

**STANDING COMMITTEE ON
ENVIRONMENT AND PUBLIC AFFAIRS**

**TRANSCRIPT OF EVIDENCE TAKEN AT
EMERALD COLONIAL LODGE, MARGARET RIVER,
TUESDAY, 20 NOVEMBER 2001**

FIRST SESSION

Members

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

Committee met at 4.00 pm

The CHAIRMAN: Good afternoon, everybody. It is very nice to be in Margaret River and I would like to stress to you that although this hearing is managed in a very formal way, we are here to listen to you and to hear community concerns and explanations from people who have come to give us statements this afternoon. There are two very important reasons why committee inquiries are conducted so formally. Firstly, everything you say or any questions that are put this afternoon will be recorded. Moira, a Hansard reporter from Parliament, is with us this afternoon. She will be taking down everything you say so that the committee can use that information in its deliberations and in its reporting to Parliament. Secondly, anything that you say to the committee in evidence this afternoon is protected by parliamentary privilege; that is, there is no legal recourse to question what you say. You can feel protected in saying whatever you believe is the truth to the committee, and Parliament extends its privileges to you this afternoon.

We intend to hold the hearings for three hours until seven o'clock. In fact, quite a lot of people have come forward to say that they would like to meet the committee so we have tried to squeeze everybody in who has asked to meet with us this afternoon. As a result, we will need to be quite rigorous in relation to time. In consultation with my colleagues, we have grouped people together from the Water Corporation, from the Prevelly Wilderness Progress Association and so on, and we have given you group time. I will let you know when your time is running out; that is, when you have only five minutes left, in case there is something that you want to say and you do not wish to miss the opportunity. If you feel at the end that there is something important that you would like to have said and did not, you are very welcome to give the committee a further written submission. Likewise, if the committee feels that it has had inadequate information from anyone, then we will also feel free to write to that person and ask more questions. Today is not the end of the story; in fact, it is the beginning.

We shall hear first from Mr Chris Elliott, the Water Corporation's regional business manager from Bunbury, and his colleagues.

On behalf of the committee, I welcome you to the meeting and ask you to state your full name, your contact address and the capacity in which you appear before the committee.

**ELLIOTT, MR CHRISTOPHER,
Regional Business Manager, South West Region,
Water Corporation,
61 Victoria Street,
Bunbury, examined:**

**PARKER, MR MICHAEL,
Principal Engineer,
Infrastructure Planning Branch,
Water Corporation,
629 Newcastle Street,
Leederville, examined:**

**MURTON, MR RICHARD,
Regional Environmental Officer,
Water Corporation,
61 Victoria Street,
Bunbury, examined:**

CROWD, MR GARRY,

**Senior Business Development Officer,
Water Corporation,
61 Victoria Street,
Bunbury, examined:**

The CHAIRMAN: As I have already informed you, these proceedings are being recorded by Hansard and a transcript of your evidence will be provided to you which you can then check. To assist the committee and Hansard, if quote from any document, you need to quote the full title of the document to which you refer. Also, please be aware that the microphones are there not for our benefit - we can obviously hear you - but are for recording purposes. It is, therefore, very important to use the microphones effectively. I also remind you that your transcript will become a matter for the public record so if, for some reason, you wish to make a confidential statement during today's proceedings, you should request that your evidence be given in a closed session. If the committee grants your request, any public and media in attendance will then be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. Premature publication or disclosure of public evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

I advise you now that the Water Corporation has half an hour in which to make its submission. I invite Mr Elliott to make an opening statement for five to 10 minutes after which the committee will ask questions.

Mr Elliott: I have prepared a brief document of which all the committee members have a copy. I will now summarise the document we prepared in the hope that it would address the issues in which the committee is interested. As stated in the introduction, the Gnarabup waste water treatment plant is located on Gas Bay Road at the southern end of the Gnarabup Beach Estate. The treatment plant was sited and constructed by the Gnarabup Beach Estate developer, known as Cedarvale, and transferred to the then Water Authority in November 1995 - the Water Corporation came into existence in January 1996. The plant is licensed by the Department of Environmental Protection.

The remainder of the introduction contains a summary of the treatment process. As all members of the committee have visited the site and had an explanation on-site, this summary will help to put what you saw into context. The most important aspect of the treatment is the significant reduction of nitrogen as a nutrient which exists in waste water, and the fact that raw waste water coming into the plant has a nitrogen concentration of something like 60 milligrams a litre. The licence requirements on the plant dictate that less than 10 milligrams a litre nitrogen is the performance parameter, and the plant is capable of performing well and truly within that parameter. The September performance is down at less than five milligrams a litre.

