when this work is complete that a comprehensive range of options for any work beyond testing will be able to be presented to Cabinet for consideration.

3.56 It is at that stage (assuming a particular outcome of Cabinet's deliberations) that the issue will become one requiring major project management skills. The view of the Department of Administrative and Information Services (DAIS) is that at that stage it would be appropriate for the DAIS portfolio to assume responsibility for management of the issue.

3.57 Notwithstanding the view of DAIS, given the likely substantial immediate involvement of the Land Management Corporation (a DAIS agency) and the fact that a future program of more permanent remedial work would be managed through DAIS, it is proposed that DAIS now assume responsibility for management of the issue.

3.58 Given the continuing complexity of the issue it is important to establish mechanisms to ensure that all, relevant Government expertise is brought to bear. In particular, this will include, in addition to DAIS agencies, the Department for Human Services (Environmental Health, SA Housing Trust), the Environment Protection Agency, the Crown Solicitor's Office, Planning SA, the Department of Treasury and Finance (in particular SAICORP). It is proposed that the Chief Executive of DAIS be asked to put in place project management arrangements to ensure that these interests are taken into account in a coordinated manner.

- 3.59 The Chief Executive DAIS would need to ensure that response options in terms of remedial action/management measures in line with whole of government objectives and constraints are identified and evaluated and provide advice to Cabinet, through the Minister for Administrative and Information Services, on future actions. In doing so he would need to ensure that any whole-of-government issues that might arise from the SA Housing Trust's further work relating to the Port Misery Dock area are taken into account.
- 3.60 In any arrangements put in place it is expected that the Environmental Health Branch (DHS) and Environment Protection Authority (supported by the Environment Protection Agency) would need to continue their respective statutory roles in ensuring that environmental and public health standards are maintained and relevant issues addressed.

Economic, Financial and Budget Implications

- 3.61 Under the proposals contained in this submission, the cost of further legal advice will be borne by SAICORP.
- 3.62 The Land Management Corporation has estimated the possible cost of property testing at \$1.95 million comprising:
- a) testing of all properties in affected areas and those that have previously sought testing - \$1.4 million;
 - b) ground water testing in the area - \$0.1 million (the cost of some of this work may be absorbed by SA Water);
 - c) data management and risk assessment - \$0.05 million;
 - d) LMC costs (professional fees and consultants/contractors) - \$0.4 million.
- 3.63 Officers of the Department of Treasury and Finance have expressed concern about the magnitude of these costs. As the figures are only budget estimates, it is considered reasonable to rely on the expertise of the LMC at this stage particularly given there has been discussion with consultants having a knowledge of the area and associated issues.
- 3.64 It is proposed that an additional appropriation of \$1.95 million be provided to the Department for Administrative and Information Services. However, it should be noted that the final cost of this program is dependent on the take-up rate on the offer for property testing. On present indications this could be substantially below 100 per cent. Furthermore, there may be some cost offsets relating to work already undertaken by the Housing Trust. For this reason it is proposed that this additional appropriation be available only on a draw down basis. It is expected that the majority, if not all, of the costs will be incurred during 2001/02
- 3.65 Cabinet should be aware that any subsequent decision to undertake more permanent remedial work is likely to involve a substantially greater cost. However, it is considered that this program of site assessment would be a necessary precursor to any decision about remedial work. Any proposal to undertake remedial work would be referred to Cabinet for consideration.

State Development, Social, Environmental and other Impacts

- 3.66 As indicated earlier in this submission, when considering this matter Cabinet needs to bear in mind any issues of precedent relating to residential site contamination elsewhere in the State. Related to this there may be issues emerging from experience

in this matter that need to be taken into account as Site Contamination Legislation is developed. (A draft Bill is currently being finalised for comment by Government agencies prior to release for public consultation).

- 3.67 Also to be borne in mind is the image that is created for the State through the way in which the Government manages this and other similar issues.

Staffing Implications

- 3.68 The proposed program can be managed within existing staffing levels, although it already has had, and will continue to have, impacts on the ability of the Environment Protection Agency to deal with other significant site contamination issues that may arise.

Consultation

- 3.69 This submission has been discussed with the Land Management Corporation, which has indicated that it would be comfortable with a role as project manager. This would be a matter to be determined by the Chief Executive of the Department for Administrative and Information Services (DAIS). DAIS has agreed that it may have a future leadership role in this matter but does not support the proposal that it take that role at this stage. SAICORP has also indicated that it is comfortable with the submission and that it would be willing to accept a role in the future management of the issue. Support for the involvement of Planning SA has also been provided.
- 3.70 The Department of Human Services has reviewed the material relating to health issues and confirms that they are adequately reported.
- 3.71 The SA Housing Trust has been consulted on matters relating to its properties and its comments are reflected in the final version of this submission.
- 3.72 The Crown Solicitor's Office has confirmed the accuracy and completeness of the material relating to present knowledge of the legal position.
- 3.73 Officers of the Department for Treasury and Finance (DTF) have commented on an earlier version of the submission and comments have been taken into account or resolved through discussion. DTF officers also believe that this project does not fall within the core business of DEH and that accordingly DAIS should take the lead role at this stage.

Executive Council

- 3.74 This proposal does not require the consideration of Executive Council.

4 RECOMMENDATION

It is recommended that Cabinet:

- 4.1 Note the necessary work and involvement with the West Lakes community undertaken so far through the Environment Protection Authority and the Department for Human Services.
- 4.2 As an initial Government response, agree to reiterate the offer of site testing made by the Authority.

4.4. Approve payment of the cost of site testing for sludge contamination at West Lakes (up to 1.95 million) from Section 2 of the SA Government Insurance and Risk Management Fund with testing to be coordinated by the Department for Administrative and Information Services (DAIS) in consultation with SAICORP.

4.3 Agree that property owners be advised:

- a) of the ~~need~~^{OFFER} for site testing to be undertaken before the Government ~~can consider any further response to the situation at West Lakes; and~~
- ~~b) that participation in any further program of more permanent remedial work that might be considered will be dependent upon property owners having accepted the offer of site testing.~~

4.4 ~~Approve additional appropriation (on a draw down basis) of \$1.95 million for the Department for Administrative and Information Services (DAIS) for the program of site testing for sludge contamination at West Lakes.~~

4.5 Agree that future management of the issue be undertaken by the Department for Administrative and Information Services (DAIS).

4.6 Ask the Chief Executive of DAIS to put in place arrangements to ensure the coordinated input of the following agencies in future work and advice to Cabinet:

- relevant DAIS agencies;
- the Department for Human Services (Environmental Health and SA Housing Trust);
- the Environment Protection Agency;
- the Crown Solicitor's Office;
- Planning SA;
- the Department of Treasury and Finance (in particular SAICORP).

4.7 Agree to refer to SAICORP the matter of further work to identify the Government's potential legal liability in relation to the dispersal of sludge at West Lakes.

4.8 Agree that the Chief Executive of DAIS, in conjunction with the Crown Solicitor's Office, ensure that the adequacy of information provision to the community that has taken place to date is adequate.

HON IAIN EVANS MP
Minister for Environment and Heritage
Minister for Recreation, Sport and Racing

Date: 4/10/01

In Cabinet

15 OCT 2001

APPROVED

PREMIER