

**STANDING COMMITTEE ON  
ENVIRONMENT AND PUBLIC AFFAIRS**

**PETITION ON EXPANSION WORKS AT THE GNARABUP WASTE WATER  
SITE AND THE SITING OF THE SEWERAGE PLANT**

**TRANSCRIPT OF EVIDENCE  
TAKEN AT PERTH  
ON WEDNESDAY, 13 MARCH 2002**

**Members**

**Hon Christine Sharp (Chairman)  
Hon Kate Doust (Deputy Chairman)  
Hon J.A. Scott  
Hon Louise Pratt  
Hon Frank Hough  
Hon Robyn McSweeney  
Hon Bruce Donaldson**

**Committee met at 2.00 pm**

**GUISE, MR LARRY,**  
**Regional Manager, South West Planning Services,**  
**Department for Planning and Infrastructure,**  
**examined:**

**The CHAIRMAN:** You have been provided with a document entitled "Information for Witnesses". Have you read and understood that document?

**Mr Guise:** Yes.

**The CHAIRMAN:** These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. I ask that you speak into the microphone so that we are able to obtain a good recording. If you refer to any documents, please clearly identify them so that the transcript clearly reflects the document to which you refer. Once the transcript is finalised, it will become a matter for public record. If for some reason you wish to make a confidential statement, you have the right to request that your evidence is given in a closed session, and the committee will decide whether to go into a private session. If that were to occur, the public and media would then be excluded from this hearing. Until such time as your transcript is finalised, it should not be made public. I advise you that any premature publication or disclosure of public evidence may constitute contempt of Parliament, and may mean that the material published or disclosed is not subject to parliamentary privilege.

We have a number of questions to ask, but we invite you to make a general statement. The committee's particular interest is in the decision-making process for the approval of the 1993 structure plan, which essentially gave the Western Australian Planning Commission's approval for the construction of the waste water treatment plant on that site. Is there any matter about which you would like to make a general statement?

**Mr Guise:** The structure plan of 1993, or any subsequent structure plan, is not the only matter for which the commission must have regard. It is one of the considerations that is relevant to subdivision, but it is by no means the only one. I will be able to elaborate on that in answers to your other questions.

**The CHAIRMAN:** Can you explain to the committee how the south west region planning committee operates?

**Mr Guise:** The committee came into being in 1992. It was the first regional planning committee of the then State Planning Commission, now the WA Planning Commission, to have delegated powers for a number of statutory planning items. 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 or so the "interim" was dropped, and it became a permanent committee of the commission. It meets monthly in the south west, and it is responsible for many of the statutory and strategic planning functions of the WA Planning Commission in the south west. The decisions of the committee, made under delegated power, become those of the commission itself.

**The CHAIRMAN:** Are you the chairman of the committee?

**Mr Guise:** No, I am not. The committee comprises the chairman of the WA Planning Commission, who is the ex officio chair of that committee, if he or she is present. The composition of the other members is set out in the Act, but generally there are three representatives from local government, a community member, and a member from the department of the minister responsible for regional development. There is power for the minister to appoint other persons as he or she sees

fit. There is also a position for another member of the planning commission. I am a public servant for the department. Public servants are not members of that committee. However, a number of senior officers in the department, including myself, both then and now, have powers of delegation that are separate from those of the committee.

[2.10 pm]

**Hon J.A. SCOTT:** When you said that the decisions you made were made under delegated powers, do you mean delegated from the commission itself or from the minister?

**Mr Guise:** No, from the commission itself. Committees of the commission cannot sub-delegate, but the commission can delegate its powers.

**The CHAIRMAN:** Did the process that you have just described exist in 1993, and is it still current today?

**Mr Guise:** That is correct.

**The CHAIRMAN:** In a sense, do you act as executive officer for that committee?

**Mr Guise:** Yes. A number of departmental officers are the principal advisers to the south west region planning committee. The department, which was then the Department of Planning and Urban Development, is the principal adviser. As I mentioned earlier, senior officers also have some delegated powers.

**The CHAIRMAN:** Does the committee go through a standard process when approving structure plans? Are standard guidelines or factors taken into account; and, if they are, can you describe them?

