

**STANDING COMMITTEE ON PUBLIC ADMINISTRATION
AND FINANCE**

**TRANSCRIPT OF EVIDENCE TAKEN
AT BUSSELTON
ON WEDNESDAY, 28 AUGUST 2002**

SESSION 10

Members

**Hon Barry House (Chairman
Hon Ed Dermer (Deputy Chairman)
Hon Murray Criddle
Hon John Fischer
Hon Dee Margetts
Hon Ken Travers
Hon Sue Ellery**

JOHNSON, MR BRENDON
Fisherman,
examined:

MILES, MR ALAN
examined:

The CHAIRMAN: Welcome to the committee. Will you please state the capacity in which you appear before the committee?

Mr Johnson: I am here because I am being jerked around by the Manjimup Shire Council - I am a fisherman, not a Rhodes Scholar.

The CHAIRMAN: You summed it up well.

Hon ED DERMER: We all know what you meant.

The CHAIRMAN: For the record, Alan Miles, who was sworn in a few minutes ago, is also joining this session.

You will have signed a document entitled "Information for Witnesses". Have you read and understood that document?

Mr Johnson: Yes, I have.

The CHAIRMAN: These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you a few days after this hearing. To assist the committee and Hansard, please quote the full title of any document you refer to and also speak into the microphones. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will 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. I advise you that 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.

Would you like to make an opening statement?

Mr Johnson: The committee members have been provided with a map, on which five blocks have been coloured green. Windy Harbour is an A-class reserve in the care and control of the Shire of Manjimup. It contains approximately 220 holiday homes, and seven of the lots are professional fishermen's lots. Three of the seven professional fishermen's lots date back to the early 1960s, one of which I have purchased. Four more professional fishermen's lots were released in the 1990s. Homes have been built on only two of four newly released professional fishermen's lots. The lease requires that homes be built on the lots. Until two years ago, all Windy Harbour leases were renewed annually. At that time, it was decided to offer 20-year leases for residential lots. As two professional fishermen's lots were perceived to not abide by lease conditions, the council decided to not grant 20-year leases on the seven professional fishermen's lots and to let the local planning strategy resolve the issue.

Hon KEN TRAVERS: Is that the harbour at the top of the map?

Mr Johnson: The lots painted green are closest to the coast.

Hon KEN TRAVERS: The coast is across the bottom of the map.

Hon ED DERMER: The word “harbour” at the top of the page confused me.

Mr Miles: It is a natural harbour. There is no built harbour there.

Hon KEN TRAVERS: Do your blocks abut the edge of the waterfront?

Mr Johnson: Yes. We are about a hundred metres from the beach. We own the middle lot. Alan Miles is to our right and Judith Dittmer, who has been a professional fisherman for 40 years, is to our left. I am a professional fisherman and have been living and operating out of Windy Harbour since January 2000. After making the decision that wet-line fishing was viable, my wife and I made contact with the Shire of Manjimup about the purchase of lot 205, Windy Harbour. During our initial contact with the Shire of Manjimup in September 2000, we requested a copy of the lease for lot 205. We were told that the lease either has been lost or was never made, and that we could see copies of the assignee/assignor forms only. In October 2000, I asked the senior administration properties officer why professional fishermen’s blocks were not being offered 20-year leases like other residential lots. I was told that two professional fishermen’s lots were seen to be not operating within the bounds of the terms and conditions of the leases and that action was forthcoming. I was told that 20-year leases would be offered when the issue was resolved.

Hon ED DERMER: Did that involve you or did it occur prior to your time?

Mr Johnson: This was prior to our purchasing the block. We had started fishing in the area, and we were making initial moves to find out how secure our tenure would be if we purchased a block.

Hon ED DERMER: What do you mean by “beyond the bounds of the lease”?

Mr Johnson: Two of the leaseholders had not built houses on the lots. They had not complied with their leases.

Hon ED DERMER: I see. Obviously, that was not you.