The second last paragraph of the introduction points out that during 2000-01, the Gnarabup waste water treatment plant was upgraded to a Department of Environmental Protection licence capacity of 365 cubic metres per day, or 2 030 equivalent persons or population. At that capacity it will be capable, with the upgrade that has recently been completed, of servicing the full intended future development plan for Gnarabup as we know it.

There were a considerable number of expressions of community concern in late 1999. That was a time when 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, as explained to the committee during the site visit. At the time the corporation convened public meetings and had discussions with the community to establish what the concerns were. We undertook, as a result of those discussions, to investigate alternatives such as relocating the plant. The community, in fact,

suggested a site that they would like evaluated and that site was evaluated, as well as another alternative of pumping Gnarabup's waste water back to Margaret River.

In the next section of the document before the committee, we have summarised the findings of that work, which we thought would be of interest to the committee. Before embarking on that, however, I have indicated that the first issue for consideration, as we understand the work of the committee, was a request for an immediate stay on all expansion works at the Gnarabup waste water treatment plant. Stage 2 works on the treatment plant were completed and commissioned in May 2001. That is already behind us. There is no further expansion work planned.

There should have been an issue two in this document - we will correct that later - ahead of the next point, and that is the relocation of the Gnarabup waste water treatment plant. As I have indicated, the corporation investigated relocating the existing Gnarabup waste water treatment plant to Gnarabup hill, which was a site suggested by community representatives during consultation in 1999. In addition, we also investigated pumping Gnarabup's waste water back to Margaret River. The next sections summarise those two options. I would be happy to go through this later, if the committee wishes, but the summary sets out the findings of the study and the advantages and disadvantages of the relative options. We are happy to answer any questions.

In conclusion, on the last page of the document I set out to summarise the corporation's position broadly in relation to this treatment plant. As stated, the corporation is confident that the Gnarabup waste water treatment plant, as it currently stands, is and will continue to serve the waste water needs of the Gnarabup community and that it will be able to continue to meet all regulatory requirements. The highly treated waste water will continue to be managed so that it has no significant impact on the receiving environment. The plant could be relocated but the conclusion we have reached from the assessment of the options is that relocation of the Gnarabup waste water treatment plant would require some significant external funding. We have summarised the figures if you wish to discuss them.

In summary, the plant is where it is. The corporation inherited it from the developer, through the land planning process. We do not take lightly or underestimate the seriousness of the community concerns and unrest, but it is a modern, high-tech nutrient stripping plant that is performing well. We have many, many plants similarly serving lots and lots of communities very successfully and while the plant is meeting all the regulatory requirements, we feel it can exist there. It could be relocated at a fairly hefty cost and if there is a way to achieve that, certainly the corporation could be part of that relocation.

Perhaps the only other comment that I have not addressed in the document is that, from our experience, the greatest community concern seemed to be raised when the plant became far more visible and "in the face" of the local community; that is, with the construction of the road through to the car park at Gas Bay. Concerns were not expressed prior to that and through the process that yielded that road, we have inherited and created an additional problem for the plant. We are part of that problem and we have to find a solution in the future.

I would be happy to answer any questions and my panel will assist me.

The CHAIRMAN: Thank you very much, Chris. The committee will read the material and if there is anything else that the committee feels is important to understand, we will come back to you with further questions.

I would like to start by asking you to deepen my understanding of a statement that you made to us on the site visit earlier this afternoon. You implied that the process for the establishment of the waste water treatment plant at Gnarabup was unusual - I think the word that you used was "rare". Will you please explain to the committee why this particular establishment and the process of decision-making and regulation was rare?

Mr Elliott: Most development proposals that the Water Corporation deals with, and before that the Water Authority, are generally closer to existing infrastructure. Through a coordinated approach by the 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. However, from time to time, development proposals arise which are quite remote from existing infrastructure and that is what occurred in this case. There were no water or waste water facilities available for the Gnarabup development or, in fact, the existing community of Prevelly in the early 1990s. Therefore, the developer, in putting forward his development proposal, attracted development conditions which included providing a water supply and waste water services.

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. 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 role of the Water Authority. The situation is different today because of the deregulated water industry, but at that time it was the Water Authority's role to accept the works that were constructed in this manner by a developer. There are not many examples of this situation occurring because obviously the developer must establish from scratch water and waste water services, go through the entire approval process, site treatment plants and develop water supply solutions.

The CHAIRMAN: Are you aware of another example that the Water Corporation has had to deal with in the past 10 years?

