



**SECOND SESSION OF THE THIRTY-SIXTH PARLIAMENT**

**REPORT OF THE  
STANDING COMMITTEE ON ENVIRONMENT  
AND PUBLIC AFFAIRS**

**IN RELATION TO A PETITION OPPOSING THE  
GNARABUP WASTE WATER TREATMENT PLANT**

Presented by Hon Christine Sharp MLC (Chair)

Report 3  
October 2002

## STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS

**Date first appointed:** May 24 2001

### **Terms of Reference:**

The following is an extract from Schedule 1 of the Legislative Council Standing Orders:

#### **“3. Environment and Public Affairs Committee**

- 3.1 *An Environment and Public Affairs Committee* is established.
- 3.2 The Committee consists of 7 members.
- 3.3 The functions of the Committee are to inquire into and report on -
  - (a) any public or private policy, practice, scheme, arrangement, or project whose implementation, or intended implementation, within the limits of the State is affecting, or may affect, the environment;
  - (b) any bill referred by the House;
  - (c) petitions.
- 3.4 The Committee, where relevant and appropriate, is to assess the merit of matters or issues arising from an inquiry in accordance with the principles of ecological sustainable development and the minimisation of harm to the environment.
- 3.5 The Committee may refer a petition to another committee where the subject matter of the petition is within the competence of that committee.
- 3.6 In this order **“environment”** has the meaning assigned to it under section 3(1), (2) of the *Environmental Protection Act 1986*.”

#### **Members as at the time of this inquiry:**

Hon Christine Sharp MLC (Chairman)	Hon Frank Hough MLC
Hon Kate Doust MLC (Deputy Chairman)	Hon Robyn McSweeney MLC
Hon Jim Scott MLC	Hon Bruce Donaldson MLC
Hon Louise Pratt MLC	

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Felicity Beattie, Advisory Officer (Legal)	David Driscoll, Senior Committee Clerk
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## **Government Response**

This Report is subject to Standing Order 337:

*After tabling, the Clerk shall send a copy of a report recommending action by, or seeking a response from, the Government to the responsible Minister. The Leader of the Government or the Minister (if a Member of the Council) shall report the Government's response within 4 months.*

The four-month period commences on the date of tabling.



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## REPORT OF THE STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS

### IN RELATION TO A PETITION OPPOSING THE GNARABUP WASTE WATER TREATMENT PLANT

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#### 1 BACKGROUND TO THE INQUIRY

- 1.1 On August 30 2001 Hon Dee Margetts MLC tabled a petition (*Tabled Paper #617*) opposing the Gnarabup Waste Water Treatment Plant (Treatment Plant) and requesting an immediate stay on all expansion works at the present site and an investigation into the siting of the Treatment Plant.
- 1.2 The petition stated that the Treatment Plant “...*was previously and is currently damaging the Environmental, Geomorphological, Flora, Fauna, Speliological, Aboriginal Heritage, Community, Health and Social values inherent in this site.*”
- 1.3 The petitioners requested an immediate stay on all expansion works at the present site and an investigation into the siting of the Treatment Plant based on thorough recent research to ensure the protection of all the values mentioned above.
- 1.4 The petitioners also requested that “... *the Legislative Council will initiate a full enquiry into all the alternative best practices for Sewerage and Waste Water Treatment available such that they can be instigated and will confer with the values of the local and wider community.*”
- 1.5 The adjournment and subsequent prorogation of Parliament on August 9 2002 resulted in the petition lapsing from the Notice Paper of the Council. The petition was re-tabled on August 21 2002 by Hon Dee Margetts MLC (*Tabled Paper #131*).

#### 2 RESTRUCTURE OF THE LEGISLATIVE COUNCIL COMMITTEE SYSTEM

- 2.1 The petition was first tabled during the Thirty-Fifth Parliament, and at that time was referred to the previous Standing Committee on Constitutional Affairs (Constitutional Affairs Committee) under that committee’s terms of reference. The Constitutional Affairs Committee wrote to the principal petitioner and tabling member requesting a short submission on the matters raised in the petition.
- 2.2 The Constitutional Affairs Committee received a submission from the Prevelly Wilderness Progress Association (Inc) (PWPA) dated July 24 2000. The submission outlined the developments in the construction of the Treatment Plant from the original approval for the Gnarabup subdivision in 1993 to the completion of the Stage Two upgrade which was commissioned in May 2000.

- 2.3 The submission stated that proper research had not been carried out on the geomorphology of the area, a full flora and fauna study had not been done, Aboriginal heritage reports were questionable and the siting was inappropriate for a highly regarded tourist area.
- 2.4 The PWPA requested a thorough investigation into the suitability of the siting of the Treatment Plant at Gnarabup in line with current procedures and research.
- 2.5 Following the state election in February 2001 there was a restructure of the committee system of the Legislative Council of the Western Australian Parliament. As a result of the restructure, the Constitutional Affairs Committee no longer exists. Petitions now fall within the terms of reference of the Environment and Public Affairs Committee (Committee).
- 2.6 Following tabling of the petition on August 30 2001 the Committee wrote to the PWPA requesting that they confirm the currency and accuracy of the evidence provided to the former Constitutional Affairs Committee. The Committee received this confirmation on October 10 2001.
- 2.7 The Committee also received further evidence from the PWPA on October 10 2001. The PWPA advised the Committee that the request in the petition for a stay on all expansion works at the present site was not applicable as the works had been completed and the Treatment Plant commissioned. However the PWPA submitted that an investigation into the siting of the Treatment Plant was still very relevant.
- 2.8 On the basis of the information contained in the two submissions received from the PWPA, the Committee resolved on November 8 2001 to inquire into the Treatment Plant.

### **3 INQUIRY PROCEDURE**

- 3.1 On November 8 2001 the Committee resolved to apply for funds to travel to Margaret River to conduct a site visit of the Treatment Plant and to hold a public hearing into the matters raised in the petition.
- 3.2 Funds were approved by the Clerk of the Legislative Council on November 8 2001.
- 3.3 On November 20 2001 the Committee travelled to the Treatment Plant. The Committee met with representatives of the Water Corporation who conducted a tour of the site. Present at the site visit were:
- Mr Chris Elliott, Regional Business Manager, South West Region, Water Corporation;
  - Mr Michael Parker, Principal Engineer, Water Corporation;



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- Mr Anthony Snelling, Project Leader Communications, Water Corporation;
  - Mr Garry Crowd, Senior Business Development Officer, Water Corporation;
  - Mr Richard Murton, Regional Environmental Officer, Water Corporation;
  - Hon Dee Margetts MLC, tabling member;
  - Ms Janet Dufall, principal petitioner and Secretary of the PWPA;
  - Ms Lyn Serventy, former Chairperson, Prevelly Area Community Consultative Committee of the Shire of Augusta-Margaret River (PAC Consultative Committee); and
  - Mr William Webb, Cultural Manager, Wardan Aboriginal Centre.

3.4 The Committee and other participants spent one and a half hours with the Water Corporation representatives touring the site.

3.5 Following the site visit the Committee conducted a public hearing at the Emerald Colonial Lodge in Margaret River. The Committee heard evidence from:

- Mr Chris Elliott;
- Mr Garry Crowd;
- Ms Janet Dufall;
- Mr Pamela Forward, former Treasurer of the PWPA;
- Mr Bob Beadle, former President of the PWPA;
- Hon Dee Margetts MLC;
- Hon Barry House MLC, member for South West region;
- Mr Manfred Boldy, Director of Development Services, Shire of Augusta-Margaret River;
- Mr Rod Whittle, Secretary, Leeuwin Conservation Group;
- Ms Lyn Serventy;
- Mr Ross Down, private citizen;
- Mr William Webb; and

- Mr William Reynolds, President, Margaret River Recreational Surfers' Association Inc.

3.6 The Committee also conducted a public hearing in Perth on March 13 2002. At that hearing the Committee heard evidence from Mr Larry Guise, Regional Manager, South West Planning Services, Department for Planning and Infrastructure.

#### **4 SUMMARY OF THE OPERATION OF THE GNARABUP WASTE WATER TREATMENT PLANT**

4.1 At the hearing in Margaret River on November 20 2001 Mr Elliott from the Water Corporation provided the Committee with a summary of the operation of the Treatment Plant.

4.2 The Treatment Plant is located on Gas Bay Road at the southern end of the Gnarabup Beach Estate. The Treatment Plant was sited, constructed and paid for by the Gnarabup Beach Estate developer, Cedar Vale Pty Ltd. Ownership of the site was transferred to the then Water Authority in November 1995. The Water Corporation came into existence in January 1996. Mr Elliott advised the Committee that the Treatment Plant is licensed by the Department of Environmental Protection (DEP).

4.3 The treatment process, known as Intermittently Decanted Extended Aeration, produces high quality treated waste water including biological nutrient removal. Nitrogen removal is undertaken by nitrification and de-nitrification processes. The de-nitrification process is achieved while the activated sludge is under anaerobic conditions and nitrogen gas is released.

4.4 Mr Elliott advised the Committee that treated waste water is transferred to on-site infiltration ponds for disposal. He submitted that environmental monitoring indicates no adverse effect on the coastal dune or marine environment.

4.5 Mr Elliott also advised the Committee that the main nutrient of concern for the coastal receiving environment is nitrogen. He informed the Committee that the Treatment Plant reduces nitrogen by over 90 per cent, a level of reduction not possible in septic tank systems.

4.6 The Committee was advised that approximately 182 kilograms of nitrogen are discharged per year to the receiving environment. This compares to a potential load of 2 200 kilograms of nitrogen per year if Gnarabup was on septic tank systems and an estimated 40 000 kilograms discharged annually to the ocean from the Margaret River.

4.7 Mr Elliott advised the Committee that the licence requirements on the Treatment Plant dictate that less than 10 milligrams per litre nitrogen is the performance parameter. He advised that the Treatment Plant is capable of performing within that parameter.

- 4.8 The Committee was also advised by Mr Elliott that during 2000 and 2001 the Treatment Plant was upgraded, at the expense of the developer Cedar Vale Pty Ltd, to a DEP Licence capacity of 365 cubic metres per day, or 2 030 equivalent persons. At that capacity it will be capable, with the upgrade that was recently completed, of fully servicing the future development planned for Gnarabup.