Mr Johnson: No, the lease we bought is 40 years old.

The CHAIRMAN: Did the shire explain what it was doing to enforce the condition of those leases?

Mr Johnson: No, it did not. It just said that action was forthcoming.

Hon KEN TRAVERS: Does the lease refer purely to the block of land and not entitle you to fish? Do you need a separate licence to fish in the area?

Mr Johnson: To own a professional fisherman’s leases, a person must have a professional fisherman’s licence. In other words, he must be a professional fisherman.

Hon KEN TRAVERS: Are there more fishermen than there are fishermen’s lots in the area, or are there only five lots and five professional fishermen operating out of Windy Harbour?

Mr Johnson: If the abalone and shark fishermen who go past are included, there are probably 15 or 17 fishermen at various times.

Hon KEN TRAVERS: Are only five based in and operating out of Windy Harbour?

Mr Johnson: Only three live at Windy Harbour.

Hon KEN TRAVERS: Okay.

Mr Johnson: In December 2000, we discovered that the shire planned to develop a local planning strategy, and that issues regarding the fishermen’s leases would be resolved at the same time. Alarmed at the way professional fishermen had been treated in the past, we and our neighbour, Judith Dittmer, who has been here for 40 years, sought advice from a former shire councillor. At a shire council meeting in January 2001, the former shire councillor used the public question time to request that the council confer with and consult the fishermen with leases at Windy Harbour before any action was taken and during the LPS formulation. Interestingly, the substance of the former

shire councillor's request was not minuted, although the thrust of the comments were. The shire president then suggested to the former shire councillor - they were obviously friends - that the shire council always consults before taking action. The shire planner then said that the shire would talk to the Windy Harbour advisory committee and the fishermen as it was the normal course of events. We were satisfied with this. In January 2002, we approached the senior administrative properties officer regarding the transfer of lot 205 and were told that the shire was considering making professional fishermen's lots "commercial with residence" leases, and that some professional fishermen were still not being seen to comply with the terms and conditions of their leases. We were told that as soon as those two issues were resolved, 20-year leases would be offered. In January 2002, satisfied that the future of lot 205 was secure, my wife and I approached the owner of lot 205 and began negotiating a price for transfer. We agreed that \$120 000 was a reasonable price. The previous owner wrote to the shire requesting the transfer of the lease of lot 205 to us. In February 2002, we received correspondence from the senior administrative properties officer that the transfer of lot 205 was to be discussed at the council meeting of 14 February. The shire agenda was enclosed. The comment section of the agenda item regarding lot 205 - the committee has a copy of this - stated that the issue of professional fishermen's leases was scheduled for determination at the next LPS technical committee meeting, which was to be held on 19 March. From the previous comments, the senior administrative properties officer had made to us in January - which was only a week earlier - we believed that the LPS was still considering making professional fishermen's leases "commercial with residence", which we do not have a problem with. On 8 March, we received correspondence from the senior administrative properties officer that the council had approved the lease transfer. He enclosed three copies for us to sign and return with the fee. On 10 May, we received from the senior administrative properties officer a copy of the approved, duly signed lease for lot 205.

Later in May, I spoke to a local councillor and was horrified to discover that the local planning strategy had been completed and was waiting south west planning and infrastructure approval. We were given a copy of the draft LPS and discovered that its recommendations were to develop a service area for fishing infrastructure currently linked to the cottage leases; offer 20-year leases to existing leaseholders subject to the removal of infrastructure; reduce the size of the current lots so that more lots could be released; and that any additional release of land be for low-key tourist accommodation.

Hon ED DERMER: Was the recommendation to knock it down and start again?

Mr Johnson: We bought a 40-year-old shack on land that contained up-to-date infrastructure. It has a good shed. I have a \$15 000 inverter system with batteries, a \$25 000 generator and ice machines. The dollars soon add up. The house is just a shack.