**Mr Guise:** That is a very good question in that structure planning is an evolving process. No separate regulations cover the approval of structure plans. 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, as is the case with the Gnarabup plan. The commission quite often takes advice from a technical advisory group when assessing structure plans. That technical advisory group is usually made up of representatives of the local government and the respective government agencies that are relevant to the matter. Normally, a structure plan is advertised for public comment and the submissions are taken into account prior to its approval. However, a structure plan is normally initiated by the local government, as was the case with the Gnarabup plan. Also, the council's recommendations are obviously important in the final approval of that structure plan.

**The CHAIRMAN:** Am I correct in asserting that the 1993 structure plan in question was never released for public comment?

**Mr Guise:** Not in its final form, but the structure plan commenced in 1992 and was advertised. Its final form was different, but the structure plan was definitely advertised for public comment.

**The CHAIRMAN:** The original 1992 structure plan was released for public comment, but the final form of the 1993 structure plan was not?

**Mr Guise:** Correct.

**The CHAIRMAN:** Did the earlier 1992 plan, which was released, not have any proposal in it for a waste water treatment plant; therefore, that specific aspect of the development was not put to the community for comment?

**Mr Guise:** My recollection is that the plan did not show a waste water treatment plant, but I stand corrected on 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. One of the two options they were considering was on-site effluent disposal; the other option was a package treatment plant that would lead to a reticulated sewer.

**The CHAIRMAN:** Those two options were considered by the committee, but they were never considered by the general public?

**Mr Guise:** It was shown by Proteus Consultants Pty Ltd, which was looking at the engineering options, in its supporting documentation for the structure plan. I cannot be certain whether that document was widely available. To my knowledge, the location of the treatment plant was not shown on the single structure plan, but it was shown in the supporting documentation.

**The CHAIRMAN:** Can you identify the Proteus document for the record so that we will be sure about which document you are referring to? Do you have a copy of it?

**Mr Guise:** I have an extract from it.

**The CHAIRMAN:** Can you table that for us today?

**Mr Guise:** Yes I can.

**The CHAIRMAN:** The committee has received evidence suggesting that the eventual final 1993 structure plan format did not conform to various planning guidelines and water authority guidelines. Can you comment on whether you concur with the evidence that the committee has received? We have discussed the differences between the 1992 structure plan and the waste water treatment plant. We have also been told that it is not consistent with the current Augusta-Margaret River town planning scheme No 18. I am referring to the waste water treatment plant specifically. Would you care to comment on that?

**Mr Guise:** Not without some additional information on how it does not comply. Prior to the commencement of proceedings, I tabled the current zoning.

[2.20 pm]

**The CHAIRMAN:** Is this according to the zoning that was in force in 1993?

**Mr Guise:** No; it was according to town planning scheme No 18, which was then under consideration. It was a proposed scheme that had been out for public consultation. The then Minister for Planning assessed the submissions in August of that year and granted final approval subject to certain modifications. Those modifications were made, but gazettal did not take place until 1995.

In 1993, an interim development order, but not a final approved town planning scheme, was in place. However, under the State Planning Commission regulations, the commission must have regard for both approved and proposed town planning schemes when considering any subdivision application.

**The CHAIRMAN:** Do you think the 1993 structure plan conformed to proposed town planning scheme No 18, which at that stage had not been finalised?

**Mr Guise:** Yes, I believe it conformed. The development areas conformed to the same development footprint under the scheme - that is, the development zone and the tourist development site. The waste water treatment plant was eventually located within the landscape and landform protection area. That is not unusual.

**The CHAIRMAN:** Is that shown on the map of town planning scheme No 18?

**Mr Guise:** Yes, it is.

**The CHAIRMAN:** Would you show us where it is on the map?

**Mr Guise:** It is the pale green area towards the bottom of the map. It is also located on the aerial photo. It also has a car park for the area referred to as Gas Bay. Boodjidup Beach is to the south.

**The CHAIRMAN:** When approval was granted for the structure plan and the siting of the waste water treatment plant in that location, were you aware that Western Australian Water Authority

guidelines stipulated that there should be a 500-metre buffer zone between waste water treatment plants and residential areas?

**Mr Guise:** Yes; that matter was discussed by the technical advisory group. The group expressed concern that the proposed separation distance was 375 metres. The proponents responded that with the higher environmental standards they were proposing for the plant, they could obtain Water Authority and Environmental Protection Authority approval for the lesser distance.