## **5 HISTORY OF THE APPROVAL PROCESS FOR THE GNARABUP WASTE WATER TREATMENT PLANT**

### **Ms Janet Dufall and Ms Pamela Forward**

- 5.1 At the hearing in Margaret River on November 20 2001 Ms Dufall, principal petitioner and Secretary of the PWPA, provided the Committee with a history of the approval process for the Treatment Plant.
- 5.2 Ms Dufall advised the Committee that a structure plan for the Gnarabup Beach Estate was released for public comment in 1992 (1992 Structure Plan), however the Treatment Plant was not shown. She submitted that no one commented on the Treatment Plant because they did not question where it was going to be situated.
- 5.3 The 1992 Structure Plan was referred to the Environmental Protection Authority (EPA). It was decided at that time that it did not require formal environmental impact assessment.
- 5.4 Ms Dufall advised the Committee that in 1993 the developers released a different structure plan (1993 Structure Plan). The 1993 Structure Plan did show the Treatment Plant, however it was not released for public comment.
- 5.5 As part of her submission, Ms Dufall tabled a letter hand-dated June 15 1993 signed on behalf of Mr Sippe, Director, Evaluation Division, EPA, to the Executive Director, Department of Planning and Urban Development. In that letter Mr Sippe commented on the proposed Structure Plan and noted that it was inconsistent with the Shire Council's Visual Resources Assessment and a number of elements of the then Department of Planning and Urban Development's coastal development policy. The inconsistency was that any development should not reduce the visual amenity of the foreshore, disturbance of vegetation should be minimised and roads and carparks should blend with their setting by following natural contours.
- 5.6 Mr Sippe also wrote that the proposed Structure Plan did not conform with the Shire of Augusta-Margaret River Town Planning Scheme Number 18 (TPS 18) or with the Prevelly Park Development Guidelines on which TPS 18 was based. This was particularly with respect to development boundaries, the visual impacts of some parts of the proposal on the landscape and possible impacts from erosion, water extraction and the disposal of effluent on the integrity of the coastal environment.

5.7 Mr Sippe noted that, with respect to development boundaries, the Prevelly Park Development Guidelines adopted a position of allowing development on land identified as being the most stable. Other factors considered and incorporated in the Prevelly Park Development Guidelines were the values held by the immediate community for the area, which are the findings of lengthy public participation exercises during the Leeuwin Naturaliste study.

5.8 In his letter Mr Sippe also specifically referred to the Treatment Plant and wrote that:

*Insufficient work has been carried out to demonstrate to the EPA's satisfaction that the proposed site is suitable for the treatment of effluent. The proposed sewerage plant does not meet WAWA [the then Water Authority of Western Australia] requirements for a 500 metre buffer between the plant and residential development.*

5.9 Mr Sippe noted that any proposal to reduce the buffer would require air-modelling to demonstrate that odours would not impinge on residential development. He also wrote that it was necessary to demonstrate quantitatively that effluent from the Treatment Plant would not impact on the environment; for example, that effluent seepage would not impact on the foreshore reserve vegetation.

5.10 Mr Sippe concluded his letter by writing that because the proposal was not consistent with the Prevelly Park Development Guidelines, it could not be viewed as being the same proposal which the EPA agreed to assess at an informal level because that proposal did conform with the Prevelly Park Development Guidelines. Mr Sippe wrote that if the proposal could not be made consistent with the Prevelly Park Development Guidelines, then the EPA may consider that the proposal requires formal assessment.

5.11 Ms Forward advised the Committee that it was her belief that in July 1993, three weeks after Mr Sippe's letter was written, the 1993 Structure Plan was approved by the then Department of Planning and Urban Development. She submitted that everything in Mr Sippe's letter was, therefore, ignored. This meant that the informal assessment related only to the 1992 Structure Plan which was released for public comment whereas it was the 1993 Structure Plan which was adopted. Ms Forward expressed the view that the 1993 Structure Plan should have had a formal environmental assessment.

5.12 In a subsequent letter to the Committee dated December 27 2001, Ms Dufall advised that she had sought an explanation from Mr Larry Guise, Regional Manager, South West Region, Department of Planning and Infrastructure, as to how the South West Region Planning Committee (SWRPC) had considered the advice in Mr Sippe's letter dated June 15 1993 when the decision was made to approve the 1993 Structure Plan.

- 5.13 Ms Dufall provided the Committee with a copy of Mr Guise's letter of response dated December 11 2001. Mr Guise explained that Mr Sippe's letter was faxed to the then Department of Planning and Urban Development on June 15 1993 but that it was annotated as having arrived too late for inclusion (by way of analysis) into the report prepared for the agenda of the SWRPC meeting of August 6 1993. However Mr Sippe's letter was attached to the SWRPC agenda report and the concluding paragraph (referred to in paragraph 5.10 of this report) was highlighted with a hand-drawn box to ensure it was brought to the attention of members.<sup>1</sup>
- 5.14 Mr Guise claimed that the EPA did not assess the 1993 Structure Plan as it had already assessed the 1992 Structure Plan. Despite the written advice from the EPA referred to in the previous paragraph, Mr Guise claimed that enquiries to the DEP indicated that the 'footprint' area of the 1993 Structure Plan, and subsequent subdivision applications, have been substantially the same as the 1992 assessed plan, hence not further assessed by the EPA. He stated that this advice is borne out by the fact that the EPA declined to assess the 1996 and 1999 subdivision applications.
- 5.15 Mr Guise advised that over the past decade the EPA has been consistent in not assessing proposals that are largely within the 'footprint' of, and similar in content to, the 1992 Structure Plan.
- 5.16 Ms Dufall expressed her concern that Mr Guise's letter poses great concern for the power of the EPA. She felt that the inference was that the Western Australian Planning Commission could write reports without considering an EPA recommendation. She submitted that in effect, it appears as if the EPA can be ignored and play no part in planning procedures.
- 5.17 In their evidence to the Committee on November 20 2001, Ms Dufall and Ms Forward raised a number of their concerns about the approval process for the Treatment Plant. One of their concerns related to a letter tabled by Ms Forward from Proteus Consultants Pty Ltd, the consultants for the project manager Cedar Vale Pty Ltd, to the Shire of Augusta-Margaret River dated April 18 1995. The letter stated that the Structure Plan for the Treatment Plant in its current form and location had been put out for formal public review and comment for 60 days by the Shire. It stated that the advertising included a description of the Treatment Plant and its location.
- 5.18 Ms Forward suggested to the Committee that this was misleading, because only the 1992 Structure Plan was released for public comment.
- 5.19 The letter went on to state that of the hundreds of replies received in response to the advertising, none cited the Treatment Plant as an issue of concern. Ms Forward

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<sup>1</sup> Refer to paragraphs 11.24 to 11.27 of this report.

commented that this was because it was not advertised, “,,so nobody was alerted to the fact that a waste water treatment plant would sit right on the coast.”<sup>2</sup>

**Mr Chris Elliott**

- 5.20 At the hearing in Margaret River on November 20 2001, Mr Elliott advised the Committee that the process for the establishment of the Treatment Plant was unusual. He informed the Committee that most development proposals dealt with by the Water Corporation (and previously the Water Authority) are generally closer to existing infrastructure. He advised that through a coordinated approach by the Water Corporation, the State planning agencies and the local authority planning agencies, effort is put into encouraging development on existing development fronts; that is, building on existing infrastructure.
- 5.21 The Committee was advised that from time to time development proposals arise which are quite remote from existing infrastructure. That is what occurred with the Treatment Plant. There were no water or waste water facilities available for the Gnarabup development. Therefore the developer, in putting forward the development proposal, attracted development conditions which included providing a water supply and waste water services.
- 5.22 In view of the fact that there were no services readily available from the Water Authority, the developer had the prerogative of proposing and developing his own solutions to the issues of water and waste water. Mr Elliott advised that in such situations, there has to be a body which will manage, in an ongoing capacity, the water or the waste water scheme once it is built. That was the Water Authority’s role.
- 5.23 Mr Elliott advised that the situation is different today because of the deregulated water industry. At that time, however, it was the Water Authority’s role to accept the works that were constructed by a developer in this manner.
- 5.24 Mr Elliott advised that there are not many examples of this situation occurring because the developer must establish from the very beginning water and waste water services, go through the entire approval process, site treatment plants and develop water supply solutions. He advised the Committee that he was not personally aware of another example of such a development that the Water Corporation had had to deal with in the past 10 years.
- 5.25 In answer to a question from Hon Jim Scott, Mr Elliott explained to the Committee the changes that occurred in the water industry which commenced in 1996 with the formation of the Water Corporation and the creation of the Office of Water Regulation (OWR). The OWR is effectively a regulator of the provision of water services in

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<sup>2</sup> Transcript of evidence taken at Emerald Colonial Lodge, Margaret River, Tuesday, November 20 2001, Fourth Session, p 3.

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- Western Australia. The regulator becomes involved in the process of establishing who or what company will provide the water services.
- 5.26 At the time the Gnarabup Beach Estate development was proposed, the Water Authority was automatically regarded as the water service provider. The developer had to satisfy the Water Authority as to the requirements for waste water.
- 5.27 Mr Elliott advised that this has changed, and now a developer must deal with the OWR. In the deregulated market, the process now is an open tendering situation. The developer or the OWR on behalf of the developer, calls for expressions of interest from water service providers. The Water Corporation is just another water company that bids for the work.
- 5.28 Mr Elliott advised the Committee that there would not be a direct repeat of the Gnarabup sequence of events today because circumstances had changed.
- 5.29 Following the hearing the Committee sought clarification from Mr Elliott regarding this statement.
- 5.30 In a letter to the Committee dated June 12 2002 Mr Elliott advised that at the time of the Gnarabup development, planning conditions required the developer to deal directly with the single service provider available: the Water Authority. As existing Water Authority waste water infrastructure could not service the new development, the developer was required to make all arrangements, including obtaining the necessary approvals, for the new infrastructure.
- 5.31 Mr Elliott advised that the changed circumstances he referred to in his evidence to the Committee are the changes to the water industry introduced in 1996, and in particular the creation of the Water Corporation as purely a water service provider and the new role played by the OWR.
- 5.32 He advised that one of the changes in the water industry was the creation of licensed areas within developments. The licensed areas are very closely defined, and thus licenses now issued by the OWR apply to a very specific, tightly defined area.
- 5.33 The new process requires the OWR to grant an operating license, usually following a competitive process, to a suitable water service provider. Mr Elliott advised that potential providers such as the Water Corporation, in order to bid, must determine at least in broad terms how the proposed services will be provided.
- 5.34 Thus developers of remote sites must now approach, not the Water Corporation as was the case pre-1996, but the OWR and go through a process to obtain a licence that is issued to a water service provider suitable to the OWR.
- 5.35 Mr Elliott advised that once granted the operating license, it is up to the successful service provider to establish the required infrastructure. He submitted that "*In the*

*case of the Water Corporation, it is our clear preference and intention to directly manage planning and environmental approval processes for new wastewater treatment works, particularly in sensitive locations.*"<sup>3</sup>

- 5.36 The Committee also sought advice from Mr Elliott as to why the Treatment Plant was constructed in such a way as to increase capacity in such a short time frame and whether either the initial construction or the upgrade were formally assessed by the EPA to require an increase in such a short space of time.
- 5.37 In his letter of June 12 2002 Mr Elliott advised that the staged development of the Treatment Plant was proposed by the developer. The Water Authority did not object to the developer staging the works, a practice which Mr Elliott submitted allows cash flow to be better managed. He advised the Committee that the modular nature of the Treatment Plant type also readily permitted staging as a viable option.
- 5.38 Mr Elliott advised that the developer complied with all EPA requirements in seeking works approval for both stages of the Treatment Plant. The initial application in January 1994 noted that the Treatment Plant can be doubled or tripled by adding another series of tanks in parallel to the proposed plant.
- 5.39 Following the hearing the Committee also sought clarification from Mr Elliott as to whether the Water Corporation has approved the engineering design of the Treatment Plant.
- 5.40 The Committee was advised by Mr Elliott that both stages of the Treatment Plant went through a process where the developers' consulting engineers provided documentation of proposed works. The Water Corporation's process requires that the developer does not commence work on site until the Water Corporation has stamped the designs as acceptable. Mr Elliott advised that in each case the developer complied with the Water Corporation's requirements.
- 5.41 Mr Elliott advised that the Water Corporation stamped Stage One as acceptable in October 1994 and Stage Two as acceptable in December 1999.
- 5.42 Another question raised by the Committee was whether the approval had an upper limit to the number of dwellings serviced by the Treatment Plant.
- 5.43 Mr Elliott advised that the acceptance of designs did not specify the number of dwellings that could be serviced by the Treatment Plant.
- 5.44 He advised that Stage One of the Treatment Plant had a nominal design capacity of 600 equivalent people (EP). This capacity was nominated on the EPA works approval application and was further clarified by mention of a peak inflow rate of 133 cubic metres per day.