Hon KEN TRAVERS: Was the suggestion that the current lot sizes be cut in half and that you compact all your operations into 800 square metres instead of 1 780 square metres, or was it to move you to another lot that is half the size of your current lot?

Mr Johnson: No, the suggestion is to retain the house and require us to pull down and shift all the infrastructure.

Hon KEN TRAVERS: Is your power generation infrastructure used for both your house and your fishing operations?

Mr Johnson: Yes.

Hon KEN TRAVERS: Will that be moved over alongside these other two leases?

Mr Johnson: I am afraid that we still do not know, and the shire will not tell us.

Hon KEN TRAVERS: Has the shire not told you where it wants you to shift?

Hon ED DERMER: The equipment you described does not sound like it is easily transportable.

Mr Johnson: It is not. There are 36 batteries and each battery is very big. It is big-boy stuff.

Hon ED DERMER: Did you say that there is an ice-making machine?

Mr Johnson: That is correct. It is big-boy stuff to run big-boy equipment. It is not for residential use.

The CHAIRMAN: For the committee's benefit, there is no mains power.

Hon KEN TRAVERS: No, I understand that. I realise that if the power infrastructure were to be shifted, half of it would need to be reconstructed.

Mr Johnson: Marcia and I made big decisions when we decided to purchase the lot. We could have purchased one of the four lots that are shown on the right of the map. Two are coloured - houses have been built there - and two are not.

Hon ED DERMER: They are smaller.

Mr Johnson: Yes, but that is not really an issue. We considered buying lot 306 and building a brand-new house and putting up with less infrastructure. We made a commercial decision, because we are trying to make a business work, to go with better equipment. The senior administration properties officer has been nothing but helpful and forthcoming with all and any information requested by us, but we feel that she has been misled and misguided by more senior staff at the Shire of Manjimup, as have we.

The CHAIRMAN: In other words, you were being told one thing all the time, but behind what you were being told the planning staff at the Shire of Manjimup were putting together this local planning strategy, which was totally contrary to what you were being told.

Mr Johnson: That is correct. The committee will see that from the dates, as we go through the submission now, basically.

After discovering the local planning strategy and its impact on us and our future, we began searching the minutes of the LPS technical committee meetings and the local planning strategy workshops that were held in various localities around the Shire of Manjimup to which the public could have access and by which the LPS is supposedly driven. First, we got all the minutes of these local planning strategy workshops, and fisherman's blocks were not mentioned in any of them. The committee might wonder why we were not at those workshops. Windy Harbour was run under the Windy Harbour management plan. It has nothing to do with the rest of the shire in that context. All the building regulations and everything else are peculiar to Windy Harbour; they are different. Therefore, when this local strategy plan came up, it had nothing to do with us, or so we believed. Does that make sense? The fisherman's blocks were not raised in any of those documents.

Windy Harbour fisherman's leases were never discussed at any of these workshops, according to the minutes of same. We then started to go through the LPS technical committee minutes, the first of which were dated 4 February. This is before we applied to have the lease transferred to us. The first point in the minutes suggests that the fisherman's leases were seen to be prime sites and should not be professional fisherman's leases. This was at the same time as our lease was being approved by council on 14 February. Second, legal views were being sought. Presumably, there were plans to change our lots then. The third point states that professional fisherman's leases were being transferred from one fisherman to another for between \$50 000 and \$60 000. Presumably, this is the information that the consultant who drew up the local planning strategy had been given. This is an interesting point, because the only professional fisherman's lease that had been transferred at this figure was an empty block of land with a shed on it. As the committee is aware, lot 205 was transferred for \$120 000, and it did not have just a shed on it; it had a house and infrastructure already set up for fishing. The fourth point suggests that putting leases out to tender was not viable. Was the removal of our lease already being considered? This is back on 4 February, before we even applied to have it transferred.

Hon ED DERMER: Ten days before.

The CHAIRMAN: Yes - 10 days before it was granted.

Mr Johnson: Yes, before the council met and said that we could have it.