Mr Elliott: Personally I am not.

The CHAIRMAN: Clearly there is a nearby settlement at Prevelly Park and I am aware that that is on septic tanks. We have a statewide program for transferring septics to deep sewerage. Are you aware of any discussion about a solution for Prevelly and the development at Gnarabup, and that the infrastructure should be developed together?

Mr Elliott: I recognised that one day the existing development of Prevelly would need a waste water scheme. From the time this development was proposed in the early 1990s, an obvious planning consideration was that any treatment facility for the new development should take into account the possible future needs of Prevelly. Therefore, it was a consideration from the beginning.

The CHAIRMAN: Are you aware whether that was taken into account in this particular decision?

Mr Elliott: Personally, I am not, but I will seek assistance from Garry who was involved in those negotiations at the time.

Mr Crowd: At the very early stage leading up to the first stage of the waste water treatment plant going in, there were discussions with the developer. We insisted at that stage that consideration of Prevelly flows be catered for in that waste water treatment plant.

The CHAIRMAN: To whom did you insist?

Mr Crowd: To the developer.

The CHAIRMAN: Did the developer take any notice of your insistence?

Mr Crowd: At that stage, the indications on capacity for the plant, on the figures they gave us, allowed for Prevelly to be accommodated in that plan in the future expandable plant.

The CHAIRMAN: Was there any consideration of joint infrastructure and taking the waste water to an inland site?

Mr Crowd: I cannot recall too much detail about going to a specific site at the very early stage. The developer was required to provide us with a statement showing the reason why that site was

chosen, and what other options were considered. We have a detailed letter from them, which was written prior to the first stage going in, which explains the various options.

The CHAIRMAN: Are you able to table that letter for the committee at a later stage?

Mr Crowd: I would probably have to obtain authority from the developer's consultant, but I see no reason why the letter could not be tabled.

The CHAIRMAN: Is it a letter to the Water Corporation?

Mr Crowd: Yes.

The CHAIRMAN: I would like you to investigate whether or not you can make that available to us.

Mr Crowd: Actually, to the Water Authority as it was known at that stage.

The CHAIRMAN: Yes.

Hon FRANK HOUGH: Chris, when were you first made aware by the community that there was a problem with Gnarabup?

Mr Elliott: The first realisation of real community unrest was in 1999 when -

Hon FRANK HOUGH: Prior to December?

Mr Elliott: Leading into December. We were having operational problems with the plant. Clearly, there were delays in both the approval process and operationally, 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. From that stage on we were aware that it was a real concern, which manifested itself in the public meetings in late 1999.

Hon FRANK HOUGH: You said that in December 1999, you looked at an alternative. What was the main complaint prior to you looking for an alternative?

Mr Elliott: The complaints raised with us were that the plant was not performing and was polluting the receiving environment; the flows were contained on site, but they were certainly overloading the capacity of the infiltration. On site, that was a very unsightly situation. However, at the time, the community concerns related to not only the problems on the site, but also to the fact that a major upgrade was proposed for the plant. Strong opposition was raised to that upgrade.

Hon FRANK HOUGH: Were these problems also of concern to you?

Mr Elliott: Absolutely. As I indicated earlier, the Water Corporation had inherited the plant. As far as we understood, the appropriate approvals and processes had been followed. As part of the land development process, we had inherited a legitimate facility, which it was now our job to operate, manage and maintain. There was an obligation on the developer to upgrade it in an orderly time frame. There were delays, which contributed to the operational problems. However, the issues raised with us by the community in late 1999 were far stronger than just the operational stage 1; there was strong opposition to an upgrade of the plant. Therefore, there was real community concern about the plant in 1999. We responded as positively as we could to that, because we took it very seriously. We pursued three separate studies as a result of the undertakings we made to the community. By way of a quick overview, there were wider public meetings as well as the appointment of a community-based committee. This committee, which worked with the Water Corporation for quite a considerable time, worked through the issues looking for resolutions and solutions. As part of that process, the actions we agreed to undertake were to investigate the Gnarabup hill site as an alternative and cost that out; to look at returning part of it to Margaret River; to review the planning for Prevelly sewerage; and to also pursue re-use, because, if the plant was to stay there, there was strong support for and acceptance of a re-use scheme. This would mean that the treated waste water, rather than being infiltrated into the ground and posing a possible future threat to the environment, could be re-used and add value. There was strong support at the

time for a re-use scheme based around either the golf club or the town area of Gnarabup. Those studies were undertaken and four parties - the developer, the shire, the Water Corporation and the golf club - jointly initiated a project for re-use, and applied for federal government funding through natural heritage trust funds. Under the coast and clean seas program of work, we sought a funding contribution for a re-use scheme for the joint project participants. Subsequently, that application for funding was successful, and we have pursued that initiative with the four parties. To date, however, that has not materialised; it still has not moved.