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<sup>3</sup> Letter from Mr Elliott to the Committee dated June 12 2002.



- 5.45 Mr Elliott advised that flow rate does not directly relate to a number of dwelling and will be impacted by local conditions, such as wet or dry ground in which the sewers are located, and the type of services where multi-residential and commercial properties typically contribute at a different inflow rate than single residential properties.
- 5.46 The Committee was advised that Stage Two of the Treatment Plant has increased the total design capacity to 2 200 EP which is just above the EPA approval which is for 2 030 EP. Mr Elliott advised that the developers' consulting engineer is required to provide design flow rates to the Water Corporation for each new subdivision development stage in accordance with the Water Corporation's design manuals.

## **6 EXPANSION OF THE GNARABUP WASTE WATER TREATMENT PLANT**

- 6.1 The request in the petition for a stay on all expansion works at the present site is no longer applicable as the works have been completed and the plant commissioned. The Water Corporation has advised the Committee that there is no further expansion work planned. The Committee has therefore resolved not to inquire into this part of the petition.

## **7 SITING OF THE GNARABUP WASTE WATER TREATMENT PLANT**

### **Mr Chris Elliott**

- 7.1 In his submission to the Committee at the hearing in Margaret River on November 20 2001 Mr Elliott advised that in late 1999 there were a considerable number of expressions of community concern over the location and operation of the Treatment Plant. It was at that time that the first stage of the Treatment Plant was being overloaded with the flows coming into the plant and there were delays in getting the upgrade of the plant under way. Please refer to Part 10 of this report: Failures of the Gnarabup Waste Water Treatment Plant.
- 7.2 The Water Corporation convened public meetings and held discussions with the community to establish the nature of their concerns. As a result of those discussions, the Water Corporation commissioned a feasibility study to investigate alternatives such as relocating the Treatment Plant.
- 7.3 Mr Elliott advised the Committee that the community suggested relocating the Treatment Plant to Gnarabup Hill. This alternative was evaluated, as was the possibility of pumping waste water from Gnarabup to the Margaret River Waste Water Treatment Plant (Margaret River Treatment Plant).

### *Option 1 – Relocating the Treatment Plant to Gnarabup Hill*

- 7.4 Mr Elliott advised that members of the local community, together with the PWPA, requested an investigation into the relocation of the Treatment Plant to Gnarabup Hill

to address the perceived effects of the infiltration of treated waste water on nearby beaches and the visual aspect of the facility.

- 7.5 The land is currently vested in the Department of Land Administration and is to become part of the Leeuwin-Naturalist National Park and administered by the Department of Conservation and Land Management (CALM).
- 7.6 Mr Elliott advised that CALM have indicated support for the relocation but will not accept infiltration of effluent within the national park area. Treated waste water disposal could include re-use on the Margaret River golf course, the existing infiltration ponds or an alternative type of offsite effluent disposal. Some on site storage of treated waste water will be required for emergencies. Further investigation is required for disposal issues.
- 7.7 Mr Elliott submitted that the advantages of this option are that it meets the community's wishes and is closer to the golf course for effluent reuse.
- 7.8 The disadvantages are the high cost that was estimated in October 2000 to be \$2.4 million and equivalent to a cost of \$32 000 per improved property and \$20 000 per property. Other disadvantages are the higher energy use required and subsequent contribution to greenhouse gas emissions, the additional cost of effluent disposal and that the Treatment Plant would be located in an environmentally sensitive area.

*Option 2 – Pumping to Margaret River Waste Water Treatment Plant*

- 7.9 Mr Elliott advised the Committee that using the new Margaret River Treatment Plant to treat Gnarabup's waste water would require the pumping of raw waste water approximately 10 kilometres into the waste water conveyance system at Margaret River and further pumping to the new Margaret River Treatment Plant for treatment and disposal.
- 7.10 He advised that the Margaret River Treatment Plant, due for commissioning in December 2001, would need to be increased in capacity from 1.2 megalitres per day to 1.8 megalitres per day. A new booster pumping station on Wallcliffe Road, approximately two kilometres from Gnarabup, would be required.
- 7.11 Mr Elliott informed the Committee that it was anticipated that the long retention times in the pressure main would cause potentially severe odour problems at air valves and discharge points. This would be controlled by chemical dosing and odour scrubbing.
- 7.12 The existing Treatment Plant would be decommissioned.
- 7.13 Mr Elliott submitted that the advantage of this option was that there would be no Treatment Plant in Gnarabup and hence no related issues.

- 7.14 One of the disadvantages is the high cost which was estimated in October 2000 to be \$3 million and equivalent to a cost of \$33 000 per improved property and \$21 000 per property. Other disadvantages are the high energy use required and subsequent contribution to greenhouse gas emissions, the high chemical use, the fact that no local effluent re-use would be possible and septicity problems with a long pressure main.
- 7.15 Mr Elliott concluded by stating that the Water Corporation was confident that the Treatment Plant as it currently stands would continue to serve the waste water needs of the Gnarabup community and to meet all regulatory requirements. He stated that the highly treated waste water would continue to be managed so that it would have no significant adverse impact on the receiving environment.
- 7.16 He also stated that relocation of the Treatment Plant would require significant external funding.

### **Hon Barry House MLC**

- 7.17 Hon Barry House told the Committee at its hearing in Margaret River on November 20 2001 that the siting of the Treatment Plant so close to the coast, virtually on a primary dune and so close to a major tourist area, is completely inappropriate.
- 7.18 Hon Barry House made it clear that he did not want to criticise the Water Corporation which, he submitted, operates the Treatment Plant in an efficient manner. He stated his belief that the Treatment Plant is a technically efficient plant. Hon Barry House also stated that he did not want to lay any criticism on the developers who, he stated, met their obligations at the time.
- 7.19 Hon Barry House commented on the planning processes in relation to the Treatment Plant and stated that:

*However, the planning processes that allowed it to happen are a mystery to me, and, I am sure, to a lot of other people. If nothing else, it will provide a good case study for years to come on how not to go about things.<sup>4</sup>*

- 7.20 Hon Barry House discussed the community meetings that had occurred with the Water Corporation in late 1999 and the feasibility study undertaken by the Water Corporation.
- 7.21 The Committee was informed that the option that most people hoped would succeed was the use of treated waste water by the Margaret River Golf Club. Hon Barry House told the Committee that this did not happen, which was unfortunate. He expressed his hope that it might still happen.

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<sup>4</sup> Transcript of evidence taken at Emerald Colonial Lodge, Margaret River, Tuesday, November 20 2001, Third Session, p 1.

- 7.22 Hon Barry House told the Committee that the weakness of the proposal for the Margaret River Golf Club to use the treated waste water was that, although the Water Corporation offered to contribute expertise and project management, it did not seem to offer any financial resources. He stated that the project did not succeed because the Water Corporation asked too much of the local community.
- 7.23 The Committee was advised that the Margaret River Golf Club was in a position to provide an enormous amount of in-kind support for the project. The Augusta-Margaret River Shire also committed a small amount of funding. However that alone was not enough, and there needed to be a major injection of funds by the Water Corporation.
- 7.24 Hon Barry House stated that the Water Corporation has a community obligation to fix the situation, which will require money. He believed that the project could still succeed if the money could be found from a source within the Water Corporation or another source within government.
- 7.25 The Committee was advised that in March 2001 a \$250 000 National Heritage Trust Coast and Clean Seas grant was awarded to a consortium made up of the Water Corporation, the Margaret River Golf Club, Cedar Vale Pty Ltd and the Augusta-Margaret River Shire for a proposal to re-use treated Gnarabup waste water on the Margaret River golf course.
- 7.26 The total project cost was in the order of \$750 000 and was scoped to divert all treated waste water from the Treatment Plant to the Margaret River Golf Club. The Coast and Clean Seas grant would have amounted to 33 per cent of the total costs. The remaining funds were to be provided by the Margaret River Golf Club (\$384 000, mainly in-kind works), Cedar Vale Pty Ltd (\$100 000) and the Shire of Augusta-Margaret River (\$4 500 per annum commitment to golf club irrigation).
- 7.27 The Committee understands that the grant, which must be spent by September 30 2002, will not be used due to a failure by the consortium to source the remainder of the necessary funds put forward in the Coast and Clean Seas submission.

### **Hon Dee Margetts MLC**

- 7.28 At the hearing in Margaret River on November 20 2001 Hon Dee Margetts submitted that the Treatment Plant is situated inappropriately for a prime tourist area, being approximately 300 metres from the beach and just behind prime sand dunes. The Treatment Plant can be viewed readily from the beach, the beach car park, the coastal viewing point and the road that passes by the Treatment Plant to another beach car park. It is also approximately 300 metres from the nearest house.
- 7.29 The Committee was advised by Hon Dee Margetts that the proximity of the Treatment Plant to the ocean raises great concern that seepage will cause pollution and endanger marine life. Hon Dee Margetts advised the Committee that monitoring does occur,

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but that people in the community are worried that once the ocean has been polluted, the damage has already been done.

- 7.30 Hon Dee Margetts informed the Committee that the community was not convinced that sufficient research was carried out before the Treatment Plant was built on the site. She submitted that, as far as could be ascertained, no thorough flora or fauna studies have been carried out in the area.
- 7.31 Hon Dee Margetts submitted that although the community is under the impression that environmental processes will ensure that there are no environmental impacts, the community is aware that much has been missed in the process.
- 7.32 Hon Dee Margetts concluded her submission by stating that:

*It is my experience that we are at a watershed in the confidence the community has in environmental processes, such as assessments and approvals in the State. It is extremely important that that confidence be restored.<sup>5</sup>*

#### **Mr Lance Reynolds**

- 7.33 Mr Reynolds advised the Committee at its hearing in Margaret River on November 20 2001 that as a surfer, he represented the largest group of people who use the area for recreation. He stated that the surfers find it offensive that this type of facility was put in pristine dunes adjacent to several surf breaks. He expressed his belief that the location is inadequate because of the prevailing wind. In the morning the east-north-east winds carry the odour offshore to the area in which they surf. In the afternoon with the prevailing south westerlies, the odour blows across the development.
- 7.34 He also told the Committee that he agreed with statements other witnesses had made about the visual aspect of the siting of the Treatment Plant.