The fifth point states that our neighbour, who has been operating from her lease for 40 years, cannot now meet the terms of her lease - suggesting that she has retired. That is not true, as she still operates her fishing business profitably, and intends to do so for years to come.

Hon ED DERMER: Is that Judith Dittmer?

Mr Johnson: That is correct. She is outraged that the minutes state that she has retired. As the committee can imagine, she was not very happy. Where did the technical committee get this information?

There was supposed to be a 19 March meeting of the LPS technical committee. Once again, we could have stopped our purchase of the lease at 19 March, but we were not privy to the 19 March minutes, if they exist. We do not know; they will not tell us.

The CHAIRMAN: When you say that they will not tell you, do you mean that the shire will not tell you?

Mr Johnson: The shire has no record of the meeting, if it happened. It may or may not have happened. If the committee reads the shire's document, it will see that our lease was to go to council on 14 February, and there was supposed to be a meeting on 19 March, I think.

The 19 April 2002 minutes of the LPS technical committee state that each professional fisherman's lease should be divided into two. They state that there is a wish to remove our sheds and infrastructure, and change boundaries to create smaller sized lots. The minutes suggest that, to have a 20-year lease, we would be required to remove or relocate our infrastructure - sheds etc - and council would contribute to and assist with the construction by using the proceeds of the sale by tender of other leases created in the professional fishermen's precinct. In the LPS that is published, there is no suggestion of any help, financial or otherwise.

The fourth point in these technical committee minutes suggests that a compound should be built in the general vicinity of the Windy Harbour rubbish tip for the infrastructure of all seven fishermen. As there is no power at Windy Harbour, this would necessitate running two generators, which would further add to my running costs.

The fifth point suggests that lessees who do not want a 20-year lease can renew their lease annually, but with no guarantee of future land use rights for commercial fishing carried out from the property in the future. The sixth point states that any person who purchases a professional fisherman's lease at any time in the future must enter a 20-year lease, on the conditions already stated. What does that do to the value of the lease I have purchased? In other words, people will buy an asbestos shack that is half the size of the lot that I purchased, and they will have the expense of removing the shed and all the infrastructure as well.

The seventh point states that my neighbour has retired and she will not be affected, and will remain unaffected, by an annually renewable lease agreement; but should she wish to sell her lease or secure a 20-year lease, she would have to conform to the same requirements. After leasing her lot for 40 years, her lease is devalued to half its former value. Is this fair, especially as she is not retired and does not intend to retire in the near future, and is not being given the same advantages as other previous leaseholders who were able to sell their leases at market value? The double standard that is self-evident here is that we also purchased our lease in good faith, as did other professional fishermen, prior to this LPS. We are not very happy chappies.

The CHAIRMAN: You said that rumours of your death are very premature, or something like that.

Mr Johnson: Yes, that is right. On 10 July 2002, the chief executive officer of the Manjimup Shire phoned me and asked why I was upset about the LPS. He asked me why I was concerned about the proposal, as it allowed my wife and I to keep the home we had purchased. He said that he really had no idea why I was upset. I tried to explain to him that fishing is a home-based business, and the infrastructure that I had purchased needed to be with the residence. He also did not see a problem with living and working with holiday-makers right next door. He failed to grasp the concept that holiday-makers might party till 3.00 am and I start work at 3.00 am. He also said that we should be happy that the shire was making this offer because, despite having a moral obligation, the shire had the legal responsibility to renew our lease only for a further 12 months. I suggested to him the costs involved, and said that we did not have the capital to consider making the outlay, whether fair or not, to shift the infrastructure and purchase the new generator equipment.

He replied by saying that hopefully power would be available by then. He had no idea about the reality of the situation or about the costs that local planning strategies would cause small businesses. At this point, and in total frustration, I suggested that he speak to my neighbour, who was me at the time of his conversation. He replied that he was not interested in speaking to my neighbour. I asked him again and again he said that he was not interested. That was the end of that.