**The CHAIRMAN:** Were you aware of any other precedents of that kind of technology which would have reinforced that assertion?

**Mr Guise:** I was not aware. However, as a planning body, we were reliant on the Water Authority and the EPA agreeing to those environmental standards.

**The CHAIRMAN:** Did the then Department of Planning and Urban Development have 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?

**Mr Guise:** Yes.

**The CHAIRMAN:** Do you consider that the construction of the waste water treatment plant, following the approval of the structure plan, conformed to DPUD's coastal development policy?

**Mr Guise:** Yes, I do. I believe that part of the problem relates to the proximity of the access road to the treatment plant site. One of the relevant conditions for approval of the subdivision was for the proponent to liaise with the shire council about a combined access road that would provide access to not only the treatment plant but also Boodjidup Beach to the south.

**The CHAIRMAN:** Is that what is known as Grunters?

**Mr Guise:** I understand that Grunters is sometimes called Gas Bay and that Boodjidup Beach is further south.

**The CHAIRMAN:** Is that where the surf break is?

**Mr Guise:** Yes, as far as I know. The road was originally a track that was used to access the southern beach area. I point out that the aerial photograph is from 1998. Previous uncontrolled access resulted in unstable dune conditions. The access road is very close to the treatment plant with a small deviation into the 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 plant to be adequately screened with vegetation. It is difficult to grow tall vegetation. In hindsight, the road was probably placed too close to the treatment plant, and therein lies part of the problem.

**The CHAIRMAN:** Could you say that, in hindsight, the road was in breach of DPUD's coastal development policy, which required due regard for visual amenity in the siting of roads?

**Mr Guise:** I would not go as far as that. The council may have taken that into account when determining the placement of the road. There may have been other topographical and engineering reasons for the placing of the road. The location of the treatment plant and the road were not decisions made by those responsible for the structure plan or the commission's subdivision. It was a subsequent decision of the council.

**The CHAIRMAN:** Thank you. What date was the structure plan approved by the south west region planning committee ?

**Mr Guise:** My understanding is that it was 24 September 1993.

**The CHAIRMAN:** I take it that it was approved at a meeting of the committee.

**Mr Guise:** It was a meeting of the committee. I would like to check that. I have provided many extracts from the various committee meetings and agendas of that year. However, when I went through those again today, I could not see the September agenda. I apologise for that. I would like to verify it after the meeting.

**The CHAIRMAN:** Other witnesses to this inquiry have tabled correspondence from the EPA to the regional planning committee regarding the structure plan and dated 15 June. How long after the receipt of those comments was final approval given for the structure plan? My understanding is that the plan was finalised on 6 August, seven weeks and two days after the letter of 15 June. Could you verify that for the committee ?

**Mr Guise:** The committee dealt with the structure plan on several occasions. My understanding is that the final approval was given in September. Minor changes were made. I refer to the structure plan. The area that is sometimes referred to as Spindrift Estate originally contained slightly larger lots. The final form of those lots is that which is shown in the plan. The total number of residential lots was increased from 225 to 243.

[2.30 pm]

That was one modification that was made between April, when one version of the structure plan was being considered, and September, when the final structure plan was supported. It was a relatively minor change.

I believe that the advice from the Environmental Protection Authority was received in July, not June. An error was made when the date was handwritten on the letter of advice. It actually arrived in July, just a few days prior to the July consideration of the structure plan. It 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 south west region planning committee. However, it was specifically tabled and marked as such in order to bring it to the attention of members. I imagine that the person who brought this matter to your attention thought that if the advice had been supplied to the committee in June of that year, there would have been ample time in which to include that advice in the planning officer's assessment that was presented to the July meeting. That was not the case. I think it was received for the first time on 15 July by fax. That was just one week or so prior to the south west region planning committee meeting. Therefore, the only way that it could reasonably have been taken into account was for it to be attached and tabled with the report.

**The CHAIRMAN:** Could you indicate to the committee in some way the date on which you received that correspondence in the name of Mr Rob Sippe?

**Mr Guise:** I can provide you with a copy of the correspondence, which has the fax date at the top.

**The CHAIRMAN:** Thank you. You no longer need to do that, because my attention has just been directed to a copy of that document, which you have already provided to the committee. It has on it a date stamp of 15 July from the then Department of Planning and Urban Development. When was the next meeting held after 15 July?