#### **Mr Rod Whittle**

- 7.35 At the Committee's hearing in Margaret River on November 20 2001, Mr Whittle, Secretary of the Leeuwin Conservation Group, outlined to the Committee three areas where, in his opinion, the Treatment Plant was lacking. These were the visual aspect, the pollution aspect and the Aboriginal heritage aspect. Mr Whittle stated that, for all those reasons, the Treatment Plant should be re-located to a more suitable location or the sewage piped through to the Margaret River Treatment Plant.
- 7.36 In commenting on the visual aspect of the Treatment Plant, Mr Whittle recalled what the Gnarabup area looked like in the early 1950s. He stated that it was very pristine

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<sup>5</sup> Transcript of evidence taken at Emerald Colonial Lodge, Margaret River, Tuesday, November 20 2001, Third Session, p 2.

and more or less unimpaired. Mr Whittle expressed his belief that if it were possible to re-develop the whole area, there would be many changes to the way it had been done. Mr Whittle commented that one change would be to have the Treatment Plant in a different location as the visual impact it created was tremendous.

- 7.37 In reply to a question by Hon Frank Hough regarding the impact of the road past the Treatment Plant, Mr Whittle agreed that the inflammatory situation might have been reduced marginally if that road had not been built. Mr Whittle also stated that the pressure to construct the road had been enormous, it was intended to be built from the start of the planning process and it would have been very difficult to stop the road from being built.

### **Ms Pamela Forward**

- 7.38 As part of her submission to the Committee at its hearing in Margaret River on November 20 2001, Ms Forward tabled a document titled "Gnarabup Field Check" written by Dr Ken Tinley, Consultant Ecologist, dated April 28 1999. Ms Forward informed the Committee that the PWPA commissioned Dr Tinley to conduct a field check to examine some general issues of concern regarding the Gnarabup Beach Estate, one of which was the Treatment Plant.

- 7.39 In his paper, Dr Tinley wrote that the Treatment Plant is unacceptable due to its damaging visual and socio-cultural impact. He wrote that the Treatment Plant is wrongly sited and too close to the beach, defiling the high scenic value of the coast for locals, visitors and future generations.

- 7.40 Dr Tinley also wrote that the present sewerage works appears little more than a large scale leach drain. He noted that the effectiveness of evaporation is nullified by the characteristic high cloud cover density over the south west peninsular for at least nine months of the year, together with a high rainfall and high humid onshore seawind regime.

- 7.41 Dr Tinley claims that the Treatment Plant *"...is a sewage disposal that in effect is a "Third world solution" to a first world upmarket resort township's effluent, and built in a scientifically sensitive situation next to a seashore carpark and tourist use area."*

- 7.42 In his conclusion, Dr Tinley states that the Treatment Plant should be relocated further inland and positioned out of sight away from its present proximity to the foreshore.

- 7.43 Ms Forward also tabled two letters from CALM and one letter from the DEP to Ms Robin Juniper of the PWPA. The letters were in response to Ms Juniper's request for information regarding flora and fauna surveys in the Gnarabup area.

- 7.44 The letter dated March 22 1999 written by RJ Chandler, Regional Manager, CALM Bunbury, stated that there are no recorded threatened species of flora in the area. This was qualified with the caveat that this may be a reflection on the level of survey in the

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- area. Ms Juniper was encouraged to take steps to locate any threatened taxa prior to major developmental works being undertaken.
- 7.45 The letter dated June 9 1999 written by Mr Keith Morris, Manager, Biodiversity Conservation Group, CALMScience Division stated that no thorough fauna survey of the area had been undertaken by CALMScience staff.
- 7.46 The only fauna study that he was aware of in the area was one undertaken by representatives from the Museum of Western Australia in the mid 1980s.
- 7.47 The letter from the DEP dated June 8 1999 written by Ms Bronwen Keighery and Mr Gary Whisson stated that they were not aware of any comprehensive flora and vegetation report on the area. They stated that as they understood the area was well vegetated and had significant landscape values, such an assessment should be part of the planning process.
- 7.48 Ms Forward expressed concern that on the basis of the information contained in the letters to Ms Juniper, the EPA had no information on which to base any assessment as the flora and fauna studies had been done only in a cursory way, if at all.
- 7.49 In concluding her submission about the siting of the Treatment Plant, Ms Forward advised the Committee that the PWPA had received letters of support for their opposition to the siting of the Treatment Plant as well as financial support from people around the world.
- 7.50 Ms Forward tabled a letter from Mr Peter Rigby, Marketing Manager of the Augusta Margaret River Tourism Association dated July 9 1999 in which he expressed his deep concern regarding the impact of the Treatment Plant and support for its relocation to a more environmentally sound and acceptable site.
- 7.51 He wrote that many tourists, both national and international, visiting the area expect to find a beautiful, pristine coastal environment. He advised the Committee that as an organisation, the Augusta Margaret River Tourism Authority prides itself on marketing the location based on its strong ecological and scenic merits.
- 7.52 Mr Rigby stated that a sewage plant situated in the immediate vicinity of one of the most popular beach locations on the Cape is hardly in keeping with this ethic. He wrote that it could be viewed as “...*downright insensitive and reckless.*”<sup>6</sup>

### **Mr Peter Lane**

- 7.53 At the hearing in Margaret River on November 20 2001, Mr Lane provided the Committee with a written submission on behalf of the Cape to Cape Alliance.

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<sup>6</sup> Letter from Mr Peter Rigby, Marketing Manager, Augusta Margaret River Tourism Association to Whom It May Concern, dated July 9 1999.

- 7.54 He advised that the Cape to Cape Alliance comprises 18 community groups in the shires of Busselton and Augusta-Margaret River. He advised that during the past six years the Cape to Cape Alliance had instigated and participated in reports and had long been concerned with, and had voiced its protests over, certain aspects of developments at Gnarabup. Mr Lane also advised the Committee that he is a geologist with 38 years' experience.
- 7.55 Mr Lane advised that the Cape to Cape Alliance and the Surfrider Foundation had raised concerns with Proteus Consultants Pty Ltd in relation to the Treatment Plant. Mr Lane provided the Committee with a letter from Proteus Consultants Pty Ltd to the Shire of Augusta-Margaret River dated April 18 1995 in which those concerns were addressed.
- 7.56 The letter from Proteus Consultants Pty Ltd stated that the disposal area for the Treatment Plant was evaluated by Alan Tingay and Associates to determine whether it was suitable in terms of phosphate retention ability of the soils and the sub-surface geological conditions. The investigation involved the collection and analysis of soil and samples to determine their phosphorous retention indices, and the drilling of six bore holes in and around the disposal area to determine the surface geology.
- 7.57 The investigation found that the local geology from ground level to bedrock comprised fine to medium grain cream calcareous sand to seven metres below ground level, quartz sand one to two metres thick, tamalia limestone and granite of gneiss bedrock.
- 7.58 The letter from Proteus Consultants Pty Ltd noted that none of the bore holes encountered groundwater, despite the drilling being conducted in spring when it would be expected that groundwater levels would be at their highest. It was suggested that the absence of groundwater might have been due to the topography of the underlying granite/gneiss bedrock up-slope of the Treatment Plant site, deflecting any groundwater away from the location.
- 7.59 Mr Lane submitted that the limestone in the Gnarabup region is renowned for containing solution cavities and is highly likely to be fractured; that is, to have very high permeability but low porosity. He submitted that the cavernous and probably fractured limestone and granite were ideal conditions for allowing either rapid dispersion of groundwater or groundwater being restricted to distinct channels. He submitted that it could be anticipated that not one of the six holes drilled would intersect one of the channels.
- 7.60 He submitted that the tests simply showed that there was no groundwater at those locations.
- 7.61 In a subsequent letter to the Committee dated January 20 2002 Mr Lane submitted that effluent from the Treatment Plant is very likely already causing marine environmental



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damage. He noted that brown water had been observed close to the coast adjacent to the Treatment Plant.

- 7.62 The Committee notes that the receiving waters at Gas Bay are part of a proposed marine reserve in the Cape-to-Cape Region.
- 7.63 Following the hearing the Committee sought advice from Mr Elliott as to whether the Water Corporation is currently undertaking water quality testing or sampling in the Gnarabup area, and if so, an explanation of the testing methods being used.
- 7.64 In a letter to the Committee dated June 12 2002 Mr Elliott advised that the Water Corporation is undertaking substantial and comprehensive water quality testing in the vicinity of the Treatment Plant. Monthly samples are taken from the final effluent and analysed for pH, salinity, nutrient content, suspended solids, biological oxygen demand and bacterial content.
- 7.65 Mr Elliott advised that each quarter the monitoring bores located immediately to the west of the infiltration lagoons are tested and if water is in them, then samples are extracted for similar analysis. In addition, twice yearly in December and February, an ocean survey in Gas Bay is conducted where samples are taken and analysed for all of the above parameters and also for chlorophyll and heavy metals.
- 7.66 Mr Elliott advised that all samples are taken in accordance with Australian Standard 5667.1, 1998<sup>7</sup> and are analysed.
- 7.67 Copies of the water testing results are attached as Appendix 2.

## **8 ABORIGINAL HERITAGE AND CONSULTATION**

### **Mr William Webb**

- 8.1 At the hearing in Margaret River on November 20 2001 Mr Webb told the Committee that it was the view of the Aboriginal community that the Treatment Plant was too close to the Cape-to-Cape Region, an area of international importance.
- 8.2 He submitted that the Aboriginal people would like to see some preservation of some of their sacred sites. He told the Committee that the whole of the Gnarabup valley is of significance because it is a water point. The Treatment Plant is just over the rise from the Gnarabup valley. There were massive camping grounds all along the waterway and there is also a sacred cave in the area, known as the Rainbow Cave. Further, there are huge cave shelters that run fairly extensively in an arc facing east.
- 8.3 Mr Webb advised the Committee that he had been involved, with his father, in the documentation of over 300 Aboriginal sites in the south-west region on their tribal

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<sup>7</sup> AS/NZS 5667.1:1998 Water quality – Sampling – Guidelines on the design of sampling programs, sampling techniques and the preservation and handling of samples.

land. His people are the Wardandi, and evidence exists of their tribal group being in the area for more than 50 000 years.

8.4 Mr Webb expressed the view that some of the problems that have arisen for Aboriginal people are due to the lack of consultation and respect for Aboriginal culture. He stated that lack of consultation has meant that Aboriginal people are always brought to the table after the fact, when a developer has already had a submission approved. He felt that consultation after the fact was a pointless exercise, as the development has already been approved.

8.5 It was Mr Webb's belief that Aboriginal people need to establish collaboration and be involved in the long-term strategies and up-front negotiations about levels of development.

8.6 Mr Webb told the Committee that McDonald Hales and Associates Pty Ltd conducted a survey of the area in 1992 without consulting the Aboriginal people. Another survey by McDonald Hales and Associates Pty Ltd was conducted in 1995, this time in consultation with the Aboriginal people. Mr Webb advised that the Aboriginal people submitted that there should never be anything like the Treatment Plant so close to the recreational area, the ocean and the people living in the area. He told the Committee that the Aboriginal people wanted to transfer the waste water back to the other treatment plants.