We were promised that we would be involved in the discussions about the drafting of the LPSs. This promise was made by both the planner and the shire president at the council's professional fishermen lease meeting, which was held on 18 January 2001. However, that involvement has not taken place. Initial quotes for removing the infrastructure and shifting it to a place that has yet to be determined by the council is approximately \$65 000. The shire's health officer informed us that we must also install a disabled toilet, a septic system and hot and cold running water. We must also install a fly-proof room to meet current health regulations. This will add approximately \$20 000 to the bill. Moreover, there will be the added expense of running two generators - at the moment, we only one run - and that will add another \$6 500 to present running costs. Further, there are also maintenance and repair costs to consider. Who will pay for these added expenses? Presumably, we will be charged for two lots of rates each year.

If the local planning strategies come to fruition, my wife and I will be forced to declare bankruptcy, and another small business employing a local fellow will close its doors within the shire of Manjimup. This does not address the loss in value of our lease, which we purchased in good faith in February 2002. In view of all of the above, our main interest of concern is the impact that the council's LPSs will have on the value of leases, and our subsequent loss of capital. At this point, a buyer will not be able to justify the purchase cost of the lease. In other words, we have done our dough.

The CHAIRMAN: Thanks.

Mr Johnson: Sorry, I did my best.

The CHAIRMAN: Thanks Brendon. Do not worry; for a fishermen you presented your case well.

Mr Johnson: Thank you.

The CHAIRMAN: You made the issues very clear.

Hon ED DERMER: I do not know any fishermen, but I believe you clearly presented your case, better than what we could have hoped for. The clarity of your presentation was absolutely fine; that is, your submission was easy to understand. Mr Johnson, you mentioned that the proposed new location for your fish handling facilities will be close to a rubbish tip. Will that pose problems?

Mr Johnson: I ran that past the health officer at Manjimup, who asked how close it would be. However, because the Shire of Manjimup does not have any plans, he could not give me an answer. Subsequently, I cannot provide you with an answer.

Hon ED DERMER: Intuitively, it seems to me that food stores and rubbish tips are not a sensible mix.

Mr Johnson: There are also other issues. One can imagine seven professional fishermen sharing a compound. There would be many sheds and a lot of diesel. One is just asking for trouble in that type of situation. I am sure members understand what I mean. There are huge expenses involved in what we do. It is not something we should be playing games with.

Hon ED DERMER: You have to keep your stock fresh -

Mr Johnson: Of course.

Hon ED DERMER: And, after fishing, you are likely to come in at similar times of day.

Mr Johnson: We may do, yes.

Hon ED DERMER: I can begin to visualise the potential problems. Where does the plan go from here? Is it still in its draft form?

Mr Johnson: No, it is out for public comment, which closes 1 October.

Hon ED DERMER: Obviously, you will put in a submission?

Mr Johnson: Yes, we will.

Hon ED DERMER: What happens after 1 October?

Mr Miles: We want to make the committee aware that we are presenting our situation today because the committee is here today. We have not been sitting idle; both of us have undertaken a tremendous amount of work to put together a proposal. It appears that in the wind there has been a mooted change, or something has been aimed at the commercial fishing leases in Windy Harbour for between three and four years. The sad part about the matter is that at no stage has anyone talked to us about the matter. Some staff members have alluded to the fact that they have talked to fishermen about the matter. However, we cannot find the fishermen.

Hon KEN TRAVERS: Given that you both recently bought your businesses, is your neighbour Judith Dittmer not the key component in this issue?