**Mr Guise:** It was held over two days - 22 and 23 July.

**The CHAIRMAN:** At that meeting on 22 and 23 July, was the written advice from the EPA discussed?

**Mr Guise:** I cannot recall whether it was. It was certainly tabled and included in the agenda items, but I cannot recall the nature of the discussion.

**The CHAIRMAN:** If we go to the agenda for the meeting of 22 and 23 July, will we find that piece of correspondence on it?

**Mr Guise:** Yes.

**The CHAIRMAN:** Thank you. Was any discussion on that issue minuted for that meeting?

**Mr Guise:** In relation to the EPA correspondence?

**The CHAIRMAN:** In relation to the advice from the EPA.

**Mr Guise:** I do not know. I would have to go through the minutes to find out.

**The CHAIRMAN:** Can you explain to the committee why the structure plan was approved at that time, despite the comments made by Mr Sippe in that letter on behalf of the EPA?

**Mr Guise:** The committee would have had to weigh up all the advice available to it. The correspondence from the EPA appears to relate to problems with the original structure plan, rather than with the structure plan that was before the committee at that stage. In other words, it related to deficiencies in the original 1992 plan, which had been largely overcome in the 1993 plan.

**The CHAIRMAN:** Do you recall that the advice from the EPA specifically raised concerns about inadequate information for it to approve of the waste water treatment plant?

**Mr Guise:** Yes. It meant that the subdivision application was subject to special conditions that required approval from both the Water Corporation and the EPA. In other words, it was fundamental not to the structure plan but to the subdivision.

**The CHAIRMAN:** Can you provide the reasons for the approval of the 1993 structure plan?

**Mr Guise:** It is hard to remember all the reasons.

**The CHAIRMAN:** I am sure it is.

**Mr Guise:** The original 1992 structure plan for the Eaglescliffe development, as it was called, 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 - that had been worked out between various government agencies and the shire using landscape assessment and a whole range of other assessment tools. That structure plan had identified a suitable developable area and conformed to those guidelines. It needed only some fairly minor modifications. In fact, it was decided not to develop some locations within the developable area, and those areas became public open space.

**The CHAIRMAN:** During the period in which the approvals for the structure plan were being finalised, did you, as an officer of the then Department of Planning and Urban Development, or your committee, receive any advice or instruction from either the Minister for Planning, the Ministry for Planning or the Western Australian Planning Commission about the approval of the structure plan?

**Mr Guise:** The minister at that time was Richard Lewis. When he was considering whether to grant final approval to town planning scheme No 18, he was provided with the commission's advice to council about the structure plan. That would have been forwarded to him after the July meeting. That advice indicated to him that the commission was satisfied with the structure plan, subject to some modifications and to the minister's final determination on town planning scheme No 18. The two matters were proceeding together. In fact, three things were in parallel - subdivision application 89088 was also being considered at that time.

[2.40 pm]

The minister, in considering in August whether to grant final approval to the scheme, determined that the site which I now show on the chart, and which is coloured blue on the zoning plan provided to committee members, be included in this special tourist development and landscape protection zone. That therefore meant that the structure plan needed to be modified to concur with his decision on the town planning scheme. That change was subsequently made, and ratified in the September structure plan.

**The CHAIRMAN:** As far as you recollect, there was no communication from the minister regarding the waste water treatment plant aspects of the structure plan?

**Mr Guise:** Not that I can recall.

**The CHAIRMAN:** The committee would also like to ask you some questions that were raised in another hearing of the committee, about the interpretation of section 32 of the Town Planning and Development Act 1928, and whether that provided an exemption from the necessary approval under a town planning scheme of the construction of a public work such as the waste water treatment plant. Could you please tell the committee who was the proponent of the waste water treatment plant? Could you clarify if you are aware of the details? Who built the treatment plant, and when was it transferred to the Water Corporation and thus became the work of a government agency as opposed to a private developer?