Hon FRANK HOUGH: Is the Water Corporation happy with the current situation with the plant and, from an environmental point of view, is the corporation happy to go into the future with the plant?

Mr Elliott: I would not say happy. I have to say that the corporation generally -

Hon FRANK HOUGH: Is it safe?

Mr Elliott: As we stated in the document, the corporation is very confident that an appropriate technology plant, performing well, will not have adverse environmental impacts. The plant itself is not a danger to the environment. However, clearly, there is very strong community concern about the plant. Therefore, we want that matter resolved at the end of the day. For example, we are concerned about the environment our staff work in; they are very regularly on the receiving end of some concerns and the brunt of the concerns, which is not a healthy thing for the long term. Also, along the way we also see that the need for a waste water scheme at Prevelly will come about at some stage, although the timing of that has been pushed out because funding for infill sewerage has now been spread over a longer period. Therefore, a Prevelly sewerage scheme is not imminent by any stretch of the imagination; in fact, it is not on the program for about a decade. However, that issue is there, and, along the way, it was appreciated early in this process, that the nearest facility was the Margaret River waste water treatment facility. That was a very old technology plant, which was also overloaded and in need of an upgrade. The corporation has made a major investment in a brand new facility at Margaret River, which is almost complete and due for commissioning in December this year. That is a very large, modern regional facility, and it presents an option for the treatment and disposal site possibly for other communities within reasonable distance. I made the point earlier that Cowaramup, which is further away than Prevelly-Gnarabup, or similar distance, is pumping waste water back to Margaret River, and in the future, there is that option. In answer to your question, in the current climate and with the competition for capital funding, in a situation in which there is a performing plant that is well under-loaded and has been recently upgraded, it is extremely hard to justify that significant investment and then to abandon that plant and replicate it at another site at Margaret River. For the time being, therefore, we do not see much option but to persist with that plant and, hopefully, to work with the community to make it compatible with the values of the community.

As I have said, we have worked with the four parties on that re-use scheme, and we were very hopeful that the re-use scheme could be instigated. We are still hopeful that it can be, although the golf course option at this stage is not looking promising. A re-use scheme might be enough to change some attitudes because it then would become a community resource, which is value adding, and the environmental concerns would go away.

The other uncertainties relating to whether any other developments are proposed, such as at Prevelly itself, or environmental health concerns at Prevelly, could well escalate the need for a sewerage scheme there. They are issues we are dealing with and reviewing on an ongoing basis.

The CHAIRMAN: We have only another five minutes and two members who want to ask questions. Therefore, will you please try to keep your answers brief?

Mr Elliott: Sure, sorry.

The CHAIRMAN: I also advise that it is not permissible for people to take notes of what witnesses are saying, except accredited members of the Press. That is to protect the Hansard record and to protect the whole parliamentary privilege. As you will have access to any evidence once it has been proofed, you do not need to take notes.

Hon J.A. SCOTT: When we did the tour of the plant, you said, Chris, that the Water Corporation was not really involved until the development was already under way and the first stage of the sewerage system had been built. Who currently owns the plant?

Mr Elliott: The Water Corporation is the owner of the site.

Hon J.A. SCOTT: At what point did it become the owner of the site?

Mr Elliott: The site was transferred to the Water Corporation - in November 1995 the facility was transferred to the then Water Authority.

Hon J.A. SCOTT: Did the Water Corporation pay for all the works on it?

Mr Elliott: No. The land development process requires the developer to put in place the facilities and hand them over to the water utility, free of charge, in an operating, working condition.

Hon J.A. SCOTT: In fact, the developer was the proponent of the scheme originally, not the Water Corporation?

Mr Elliott: Yes.

Hon J.A. SCOTT: Some other information I have been given says that the zoning of the land was landscape and landform protection zone, and that the only way a waste water treatment plant could be put on that land was if it was regarded as a public facility or a public works. Is it possible for a private developer to have a public works or a public facility?

Mr Elliott: I did omit to mention earlier that I attached a chronology of events and dates. We reviewed our records to see what was on record in those early days.

The CHAIRMAN: Thank you very much for that; it is very useful.

Mr Elliott: In answer to your question, our understanding is that the land was privately owned at the time the developer proposed to put the treatment plant there. I am not aware of what happened with subsequent zonings.