Mr Miles: She claims not. Information that was provided by a fisherman went into one of the management plans and that could be confusing. The commercial fishing industry itself has changed over time. The method of catch has changed and some fishermen require residential leases at Windy Harbour. Others, such as Abalone divers, come up for two or three days and then they are gone. They do not come back for the rest of the year. There are variations. I bought my lease from a gentleman who had been living and fishing at Windy Harbour for 50 years. In the early days there were few houses in what they called Chinatown at Windy Harbour, and he camped somewhere near that facility. He was told to move on because he was a fisherman. He belted his way up through the scrub up to the present location of lot 204 and that is where he established his business and the leases. The fishermen's huts stemmed from there. Later, the row of houses was established behind that. That is why the leases stick out in front. They were out of the road, but the town caught up with them. The other interesting thing the previous owner told me was that when he built the house, the foreshore was the same distance away as I am from the brickwork that we can see through the door. It is now a good 150 yards so there is much accreditation going on in front which has really created a syndrome of having a foreshore behind the town and the fishermen's leases out the front. We cannot be held responsible for matters that have taken place over time. Commercial fishing is probably the only industry in Windy Harbour that employs people. One particular fisherman has outlaid a considerable amount of money for a license and he is not able to source a lease. It is imperative to his business that he source a lease. We do not want to get involved with who should have leases and who should not.

Hon KEN TRAVERS: The fisherman to whom you refer bought a fishing licence?

Mr Miles: He bought a rock lobster licence.

Hon ED DERMER: In the expectation of off-loading from Windy Harbour -

Hon KEN TRAVERS: And he now has no base from which to operate?

Mr Miles: There is another rule in the management plan; that is, no active fishermen can live within the town site. This rule has caused him problems. Last year he managed to obtain special council permission to live in one of the houses and he has endeavoured to source a lease from one of the other owners. However, what is the lease worth?

Hon ED DERMER: The advertising process concludes in October. The final decision - I stand to be corrected - whether to adopt the plan resides with the Manjimup Shire Council after the advertising has ceased. Are you canvassing your councillors and shire president?

Mr Johnson: It is very difficult to be positive in that respect. I have certainly alluded to the fact that professional fishermen are experiencing problems. In the mid-1980s, between 50 and 80 blocks were released in Windy Harbour. A professional fishermen brought one and another professional fishermen - who stipulated to the council that he was a professional fisherman - tried to purchase one. The one who tried to purchase a block was knocked back because he is a professional fishermen. The gentleman who purchased a block had it taken from him because he was an Abalone diver.

Hon ED DERMER: Did he acquire the licence under false pretences?

Mr Johnson: No, not at all. Joe Bloggs, a citizen, bought a residential lease. However, Joe Bloggs, citizen, happened to be a professional fishermen. Does the member understand?

Hon ED DERMER: Yes, so far. Why did they take it from him?

Mr Johnson: Because they discovered he was a professional fishermen. They took it from him even though he was not going to operate his business from his block. As Alan has already stated, in the past professional fishermen could not live anywhere except on the seven blocks.

Is that an attempt to govern the number of professional fishermen operating in that area?

Mr Johnson: I do not think so, no. I am just trying to think of some logical reason for restricting the number of professional fishermen. I am mindful that this is being recorded.

Hon KEN TRAVERS: We can have a private hearing if you want.

Mr Miles: I got a bit sidetracked. I want to make the point that we have employed a consultant to look at the overall matter for us. We have also given the other fishermen the opportunity to join in on that. We have now been promised by the shire, after a lot of work on it, that we will be able to meet with the consultants on Sunday week at Windy Harbour, and with council staff as well. It is interesting to note that the work that our consultant has come up with - and he has had some previous experience with Windy Harbour and the Shire of Manjimup - indicates that what is shown in the planning strategy may not be possible because of DOLA. We also believe that given that the land that the rubbish tip is on is outside the existing reserve, if the council is to obtain that reserve there is the possibility of all sorts of things like native title and goodness knows what. Our big concern is that we may be stuck in this limbo situation for years and it will not just be a simple matter of a decision by council.

Hon ED DERMER: Are you saying that the alternative sites suggested may not be available?

Mr Miles: It depends on DOLA. It would have to go through the process of reallocating the boundaries of the reserve, but the adjoining reserve is national park.

Hon ED DERMER: All these sound like reasonable arguments that could be put to the Manjimup shire councillors.