**Mr Guise:** I have no knowledge of that, because the commission and the department are basically at arm's length from those works and those decisions. When the commission 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. However, at the end of each of those conditions, in brackets, are the initials of the agencies or the local governments responsible for clearing that condition, indicating that the works had been completed to their satisfaction. In this case the treatment plant was completed to the satisfaction of three agencies, including the Environmental Protection Authority and the Water Corporation. The commission is reliant on clearances being granted by those bodies, and having received those clearances within three years, would then endorse the relevant survey documents.

**The CHAIRMAN:** So, in fact, in due course, did the commission receive clearance from the Shire of Augusta-Margaret River for the construction of the plant?

**Mr Guise:** I do not recall if we received a clearance from the shire. I assume so, and I can certainly clarify that for you.

**The CHAIRMAN:** Could you please do so?

**Mr Guise:** Yes. I cannot envisage that the commission would have issued diagrams of survey without clearances also from the Environmental Protection Authority and the Water Corporation.

**The CHAIRMAN:** Can you please provide some evidence to the committee of those clearances?

**Mr Guise:** Yes, I will.

**The CHAIRMAN:** I do not know if I put the question to you clearly enough, but could you please inform the committee what you consider section 32 of the Town Planning and Development Act means with regards to approvals for public works?

**Mr Guise:** I do not have that section in front of me, but my general understanding is that, in the case of works undertaken by government agencies, it is the convention to inform the local government, but it is not actually required, when undertaking works for the Crown, to obtain the approval of local government. I would add, however, that under other sections of the Act, in granting subdivisional approval, the commission effectively gives the development approval of the local government, in any case.

**The CHAIRMAN:** Going back to the approval of the structure plan, including the waste water treatment plant, who did you, in delegating power to the Planning Commission, consider was responsible for the waste water treatment plant?

**Mr Guise:** Fulfilling the conditions is the responsibility of the proponent.

**The CHAIRMAN:** By that, who do you mean?

**Mr Guise:** In this case, it was Cedarvale Pty Ltd, the landowners, who had Proteus Engineers as consultants. It was their responsibility to fulfil the condition. They can do that by engaging other

parties, but it must be done to the satisfaction of the shire, the Water Corporation and the Environmental Protection Authority.

**Hon BRUCE DONALDSON:** Does Cedarvale Pty Ltd have any connection with Cedar Woods Ltd?

**Mr Guise:** Not that I am aware of. The company later became Gnarabup Beach Pty Ltd.

**The CHAIRMAN:** As far as the committee is aware, the Augusta-Margaret River shire council was never asked by the Department of Planning and Urban Development to consider either the construction or the subsequent upgrade of the waste water treatment plant. It is important that you are able to clarify all of those clearances, because what you are saying is not consistent with other evidence the committee has received. I have one more question, and I am sure other committee members will have questions.

This clearly goes back a number of years, and I am very grateful that you have a good recollection of these matters, although Gnarabup is an ongoing issue, and I imagine that the files keep opening all the time. If you had your time again, do you think that the south west region planning committee would approve the construction of a similar waste water treatment plant in a similar site at a prime location, as it did back in 1992?

**Mr Guise:** I must take issue with some of that. The committee did not approve the actual location of the waste water treatment plant.

**The CHAIRMAN:** Who approved it?

**Mr Guise:** The Environmental Protection Authority and the Water Corporation. The approval was given for the subdivision and for the construction of the plant, but the actual location was a matter for those agencies to determine. In terms of my earlier comments about the location, at the very least the access road should be further removed from the treatment plant so that it is not so visually intrusive. It is not my area of expertise to comment about the environmental capabilities of the plant. Treatment plants are always difficult to locate. It had to be a minimum distance - in this case reduced from 500 to 375 metres - from the residential component. It is difficult to find a suitable location, but the environmental and engineering advice was that that was a suitable location. My understanding is that, since the upgrade, re-use options are being further considered, in particular re-using more of the effluent within the Gnarabup and Prevelly locations, which would certainly be an improvement.

[2.50 pm]

**Hon J.A. SCOTT:** How many lots were in the original 1992 structure plan compared with the 1993 plan that was eventually agreed to?

**Mr Guise:** I could not say without checking the 1992 plan. I mentioned earlier that the early 1993 version of the plan had 225 residential lots plus five large lots for tourism and commercial purposes. That became 243 residential lots plus five tourism and commercial sites. However, I would have to check the details of the 1992 version.