8.7 Mr Webb told the Committee that the Aboriginal interpretation of the area went back to the Aboriginal Affairs Department, however expressed concern that:

*It always seems that it gets swallowed up in some sort of bureaucratic system, and it eventually comes out that some sort of decision has been made about development, and it is too late and too far down the track for us to be able to say that these areas could be internationally known for many years to come...<sup>8</sup>*

8.8 Mr Webb expressed his opinion that developers operate for short-term profits with no consideration for the Aboriginal people, and also the wider community living on their tribal land.

8.9 In conclusion, Mr Webb told the Committee that there should be some process within the government system for consultation to be undertaken about developments before developers are given approval. He stated that the Aboriginal people are not against development, and acknowledged that:

*It is part and parcel of something we must now share, and we must give some sort of consideration to what we see is a long-term strategy*

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<sup>8</sup> Transcript of evidence taken at Emerald Colonial Lodge, Margaret River, Tuesday, November 20 2001, Fifth Session, p 1.

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*to share the knowledge and culture of some of our industries and sacred areas not only locally but also throughout the world.*<sup>9</sup>

### **Ms Lyn Serventy**

- 8.10 Ms Serventy told the Committee that when she was Chairperson of the Prevelly Area Community Consultative Committee of the Shire of Augusta-Margaret River, one of the areas they thought needed to be covered was better Aboriginal consultation earlier in the development process. She advised the Committee that the PAC Consultative Committee made a recommendation to the Shire of Augusta-Margaret River Council that the Shire Council convene a meeting of the Aboriginal Consultation Committee of Caperoc to consider the implications of development proposals.
- 8.11 Ms Serventy submitted that although the Shire Council had established a body to consider such proposals, that body had not met for at least a year and to the best of her knowledge it had still not met.
- 8.12 Ms Serventy stated that the community felt that the Shire Council should vigorously pursue this matter to ensure that there is proper consultation with Aboriginal groups before any development takes place.

### **Ms Pamela Forward**

- 8.13 As part of her evidence to the Committee, Ms Forward discussed the Aboriginal heritage and consultation aspects of the siting of the Treatment Plant. She expressed her belief that the traditional elders and native title holders were not consulted in a manner with which they were satisfied. She expressed her opinion that the Aboriginal people felt that they had not been interpreted correctly or in context, and that they should have been more involved in the planning process and during the clearing of the site.

## **9 CONCERNS ABOUT DUE PROCESS RAISED BY THE SHIRE OF AUGUSTA-MARGARET RIVER**

- 9.1 At its hearing in Margaret River the Committee heard evidence from Mr Manfred Boldy, Director of Development Services, Shire of Augusta-Margaret River. Mr Boldy advised the Committee that he had been employed by the Shire of Augusta-Margaret River as the Director of Development Services since June 1997.
- 9.2 Mr Boldy advised the Committee that the key areas of concern to the Shire are primarily the lack of consultation with the Shire Council over the upgrade of the Treatment Plant, and in particular the Stage Two upgrade and related extension of works approval.

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<sup>9</sup> Transcript of evidence taken at Emerald Colonial Lodge, Margaret River, Tuesday, November 20 2001, Fifth Session, p 3.

- 9.3 Mr Boldy also submitted that the Shire had concerns about what he referred to as the “...*lack of proper assessment of amenity issues and other social and environmental considerations...*”<sup>10</sup> that the Council and community may have deemed relevant at the time.
- 9.4 He also expressed his concern about the “...*apparent lack of a clearly defined process among government agencies and in the town planning legislative provisions for how these sorts of matters should be assessed.*”<sup>11</sup> Mr Boldy advised the Committee that he was referring particularly to public works and the role the Shire Council and the Shire Council’s town planning schemes play within the assessment of such works. This relates to how public works and proponents are defined and identified and how that then influences the assessment process; for example, whether a matter should be considered through a development application to the Shire Council or whether it is exempt from the approval process provisions of town planning schemes.
- 9.5 Mr Boldy discussed this issue in the context of the approval process for the Treatment Plant. He advised the Committee that the Shire Council was made aware of the need to commence the upgrade of the Treatment Plant in a letter from Proteus Consultants Pty Ltd in October 1998. He submitted that the letter did not infer that Proteus Consultants Pty Ltd was acting for the Water Corporation. Shire staff therefore considered the proposal as a possible private development which would be subject to the provisions of TPS 18. The Shire staff interpreted that TPS 18 required development approval to be sought for the proposed upgrade and informed Proteus Consultants Pty Ltd accordingly.
- 9.6 Mr Boldy advised the Committee that the Council staff did not undertake any formal or detailed assessment of the proposal. It was his belief that the staff at the time intended that such an assessment would be undertaken if and when an application was received. Mr Boldy advised that the Shire’s files do not show any further response from Proteus Consultants Pty Ltd in relation to the Council’s letter. Specifically, the Council was not informed that the matter should be dealt with as a public work with a government agency, that is, the Water Corporation, being the proponent.
- 9.7 Mr Boldy expressed his belief that TPS 18 “...*is a poorly drafted document, which often makes it difficult to determine the appropriate processes to be followed.*”<sup>12</sup>
- 9.8 Mr Boldy also commented on the savings provision under section 32 of the *Town Planning and Development Act 1928* (Town Planning Act). He expressed his view

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<sup>10</sup> Transcript of evidence taken at Emerald Colonial Lodge, Margaret River, Tuesday, November 20 2001, Sixth Session, p 1.

<sup>11</sup> Transcript of evidence taken at Emerald Colonial Lodge, Margaret River, Tuesday, November 20 2001, Sixth Session, p 1.

<sup>12</sup> Statement of evidence to the Committee tabled by Mr Boldy on behalf of the Shire of Augusta-Margaret River, November 20 2001, p2.

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that section 32 of the Town Planning Act has the effect that public works that are constructed by the Crown or government agency, such as the Treatment Plant, are 'saved' from the requirement to obtain a town planning (development) approval as required under a relevant town planning scheme, subject to certain requirements.

- 9.9 Those requirements are that, so far as, in the interests of the public, it is reasonably possible, all works are undertaken, constructed or provided in such a manner as to be in keeping with the design and intent of every town planning scheme, and so as not to destroy the amenity of any town planning scheme and that, to that end, the responsible authority is consulted at the time when a proposal for any public work is being formulated.<sup>13</sup>
- 9.10 Mr Boldy expressed his opinion that section 32 of the Town Planning Act requires that the relevant responsible authority (the local government) be consulted to ascertain the provisions of the relevant town planning scheme as they relate to amenity, and also that a full and proper assessment is undertaken. Thus Mr Boldy's interpretation of section 32 of the Town Planning Act is that even if certain public works matters are exempt from the approval processes of the town planning schemes, the town planning provisions relating to amenity issues must be considered in the assessment of those works.
- 9.11 His opinion was also that the responsibility for ensuring that the relevant procedures are followed rests with the proponent for a public work.
- 9.12 Mr Boldy informed the Committee that to his knowledge, the Shire Council had never been formally asked by the Water Corporation, its agents or any other government authority to consider the Stage Two upgrade of the Treatment Plant as a public work within the context of section 32 of the Town Planning Act. He submitted that the Council had never undertaken such a formal assessment and neither, to his knowledge, had such an assessment of the matters referred to in section 32 of the Town Planning Act been undertaken by any other government agency.
- 9.13 In his Statement of Evidence tabled at the hearing, Mr Boldy noted that it had always been somewhat unclear to the Shire Council as to who was acting as the proponent for the Treatment Plant. Mr Boldy informed the Committee that during various periods throughout the development, construction and expansion of the Treatment Plant the Shire had cause to believe that the developer, the project manager or the Water Corporation was the proponent.
- 9.14 He noted that the issue is significant as it critically influences the relevant assessment and approval processes that should be followed. The Council's role and procedures are significantly different with respect to the assessment of development applications lodged by private individuals as opposed to government initiated public works. Mr

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<sup>13</sup> See section 32 *Town Planning and Development Act 1928*.

- Boldy submitted that if the Treatment Plant was considered to be a private development, it would require development approval by the Shire Council. No such approval has been issued, therefore he submitted that it was possible that the Treatment Plant was unlawful.
- 9.15 Mr Boldy submitted that an additional complication was that the Shire Council does not have the power under TPS 18 to issue retrospective town planning approvals. Similarly, the Town Planning Act does not provide for retrospective approvals.
- 9.16 Mr Boldy submitted that this could lead to complications. Although a development may be deemed to be appropriate, it may not have the necessary approvals. Mr Boldy noted that this in turn could have serious implications, especially for the owner of the development – in this case, the Water Corporation. Mr Boldy submitted that given that the necessary approvals are not in place, there may be questions regarding the Water Corporation’s position with respect to public liability insurance.
- 9.17 An issue also raised by Mr Boldy as a concern to the Shire was the issue of probity and transparency, the independence of the assessment process and the roles of various players.
- 9.18 Mr Boldy submitted that in his opinion the Shire Council’s principal concerns have not specifically been over the final location of the Treatment Plant. He noted that the relevant approvals have been issued and the Council has ultimately agreed with the requirements of those approvals.
- 9.19 However he stated that this does not imply that if a proper and thorough assessment of those works had been undertaken, the Council might not have suggested that the works be done differently or that an alternative site be found. He stressed that they are separate issues.
- 9.20 Mr Boldy submitted that the Shire Council has been more specifically concerned with what he stated as the lack of consultation with it and the community, the poor and ill-defined assessment procedures and the lack of clear guidance for assessment.
- 9.21 Mr Boldy expressed his opinion that if the Treatment Plant is indicative of how other such similar public works proposals are considered throughout Western Australia, there is a significant need for the environmental assessment processes to be reviewed and improved. This was so the assessment of government sponsored or initiated works could be undertaken in a more accountable, transparent and thorough manner and in a way that engendered public confidence as opposed to uncertainty and mistrust.
- 9.22 In the conclusion to his Statement of Evidence Mr Boldy, on behalf of the Shire of Augusta-Margaret River, recommended that the Western Australian government review its environmental assessment processes for public works. He also recommended that the State government review its environmental and town planning

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legislation with a view to giving greater legislative clarity to procedures required for the assessment of public works in a manner that more effectively integrates the State's environmental and town planning legislation in keeping with other related government initiatives.

- 9.23 Mr Boldy also recommended that the State government actively consult the Western Australian Municipal Association to devise means of assisting local government in fulfilling its obligations with respect to assisting government agencies in the proper assessment of public works.
- 9.24 His final recommendation was that proper procedures be put in place within all relevant government authorities to ensure that all declarations of interest are made by persons or firms acting as agents for government authorities where such persons or firms are involved in the preparation of environmental assessment material or the assessment of such material for those authorities, in order to maintain probity and public confidence.

## **10 FAILURES OF THE GNARABUP WASTE WATER TREATMENT PLANT**

### **Ms Pamela Forward**

- 10.1 In her evidence to the Committee, Ms Forward advised the members of several instances where the Treatment Plant had failed.
- 10.2 Ms Forward submitted that the Treatment Plant had failed on four major occasions. She advised the Committee that there were several instances of sewage backfilling in winter 1998 and 1999, November 1999 and January 2000 through to April 2000 when excessive sewage was being trucked out of the Treatment Plant.
- 10.3 She advised the Committee that in January 2000 the local community held a public rally. By that stage the Treatment Plant had already flooded during two winters to the point at which she believed the stormwater had inundated the pumping station at Stage Three, which meant that a backfill of raw sewage went into some homes.
- 10.4 Ms Forward submitted that it was invariably members of the local community who alerted the Water Corporation to the fact that the Treatment Plant had failed or was failing.
- 10.5 Ms Forward expressed her opinion that until the public meeting in January 2000, the Water Corporation ignored the community's deep concerns and simply had quick answers to their questions. She submitted that during this time, the community was dealing with situations it knew were not right for a sewerage plant.