Hon J.A. SCOTT: I read in some other information, which I think came from the shire, that in fact it was zoned as a landscape and landform protection zone, which that would not fit.

The CHAIRMAN: Are there are other questions, Jim?

Hon J.A. SCOTT: Yes. I believe there is an important factor here in the long term. I was very interested when you said that it was not the normal process and that this probably could not now happen under the new system. How has it been changed so that this sort of thing cannot happen?

Mr Elliott: The change relates to the new arrangements of the water industry, which commenced in 1996, with the formation of the Water Corporation and the creation of the Office of Water Regulation, which is effectively a regulator of the provision of water services in the State. The regulator becomes involved in the process of establishing who or what company will provide the water services. At the time that this development was proposed, the Water Authority automatically was regarded as the water service provider. The land development process literally said that the developer had to satisfy the Water Authority as to the requirements for water waste water. That now has changed, and a developer today must deal with the Office of Water Regulation. In the deregulated market, the normal process now is an open tendering situation. The developer calls for expressions of interest or the Office of Water Regulation, perhaps on the developer's behalf, might call for expressions of interest from water service providers, and the corporation is just another

water company that bids for that work. The difference is that we would not see a direct repeat of the Gnarabup sequence of events today because the circumstances have changed.

Hon LOUISE PRATT: With regard to the developer being asked to provide the resources for the site, obviously you are saying that it would now be more usual for the water regulator to create a separate structure so that there is no hand-over in that same way. I am trying to get to the strategic issue behind the fact that that particular solution was aimed at the site of Gnarabup, whereas the water regulator might have broader capacity. Perhaps you should have looked at the long-term future of Prevelly and actually tied in some more of those strategic issues.

Mr Elliott: Yes, that is right. The regulator would play a role today that did not exist in the early 1990s. A comment that might help this issue is to emphasise that the land planning process of the day gave the prerogative to a developer who was developing a site remote from the current infrastructure. If it was not in an existing water area, in which the Water Authority was already providing services, that developer had the prerogative to pursue whatever solution he chose for -

The CHAIRMAN: Which Act, or which approval process, gave the developer that prerogative?

Mr Elliott: Water legislation, as I understand it.

Mr Crowd: Effectively, the developers were given a condition by the then Department of Planning and Urban Development with which they had to comply, and that was as simple as, "You'll provide deep sewerage to the satisfaction of the Water Authority of Western Australia."

The CHAIRMAN: Therefore, if it had to be to the satisfaction of the Water Authority, the Water Authority did in fact have a regulatory role?

Mr Elliott: I think the answer to that question is, yes. That is why the industry changed, and the utility was separated from the regulatory aspects; the commission became the water resource manager and the OWR became the licence regulator.

The CHAIRMAN: There is probably more to investigate there, but we will leave that for today.

Hon LOUISE PRATT: Would the current site be adequate if in the future Prevelly sewage were streamed through there as well?

Mr Elliott: The determining factor is whether the Department of Environmental Protection would be prepared to license the site for a larger flow. The current licence provides only for the Gnarabup development. Therefore, we could consider bringing anything additional onto that site, from Prevelly or anywhere else, only if the DEP were prepared to increase that licence. Whether it was prepared to do that would be determined by the performance of the plant and the ongoing track record of the evidence of its impact on the environment. By the time the capacity had been taken up in several years' time, and if the plant was still there and nothing else had changed, the track record would determine the corporation's position as well. If we believed that the plant was having a minimal effect on the environment and it was a sound proposal to expand the plant further and bring Prevelly sewage onto that site, we would propose that, and we would then accept the outcome of the environmental consultation process, which would either approve it or reject it.

The CHAIRMAN: You have told us that you were actively pursuing a re-use strategy and that you were successful in your application for Natural Heritage Trust funding. Why did that not go ahead? Why was that not approved?

Mr Elliott: Once we had received confirmation of the contribution from the Coast and Clean Seas funding, we concluded a design and costing for the project. We then went back to the proponents and discussed the full details, and at that stage the proponents resolved collectively not to proceed. The reason was to do with commitments that the parties would need to make to make it viable on an ongoing basis. The people with whom we were dealing at the golf club, for example, indicated that the club was not in a position to fulfil the sorts of commitments that were envisaged at the beginning of the process, so they could not support the ongoing project. Equally, the other parties

would not make a strong enough commitment to enable it to get up. That was very unfortunate, because we did attract that external funding offer.

The CHAIRMAN: How much funding was offered?

Mr Elliott: It was \$250 000 towards the project.

The CHAIRMAN: Thank you very much for your evidence and hospitality.