

State was not required to produce those passages that it wished to expunge. In the course of judgment, the Full Court made the following observations: -

- Emphasis must be given to each phrase within a document over which privilege is sought. The significance of each passage in the context of the prosecution of the claim should be considered, not simply the tenor of the document as a whole. The Full Court considered the evidence before Wilcox J to indicate that the disputed passages were of limited forensic significance in the case.
- In a case where the Court has to weigh competing public interests, it is required, in doing so, to give weight to the assertion of a government representative that there is a public interest that would be jeopardised by producing the document. The full court accepted that the disputed passages contained recommendations which justified the claim for privilege and which may have been the basis for a cabinet discussion.
- An error in principle was made by the primary judge in failing to weigh the significance of the material in question in the context of advancing justice in the litigation as compared with the public interest in withholding cabinet documents.

The Full Court held that His Honour's exercise of discretion was miscarried. Those passages of the Appendix 3 were not produced. The Applicant never gained access to the full text of the Final Report.

Postscript: On Friday 8 March 1999, Justice Wilcox delivered judgment in which he found for Mr Ryan against the Great Lakes Shire Council, Graham Barclay Oysters and the State of New South Wales. Justice Wilcox held each respondent equally culpable in negligence. Mr Ryan was awarded \$30,000 in damages. ■

Poisoned oysters legal win

By **AMANDA PHELAN**
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NSW taxpayers may face a \$7.5 million bill after four people who ate poisoned Wallis Lake oysters won a major damages payout yesterday.

The Federal Court awarded \$30,000 to Mr Grant Ryan, a Quakers Hill plumber, saying the State Government, Great Lakes Council and Australia's biggest oyster grower, Graham Barclay Oysters Pty Ltd, were negligent.

Mr Ryan, whose claim represented 185 similar cases, contracted hepatitis A during an epidemic of the disease in 1977. At least 400 people suffered from the deadly virus after eating the contaminated oysters and one man died.

Mr Ryan, a father of four, was delighted with his victory, his lawyers said yesterday.

Speaking outside court, Mr Andrew Grech, from Slater and Gordon, called for the settlement of outstanding claims, saying he had 250 clients who had suffered as a result of the oyster disaster.

These claims represented about \$7.5 million, he said.

Mr Grech said the decision of Justice Murray Wilcox should act as a stern warning to the

government, councils and oyster farmers to comply with strict rules on the hygiene of food.

Justice Wilcox said his award of \$30,000 to Mr Ryan should help to "assist agreement" with outstanding claims.

"It was common ground that the hepatitis A epidemic was caused by the victims consuming oysters contaminated by the hepatitis A virus, and that this stemmed from widespread human faecal pollution of the waters of the lake," he said.

Wallis Lake was poorly managed, and breached a number of National Health and Medical Research Council guidelines, he said. Oysters act like filters, and "clean water is essential for the industry to exist and prosper".

Justice Wilcox accused the local council of ignoring many complaints over septic tank waste polluting waters that flowed into the lake. Health Department inspectors had identified 67 septic tanks which discharged directly into waterways or represented "high" and "medium" risks of pollution but had taken no action.

The Oyster Farmers Association of NSW Ltd challenged the State Government to release immediately a "secret" report on the Wallis Lake incident.