

WESTERN AUSTRALIA

# LEGISLATIVE ASSEMBLY

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## QUESTIONS ON NOTICE

**No. 80**

**WEDNESDAY, 14 MAY 2014**

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**Memo:** The electronic publication of Questions on Notice as part of the Notice Paper is available on the Parliament's Internet site at [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au).

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### Questions postponed from previous sittings: -

Tuesday, 1 April 2014

- 2075. Mr B.S. Wyatt to the Premier
- 2076. Mr B.S. Wyatt to the Premier
- 2094. Mr B.S. Wyatt to the Premier
- 2096. Mr B.S. Wyatt to the Premier
- 2098. Mr B.S. Wyatt to the Premier
- 2106. Mr B.S. Wyatt to the Premier
- 2115. Mr B.S. Wyatt to the Premier
- 2116. Mr B.S. Wyatt to the Premier

Wednesday, 9 April 2014

- 2155. Mr R.H. Cook to the Minister for Health
- 2162. Mr M. McGowan to the Minister for Racing and Gaming
- 2163. Mr M. McGowan to the Premier; Minister for State Development; Science
- 2164. Mr M. McGowan to the Deputy Premier; Minister for Health; Training and Workforce Development
- 2171. Mr M. McGowan to the Minister representing the Attorney General; Minister for Commerce
- 2172. Mr M. McGowan to the Minister for Transport; Finance
- 2175. Mr M. McGowan to the Minister representing the Minister for Agriculture and Food; Fisheries
- 2180. Mr M. McGowan to the Premier; Minister for State Development; Science
- 2181. Mr M. McGowan to the Deputy Premier; Minister for Health; Training and Workforce Development
- 2188. Mr M. McGowan to the Minister representing the Attorney General; Minister for Commerce
- 2189. Mr M. McGowan to the Minister for Transport; Finance
- 2192. Mr M. McGowan to the Minister representing the Minister for Agriculture and Food; Fisheries

Tuesday, 6 May 2014

- 2240. Dr A.D. Buti to the Minister for Police
- 2241. Mr R.H. Cook to the Minister for Health
- 2242. Mr F.M. Logan to the Minister for Training and Workforce Development
- 2243. Mr F.M. Logan to the Minister for Training and Workforce Development

Thursday, 8 May 2014

- 2244. Ms M.M. Quirk to the Minister for Police
- 2245. Mr R.H. Cook to the Minister for Health
- 2246. Mr R.H. Cook to the Minister for Health
- 2247. Mr R.H. Cook to the Minister for Health
- 2248. Mr M. McGowan to the Premier; Minister for State Development; Science
- 2249. Mr M. McGowan to the Deputy Premier; Minister for Health; Training and Workforce Development
- 2250. Mr M. McGowan to the Minister for Regional Development; Lands; Minister Assisting the Minister for State Development
- 2251. Mr M. McGowan to the Minister representing the Minister for Education; Aboriginal Affairs; Electoral Affairs
- 2252. Mr M. McGowan to the Treasurer; Minister for Energy; Citizenship and Multicultural Interests
- 2253. Mr M. McGowan to the Minister for Planning; Culture and the Arts
- 2254. Mr M. McGowan to the Minister for Police; Tourism; Road Safety; Women's Interests
- 2255. Mr M. McGowan to the Minister representing the Minister for Mental Health; Disability Services; Child Protection
- 2256. Mr M. McGowan to the Minister representing the Attorney General; Minister for Commerce
- 2257. Mr M. McGowan to the Minister for Transport; Finance
- 2258. Mr M. McGowan to the Minister for Mines and Petroleum; Housing
- 2259. Mr M. McGowan to the Minister for Sport and Recreation; Racing and Gaming
- 2260. Mr M. McGowan to the Minister representing the Minister for Agriculture and Food; Fisheries
- 2261. Mr M. McGowan to the Minister for Local Government; Community Services; Seniors and Volunteering; Youth
- 2262. Mr M. McGowan to the Minister for Environment; Heritage
- 2263. Mr M. McGowan to the Minister for Emergency Services; Corrective Services; Small Business; Veterans
- 2264. Mr M. McGowan to the Minister for Water; Forestry
- 2265. Mr M. McGowan to the Premier; Minister for State Development; Science
- 2266. Mr M. McGowan to the Deputy Premier; Minister for Health; Training and Workforce Development
- 2267. Mr M. McGowan to the Minister for Regional Development; Lands; Minister Assisting the Minister for State Development
- 2268. Mr M. McGowan to the Minister representing the Minister for Education; Aboriginal Affairs; Electoral Affairs
- 2269. Mr M. McGowan to the Treasurer; Minister for Energy; Citizenship and Multicultural Interests
- 2270. Mr M. McGowan to the Minister for Planning; Culture and the Arts