**Mr Chris Elliott**

- 10.6 In response to a question asked by Hon Frank Hough regarding when the Water Corporation was first aware of community unrest in relation to the Treatment Plant, Mr Elliott advised that the first realisation of real community unrest was in December 1999.
- 10.7 At that time there were delays with both the approval process and the operation of the Treatment Plant. He advised that the disposal facility, that is, the infiltration lagoon, was a very small lagoon for the original stage and it was incapable of handling the flows. Mr Elliott advised that from that point on the Water Corporation was aware that the Treatment Plant was a real concern to the local community, which manifested itself in the public meetings in late 1999.
- 10.8 The complaints raised with the Water Corporation were that the Treatment Plant was not performing and was polluting the receiving environment. He advised that the flows were contained on site, but they were overloading the capacity of the infiltration. He acknowledged that it was a very unsightly situation on site.
- 10.9 Mr Elliott advised that the community concerns also related to the fact that a major upgrade was proposed for the Treatment Plant. Strong opposition was raised to the upgrade.

**11 DEPARTMENT FOR PLANNING AND INFRASTRUCTURE**

- 11.1 At its hearing in Perth on March 13 2002 the Committee was advised by Mr Guise that the SWRPC came into being in 1992. It was the first regional planning committee of the then State Planning Commission (SPC), now the Western Australian Planning Commission (WAPC), to have delegated powers for a number of statutory planning items. The SPC became the WAPC on March 1 1995.
- 11.2 Mr Guise explained that the committee was originally called 'interim' because it was the first one of its kind and those behind it wanted to see how it operated. After the first 12 months the 'interim' was dropped and it became a permanent committee of the SPC.
- 11.3 Mr Guise told the Committee that the SWRPC meets monthly in the south west of Western Australia, and is responsible for many of the statutory and strategic planning functions of the WAPC in the south west. The decisions of the SWRPC, made under power delegated from the WAPC, become those of the WAPC itself.
- 11.4 The SWRPC comprises the chairman of the WAPC or a person nominated by that member and approved by the Minister, the chief executive officer of the Department for Planning and Infrastructure, a person approved by the Minister and appointed by the WAPC as having practical knowledge of and experience in community affairs, not less than three people approved by the Minister and appointed by the WAPC from a



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list of names of people representing the interests of the local governments within the region for which the regional planning committee is established, a person nominated by the Regional Minister and approved by the Minister and appointed by the WAPC to represent the interests of the WAPC within the meaning of the *Regional Development Commissions Act 1993* and such other person or persons as the WAPC, after obtaining Ministerial approval, appoints from time to time.

- 11.5 The Committee asked Mr Guise a number of questions concerning the operation of the SWRPC. In particular the Committee was interested to know whether the SWRPC adopts a standard process when approving structure plans and whether standard guidelines or factors are taken into account during the process.
- 11.6 Mr Guise advised that there are no separate guidelines that cover the approval of structure plans. He advised that quite often structure plans are provided for by instruments of town planning schemes themselves; therefore the scheme might set out the way in which they need to be dealt with. This was the case with the Gnarabup structure plan. Mr Guise also advised that when assessing structure plans the WAPC quite often takes advice from a technical advisory group which is usually comprised of representatives of the local government and the respective government agencies that are relevant to the matter.
- 11.7 Mr Guise also advised that a structure plan is normally advertised for public comment and the submissions taken into account prior to its approval.
- 11.8 Mr Guise also noted that a structure plan is normally initiated by the local government, as was the case with the Gnarabup structure plan, and that the council's recommendations are also important in the final approval.
- 11.9 The Committee notes that this evidence is not consistent with evidence provided by other witnesses who advised the Committee that the 1992 and 1993 Structure Plans were released by the developer, Cedar Vale Pty Ltd. (Please refer to paragraphs 5.2 and 5.4 of this report.)
- 11.10 Mr Guise confirmed that the original 1992 Structure Plan was released for public comment but the final form of the 1993 Structure Plan was not.
- 11.11 Mr Guise submitted to the Committee that his recollection was that the 1992 Structure Plan did not show a waste water treatment plant however noted that it would not have been unusual not to show the location because at that stage the proponents still needed to examine the various options for waste water treatment. These options included an on-site effluent disposal and a package treatment plant that would lead to a reticulated sewer.
- 11.12 The Committee was advised by Mr Guise that these options were shown by Proteus Consultants Pty Ltd in its supporting documentation for the structure plan. Mr Guise was not certain whether that document was widely available. He submitted that, to his

knowledge, the location of the Treatment Plant was not shown on the single structure plan, but that it was shown in the supporting documentation.

- 11.13 Mr Guise expressed his opinion that the 1993 Structure Plan conformed to TPS 18. He stated that the development areas conformed to the same development footprint under the scheme; that is, the development zone and the tourist development site. He noted that the Treatment Plant was eventually located within the landscape and landform protection area which, he stated, is not unusual.
- 11.14 In response to a question from the Chair of the Committee regarding the then Water Authority of Western Australia guidelines that stipulated that there should be a 500 metre buffer zone between waste water treatment plants and residential areas, Mr Guise stated that he was aware of those guidelines and that the matter was discussed by the technical advisory group. The technical advisory group expressed concern that the proposed separation distance was 375 metres, however the proponents responded that with the higher environmental standards they were proposing for the Treatment Plant, they could obtain Water Authority and EPA approval for the lesser distance.
- 11.15 In response to a follow-up question from the Chair, Mr Guise advised that he was not aware of any other precedents of that kind of technology which would have reinforced that assertion, however as a planning body, the SPC was reliant on the Water Authority and the EPA agreeing to those environmental standards.
- 11.16 In answer to a question put by the Chair of the Committee, Mr Guise confirmed that the then Department of Planning and Urban Development had a coastal development policy that specified that all structure plans must respect the visual amenity of coastal areas, and that the siting of roads and other infrastructure must be sensitive to contours and other aspects of landscaping.
- 11.17 He considered that the construction of the Treatment Plant, following the approval of the 1993 Structure Plan, did conform to the then Department of Planning and Urban Development's coastal development policy.
- 11.18 Mr Guise expressed his belief that part of the problem relates to the proximity of the access road to the Treatment Plant site. The road was originally a track that was used to access the southern beach area. Previous uncontrolled access resulted in unstable dune conditions.
- 11.19 Mr Guise noted that the access road is very close to the Treatment Plant with a small deviation into the Treatment Plant. The contours are such that the road is above the Treatment Plant, providing a bird's eye view into an industrial-type operation. The exposed coastal area means that it is extremely difficult for the Treatment Plant to be adequately screened with vegetation.

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- 11.20 He submitted that in hindsight, the road was probably placed too close to the Treatment Plant, and “...*therein lies part of the problem.*”<sup>14</sup>
- 11.21 In response to a further question by the Chair regarding the access road, Mr Guise submitted that he did not agree that, in hindsight, the road was in breach of the then Department for Planning and Urban Development’s coastal development policy, which required due regard for visual amenity in the siting of roads. Mr Guise stated that the Shire Council may have taken that into account when determining the placement of the road. He noted there might have been other topographical and engineering reasons for the placing of the road.
- 11.22 Mr Guise also noted that the location of the Treatment Plant and the road were not decisions made by those responsible for the structure plan or the SPC’s subdivision. It was a subsequent decision of the Shire Council.
- 11.23 In relation to the approval for the 1993 Structure Plan, Mr Guise advised that it was given conditional approval at the SWRPC meeting held on July 22 and 23 1993.<sup>15</sup>
- 11.24 In relation to the letter signed on behalf of Mr Sippe and hand-dated June 15 1993 (referred to in paragraph 5.5 and subsequent paragraphs), Mr Guise informed the Committee that the letter was received on July 15 1993 and not June 15 1993 as previously stated (see paragraph 5.13). Mr Guise advised that an error was made when the date was handwritten on the letter of advice. The Committee is not in a position to make a finding as to whether the letter was sent on June 15 1993 or July 15 1993.
- 11.25 Mr Guise informed the Committee that the letter of advice from the EPA arrived just a few days prior to the July consideration of the 1993 Structure Plan. A decision was made that it had arrived too late for it to be formally assessed and included in the planning officer’s report that went to the July meeting of the SWRPC. Nevertheless, the 1993 Structure Plan was formally approved at that meeting.
- 11.26 However, it was specifically tabled and marked as such in order to bring it to the attention of members. Mr Guise confirmed that the letter was tabled and included in the agenda items.
- 11.27 In a letter to the Committee dated March 19 2002 Mr Guise advised the Committee that there was no record of any discussion on the letter of advice from the EPA, however commented that it was common for the minutes to include only general reference to discussion.

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<sup>14</sup> Transcript of evidence taken at Perth, Wednesday, March 13 2002, p 4.

<sup>15</sup> At the hearing in Perth on March 13 2002 Mr Guise stated that the 1993 Structure Plan was approved by the SWRPC on September 24 1993. However in a subsequent letter to the Committee dated March 19 2002 Mr Guise corrected this to July 22 and 23 1993.

- 11.28 At the hearing on March 13 2002, the Chair of the Committee asked Mr Guise why the 1993 Structure Plan was approved at that time, despite the letter of advice from the EPA. Mr Guise submitted that the SWRPC would have had to weigh up all the advice available to it. He noted that the correspondence from the EPA appears to relate to deficiencies in the original 1992 Structure Plan, rather than with the 1993 Structure Plan that was before the SWRPC at that stage. He submitted that the earlier deficiencies had largely been overcome in the 1993 Structure Plan.
- 11.29 Mr Guise subsequently advised the Committee that he thought the letter from the EPA was referring to the 1993 Structure Plan, although he could not be entirely sure of that as the letter did not specifically state what plan it was referring to.
- 11.30 The Committee notes that the letter from the EPA concluded that the proposal could not be viewed as being the same proposal which the EPA agreed to assess at an informal level and that if the proposal could not be made consistent with the Prevelly Park Development Guidelines, then the EPA may consider that it requires formal assessment. The Committee notes that this contrasts to advice from Mr Guise in his letter to Ms Duffall (refer to paragraph 5.14 of this report) where he indicates that the Structure Plans were substantially the same.
- 11.31 In response to a query made by the Committee, Mr Sippe advised by facsimile letter dated May 31 2002 that the advice in the letter was informal, non-binding advice. The level of assessment had already been set and the proponent and decision-making authorities advised by letter dated December 11 1992. In response to a further query made by the Committee, Mr Sippe advised that departmental records indicate that the Treatment Plant was referred to the EPA on January 10 1994 but was not assessed formally.
- 11.32 Mr Guise also submitted that the letter of advice from the EPA was signed on behalf of Mr Sippe and not by him. He told the Committee that *“To be quite frank, it was an officer of the DEP (sic) expressing strong individual opinions.”*<sup>16</sup> In response to a question from the Committee regarding the officer’s training and authority to express his opinions, Mr Guise stated his belief that the officer had a background in landscape assessment and that he could not be sure that the officer was not referring to an earlier plan.<sup>17</sup>
- 11.33 Mr Guise submitted that *“It was somewhat surprising that that DEP (sic) view was expressed.”*<sup>18</sup>

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<sup>16</sup> Transcript of evidence taken at Perth, Wednesday, March 13 2002, p 9.