The CHAIRMAN: Yes, and I want to reinforce that point, which I am sure you are aware of. You have brought this issue to us today. We can take it on board as a case study, if you like, of the overall impact of government processes on individuals. However, please do not rely on us to take up your particular case. You need to do whatever you need to do through the appropriate channels.

Hon ED DERMER: That is an important point, because whatever good may come of our work will depend on what the Parliament chooses to take up once we report to the Parliament. Your matter will be long settled one way or the other before we get to that point.

Mr Johnson: Thank you for giving me the opportunity.

Hon KEN TRAVERS: The draft local planning strategy does not identify where the proposed fishing compound, for want of a better term, will be located.

Mr Johnson: It refers to it as being in location NL 13304. The Shire of Manjimup has control over two locations at Windy Harbour. If you look at the picture on the submission, you can see a line outside where all the houses are. That is NL 12439. To the right is location NL 13304.

Hon KEN TRAVERS: Is that the one that the other four fishing leases straddle?

Mr Johnson: Yes. The Manjimup Shire Council does not have the right to lease that area at all. It only has the care and maintenance of it.

Hon KEN TRAVERS: Then how does it lease lot 309 currently?

Mr Johnson: They call it ultra vires. I do not really understand it.

Hon KEN TRAVERS: That basically means it is not doing it in accordance with the current laws.

Mr Johnson: I did not really want to get into that issue, to be honest.

Hon KEN TRAVERS: You did not. It was only because I asked you.

Mr Johnson: The location that it is talking about for the proposed compound is in that area, but it does not have the authority to put it in that area.

Hon KEN TRAVERS: You may not have an answer to this question and it may be more a question for the council, but I find it hard to understand why a local planning strategy does not identify specific locations. I find it bizarre that the council has a local planning strategy that does not identify specific areas for fishing.

Hon ED DERMER: It has all these outstanding question marks.

Mr Miles: The only thing we have found that is somewhat explanatory but is not necessarily a legal document is the diagram of Windy Harbour with some R codes on it. Our current lease area is coded R40, which is 220 square metres. The current lease is 1 780 square metres. That is really the only indicative thing from this future plan that is being bandied around. It is very difficult to follow, and they are the sorts of questions we will be asking.

Hon KEN TRAVERS: Yes, when your consultants meet with their planners. It strikes me as obvious that in developing the local planning strategy they would go down to a specific cadastral boundary and say this will be the fishing compound.

Mr Johnson: You would think they would actually walk on the property and get some idea.

Hon KEN TRAVERS: Yes. They obviously found the lease, because they then renewed it, or was it a new lease?

Mr Johnson: This is a complicated story, but I will give you a short answer. The three leases in front of you were the original professional fishermen's leases. They had no terms or conditions. Nothing is written down anywhere to say it had to be professional fishermen. That was just what was expected. At least two of the people who owned my lease in the past were not professional fishermen, but the previous two were professional fishermen. In the 1990s - we are only talking

about 10 years ago; it is not a long time ago - there were fishermen in a fishermen's camp. The shire wanted to get rid of the camp, and it decided to build new fishermen's lots so that they did not have an excuse to be in the camp. It brought in all sorts of extraordinary lease conditions for those four fishermen's blocks that would never apply to R3. When Alan bought his block, they gave Alan a lease that was the same as their leases. The reason I contacted the shire in the first place is that I did not want that lease. I wanted the original lease. However, it had either been lost or it was never made, so I was forced to also have the same lease as these people.

Hon KEN TRAVERS: Is that a one-year lease with a one-year option? What are the terms of the lease?

mile: The current leases that we have signed, which are the new leases, are a one-year lease. The council has said so far as the transfer of the lease is concerned that yes, we can have it, provided we sign that lease; and that is where it has got to. The interesting thing is that, as Brendon said, my lease was a new lease, but the rates and the lease amounts have been paid since the day dot. They have had the same lease amount charged to them and the same rate charged to them as all the other blocks at Windy Harbour right from when they started these lots.

