

LEGISLATIVE COUNCIL

Question on notice

Tuesday, 18 February 2014

709. Hon Robin Chappie to the Minister for Agriculture and Food representing the Minister for Lands.

I refer to the motor vehicle accident on the Broome-Derby road (Derby Highway) on Friday, 20 December 2013 that claimed the life of a 13 year-old girl, question without notice No. 17 asked in the Legislative Council on 14 May 2013, Australian Standard 1742.2 (1994), Section 3.11.2.7, the Main Roads special Stray Animals signs, the *Highways (Liability for Straying Animals) Act 1983*, and the Pastoral Lands Board Liability for Straying Stock on Roads document located at:

<http://www.lands.wa.gov.au/Publications/Documents/Pastoral-Lands-Liability-for-Straying-Stock-on-Roads.pdf>:

- (a) is or has the road been fenced by the pastoralists for the sections of the stations Roebuck Plains and Yeeda Stations that interact with the Derby Highway;
- (b) if yes to (a), on what date was this/these areas last fenced;
- (c) is or has the road been fenced by the lessees or owners of the Knowsley Agricultural Area that interact with the Derby Highway;
- (d) if yes to (c), on what date was this/these areas last fenced;
- (e) is or has the road been fenced by the owners of Freehold Lot 103 of Plan Number 215040 that interact with the Derby Highway;
- (f) if yes to (e), on what date was this area last fenced;
- (g) on what specific date was the advisory group for the management of straying livestock in pastoral regions set up in 2012;
- (h) how many times has that advisory group met since its inception and on what dates;
- (i) who are the members of that group and which organisations do they represent;
- (j) does this advisory group keep minutes of their meetings;
- (k) if yes to (j), will the Minister table those minutes;
- (l) if no to (j), why not;
- (m) if no to (l), why not;
- (n) does this advisory group provide updates of their activities/progress to the Minister;
- (o) if yes to (n), will the Minister table them;
- (p) if no to (n), why not;
- (q) if no to (o), why not;
- (r) is a secretariat provided by a department and, if so, by which department;
- (s) what progress to date has the advisory group made in managing or making recommendations to the Minister in respect of the management of straying livestock in pastoral regions;
- (t) in what way is the Main Roads' fencing policy similar to that of its Queensland counterpart;
- (u) is it a requirement that pastoral leases should be fenced to manage straying livestock interacting with road users;
- (v) if no to (u), why not;
- (w) does the nature and amount of traffic using the Derby Highway mean that it meets the criteria required by the *Highways (Liability for Straying*



Animals) Act 1983;

(x) if no to (w), why not;

(y) does the *Highways (Liability for Straying Animals) Act 1983* have effect in all clauses to the Derby Highway;

(z) if no to (y), why not;

(aa) will the Minister table a copy of the Australian Standard 1742.2 (1994);

(bb) if no to (aa), why not;

(cc) in relation to the Main Roads' special Stray Animals signs, how many are placed on either side of the Derby Highway;

(dd) at what intervals are these signs placed along either side of the Derby Highway;

(ee) if there is not uniformity in relation to the distances of the placement of these signs along either side of the Derby Highway, can the Minister explain why;

(ff) how many of these signs are the primary warning signs and how many are supplementary warning signs;

(gg) why is there inconsistency between the *Highways (Liability for Straying Animals) Act 1983*, the Pastoral lands board document and the Main Roads Stray Animals website 2.2 Background statement; and

(hh) do pastoralists, particularly those whose properties adjoining highways, have a legal responsibility for stock that stray onto these roadways?

Answer

- (a) Yes.
- (b) Roebuck Plains: The Indigenous Land Corporation (lessee) has advised that the current boundary fence along Derby Highway was erected in 2003 and is continually maintained. Yeeda: Current evidence demonstrates that this area was last fenced in 2006.
- (c) Yes.
- (d) The fence began being erected in 2009, and these works were completed in 2011.
- (e) No.
- (f) Not applicable.
- (g) Please refer to Legislative Council Parliamentary Question on Notice 710.
- (h) Please refer to Legislative Council Parliamentary Question on Notice 710.
- (i) Please refer to Legislative Council Parliamentary Question on Notice 710.
- (j) Please refer to Legislative Council Parliamentary Question on Notice 710.
- (k) Please refer to Legislative Council Parliamentary Question on Notice 710.
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- (r) Please refer to Legislative Council Parliamentary Question on Notice 710.
- (s) Please refer to Legislative Council Parliamentary Question on Notice 710.
- (t) Please refer to Legislative Council Parliamentary Question on Notice 710.
- (u) No.
- (v) There is currently no legal avenue for pastoral lessees to be directed to erect new fencing. However, under Section 107(3) of the *Land Administration Act 1997* a lessee *"must maintain in good condition, and if necessary to restore, renew or replace, all lawful improvements to the lease, to the satisfaction of the Board"*.
- (w) Please refer to Legislative Council Parliamentary Question on Notice 710.
- (x) Please refer to Legislative Council Parliamentary Question on Notice 710.
- (y) Please refer to Legislative Council Parliamentary Question on Notice 710.
- (z) Please refer to Legislative Council Parliamentary Question on Notice 710.
- (aa) Please refer to Legislative Council Parliamentary Question on Notice 710.
- (bb) Please refer to Legislative Council Parliamentary Question on Notice 710.
- (cc) Please refer to Legislative Council Parliamentary Question on Notice 710.
- (dd) Please refer to Legislative Council Parliamentary Question on Notice 710.
- (ee) Please refer to Legislative Council Parliamentary Question on Notice 710.
- (ff) Please refer to Legislative Council Parliamentary Question on Notice 710.
- (gg) It can be assumed that any difference in content and advice between the *Highways (Liability for Straying Animals) Act 1983*, the Pastoral lands board document and the Main Roads Stray Animals website 2.2 Background statement is the result of different interpretations of legislation, as well as differing policy approaches.

As stated on the PLB document, it is intended to be a *"general guide and does not constitute legal advice...Pastoralists and others should not rely on this advice to ascertain their legal position in instances where potential liability for straying stock is concerned"*.

- (hh) Yes.