**Hon J.A. SCOTT:** Could you provide that information to the committee?

**Mr Guise:** Yes.

**Hon J.A. SCOTT:** Were the densities in the 1993 plan different from those in the 1992 plan?

**Mr Guise:** My understanding is that the only change was at the location I referred to. This diagram shows that the lots were made slightly smaller than these lots on the hillside, which are more exposed. These lots are tucked into a little valley. The small lots are in the Spindrift estate.

**Hon J.A. SCOTT:** When the commission considers proposals like this, does it consider the wider planning objectives in the area or is it simply a stand-alone proposition?

**Mr Guise:** No, the commission has regard for all its policies, and that includes the more strategic context.

**Hon J.A. SCOTT:** For instance, when considering sewerage that area did the committee understand that the sewage treatment plant can treat sewage from only that particular development, which is between the old Prevelly site and the main part of town, and that would make it difficult for future proposals for a sewerage system to take in Prevelly because it would have to go around that area? Is that not the case?

**Mr Guise:** My understanding is that it would still be possible to connect old Prevelly into this treatment plant, but at a cost. It would be very difficult to find a location between Gnarabup and Prevelly for a treatment plant. It would not achieve the buffer or visual objectives.

**Hon J.A. SCOTT:** I realise that you did not approve the location of that sewerage plant, but you obviously knew a sewerage plant would be built there. Did you consider placing it there? The information we have is that the treatment plant will be at capacity with the development in that area, so that the Prevelly area cannot be linked into that plant. That is my recollection of the briefing by the Water Corporation. Why did you not consider the wider planning such as the treatment of sewage at that point?

**Mr Guise:** My understanding is that the plant is in modules. It has been upgraded and is now at stage 2. However, it could be made capable of treating effluent from Prevelly.

**Hon J.A. SCOTT:** What would be the impact of that secondary treated material? If effluent from the Prevelly area were added to that plant would it not be too great a quantity to move into the ocean there? Is that your advice?

**Mr Guise:** We would have to rely on other advice for that. In the same way that the Water Corporation is currently looking at re-use options, if there were more effluent - including that from Prevelly - it would have to consider whether there are greater re-use options or whether seepage infiltration would still meet environmental standards.

**Hon J.A. SCOTT:** I refer to the advice from the Department of Environmental Protection. Did you personally read that advice?

**Mr Guise:** Yes .

**Hon J.A. SCOTT:** Did it not concern you that the DEP said, for instance, that the development was inconsistent with the shire council's visual resources assessment and with a number of elements of the coastal development policy of the former Department of Planning and Urban Development; that it did not conform with the Shire of Augusta-Margaret River town planning scheme No 18TPS/18 and did not conform with the Prevelly Park guidelines on which the TPS was based?

**Mr Guise:** It did concern us. However, that letter was signed on behalf of Mr Sippe and not by Mr Sippe. To be quite frank, it was an officer of the DEP expressing strong individual opinions.

**Hon J.A. SCOTT:** Did that officer have the proper training or the authority to express his opinions?

**Mr Guise:** I believe that officer had a background in landscape assessment. That is why I made the earlier comment that I cannot be sure that that officer was not referring to an earlier plan. That is because the technical advisory group on which the landscape experts from our own organisation had been involved had developed the Prevelly development guidelines and had undertaken it as a visual impact assessment study. At the time it was at the cutting edge of visual resource management and had carefully defined the developable area based on a visual assessment. It was somewhat surprising that that DEP view was expressed.

**Hon J.A. SCOTT:** It is my understanding that the DEP did not have any problem with the 1992 structure plan but was specifically referring to the 1993 plan. That was my impression from reading that letter. I am not sure how you got the idea it may have been referring to the 1992 plan, when it

had no problem with the 1992 plan and specifically referred to the 1993 plan. I wondered what in that advice made you think it might have been referring to the 1992 plan?

**Mr Guise:** There are two reasons for that. First, it was a surprise, given the plan complies with the Prevelly development guidelines. However, subsequent to that, and on a number of occasions over the years since, the EPA and the DEP have consistently supported subsequent applications that have been consistent with the 1993 plan. I believe that verifies they were satisfied with the developable area shown.