<sup>17</sup> In response to a query made by the Committee, Mr Sippe confirmed by facsimile letter dated May 31 2002 that it was standard practice at the EPA at the time the letter was written for letters to be signed on his behalf. Mr Sippe advised that Managers in his Division had delegated authority to sign off on his behalf at that time.

<sup>18</sup> Transcript of evidence taken at Perth, Wednesday, March 13 2002, p 9.

- 11.34 In response to another question from the Chair of the Committee as to the reasons for the approval of the 1993 Structure Plan, Mr Guise advised that the 1992 Structure Plan provided for an intensive use of the land. The 1993 Structure Plan was considerably smaller and conformed to the development footprint – the Prevelly development guidelines. It needed only some fairly minor modifications.
- 11.35 Mr Guise advised the Committee that when the then Minister for Planning was considering whether to grant final approval to TPS 18, he was advised that the SPC was satisfied with the Structure Plan, subject to some modifications and to his final determination on TPS 18. The Minister determined that a particular area of land should be included in a special tourist development and landscape protection zone. This meant that the 1993 Structure Plan needed to be modified to concur with his decision on TPS 18. That change was subsequently made and ratified.
- 11.36 In response to a follow up question from the Chair, Mr Guise advised that, as far as he could recall, there was no communication from the Minister regarding the Treatment Plant aspects of the 1993 Structure Plan.
- 11.37 Another issue raised at the Committee’s hearing on March 13 2002 was whether the SPC received clearance from the Shire of Augusta-Margaret River for the construction of the Treatment Plant. At the hearing Mr Guise advised that when the SPC issued subdivisional approval, which is valid for a period of three years from the date on which it is granted, two of the conditions and a number of the advice notes related to the need to provide reticulated sewer, and to the construction of a sewage treatment plant. At the end of each of the conditions were the initials of the agencies or local governments responsible for clearing the condition, indicating that the works had been completed to their satisfaction.
- 11.38 Mr Guise advised that in this case, the Treatment Plant was completed to the satisfaction of three agencies, including the EPA and the Water Corporation. He advised that the SPC was reliant on clearances being granted by those bodies, and having received those clearances within three years, would then endorse the relevant survey documents.
- 11.39 Mr Guise could not give an absolute guarantee at the hearing on March 13 2002 that the SPC did receive clearance from the Shire of Augusta-Margaret River for the construction of the Treatment Plant, however he undertook to clarify that with the Committee. The Committee notes that Mr Boldy’s evidence was that to his knowledge the Shire of Augusta-Margaret River had never been formally asked by the Water Corporation, its agents or any other government authority to consider the Stage Two upgrade of the Treatment Plant as a public work within the context of section 32 of the Town Planning Act. He submitted that the Shire Council had never undertaken such a formal assessment and neither, to his knowledge, had such an assessment of the matters referred to in section 32 been undertaken by any other government agency.

- 11.40 In his letter to the Committee dated March 19 2002 Mr Guise advised that Condition 11 of the letter of conditional subdivision approval dated October 8 1993 stated that the subdivider was to create a reserve for the purpose of a sewer treatment works in a location satisfactory to the EPA, Water Authority and the Local Authority. Condition 15 of that letter stated that satisfactory arrangements were to be made with the Local Authority and the Water Authority for the construction of a road to the proposed waste water treatment works and for the creation of a road reserve extending southward from the treatment works to Boodjidup Beach.
- 11.41 Mr Guise confirmed that the Water Authority had provided a letter of clearance to the then Department of Planning and Urban Development dated July 6 1994 confirming that the requirements of the letter of October 8 1993 had been complied with and that the Water Authority had no objections to the finalisation of the Diagram(s) of Survey.
- 11.42 Mr Guise also confirmed that the DEP had provided a letter of clearance to the then Department of Planning and Urban Development dated February 8 1995 confirming that Condition 11 for the subdivision had been met.
- 11.43 Significantly, Mr Guise also confirmed that the Shire of Augusta-Margaret River had provided a letter of clearance to the then Department of Planning and Urban Development dated June 30 1994 confirming that Conditions 11 and 15, among others, had been satisfied.
- 11.44 Another issue raised at the Committee's hearing on March 13 2002 was the interpretation of section 32 of the Town Planning Act with regard to approvals for public works.
- 11.45 Mr Guise submitted that his general understanding of section 32 is that, in the case of works undertaken by government agencies for the Crown, it is the convention to inform the local government. However local government approval is not actually required.
- 11.46 Mr Guise submitted that the SWRPC considered the proponent of the Treatment Plant to be Cedar Vale Pty Ltd.
- 11.47 In relation to these issues of Shire approval, the interpretation of section 32 of the Town Planning Act and the identity of the proponent, Hon Bruce Donaldson asked Mr Guise whether it was fair to say that there was a misunderstanding between the Shire and the proponent. He queried whether the Shire had assumed that the savings provision would apply and that it would not, therefore, be involved in the approval process for the public works.
- 11.48 Mr Guise accepted that that might have been the case however re-iterated that the convention is to consult the local government. Mr Guise also stated that the fact that the Shire was involved in a decision about the road that provided beach access and

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access to the Treatment Plant meant that it was involved, at least indirectly, in the siting of the Treatment Plant and was certainly aware of it.

- 11.49 Mr Guise clarified that the SWRPC was not the body responsible for approving the actual location of the Treatment Plant. He advised that the SWRPC gave approval for the subdivision and for the construction of the Treatment Plant, however the actual location of the Treatment Plant was a matter for the EPA and the Water Corporation to determine.
- 11.50 The Committee notes that whilst this is true, the subdivision conditions, however, did approve the siting of the Treatment Plant within the 1993 Structure Plan boundaries; that is, a decision as to the location was determined by the SPC. The Committee notes that the approval processes of the EPA and the Water Authority regarding a decision to locate the Treatment Plant at Gnarabup were constrained in so far as the location was pre-determined by the SPC.
- 11.51 In terms of the location of the Treatment Plant, Mr Guise expressed the view that *"...at the very least, the access road should be further removed from the treatment plant so that it is not so visually intrusive."*<sup>19</sup>
- 11.52 He submitted that it was not his area of expertise to comment on the environmental capabilities of the Treatment Plant, however he did state that treatment plants are always difficult to locate. He noted that in this case it had to be a minimum distance – 500 metres reduced to 375 metres – from the residential component. He submitted that the environmental and engineering advice was that the present site was a suitable location.
- 11.53 An issue raised by Hon Jim Scott at the hearing on March 13 2002 concerned the public consultation process. Hon Jim Scott queried whether the set of drawings and the proposal provided to the community clearly delineated that a sewerage works would be situated so close to the coast. He queried whether the information released to the public would have provided enough information on which to make a submission. Hon Jim Scott also asked Mr Guise whether public submissions were considered an important factor in the decision making process.
- 11.54 Mr Guise submitted that he did consider public submissions to be important. Mr Guise provided the Committee with a copy of a document prepared by Cedar Vale Pty Ltd titled *Gnarabup Beach Structure Plan: An Application for Development Approval, October 1992* which contained a map prepared by Proteus Consultants Pty Ltd that showed the concept for the Treatment Plant and where it was to be located.
- 11.55 Mr Guise referred to the document and submitted that:

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<sup>19</sup> Transcript of evidence taken at Perth, Wednesday, March 13 2002, p 8.

*In a sense, if this had been somewhat 'lost' in the myriad documents available to the community, it is of concern to me. Along with the rest of the information available to help the community make an informed decision, that sort of information should have been available. If it were 'lost' there would be room for improvement.<sup>20</sup>*

11.56 The Committee notes the following concerns raised by inconsistencies in evidence received from the Department for Planning and Infrastructure:

- whether the 1992 and 1993 Structure Plans were initiated by the local government or the developer;
- whether or not the 1992 and 1993 Structure Plans were released for public comment;
- whether or not the 1993 Structure Plan showed a waste water treatment plant;
- whether the letter signed on behalf of Mr Sippe and hand-dated June 15 1993 was sent on June 15 1993 or July 15 1993;
- whether the letter signed on behalf of Mr Sippe and hand-dated June 15 1993 was referring to the 1992 Structure Plan or the 1993 Structure Plan;
- whether or not the 1992 Structure Plan and the 1993 Structure Plan were substantially the same and whether they required different levels of assessment;
- whether or not the Shire of Augusta-Margaret River, the Water Authority and the EPA actually gave approval for the Treatment Plant; and
- whether or not the Shire of Augusta-Margaret River should have received a formal development application for approval for construction of the Treatment Plant or whether the Treatment Plant, as a public work, was exempt from the approval process.

## **12 REGIONAL CONSIDERATIONS AND SUGGESTIONS FOR THE FUTURE**

12.1 The Committee sought information from the Water Corporation about other waste water treatment and disposal solutions in the south-west region of Western Australia. Mr Elliott provided the Committee with information about the systems at Albany and Bridgetown by letter dated May 24 2002.

12.2 Mr Elliott advised that in both cases the Water Corporation developed re-use and disposal facilities to replace environmentally unsustainable practices.

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<sup>20</sup> Transcript of evidence taken at Perth, Wednesday, March 13 2002, p 11.



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- 12.3 Prior to the current arrangement in Albany, the waste water treatment plant discharged treated effluent directly into the Albany Harbour. This was environmentally unsustainable and as a consequence the Water Corporation sought an alternative disposal mechanism in consultation with the local community.
- 12.4 The result was the establishment of the environmentally acceptable and sustainable treefarm located adjacent to the Albany Airport.
- 12.5 Prior to the current arrangement in Bridgetown, the waste water treatment plant was located on a small lot to the south-east of the township where on-site infiltration was employed to dispose of treated effluent. With the growth of sewerage services provided to the Bridgetown community through the infill sewerage program, a greater capacity plant and disposal method were required.
- 12.6 A new site was found as the old site was too small to allow an environmentally acceptable and sustainable disposal system. This led to the current situation where treated effluent is used to irrigate the Bridgetown Golf course and a treelot.
- 12.7 Taking into account these regional considerations and solutions, the Committee notes the comments from a number of witnesses regarding suggestions for the future of the Treatment Plant.
- 12.8 The Committee notes the comments by Mr Elliott at the hearing in Margaret River on November 20 2001 that while the Treatment Plant is meeting all regulatory requirements, the Water Corporation was of the opinion that it could exist in its present location. The Committee notes his submission that with the current competition for capital funding and in a situation such as this where there is a performing plant that is well under-loaded and has been recently upgraded, it would be extremely difficult to justify that significant investment and then to abandon the Treatment Plant and replicate it at another site.
- 12.9 The Committee notes that Mr Elliott stated that for the time being, the Water Corporation does not see much option but to persist with the Treatment Plant and, hopefully, to work with the community to make it compatible with the values of the community.
- 12.10 The Committee also notes Ms Serventy's concerns regarding the possible expansion of Prevelly. She did not want the Treatment Plant site to be used for the expansion of Prevelly, nor did she want the expansion of Prevelly to lead to another problem with coastal development.
- 12.11 Ms Serventy did not want Prevelly to be developed beyond its population target simply to pay for a better waste water system. She wanted better coastal planning.
- 12.12 Ms Serventy submitted that the best solution for the future would be a combined pipe back to Margaret River. This would mean that a centralised plant would be created
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and the waste water could be used. Ms Serventy noted that although this was not possible in the past, it was now feasible due to construction of the larger plant in Margaret River. She did acknowledge, however, that the lack of funding for this proposal meant it was unlikely to succeed.