- 2271. Mr M. McGowan to the Minister for Police; Tourism; Road Safety; Women's Interests
- 2272. Mr M. McGowan to the Minister representing the Minister for Mental Health; Disability Services; Child Protection
- 2273. Mr M. McGowan to the Minister representing the Attorney General; Minister for Commerce
- 2274. Mr M. McGowan to the Minister for Transport; Finance
- 2275. Mr M. McGowan to the Minister for Mines and Petroleum; Housing
- 2276. Mr M. McGowan to the Minister for Sport and Recreation; Racing and Gaming
- 2277. Mr M. McGowan to the Minister representing the Minister for Agriculture and Food; Fisheries
- 2278. Mr M. McGowan to the Minister for Local Government; Community Services; Seniors and Volunteering; Youth
- 2279. Mr M. McGowan to the Minister for Environment; Heritage
- 2280. Mr M. McGowan to the Minister for Emergency Services; Corrective Services; Small Business; Veterans
- 2281. Mr M. McGowan to the Minister for Water; Forestry
- 2282. Mr M. McGowan to the Premier
- 2283. Mr M. McGowan to the Minister for State Development
- 2284. Mr M. McGowan to the Minister for Mines and Petroleum
- 2285. Mr R.H. Cook to the Minister for Health

Tuesday, 13 May 2014

- 2286. Dr A.D. Buti to the Minister for Health
- 2287. Mr C.J. Tallentire to the Parliamentary Secretary representing the Minister for Commerce
- 2288. Mr M.P. Murray to the Minister for Mines and Petroleum
- 2289. Ms M.M. Quirk to the Minister representing the Attorney General
- 2290. Ms M.M. Quirk to the Minister for Corrective Services
- 2291. Ms M.M. Quirk to the Minister for Emergency Services
- 2292. Ms M.M. Quirk to the Minister for Emergency Services
- 2293. Ms M.M. Quirk to the Minister for Emergency Services
- 2294. Ms M.M. Quirk to the Minister for Emergency Services
- 2295. Ms M.M. Quirk to the Minister for Emergency Services
- 2296. Ms M.M. Quirk to the Minister for Emergency Services
- 2297. Ms M.M. Quirk to the Minister for Emergency Services
- 2298. Ms M.M. Quirk to the Minister for Health
- 2299. Ms M.M. Quirk to the Minister for Police
- 2300. Ms M.M. Quirk to the Minister for Police
- 2301. Ms M.M. Quirk to the Minister for Police
- 2302. Ms M.M. Quirk to the Minister for Police
- 2303. Ms M.M. Quirk to the Minister for Police
- 2304. Ms M.M. Quirk to the Minister for Police
- 2305. Ms M.M. Quirk to the Premier
- 2306. Ms M.M. Quirk to the Treasurer
- 2307. Ms M.M. Quirk to the Minister for Transport
- 2308. Ms M.M. Quirk to the Minister for Water

**Questions listed for this sitting: -**

**2309. Mr P.C. Tinley to the Minister for Planning:**

I refer to the Minister's answers to Question on Notice No. 1593 concerning the City of Fremantle's Taylor's College development, and Question on Notice No. 1594 concerning Section 211 of the *Planning and Development Act 2005*, and ask:

- (a) how many of the 38 representations that the Minister advised have been made under Section 211 of the *Planning and Development Act 2005* are in relation to the City of Fremantle's Taylor's College Development;
- (b) would the Minister please provide the dates of the representations that have been made under Section 211 in relation to the City of Fremantle's Taylor's College development;
- (c) would the Minister please clarify the Minister's response to part (a) of Question on Notice No. 1593 by providing detail as to how decisions made in accordance with the local planning scheme resulted in raising the level of the land by over a metre to create a slope with a road running down it that terminates within two metres of a fibro-cement fence which is within about a metre of a bedroom and gas water heater of a resident of an existing adjoining lot;
- (d) can the Minister confirm that the Minister advised the resident, who made representations under section 211, that works associated with subdivision such as earthworks do not require separate planning approval;
- (e) was the Minister aware at that time that under section 157 of the *Planning and Development Act*, works that are necessary to enable subdivision may not require separate planning approval;
- (f) did any condition of subdivision necessitate raising the land to levels well in excess of 500 mm and therefore fall within the scope of section 157;
- (g) if yes to (f), please specify which condition of subdivision necessitated the fill in excess of 500 mm;
- (h) if no to (f), would the Minister please state why the Minister advised the resident, who made representations under section 211, that separate planning approval was not required;
- (i) is it the case that, while the Application for Planning Approval was for perimeter fence, retaining walls and earthworks, the Notice of Determination on Application for Planning Approval was only for retaining wall, with the earthworks listed as a condition of building the wall;
- (j) under which specific clause of the local planning scheme was approval required for the earthworks;
- (k) did the existing contours on the earthworks plan pre-date the already existing adjacent Plane Tree Grove development and residences;
- (l) what was the source and date of the data for the existing contours on the earthworks plan;
- (m) did the City of Fremantle fail to have due regard required by the local planning scheme, to various matters pertaining to raising the level of the land in this area well in excess of 500 mm, given:
  - (i) no application was made specifically for the filling of land by greater than 500 mm as required by clause 9.1.1.(n) of the local planning scheme;
  - (ii) approval for the earthworks was only given as a condition of building the retaining wall;

- (iii) the earthworks plan does not specify floor levels of existing lots as required by clause 9.2.1, and, as the Minister demonstrated when the Minister finally gleaned this information from a wall plan, after incorrectly maintaining they were in the earthworks plan, finished floor levels of existing lots cannot be determined by the contours on the earthworks plan; and
  - (iv) the disadvantage experienced by the existing resident at the bottom of the resulting slope;
- (n) if no to (m), what evidence is there that the City of Fremantle gave consideration, in accordance with the local planning scheme, to raising the level of the land in this area by over a metre;
- (o) was the City of Fremantle required by the local planning scheme to advertise a proposed structure plan containing a map with a north point and scale clearly showing proposals for various features, such as a pedestrian network, which were to be drawn to scale;
- (p) was the City of Fremantle subsequently required by the local planning scheme to consider all submissions received concerning the proposed structure plan;
- (q) was the City of Fremantle subsequently required by the local planning scheme to decide whether to approve the proposed structure plan, with or without conditions;
- (r) does subsequent subdivision or development obviate the requirement under the local planning scheme for the proposed structure plan to conform with the requirements of the local planning scheme when advertised, if not, why not;
- (s) would the Minister please table a copy of the proposed structure plan map that was advertised (please don't table the orthophoto titled *Residential subdivision with landscape and retention of significant trees in new park* which the Minister has tabled in the past, this is not the proposed structure plan map – or the subdivision plan);
- (t) does the proposed structure plan map that was advertised contain:
  - (i) a scale;
  - (ii) a north point; and
  - (iii) a proposal for a pedestrian network drawn to scale;
- (u) can the Minister confirm that the Minister advised a resident who made representations under section 211 that a structure plan is not required to provide precise measurements as demonstrated by the lack of a scale;
- (v) would the Minister please advise why the advertised proposed structure plan map must contain a scale;
- (w) how many representations have been made under section 211 because the advertised proposed structure plan does not contain a map that conforms with the requirements of the scheme;
- (x) was the Minister aware, when the Minister described the purpose of section 211 in his previous response to Question on Notice 1594, that the Minister did not include that it is also available to people who are aggrieved by the failure of the local government to implement effectively the observance of a local planning scheme; and

- (y) what is the reason for not providing relief in any of the 38 cases where the Minister advised that representations had been made to the Minister under Section 211 of the *Planning and Development Act*?

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**PETER J. McHUGH**

Clerk of the Legislative Assembly

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