Hon KEN TRAVERS: It is a one-year lease, but does it have any clause about renewal or any options?

Mr Miles: It is an annual lease, but it says it can be taken off us or varied at any time.

Hon ED DERMER: You paid \$120 000 for a lease like that?

Mr Johnson: You do not have a lot of choice if you want to be a professional fisherman.

Hon ED DERMER: So the answer is yes?

Mr Johnson: Yes. We did not have a choice. The opportunities to purchase were the opportunities to purchase, and with the hindsight that our lease had been renewed annually for nearly 50 years there was no reason to think that we would suddenly be shafted.

Hon ED DERMER: There is always an element of risk.

Mr Johnson: We had no more risk than any of the other 220 houses at Windy Harbour, because they were all annual leases.

Mr Miles: They had all been purchased for that sort of price.

Mr Johnson: I do not think that we overpaid. Alan can say better than I can how much they are worth.

Mr Miles: We bought the licence as well. We paid one value for the land and one value for the licence, but the infrastructure that was on the land made the licence worth it because it was a beach licence.

Hon ED DERMER: You utilised your licence by using the infrastructure?

Mr Miles: It was very difficult to use the licence without the infrastructure. The person who owned the boat and wanted to sell the boat would be restricted. We saw that. We looked at the values of the land. We knew on an annual basis all the losses for all the leases over the previous 10 years and we believed it was in the vicinity of what they were asking. I guess that was an indicator. The fishing licence is an annually renewable licence, but there is also an expectation that it will be renewed.

Hon ED DERMER: Is the core of this issue an obligation on the council to be up-front with people who are considering taking up these leases?

Mr Johnson: If it had been up-front with me and told me what was going on, we would not have purchased. We would have let the situation roll, found out what was happening and when it would be finalised, and then made a decision based on that. As you can see by the dates, the council had

already made up its mind. Senior management staff - I am not talking about the people at the bottom - within the Shire of Manjimup had made up their mind in February what they were going to do. The council was asked in February whether it wanted to transfer the lease to us. The lease was not stamped until late March, so we could have stopped it up until then and we would not have been slapped with this; that is, Brendon and Marcie would not have been, but Allan would have.

Hon ED DERMER: Is the central issue an obligation on the local authority to be up-front with people who are considering that sort of purchase?

Mr Miles: To add to that, it should have demonstrated what is normally demonstrated within local government when it is going to effect changes. There are 200-odd houses and 200-odd leases at Windy Harbour that are already serviced with water, and there is an expectation that it will ultimately be serviced with power. When you go through the processes of trying to sort out conflicting interests and businesses - as you do in any town planning scheme - you normally draw up the town planning scheme and have the necessary dialogue with the people and then say, "Sorry, we have to put you in a non-conforming use area, and you must realise that in time you will have to shift." That is the normal principle that all councils would use when they are confronted with having to make changes. Obviously that was not applicable. It is further exacerbated by the fact that the shire does not communicate. Even when we drew it to the shire's attention we had difficulty, and we are still having difficulty, communicating with the senior staff - at least until we got this meeting to happen.

The CHAIRMAN: The core issue is planning documents being worked up in private behind the scenes and then other things happening around that which, in some instances, were contrary to your wishes.

Hon ED DERMER: They involved issues that are essential to people's livelihood without their being apprised of what the plans are.

Mr Johnson: As of last week it was still happening. They are having a senior management strategic plan review. The senior management of the council is having meetings behind closed doors now regarding the professional fishermen's licences. We have the agenda for this meeting. This was last week, and they are still not involving us. I do not think it is very reasonable.

The CHAIRMAN: We have had two pretty intense days of public hearings in Mandurah and Busselton. I put on the record my appreciation to not only all the people who appeared but also the committee and Hansard staff for their work and contribution over the past two days.

Committee adjourned at 5.30 pm