12.13 The Committee also notes Ms Forward's submission that the local community was interested in the medium to long term and that their position was that the Treatment Plant should be relocated. Ms Forward told the Committee the local community could put up with the Treatment Plant in the short term but were looking into the future and questioning the positioning of the Treatment Plant.

12.14 Finally, the Committee also notes a submission provided by Hon Barry House in which he suggested that the ideal solution would be for the Treatment Plant to be able to cater for the Prevelly area and converted into a pumping station to take the waste water to the Margaret River Waste Water Treatment Plant. Hon Barry House submitted that there should be a dual pipeline system so treated waste water could be returned for use on the Margaret River Golf course and public open space in Gnarabup and Prevelly. Hon Barry House noted that this solution would be expensive but that it should be the goal for the future.

### **13 CONCLUSIONS**

13.1 The Committee concludes that the Treatment Plant is inappropriately located and that insufficient consideration was given to its siting.

13.2 The Committee appreciates that the Water Corporation was not the proponent of the Treatment Plant but that it inherited the Treatment Plant from the developer through the land planning and development process. However the Water Corporation is now responsible for the operation, management and maintenance of the facility.

13.3 The Committee has observed a failure to find solutions for the Margaret River coastal communities of Gnarabup and Prevelly with regard to waste water treatment and in particular integrating a solution with the outdated system at Prevelly which requires infill sewerage and can not be connected to the Treatment Plant at neighbouring Gnarabup.

13.4 The Committee finds that the decision made by the SWRPC at its meeting on July 22 and 23 1993 to approve the 1993 Structure Plan, despite the letter of advice from the EPA signed on behalf of Mr Sippe and hand-dated June 15 1993, was an inappropriate decision, albeit a legal one under the *Environmental Protection Act 1986*. The Committee is concerned that the 1993 Structure Plan was approved despite the advice from the EPA in the letter of June 15 1993 that it:

- was inconsistent with the Shire Council's Visual Resource Assessment;

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- was inconsistent with a number of elements of the then Department of Planning and Urban Development's coastal development policy;
  - did not conform with the Shire of Augusta-Margaret River Town Planning Scheme No 18;
  - did not conform with the Prevelly Park Development Guidelines;
  - could not be viewed as being the same proposal which the EPA agreed to assess at an informal level and that if the proposal could not be made consistent with the Prevelly Park Development Guidelines the EPA might consider that the proposal required formal assessment; and
  - did not meet Water Authority buffer requirements.
- 13.5 The Committee concludes that if the SWRPC had properly taken into account the advice in the EPA letter, the outcome of the decision might have been different and the 1993 Structure Plan might not have been approved.
- 13.6 The Committee concludes that if the SWRPC had not approved the 1993 Structure Plan at its meeting on July 22 and 23 1993 the subsequent problems with the Gnarabup Waste Water Treatment Plant might have been avoided. In particular, the failure to provide an adequate buffer zone around the Treatment Plant may have exacerbated the subsequent pollution events.
- 13.7 The Committee is aware that the development at Gnarabup approved at that meeting has caused significant grievance and expense for the Shire of Augusta-Margaret River, and its community, to this day.
- 13.8 The Committee also concludes that the decision by the SWRPC to approve the 1993 Structure Plan did not integrate with other planning and development decisions in the Gnarabup/Prevelly area. The Committee concludes that planning and development approvals within Western Australia should take account of and be integrated with other developments, schemes and projects in the local and, if appropriate, wider area.
- 13.9 The Committee concludes that during the approval process for the Treatment Plant there was confusion and misunderstanding between the various government agencies and departments and the Shire Council regarding the interpretation of section 32 of the *Town Planning and Development Act 1928* with regard to approvals for public works. There was also confusion regarding the identity of the proponent for the Treatment Plant which contributed to a lack of accountability in the process.
- 13.10 The Committee notes that no formal development application for the Treatment Plant was assessed by the Shire of Augusta-Margaret River. The legality of the Treatment Plant may therefore be uncertain.

- 13.11 The Committee finds that the subsequent approvals by the Shire of Augusta-Margaret River, the EPA and the WAWA were constrained by the pre-determined decision of the SWRPC in July 1993.
- 13.12 The Committee finds that the siting of the Treatment Plant is detrimental to the values of a world class tourist destination.
- 13.13 The Committee concludes that there needs to be a long-term, integrated and comprehensive solution to the problems arising as a result of the approval for and the development, construction and operation of the Treatment Plant.

#### **14 RECOMMENDATIONS**


**Recommendation 1: That, in line with the wishes of the majority of the local community, the Treatment Plant be converted into a pumping station and the water be pumped back to the Margaret River Treatment Plant for treatment and re-use on the Margaret River golf course and public open space.**

**Recommendation 2: That the Department for Planning and Infrastructure be required to contribute to the cost of solving the problems created by the construction of the Treatment Plant, including a contribution towards the cost of converting the Treatment Plant into a pumping station.**

**Recommendation 3: That the Government review its environmental and town planning legislation (and in particular section 32 of the *Town Planning and Development Act 1928*) with a view to giving greater legislative clarity to procedures required for the assessment of public works in a manner that more effectively integrates the State's environmental and town planning legislation in keeping with other related Government initiatives.**

**Recommendation 4: As the results of the water quality testing undertaken by the Water Corporation in the vicinity of the Treatment Plant become available they be provided to the Shire of Augusta-Margaret River for public information.**

**Recommendation 5: That the water quality testing undertaken by the Water Corporation in the vicinity of the Treatment Plant take into account the topography of the area and in particular the cavernous and fractured nature of the limestone.**



Hon Christine Sharp MLC  
Chair

October 15 2002

**APPENDIX 1**  
**TIME LINE FOR EVENTS SURROUNDING THE**  
**GNARABUP WASTE WATER TREATMENT PLANT**



# **APPENDIX 1**

## **TIME LINE FOR EVENTS SURROUNDING THE GNARABUP WASTE WATER TREATMENT PLANT**

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*1992*

- South West Region Planning Committee formed
- 1992 Structure Plan for the Gnarabup Beach Estate released for public comment

*1993*

- 1993 Structure Plan for the Gnarabup Beach Estate released
- June 15: Letter hand-dated June 15 1993 signed on behalf of Mr Sippe, Director, Evaluation Division, EPA, to the Executive Director, Department of Planning and Urban Development commenting on the proposed 1993 Structure Plan
- July 15: Letter signed on behalf of Mr Sippe faxed to the then Department of Planning and Urban Development (but refer to paragraph 11.24)
- July 22 and 23: SWRPC met and gave conditional approval for the 1993 Structure Plan
- October 8: Letter of conditional subdivision approval for the Gnarabup Beach Estate from SWRPC provided that the conditions set out in the letter are fulfilled within three years. Condition 11 stated that the subdivider was to create a reserve for the purpose of a sewer treatment works in a location satisfactory to the EPA, Water Authority and the Local Authority. Condition 15 stated that satisfactory arrangements were to be made with the Local Authority and the Water Authority for the construction of a road to the proposed waste water treatment works and for the creation of a road reserve extending southward from the treatment works to Boodjidup Beach

*1994*

- February 7: DEP issued Works Approval for Stage One of the Treatment Plant to Cedar Vale Pty Ltd

- June 30: Letter from Shire of Augusta-Margaret River to Department of Planning and Urban Development advising that conditions 11 and 15, among others, of the letter of conditional subdivision approval had been satisfied
- July 6: Letter from Water Authority to Department of Planning and Urban Development confirming that the requirements of the letter of conditional subdivision approval had been complied with

*1995*

- February 8: Letter from DEP confirming that Condition 11 of the letter of conditional subdivision approval had been met
- May: DEP issued a licence to Cedar Vale Pty Ltd to operate the Treatment Plant
- November: DEP transferred the licence to operate the Treatment Plant to the then Water Authority of Western Australia

*1996*

- January: Water Corporation came into existence

*1998*

- May 13: DEP issued extension of original Works Approval for Stage Two of the Treatment Plant to the Water Corporation care of Cedar Vale Pty Ltd

*1999*

- November/December: Considerable number of expressions of community concern over the location and operation of the Treatment Plant. Coincided with Treatment Plant being overloaded resulting in sewage backfilling. Water Corporation convened public meetings and held discussions with the community. As a result of the discussions, the Water Corporation commissioned a feasibility study to investigate alternatives such as relocating the Treatment Plant

*2000*

- April: DEP issued draft licence conditions to operate the expanded Treatment Plant

*2001*



- February: DEP issued a licence to the Water Corporation to operate the expanded Treatment Plant
- May: Stage Two of the Treatment Plant commissioned



**APPENDIX 2**  
**WATER QUALITY PARAMETERS APPLICABLE TO GAS**  
**BAY**



## APPENDIX 2

### WATER QUALITY PARAMETERS APPLICABLE TO GAS BAY

#### 3. WATER QUALITY PARAMETERS APPLICABLE TO GAS BAY

Parameter	ANZECC (2000) Water Quality guidelines for recreational purposes(mg/L)	Range of shore and offshore concentrations from the 2201/2002 Gnarabup Ocean Survey.	Range of shore and offshore concentrations from the 1996 Gnarabup Ocean Survey.
Kjeldahl Nitrogen		0.225 – 0.365	0.149 – 0.486
Nitrate + Nitrite	Nitrate - 10 Nitrite - 1	<0.0083 – 0.3	0.001 – 0.058
Ammonium	0.01	<0.0028 – 0.042	<0.0028 – 0.0439
Filterable Reactive Phosphorus	0.005*	<0.002 – 0.022	Total Phosphorus 0.009 – 0.043
Chlorophyll 'a' µg/L	0.7*	<0.02 – 0.09	0.06 – 0.36
Thermo Tolerant Coliforms (cfu 100mL)	150 (For primary contact)	<10	0 – 124
Lead	0.05	<0.0005 – 0.001	<0.0005 – 0.0008
Cadmium	0.005	<0.0005	<0.0005
Copper	1.0	<0.005	<0.005
Zinc	5.0	0.009 – 0.055	<0.005 – 0.08
Mercury	0.001	<0.0005	<0.005 – 0.007

\* Default trigger value (Trigger values are used to assess risk of adverse effects due to nutrients, biodegradable organic matter and pH in various ecosystem types)

**Table 1. Range of shore and offshore concentration for Gnarabup WWTP ocean monitoring sites.**