**Hon J.A. SCOTT:** What do you mean “subsequent applications”? What were the subsequent applications for?

**Mr Guise:** Because subdivision applications expire after three years there is a need for fresh applications, so there were subsequent applications in the same area. The letter that you are referring to from the EPA said that if the EPA was not satisfied it “may assess”. The word “may” is significant. The EPA did not subsequently decide to formally assess or in other ways reject the proposal.

**Hon J.A. SCOTT:** Did you get back to the DEP and ask what in particular had made it concerned, and did you raise the issues contained in that letter?

**Mr Guise:** I do not recall whether we did.

**Hon J.A. SCOTT:** I wondered whether it was referring to the visual problem or the problem of locating a sewerage works so close to a popular beach. Did you consider, having not been included in the original plan, that might have been one of things it was concerned about?

[3.00 pm]

**Mr Guise:** That is unlikely, because in fulfilling the subdivision condition, they would have been unlikely to approve the location of the plant, even though that occurred subsequently.

**Hon BRUCE DONALDSON:** Was the coastal protection and foreshore management delineation on town planning scheme No 18 from the environmental branch of the then Department of Planning and Urban Development in 1992? The Planning Commission then had a coordinating committee or coastal management committee.

**Mr Guise:** Yes.

**Hon BRUCE DONALDSON:** Environmental officers from the Water Corporation would have been involved. What input did they have in drawing up the lines? As the treatment plant was not sited on the map in 1992, would they have known it would be established? Were they aware of the information?

**Mr Guise:** I understand that the boundary between the dark and the light green as shown in the planning scheme merely reflected the cadastral boundary - in other words, the existing ownership. This was already crown land as a foreshore area and it merely reflects that.

**Hon BRUCE DONALDSON:** It seems to me that between 1992 and 1993 there was a feeling that section 32 of the Town Planning and Development Act did not require the treatment plant to be sited on the map because the Augusta-Margaret River Shire Council understood that savings provisions are in the Public Works Act for public works. Is it fair to say that there was a misunderstanding between the shire and possibly the proponents, and the shire naturally assumed that the savings provisions would apply and the shire would not have a say anyway in the public works? The shire seemed to be under the misapprehension that it did not need to be involved because it overtook its primary role in development?

**Mr Guise:** That may be the case. As I said earlier, it is conventional to consult the local government about it. The fact that the shire was involved in a decision about the road that provided

beach access and 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 that.

**Hon LOUISE PRATT:** I refer to the waiver to put the treatment plant closer to the 500-metre buffer zone. Under which approvals process does that buffer requirement come?

**Mr Guise:** It is a recommendation of the Water Corporation. For larger plants the buffer can be 1 000 metres. It depends on the circumstance, such as weather conditions and how much chlorine can be stored on site.

**Hon LOUISE PRATT:** It is my recollection that the Water Corporation told us that it was not responsible for the siting of the plant and had inherited it from the proponent, although I understand that at some stage the Water Corporation must have had to approve that process. Was that waiver to put it closer done on the basis that it was excellent technology and therefore could be placed closer to the development?

**Mr Guise:** The proponent's engineer, Proteus Consultants Pty Ltd, claimed that it would be able to demonstrate that the technology to be used could meet a buffer of only 375 metres.

**Hon LOUISE PRATT:** Was that required to be demonstrated to you or the Water Corporation?

**Mr Guise:** To the Water Corporation and the Environmental Protection Authority.

**Hon LOUISE PRATT:** Obviously that technology failed subsequently in spectacular circumstances.

**Hon J.A. SCOTT:** I refer to the public process in which the community was given a set of drawings and a proposal that did not clearly delineate that a sewerage works would be situated so close to the coast. Is it appropriate for people to make submissions on something that does not really give them a very clear picture of what may be an important factor for them to consider when they make those submissions? Do you consider those public submissions to be an important factor in themselves?

**Mr Guise:** I do. I referred to this document earlier, and I will provide a copy to the committee. Proteus indicated where it had proposed to locate. 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.

**Hon FRANK HOUGH:** I refer to the plant at the edge of the development. Is the 375 metres in this area on the map?

**Mr Guise:** That is my understanding.

**Hon FRANK HOUGH:** Did the developer develop another 125 metres after the plant had been established, because 125 metres is quite a lot? Judging from the Gnarabup site the plant could not have been located any further away because the land sheered away behind the hill. The plant fitted perfectly into the gully. I am wondering whether the developer cribbed another 125 metres and on sold blocks a bit closer. Members may recall that a hill existed, and suddenly a couple of houses have been built on the hill and they are looking down on the problem. I think that is from where it evolved. Was the plant located there first or were the people located there first?

**Mr Guise:** Planning for both of them occurred at the same time. I do not think they were able to crib an extra 150 metres.

**Hon FRANK HOUGH:** After seeing that location, the plant could not have gone anywhere else except for other areas, but it could not have moved 120 metres from its location either way because it would have gone over the hill or in another unsuitable direction. It could have been put in a different gully somewhere. I saw this area on the map, and when I saw the road I wondered whether the developers had on sold more than they should have at the end of the day.

**Mr Guise:** There was no alteration to the southern boundary of the residential area to suit the treatment plant.

**Hon J.A. SCOTT:** Was the Planning Commission aware of any move by the local government to upgrade sewerage facilities in the area generally when this project was proposed?

**Mr Guise:** I cannot recall. The shire council was actively involved in all the discussions on the structure plan, the subdivision and the scheme. Ample opportunity was available for the shire to inform the commission if that were the case.

[3.15 pm]

**Hon J.A. SCOTT:** We need to understand how we have ended up with this isolated sewerage plant, which seems to have no relationship to anything except for that one little development. I have been made aware that a general upgrade is going on in that area and Prevelly has to be brought into it and Gnarabup has to be upgraded, yet this was not even negotiated with the council. It seems that the Water Corporation was also not brought into it until later. It was brought in to advise where it would go, not to decide whether it was suitable for the area as opposed to servicing the whole area. I cannot understand why the commission did not look at that. Can you explain why it was not looked at?

**Mr Guise:** I trust that it was looked at. The proponent is responsible for ensuring that its development is adequately catered for in respect of effluent disposal. The Water Corporation, in its negotiations with Proteus, needs to determine what are its needs for adjoining areas. My understanding is that it considered that the plant could be upgraded and, therefore, an infill scheme for Prevelly could be linked to it. The primary responsibility of the proponent is to adequately service his development. Although there would be a future price, the Water Corporation was satisfied that Prevelly could be linked to it.

**Hon J.A. SCOTT:** Surely the commission, as the overall planner, has a larger role in deciding whether it is appropriate as a sewerage work isolated from the rest of the development in that area?

**Mr Guise:** It is a difficult area. It was not a major government work in its own right to service a very large community. It was one developer funding his estate. The negotiation with him was to have a plant that was capable of being linked to Prevelly at a later date. Unless the Water Corporation wanted to fund an additional, larger plant suitable for other areas, it is hard to expect a developer to fund something for which he would obtain no benefit.

**Hon J.A. SCOTT:** What about discussions with the Water Corporation being jointly involved? It seems that it was all done in isolation.

**Mr Guise:** I go back to my earlier point. I believe that we were advised that it was capable of being expanded and upgraded to be capable of treating effluent from Prevelly.

**Hon J.A. SCOTT:** Do you have any advice on that matter that you can provide?

**Mr Guise:** I can look for it.

**The CHAIRMAN:** Referring to the meetings in 1993 and the receipt of the advice from the Environmental Protection Authority, you recalled that it was hand dated on 15 June 1993 but the date of receipt was 15 July 1993. We now have a departmental record with a date stamp on it showing 15 July 1993. We discussed this earlier. The committee's research officer has pointed out to me that on 11 December 2001 you wrote, in correspondence to Ms Janet Dufall, about the structure plan -

... I can advise you that the letter signed on behalf of R.A.D. Sippe, Director, Evaluation Division of the Environmental Protection Authority hand-dated 15/6/93 was faxed to the then Department of Planning and Urban Development on that date.

Can you explain that?

**Mr Guise:** That is in error. I simply noticed the 15th and the hand dating. It was faxed to us on 15 July. It was my error in my letter to Ms Dufall. At that stage I had not checked with the EPA to find out that the original date was 15 July and not 15 June.

**The CHAIRMAN:** Thank you for clearing up that matter. There are several things that the committee would be grateful if you would provide over the next few days. Thank you for attending today and being generous with your information.

**Committee adjourned at 3.16 pm**